



## AGENDA

**Subcommittee:** Planning and Community Development  
**Meeting Date:** April 16, 2019 4:00 p.m.  
**Meeting Time:** 4:00 p.m.  
**Meeting Location:** City Hall Conference Room  
124 N. Cloverdale Boulevard, Cloverdale, CA

### Subcommittee Members:

Chair: Jason Turner  
Councilmember Martz Cruz

Asst. City Manager/CDD Kevin Thompson  
City Manager David Kelley

1. **Call to Order:**
2. **Communications:**
3. **Public Comment:** Members of the public may, at this time, comment on any item not on this agenda. Please limit comments to three minutes. Members of the public may comment on items on the agenda when the subcommittee considers that item.
4. **Approval of Minutes:** February 19, 2018
5. **Current Items for Discussion**
  - a) Discussion of Draft "Right-to-Industry" Ordinance
  - b) Update on Six Acres Water Company/South Cloverdale Water Company
  - c) Update on the Sustainable Groundwater Management Act/Potter Valley Relicensing Project
  - d) Possible zoning amendment for the Downtown Commercial and Transit Orientated Development Zones
  - e) Update Community Development Planning Log
6. **Information Only Memos**
7. **Future Agenda Items (subject to change)**
8. **Pending Items**
9. **Good of the Order**
10. **Adjournment:** Adjourn to next scheduled meeting, June 18, 2019 at 4:00 p.m.

**CERTIFICATION** – Pursuant to Government Code § 54954.2, the agenda for this meeting was properly posted on 4/10/2019



comments and said the ordinance will go the city attorney and will be brought back to subcommittee for final review.

- b) Update on Six Acres Water Company/South Cloverdale Water Company. City Manager Kelley reviewed the next steps for the recommendation to proceed with the pre-annexation agreement. Standing meetings will be set up with Supervisor Gore to discuss tax sharing options. Chair Turner asked that a larger venue be found for the public meeting to accommodate the Six Acres group and discouraged comments by speaker phone. Chair Turner summarized that options for the Six Acre include updating the current infrastructure, giving a tap and meter and allowing the company to manage the water, or full annexation with an agreement, which is the most viable and expensive of the options. Mr. Cox commented that Six Water needs to contact the County to initiate the application. Staff Thompson stated that the agreement will be brought back to the subcommittee for review and direction.
- c) Update on the Sustainable Groundwater Management Act/Potter Valley Relicensing Project City Manager Kelley commented that through SIGMA, the state designates local groundwater basins and may require monitoring based on groundwater levels. The Alexander Valley groundwater basin has not triggered the need for monitoring to date. PG&E plans to discontinue its Potter Valley operation, and the dam diversion of water to Lake Mendocino, which affects Cloverdale's water supply, could be impacted if the Potter Valley water is not redirected to Lake Mendocino. This is a concern for the city.
- d) Possible zoning amendment for the Downtown Commercial and Transit Orientated Development Zones Staff Thompson noted that the City is proposing amendments to the zoning ordinance to address long term goals and what we want to see in the community. Discussion of parking requirements downtown ensued. Developers claim the parking requirements onerous and preclude development. To mitigate this, some cities have reduced the parking requirements or eliminated them altogether. An alternative is the in-lieu fee, which can be used to improve walkability, bike travel and pedestrian safety. Chair Turner supported giving developers and landowner opportunities to succeed, but the noted the need for public benefit. Mr. Deghi commented that Cloverdale residents are already under financial pressure and advised using caution. Mr. Cox stated that the downtown parking has always been a problem and recommended time-limit signage that is enforced by the police. Councilmember Cruz indicated that she has asked the Chamber to notify business owners to respect the parking limit restrictions. Chair Turner asked to notify the Finance, Admin and Police subcommittee and the Public Works subcommittee about prioritizing enforcement of parking violations, and asked it to remain a standing item on their agendas. Staff Thompson said he will clarify the draft to build on proposed the amendments for TOD as discussed at the previous meeting and add some parking language that addresses what is required for private development. This will be brought forward at the next subcommittee meeting.
- e) Planning Commissioner Interview Update – Several qualified applications were received, but a decision has not yet been made.
- f) Update Community Development Planning Log - Staff Thompson reviewed the upcoming agendas.

