



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, March 22, 2011
Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Meriam to report at the City Council meeting on April 5, 2011.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of February 22, 2011.

Public Hearing

- 3. **ZOA 02-11, City of Clayton.** Amendments of Chapter 17.70 of the Clayton Municipal Code, Temporary Use Permits (TUPs), including, but not limited to, addressing the number of days before an event a TUP application must be submitted, the number of administratively-approved TUPs allowed in a calendar year, and the number of days an individual temporary event can be held in a calendar year.

Proposed Action: Recommend City Council approval.

Old Business

- 4. None.

New Business

- 5A. **ZOA 04-11, City of Clayton.** A study session to review an amendment to Title 17 (Zoning) of the Clayton Municipal Code to increase the minimum setback allowed for a detached accessory structure to five feet.

Proposed Action: Review, discuss, and provide feedback to staff.

- 5B. Discussion Regarding Proposed State Assembly Bill 710.** Review and discussion of proposed Assembly Bill 710 which substantially reduces minimum parking requirements for new infill and transit-oriented development.

Proposed Action: Provide comments for recorded minutes.

Communications

- 6A. Staff.
6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is scheduled for **Tuesday, April 12, 2011.**

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
Clayton Planning Commission Meeting
Tuesday, February 22, 2011

Call to Order

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

Present: Chair Sandra Johnson, Vice Chair Dan Richardson, Commissioner Bob Armstrong, Commissioner Tuija Catalano, Commissioner Ted Meriam

Absent: None

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Administrative

1A. Review of agenda items.

By consensus, the Planning Commission moved Item 5B before 5A.

1B. Commissioner Catalano to report at the City Council meeting on March 1, 2011.

Public Comment

None.

Approval of Minutes

2. Approval of minutes from the meeting of January 11, 2011.

Vice Chair Richardson moved and Commissioner Meriam seconded the motion to approve the minutes from the meeting of January 11, 2011, as amended. The minutes were amended to add verbatim the Planning Commission's adopted Procedures and Protocol, as suggested by Commissioner Meriam. The motion passed 4-1 (Tuija Catalano abstained since she did not attend the January 11, 2011 Planning Commission meeting).

Public Hearings

3. None.

Old Business

4. None.

New Business

5B. GPA 01-09, City of Clayton. A study session to review and discuss the City's status and progress in implementing its Housing Element. The purpose of this study session is to provide the Commission information as well as to assist staff with the preparation of the required Housing Element Annual Progress Report (APR) for calendar year 2010 which must be submitted to the State Department of Housing and Community Development (HCD) by April 1, 2011, to satisfy requirements of Government Code Section 65400.

Director Woltering presented the staff report, indicating the following:

- The State requires cities and counties to adopt Housing Elements as part of their General Plans. These Housing Elements are to describe the local jurisdiction's strategy to facilitate providing housing for all economic segments of their existing and anticipated future populations.
- Additionally, the regional governmental entity (i.e., the Association of Bay Area Government (ABAG) for the City of Clayton) assigns to the individual jurisdictions housing production goals by income category for specified planning periods. The City of Clayton's production goal, which is referred to as Regional Housing Needs Allocation (RHNA) is 151 units during the period of 2007 through 2014. Clayton has produced 22 of those units to date, all of which have been in the moderate- and above-moderate-income categories.
- In 2009 and 2010, the City updated its Housing Element in accordance with State law. This document was conditionally certified by the State Housing and Community Development Department (HCD). This document includes a number of Goals and Policies along with implementation measures and programs to facilitate the production of housing to attempt to achieve the RHNA assigned to the City.
- Annually, the City is to submit a Housing Element Annual Progress Report (APR) to HCD that describes its progress towards implementing the various measures and programs in the Goals and Policies section of the Housing Element.
- The Director summarized some of the progress made by the City toward implementing this current Housing Element. The efforts he described included the following:
 - In December of 2009, the City adopted two ordinances to facilitate the production of affordable housing, one was related to allowing for manufactured housing in zoning districts where single-family residences are allowed, and the other was related to granting density bonuses for affordable housing projects.
 - The Clayton Redevelopment Agency purchased and then resold three single-family residential units in the Stranahan Subdivision to low-income households, preserving those units as affordable units with 45-year deed restrictions to assure the affordability of those units over time to that income group.
 - In February of 2011, the Clayton Redevelopment Agency authorized staff to enter into a contract with a professional planning and environmental firm for the purpose of assisting with the implementation of a broad-range of measures and programs in the adopted Housing Element.

