

**Minutes**  
**Clayton Planning Commission Meeting**  
**Tuesday, June 28, 2016**

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

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

Present: Chair David Bruzzone  
Vice Chair Sandra Johnson  
Commissioner Dan Richardson  
Commissioner Gregg Manning  
Commissioner Tuija Catalano

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.
- 2.c. Commissioner Dan Richardson to report at the City Council meeting of July 5, 2016.

**3. PUBLIC COMMENT**

None

**4. MINUTES**

- 4.a. Approval of the minutes for the June 14, 2016 Planning Commission meeting.

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

**5. PUBLIC HEARINGS**

- 5.a. **SPR-04-16; Site Plan Review Permit; Monica Funk; 1844 Yolanda Circle (APN: 118-332-002).** Review and consideration of a Site Plan Review Permit to allow the construction of a second-story balcony and exterior spiral staircase to replace an existing second-story balcony located on the rear of an existing two-story single-family residence.

Assistant Planner Sikela presented the staff report.

The public hearing was opened.

Commissioner Richardson expressed support for the project.

Commissioner Catalano asked if the ground-floor area was enclosed underneath the existing second-story balcony.

Clayton Funk, husband of the applicant Monica Funk, indicated that the ground-floor area underneath the existing second-story balcony is not enclosed and would remain unenclosed when the new balcony is constructed.

Chair Bruzzone indicated that he used to live on Frank Place and knows that the residences on Frank Place are lower in elevation than the residences on Yolanda Circle so there will be no impacts to privacy.

The public hearing was closed.

**Vice Chair Johnson moved and Commissioner Manning seconded a motion to conditionally approve Site Plan Review Permit SPR-04-16, with the findings and conditions of approval recommended by staff. The motion passed 5-0.**

- 5.b. **GPA-01-16; General Plan Amendment; City of Clayton.** A General Plan amendment to increase the density allowed within the Multifamily High Density (MHD) designation from 15.1 to 20 units per acre to 20 units per acre.

Director Gentry presented the staff report for Items 5.b through 5.g and indicated that, although the staff report for Items 5.b through 5.g would be presented at one time, the staff recommendation for each item would be indicated and the Planning Commission would conduct a public hearing on each separate agenda item.

Chair Manning asked if a developer could purchase a unit off-site and fix it up to sell as affordable housing unit as opposed to having to provide the affordable housing unit within the project itself.

Director Gentry indicated that, a developer would be able to pay an in-lieu fee.

Commissioner Manning asked if the in-lieu fee is equal to the cost of the construction of the affordable housing unit.

Director Gentry indicated that the in-lieu fee amount would be established by the City Council.

Commissioner Manning indicated that he was glad that the affordability timeframe was extended to 55 years since it started many years ago at only 10 years.

Vice Chair Johnson requested clarification on the employee housing amendment.

Director Gentry indicated that, since there are very few agricultural areas left in Clayton, the employee housing amendment would more than likely not be pertinent to our community. This type of amendment would be more applicable in the Central Valley where there are more agricultural uses. The General Plan and Municipal Code are silent on employee housing whereas the State has a specific definition for employee housing. The City does not define what a "household" means since that term is different for everyone. People can already rent out their home, so this type of living arrangement could already happen. However, this amendment would expressly allow for this type of use in Clayton.

Chair Bruzzone asked how many other cities in Contra Costa County are involved in updating their Codes to establish higher densities and inclusionary housing within their communities.

Director Gentry indicated that the City of Lafayette established a sub-committee to address an inclusionary housing ordinance years ago, but had to put it on hold due to pending courts cases; however, the City of Lafayette is now working towards completing their inclusionary housing ordinance. Walnut Creek has had an inclusionary housing ordinance for years. Further east in Contra Costa County it is not as common because housing is already considered affordable. The majority of cities are making changes or have already made the changes to increase to the requisite higher density designations.

Chair Bruzzone asked if cities are fighting this increase in minimum density and expressed concern about compromising State and Federal funds available to Clayton.

Director Gentry indicated that cities refusing to comply with State housing requirements may be susceptible to lawsuits and loss of funding from the State. So it is in a city's best interest to comply with State requirements.

Vice Chair Johnson explained that Pleasanton also challenged the State in order to resist the mandated requirements.

Director Gentry explained that the cities of Napa and Benicia also challenged the State and lost.

Commissioner Catalano requested confirmation on the location of all Multifamily High Density and Limited Commercial Districts in Clayton.

Vice Chair Johnson requested clarification on the City reporting to the State Department of Housing and Community Development (HCD).

Director Gentry explained that the City has to show proof to HCD that the City is planning for the Regional Housing Need Allocation numbers established by the Association of Bay Area Governments.

Chair Bruzzone opened the public hearing for Item 5.b.

Sue Allen, 211 Mountaire Parkway, expressed general opposition to the increase in density for the Multifamily High Density (MHD) designation and was specifically concerned about the impacts created by a higher density project located south of the Post Office as related to parking, location of garages or carports, safety issues regarding children traveling by foot on Marsh Creek Road, crime, degradation of the surround area, and the small size of High Street being inadequate to accommodate additional vehicle traffic. She added that this type of density should be located elsewhere in Clayton in order to minimize impacts to the Town Center and neighborhoods surrounding it.

