



PLANNING COMMISSION MEETING MINUTES

Wednesday, October 27, 2021

This meeting was conducted via teleconference in accordance with Governor Newsom's Executive Order N-29-20, approved AB 361, and COVID-19 pandemic protocols.

CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

The teleconference meeting of the Planning Commission of October 27, 2021 was called to order at 7:01 p.m. by Chair Brown.

The Pledge of Allegiance was led by Commissioner Gaidos.

Staff Members Present: Shweta Bonn, Senior Planner; Ellen Clark, Director of Community Development; Melinda Denis, Planning and Permit Center Manager; Julie Harryman, Assistant City Attorney; Stefanie Ananthan, Recording Secretary

Commissioners Present: Commissioners Nancy Allen, Matt Gaidos, Ken Morgan, Jeff Nibert, Brandon Pace and Chair Justin Brown

Commissioners Absent: None

AGENDA AMENDMENTS

There were no agenda amendments.

CONSENT CALENDAR - *Consent Calendar items are considered routine and will be enacted by one motion unless a request for removal for discussion or explanation is received from the Planning Commission or a member of the public by submitting a speaker card for that item.*

- 1. Actions of the Zoning Administrator**
- 2. Approve the meeting minutes of September 22, 2021**

**Commissioner Nibert moved to approve the Consent Calendar.
Commissioner Gaidos seconded the motion.**

ROLL CALL VOTE:

AYES: Commissioners Allen, Brown, Gaidos, Nibert, and Pace
NOES: None
ABSENT: None
ABSTAIN: None

The Actions of the Zoning Administrator were approved, as submitted.

The Meeting Minutes of September 22, 2021 were approved, as submitted.

MEETING OPEN TO THE PUBLIC

- 3. Public Comment from the audience regarding items not listed on the agenda –**
Speakers are encouraged to limit comments to 3 minutes.

There were no members of the audience wishing to address the Commission.

PUBLIC HEARINGS AND OTHER MATTERS

- 4. P21-1015, City of Pleasanton, Amendments to Pleasanton Municipal Code –** Consider amendments to Titles 18 and 19 of the Pleasanton Municipal Code (including, but not limited to, sections 18.32, 18.84, 18.88, 18.101, and 19.16) in order to implement Senate Bill 9 regarding two-unit housing developments and urban lot splits in single-family residential zones

Senior Planner Shweta Bonn presented the specifics of the item in the Agenda Report.

Chair Brown commended staff on the presentation and information provided.

Commissioner Pace echoed commendation on the staff presentation. He discussed the State's mandate and potential for further clarity over time. He asked if other communities had come up with similar guidelines. Director of Community Development Ellen Clark stated the City of Pleasanton was an early adopter and she was not aware of any other cities with ordinances. She discussed efforts to implement the law and referenced the process with the accessory dwelling unit (ADU) ordinance. She stated adjustments could be made in the future if necessary. Commissioner Pace discussed the law allowing homeowners associations (HOAs) to create covenants, conditions and restrictions (CC&R's) to prevent the lots within the HOA from lot splitting or adding additional SB9 units. Ms. Clark stated the legislation did not prevent HOAs from limiting SB9 units and lot splits.

Chair Brown referenced the agenda report and work done by the consultant Van Meter Williams Pollock (VMWP). He asked if staff was aware of any HOAs in the City that might prevent adding SB9 units or lot splitting. Ms. Clark responded that she could not point to a specific HOA but it was possible some had restrictions such as specifying one unit per lot.

Commissioner Allen asked if SB9 applied to parcels zoned, Agricultural District (A). Ms. Clark explained that A zones were not considered single-family residential zones like the One-family

Residential districts (R-1) and therefore were not subject to SB9. Commissioner Allen asked the most potentially controversial amendments. Ms. Clark stated she had heard differing interpretations regarding the total number of units permitted on properties, although staff had sought out advice from the City's legislative team and authors of SB9 to verify the number of units allowed as are indicated in the draft municipal code amendments. She noted the challenge with interpreting the new laws, some areas of which were not entirely clear, and that points of contention were likely to get daylighted as more cities adopt and implement local ordinances. She emphasized that staff had done their best to create an ordinance in compliance with SB9.

Commissioner Allen asked about only one of the two attached units having a front door facing the public street. Ms. Bonn reminded the Commission of the discussion under the ADU ordinance, where the Commission expressed support for an ADU attached to a primary unit to have its front door on a different façade to reduce the appearance of two units as viewed from the public right-of-way. Commissioner Allen commended staff for preparing the amendments.