Commission comments and questions included:

- It seems appropriate to use redevelopment funds to contract for technical assistance to implement measures and programs in the City's Housing Element.
- When would the formal work of the consultants begin on the implementation work? Director Woltering indicated work will begin with initial research immediately and that he expected draft resolutions and ordinances for needed amendments for implementation beginning in about three months. Public meetings and hearings would occur thereafter.

- Director Woltering was asked to clarify the difference between the work that was done with the Housing Element update and the work anticipated with the upcoming implementation effort. Mr. Woltering indicated the Housing Element describes the strategy to facilitate the production of housing for all economic segments within the community. For example, it recommends certain rezonings to higher densities or the allowance of certain types of housing (i.e., single room occupancy housing and emergency shelters) to meet a range of anticipated housing needs. The implementation component involves the actual process, including public hearings, for the rezonings, as an example.
- Will there be additional costs? Director Woltering indicated staff anticipates extra costs will be incurred.

Public comments:

Bruce Albert, 102 Salazar Court, had the following comments and questions:

- What if the City just resisted the affordable housing requirements? Director Woltering explained that the City has a conditionally-certified Housing Element. If the City does not make reasonable progress toward implementing the measures and programs in the Housing Element, the City could jeopardize the certification of the Housing Element. Certain funding programs that the City may want to participate in require the City to have a certified Housing Element. An example is the transportation funding the City receives from the Contra Costa Transportation Authority which is approximately \$200,000.00 annually at this time. Additionally, if the City does not have a legally adequate Housing Element, then its General Plan could be found to be legally inadequate which could make the City's actions on land-use matters subject to legal challenge. Finally, HCD requires annual reporting and monitoring of a community's efforts to implement its Housing Element. With HCD monitoring the City's progress, we need to demonstrate a good-faith effort to HCD that we can meet their requirements.
- The character and integrity of Clayton are being eroded by these housing requirements. Vice Chair Richardson responded that, in the last 20 years, Clayton has become a small town with some big city problems. Nevertheless, there is a need for affordable housing which must be addressed.

Commissioners acknowledged the implementation component will be challenging but a necessary part of the Housing Element process.

- 5A. **ZOA 02-11, City of Clayton.** A study session to review Section 17.70.040 of the Clayton Municipal Code, Temporary Use Permits (TUPs), to determine the possible need to update or modify this Code Section. Areas for review and discussion will include whether the following should be considered for modification through a formal, subsequent Code amendment process: a) the maximum number of administratively-approved TUPs be increased from the current three (3) in a calendar year, and b) the maximum total number of days for the combined, allowed TUPs to a single applicant/property owner be reduced from 45 days in a calendar year.

Assistant Planner Sikela presented the study session staff report:

Vice Chair Richardson indicated the following:

- When I represented the Clayton Business and Community Association (CBCA) and filed a Temporary Use Permit (TUP) application with the City, I was surprised by how much the City had to do to process the application. There were many components to the process. Based on my experience, I agree that there needs to be adequate time allowed for the City to process Temporary Use Permits (TUPs).
- 45 days prior to the event should be the minimum required for submitting a standard TUP application.
- The maximum number of TUPs allowed in one year should not be aligned with the maximum number of annual events allowed by the Alcohol Beverage Control (ABC).
- Maybe we should provide different submittal time frames depending on the event. Festivals that close off areas of the Town Center would be subject to the 45-day requirement while the smaller block parties could have less time to submit applications. Perhaps there could be some distinction between a major and a minor TUP event.

Commissioner Catalano indicated the following:

- General agreement with Vice Chair Richardson.
- I do not see a connection between TUP regulations and ABC regulations.
- 48 hours prior to the event is not enough time to submit an application.
- By increasing the time before the event that an application has to be submitted, I do not want to discourage event holders from applying. Conversely, we need to give staff enough time to process the applications.
- Other clean-up items for amendment consideration include such outdated references as "Secretary to the Planning Commission".

