



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, October 28, 2008
Clayton Community Library Meeting Room
6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Johnson to report at the November 4, 2008 City Council meeting.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of October 14, 2008.

Public Hearings

- 3. **ZOA 02-08, Municipal Code Amendment, City of Clayton.** An amendment of Chapter 17.44 (Site Plan Review) of the Clayton Municipal Code to increase the dimensional thresholds to allow for greater administrative review and approval of minor additions to residences.
Proposed Action: Recommend City Council approval of Resolution No. 04-08.

Old Business

- 4. **Clayton Town Center Retail Study (Final Draft), City of Clayton.** Review of "Clayton Town Center Retail Study" prepared by Jim Harrigan, Managing Principal, Economic Development Systems.
Proposed Action: Provide comments for City Council review.

New Business

- 5. None.

Communications

- 6A. Staff.
- 6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is a special meeting scheduled for **Wednesday, November 12, 2008**. *Please note changed meeting date.*

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340.

An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
City of Clayton Planning Commission Special Meeting
Tuesday, October 14, 2008

Call to Order

Chair Catalano called the meeting to order at 7:00 p.m. at Endeavor Hall, 6008 Center Street, Clayton.

Present: Chair Tuija Catalano, Vice Chair Ed Hartley, Commissioner Bob Armstrong, Commissioner Keith Haydon, Commissioner Sandra Johnson

Absent: None

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.
Planning Intern Kristin Burger

Administrative

1A. Review of agenda items.

1B. Commissioner Haydon to report at the October 21, 2008 City Council meeting.

1C. Introduction of "Guide to Participation at Clayton Planning Commission Meetings" brochure. (Planning Intern Kristin Burger)

Planning Intern Kristin Burger presented the report.

The Commission commented that they were impressed with the quality and professional appearance of the brochure. Commissioner Haydon suggested that the brochure could be revised to indicate that the Planning Commission agenda typically does not include "consent calendar" items.

Public Comment

Approval of Minutes

2. Approval of minutes from the meeting of September 9, 2008.

Chair Catalano moved and Commissioner Haydon seconded a motion to approve the minutes from the meeting of September 9, 2008, as amended. The motion passed 5-0.

Public Hearings

3. None.

Old Business

4. None.

New Business

5A. **Clayton Town Center Retail Study (Final Draft), City of Clayton.** Presentation of "Clayton Town Center Retail Study" prepared by Jim Harrigan, Managing Principal, Economic Development Systems.

Director Woltering introduced Jim Harrigan, Managing Principal, Economic Development Systems and explained that the City Council wants comments from the Planning Commission regarding the "Clayton Town Center Retail Study".

Jim Harrigan presented the Retail Study and noted the following:

- Clayton experiences an approximate \$59,000,000 "leakage" annually in full-service restaurant sales.
- The establishment of a limited number of independent restaurants within the Town Center would help in capturing lost sales in the full-service restaurant category and bring people, energy, and potential retail shoppers to that area.
- Independent restaurants are preferred over chain restaurants because independent restaurants generally use less square footage and, therefore, would be more conducive to the smaller commercial spaces sizes available within the Town Center. Moreover, independent restaurants often have lesser trade area requirements.

Comments questions and comments included:

- Why would restaurateurs locate in the Town Center when Clayton Station already has restaurants? *Jim Harrigan indicated that a cluster of restaurants would bring an identity to downtown Clayton. We need to bring in non-Clayton residents into Clayton's downtown to be successful.*
- What is the supporting data for your conclusion? *Jim Harrigan responded that the calculations were based on the "Claritus" data search. This data identifies opportunities when demand exceeds sales.*
- You should look at trying to bring in a wine bar.
- How would you attract independent restaurants to downtown Clayton? *Jim Harrigan responded that a list of local independent restaurants within eight to ten miles has been compiled. Now, we just have to knock on doors and talk to restaurateurs to entice them to come to the Town Center.*
- Do you have examples of your work in other cities? *Jim Harrigan replied that he has success working in 46 cities including San Jose, Hollister, and Ripon.*
- Do you use incentives to draw potential retailers? *Jim Harrigan answered no, not typically. However, we supported offering \$500,000 to Crate and Barrel to stay in Long Beach. Also, facade improvement programs can be helpful in attracting tenants.*
- How many restaurants could be brought to Clayton? *Jim Harrigan responded that, based on full-service restaurant sales, theoretically 59 restaurants could be brought to Clayton doing \$1,000,000 each. At this point, however, up to eight restaurants would be realistic, even though the current amount of available retail space within the Town Center would need to be expanded to support these restaurants.*
- Have you talked to any wineries about coming to Clayton? *Jim Harrigan replied that, yes, he had talked to wineries in Livermore and Menlo Park. However, the primary focus is on recruiting independent restaurants.*
- Do restaurants attract related businesses? *Jim Harrigan responded no, not directly, except for entertainment businesses. However, as more people are in the Town Center area, there is greater opportunity for standard retail to be successful.*
- We need incentives. Napa has wine. Martinez has antiques. There is a need to have a reason to come to Clayton. *Jim Harrigan indicated that there is a real need to have a "varied palette" in terms of attracting different types of restaurants. I have never know a*

