

**Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, May 24, 2022**

1. CALL TO ORDER

Chair Denslow called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Denslow led the Pledge of Allegiance.

3. ROLL CALL

Present: Chair Terri Denslow
Vice Chair Ed Miller
Commissioner Justin Cesarin
Commissioner Frank Gavidia (joined the meeting at 7:07 p.m.)
Commissioner Amy Hines-Shaikh

4. PRESENTATIONS AND ANNOUNCEMENTS

There were no presentations or announcements.

5. ACCEPTANCE OF THE AGENDA

There were no changes to the agenda as submitted.

6. PUBLIC COMMENT

There were no public comments on non-agendized matters.

7. CONSENT CALENDAR

A. Minutes of Planning Commission Meeting of March 8, 2022.

Vice Chair Miller moved to approve the minutes as submitted. Commissioner Cesarin seconded the motion. The motion passed by vote of 4-0 (Commissioner Gavidia was absent).

8. COMMENT SESSION

A. **Comment Session on the City of Clayton Public Review Draft Housing Element for the 6th Cycle (2023-2031).**

This is an opportunity for Planning Commissioners and interested parties, individuals and other public agencies to provide spoken comments on the City of Clayton Public Review Draft Housing Element for the 6th Cycle.

Community Development Director Dana Ayers introduced the item and the consultants, Jose Rodriguez and Phoenix Alfaro Hile from MIG, Inc., the firm preparing the update to the Housing Element. Director Ayers presented a brief overview of the Public Review Draft Housing Element and the purpose of tonight's public comment session.

Chair Denslow invited questions from Commissioners.

Commissioner Gavidia asked if staff was able to discern whether multiple responses to the Balancing Act survey were submitted from a single submitter or IP address. He expressed concern that community members were not engaged in the process, and that the survey could have been manipulated by a single individual submitting multiple plans. He questioned whether the survey was a good reflection of community desires. Director Ayers advised that staff could see survey respondents' IP addresses. In general, staff presumed that multiple submissions from a single IP address could encompass members residing together within a family; however, staff did observe that one IP address appeared more than three times. Staff did not observe a consistent pattern among the responses from that IP address. Also, upon removing the submissions from that singular IP address, staff did not identify any drastic changes in the trends in demographics of survey respondents or their preferences for locations of density, and so the summary of the survey data in the memorandum attached to the staff report retained all of the plans submitted from that IP address.

Speaking to Commissioner Gavidia's concern that response to the Balancing Act survey was low, Director Ayers referenced the City of Rocklin, which was one of the first cities to use the Balancing Act platform for housing planning. With 180,000 residents, Rocklin had 91 housing plans submitted. Director Ayers suggested that Clayton's 44 housing plans from its population of 12,000 was proportionally not low by comparison.

Referencing the Balancing Act survey responses, wherein many respondents indicated a tolerance for high density on the St. John's Episcopal Parish, Clayton Valley Presbyterian and Oakhurst Overflow Parking sites, Commissioner Hines-Shaikh asked whether densities on those sites could be increased from 30 units per acre to 40 units per acre

to better achieve the City's Regional Housing Needs Allocation (RHNA). Director Ayers stated that staff selected 30 units per acre for the housing simulation because it was just above the adopted General Plan density maximum of 20 units per acre, but that staff could do the calculations to show how housing projections would change with increased density of 40 units per acre on those sites.

Referencing the developer fees that were discussed in the Housing Constraints chapter of the draft Housing Element, Commissioner Hines-Shaikh explained that the text of the document states that Clayton's development fees were on the low end compared to other jurisdictions in Contra Costa County. However, she did not see a clear recommendation regarding whether or how the fees should be changed; for example, whether they should be increased across the board or decreased for affordable housing developers. She also suggested that parking requirements for housing, which was also identified as a constraint in the draft Housing Element, should be reduced.

Speaking to Site S (6055 Main Street) in the draft site inventory, Commissioner Hines-Shaikh confirmed with Director Ayers that the site had been listed for sale but had been taken off the market, and that the current owner of the site was still the Clayton Community Church. Commissioner Hines-Shaikh also confirmed that any land use decisions made while the property was under the Church's ownership would run with the land and be applicable to any future owner.

Commissioner Hines-Shaikh requested that staff reach out to the Seeno family, who owned the property off of Oakhurst Drive, regarding the property owner's interest in developing a small, flat area at the base of the hill for townhouses, similar to the development pattern in the vicinity of that site. She suggested that housing there, with good roadway access and proximity to similar housing unit types, would be consistent with comments received from the Maptionnaire survey regarding traffic and community character.