Chair Johnson indicated that she would be in favor of increasing the maximum number of Temporary Use Permit applications allowed annually per individual application to four.

Director Woltering indicated that the item would be brought back before the Planning Commission as a formal amendment to the Municipal Code. Staff would consider the comments received from the Commissioners in preparing the draft ordinance.

Communications

6A. Staff.

Director Woltering indicated that staff had been receiving comments of concern from neighbors that the fencing around the Oakhurst Country Club is in need of repair at certain locations. He clarified that the maintenance of the fence is the responsibility of the Oakhurst Country Club. Mr. Woltering stated further that representatives of the Country Club have been contacted by City staff and those representatives have agreed to begin making repairs to the fence.

6B. Commission.

Commissioner Meriam indicated that he has been in contact with the Fair Political Practices Commission (FPPC) regarding his possible Commission participation on the Clayton Community Church project. Representatives of the FPPC had requested additional information from him which he had provided.

Commissioner Catalano inquired about the status of the Environmental Impact Report (EIR) for the Clayton Community Church. Director Woltering indicated work continues on that report and that information from the fiscal economic study would be needed to complete that report. He indicated the fiscal/market study is to be completed in early April.

Chair Johnson indicated that she has attended the January 31, 2011 TRANSPAC meeting and that SB 375 (reduction of greenhouse emissions) and the Sustainable Community Strategy were discussed.

Adjournment

7. The meeting was adjourned at 9:17 p.m. to the following regularly-scheduled meeting of **March 8, 2011.**

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Sandra Johnson
Chair

P\ng Comm\Minutes\2011\0222

PLANNING COMMISSION STAFF REPORT

Meeting Date: March 22, 2011

From: Milan J. Sikela, Jr. 
Community Development Director

Subject: Amendment to the Clayton Municipal Code (ZOA 02-11) to
Modify the Temporary Use Permit Regulations in the Clayton
Municipal Code

BACKGROUND AND DISCUSSION

On February 22, 2011, the Planning Commission held a study session to consider amending Section 17.70.040 of the Clayton Municipal Code to clarify the number of times per year that a temporary use lasting up to 45 days in length can occur. As was discussed during the study session, the Commission expressed, and staff concurred, that allowing a 45-day temporary event to occur more than once per calendar year would be excessive and would not meet the intent of the purpose of Temporary Use Permits (TUPs). During the discussion, the Commission also indicated that allowing only 48 hours prior to a temporary event to submit a Temporary Use Permit (TUP) application to the City made the processing of the TUP application by City staff infeasible. Based on concerns that the processing time needed by City staff encompasses several weeks—which includes, but is not limited to, reviewing the application for completeness, ensuring that all the necessary materials have been submitted, distributing the application to various departments throughout the City—the Commission concurred with staff's suggested minimum TUP application submittal time of 45 days prior to a temporary event. In order to address these necessary amendments to the TUP regulations, staff has provided a draft ordinance for Commission review (see **Attachment**).

There was also discussion by the Commission regarding differentiating between different types of TUPs in order to establish categories of “major” and “minor” TUPs. In analyzing recent TUPs approved by the City, staff notes that similar processing steps are needed, as mentioned above (including noticing to property owners within 300 feet of the subject property for either a TUP with a companion Noise Permit request or a stand-alone TUP), regardless of the type of TUP. From staff's perspective, splitting the TUPs into categories to allow for shorter submittal time frames depending on the type of TUP is unnecessary and would defeat the purpose of amending the Municipal Code to allow for appropriate and feasible application processing. In order to assure proper review, distribution, and noticing, staff suggests that the 45-day submittal time frame be established consistently for any TUP application, regardless of the type of TUP.

Also addressed at the February 22nd study session was whether or not it was necessary to increase the number of TUP approvals per applicant above the currently-allowed three per year. This issue was raised as a result of a letter from the representative of the Clayton Club Saloon who requested that the number of TUP approvals per applicant per calendar year be increased from three to four per year to make the City's TUP regulations consistent with Alcohol Beverage Control (ABC) regulations. Seeing no connection between the City's TUP regulations and ABC regulations, and no necessity for increasing the number of temporary events allowed per year, Commission general consensus was that three annual temporary events per applicant was a sufficient amount of events to be allowed each calendar year.

