

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

**1. CALL TO ORDER**

Chair Dan Richardson called the meeting to order at 7:15 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  
                                  Commissioner Ed Miller (arrived at 7:17 p.m.)

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. DELETIONS AND CONTINUANCES**

**A. Roadside 22 Beer and Wine Bar Use Permit (UP-02-2022)**

Director Ayers advised that noticing for the public hearing on this application had been mailed out but not completed. Since noticing had not been completed, she said that the public hearing could not be held this evening, and that the item would be re-noticed for a future meeting date.

**6. ACCEPTANCE OF THE AGENDA**

There were no changes to the agenda as submitted.

**7. PUBLIC COMMENT**

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

## 8. CONSENT CALENDAR

### A. Minutes of Planning Commission Meeting of September 13, 2022.

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 Meeting Minutes of the November 22, 2022 meeting, as submitted. Commissioner Cesarin seconded the motion. The motion passed by vote of 5 to 0.

## 9. PUBLIC HEARING

### A. Recommendation on the City of Clayton 6<sup>th</sup> Cycle Housing Element Update and Associated Land Use Element Amendments, and Consideration of the Final Environmental Impact Report Prepared for the Project

The purpose of the public hearing is to consider the update to the City of Clayton General Plan Housing Element for the 6<sup>th</sup> housing cycle (2023-2031). The updated Housing Element includes programs, policies and actions to further the goal of meeting existing and projected housing needs of all income levels and identifies how the City of Clayton (City) plans to accommodate its Regional Housing Needs Allocation (RHNA) of at least 570 units. In addition to update of the Housing Element, associated amendments to land use descriptions, goals and policies in the Land Use Element of the General Plan are proposed to increase residential densities to support greater variety in housing types in the City. Amendments to the land use designations on the General Plan Land Use Map are also proposed for the following properties:

- 1578 Kirker Pass Road, Assessor's Parcel No. (APN) 118-031-054, proposed amendment from *Kirker Corridor Commercial* to *Institutional Density*
- Diablo Creek Place, APN 118-230-002, proposed amendment from *Public Park/Open Space* to *Single-Family Low Density Residential*
- 6955 Marsh Creek Road, APN 119-080-009, proposed amendment from *Public Park/Open Space* and *Single-Family Low Density Residential* to *Multifamily Low Density Residential*
- Clayton Road at Peacock Creek Drive, APN 118-370-073, proposed amendment from *Private Open Space* to *Multifamily Medium Density Residential*
- Oakhurst Golf Course Driving Range, portions of APNs 118-370-017, 118-370-086, 118-370-087 and 118-370-088, proposed amendment from *Private Open Space* to *Multifamily High Density Residential*
- 1970 Eagle Peak Avenue, portion of APN 118-370-040, proposed amendment from *Rural Estate* to *Multifamily Medium Density Residential*

Following the public hearing, the Planning Commission will be asked to make a recommendation to the City Council on the proposed update to the Housing Element and the associated Land Use Element and Land Use Map amendments. If recommended by the Planning Commission and approved by the City Council, the updated Housing Element and the amended Land Use Element land use descriptions, goals and policies would apply to properties throughout the City.

***Environmental Determination:*** In accordance with the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq.*) and the State CEQA Guidelines (California Code of Regulations, section 15000 *et seq.*), a Final Environmental Impact Report (EIR; State Clearinghouse No. 2022030086) has been prepared to analyze the potential impacts on the environment that could occur with adoption of the Housing Element update and related land use amendments. The Planning Commission must consider the information in the Final EIR prior to making its recommendation to the City Council regarding certification of the EIR and adoption of the proposed General Plan amendments.

Director Ayers presented the item and shared a slide deck summarizing the staff report. Director Ayers also introduced Laura Stetson of the consulting firm MIG, who has been working with City staff to prepare the update of the Housing Element and who was joining the meeting remotely.

Chair Richardson invited comments from Commissioners.

Commissioner Miller asked about the programs in the draft Housing Element that called for streamlined permitting processes for new residential construction, and whether the reduced permitting would have financial impacts to the City's budget. Director Ayers advised that developers pay the costs for entitling their projects, reimbursing the City for the actual cost of staff time to process their development applications. She suggested that reducing the time needed to entitle residential development could result in some revenue loss to the City; however, staff did not believe that the loss would be significant. She gave an example of the Site Plan Review permit for certain residential building additions. Under current processes, a Site Plan Review permit for a single-family residence required Planning Commission approval. She noted that the staff time to process a permit like that was between \$1,000 to \$2,000, and that the City had processed one such application in 2021. She noted that, in her experience working with other jurisdictions, the permitting process was ministerial for residential building additions that met objective zoning standards such as maximum height and minimum setbacks and did not increase the number of units. She added that the City would still charge fees for processing building permit applications for such projects.

Commissioner Shulman asked if the General Plan amendments described in draft Housing Element program D1 were mandated by State legislation. Director Ayers advised that the specific and individual amendments listed in the policy were generally local and not required by State law. However, she explained that while State law was not so precise as to specify, for example, 30 units per acre as the required density in Clayton, the increases in density described in the program were needed for the City to have sufficient land zoned to meet its RHNA and facilitate residential development, which was statutorily required. Therefore, to the extent that the amendments in total were needed for the City to demonstrate its ability to achieve its RHNA, the amendments were necessary to comply with State law.