successful downtown that focuses development on antique stores. Generally, as soon as the downtown begins to flourish, the antique stores are moved to areas with lower rents.

- *Is part of your charge to assist existing businesses? Jim Harrigan answered no, the focus is to bring in new businesses that would not duplicate what existing businesses offer.*
- *What is your reaction to 100% retail in ground-floor commercial spaces? Jim Harrigan answered that the objective would be 100% retail because it would support the "browsing effect" wherein people browse by various stores that are located adjacent to each other.*
- *What are your thoughts on mixed-use development? Jim Harrigan replied that he prefers second-floor residential above ground-floor retail fir Clayton's Town Center.*
- *What is the process to recruit new restaurants? Jim Harrigan indicated that promotional materials are provided that market the City by selling the demographics and surroundings.*
- *Do existing planning requirements hamper this recruitment process? Jim Harrigan responded that a quicker planning process is always helpful.*
- *A restaurant similar to Back Forty Barbecue might be successful in the Town Center.*
- *You may want to discuss a five-year moratorium on parking for new retail businesses with the City Manager.*
- *How long does it take to attract restaurants? Jim Harrigan replied that a tangible contract with a new restaurant should be established within one year. Our objective is to attract independent restaurants, not franchises or chain restaurants, since independent restauranteurs seem to take care of their restaurants better and are, generally, more committed.*

Director Woltering indicated the following:

- Restaurants such as Johnny Garlics, Tex Wasabe, and Omelette Express in Sonoma County are examples of independent, successful, high-quality restaurants. The success of these types of establishments is based on the owner's love of their business. The owners of these types of restaurants are generally exhuberant and charismatic.
- The Commission's suggestions on successful independent restaurants in Contra Costa County would be useful to help Jim Harrigan to refine his work.

The meeting was recessed at 8:25 p.m. and reconvened at 8:34 p.m.

- 5B. **ZOA 02-08, Municipal Code Amendment, City of Clayton.** Study session item regarding possible amendments of Chapter 17.44 (Site Plan Review) of the Municipal Code to increase the thresholds for administrative review of minor additions to residences.

Assistant Planner Sikela presented the staff report.

Commission comments included:

- Clarification of Section 17.44.020.A is needed.
- The clause relating to construction of more than one exempt structure in a five-year period (Section 17.44.020.E) should be deleted.
- Once these changes are made, when will you return with a finalized draft ordinance? *Director Woltering indicated that staff would return with a finalized draft ordinance at the Commission meeting of October 28, 2008.*

Communications

6A. Staff – Determination of first Planning Commission meeting in November 2008.

Director Woltering indicated that, per Section 2.12.080 of the Clayton Municipal Code, whenever a Tuesday set for a regular meeting lands on a holiday, the meeting shall be held on the next following day.

6B. Staff – Determine Planning Commission availability and remaining Commission meeting dates in 2008.

The remaining Commission meetings dates in 2008 were determined to be scheduled as follows:

- Tuesday, October 28, 2008;
- Wednesday, November 12, 2008;
- Tuesday, November 25, 2008;
- Tuesday, December 9, 2008; and
- Wednesday, December 17, 2008.

6C. Commission

Director Woltering indicated that the General Plan Housing Element update will occur in 2009. One of the items we need to address is the availability of affordable housing opportunity sites.

