



PLANNING COMMISSION AGENDA

Regular Meeting

7:00 P.M. on Tuesday, October 22, 2019

First Floor Conference Room, Clayton City Hall, 6000 Heritage Trail, Clayton, California

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

2. ADMINISTRATIVE

- 2.a. Review of agenda items.
- 2.b. Declaration of Conflict of Interest.
- 2.c. Commissioner William Gall to report at the City Council meeting of November 5, 2019 (alternate Vice Chair A.J. Chippero).

3. PUBLIC COMMENT

4. MINUTES

- 4.a. Approval of the minutes for the August 27, 2019 Planning Commission meeting.

5. PUBLIC HEARINGS

- 5.a. **ZOA-04-19, Municipal Code Amendment, City of Clayton.** Review and consideration of recommending approval of a proposed Ordinance to amend Section 6.05.010 et seq. of the Clayton Municipal Code in order to allow the keeping of chickens, with specified restrictions, in single-family residential zoning districts.

Staff Recommendation: Staff recommends that the Planning Commission consider all information provided and submitted, take and consider all public testimony, and, if determined to be appropriate, adopt Resolution 04-19, recommending City Council approval of an Ordinance to allow the keeping of chickens, with specified restrictions, in single-family residential zoning districts.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

- 8.a. Staff.
- 8.b. Commission.

9. ADJOURNMENT

- 9.a. The next regular meeting of the Planning Commission is scheduled for **Tuesday, November 12, 2019.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
Clayton Planning Commission Meeting
Tuesday, August 27, 2019

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Chair Bassam Altwal called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton, California.

Present: Chair Bassam Altwal
Vice Chair Peter Cloven
Commissioner A.J. Chippero
Commissioner William Gall
Commissioner Frank Gavidia

Absent: None

Staff: Interim Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

2. ADMINISTRATIVE

2.a. Selection of Chair and Vice Chair.

Chair Altwal moved and Commissioner Chippero seconded a motion to nominate Vice Chair Cloven as the Chair. The motion passed 5-0.

Commissioner Altwal moved and Chair Cloven seconded a motion to nominate Commissioner Chippero as the Vice Chair. The motion passed 4-0-1 (Commissioner Gavidia abstained).

2.b. Appointment of selected Chair, Vice Chair, and an alternate to the City's newly-established Land Use Sub-Committee.

Interim Director Woltering introduced and provided an overview to the Planning Commission of the Land Use Sub-Committee recently established by the City Council.

Interim City Manager Joe Sbranti provided additional background on the Land Use Sub-Committee and highlighted the fact that the Land Use Sub-Committee is beneficial because it allows a developer to preliminarily confer with various members of local jurisdictional decision-making boards to receive early feedback on a proposed project. This early input allows an applicant to make adjustments to development proposals at the beginning of the process which saves time and cost for both the applicant and the City. Additionally, staff can use the Land Use Sub-Committee to receive early feedback on a public project or policy proposal which can be more efficient and effective for processing this public aspect of the City's work.

By consensus, the Planning Commission selected Commissioner Altwal as the first alternate and Commissioner Gavidia as the second alternate to serve on the Land Use Sub-Committee in the instance the Chair and Vice Chair cannot attend the Land Use Sub-Committee meeting. The motion passed unanimously.

- 2.c. Review of agenda items.
- 2.d. Declaration of Conflict of Interest.
- 2.e. Chair Cloven to report at the City Council meeting of September 17, 2019

3. PUBLIC COMMENT

None.

4. MINUTES

- 4.a. Approval of the minutes for the May 28, 2019 Planning Commission meeting.

Commissioner Altwal moved and Commissioner Gavidia seconded a motion to approve the May 28, 2019 Planning Commission minutes, as submitted. The motion passed 5-0.

5. PUBLIC HEARINGS

- 5.a. **SPR-01-19, Site Plan Review Permit, Jose Aceves, 5869 Pine Hollow Road (APN: 120-014-001).** A request for approval of a Site Plan Review Permit to allow the construction of a new roof on an existing detached, single-story, single-family residence.

