



**Agenda**  
**Planning Commission Meeting**  
**7:00 P.M. on Tuesday, July 14, 2009**  
Hoyer Hall, 6125 Clayton Road, Clayton

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

**Administrative**

- 1A. Review of agenda items.
- 1B. Chair Catalano to report at the City Council meeting on July 21, 2009.

**Public Comment**

**Approval of Minutes**

- 2. Approval of minutes from the meeting of June 23, 2009.

**Public Hearings**

- 3. **ZOA 02-09, Municipal Code Amendment, City of Clayton.** A study session regarding possible amendments to the Clayton Municipal Code related to specified outdated references in the General Regulations Chapter of the Zoning Ordinance (ZOA 02-09).

Proposed Action: Provide direction to staff.

**Old Business**

- 4. None.

**New Business**

- 5. None.

**Communications**

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

**Adjournment**

- 7. The next meeting of the Planning Commission on **Tuesday, July 28, 2009** will be cancelled. The next regular meeting of the Planning Commission is on **Tuesday, August 11, 2009**.

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 Meeting**  
**Tuesday, June 23, 2009**

**Call to Order**

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

**Administrative**

1A. Review of agenda items.

1B. Commissioner Armstrong to report at the special meeting of the City Council on June 30, 2009.

**Approval of Minutes**

2. Approval of minutes from the meeting of June 9, 2009.

**Commissioner Haydon moved and Commissioner Johnson seconded a motion to approve the minutes from the meeting of June 9, 2009, as amended. The motion passed 5-0.**

**Public Hearings**

3. **ZOA 01-09, Municipal Code Amendment, City of Clayton.** An amendment of Section 15.08.030.B (City Review and Approval of Sign Permits) of the Clayton Municipal Code to allow for administrative review and approval of specified minor signs.

Assistant Planner Sikela presented the staff report.

Planning Commission questions included:

- The words "...unless otherwise specified in an applicable master sign plan" should be added to the end of the clause in Section 15.08.030.B.1.c.
- A clause should be added under Section 15.08.030.B.1 that gives the Community Development Director the authority to refer sign proposals to the Planning Commission.
- Why would a neighborhood/district entry sign have to be reviewed by the Planning Commission? Assistant Planner Sikela responded that neighborhood district entry signs are permanent in nature, create a significant visual impact, and are a character statement for the City. As a result, the decision makers at the time evidently felt that discretionary review of neighborhood/district entry signs was necessary.
- Why would public/quasi-public institution signs have to be reviewed by the Planning Commission? Assistant Planner Sikela indicated that, given the scale and massing of public/quasi-public institutional buildings, signage for such buildings would create a significant visual impact. Since these types of buildings are more rare in Clayton, the decision makers at the time these sign provisions were established evidently felt that discretionary review of these entry signs was necessary.
- All of the other modifications previously requested by the Planning Commission have been made and the amended Sign Provisions look good.

**Commissioner Hartley moved and Commissioner Haydon seconded a motion to approve Resolution No. 02-09, amended to include Planning Commission comments, which recommends City Council adoption of the proposed amendments of the Clayton Municipal Code regarding administrative approval of minor signs. The motion passed 5-0.**

**Old Business**

4. None.

**New Business**

5. None.

**Communications**

6A. Staff

Director Woltering indicated the following:

- The two new Planning Commissioners—Ted Meriam and Dan Richardson—will be coming into City Hall for an orientation this week.
- General Plan Housing Element Update will be moving forward at a special meeting of the City Council on June 30, 2009.
- Rivulet project on hold until the City receives funds to move forward.
- Staff is looking at further amendments to the Town Center Specific Plan.
- Staff has identified sections of the Zoning Ordinance that are outdated and need updating.
- Tonight is the last official meeting for Commissioner Hartley and Commissioner Haydon. It has been a pleasure working with both of you.

6B. Commission

Chair Catalano indicated that Commissioner Hartley and Commissioner Haydon brought tremendous wisdom and insight to the Planning Commission.

Commissioner Hartley indicated that he had a great time serving on the Planning Commission and enjoyed the very important role of being a Commissioner.

Commissioner Haydon indicated that he has thoroughly enjoyed his assignment and being part of the development of Clayton.

Commissioner Johnson said she learned a lot from Commissioner Hartley and Commissioner Haydon.