Currently, Section 17.70.040 of the Municipal Code states the following:

"17.70.040 Period of time. The maximum time period for any of these temporary uses shall not exceed forty-five days or more than three individual events per year, or a use permit application before the Planning Commission shall be required.

The permit shall be applied for at least forty-eight hours prior to the actual event."

In response to the Commission's comments, staff has provided the following changes to Section 17.70.040:

"17.70.040 Period of time. The maximum time period for any of these temporary uses shall not exceed a total of forty-five (45) days or more than three individual events per calendar year, ~~or a use permit application before the Planning Commission shall be required~~ If any temporary event exceeds these thresholds, Planning Commission approval of a Use Permit for the event shall be required.

The permit shall be applied for at least ~~forty-eight hours~~ forty-five (45) days prior to the actual event.

If a Temporary Use Permit application is submitted for an event that, in the judgment of the Director, does not comply with the purpose of this Chapter as stated above and violates the intent of this entitlement, the Director may refer the matter to the Planning Commission."

RECOMMENDATION

Staff recommends that the Planning Commission review the attached draft ordinance, provide comments to staff, and recommend City Council approval of the draft ordinance.

ATTACHMENT

Draft Ordinance modifying Section 17.40.040 of the Clayton Municipal Code

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON
AMENDING SECTION 17.70.040 OF THE CLAYTON MUNICIPAL CODE
(TEMPORARY USE PERMIT PERIOD OF TIME)
(ZOA 02-11)**

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

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

WHEREAS, Section 17.70.040 of the Municipal Code allows for temporary uses to be forty-five (45) days in length; and

WHEREAS, Section 17.70.040 of the Municipal Code allows for a Temporary Use Permit to be applied for a minimum of forty-eight (48) hours prior to the actual event; and

WHEREAS, it is determined to be beneficial to amend Section 17.70.040 to better clarify the number of times per year a temporary use lasting forty-five (45) days can occur; and

WHEREAS, it is determined to be beneficial to amend Section 17.70.040 to increase the time prior to a temporary event that a Temporary Use Permit can be submitted from forty-eight (48) hours to forty-five (45) days to allow City staff adequate time to feasibly process Temporary Use Permit applications; and

WHEREAS, the Planning Commission held a duly-noted public hearing on March 22, 2011 to address the matters of amending Section 17.70.040 to address the issues of lack of clarification with regards to the number of time per year that a forty-five (45) day temporary use can occur and to allow City staff adequate time to feasibly process Temporary Use Permit applications; and recommend City Council approval of the amendment; and

WHEREAS, on [month] [day], 2011 and [month] [day], 2011 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 17.70.040 of the Municipal Code is amended to read as follows:

"17.70.040 Period of time. The maximum time period for any of these temporary uses shall not exceed a total of forty-five (45) days or more than three individual events per calendar year, ~~for a use permit application before the Planning Commission shall be required~~ If any temporary event exceeds these thresholds, Planning Commission approval of a Use Permit for the event shall be required.

The permit shall be applied for at least ~~forty-eight hours~~ forty-five (45) days prior to the actual event.

If a Temporary Use Permit application is submitted for an event that, in the judgement of the Director, does not comply with the purpose of this Chapter as stated above and violates the intent of this entitlement, the Director may refer the matter to the Planning Commission."

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], 2011.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on [month] [day], 2011, 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], 2011, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on [month] [day], 2011.

Laci J. Jackson, City Clerk

ZOA\2011.draft.ordinance.1-pc.mtg-3.22.11

Memorandum

To: Chair Johnson and Planning Commissioners

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: March 22, 2011 Planning Commission Agenda Item 5A - Study Session for Consideration of Modifying the Setbacks for Accessory Building and Structure Regulations in the Clayton Municipal Code

DISCUSSION

Currently, Section 17.36.055 of the Clayton Municipal Code allows for accessory buildings and structures to be within three feet of the rear and interior side property lines (see **Attachment**). Conversely, the Contra Costa County Building Inspection Department (CCCBID) requires that accessory buildings and structures be a minimum of five feet from the property line for purposes of fire safety. Since the majority of accessory buildings and structures approved by the City do not require fire-resistance ratings at the time of zoning review and approval, these structures may be more susceptible to fire hazards. As a result, even though the City's Code requirement would only be three feet, these buildings and structures would be subject to the five-foot minimum setback requirement according to CCCBID regulations.