Commissioner Altwal and Commissioner Gavidia both recused themselves due to having the applicant perform work on their respective residences.

Assistant Planner Sikela presented the staff report.

The public hearing was opened. There were no public comments. The public hearing was closed.

Vice Chair Chippero indicated that there currently is no roof on the residence. Assistant Planner Sikela indicated the missing roof is due to the contractor/owner being unaware that a permit would be required for the project.

Commissioner Gall had the following question and comment:

- Did staff receive any feedback from the public regarding the project? Staff responded that no comments were received from the public.
- It would appear that, even though the roof height will increase four feet from the current twelve-foot height to the proposed sixteen-foot height, it will still not create an impact for the neighborhood. Assistant Planner Sikela indicated that was correct as a sixteen-foot roof height would create nominal impacts, if any at all, especially given that the proposed project setbacks are 32 feet on the front, 60 feet on the rear, with a total side aggregate of 42 feet. This would place the project at a sufficient distance from the property line so as to minimize any visual impacts to surrounding existing residential properties.

Vice Chair Chippero indicated that the new roof will be an improvement to the property as well as aesthetically beneficial to the surrounding neighborhood.

Chair Cloven concurred with the other Planning Commissioners' statements.

Vice Chair Chippero moved and Commissioner Gall seconded a motion to conditionally approve Site Plan Review Permit (SPR-01-19) to allow the construction of a new roof on an existing detached, single-story, single-family residence at 5869 Pine Hollow Road (APN: 120-014-001).

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

Interim Director Woltering provided updates on a variety of staff work including the Accessory Dwelling Unit amendments to the Clayton Municipal Code; code enforcement issues as related to exterior storage of recreation vehicles as well as modular homes and tiny homes; work with the representatives of Economic Planning Systems on updating the City's open space requirements as well as the affordable housing in-lieu fee; the Olivia on Marsh Creek 81-unit Senior Housing Project; Oak Creek Canyon six-lot residential project; the Clayton Community Church project; the 32-lot single-family residential Silver Oak Estates project; and, the conceptual Ponderosa Homes residential subdivision project on Mitchell Canyon Road.

8.b. Commission.

9. ADJOURNMENT

9.a. The meeting was adjourned at 8:30 p.m. to the next regularly-scheduled Planning Commission meeting on September 10, 2019.


Submitted by
David Woltering, AICP
Interim Community Development Director

Approved by
Peter Cloven
Chair

PLANNING COMMISSION STAFF REPORT

Meeting Date: October 22, 2019

Item Number: 5.a

From: David Woltering, AICP, MPA
Interim Community Development Director 

Subject: Ordinance Amending Section 6.05.010 et seq. of the Clayton Municipal Code (CMC) to allow the Keeping of Chickens in Single-Family Residential Districts, with Specified Restrictions (ZOA-04-19)

Applicant: City of Clayton

REQUEST

The City of Clayton is holding a public hearing for the Planning Commission to consider making a recommendation to the City Council on a City-initiated Ordinance to amend Clayton Municipal Code Section 6.05.010 et seq. to allow the keeping of chickens, with specified restrictions, in single-family residential zoning districts (ZOA-04-19). The Ordinance is provided as part of **Attachment A**.

PROJECT INFORMATION

Location: Citywide

Environmental: This Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Further, this Ordinance, based on the specified restrictions therein on the allowing of keeping chickens, is exempt from CEQA pursuant to Section 15061(b)(3) – where it is not anticipated that there would be a significant effect on the environment.

Public Notice: On October 11, 2019, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the City.

