

Minutes
Clayton Planning Commission Meeting
Tuesday, March 12, 2019

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

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

Present: Chair Bassam Altwal
Vice Chair Peter Cloven
Commissioner A. J. Chippero
Commissioner William Gall
Commissioner Frank Gavidia

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. Vice Chair Peter Cloven to report at the City Council meeting of March 19, 2019.

3. PUBLIC COMMENT

Ann Stanaway, 1553 Haviland Place, indicated that it was her opinion that City staff could do a better job enforcing the rules set by the Planning Commission.

4. MINUTES

- 4.a. Approval of the minutes for the November 13, 2018 Planning Commission meeting.

Vice Chair Cloven moved and Commissioner Gall seconded a motion to approve the November 13, 2018 Planning Commission minutes, as submitted. The motion passed 4-0-1 (Commissioner Gavidia abstained as he was not serving as a member of the Planning Commission at that time).

- 4.b. Approval of the minutes for the December 11, 2018 Planning Commission meeting.

Commissioner Chippero moved and Commissioner Gall seconded a motion to approved the December 11, 2018 Planning Commission minutes, as submitted. The motion passed 4-0-1 (Commissioner Gavidia abstained as he was not serving as a member of the Planning Commission at that time).

5. PUBLIC HEARINGS

- 5.a. **ZOA-01-19, Municipal Code Amendment, City of Clayton.** A City-initiated Ordinance for the purpose of making a recommendation to the City Council regarding amendments to temporary noncommercial signs within Chapter 15.08 – Sign Provisions of Title 15 in the Clayton Municipal Code.

Director Gentry presented the staff report.

Commissioner Chippero inquired what would qualify as a temporary sign? Director Gentry responded that the definition provided in the Clayton Municipal Code identified temporary signs as those types of signs that are made out materials such as cardboard and canvas.

Vice Chair Cloven had the following questions:

- So, regarding the 16 square-foot sign example provided by staff at tonight's meeting as a size example, according to our regulations, a property owner can have an unlimited amount of temporary noncommercial signs on private property? Director Gentry said that was correct.
- While I appreciate the protection of the freedom of speech, I am concerned about the possibility of visual blight.

Commissioner Gall inquired why was the aggregate sign area for temporary noncommercial signs changed to be an unlimited size. Director Gentry responded that there was discussion at the City Council level that aggregate sign areas would be self-regulating.

Commissioner Chippero had the following questions:

- So individual signs are required to have dimensions of 4 feet-by-4 feet to make the 16 square-foot maximum? Director Gentry responded that the signs could be any dimension, such as 1 foot-by-16 feet or 2 feet-by-8 feet, to make up the 16 square-foot maximum.
- How was the maximum 16 square-foot maximum per sign arrived at? Director Gentry responded that the City Council determined 16 square feet was an appropriate size in order to avoid having larger billboard type signs while still protecting first amendment rights and allow people to convey their message.

Commissioner Gavidia had the following comments:

- As I reviewed the information, it appeared that our City Attorney was concerned about a potential lawsuit over limiting maximum sign area.
- I understand the other Commissioners' concerns over visual blight but we must protect the right of free speech.
- When Americans burn the American flag, I find it extremely offensive; however, Americans have the right to do it. This is what free speech is all about.
- The first amendment is here to protect unpopular and unfavorable speech as well.
- I am against trying to place a restriction on the amount of signage on a property.
- People should be free to express themselves on their own property.
- These regulations for temporary noncommercial signage were meant for election season.

Chair Altwal had the following questions:

- Even though the proposed maximum area allowed per sign is 16 square feet, I could still have an unlimited amount of signs on my property if I wanted? Director Gentry responded that was correct.
- And on each sign I could say that same thing over and over, if I wanted? Director Gentry responded that was correct.
- How long can I display these types of signs on my property? Director Gentry responded the signs can be displayed for unlimited amount of time and added the City Attorney did not recommend placing a limit on the length of time in order to preserve the intent of the first amendment. However, the Code allows for enforcement if the signs are deteriorated or if the content of the sign is not considered to be protected speech.
- Regarding political signs, is there a law that requires political signs to be removed after an election? Director Gentry responded there is no actual law in place currently limiting the duration that signs can be displayed.
- This pertains to only temporary noncommercial signs on private property and not signs on public property or in the public right-of-way, correct? Director Gentry responded that was correct; the signs we are discussing tonight are only temporary noncommercial signs located on the private properties.

Vice Chair Cloven inquired whether his understanding was correct in that you can have as many signs as you want on your private property? Director Gentry responded that was correct.

Chair Altwal inquired whether these signs could be placed anywhere on my property such as in a window or on the roof of my house? Director Gentry responded that was correct.

The public hearing was opened.

Ann Stanaway, 1553 Haviland Place, had the following comments:

- It would be good to require signs to be taken down for a certain period of time when it is not necessary for the sign to be displayed.
- Allowing an unlimited aggregate of sign area seems totally politically motivated since, during the next election, we have three City Council positions opening up and the candidates will want as many signs as possible displayed.

The public hearing was closed.

Vice Chair Cloven indicated that, by allowing a 16-square foot maximum sign area, the City Council was seeking a middle ground and attempting not to limit free speech.

Commissioner Gavidia had the following comments and question:

- There should be no limit on signage.
- I discovered that, in a free speech class in a college on the other side of the country, Clayton was used as an example over free speech issues. I do not want Clayton to be known for infringing upon free speech.
- I believe people are decent and candidates are decent and would not abuse the unlimited aggregate amount of signage allowance.

- I believe there are decency laws that would prevent obscene or profane language, correct? Director Gentry responded that hate speech is not considered protected speech.

