

**Minutes**  
**Clayton Planning Commission Meeting**  
**Tuesday, April 25, 2017**

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

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

Present:       Chair Dan Richardson  
                  Vice Chair Carl Wolfe  
                  Commissioner Bassam Altwal  
                  Commissioner Peter Cloven  
                  Commissioner William Gall

Absent:         None

Staff:          Community Development Director Mindy Gentry  
                  Assistant Planner Milan Sikela, Jr.

**2. ADMINISTRATIVE**

2.a.    Review of agenda items.

2.b.    Declaration of Conflict of Interest.

None.

2.c.    Vice Chair Wolfe to report at the City Council meeting of May 2, 2017.

**3. PUBLIC COMMENT**

None.

**4. MINUTES**

4.a.    Approval of the minutes for the April 11, 2017 Planning Commission meeting.

**Vice Chair Wolfe moved and Commissioner Gall seconded a motion to approve the minutes, as submitted. The motion passed 5-0.**

**5. PUBLIC HEARINGS**

5.a.    **GPA-03-16 and ZOA-03-17, General Plan Amendment and Municipal Code Amendment, City of Clayton.** A request for consideration of an amendment to the Land Use Element of the General Plan regarding the determination of residential density calculations as well as an Ordinance pertaining to the associated changes to the Clayton Municipal Code for the purposes of determining residential density calculations for residential parcels with sensitive land areas.

The staff report was presented by Director Gentry.

Commissioner Altwal had the following questions:

- Since 98% of Clayton is built out, of the remaining 2% that is undeveloped, which of that 2% is sensitive land area? *Director Gentry indicated that, of the 2%, no parcel-specific site assessment of sensitive areas has been conducted. Some parcels may contain sensitive areas such as slopes and creeks while other parcels may contain such attributes as PG&E easements. However, PG&E easements would not constitute a sensitive land area.*
- Can there be a reduction in the amount of items being listed as sensitive land areas in proposed Section 17.22.030 – Determining Capacity? *Director Gentry indicated that the list being reduced or expanded is up to the Planning Commission.*

Vice Chair Wolfe asked if this amendment is based solely on the developable part of the land. *Director Gentry responded that was correct and added that part of the impetus for this amendment emerged from the Silver Oak Estates project (which is not being discussed at tonight's meeting since the Silver Oak Estates project is not on tonight's agenda) which, because of the physical constraints on the site, the developer could not meet the development range and product type required by the General Plan.*

Commissioner Gall had the following questions:

- What does the Regional Housing Needs Allocation (RHNA) obligation of 141 units mean? *Director Gentry indicated that the State of California allocates to regional governments—which, in the Bay Area's case is the Association of Bay Area Governments (ABAG)—the number of housing units that ABAG is required to plan for in the Bay Area and then, in turn, ABAG distributes the number of housing units to all communities within ABAG's jurisdiction. With regards to Clayton, ABAG has allocated an obligation of 141 units that Clayton has to demonstrate that there is adequate capacity within the community to accommodate the 141 units.*
- In Attachment A of the Planning Commission Resolution, on Page 2 of 3, under Residential Designations, it states that second dwelling units are exempt from the determination of residential densities; so does that mean that a second dwelling unit on a residential property would not be counted toward calculation of density requirements? *Director Gentry replied that, based on recent State mandates, the State has removed a lot of local jurisdictional control over the development of second dwelling units, which are now known as accessory dwelling units, and cities are now required to allow accessory dwelling units in residential districts. Second units would not to be included when calculating density.*

Commissioner Cloven had the following questions:

- There are two developments—Silver Oak Estates and High Street Townhomes—that would be potentially impacted by this Ordinance; were there any other possible future projects in Clayton that might be impacted as well? *Director Gentry indicated that currently no applications have been submitted to the City for projects that might be affected by this Ordinance.*

Commissioner Altwal asked who initiated this amendment? *Director Gentry indicated that this amendment was generated by staff as a method of rectifying inconsistencies when a project is unable to meet the General Plan density and product type requirements.*

Chair Richardson had the following questions:

- If the old Fire Station property were to be redeveloped, would the PG&E tower easement be counted toward density requirements as covered by this amendment? *Director Gentry indicated that this amendment would only apply to environmentally-sensitive land issues such as creeks and slopes and would not apply to power lines.*
- Am I correct in understanding that this amendment, when applied to pertinent developments, would actually result in fewer units being constructed on the project site? *Director Gentry indicated that was correct.*

The public hearing was opened.