In October 2010, the City approved a variance to allow a shade structure to be three feet from the subject lot's rear property line, in accordance with the standards of the Clayton Municipal Code. Subsequently, at time of building permit issuance, the applicant was informed by the CCCBID that the structure would have to be modified to be five feet—rather than the three feet that was approved per codified City regulations—from the rear property line. Furthermore, as City staff researched information for the analysis, Contra Costa County Community Development Department (CCCCDD) staff informed City staff that a conflict existed between the CCCCDD code and CCCBID code as well. The CCCCDD code allows for detached accessory buildings and structures to be located within three feet of a property line whereas the CCCBID code requires a five-foot setback. As these examples illustrate, it appears to be necessary to amend Section 17.36.055 to resolve the inconsistencies between the development standards used by the City and CCCBID regulations.

RECOMMENDATION

In order to provide consistency between the Clayton Municipal Code and the CCCBID regulations, the Commissioners are requested to review and discuss Section 17.36.055 of the Clayton Municipal Code regarding a formal amendment process of the requirements for accessory buildings and structures.

ATTACHMENT

Section 17.36.055 of the Clayton Municipal Code

Front Width of Lot	Minimum Aggregate Side Setback Allowed	Minimum Single Side Setback Allowed
120 feet or less but more than 100 feet	35 feet	15 feet
100 feet or less but more than 80 feet	20 feet	10 feet
80 feet or less but more than 51 feet	15 feet	5 feet
51 feet or less	10 feet	5 feet.

(Ord. 52, 1968; Ord 375, 2004)

17.36.050 Accessory Uses in Rear Setbacks. An accessory building or accessory use may occupy not more than thirty (30) percent of a rear setback. (Ord. 52, 1968; Ord 375, 2004)

17.36.055 Accessory Buildings and Structures. (Ord 375, 2004)

- A. Accessory buildings and structures may be located on any portion of a lot wherein a main building is permitted.
- B. No accessory building or structure shall be erected on a vacant lot unless approved by a use permit.
- C. An accessory building or structure shall not exceed sixteen (16) feet in height.
- D. Accessory buildings shall conform to the requirements of the respective zoning district, except as modified by the following standards.
 1. Interior Side Setback and Rear Setback. If an accessory building is at least twelve (12) feet from the main building (and all other accessory buildings) and at least sixty-five (65) feet from the front lot line, the interior side setback and rear setback for the accessory building are reduced to three (3) feet. These reduced setbacks must be clear of all structural protrusions, including roof overhangs.
 2. Minimum Passageway. An accessory building must be fully separated from the main building (and any other accessory buildings) by a passageway at least five (5) feet in width which is clear of all structural protrusions, including roof overhangs. The Planning Commission may determine that a wider passageway is appropriate as part of the site plan review process.
 3. Minimum Attachment. If an accessory building is attached to the main building (or any other accessory buildings), the accessory building shall be structurally part of and have a common roof or wall with the main building (or respective accessory building).
 4. Small Accessory Building. A small accessory building (e.g., storage shed) is exempt from the above interior side and rear setback, minimum passageway, and minimum attachment requirements if the small accessory building complies with all of the following:
 - a. The floor area does not exceed 120 square feet;
 - b. The height (including any foundation) does not exceed eight (8) feet six (6) inches;
 - c. It is located at least ten (10) feet behind the nearest front corner of the main building; and
 - d. It is substantially concealed from public view by a legally-constructed solid fence or structure with a minimum height of six (6) feet. (Ord. No. 406, 2007)
- E. Accessory structures shall conform to the requirements of the respective zoning district, except as modified by the following standard:
 1. Interior Side Setbacks and Rear Setbacks. The interior side setback and rear setback for an accessory structure are reduced to three (3) feet. These reduced setbacks must be clear of all structural protrusions, including overhangs.

