

**Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, February 28, 2023**

1. CALL TO ORDER

Chair Daniel Richardson called the meeting to order at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Richardson led the Pledge of Allegiance.

3. ROLL CALL

Present: Chair Daniel Richardson
 Vice Chair Richard Enea
 Commissioner Justin Cesarin
 Commissioner Maria Shulman

Excused: Commissioner Ed Miller

Planning Commission Secretary/Community Development Director Dana Ayers and Assistant Planner Milan Sikela were present from City staff.

4. PRESENTATIONS

There were no presentations.

5. ACCEPTANCE OF THE AGENDA

There were no changes to the agenda as submitted.

6. PUBLIC COMMENT

There were no public comments on any item not on the agenda.

7. CONSENT CALENDAR

A. Minutes of Planning Commission Regular Meeting of February 14, 2023.

There being no member of the public attending in person or virtually who wished to comment on the Consent Calendar, Chair Richardson invited a motion.

Vice Chair Enea moved to adopt the Consent Calendar with Minutes of the Planning Commission Regular Meeting of February 14, 2023, as submitted. Commissioner Shulman seconded the motion. The motion passed by a vote of 4 to 0.

8. PUBLIC HEARING

A. **Recommendation on an Amendment to Clayton Municipal Code Chapter 17.47, Sections 17.04.083 and 17.44.030, and Schedule 17.37.030A Pertaining to Accessory Dwelling Units, and Finding that Such Amendment is Exempt from CEQA Pursuant to Public Resources Code Section 21080.17.**

This is a public hearing on a City-initiated request for the Planning Commission to recommend City Council adoption of an ordinance amending the City's development and permitting regulations applicable to accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) to comply with statutory requirements of California law. This proposed amendment is statutorily exempt from the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq.*), pursuant to Public Resources Code section 21080.17 (Application of Division to Ordinances Implementing Law Relating to Construction of Dwelling Units and Second Units).

Director Ayers introduced the item and summarized the staff report. She also introduced Bonique Emerson of the firm Precision Civil Engineering, who had been assisting City staff in drafting the ordinance amendment and developing the architectural plans that would become part of the City's pre-reviewed ADU plan program.

Chair Richardson invited questions from the Commissioners.

In response to Commissioner Shulman, Director Ayers confirmed that ADUs could not be sold separately from the principal residence, except in specific circumstances, such as when a nonprofit corporation was involved in the transaction, as referenced in the ordinance and defined in California law.

Commissioner Shulman then asked if an ADU could be built in the front yard of a principal residence rather than in the back yard. Director Ayers advised that an ADU could be built in front of a principal residence if the ADU complied with the minimum required front yard setback of the zoning district in which the property was located. Ms. Emerson added that, in limited instances, an ADU could be built within the minimum *required* front setback. More specifically, the minimum required front yard setback of a zoning district could not be imposed, and an ADU could be built there, if there was no other location on the property that could accommodate an ADU and if imposing the minimum required front yard setback would require the ADU to be fewer than 800 square feet in size.

In response to Commissioner Shulman, Director Ayers advised that ADUs built on existing residential properties would not be required to be deed restricted for affordability. However, developers who were proposing to build ADUs to meet their obligations under Clayton's Inclusionary Housing Ordinance would be required to record deed restrictions for affordability on the properties where they proposed to build ADUs.

Commissioner Shulman asked how the ordinance would apply to ADUs that were built without permits, and whether they would be "grandfathered" in. Director Ayers advised that like any structure built without permits, an ADU that was built without a permit would be subject to the City's code enforcement process to ensure that the construction of the unit met Building Code standards of health and safety.

There were no other questions from Commissioners. Chair Richardson opened the public hearing.

There being no one in attendance in person or virtually who wished to speak on the item, Chair Richardson closed the public hearing and invited discussion among Commissioners.

Vice Chair Enea reiterated that the ordinance was necessary to comply with California law.

Commissioner Shulman believed it was better to have a local ordinance in place than to have State law supersede local regulation. She thought it was great that the City would have a local ordinance and was interested in seeing the City's ADU plans.

Chair Richardson thought that there was a lot of good that would come from the ordinance. He saw ADUs as a tool to house the community's children and adults as they get older, and he thought that removing the hurdles to achieve these results was a good idea. Though there had been recent discussion about it, he had not previously given much thought to Clayton as being a single-family home community. However, after he thought about it himself, he thought that Clayton indeed did not have many rental housing opportunities. He saw ADUs as something in-between single-family housing and rental units, and as a means toward diversity in the community. He shared that he had been thinking of building an ADU for himself or his children and saw the ordinance and State regulations as potentially reducing cost and simplifying process for constructing ADUs.

Commissioner Shulman made a motion to adopt draft Resolution No. 03-2023 attached to the staff report. Vice Chair Enea seconded the motion. There being no discussion on the motion, Chair Richardson called for the vote. The motion passed by a vote of 4 to 0.

9. COMMUNICATIONS

There were no communications from staff or Commissioners.

10. ADJOURNMENT

The meeting was adjourned at 7:33 p.m. to the next regular meeting of the Planning Commission on March 14, 2023.

Respectfully submitted:



Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:



Daniel Richardson, Chair