Commissioner Shulman asked if the reduction in setbacks from 20 feet to 10 feet, as called for in Program D1, would affect access for emergency or fire response. Director Ayers advised that she did not believe that a 10-foot setback would pose a challenge for emergency access. She explained that many jurisdictions allowed setbacks at 5 feet from property line, and that Building Code required a minimum 3 feet of clearance from building to property line. She added that State law allowed setbacks for accessory dwelling units to be as a little as 4 feet.

Chair Richardson opened the public hearing.

Alice Bristol requested to speak. Ms. Bristol asked if the area identified for housing at the base of 1970 Eagle Peak Avenue wrapped around the entirety of the base of the hill. She also asked for clarification on the location of the Oakhurst golf course driving range and whether that site would be across from and visible from Eagle Peak Avenue. She asked if inventory Site D (Diablo Creek Place) was an extension to the development proposed on Site B (Silver Oak Estates). She asked for further clarification on the changes to zoning in the Town Center. Lastly, she asked for the date of the City Council hearing to consider approval of the Housing Element.

There being no one else present who wished to speak, Chair Richardson closed the public hearing.

At the request of the Chair, Director Ayers responded to the questions that had been raised during the public hearing. Director Ayers advised that the portion of the property at 1970 Eagle Peak Avenue that was proposed to be designated for housing was in two distinct and separate areas that in combination constituted approximately 7 acres of the approximately 50-acre property. One of the two areas was next to the intersection of Eagle Peak Avenue and Oakhurst Drive, and the second area was on the north side of the hill. The Oakhurst golf course driving range was off of Clayton Road, behind the fountains as one traveled away from Town Center, and northwest of the country club building and tennis courts which themselves

were north of the intersection of Peacock Creek Drive and Clayton Road. Site D was at the terminus of Lydia Lane, near the Lydia Lane Park, and on the south side of the creek opposite from Site B, which was the 32-unit Silver Oak Estates single-family development proposal currently undergoing application review. Amendments described in the draft Housing Element program with respect to the Town Center would allow ground floor residential uses behind ground floor commercial uses, where the City currently only allowed residential uses above ground floor commercial uses. Residential densities in the Town Center would generally remain unchanged, as residential development potential in the Town Center was controlled more by floor area ratios than by density ranges. Director Ayers concluded by stating that the City Council was scheduled to hold a working session on the draft Housing Element on January 10, 2023; the working session would be similar to the one that occurred at the Planning Commission's meeting on November 22, 2022. The City Council public hearing to consider adoption of the Housing Element was scheduled for the Council's regular meeting of January 17, 2023.

Chair Richardson acknowledged the extensive work done by staff and the consultants, as well as the numerous meetings, numerous public hearings, and volumes of literature that had been prepared on the item. He stated that he had had the pleasure of sitting on the Planning Commission the last time the Housing Element was updated, and he complimented the work that had been done. He recognized that the Commission had read the volumes of information, asked many questions, and heard from the public on several occasions, including this evening. He explained that tonight's meeting was the Commission's opportunity to finalize those questions that had been posed and the discussions that had been held to date, and to make a recommendation to the City Council. He then invited questions, comments, or a motion from the Commission.

Vice Chair Enea made a motion to adopt the Resolution attached to the staff report, recommending that the City Council amend the Housing Element of the Clayton General Plan for the 6<sup>th</sup> housing cycle (2031-2031) and adopt corresponding amendments to the Land Use Element text and Land Use Diagram of the Clayton General Plan, and recommending that the City Council certify the Final Environmental Impact Report (EIR) prepared for the project. Commissioner Shulman seconded the motion.

Prior to the vote on the motion, Commissioner Miller asked if there had been language added to the Housing Element pertaining to the prohibition on new gas utility connections that had been identified as mitigation in the Final EIR. Director Ayers advised that, as part of the certification of the Final EIR, the City Council would need to adopt findings and a mitigation monitoring program that would document commitments to implementing the mitigation measures listed in the Final EIR. While related to the Housing Element

Update, the certification of the Final EIR was separate from the draft document being considered at tonight's meeting.

Chair Richardson invited further discussion on the motion. There being no further comments from Commissioners, Chair Richardson called for the vote on the motion. The motion passed by vote of 5 to 0.

Chair Richardson thanked the Commission for their hard work on this item.

## **10. COMMUNICATIONS**

Director Ayers wished the Commissioners happy holidays. She stated that there were currently no items scheduled for the Commission's next regular meeting of December 27, 2022.

Chair Richardson also wished the Commissioners happy holidays and re-iterated his gratitude to Commissioners and staff and recognition of their efforts on the Housing Element.

## **11. ADJOURNMENT**

The meeting was adjourned at 8:07 p.m. to the next regular meeting of the Planning Commission on December 27, 2022.

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Respectfully submitted:



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Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:



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Daniel Richardson, Chair