

Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, September 13, 2022

1. CALL TO ORDER

Vice Chair Miller called the meeting to order at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Richard Enea led the Pledge of Allegiance.

3. ROLL CALL

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

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

4. ELECTION OF CHAIR AND VICE CHAIR

Vice Chair Miller stated that, to avoid any discontinuity to the Planning Commission should he be elected to the City Council, he did not wish to be elected as Planning Commission Chair. He was happy to serve with the Commission as a member. He then invited a motion for election of the Planning Commission Chair for the current fiscal year.

Commissioner Enea moved to elect Commissioner Richardson as Chair of the Planning Commission. Commissioner Shulman seconded the motion. The motion passed by vote of 5 to 0.

Vice Chair Miller invited a motion for election of the Planning Commission Vice Chair for the current fiscal year.

Commissioner Shulman moved to elect Commissioner Enea as Vice Chair of the Planning Commission. Chair Richardson seconded the motion. The motion passed by vote of 5 to 0.

Chair Richardson took over as Chair of the meeting at this time. He thanked Commissioner Miller for his service as Vice Chair during the prior year. He acknowledged the new beginning of the Commission with its three new members

and two continuing members, and he looked forward to the opportunity to work with the Commission for the benefit of the community. Vice Chair Enea expressed gratitude for his election as Vice Chair and looked forward to being back on the Commission.

5. PRESENTATIONS

Director Ayers advised that there were no presentations on the evening's agenda. However, because this was only the second meeting with a hybrid in-person and virtual format, she requested an opportunity to review meeting protocol. She reminded all in-person meeting attendees to silence their cell phones and explained the means for virtual attendees to indicate a request to speak on an agenda item. She further explained that communications between a member of the public and an individual Commissioner during the meeting was prohibited outside of the public meeting setting, and relatedly, that the "chat" feature in the virtual meeting platform was turned off.

6. ACCEPTANCE OF THE AGENDA

There were no changes to the agenda as submitted.

7. PUBLIC COMMENT

There were no public comments.

8. CONSENT CALENDAR

A. Minutes of Planning Commission Meeting of June 28, 2022.

Director Ayers confirmed Commissioner Miller's statement that under Robert's Rules of Order, a Commissioner who had not attended a Planning Commission meeting could vote on that meeting's minutes; provided, that the Commissioner had reviewed the draft minutes. 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 on the item.

Commissioner Miller moved to adopt the Consent Calendar with Meeting Minutes of the June 28, 2022, meeting, as submitted. Commissioner Cesarin seconded the motion. The motion passed by vote of 5 to 0.

9. COMMENT SESSION

A. Comment Session on the Draft Environmental Impact Report Prepared for the City of Clayton 6th Cycle (2023-2031) Housing Element Update and Associated Land Use Element and Zoning Code Amendments.

This is a comment session for the purpose of soliciting spoken comments from interested parties, individuals and other public agencies on the Draft

Environmental Impact Report (EIR) prepared for the City of Clayton 6th Cycle (2023-2031) Housing Element Update and Associated Land Use Element and Zoning Code Amendments (“Project”).

The Draft EIR is being circulated for 45 days for public and agency review and comment in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Clayton’s Local CEQA Guidelines (Resolution No. 62-2012). During the 45-day review and comment period, members of the Planning Commission, public and other agencies are invited to provide input on the analysis and discussion of alternatives contained within the Draft EIR. Planning Commissioners and other interested parties can provide their input on the Draft EIR via written letters or emails to the Community Development Department during the comment period, which began on August 19, 2022, and ends on October 3, 2022, or they may state their comments aloud at this comment session. Responses to all substantive comments on environmental issues of the Draft EIR, as well as revisions to the Draft EIR that result from those responses, will be incorporated into a Final Environmental Impact Report (Final EIR) that staff and the consultant will prepare following the end of the comment period and ahead of future noticed public hearings on the proposed Project with the Planning Commission and City Council.