Commission Armstrong asked if the “old fire station” (at Mitchell Canyon Road and Clayton Road) is one of the affordable housing opportunity sites. *Director Woltering replied “yes.”*

Commissioner Johnson asked how many affordable housing units are we talking about. *Director Woltering answered that there are approximate 15 in the Town Center and 20 at the old fire station.*

Commissioner Armstrong asked if there was any progress made on having the City of Concord issue building permits for the City of Clayton rather than the Contra Costa County Building Department. *Director Woltering indicated that, at this time, the City Manager wished to remain in contract with the County Building Department.*

Commissioner Armstrong indicated that, at his last TRANSPAC meeting, there was discussion regarding a BART proposal to increase their rates during peak periods of useage. This has caused concern that the increased rates will force riders to use other means of transportation, thereby defeating the purpose of encouraging the use of public transportation systems such as BART.

Adjournment

7. The meeting was adjourned at 9:30 p.m.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Tuija Catalano
Chair

Plng Comm\2008\Minutes\1014

PLANNING COMMISSION STAFF REPORT

Meeting Date: October 28, 2008

From: Milan J. Sikela, Jr., Assistant Planner 

Subject: Municipal Code Amendment to Allow Administrative Approval of Minor Additions (ZOA 02-08)

BACKGROUND AND DISCUSSION

At their meeting of October 14, 2008, the Planning Commission provided direction to staff after reviewing draft amendments to Section 17.44.020 of the Municipal Code to allow increased administrative approval of minor additions. Based on the direction received, slight clarifications were made in the proposed ordinance wording. The City Attorney has also reviewed the ordinance and provided minor edits with regard to form. A finalized draft ordinance and associated resolution are provided as an **Exhibit**. As discussed previously, the rationale behind the proposed ordinance is to streamline the Site Plan Review Permit process while still assuring an appropriate level of review in order to achieve architectural compatibility, aesthetic continuity, and quality design styles.

The direction provided by the Commission also includes minor modifications of the proposed wording. These modifications included the following changes:

- Clarification of proposed Section 17.44.020.A so that the wording reads "...except for an extension of an existing single-story roofline" rather than "...or the extension of an existing roofline, whichever is greater." This change was made to correct the grammatical error in the first version of the proposed ordinance as well as, more importantly, to allow minor single-story additions that merely involve extensions of rooflines that are over 16 feet in height to still be administratively reviewed and approved by staff.
- Deletion of existing Section 17.44.020.E. This change was made to avoid redundancy since the following Section 17.44.020.F already allows the Director the latitude to gauge the impacts caused by several minor additions approved over a short amount of time on a given property; and, based on the degree of impact caused by these additions, decide whether or not to send the project to the Planning Commission for review and approval.

The changes support the rationale behind the proposed ordinance since they serve to allow an applicant to obtain faster approval for a minor addition, thereby, saving the applicant time, money, and effort. Additionally, the changes allow staff to facilitate project approval for minor additions, thereby, saving City time, money, and effort as well.

RECOMMENDATION

Staff recommends that the Planning Commission approve Resolution No. 04-08 which recommends City Council approval of an ordinance to amend Section 17.44.020 of the Municipal Code to increase administrative approval of minor additions.

EXHIBIT

**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 04-08**

**MUNICIPAL CODE AMENDMENT OF SECTION 17.44.020
TO ALLOW INCREASED ADMINISTRATIVE APPROVAL OF MINOR ADDITIONS
ZOA 02-08**

Whereas, Section 17.56.060 of the Clayton Municipal Code requires the Planning Commission to make a recommendation to the City Council on Zoning Ordinance amendments; and

Whereas, the City of Clayton has proposed amendments of the Site Plan Review Permit regulations in Section 17.44.020 of the Clayton Municipal Code; and

Whereas, the Planning Commission held study session regarding the amendments to Section 17.44.020 of the Clayton Municipal Code on September 9, 2008 and October 14, 2008; and

Whereas, the Planning Commission held a duly-noticed public hearing on October 28, 2008 on the amendments to Section 17.44.020 of the Clayton Municipal Code; and

Whereas, the Planning Commission considered the public testimony and staff reports; and

Whereas, the amendments to Section 17.44.020 of the Clayton Municipal Code (ZOA 02-08) are exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15305 of the CEQA Guidelines; and

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission recommends that the City Council approve an amendment of Section 17.44.020 of the Clayton Municipal Code to read as provided in the **Attachment**.