BACKGROUND AND DISCUSSION

Presently, the City of Clayton prohibits the keeping of chickens pursuant to Clayton Municipal Code (CMC) Section 6.05.010 (**Attachment B**). However, Contra Costa County and a number of other jurisdictions within Contra Costa County allow, with specified restrictions, the keeping of chickens (**Attachment C**). The County, for example, adopted Ordinance No. 2018-06 on May 1, 2018 that allows the keeping of hens, one per 1,000 square feet of property, in its single-family residential zoning districts; roosters are prohibited, unless the property is a minimum of five acres in size; and, there are specified setback restrictions for an enclosure (**Attachment C**).

Staff has reviewed a sampling of ordinances of other municipalities in Contra Costa County that allow the keeping of chickens. A number of municipalities including Danville, Orinda, and San Ramon have adopted the County regulations. Highlights from those ordinances are provided in the cited **Attachment C**. Generally, hens are permitted, but roosters and other noise (nuisance) generating animals are not. Additionally, and commonly, there are restrictions pertaining to lot size, number of chickens that can be placed on a property, and location for placement of the chickens. Currently, besides the City of Clayton, the only cities within Contra Costa County that do not allow the keeping of chickens are Pittsburg and San Pablo.

Staff believes it would be reasonable for the City of Clayton to consider amending the City's Municipal Code to allow, with specified restrictions, the keeping of chickens (i.e., hens) in its single-family residential zoning districts, generally consistent with the restrictions in the Contra Costa County Code — one hen per 1,000 square feet of lot area, up to a maximum of 10 rather than 20 (County); setback standards of 50 feet from front property line and a minimum of 20 feet from side and rear property lines rather than 15 feet (County); maximum height of an enclosure 12 feet, maximum size of enclosure 100 square feet; and no roosters. The overall prohibition on roosters, limiting the number of hens to a maximum of 10, somewhat increasing side and rear setbacks, and stipulating a maximum size for an enclosure, staff suggests would be more appropriate for the "city" environment, while allowing for the keeping of hens as provided by the County. Additionally, having the City of Clayton Code generally align with the County Code by allowing the keeping of chickens (i.e., hens) in residential districts with restrictions would be beneficial, given that the County provides Animal Control Services to the City of Clayton.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, take and consider all public testimony, and, if determined to be appropriate, adopt Resolution 04-19, recommending City Council approval of an Ordinance to allow the keeping of chickens, with specified restrictions, in single-family residential zoning districts (**Attachment A**).

ATTACHMENTS

- A. Planning Commission Resolution 04-19, with attachment:
 - Exhibit A – Draft Ordinance Amending Section 6.05.010 et seq. of the CMC
- B. Present Clayton Municipal Code Section 6.05.010
- C. Summary of "Keeping of Urban Animal Ordinances"

**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 04-19**

**RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING CLAYTON
MUNICIPAL CODE (CMC) SECTION 6.05.010 ET SEQ. RELATED TO PROHIBITED ANIMALS
(ZOA-04-19)**

WHEREAS, the City wishes to amend Section 6.05.010 et seq. of the Clayton Municipal Code in order to allow the keeping of chickens, with specified restrictions, in single-family residential zoning districts; and

WHEREAS, this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Further, this Ordinance, based on the specified restrictions therein on allowing of keeping chickens, is exempt from CEQA pursuant to Section 15061(b)(3) – where it is not anticipated that there will be a significant effect on the environment.

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, on October 22, 2019, the Clayton Planning Commission held a duly-noticed public hearing on the matter, and received and considered testimony, both oral and documentary and recommended approval to the City Council of the proposed Ordinance to amend CMC Section 6.05.010 et seq. to allow the keeping of chickens within single-family residential zoning districts, with specified restrictions; and

WHEREAS, the Planning Commission has determined that the proposed amendments to the Clayton Municipal Code do not conflict with and are in general conformance with the City of Clayton General Plan.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Clayton, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of the proposed Ordinance to amend the Clayton Municipal Code to allow the keeping of chickens in single-family residential zoning districts, with specified restrictions, attached hereto as Exhibit A and incorporated herein by this reference.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 22nd day of October, 2019.