**6. Information Only Memos- None**

**7. Future Agenda Items (subject to change)**

**8. Pending Items**

**9. Good of the Order**

Chair Turner expressed concern with the sloppy road repair done after the developer building the assisted living facility on Treadway tapped into sewer to access services. He notified Public Works Director Rincon, who responded that he will look into the matter. Mr. Turner asked staff and the public to notify him of similar instances where roads are not being brought back to their prior condition after hookups.

**10. Adjournment:** The meeting was adjourned at 5:28 p.m. to next scheduled meeting, April 16, 2019 at 4:00 p.m.



Date: April 16, 2019

To: Planning and Community Development Subcommittee

From: Kevin Thompson, Community Development Director

**Re: Draft Right-to-Industry Ordinance**

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Attached is the first draft of a proposed Right-to-Industry Ordinance requested by the Subcommittee at their December 2018 meeting and reviewed at the February 19<sup>th</sup> Subcommittee. The draft ordinance is modeled after other city's ordinances. The Right-to-Industry Ordinances are not common and are typically modeled after right-to-farm ordinances. Its main purpose is to require disclosures be provided on proposed residentially development within 300' of industrially zoned properties. The attached draft ordinance has been reviewed by the City Attorney and is ready for consideration.

Staff is requesting feedback and direction to bring the draft ordinance to the Planning Commission for a review and recommendation.

Attachment:

1. Draft Ordinance
2. Letter from Andrew Zamberlin

**Chapter 18.20**  
**Right to Industry Ordinance**

**18.20.010 Purpose.**

The purpose of this ordinance is to enhance the prospects of growth and stability for businesses located within the City's established industrial zones. The City recognizes that when non-industrial uses occur near industrial areas, the industrial operations may become the subject of nuisance complaints due to lack of information about such operations. This ordinance seeks to reduce nuisance complaints by disclosing to existing and potential property owners and occupants of residential properties which are located within 300 feet of industrially zoned land that they are affected by this ordinance. Furthermore, this ordinance seeks to clarify the circumstances in which an industrial operation may ultimately be declared a nuisance.

**18.20.020 Nuisance Policy**

It is the intent of this ordinance to limit the circumstances in which industrial operations may be considered a nuisance. In furtherance of this purpose, no existing or future industrial business, or any of its appurtenances, which is conducted in a manner consistent with all land use and environmental laws shall be or become a nuisance, private or public, for adjacent land uses in or about the locality after the same has been in operation for more than three years when such action was not a nuisance at the time it began; provided that this section shall not apply if the nuisance results from a negligent or improper operation of any such industrial operation or its appurtenances.

This section shall not be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Water Code, or any other applicable provision of state law relative to nuisances. Instead, it is only to be utilized in the interpretation and enforcement of the provisions of this code and city regulations.

**18.20.030 Industrial Land**

As used in this ordinance, the term "Industrial Land" shall mean any property which is within an industrial zoning district as defined in Chapter 18.06 of this Code.

**18.20.040 Disclosure Statement**

Whenever a Disclosure Statement is required to be provided or otherwise used as set forth in this Chapter, it shall consist of the following language:

Right to Industry Disclosure Statement

This Property is located in or near land which is zoned or used for industrial uses. Residents of this property may be subject to inconvenience or discomfort arising from industrial operations. Such inconvenience and discomfort may include, but is not limited to, noise, odors, fumes, dust smoke, vibrations, visual impact, truck traffic and the operation of machinery during any 24 hour period. The City of Cloverdale has adopted policies to preserve industrial uses and residents or

occupants of this property should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living within proximity to an active industrial area.

The Disclosure Statement is for informational purposes only and nothing in this Ordinance or the Disclosure Statement shall prevent anyone from complaining to any appropriate agency, or pursuant any other available remedy, concerning an unlawful or improper industrial practice.