Section 2. The amendment of Section 17.44.020 of the Clayton Municipal Code would be in general conformance with the General Plan, including any affected implementation programs; would be in the public interest; and has been assessed for potential impacts and have been determined to not be detrimental to the public health, safety, or welfare.

Adopted by the Planning Commission on _____.

APPROVED

ATTEST

Tuija Catalano
Chair

David Woltering, AICP
Community Development Director

Attachment: Draft Ordinance to amend Section 17.44.020 of the Clayton Municipal Code

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON
AMENDING SECTION 17.44.020 (SITE PLAN REVIEW PERMIT REQUIRED)**

**THE CITY COUNCIL
City of Clayton, California**

THE CITY COUNCIL OF THE CITY OF CLAYTON FINDS AS FOLLOWS:

WHEREAS, Ordinance No. 311 was adopted by the Clayton City Council on February 15, 1994, which provides dimensional threshold requirements of 500 square feet in area and 12 feet in height for Planning Commission review and approval of site plan review permits; and

WHEREAS, there exists a need for streamlining the Site Plan Review Permit process to allow administrative review and approval for more routine residential construction applications, while still assuring that an adequate level of review occurs given that Standards of Review are stipulated in the Municipal Code; and

WHEREAS, an amended version of 17.44.020 has been prepared to modify the dimensional threshold requirements to allow administrative review of site plan review permits up to 750 square feet in area and 16 feet in height, generally; and

WHEREAS, Chapter 17.56 of the Municipal Code authorizes the City Council to amend Title 17 (Zoning) of the Municipal Code; and

WHEREAS, the Clayton Planning Commission held a duly-noted public hearing on [month] [day], 2008 on amending Section 17.44.020 of the Municipal Code; determined that the amendment would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of the amendment; and recommended City Council approval of the amendment; and

WHEREAS, on [month] [day], 2008 and [month] [day], 2008, the City Council held duly-noticed public hearings and gave due consideration to all testimony, comments, and documents received; and

WHEREAS, the public necessity, conveniences, and general welfare require the adoption of the following amendment; and

WHEREAS, the following amendments are in general conformance with the General Plan; and

WHEREAS, the following amendment of the Municipal Code are minor alterations of land use limitations which would not result in any changes in land use or density and therefore qualify for categorical exemptions from the California Environmental Quality Act in accordance with Section 15305 of the State CEQA Guidelines; and

WHEREAS, there is no evidence that the amendments will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 17.44.020 of the Municipal Code is amended to read as follows:

“17.44.020 Site Plan Review Permit Required. A Site Plan Review Permit shall be required in any zoning District for the design of all new development within the City (new construction, remodeling, additions, etc.) that meets any of the following criteria:

- A. Construction (enclosed or unenclosed) over 16 feet in height except for an extension of an existing single-story roofline;
- B. Construction (enclosed or unenclosed) encompassing an area greater than 750 square feet;
- C. Construction (enclosed or unenclosed) proposed on a front and/or exterior side elevation measuring over 12 feet in height or encompassing an area of 500 square feet or greater;
- D. Construction over four (4) feet in height (other than fences) encompassing an area of ten (10) square feet or greater located within the upper two-thirds of a slope which exceeds either:
 - 1. A grade equal to or greater than 1 foot vertical to 4 feet horizontal, or
 - 2. A grade change greater than ten (10) feet; (Ord. 375, 2004)
- E. Any balcony, deck, or other similar structure, whose floor elevation is over 4 feet in height from the underlying grade encompassing an area of 10 square feet or greater;
- F. Retaining walls needing a building permit and observable from public streets and/or sidewalks;
- G. Construction that, in the judgement of the Community Development Director, does not comply with the purpose of this Chapter as stated above or with the standards of review as stated herein. (Ord. 311, 1994, Ord. 375, 2004, Ord. 325, 1996)”

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

SECTION 3. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

SECTION 4. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 1 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on [month] [day], 2008.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on [month] [day], 2008, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Gregory J. Manning, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Dan Adams, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on [month] [day], 2008, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on [month] [day], 2008.

Laci J. Jackson, City Clerk

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