Commissioner Cesarin asked whether staff had considered potential parking impacts to the Town Center if the public parking lot adjacent to the Endeavor Hall was kept in the draft Housing Element as a housing opportunity site. He expressed concern about the loss of public parking stalls as the City was trying to foster more commercial and residential development that would increase demand for parking in the Town Center. Director Ayers advised that if the parking lot were kept as a housing opportunity site, and because it was City-owned, the City could impose obligations on the buyer/developer to retain public parking stalls on the site.

Speaking to draft Policy 5-3, Commissioner Cesarin asked how neighborhoods were defined in the Housing Element draft, and what penalties there might be if the City did not achieve that policy. Director

Ayers responded that affirmatively furthering fair housing (AFFH), a required component of housing elements, was intended to ensure that jurisdictions identified neighborhoods where residents were disproportionately subject to environmental or hazardous conditions. She advised that Clayton did not have such neighborhoods, and that the policy was intended more broadly to encourage distribution of affordable housing units throughout the City rather than in just one high resource area within the municipal boundary. She further advised that State Department of Housing and Community Development (HCD) staff, who would review the draft Housing Element, would have the opportunity to comment if they thought the policy was too vague.

Commissioner Cesarin agreed with Commissioner Hines-Shaikh's comments encouraging more than 30 units per acre as the high end of the City's density range. He requested clarification on the potential allowance for ground floor residential uses on side streets in the Town Center, and what were considered to be "side streets." Director Ayers advised that the intent of the policy as written in the draft was to prohibit ground floor residential on Main and Center Streets but allow it on other streets in the Town Center. He asked why residential densities in the draft Housing Element for the Town Center were high, when residents suggested that there should be low density or no residential development in the Town Center. Director Ayers said that the housing plans that staff received from the Balancing Act simulation indicated a range of preferences for densities in the Town Center, from 0 to 30 units per acre, and respondents who submitted comments stated preferences for no housing in the Town Center, or for housing as a secondary use above or behind primary commercial uses. Speaking to Program K2 in the draft Housing Element, he suggested that there be a stronger commitment than "considering" green building and sustainable practices. Director Ayers advised that more research would need to be done to provide certainty that the efforts listed in the program were feasible and achievable for Clayton.

Commissioner Cesarin questioned whether staff had done any research on whether existing large housing units could be retrofitted into smaller units to better accommodate the smaller units desired by the City's aging population, as well as younger generations entering the housing market. Director Ayers reminded the Commission that current legislation already allowed conversion of interior floor areas of a single-family residence to an accessory dwelling unit (ADU), as well as construction of duplexes and creation of small lots under recently-adopted Senate Bill 9.

Speaking to the needs assessment, Commissioner Cesarin asked about the origin of the data that generated the list of major employers in the City. Vice Chair Miller noted that the data source identified in the draft Housing Element was the United States Census Bureau and business license data

from the City of Clayton. Commissioner Cesarin suggested reviewing the completeness of that data.

Commissioner Cesarin asked if the site plan review permit process identified in the draft Housing Element as a constraint was due to the time or cost of permit processing. Director Ayers responded that both time and cost of the permit process were reasons why it was identified as a constraint. Discretionary permit applicants had to pay fees for City staff time to process their applications, but the delay in building permit issuance as a result of the discretionary permit processing and potential appeal processing time could consequently result in increases in construction, materials and labor costs. She advised that the suggestion in the draft Housing Element was to eliminate the site plan review permit requirement for single-family house additions to better facilitate property owners' investment in existing units. In response to Chair Denslow, Director Ayers also confirmed that, in her experience working in and with other jurisdictions in California, single-family house additions and new single-family units were permitted uses subject to setback, height and other objective development regulations and, as such, were processed by staff as ministerial permits rather than discretionary permits requiring Planning Commission review.

Commissioner Cesarin asked why the parcel acreage and projected unit counts for Site A (St. John's Episcopal Parish) and Site R (Clayton Valley Presbyterian Church) in the draft housing inventory did not align with the sites' projected density. Director Ayers advised that Sites A and R were currently developed with churches, and the projected unit count in the draft Housing Element was based only the portion of undeveloped acreage within each site.

Vice Chair Miller confirmed with staff that the intent of the Housing Element was to establish a vision for housing in Clayton for all income levels and to create a set of programs that the City will commit to implementing over the next eight years to achieve that vision.