Rod Padilla, 311 Saclan Terrace, indicated the following:

- Although he appreciated the City for trying to remedy the General Plan density inconsistency issue, he does not support approval of the amendment and urged the City to find another way to address this issue.
- When a prospective developer is looking at a project site, they know what already exists on that site and should respect the natural attributes of that site.
- The City should not be accommodating developers; developers should be accommodating the City.

Bill Jordan, 6690 Marsh Creek Road, indicated the following:

- This should be a developer-initiated amendment.
- Based on the feedback received by the community and City over the conceptual High Street Townhome project, the City should not be initiating this amendment.
- I hope that if, this Ordinance is approved, that there is still an option for a project developer to opt out of having to comply with these regulations and be allowed to use other methods of compliance such as density bonuses.

Mark Kelson, 29 Tiffin Court, indicated the following:

- I support this amendment.
- I think it is important to have a method of providing consistency between the General Plan and what is actually existing on the project site.
- When Clayton was established, the vision was to keep our community semi-rural and low density and this amendment provides a mechanism to help protect that vision.

Shirley Jensen, 301 Saclan Terrace, indicated that, now that she understands the components of the Ordinance, she supports the amendment.

Steve Crockett, 6001 Golden Eagle Way, indicated the following:

- He has concerns that the amendment is being proposed by the City in order to accommodate the development of the Silver Oak Estates project.

- The developer of the Silver Oak Estates project should be developing their property in accordance with Clayton's vision.

Chair Richardson indicated that the Silver Oak Estates project is not on the agenda tonight, so the merits of the project cannot be discussed. This public hearing is about the amendment only and how this amendment would apply to the development of future projects Citywide.

Laurel Crockett read passages from the General Plan Land Use Element and indicated the following:

- She is opposed to the amendment.
- Approval of the amendment will allow high density development to destroy our community.
- I do not understand why the City is proposing to amend regulations to help the developer of Silver Oak Estates construct a high density development in our community.
- This amendment does not comply with the rural character of Clayton and the vision of the General Plan Land Use Element.

David Shihabi, 177 Brandywine Place, indicated the following:

- He is opposed to the amendment.
- This amendment will bring high density housing and more people to our City and, yet, we do not have the infrastructure to handle this type of development and the increased traffic and other impacts it will bring to Clayton.

Ann Vestal, 1737 Indian Well Way, indicated the following:

- She is opposed to the amendment.
- This amendment will bring high density housing to Clayton which does not fit in with our community.

Dane Horton, 100 Forest Hill Drive, indicated the following:

- He is opposed to the amendment.
- This amendment will bring high density to our City which will be a visual eyesore as well as impacting parking, traffic, and draining our water resources.

Nancy Topp, 175 Brandywine Place, indicated the following:

- She is opposed to the amendment.
- Been a Clayton residence for 20 years and moved because of the open space amenities.
- This amendment would bring to Clayton the type of development we see in San Francisco or Walnut Creek and would ruin the character of our community.
- We have very little retail space or retirement living opportunities in Clayton and we should be preserving our remaining developable land for retail and retirement development.

The public hearing was closed.

Director Gentry indicated the following:

- City staff introduced this amendment as way to decrease the density designation and number of units when sensitive land uses are present on a property.
- This amendment is a tool to allow a reduction in the proposed number of units in order to avoid a situation where a developer would have to construct higher density units in order to meet the density range on a particular piece of property that is constrained by sensitive land areas.

Commissioner Gall had the following questions and comment:

- So there is no high density housing being proposed as part of this amendment? *Director Gentry indicated that was correct as this amendment is only addressing how residential densities are calculated which would actually result in a less dense project on particular property that is constrained by sensitive land areas.*
- So this amendment would only be applicable to these sensitive areas? *Director Gentry indicated that was correct.*
- Would this amendment would actually assist in meeting our General Plan goals and objectives of preserving our rural character and encourage this balance of housing types and densities consistent with this rural character? *Director Gentry responded yes and added that we are also trying to achieve compliance with the densities and product types listed in the General Plan.*

Commissioner Altwal asked how much of the two percent of remaining developable land in Clayton is comprised of the Silver Oak Estates project site? *Director Gentry indicated that the Silver Oak Estates project site is the largest parcel of undeveloped land remaining, being approximately 14 acres in area, which would comprise approximately 30 percent on the remaining developable land in Clayton.*

Vice Chair Wolfe indicated the following:

- He appreciated the interest of the public in this amendment.
- There is a misunderstanding as to what we are trying to achieve with this amendment.
- We are not proposing high density housing.
- This amendment will go a long way toward lessening the density on applicable parcels of land.
- We are continuing the public's desire to preserve the rural character of Clayton and this amendment will provide us with another method of attaining this preservation of character.
- Projects will still have to come before the Planning Commission and City Council and be scrutinized on an individual basis.