Director Ayers presented the item and shared a slide deck summarizing Housing Element law, CEQA and the content of the Draft EIR prepared for the Project.

Chair Richardson invited Commissioners to ask questions of staff. No Commissioners had questions at this time. Chair Richardson explained that comments on the Draft EIR would be invited from members of the public first, followed by members of the Commission. He re-emphasized that written comments on the Draft EIR could continue to be submitted to City staff through October 3.

Vince Moita requested to speak. He stated that he was a land use attorney who lived in subsection A of the Marsh Creek Road Specific Plan (MCRSP) area between 1993 and 2006. He explained that few, if any, of the planned 290 housing units were actually built in the MCRSP area when he was growing up there. Given recent housing mandates from State and Association of Bay Area Governments (ABAG), as well as current severe lack of housing experienced by citizens, he suggested that it would be prudent to re-evaluate the current Countywide Urban Limit Line (ULL) at the northeastern municipal boundary of Clayton. Noting that the ULL and the MCRSP were adopted within months of each other, but that the ULL bifurcated a swath of area within the MCRSP area, he suggested that the City consider supporting a request to the Contra Costa County Board of Supervisors to review amendment to the ULL to match the MCRSP planning area boundary. He suggested that the inconsistency between the ULL, the

MCRSP planning area, and the City's Sphere of Influence (SOI) put the area outside the ULL off limits to the City to achieve its maximum buildout, and it robbed Clayton of opportunity for sustainable growth. He suggested that the land in the MCRSP area could be re-evaluated and its land use designations amended to increase densities to address the full 6th cycle regional housing needs allocation of 570 units with medium- and low-density residential growth that would be similar to existing neighborhoods on Eagle Peak Avenue or in Peacock Creek and that would preserve the character of Clayton. He suggested that "shutting the door" to this opportunity would cause the City to lose its development discretion and would force it to adopt projects like those that would be mandated pursuant to Senate Bill 35 to meet its housing needs. He explained that the City's General Plan envisions annexation of the SOI and suggested that the Draft EIR include an alternative scenario that includes adoption of the existing SOI. He stated that annexations of lands in the SOI that did not strain City resources would be consistent with current planning documents, and he specifically cited General Plan Land Use Element Objective 3 and Policy 3a. He concluded by requesting that the Draft EIR evaluate annexation of all lands within the MCRSP planning area to facilitate development of the MCRSP lands within the municipal boundary should the ULL be amended in 2026. He thanked the Commission and wished them the best Commission going forward.

There being no other member of the public attending in person or virtually who wished to speak on this item, Chair Richardson invited comments from Commissioners.

Vice Chair Enea requested that staff clarify the location of the SOI in the area that the Mr. Moita had referenced. Vice Chair Enea confirmed with Director Ayers and Assistant Planner Milan Sikela that the lands were unincorporated; outside the Clayton municipal boundary and therefore, subject to County land use designations and zoning; and that the lands were zoned by the County as Agricultural.

Commissioner Miller suggested that there be more explanation of the intent of the SOI.

Director Ayers screen shared the image of the City's General Plan land use map and identified the ULL, the SOI line and areas that were within the MCRSP planning area. She explained that the lands to which Mr. Moita spoke were north of Marsh Creek Road in the planning area. In response to Commissioner Miller, Director Ayers advised that the SOI line encompassed those lands that the City anticipated annexing. She explained that some lands inside the SOI were outside of the ULL. While any annexation of lands outside the municipal boundary would be subject to approval by the Contra Costa Local Agency Formation Commission (LAFCO), requests to annex lands outside the ULL would also be subject

to approval by the County Board of Supervisors. She explained that parts of the area that Mr. Moita referenced were pre-zoned as low-density residential in the MCRSP, and that those pre-zoning classifications would become effective upon approval of the lands being annexed into the City.