Memorandum

To: Chair Johnson and Planning Commissioners

From: David Woltering, Community Development Director 

Date: March 22, 2011

Subject: Agenda Item 5B. Regarding Proposed State Assembly Bill 710

On February 17, 2011, California State Assembly member Nancy Skinner introduced Assembly Bill No. 710. This proposed Bill, also referred to as the “Infill Development and Sustainable Community Act of 2011”, would prohibit a city or county from requiring more than one parking space per residential unit or more than one parking space per 1,000 square feet of commercial or other non-residential development in a transit intensive area, these areas are generally referred to as areas related to transit-oriented development, infill development, and/or Town Center Development. These proposed standards would apply, as well, to mixed-use (commercial/residential) development in transit intensive areas.

The rationale for this proposed legislation is to support development that is more compact and less automobile dependent, and thereby, reduce greenhouse gas emissions. “Excessive” parking standards are seen as a substantial obstacle to producing compact and less automobile dependent development.

Proposed Assembly Bill No. 710 appears to be a “one size fits all” proposal. Major metropolitan areas that are well served by mass transit options are very different from existing suburban centers that have far fewer mass and public transit options and frequencies. Staff has attached a copy of this proposed Assembly Bill for review and comment.

Attachment: Proposed State Assembly Bill No. 710

ASSEMBLY BILL

No. 710

Introduced by Assembly Member Skinner

February 17, 2011

An act to add Article 2 (commencing with Section 65200) to Chapter 3 of Division 1 of Title 7 of the Government Code, and to amend Section 75125 of the Public Resources Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 710, as introduced, Skinner. Local planning: infill and transit-oriented development.

(1) The Planning and Zoning Law requires specified regional transportation planning agencies to prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, and requires the regional transportation plan to include, among other things, a sustainable communities strategy, for the purpose of using local planning to reduce greenhouse gas emissions.

This bill would state the findings and declarations of the Legislature with respect to parking requirements and infill and transit-oriented development, and would state the intent of the Legislature to reduce unnecessary government regulation and to reduce the cost of development by eliminating excessive minimum parking requirements for infill and transit-oriented development.

This bill would also prohibit a city or county from requiring more than one parking space per residential unit and more than one parking space per 1,000 square feet of commercial or other nonresidential space for a residential or mixed-use residential project located in a transit intensive area, as defined, or subject to an adopted downtown area plan,

an adopted neighborhood plan, or an adopted redevelopment project area.

(2) Existing law sets forth the duties of the Strategic Growth Council, including the duty to recommend policies and investment strategies and priorities to the Governor, the Legislature, and to appropriate agencies to encourage the development of sustainable communities, as described.

This bill would modify the description of sustainable communities to additionally include communities that incentivize infill development.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This article shall be known and may be cited as
2 the Infill Development and Sustainable Community Act of 2011.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) Existing parking requirements are based on low density and
6 single land uses.

7 (2) Parking is costly to build and maintain and can increase the
8 cost of infill projects by 10 to 20 percent. The high cost of land,
9 construction, and maintenance to provide parking adds significantly
10 to the cost of transit-oriented development, making sites financially
11 infeasible and hindering economic development strategies.

12 (3) Increases in public transportation options and the
13 development of more walkable and bikeable neighborhoods reduce
14 the demand for parking.

15 (4) Excessive governmental parking requirements for infill and
16 transit-oriented development reduce the viability of transit by
17 limiting the number of households or workers near transit,
18 increasing walking distances, and degrading the pedestrian
19 environment.

20 (5) Reducing excessive minimum parking requirements for infill
21 and transit-oriented development and allowing builders and the
22 market to decide how much parking is needed can do all of the
23 following:

24 (A) Ensure sufficient amounts of parking at almost all times.

25 (B) Significantly reduce the cost of development and increase
26 housing affordability.

1 (C) Increase density in areas with the most housing demand,
2 and facilitate compact development and the attainment of
3 environmental goals.

4 (b) It is the intent of the Legislature to reduce unnecessary
5 government regulation and to reduce the cost of development by
6 eliminating excessive minimum parking requirements for infill
7 and transit-oriented development.