Chair Brown requested clarification on the proposed front door regulations and whether more than one door entry door facing the street should be prohibited. Ms. Clark concurred the provision could be clarified. Ms. Bonn discussed the entry and street facing entries; she agreed that additional thought could be given to the recommendation.

Commissioner Morgan thanked staff for its work. He asked if the requirement would allow subdivision of a lot over and over again. Ms. Clark explained a lot could not be subsequently subdivided once initially subdivided under the provisions of SB9. She stated SB9 does not fundamentally change the zoning. Commissioner Morgan asked if conversion of garages into an accessory dwelling unit would be prevented. Ms. Clark discussed parking requirements and garage conversion allowed under ADU law. She stated developments could use SB9 or ADU units or a combination of both, which in some cases could permit conversion of garages.

Commissioner Gaidos commended staff for drafting the numerous code amendments, especially in the short timeframe. He indicated support for the window glazing provisions and second-story setbacks.

Commissioner Nibert also commended and thanked staff for the presentation and draft code amendments. He asked how SB9 provided for new, affordable construction in Pleasanton. Ms. Clark stated SB9 did not mandate affordability but the units would contribute to the housing supply. She discussed the philosophy of the State in relaxing single-family zoning to increase the production of single-family units. Commissioner Nibert asked if the units would offset Regional Housing Needs Assessment (RHNA) numbers. Ms. Clark stated it was to be determined by California Department of Housing and Community Development (HCD). She discussed the requirement to report SB9 units annually. In response to Commissioner Nibert, Ms. Clark confirmed that SB9 allowed cities to require easements for utilities. Commissioner Nibert mentioned the water crisis and asked if consideration of local water supply could be applied during approvals. Ms. Clark stated SB9 did not allow for water usage to be considered as a basis for denial. Commissioner Nibert asked if the two units allowed under SB9 were required to be duplexes. Ms. Clark stated SB9 allowed both attached and detached units. Commissioner Nibert asked if any of the four total units per parcels were required to be ADUs. Ms. Clark clarified there was no requirement, but without a lot split, the four allowable units could only be achieved by building ADUs. Commissioner Nibert asked if sensitive environmental areas

were considered in SB9. Ms. Clark stated exceptions were precisely defined in the bill, which were replicated in the City's proposed ordinance. Commissioner Nibert asked who decided the appropriate Building Code measures or mitigations. Ms. Clark responded those would be forwarded to the Fire Marshal or Building Official to interpret the code based on State and local requirements and plans would be routed to appropriate departments to provide expertise.

Commissioner Nibert asked about co-ownership and the definition of persons acting in concert with the owner; Ms. Clark concurred that in practice it could be difficult to determine. Commissioner Nibert expressed concern about dishonest corporations. He asked about the length of occupancy and percentage of demolition. Ms. Clark explained that demolition was limited to 25 percent of a structure, and could not occur at all if the unit had been tenant-occupied during the past three years. Commissioner Nibert asked if an 800-square-foot development unit was technically an ADU. Ms. Clark explained the applicant could declare the unit as an ADU or SB9 unit; many would be interchangeable, and in some cases, the rules for one could be more favorable than the other. Chair Brown provided an example of an SB9 unit that could include a detached ADU. In response to Commissioner Nibert, Ms. Clark stated California Environmental Quality Act (CEQA) requirements would not apply to SB9 units and the Fire Marshal would determine specific requirements as to compliance with the Fire Code. She stated ministerial approvals or denials could not be appealed. Commissioner Nibert asked how a corporation or LLC could provide an owner occupancy affidavit indicating intent to occupy one of the three units. Ms. Clark agreed it was difficult to enforce, "intent." Commissioner Nibert expressed concern about the owner occupancy provision. He asked if there was a provision on short term rentals. Ms. Clark stated short term rentals were prohibited. With respect to CC&Rs, she explained the City did not get involved in their enforcement, which falls to the HOA. Commissioner Nibert asked about construction timing. Ms. Clark stated requirements related to expiration of building permits.

Commissioner Nibert asked about the frontage for flag lots. Ms. Clark explained the frontage of flag lots could be smaller and the typical lot width did not apply to the access corridor of the flag lot. Commissioner Nibert requested clarification on urban lot splits, parking requirements, car share pods, and the transit corridor. Ms. Clark explained the provisions for lot split standards, definition of car pod vehicles, and bus route determination being made by staff at a specific point in time. Commissioner Nibert indicated disappointment in SB9 because it was written as "one size fits all" and allowed market rate housing in lieu of affordable housing.