Chair Denslow asked staff to clarify a statement in the Introduction chapter of the draft Housing Element that housing diversity contributes to sustainability and, in particular, what was meant by sustainability. Director Ayers said that sustainability as used in the text was intended to refer broadly to environmental and economic sustainability. She explained that a diverse housing stock that included multifamily and smaller single-family units could support environmental sustainability, as smaller units have fewer energy demands, and multifamily units tended to generate fewer automobile trips. Diversity in housing also supported diversity in the population and residents' skill sets, which could foster better economic sustainability.

Chair Denslow confirmed with staff that the term “implementation measures” in the current Housing Element was synonymous with the “programs” in the draft Housing Element. She asked if there was any penalty to the City if the City determined a program to be financially infeasible and, consequently, if the program was not implemented during the Housing Element cycle. Consultant Planner Jose Rodriguez from MIG advised that certain programs, such as rezoning of lands to accommodate the RHNA, were required to be implemented within a certain timeframe after adoption of the Housing Element, and HCD would review annual reports on the General Plan to look for that compliance. For other programs that are not statutorily required and that are not implemented during the Housing Element cycle, the City could evaluate the program and decide whether to roll the program forward into the next Housing Element update.

Chair Denslow asked if the draft Housing Element had a buffer to the RHNA. Director Ayers said that, according to Table 5-9 of the draft Housing Element, rezoning of all of the sites according to the densities shown in the draft inventory would generate a buffer of 321 units above the City’s RHNA of 570 units. Chair Denslow confirmed with staff that this scenario reflected the most intense development potential for the sites but may not be the housing plan that the City ultimately approved for this housing cycle. She then asked staff why the City might want to include a buffer to the RHNA, to which Director Ayers advised that having a RHNA buffer accommodated future entitlement of projects with fewer units than may have been envisioned in the Housing Element. Without a buffer, if the City approved development of a site with fewer units than was projected in the Housing Element, the City would have to amend the Housing Element to identify other sites that would make up the difference so as to show HCD that the City could still achieve its RHNA. Director Ayers added that there was cost savings in avoiding future Housing Element amendments. Chair Denslow confirmed with staff that any future amendment to the Housing Element mid-cycle would also be subject to review and recertification by HCD.

Referencing page 5-12 of the draft Housing Element, Chair Denslow asked about the availability of infrastructure to serve new housing development. Director Ayers said that evaluation of capacity of existing infrastructure would be conducted through the Housing Element’s environmental impact report. She added that project-specific analysis of entitlement applications would also be conducted with each development proposal, and conditions could be imposed on developers to extend or expand utilities within the City to meet the service needs of their projects. Vice Chair Miller suggested that some services, such as schools, may have more challenges and costs related to expansion to serve new development.

Chair Denslow confirmed with staff that public comments could be incorporated in the draft Housing Element before and after HCD’s review.

Referencing comments in the Balancing Act simulation, wherein some respondents expressed preferences for ADUs to meet the City's affordable housing obligations, Chair Denslow confirmed with staff that the number of ADUs assumed to be built in the next housing cycle was based on actual pace of construction of ADUs in recent years. She then asked staff whether there was any flexibility in how many ADUs could be included in the RHNA, and whether the two units per year projected in the draft Housing Element could be increased. Director Ayers said that the consultant's experience in another jurisdiction was that HCD only considered construction history in determining how much ADUs could be counted toward the RHNA. However, she said the City could try to suggest a higher number based on the inclusion of ADUs in new housing developments in the City and the pre-approved ADU plan program that the City was in the process of creating.

Chair Denslow confirmed with staff that some of the tables in Chapter 5 of the draft Housing Element had some corrections that needed to be made but that had not been caught before the draft was released for public review.

Chair Denslow invited comments from the public.

Drea York said that there were too many residents shown in the downtown. She felt that there were better locations for high density housing outside of downtown, such as the Clayton Station shopping center, where housing would be closer to transit and jobs and could be built over commercial. She also thought the Presbyterian Church on Kirker Pass Road was a better location for high density housing. She did not think there were enough schools, transportation and businesses to have a large amount of high density housing in the Town Center. She expressed that she did not think consideration was being given to the lives of current residents. She preferred to see housing located on larger parcels on Kirker Pass Road and Marsh Creek Road and did not want to see parking stalls lost in downtown.