**Adjournment**

7. The meeting was adjourned at 7:40 p.m.

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Submitted by  
David Woltering, AICP  
Community Development Director

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Approved by  
Tuija Catalano  
Chair

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# PLANNING COMMISSION STAFF REPORT

**Meeting Date:** July 14, 2009

**From:** Milan Sikela, Jr. *MS*  
Assistant Planner

**Subject:** Study session for possible removal of outdated building height references from the Building Height Restrictions section of the Clayton Municipal Code (ZOA 02-09)

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## **BACKGROUND AND DISCUSSION**

During recent reviews of Section 17.36.020 of the Zoning Ordinance for research purposes in response to public inquiries, staff noted that references were made to certain structures being exempt from building height restrictions that may no longer be appropriate (see **Attachment A**). These references included such structures as stacks, oil derricks, gas derricks which are out of character and incompatible with the land use character of Clayton. Section 17.36.020 of the Zoning Ordinance, which reflects language from Ordinance No. 52 (adopted by the City Council in 1968), reads as follows:

“The limits of heights of structures or buildings established in this title for any district shall not apply to chimneys, stacks, fire towers, radio towers, television towers, water towers, windmills, oil and gas well derricks, wind chargers, grain elevators, penthouses, cupolas, spires, belfries, domes, monuments, flagpoles, telephone poles, telegraph poles, silos, water tanks, and necessary mechanical appurtenances attached to buildings...”

In order to address the references to obsolete, antiquated, or incompatible structures referred to in Section 17.36.020, staff has categorized the structures in the following order:

- Those structures recommended to be deleted from this Section;
- Those structures recommended to remain in this Section; and
- Those structures recommended to remain in this Section but will only be allowed in certain districts.

In accordance with the categorizations mentioned above, staff has compiled the following list of structures to provide the Planning Commission with an easily-understandable overview of what is being proposed:

| Structure | Recommended Status<br>Within Section 17.36.020 | Rationale Behind Status                                                     |
|-----------|------------------------------------------------|-----------------------------------------------------------------------------|
| Chimneys  | Remain                                         | Normal appurtenant structure associated with a residence or other building. |

| <b>Structure</b>  | <b>Recommended Status<br/>Within Section 17.36.020</b> | <b>Rationale Behind Status</b>                                                                                            |
|-------------------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| Stacks            | Delete                                                 | Industrial use that is out-of-character with Clayton's development pattern.                                               |
| Fire Towers       | Remain                                                 | Compatible with Clayton's development pattern for emergency service, public service, or public safety purposes.           |
| Radio Towers      | Remain                                                 | Compatible with Clayton's development pattern for emergency service, public service, or public safety purposes.           |
| Television Towers | Remain                                                 | Compatible with Clayton's development pattern for emergency service, public service, or public safety purposes.           |
| Water Towers      | Remain                                                 | Compatible with Clayton's development pattern for emergency service, public service, or public safety purposes.           |
| Windmills         | Remain only in the Agricultural District               | This use would be out-of-character in residential districts but compatible with uses in agricultural districts.           |
| Oil Derricks      | Delete                                                 | Industrial use that is out-of-character with Clayton's development pattern.                                               |
| Gas Derricks      | Delete                                                 | Industrial use that is out-of-character with Clayton's development pattern.                                               |
| Wind Chargers     | Remain only in the Agricultural District               | This use would be out-of-character in residential districts but compatible with uses in agricultural districts.           |
| Grain Elevators   | Delete                                                 | Heavy agricultural use that is out-of-character with Clayton's development pattern.                                       |
| Penthouses        | Delete                                                 | A penthouse would be considered part of a structure and, therefore, would not be exempt from building height regulations. |
| Cupolas           | Remain                                                 | A cupola is appurtenant to a main structure and, therefore, can remain exempt from building height regulations.           |
| Spires            | Remain                                                 | A spire is appurtenant to a main structure and, therefore, can remain exempt from building height regulations.            |