Dan Hummer, 282 Stranahan Circle, agreed with Ms. Allen's concerns over increased densities for residential projects in Clayton. He expressed concern that a high density residential project located south of the Post Office would create impacts related to crime, parking, and traffic and explained that the maximum residential density allowed within Clayton should be 15 units per acre.

Chair Bruzzone reiterated that what the Planning Commission is reviewing at tonight's meeting are amendments that will allow the City to comply with State housing requirements and has nothing to do with any particular project in Clayton.

Bruce Feld, 574 Mt. Dell Drive, indicated that he moved to Clayton for its small town charm. He added that the Planning Commission and staff are in charge of protecting the intangible assets of Clayton and, with "small town America" rapidly disappearing, we have a duty to safeguard the unique qualities of our community. Higher density would not be good for Clayton.

Mark Kelson, 29 Tiffin Drive, indicated that Governor Jerry Brown is proposing legislation that would give developers the power to construct high density housing if these projects comply with certain criteria such as being located in close proximity to public transportation, etc. This new legislation would enable developers to obtain project approval without having to go through the City process. He concluded that he felt bad for the City since the State is requiring these density changes.

Chair Bruzzone closed the public hearing for Item 5.b.

Commissioner Manning indicated the following:

- The Planning Commission is looking at complying with State law.
- The City has found no correlation between higher density development and crime.
- Higher density developments exist in Clayton such as Oakhurst and there are not higher crime rates in Oakhurst.
- Low-income units exist in Clayton and no increase in crime has occurred; in fact, Clayton is one of the safest cities in California.

Commissioner Richardson indicated the following:

- The Housing Element in the General Plan is updated every few years, in accordance with State requirements.
- Every time the Housing Element is updated, the State moves the target for compliance.
- The States dictates what the City has to do to comply with State-mandated density changes.
- Affordable housing allows his children and parents the possibility of living in the City they love. His children grew up in Clayton yet they cannot afford to buy a home here. Affordable housing gives his children that chance.
- In the past, the State would merely recommend that cities should comply with these mandated housing requirements; nowadays, however, the State is much stricter about requiring cities to comply and have established penalties for cities that do not comply which equates to loss of money for cities because of the litigation process and loss of State funds.
- These State funds pay for such things as street improvements.
- The State wants the City to show where they can build new units to comply with State housing number requirements. That does not mean that the City is going to immediately try to find a developer to start constructing high density projects. It just means that were are showing the State where, potentially, the City could provide these units and making sure the City does not have ordinance established that would preclude this type of State-mandated development.
- We are simply complying with State demands. He would prefer to defy State requirements but the ensuing penalties would be more than the City could bear.

Commissioner Catalano indicated the following:

- She concurs with Commission Manning's and Commission Richardson's comments.
- Regarding the legislation proposed by Governor Brown, the Governor is merely trying to expedite the process by streamlining the environmental review for projects that comply with all applicable General Plan guidelines and Zoning standards for the particular district that the project is proposed to be located in. This legislation would not take away the City's discretionary review of such projects that are not consistent with current requirements.
- These areas slated for compliance with State housing requirements would not pertain to the entire City but, rather, just a few select areas that have this particular type of higher density zoning.
- She thinks it is wise of the City to comply with the State.

Vice Chair Johnson indicated the following:

- She echoes the previous comments made by the Commissioners.
- She is disappointed that the City has to increase the density in this district.
- The State is requiring the City to comply so we have no choice but to do so.

Chair Bruzzone indicated the following:

- He agrees with prior comments made by the Commissioners.
- He understands the concerns expressed over the increase in density.
- The review process will not be affected. When projects are proposed, they will still be subject to the review process.
- We do not want to lose State funding. The consequences for a city the size of Clayton would be drastic.

**Commissioner Richardson moved and Commissioner Manning seconded a motion to approve Resolution 03-16 recommending the City Council approve a General Plan amendment to increase the minimum density in the Multifamily High Density land use designation to 20 units per acre. The motion passed 5-0.**

- 5.c. **ZOA-04-16; Municipal Code Amendment; City of Clayton.** A Municipal Code amendment requiring projects to meet the minimum density in compliance with the General Plan Land Use designations in Multiple Family Residential Districts.

Chair Bruzzone opened the public hearing for Item 5.c.

Dan Hummer, 282 Stranahan Circle, indicated that the high density designation should be located in a different location than the Town Center.

Commissioner Richardson indicated the following:

- During the Housing Element process, the City looked at every available piece of land in Clayton and underwent review of these proposed locations by HCD. The selected areas were chosen as the most suitable for high density projects based on the fact these areas were close to transit sources.
- The Commissioners have indicated that they would prefer not to have to conform to State requirements.
- These locations were selected as potential sites for these higher density developments but that does not necessarily mean that a high density project would definitely be built there.