Gordon Ringenberg said he lived in Dana Hills and is a 50-year resident of Clayton. He recognized the regulations and requirements that the Commission was tasked to meet. He identified himself a member of Clayton Valley Presbyterian Church and said the church was partnering with Hope Solutions to pursue development of housing on the vacant land behind the church building. He hoped the City would consider the Church's proposal favorably.

A speaker in the room expressed gratitude for the information shared that evening. She agreed with comments made earlier about opening up ADU possibilities. She thought there would be a tremendous amount of support for that option, and said that it could be a means to reverse social issues while letting Clayton be Clayton and allowing neighbors to take care of each other. She looked forward to seeing the final plan.

No other member of the public requested to speak at this time, so Chair Denslow invited comments from the Planning Commissioners.

Referencing the demographic data in Chapter 7 of the draft Housing Element, Commissioner Hines-Shaikh asked if local and countywide data was available that overlapped area median income (AMI) with racial data to determine whether certain AMI groups had a preponderance of certain races. As the City considered its obligations for AFFH and inclusion, she expressed a desire to be intentional about the historical disadvantages imposed on people of color that have resulted in people of color falling disproportionately into lower income brackets.

Commissioner Hines-Shaikh asked about draft inventory Sites B (Silver Oak Estates) and D (Lydia Lane), which were adjacent to each other but had different densities. She suggested their densities should be consistent with each other. Director Ayers said that Site B had a pending application for residential development, and the draft inventory reflected the proposed project of 32 single-family houses and three ADUs. The adjacent Site D was suggested to have a lower density in the draft inventory for consistency with the development pattern of the neighborhood it adjoined. Assistant Planner Sikela advised that, even though the two sites appeared to be adjacent to each other on the map, in actuality they were separated by Mount Diablo Creek and were located in two different zoning districts with two completely different development patterns.

Commissioner Gavidia said that economic reality was not considered in legislation. He said that rezoning properties would not be sufficient to create housing to meet RHNA if the economics did not support that development. He expressed skepticism about ADUs as a housing option due to their construction cost. Large developers, however, did have the resources to build large apartment complexes and he liked the idea suggested by a public speaker that Clayton Station could be a mixed-use development. He believed that the site was a bad retail location, but that if it were redeveloped, it could bring in revenue that the City needed. He believed that the property owner of Clayton Station would be motivated to consider adding second-story residential to the existing commercial center and was accustomed to rental income. He did not believe the Seeno property to be a viable housing option because of the agricultural tax benefits that the property owner received for the current use of the site for animal grazing. He additionally did not believe that locating new housing downtown in order to support Town Center businesses was viable because Clayton is not a destination. The Town Center also lacked public transit. He suggested eliminating building height maximums for the Clayton Station and Clayton Valley Presbyterian Church sites and adopting regulatory flexibility and zoning to allow a thousand apartment units on the sites, adding that those

sites had good access to roadways, transit and jobs. He believed multifamily development on those sites would result in less neighborhood conflict than was observed during hearings on The Olivia at Marsh Creek project.

Chair Denslow inquired of staff why the Clayton Station shopping center had not been included in the draft inventory. Director Ayers responded that in order to include already developed sites in the draft inventory, the City would have to make a case that the site would reasonably be redeveloped within the eight-year cycle of the Housing Element. Responding to Chair Denslow, Director Ayers advised that evidence that could support that case might include abandonment or vacancy of existing structures, or interest expressed by the property owner to redevelop the site with housing. At the request of Commissioner Gavidia, staff agreed to contact the property owner of Clayton Station to inquire about their interest in redeveloping the shopping center as a mixed-use project with housing. Vice Chair Miller also supported exploring the possibility of mixed uses at Clayton Station. He recognized that, while the existing buildings were likely not structurally adequate to support residential units on upper floors, mixed use redevelopment on the property would have benefits in terms of reduced vehicle miles traveled, reduced demand for automobile trips by residents for goods, and because of the site's transit access. He suggested that it was a novel idea to consider Clayton Station as a kind of transit village.