Commissioner Gall indicated the following:

- He concurs with Vice Chair Wolfe's comments.
- This amendment will allow us to protect those attributes of Clayton we love such as slopes greater than 26%, creeks, and other sensitive areas which are part of the character of our community.

Commissioner Altwal indicated the following:

- He concurs with Vice Chair Wolfe's comments.
- This amendment will help us to meet the requirements of the General Plan and help reduce density on applicable parcels of land in Clayton.

Commissioner Cloven indicated the following:

- He is in support of the amendment.
- The amendment would not increase density but would actually reduce the number of units that could be built on particular piece of property.
- This amendment will assist in preserving the character of Clayton.

Chair Richardson indicated the following:

- When I moved to Clayton 30 years ago, I remember it being very different from today.
- I very much enjoy the rural character and quality of life in Clayton that includes such things as the sidewalks in the Town Center being stamped to look like wood and bringing our third grade children downtown to show them the beauty and history of our community as we pass on our legacy.
- We are always trying to find ways to carry our traditions and lifestyle forward as part of the vision of our community.
- It is an ongoing challenge to balance the rights of property owners to improve their property with what we as a community can accept on that property.
- This amendment allows a property that could be developed with 100 units to be developed with a less amount of units once the sensitive areas on the property are subtracted out.
- This amendment protects our environmental resources and removes impediments to meeting the housing requirements mandated by the State.

**Commissioner Altwal moved and Vice Chair Wolfe seconded a motion to adopt Resolution No. 01-17 recommending City Council approval of:**

- 1) **A General Plan Amendment to modify the calculation of residential densities and not require a minimum density for residential parcels with sensitive land areas (GPA-03-16); and**
- 2) **An Ordinance adding Chapter 17.22 to Title 17 "Zoning" determining the methodology of residential density calculations for residential parcels with sensitive land areas (ZOA-03-17).**

**The motion passed 5-0.**

- 5.b. **ZOA-02-17, Municipal Code Amendment, City of Clayton.** A request for consideration of a City-initiated Ordinance amending Title 15 "Building and Construction", Chapter 15.08 – Sign Provisions of City of Clayton Municipal Code in order to revise the Sign Provisions to comply with the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona*, to prohibit mobile billboards, and to incorporate other best practices.

Director Gentry presented the staff report.

Vice Chair Wolfe had the following questions:

- Does this amendment impact mobile billboards only or other types of signage as well? *Director Gentry indicated that this amendment would allow better control of temporary signage. Mobile billboards are a separate issue; something you would see in other communities as mobile billboards are not a something you see in Clayton and, as a result, are not a controversial issue.*
- What part of our Sign Provisions would be impacted by this amendment? *Director Gentry indicated that this would impact the Sign Provisions in their entirety.*

Commissioner Altwal had the following questions:

- How would this amendment apply to a vehicle with a billboard on it that was just driving through town? *Director Gentry indicated that enforcement would be dependent on the spirit of the law. From staff's perspective, there would be no issue if the vehicle was merely driving through town; however, if the vehicle was seen repeatedly over a short duration, there might be an issue.*
- What about a vehicle that parks overnight will an advertisement on it such as "Got Junk"? *Director Gentry indicated that vehicles advertising the vehicle owner's business would be exempt from these new sign regulations.*

Commissioner Cloven had the following questions:

- Did the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* touch upon allowing a jurisdiction to audit offensive messages on signage? *Director Gentry indicated that Reed vs. Town of Gilbert, Arizona did not pertain to first amendment rights for hate speech or messages regarded as distasteful.*

Commissioner Gall had the following questions:

- Did the City's legal counsel review this amendment? *Director Gentry responded yes.*
- With this amendment, we are not prohibiting the right to free speech are we? *Director Gentry indicated that this amendment would remove provisions on signs based on their content and would provide us with content-neutral provisions which preserves first amendment rights.*

Chair Richardson expressed support for the amendment.

The public hearing was opened.

There were no comments.

The public hearing was closed.

**Commissioner Altwal moved and Commissioner Cloven seconded a motion to adopt Resolution No. 02-17, recommending City Council approval of an Ordinance amending the City's Sign Provisions. The motion passed 5-0.**

## 6. OLD BUSINESS

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

8.a. Staff

None.

8.b. Commission

None.

**9. ADJOURNMENT**

9.a. The meeting was adjourned at 8:15 p.m. to the regularly-scheduled meeting of the Planning Commission on May 9, 2017.



Submitted by  
Mindy Gentry  
Community Development Director



Approved by  
Dan Richardson  
Chair

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