Chair Brown thanked staff for clarification and the graphic explaining flag lots. He asked if retaining one exterior wall would circumvent upgrading to current Building Codes. Ms. Clark stated she would clarify with the Building Division and provide information to the City Council. Chair Brown asked if the portion of downtown considered historic would be exempt from SB9. Ms. Clark stated SB9 did not apply to locally identified historic resources.

Commissioner Morgan asked if there was a provision to prevent four units on one lot and parking problems. Ms. Clark discussed potential parking issues due to the lesser parking required under SB9.

THE PUBLIC HEARING WAS OPENED

There were no members of the audience wishing to address the Commission.

THE PUBLIC HEARING WAS CLOSED

Commissioner Allen inquired about the use of exterior stairs in relation to the street front; inconsistency on landscape screening of HVAC units; size of entry porches; and one-half mile from the Altamont Corridor Express (ACE) transit station. Ms. Clark responded suggesting the addition of regulations regarding exterior stairs similar to ADUs; opportunity to adjust the wording to ensure the HVAC unit was properly screened with the minimum height utilized. She stated the size of porches was based on VMWP's experience and recommendation, but could be adjusted. She stated a fair amount of Downtown was included in the one-half mile radius and displayed a map showing proximity to the ACE Train Station.

Commissioner Nibert inquired about approval of SB9 units within the one-half mile circle on the map and the impact on downtown parking. Ms. Clark confirmed that parking would be impacted but, staff had found that developers often choose provide parking as an amenity to residents of the project.

Commissioner Allen moved to recommend approval of Case P21-1015 with the following additional amendments to the municipal code: (1) add provision related to exterior stairs to ensure they are not visible from streetscape; (2) increase minimum porch width and depth by one foot; (3) revise language related to screening for utilities such that the screening matches the height of item in question; (4) clarify requirements of Building Code related standards for significant upgrades associated with partial demolition; (5) clarify language regarding owner-occupancy requirements; and (6) add language defining a street-facing door for attached housing developments.

Commissioner Pace inquired and confirmed with Commissioner Allen that the proposed increased porch size was not intended to reduce the setbacks to street or other neighboring property. Ms. Bonn read the provision regarding setbacks from the property line for unroofed porches and patios as currently existed in the current code. Commissioner Pace reconfirmed that Commissioner Allen's proposal was not intended to reduce the setbacks.

Commissioner Pace seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Brown, Gaidos, Nibert, and Pace
NOES: None
ABSENT: None
ABSTAIN: None

Resolution PC-2021-16 approving Case P21-1015 was adopted as motioned.

MATTERS FOR COMMISSION'S REVIEW/ACTION/INFORMATION

5. Reports from Meetings Attended (e.g., Committee, Task Force, etc.)

Commissioner Allen reported that she and Commissioner Gaidos attended the recent Heritage Tree Board of Appeals meeting at which approval was given for a homeowner to cut down five

Redwood trees. Commissioner Gaidos discussed the invasive nature of the Redwoods and stated the property owner would replace the trees with a different variety.

Commissioner Pace noted the Bicycle, Pedestrian, and Trails Committee meeting was canceled.

6. Actions of the City Council

Ms. Clark provided a brief overview of the items listed in the report.

7. Future Planning Calendar

Ms. Denis gave a brief overview of future items for the Commission's review.

MATTERS INITIATED BY COMMISSION MEMBERS

Commissioner Allen requested an update on the potential five-story project on Harrison Street. Ms. Clark stated the City had received a notice of intent and preliminary application consisting of an entirely affordable housing development and retail uses on the first floor. She stated the affordability allowed height, density and development concessions, therefore, a five-story project was proposed. Commissioner Allen asked if the City could regulate the type of retail.

In response to Commission questions, Ms. Clark stated the zoning was Mixed-use Transitional and the increased height was allowed based on the proposed affordability.

Commissioner Allen requested a future agenda item to discuss a holiday gathering.

Chair Brown discussed rental of backyard pools and asked if the current Pleasanton Municipal Code covered noise, pollution and other potential complaints for short-term rentals of backyards. Ms. Clark stated Home Based Occupation business provisions might be implemented. Assistant City Attorney Julie Harryman explained that individuals were not allowed to do something unless the code indicated it was permitted. Chair Brown stated he mentioned it for general awareness.

ADJOURNMENT

Chair Brown adjourned the meeting at 8:57 p.m.

Respectfully submitted,

Stefanie Ananthan
Recording Secretary