Chair Bruzzone closed the public hearing for Item 5.c.

**Vice Chair Johnson moved and Commissioner Richardson seconded a motion to approve Resolution 04-16 recommending the City Council adopt the Ordinance to require projects to meet the minimum density in compliance with the General Plan Land Use designations in Multiple Family Residential Districts (M-R-L, M-R-M, and M-R-H). The motion passed 5-0.**

- 5.d. **ZOA-04-15; Municipal Code Amendment; City of Clayton.** A Municipal Code amendment adding inclusionary housing regulations.

Chair Bruzzone opened the public hearing for Item 5.d.

There were no comments.

Chair Bruzzone closed the public hearing for Item 5.d.

Commissioner Catalano indicated the following:

- Inclusionary housing and affordable housing are perceived negatively which is unfortunate since making housing available and more affordable is actually beneficial for Clayton.
- Medium-income annual income range is \$67,000 to \$112,000 and low-income annual income range is \$47,000 to \$67,000. These are the incomes for teachers, fire fighters, and police officers.
- Giving people a chance to afford buying a home results in positive impacts to the community.
- Can a developer waive rights under the Costa-Hawkins Act?

Director Gentry responded that it is conceivable that a developer may do so but the City cannot require developers to do so.

Commissioner Richardson indicated that his daughter is a teacher but cannot afford purchase a residence in the community she grew up in.

**Commissioner Richardson moved and Commissioner Manning seconded a motion to approve Resolution 05-16 recommending the City Council adopt the Ordinance to add inclusionary housing regulations. The motion passed 5-0.**

- 5.e. **ZOA-05-16; Municipal Code Amendment; City of Clayton.** A Municipal Code amendment to permit transitional and supportive housing in the Limited Commercial (LC) zoning district.

Chair Bruzzone opened the public hearing for Item 5.e.

Bruce Feld, 574 Mt. Dell Drive, asked what the definitions were for transitional housing and supportive housing.

Director Gentry read aloud the definitions for transitional housing and supportive housing.

Chair Bruzzone closed the public hearing for Item 5.e.

**Commissioner Manning moved and Vice Chair Johnson seconded a motion to approve Resolution 06-16 recommending the City Council adopt the Ordinance to permit transitional and supportive housing in the Limited Commercial (LC) zoning district. The motion passed 5-0.**

- 5.f. **ZOA-03-16; Municipal Code Amendment; City of Clayton.** A Municipal Code amendment to permit employee housing of six or fewer by right within residential zones.

Chair Bruzzone opened the public hearing for Item 5.f.

There were no comments.

Chair Bruzzone closed the public hearing for Item 5.f.

**Vice Chair Johnson moved and Commissioner Manning seconded a motion to approve Resolution 07-16 recommending the City Council adopt the Ordinance to permit employee housing of six or fewer by right within residential zones. The motion passed 5-0.**

- 5.g. **ZOA-06-16; Municipal Code Amendment; City of Clayton.** A Municipal Code amendment to update the density bonus requirements to be compliant with AB 2222 and AB 744.

Chair Bruzzone opened the public hearing for Item 5.g.

Dan Hummer, 282 Stranahan Circle, asked does a density bonus mean a developer could possibly increase the density on a project over 20 units per acre.

Director Gentry indicated that, if a developer meets the requirements of the Zoning Ordinance, then the density could be increased higher than 20 units per acre.

Commissioner Richardson asked if the City is required to allow a density higher than 20 units per acre.

Director Gentry replied that, if the developer requests the density bonus and if they are proposing the necessary percentage of affordable units, the developer could propose a project with a higher density.

Commissioner Catalano indicated that she felt the costs of land in Clayton are too expensive to make a 100 percent affordable rental unit project profitable for developers.

Director Gentry also indicated that affordable housing developers look for transit-friendly sites.

Commissioner Manning indicated that cities such as Pleasant Hill fight such projects because there are so many transit-friendly sites located there.

Chair Bruzzone closed the public hearing for Item 5.g.

Commissioner Catalano moved and Vice Chair Johnson seconded a motion to approve Resolution 08-16 recommending the City Council adopt the Ordinance to update the density bonus requirements to be compliant with AB 2222 and AB 744. The motion passed 5-0.

**6. OLD BUSINESS**

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

8.a. Staff


Director Gentry and Assistant Planner Sikela thanked Chair Bruzzone, Vice Chair Johnson, and Commissioner Manning for their excellent work done while serving on the Planning Commission.


8.b. Commission

Chair Bruzzone, Vice Chair Johnson, and Commissioner Manning expressed their gratitude for being able to work on the Planning Commission and also thanked Commissioner Richardson, Commissioner Catalano, and staff for their hard work.

**9. ADJOURNMENT**

9.a. The meeting was adjourned at 8:15 p.m. to the regularly-scheduled meeting of the Planning Commission on July 12, 2016.

  
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Submitted by  
Mindy Gentry  
Community Development Director

  
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Approved by  
David Bruzzone  
Chair

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