**18.20.050 Required Disclosure**

A Disclosure Statement shall be provided to potential owners and occupants of real property used or zoned for residential uses as follows:

1. Upon Sale or Transfer. A person acting as an agent for the seller of property located within 300 feet of Industrial Land, or the seller of the property, if acting without an agent, shall provide the Disclosure Statement to the prospective purchaser. The Disclosure Statement shall be delivered in the manner set forth in Civil Code Sections 1102.3 and 1102.10. Exceptions to the applicability of this Section are set forth Civil Code Section 1102.2.
2. Upon Subdivision. The Disclosure Statement shall be recorded as a notation on any final subdivision map or parcel map for a residential subdivision located within 300 feet of Industrial Land.
3. Discretionary Land Use Permits. The City shall include the Disclosure Statement on all discretionary land use permit applications for residential land uses located with 300 feet of Industrial Land and may require an applicant to record a notice of the Disclosure Statement as a condition of permit approval.
4. Rental and Lease Agreements. Any agreement for the rental or lease of a residential property or unit which is located within 300 feet of Industrial Land shall contain the Disclosure Statement.
5. Building Permits. The City shall provide the Disclosure Statement to all applicants for building permits for new residential construction or mobile home placement within 300 feet of Industrial Land.

3214090.1



Via Email and U.S. Mail

April 4, 2019

David Kelley, City Manager  
Kevin Thompson, Community Development Director  
City of Cloverdale  
124 N. Cloverdale Blvd.  
Cloverdale, CA 95425

RE: Proposal to Adopt “Right to Industry” Ordinance

Dear Messrs. Kelley and Thompson:

I am the President of Diablo Commercial Properties, the owner of that certain 267 acres on Asti Road that is designated by the City as the Alexander Valley Resort (“AVR”) Specific Plan area. It has come to our attention that the City may consider adopting a “Right to Industry” ordinance. Our AVR property is adjacent to existing industrially-zoned property and is also subject to that certain Development Agreement with the City of Cloverdale dated January 8, 2019 (the “DA”). In the DA, the City agreed that, with limited exceptions that do not apply here, the AVR property would not be subject to any ordinances, rules and regulations that were not in effect on the Effective Date of the DA. Because the proposed Right to Industry ordinance was not in effect on the Effective Date of the DA, the City could not apply that ordinance to the AVR property. With this letter, we are respectfully asking the City to confirm that, if adopted, the proposed Right to Industry ordinance cannot be applied to the AVR property under the terms of the DA.

We also have the following comments on the proposed ordinance. As an initial matter, we are not necessarily opposed to the ordinance, but we agree with the Planning Commission’s comment that such ordinances are “unusual”, because most communities understand that industrial uses are already sufficiently protected by local zoning and existing laws, including but not limited to laws relating to land use, property rights and nuisances. We also believe that this is the case in Cloverdale, where local zoning and land use regulations already adequately protect properly permitted industrial users from unwarranted and unjustified complaints about their operations. Nonetheless, in an effort to be a good neighbor with a goal of supporting the ordinance and to support local industrial uses, we request that the City address the following.

We believe the current draft of the proposed ordinance is vague in numerous important respects and could be construed to inappropriately expand the rights of industrial property owners by, among other things, relieving them of their permit restrictions and/or applicable time restrictions on their operations and activities. We further believe the current language could be

construed to improperly diminish the rights of neighbors of industrial users that have valid concerns about adjacent or nearby industrial operations. Therefore, if the City is going to consider adopting such an ordinance, we respectfully request that it revise the currently-proposed ordinance language to, at a minimum, make clear that all industrial operations must be in full compliance with all applicable rules, regulations and ordinances, including all permit conditions and requirements and all time restrictions on their hours of operations, before such operations can come within the protection of the ordinance. The bottom line is that we support the ordinance as long as it is a actual notice which does not expand or diminish landowner or tenant rights under existing law.

We also hereby respectfully request that the City provide adequate notice to Diablo Commercial Properties of any and all actions to be taken by the City towards the consideration and adoption of such an ordinance, including, of course, all subcommittee, commission and/or City Council meetings and hearings on such an ordinance, so that we may review and comment upon any such proposal.

Thank you for your consideration.

Sincerely,

DIABLO COMMERCIAL PROPERTIES, LLC



Andrew Zamberlin  
President

cc: Jose Sanchez, City Attorney  
Daniel P. Doporto