



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, August 11, 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 September 1, 2009.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of July 14, 2009.

Public Hearings

- 3. **ZOA 02-09, Municipal Code Amendment, City of Clayton.** A public hearing regarding amendments to Clayton Municipal Code Section 17.36.020 (Building Height Restrictions) to consider removing specified outdated building height references and to clarify the purpose of this Section.

Proposed Action: Approve Resolution No. 03-09

Old Business

- 4. None.

New Business

- 5. None.

Communications

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

Adjournment

- 7. The next meeting of the Planning Commission is scheduled for **Tuesday, August 25, 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, July 14, 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, Commissioner Bob Armstrong, Commissioner Sandra Johnson, Commissioner Dan Richardson

Absent: Commissioner Ted Meriam

Staff: Community Development Director David Woltering

Administrative

1A. Review of agenda items.

1B. Commissioner Johnson to report at the July 21, 2009 City Council meeting.

Approval of Minutes

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

Chair Catalano moved and Commissioner Johnson seconded a motion to approve the minutes from the meeting of June 23, 2009 as amended. The motion passed 3-1 (Abstain – Richardson).

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).

Director Woltering presented the staff report, indicating that certain references and aspects of the Building Heights Restriction Section in the General Regulations Chapter of the Zoning Ordinance are outdated and should be revised.

The Planning Commission reviewed the schedule of individual structures referenced in the Building Heights Restrictions Section included in the staff report and provided staff with its direction on a structure-by-structure basis. Additionally, the Commission provided the following comments:

- Agree that Section 17.36.020 of the Municipal Code should be formally considered for amendment.
- Staff should ensure that the proposed amendments to Section 17.36.020 do not conflict with other sections of the Municipal Code.
- Several of the listed structures are commonly considered for public use and benefit. These include radio towers, water tanks, and water towers. Staff should consult with the City Attorney about handling public vs. private structures.
- There should be consideration given to allowing windmills and windchargers on residential lots that are 40,000 square feet in area or greater, even if the lots are not located in the Agricultural District.
- Staff should consult with the City Attorney about handling both private as well as public monuments.

- Staff should consult with the City Attorney about clarifying that this section is about exemption to height only and not to use.
- Attachment B of the staff report should be modified so that belfries remain and are not deleted. This modification would be consistent with the language provided by staff in the schedule.

Based on comments and direction provided above, the Commission requested that staff prepare a draft ordinance amendment of Section 17.36.020 for consideration at a future Commission meeting.

Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff

Director Woltering indicated the following:

- The City Council received the Planning Commission's recommendation on the City's Draft 2009-2014 Housing Element Update at the special joint meeting on June 30, 2009. The Council accepted the Commission's recommendation to add more information in the document about Clayton's regional planning efforts, including those related to TRANSPAC; to clarify the end of term (i.e., 2013) for the Redevelopment Agency's annual subsidies to the Diamond Terrace project; and, that the City should provide design assistance to promote energy efficiency in development projects. The Council also indicated that it supported the flexible approach to requiring inclusionary housing described in the Draft Housing Element document and asked that the Association of Bay Area Governments (ABAG) Projections 2009 data and information be used instead of ABAG's Projections 2007 data and information.

Director Woltering indicated that these changes approved by the Council are mostly completed and that the revised approved Draft Housing Element will be forwarded to the State Department of Housing and Community Development (HCD) on July 15, 2009 to begin the 60-day review.

- Director Woltering indicated that the Contra Costa Local Agency Formation Commission (LAFCO) is currently updating the Municipal Service Review (MSR) for Clayton. This is a summary of the organizational composition and services provided by the City of Clayton. As part of this review, LAFCO is considering contracting the City's sphere of influence (SOI) to be consistent with the City's Urban Limit Line (ULL).

- Director Woltering that staff does not anticipate having a July 28, 2009 Planning Commission meeting but expected to bring a draft ordinance amendment pertaining to height restrictions to the August 11, 2009 Planning Commission meeting.

6B. Commission

Commissioner Armstrong asked staff to follow-up on the requirements for addressing “Complete Streets” referenced at a recent Contra Costa Transportation Authority meeting. Director Woltering indicated that he would research the matter.

Adjournment

7. The meeting was adjourned at 8:36 p.m.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Tuija Catalano
Chair

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PLANNING COMMISSION STAFF REPORT

Meeting Date: August 11, 2009

From: Milan Sikela, Jr. 
Assistant Planner

Subject: Clarifying the Intent and Removal of Outdated Building Height References related to Section 17.36.020 Building Height Restrictions of the Clayton Municipal Code (ZOA 02-09)

BACKGROUND AND DISCUSSION

At its meeting of July 14, 2009, the Planning Commission held a study session to review possible amendments to the Clayton Municipal Code regarding clarifying the intent of Section 17.36.020 to address height limitations of structures and buildings that otherwise would be permitted in a respective district and to address references to outdated structures in this Section. During the July 14th study session, the Commission provided the following direction:

- Staff should ensure that the proposed amendments to Section 17.36.020 do not conflict with other sections of the Municipal Code.
- Several of the structures listed are commonly considered for public use and benefit. These include radio towers, water tanks, water towers, and monuments. Staff should consult with the City Attorney about handling public vs. private structures.
- The intent of this section should be clarified so that the exemption is limited to height only and not to use.
- There should be consideration given to allowing windmills and windchargers on residential lots that are 40,000 square feet in area or greater, even if the lots are not located in the Agricultural District.

As a result of the Commission's direction, staff has conducted research and made changes as indicated below.