Chair Altwal indicated that the aggregate amount of signage and the time of duration that a sign can be displayed should both be restricted to a maximum size and duration.

Vice Chair Cloven indicated that, although he has concerns about blight caused by an unlimited amount of signage, we cannot limit free speech.

Chair Altwal indicated that, as a business owner, there were many regulations regulating such characteristics as font, color, lines of text, and a business could essentially still represent its own interests but had to comply with certain sign criteria. I think having regulations is a good idea.

Vice Chair Cloven indicated business signs are permanent in nature, not temporary.

Commissioner Gavidia indicated that business signs are different than political free speech signs and we should not be regulating someone's right to free speech. We should trust that Americans will do the right thing when it comes to free speech.

Commissioner Gall indicated he had concerns about allowing an unlimited aggregate of signs. I believe in free speech, but I think there should be a maximum allowance of aggregate signage allowed by the Code.

Chair Altwal indicated that he felt restricting aggregate sign area was not an issue related to free speech.

Since the City Council and City Attorney have already looked at this issue, I believe the direction is clear.

Vice Chair Cloven moved to adopt Resolution No. 01-19, recommending City Council approval of an Ordinance amending the City's Sign Provisions for temporary noncommercial signs. There was no second.

Commissioner Chippero indicated he was concerned about the blight that might be caused by having an unlimited aggregate but also did not want to infringe on free speech and suggested that a balance should be struck so the Planning Commission can agree on a motion.

Chair Altwal indicated there would be no infringement on free speech if we establish a maximum area for aggregate signs. A person can still express their opinion even if there is a maximum allowance for aggregate sign area.

Vice Chair Cloven indicated the Planning Commission needs to find middle ground regarding this issue.

Commissioner Gavidia had the following comments:

- We should not be creating laws restricting sign area maximums that that we cannot enforce.
- I support having no restrictions on aggregate sign areas.
- Balancing the issue of blight against the Constitution of the United States which allows for free speech, I am going to support the Constitution.
- With no aggregate limit, I do not believe that Clayton will suddenly suffer from blight caused by signs.
- I believe that the citizens of Clayton are good people and will not let our community be blight caused by signs.

Chair Altwal indicated that he does not feel comfortable with allowing maxim aggregate sign area to be unlimited.

The Planning Commission discussed ways to come to some sort of agreement on a vote.

Commissioner Gavidia indicated he was in favor of not voting on the recommendation in Planning Commission Resolution No. 01-19.

Director Gentry indicated if there is no action taken or no recommendation to the City Council then you are essentially recommending what is currently codified which is three square feet for temporary noncommercial signs.

Chair Altwal indicated I want to send something to the City Council and not just have our decision be no action.

Commissioner Gavidia said, if the Planning Commission cannot reach a decision, we should let the voters decide on this issue.

Vice Chair Cloven indicated he would be in favor of an aggregate that is larger than the current three square-foot aggregate listed in the Code.

Chair Altwal reiterated that he really wants to send a Planning Commission recommendation to the City Council and not a message that the Planning Commission is doing nothing.

Commissioner Chippero and Vice Chair Cloven both concurred that, as the Ordinance is currently written, the unlimited aggregate allowance would preclude any restriction on collective sign size anyway.

Chair Atwal explained that was the reason we should put a maximum restriction on aggregate sign area so that people may display a large amount of signs but something within reason that would not cause blight.

Director Gentry indicated that, for clarification purposes, people cannot combine the 16 square-foot signs directly adjacent to each other. Each sign has to have a minimum separation of 42 inches.

Chair Altwal indicated he was concerned about the possible abuse that may occur as a result of having unlimited aggregate sign area and wants to avoid a situation where the signs create an eyesore.

Commissioner Gavidia had the following comments:

- This issue is about political freedom of speech and we must preserve that right in our community.
- I am very passionate about the first amendment.
- Americans have the right of free speech; why are we trying to limit that right?
- We should not be recommending a limit on aggregate sign area since we cannot enforce it.

Chair Altwal indicated that the City should still have laws that govern sign aesthetics.

Vice Chair Cloven indicated that, as the proposed Ordinance is currently written, we are not limiting free speech.

Chair Altwal moved to adopt Resolution No. 01-19, adding a requirement for a maximum aggregate allowance and a maximum time limit that a sign can be displayed. There was no second.

Director Gentry indicated that, if the Planning Commission is recommending to add a maximum aggregate sign allowance or any other restrictions on signs such as duration or other criteria, there should be an actual dimensional threshold number and a time period recommended.

Chair Altwal moved to adopt Resolution No. 01-19, adding a requirement for a maximum aggregate allowance of 150 square feet. There was no second.

Vice Chair Cloven indicated there is value in having at least a maximum of 16 square feet per sign.

Commissioner Chippero moved and Vice Chair Cloven seconded a motion of no recommendation to the City Council for Resolution No. 01-19. The motion passed 4-1 (Chair Altwal voted to deny the motion).

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

Director Gentry informed the Planning Commission that she had accepted a position with the City of Concord and thanked the Planning Commission for all their hard work and indicated it had been a joy to work with them.

Assistant Planner Sikela praised Director Gentry for her excellent service to the City of Clayton and indicated she was kind, considerate, a great leader, always provided excellent guidance, had a great sense of humor, very intelligent, just an overall awesome boss, and she will be missed tremendously.

8.b. Commission.

Chair Altwal and the other Planning Commissioners praised Director Gentry for her excellent work and indicated that the City of Concord will definitely benefit by having her work there.

9. ADJOURNMENT

9.a. The meeting was adjourned at 8:10 p.m. to the next regularly-scheduled Planning Commission meeting on March 26, 2019.



Submitted by
David Woltering, AICP
Interim Community Development Director



Approved by
Bassam Altwal
Chair

5/14/2019