APPROVED:

ATTEST:

Peter Cloven
Chair

David Woltering, AICP, MPA
Interim Community Development Director

ATTACHMENTS

Exhibit A – Draft Ordinance Amending Section 6.05.010 et seq. of the CMC to allow the Keeping of Chickens in Single-Family Residential Zoning Districts, with Restrictions

ORDINANCE NO. XX**AN ORDINANCE AMENDING SECTION 6.05.010 ET SEQ. OF THE CLAYTON MUNICIPAL CODE (CMC) TO ALLOW THE KEEPING OF CHICKENS IN SINGLE-FAMILY RESIDENTIAL DISTRICTS WITH SPECIFIED RESTRICTIONS
City of Clayton, California****THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS FOLLOWS:**

WHEREAS, the City wishes to amend Section 6.05.010 et seq. of the Clayton Municipal Code in order to allow the keeping of chickens, with specified restrictions, in single-family residential zoning districts; and

WHEREAS, the Planning Commission on October 22, 2019 held a duly-noticed public hearing on the matter and recommended approval to the City Council; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. **Amendments to Clayton Municipal Code Section 6.05.010 and Section 17.16.020.B.**

A. Clayton Municipal Code Section 6.05.010 is hereby amended to read as follows – See Exhibit 1.

B. Clayton Municipal Code Section 17.16.020.B is hereby amended to read as follows – See Exhibit 2.

Section 3. **CEQA.** The City Council hereby determines this Ordinance is exempt from review under the California Environmental Quality Act (“CEQA”) (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15303 (14 Cal. Code Regs., § 15303), this Ordinance is covered by the Class 3 CEQA Categorical Exemption for construction of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Further, this Ordinance, based on the specified restrictions therein on the allowing of keeping chickens, is exempt from CEQA pursuant to Section 15061(b)(3) – where it is not anticipated that there would be a significant effect on the environment. The adoption of this Ordinance will result in allowing chickens (i.e., hens) in single-family residential districts with specified restrictions. The City Council hereby directs the City Manager or his designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

Section 4. **Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 5. **Conflicting Ordinances Repealed.** Any Ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. **Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause the amendments adopted in Section 2 of this Ordinance to be codified into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton, California held on _____, 2019.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on _____, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Tuija Catalano, Mayor

ATTEST

Janet Calderon, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Joe Sbranti, Interim City Manager

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I hereby certify that the foregoing Ordinance was duly introduced at a regular public meeting of the City Council of the City of Clayton, California held on _____, 2019 and was duly adopted, passed, and ordered posted at a regular public meeting of said City Council held on _____ 2019.

Janet Calderon, City Clerk

CHAPTER 6.05 - PROHIBITED ANIMALS

Sections:

6.05.010 - Keeping Prohibited Animals—Exception.

- A. Except as otherwise permitted in accordance with Title 17 of this code, it shall be unlawful for any person to keep, maintain, possess, or harbor on any property within the city without a permit any animal determined to be dangerous or potentially dangerous under Article 416-12.4 of the Contra Costa County Code. It shall also be unlawful to keep, maintain, possess or harbor on any property within the City, any apiary, reptiles, livestock, or fowl, including, but not limited to, horses, mules, donkeys, burros, cattle, sheep, goats, swine, pigs, rabbits, chickens¹, geese, ducks, turkeys, doves, or pigeons.² The owner or possessor of property on which animals are lawfully kept shall provide facilities which will reasonably assure that the premises will be maintained in a sanitary condition, free from offensive odors, excessive noise, or any other conditions which constitute a public nuisance as defined in Section 8.08.010 of this code.

Cross reference

¹ For allowing "chickens," with specified restrictions, in Single Family Residential Districts, see Section 17.16.020.B.

² For a definition of "household pets," see Section 17.04.104.