Commissioner Cesarin said he did not believe the residents in Clayton wanted housing in the Town Center, and he did not think locating high density housing there was the right approach. He recommended mixed use buildings with residential on the second floor only, with density in the low to medium range. He believed that, in order to be successful, the Town Center needed more of a draw for outsiders, rather than having more housing constructed. He believed that the downtown needed a more long-term strategy for development and that taking up all the available land for housing was short-sighted. He suggested better clarification of where ground floor residential units would be allowed, and that the prohibition on ground floor residences be expanded beyond just Main Street and Center Street. He was a proponent of ADUs and understood why the draft Housing Element could not overestimate their share of the RHNA. Still, he suggested that the number of ADUs projected in the draft Housing Element could be higher. To meet the desire for smaller housing units expressed by aging members of the population, Millennials and Generation Z, he recommended regulations that required property owners to build ADUs whenever they built or added onto a large single-family house. He also agreed that Clayton Station as a mixed-use development was a good idea; he did not think it would be feasible in this housing cycle, though he suggested initiating conversations with the property owner to consider its inclusion in the next cycle's inventory. He suggested increasing density on Sites A, R and O

(Oakhurst Overflow Parking Lot), as well as any site on Kirker Pass Road, would be helpful, not disruptive to the community and good for transportation. Speaking to draft Program K2, he suggested changing the word “consider” to another word that indicated stronger commitment and urgency toward green building practices.

Upon invitation from the Chair, a speaker from the audience stated that he did not understand the City’s two-story height limit and questioned why it was the maximum height allowed for a building.

Commissioner Hines-Shaikh also agreed that communicating with the Clayton Station property owners was a good idea. Regarding the downtown sites, she asked if underground parking could be a requirement for new development. Director Ayers advised that no such requirement was in place right now, and imposing an underground parking requirement would require a Town Center Specific Plan amendment. Commissioner Hines-Shaikh suggested that for the City-owned parking lot, subterranean parking might be a way to preserve parking while allowing a developer to maximize the floor area within the building above grade, up to the maximum height allowed, as revenue-generating floor area. Commissioner Gavidia said that subterranean parking in downtown would be cost-prohibitive. He re-iterated that rezoning land was not sufficient to ensure that housing was built if the economics did not support construction.

Commissioner Cesarin confirmed with staff that the maximum building height was 35 feet. Director Ayers stated that the draft Housing Element currently included a program to review development regulations, such as height limits, that could be modified to better accommodate housing. Commissioner Cesarin otherwise encouraged members of the community to reach out to staff, Councilmembers and Commissioners to share their feedback at this early stage in the Housing Element update process.

Chair Denslow suggested that the draft Housing Element should incorporate a higher rate for annual construction of ADUs, since that was a housing type that Clayton residents seemed to support based on survey feedback received so far. She questioned whether the changing demographics of the community and the younger generations’ preference for smaller houses created a challenge for sustainability in the future. She said that young families are financially strained to buy a single-family house, and that there was an opportunity to have greater diversity in rental and homeownership housing types. However, she said, there is a split demographic in the community, and the pace of how to introduce the change to the community was key. She suggested that introducing a higher density housing type outside of downtown in other locations within Clayton where people felt comfortable with it could address traffic concerns and, with time, facilitate increased comfort level with that housing type in other

parts of the City. She said she observed conflicting messages in the various housing surveys the City had conducted. As an example, 61 percent respondents to the first Maptionnaire survey expressed no interest in apartments or condominiums, while some respondents to the Balancing Act simulation selected sites to have 30 units per acre, which translated to apartments or condominiums. As another example, the different survey responses showed an interest in housing for younger people moving into the City and those residents wanting to downsize, but not at high density. She thought that the conflicting messages was a result of a lack of high-density housing in the City, and the discomfort expressed by some residents about where the City had approved high-density housing recently. She suggested decreasing density in the Town Center, and increasing density in other locations that were less compact, to acclimate the community to the idea of high-density housing. She preferred to see prioritization of bringing more businesses into the Town Center over introducing more housing at this time.

There was no one else present who wished to speak on this item. Director Ayers advised that she had received two written comments by email. Copies of the emails had been forwarded to the Commission and would be posted to the agenda website as an addendum.

Chair Denslow confirmed with staff that the Commission did not need to take any action at this time.

9. PUBLIC HEARING

There were no public hearings.

10. ACTION ITEMS

There were no action items.

11. COMMUNICATIONS

Vice Chair Miller suggested that the next Planning Commission meeting agenda include another opportunity for community comment on the Housing Element within the 30-day public review period. Chair Denslow advised that the City Council was also scheduled to have a comment session on the Housing Element at a special meeting on May 31.

Director Ayers announced that the City was accepting applications for the Planning Commission. Information about how to apply and the deadline for submitting an application were under the City News heading on the homepage of the City website.

12. ADJOURNMENT

The meeting was adjourned at 10:06 p.m. to the next regular meeting of the Planning Commission on June 14, 2022..

Respectfully submitted:



Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:



Terri Denslow, Chair