Municipal Code Conflicts

Staff researched other Municipal Code sections to ensure no wording conflicted with the proposed amendments. Staff found that Chapter 17.42 already provides regulations for antennas, radio towers, and television towers. As a result, radio towers and television towers have been removed from the list of structures in Section 17.36.020. This deletion addresses any potential conflicts between Section 17.36.020 and Chapter 17.42. No other conflicts within the Code were found by staff.

Public and Private Structures

Staff will provide further information regarding the possible need to distinguish between public and private structures at the August 11, 2009 Planning Commission meeting, based on further research and information from the City Attorney's office.

Other Modifications

In accordance with Commission direction, staff has added wording that addresses the intent of Section 17.36.020 so that it pertains to structures and buildings that otherwise would be permitted in a district. Also, a clause has been included that allows windmills, windchargers, and other wind-harnessing structures "in the Agricultural (A) District or lots in any zone that are greater than 40,000 square feet in area."

RECOMMENDATION

Staff recommends that the Planning Commission approve Resolution No. 03-09 which recommends City Council approval of an ordinance to amend Section 17.36.020 of the Municipal Code regarding clarifying the intent of Section 17.36.020 to address height limitations of structures and buildings that otherwise would be permitted in a respective district and to address (i.e., remove or modify) references to outdated structures in this Section.

ATTACHMENT

Clayton Planning Commission Resolution 03-09 with draft ordinance.

ZOA\2009\02-09.sr2

**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 03-09**

**AMENDMENT OF SECTION 17.36.020 (BUILDING HEIGHT RESTRICTIONS)
OF THE CLAYTON MUNICIPAL CODE TO REMOVE REFERENCES TO
OUTDATED STRUCTURES
(ZOA 02-09)**

Whereas, the Planning Commission held a duly-noticed study session on July 14, 2009 to review the proposed amendments to Section 17.36.020 of the Municipal Code to remove references to outdated structures; and

Whereas, at the July 14, 2009 Planning Commission study session, the Planning Commission directed staff to prepare a draft ordinance amendment, which staff completed, to modify Section 17.36.020 of the Municipal Code to clarify the intent of this Section to address the issue of height limitations pertaining to structures and buildings otherwise permitted in the respective districts and to remove references to outdated structures; and

Whereas, the Planning Commission held a duly-noticed public hearing on August 11, 2009 on the amendments to the wording in Section 17.36.020 of the Municipal Code; and

Whereas, the Planning Commission considered the public testimony and staff reports received at the August 11, 2009 meeting; and

Whereas, the amendments to the wording in Section 17.36.020 of the Municipal Code are exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15305 of the CEQA Guidelines.

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission determines that the proposed amendments to the Municipal Code regarding removing references to outdated structures described in the **Attachment** would be in general conformance with the General Plan, including any affected implementation programs, and would be in the public interest as well as support the public necessity, convenience, and general welfare.

Section 2. The Planning Commission recommends that the City Council approve the proposed amendments of the Clayton Municipal Code regarding administrative review and approval of minor signs described in the **Attachment**.

Adopted by the Planning Commission on _____.

Resolution No. 03-09

Page 2

APPROVED

ATTEST

Tuija Catalano
Chair

David Woltering, AICP
Community Development Director

Attachment: Draft ordinance for amending Section 17.36.020 of the Municipal Code

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON
AMENDING SECTION 17.36.020 OF THE CLAYTON MUNICIPAL CODE
(BUILDING HEIGHT RESTRICTIONS)
(ZOA 02-09)**

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

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

WHEREAS, Section 17.36.020 of the Municipal Code allows certain structures to be exempt from building heights; and

WHEREAS, Section 17.36.020 of the Municipal Code contains references to certain outdated structures; and

WHEREAS, it is determined to be beneficial to amend Section 17.36.020 to clarify the intent of this Section to address the issue of height limitations pertaining to structures and buildings otherwise permitted in the respective districts and to remove references to outdated structures so that these structures are no longer exempt from building heights and, as a result, will not negatively impact the neighborhoods within Clayton; and

WHEREAS, an amended version of Section 17.36.020 of the Municipal Code has been prepared in order to remove references to outdated structures; and

WHEREAS, the Planning Commission held a duly-noted public hearing on August 11, 2009 to address the matters of clarifying the intent of Section 17.36.020 to address the issue of height limitations pertaining to structures and buildings otherwise permitted in the respective districts and to remove references to outdated structures so that these structures are no longer exempt from building heights limitations of the Municipal Code; determined that the amendment of the Municipal Code involves minor alterations of land use limitations which would not result in any changes in land use or density and would qualify for categorical exemptions from the California Environmental Quality Act (CEQA) in accordance with Section 15305 of the State CEQA Guidelines; 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], 2009 and [month] [day], 2009, the City Council held duly-noticed public hearings and gave due consideration to all testimony, comments, and documents received; and

WHEREAS, the City Council determined that the amendment of the Municipal Code involves minor alterations of land use limitations which would not result in any changes in land use or density and would qualify for categorical exemptions from the California Environmental Quality Act (CEQA) in accordance with Section 15305 of the State CEQA Guidelines; and

WHEREAS, the City Council determined that the following amendment would be in general conformance with the General Plan; and

WHEREAS, the City Council determined that the public necessity, convenience, and general welfare would require adoption of the amendment; 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 17.36.020 of the Municipal Code is amended to read as follows:

“17.36.020 Building Height Restrictions. The limits of heights of structures or buildings established in this title for any district in which the structures or buildings would otherwise be permitted 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~~, utility 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 or on lots in any zone that are greater than 40,000 square feet in area. 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.”

SECTION 2. If any provision 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. 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 ordinance and public notices.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on [month] [day], 2009.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on [month] [day], 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Julie K. Pierce, 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], 2009, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on [month] [day], 2009.

Laci J. Jackson, City Clerk

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