17.16.020 Permitted Uses—Principal.

The principal permitted uses in the single family residential districts shall be as follows:

- A. A detached, single family dwelling in each lot and the accessory structures and uses normally auxiliary to it;
- B. Crop and tree farming and horticulture, not including the raising or keeping of any animals other than ordinary household pets; , except chickens subject to the following specified restrictions:
 - 1. Hens only (no roosters);
 - 2. One hen per 1,000 square feet of lot area to a maximum of 10 hens;
 - 3. Contained within an enclosure not to exceed 100 square feet in area and a maximum of 10 hens;
 - 4. Enclosure must be setback a minimum of 50 feet from the front property line and 20 feet from a side and from a side and rear property line;
 - 5. Food shall be placed in a food containment article to minimize the attraction of rodents;
 - 6. The enclosure and related area for the keeping of chickens shall be regularly cleaned and maintained to minimize odors and pests.
- C. Publicly-owned parks and playgrounds;
- D. Supportive housing and transitional housing;
- E. The keeping of equestrian livestock (R-40-H only), provided that a minimum land area to livestock ratio of forty thousand (40,000) feet of land to two (2) head of equestrian livestock shall be required.
- F. Personal property sales in accordance with the following regulations:
 - 1. Personal property sales shall be allowed up to a maximum of six (6) days per calendar year;
 - 2. Personal property sales shall be limited to the hours between 8:00 a.m. and 5:00 p.m.; and
 - 3. Personal property sales shall not result in adverse impacts related to noise, traffic, safety, congestion, and parking.
- G. Employee housing providing accommodations for six (6) or fewer employees.

6.05.010 - Keeping Prohibited Animals—Exception.

- A. Except as otherwise permitted in accordance with Title 17 of this code, it shall be unlawful for any person to keep, maintain, possess, or harbor on any property within the city without a permit any animal determined to be dangerous or potentially dangerous under Article 416-12.4 of the Contra Costa County Code. It shall also be unlawful to keep, maintain, possess or harbor on any property within the City, any apiary, reptiles, livestock, or fowl, including, but not limited to, horses, mules, donkeys, burros, cattle, sheep, goats, swine, pigs, rabbits, chickens, geese, ducks, turkeys, doves, or pigeons. ¹ □ The owner or possessor of property on which animals are lawfully kept shall provide facilities which will reasonably assure that the premises will be maintained in a sanitary condition, free from offensive odors, excessive noise, or any other conditions which constitute a public nuisance as defined in Section 8.08.010 of this code.

Keeping of Urban Animal Ordinances						
Cities	Adoption of Contra Costa County Regulations	Zoning	Lot Size	Animal Limit	Prohibited Animals	Animal Enclosure Requirements
Clayton	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Contra Costa County		R-6, R-7, R-10, R-12, R-15, R-20, R-40, R-65 and R-100	1 hen per 1,000 square feet	20	Roosters are allowed on parcel sites 5 acres or more	Enclosure needs to be located 50 ft from front property line, 10 ft side property line, 10 ft rear property line
Antioch		Residential		10	Rooster	Enclosures 20 ft away from any dwelling
Brentwood		R-1-E	20,000 square feet	24		Enclosures 60 ft from the property line and shall be not less than 40 ft from any side or rear property line
Concord		R-20	20,000 square feet lot, Citizens with 10,000 square foot lots can apply for a variance and if variance is granted 1 livestock will be allowed	20	Rooster	Enclosure needs to be located at least 25 ft from the exterior line of the property
Danville	*					
Lafayette		R-6, R-10, R-12, R-15, R-20, R-40, R-65, R-100	6,000-10,000 square feet	4	Roosters, waterfowl, peacocks guinea hens	N/A
			10,001-20,000 square feet	6		
			20,001-40,000 square feet	8		
Moraga		Residential, Institutional, Moso and non-Moso open space districts	6,000-10,000 square feet	4	Roosters, waterfowl, peacocks guinea hens	Enclosure located in rear or side yard and meets all setback requirements.
			10,001-20,000 square feet	6		
Orinda	*					
Pittsburg	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
San Pablo	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
San Ramon	*					

* Adoption of Contra Costa County Regulations