In response to Chair Richardson, Director Ayers spoke to the recent entitlement of the Oak Creek Canyon Development, a residential project of six single-family residences that was within the MCRSP planning area and within the municipal boundary near the City's eastern edge. She advised that the City Council approved that project in July 2021.

Commissioner Miller asked about the procedural requirements for changing the ULL and how the timelines for that process related to the deadlines for the Housing Element. He confirmed with staff that the process for annexations or amendments to the ULL would involve agencies outside of the City's control, and expressed concern about extended timelines in those instances.

Commissioner Shulman referenced page 2-24 of the Executive Summary, where population projections from the Contra Costa Water District Urban Water Master Plan (CCWD UWMP) were mentioned along with the Housing Element Update's (HEU's) population projections. She noted that the CCWD UWMP projected 530 new residents, which was significantly fewer residents than the HEU's projection of 2,364 new residents. She requested clarification on the source of the data that informed the CCWD UWMP and why the difference was so large. She expressed concern about water demands of increased housing given increased frequency of droughts in the region.

Commissioner Miller spoke to the Greenhouse Gas (GHG) and Utilities and Service Systems sections of the Draft EIR. He confirmed with staff that, based on the analysis in the Draft EIR, GHG impacts would not be fully mitigated, even with adoption of mitigation measures. He noted that all but one of the six recommended mitigation measures push toward electrification of vehicles and appliances and away from natural gas installations in new construction. He expressed concern that that particular mitigation could introduce an additional problem in the form of utilities and increased draw electrical power sources. He questioned whether the community would be underserved by electrical infrastructure with implementation of the measure. He felt that the GHG mitigation measures prohibiting natural gas seemed aggressive. By contrast, he liked the mitigation measure that encouraged energy efficiency measures, such as roof-mounted solar, that exceeded state standards, though he noted that that measure was not mandatory and might not even be implemented for certain projects, such as those that would be exempt from CEQA.

Commissioner Cesarin said he appreciated the forward thinking of the mitigation measure eliminating the need for natural gas. He believed there would be more limitations on that and more need for individuals to cut back on natural gas use in the future. He suggested the Draft EIR couple the mitigation measures with new technologies and new energy initiatives for power generation that would make up for the increased demand for electricity. Speaking to recommended mitigation measure MM GHG-2 regarding adoption of a zero net energy (ZNE) ordinance, he suggested removing the word “consider,” to make more of a commitment to adopting a ZNE ordinance. He confirmed with Director Ayers that the analysis needed to develop and adopt a ZNE ordinance was lengthy, and he understood the analysis of the decision of whether to pursue ZNE ordinance would include a report of feasibility and cost-efficiency. He encouraged development of an alternative report that evaluated the viability and cost-effectiveness of *not* adopting and implementing a ZNE ordinance.

Speaking to the Alternatives in the Draft EIR, Commissioner Cesarin asked how Alternative 2 was developed for the Draft EIR. Director Ayers advised that Alternative 2 was “status quo” for the sites in the Town Center and housing inventory Site M. In that scenario, existing zoning designations and allowable densities would not change from what was already adopted for those sites. She advised that both Alternative 2 and Alternative 3, the latter of which added sites to the housing inventory based on property owner request, were developed based on public comments received in response to the Housing Element and Balancing Act surveys and input received during the community comment period on the Public Review Draft Housing Element in May and June 2022. Director Ayers advised that Site P and Site S were not new additions to the inventory of sites in the draft Housing Element Update, though Site U and Site V in Alternative 3 were.

There being no other member of the public attending in person or virtually who wished to speak, Chair Richardson closed public comment on the item.

10. PUBLIC HEARINGS

There were no public hearings.

11. COMMUNICATIONS

There were no Communications.

[Remainder of this page left blank. Signatures on the following page.]

12. ADJOURNMENT

The meeting was adjourned at 8:00 p.m. to the next regular meeting of the Planning Commission on September 27, 2022.

Respectfully submitted:



Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:



Richard Enea, Acting Chair