8 SEC. 3. Article 2 (commencing with Section 65200) is added
9 to Chapter 3 of Division 1 of Title 7 of the Government Code, to
10 read:

11
12 Article 2. Infill Development and Sustainable Community Act
13 of 2011
14

15 65200. (a) A city, county, or city and county, including a
16 charter city, shall not require more than one parking space per
17 residential unit and more than one parking space per 1,000 square
18 feet of commercial or other nonresidential space for a residential
19 or mixed-use residential project located in a transit intensive area,
20 or subject to an adopted downtown area plan, an adopted
21 neighborhood plan, or an adopted redevelopment project area.

22 (b) For the purposes of this section, “transit intensive area”
23 means a central business district, an area within one-half mile of
24 a major transit stop, as defined in subdivision (b) of Section 21155
25 of the Public Resources Code, and an area within one-quarter mile
26 of a high-quality transit corridor, as defined in subdivision (b) of
27 Section 21155 of the Public Resources Code.

28 SEC. 4. Section 75125 of the Public Resources Code is
29 amended to read:

30 75125. The council shall do all of the following:

31 (a) Identify and review activities and funding programs of
32 member state agencies that may be coordinated to improve air and
33 water quality, improve natural resource protection, increase the
34 availability of affordable housing, improve transportation, meet
35 the goals of the California Global Warming Solutions Act of 2006
36 (Division 25.5 (commencing with Section 38500) of the Health
37 and Safety Code), encourage sustainable land use planning, and
38 revitalize urban and community centers in a sustainable manner.
39 At a minimum, the council shall review and comment on the
40 five-year infrastructure plan developed pursuant to Article 2

1 (commencing with Section 13100) of Chapter 2 of Part 3 of
2 Division 3 of the Government Code and the State Environmental
3 Goals and Policy Report developed pursuant to Section 65041 of
4 the Government Code.

5 (b) Recommend policies and investment strategies and priorities
6 to the Governor, the Legislature, and to appropriate state agencies
7 to encourage the development of sustainable communities, such
8 as those communities that promote equity, strengthen the economy,
9 protect the environment, *incentivize infill development*, and
10 promote public health and safety, consistent with subdivisions (a)
11 and (c) of Section 75065.

12 (c) Provide, fund, and distribute data and information to local
13 governments and regional agencies that will assist in developing
14 and planning sustainable communities.

15 (d) Manage and award grants and loans to support the planning
16 and development of sustainable communities, pursuant to Sections
17 75127, 75128, and 75129. To implement this subdivision, the
18 council may do all of the following:

19 (1) Develop guidelines for awarding financial assistance,
20 including criteria for eligibility and additional consideration.

21 (2) Develop criteria for determining the amount of financial
22 assistance to be awarded. The council shall award a revolving loan
23 to an applicant for a planning project, unless the council determines
24 that the applicant lacks the fiscal capacity to carry out the project
25 without a grant. The council may establish criteria that would allow
26 the applicant to illustrate an ongoing commitment of financial
27 resources to ensure the completion of the proposed plan or project.

28 (3) Provide for payments of interest on loans made pursuant to
29 this article. The rate of interest shall not exceed the rate earned by
30 the Pooled Money Investment Board.

31 (4) Provide for the time period for repaying a loan made
32 pursuant to this article.

33 (5) Provide for the recovery of funds from an applicant that fails
34 to complete the project for which financial assistance was awarded.
35 The council shall direct the Controller to recover funds by any
36 available means.

37 (6) Provide technical assistance for application preparation.

38 (7) Designate a state agency or department to administer
39 technical and financial assistance programs for the disbursing of
40 grants and loans to support the planning and development of

1 sustainable communities, pursuant to Sections 75127, 75128, and
2 75129.

3 (e) No later than July 1, 2010, and every year thereafter, provide
4 a report to the Legislature that shall include, but is not limited to,
5 all of the following:

6 (1) A list of applicants for financial assistance.

7 (2) Identification of which applications were approved.

8 (3) The amounts awarded for each approved application.

9 (4) The remaining balance of available funds.

10 (5) A report on the proposed or ongoing management of each
11 funded project.

12 (6) Any additional minimum requirements and priorities for a
13 project or plan proposed in a grant or loan application developed
14 and adopted by the council pursuant to subdivision (c) of Section
15 75126.