| <b>Structure</b> | <b>Recommended Status<br/>Within Section 17.36.020</b> | <b>Rationale Behind Status</b>                                                                                  |
|------------------|--------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| Belfries         | Remain                                                 | A belfry is appurtenant to a main structure and, therefore, can remain exempt from building height regulations. |
| Domes            | Delete                                                 | A dome would be considered part of a structure and, therefore, would not be exempt from building heights.       |
| Monuments        | Remain                                                 | Compatible with Clayton's development pattern for possible historical value or commemoration purposes.          |
| Flagpoles        | Remain                                                 | Compatible with Clayton's development pattern for patriotic purposes.                                           |
| Telephone Poles  | Remain                                                 | Compatible with Clayton's development pattern for emergency service, public service, or public safety purposes. |
| Telegraph Poles  | Remain                                                 | Compatible with Clayton's development pattern for emergency service, public service, or public safety purposes. |
| Silos            | Delete                                                 | Heavy agricultural use that is out-of-character with Clayton's development pattern.                             |
| Water Tanks      | Remain                                                 | Compatible with Clayton's development pattern for emergency service, public service, or public safety purposes. |

In response to the above-recommended changes listed on a structure-by-structure basis, staff has provided an amended version of Section 17.36.020 for Commission review (see **Attachment B**).

### **RECOMMENDATION**

Staff recommends that the Planning Commission provide staff with direction regarding whether the Commission is interested in modifying the wording in the current Building Height Restrictions Section of the General Regulations Chapter. If the Commission has an interest in modifying the Building Height Restrictions, the Commissioners are requested to suggest what they would want to consider modifying, deleting, or adding in a subsequent ordinance amendment that would be brought to them for consideration. Staff would use this information when preparing a draft ordinance amendment for consideration at a future noticed public hearing.

Alternately, if the Planning Commissioners are not interested in modifying the Building Height Restrictions, they should indicate that preference to staff and there would be no further follow-up on this matter.

### **ATTACHMENTS**

- A Current wording for Section 17.36.020 of the Clayton Municipal Code (excerpt)
- B Proposed amendments to Section 17.36.020 of the Clayton Municipal Code
- C Current wording for Section 17.44.040 of the Clayton Municipal Code (excerpt)

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## Chapter 17.36

### GENERAL REGULATIONS

#### Sections:

|           |                                                                               |
|-----------|-------------------------------------------------------------------------------|
| 17.36.010 | Division and Consolidation of Lots.                                           |
| 17.36.020 | Building Height Restrictions.                                                 |
| 17.36.030 | Obstructions in Setbacks                                                      |
| 17.36.040 | Side Setbacks on Residential Lots Established Before Effective Date of Zoning |
| 17.36.050 | Accessory Uses in Rear Setbacks.                                              |
| 17.36.055 | Accessory Buildings and Structures                                            |
| 17.36.057 | Cargo Storage Containers.                                                     |
| 17.36.060 | Regulations for the Keeping of Horses.                                        |
| 17.36.055 | Accessory Buildings and Structures.                                           |
| 17.36.070 | Regulations for the Keeping of Agricultural Animals                           |
| 17.36.075 | Fencing Standards.                                                            |
| 17.36.076 | Fenced Recreational Enclosures.                                               |

#### **17.36.010 Division and Consolidation of Lots.**

- A. Except as otherwise provided in this section, a person shall not divide any lot or parcel of land and shall not convey any lot or parcel or any part of it if the division or conveyance so reduces the area, width, or setbacks of the lot or parcel or creates a lot or parcel with an area, width, setbacks so small that it does not conform to this title.
- B. No land providing the required area, width, or setbacks for a dwelling unit shall be considered as providing the required lot area, width, or setbacks for any other dwelling unit.
- C. Any lot or parcel of land of less width or area than the minima established in this title may be occupied by a single family dwelling and its accessory buildings if:
1. The owners of the lot or parcel do not own enough adjoining property to make the lot or parcel of proper width and area; and
  2. The front, side, and rear setback requirements of this title are met; and
  3. The lot has been legally created and is separately recorded in the Contra Costa County Recorder's Office. (Ord. 52, 1968; Ord. 325, 1996; Ord 375, 2004)

**17.36.020 Building Height Restrictions.** The limits of heights of structures or buildings established in this title for any district shall not apply to chimneys, stacks, fire towers, radio towers, television towers, water towers, windmills, oil and gas well derricks, wind chargers, grain elevators, penthouses, cupolas, spires, belfries, domes, monuments, flagpoles, telephone poles, telegraph poles, silos, water tanks, and necessary mechanical appurtenances attached to buildings. In all cases parapet or fire walls on buildings or structures otherwise conforming to the regulations established in this title may be constructed not higher than three feet. (Ord. 52, 1968)

**17.36.030 Obstructions in Setbacks.** Every part of a setback shall be open and unobstructed to the sky, except that fire escapes, open stairways, chimneys, and the ordinary projections of sills, belt-courses, cornices, eaves and ornamental features which do not obstruct the light and ventilation of any adjoining parcel of land shall not constitute obstructions nor violate required setback regulations. (Ord. 52, 1968; Ord 375, 2004)

**17.36.040 Side Setbacks on Residential Lots Established Before Effective Date of Zoning.** Notwithstanding any other provisions of this title, side setbacks shall be permitted in any residential district according to the following table for any lot or parcel of land which was established by records in the office of the recorder of Contra Costa County before February 16, 1968, for the area or district in which the lot or parcel of land is situated:

# ATTACHMENT B

**17.36.020 Building Height Restrictions.** The limits of heights of structures or buildings established in this title for any district shall not apply to chimneys, ~~stacks~~, fire towers, radio towers, television towers, water towers, ~~windmills, oil and gas well derricks, wind chargers, grain elevators, penthouses,~~ cupolas, spires, ~~belfries, domes,~~ monuments, flagpoles, telephone poles, telegraph poles, ~~silos,~~ water tanks, and necessary mechanical appurtenances attached to buildings. Windmills, wind chargers, and other wind-harnessing structures are only allowed in the Agricultural (A) District. In all cases, parapets or fire walls on buildings or structures otherwise conforming to the regulations established in this title may be constructed not higher than a maximum of three feet in height.

If any of the structures listed in the Section are proposed for construction in a manner that, in the judgement of the Community Development Director, does not comply with the intent of this Section or does not comply with Standards of Review listed in Section 17.44.040, the Director may require the structure to be subject to an administrative or Planning Commission Site Plan Review Permit.

## Chapter 17.44

### SITE PLAN REVIEW

#### Section:

- 17.44.010 Purpose
- 17.44.020 Site Plan Review Permit Required
- 17.44.030 Exemptions
- 17.44.040 Standards of Review

17.44.010 Purpose. The purpose of the Site Plan Review is to ensure that the design of all new development is compatible with Clayton's character and that the design and location of new development does not impose significant negative impacts on neighboring property owners and/or occupants. To achieve this purpose, the community's character and any specific neighborhood impacts shall be balanced with an owner's right to develop property. (Ord. 311, 1994) (Ord 325, 1996)

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 12 feet in height or encompassing an area of 500 sq. ft. or greater;

B. 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: (Ord 375, 2004)

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.

C. 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 sq. ft. or greater;

D. Retaining walls needing a building permit and observable from public streets and/or sidewalks;;

E. Construction of more than one (1) exempt structure (as herein defined) within any 5-year time period;

F. Construction that, in the judgment 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)

17.44.030 Exemptions. Any new development meeting one of the following characteristics shall be exempt from a Site Plan Review Permit. Such exempt development may directly apply for a building permit which is administratively reviewed by staff.

A. Construction not meeting one of the criteria listed above;

B. Construction receiving specific design authorization pursuant to an approved:

1. Development Plan Permit;
2. Vesting Tentative Map;
3. Development Agreement. (Ord. 311, 1994)

C. Second dwelling units administratively approved in accordance with Section 17.47.020. (Ord 373, 2004)  
(Ord 325, 1996)

17.44.040 Standards of Review. The factors to be reviewed by the Planning Commission (or City Council upon appeal) shall include, but are not limited to:

A. Conformity with the General Plan and any applicable Specific Plan (e.g. Town

Center, Marsh Creek Road).

B. Conformity with any applicable City adopted architectural and/or design standards (e.g. Oakhurst Country Club, Oakwood Subdivision, Clayton Station).

C. Preservation of general safety (e.g. seismic, landslide, flooding, fire, traffic).

D. Maintenance of solar rights to adjacent properties.

E. The reasonable maintenance of the privacy of adjacent property owners and/or occupants.

F. The reasonable maintenance of existing views of adjacent property owners and/or occupants.

G. The new development, taken as a whole, need not be identical, but should be complementary with the adjacent existing structures in terms of materials, colors, size, and bulk. (Ord. 325, 1996; Ord. 311, 1994, Ord 325, 1996)