



## PLANNING COMMISSION AGENDA

### Regular Meeting

**7:00 P.M. on Tuesday, April 25, 2017**

Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, California

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

**2. ADMINISTRATIVE**

- 2.a. Review of agenda items.
- 2.b. Declaration of Conflict of Interest.
- 2.c. Commissioner William Gall to report at the City Council meeting of May 2, 2017 (alternate Commissioner Peter Cloven).

**3. PUBLIC COMMENT**

**4. MINUTES**

- 4.a. Approval of the minutes for the April 11, 2017 Planning Commission meeting.

**5. PUBLIC HEARINGS**

- 5.a. **GPA-03-16 and ZOA-03-17, General Plan Amendment and Municipal Code Amendment, City of Clayton.** A request for consideration of an amendment to the Land Use Element of the General Plan regarding the determination of residential density calculations as well as an Ordinance pertaining to the associated changes to the Clayton Municipal Code for the purposes of determining residential density calculations for residential parcels with sensitive land areas.

**Staff Recommendation:** Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 01-17 recommending the City Council approve:

- 1) A General Plan Amendment to modify the calculation of residential densities and not require a minimum density for residential parcels with sensitive land areas; and
- 2) An Ordinance adding Chapter 17.22 to Title 17 "Zoning" determining the methodology of residential density calculations for residential parcels with sensitive land areas.

## Agenda

### Planning Commission Regular Meeting

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- 5.b. **ZOA-02-17, Municipal Code Amendment, City of Clayton.** A request for consideration of a City-initiated Ordinance amending Title 15 "Building and Construction", Chapter 15.08 – Sign Provisions of City of Clayton Municipal Code in order to revise the Sign Provisions to comply with the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona*, to prohibit mobile billboards, and to incorporate other best practices.

**Staff Recommendation:** Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 02-17, recommending City Council approval of an Ordinance amending the City's Sign Provisions.

## 6. OLD BUSINESS

None.

## 7. NEW BUSINESS

None.

## 8. COMMUNICATIONS

8.a. Staff.

8.b. Commission.

## 9. ADJOURNMENT

- 9.a. The next regularly-scheduled meeting of the Planning Commission will be held on **Tuesday, May 9, 2017.**

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, April 11, 2017**

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

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

Present:       Chair Dan Richardson  
                  Vice Chair Carl Wolfe  
                  Commissioner Bassam Altwal  
                  Commissioner Peter Cloven  
                  Commissioner William Gall

Absent:         None

Staff:          Community Development Director Mindy Gentry  
                  Assistant Planner Milan Sikela, Jr.

**2. ADMINISTRATIVE**

2.a.    Review of agenda items.

2.b.    Declaration of Conflict of Interest.

Commissioner Cloven indicated that, due to residing within the conflict-of-interest radius from the subject property for Item 5.a, he would be recusing himself from the public hearing.

2.c.    Vice Chair Wolfe to report at the City Council meeting of April 18, 2017.

**3. PUBLIC COMMENT**

None.

**4. MINUTES**

4.a.    Approval of the minutes for the October 25, 2016 Planning Commission meeting.

**Commissioner Altwal moved and Vice Chair Wolfe seconded a motion to approve the minutes, as submitted. The motion passed 3-0-2 (Commissioner Gall abstained as he did not attend the October 25, 2016 Planning Commission meeting and Commissioner Cloven abstained as he was not a member of the Planning Commission on October 25, 2016).**

- 4.b. Approval of the minutes for the December 13, 2016 Planning Commission meeting.

**Commissioner Gall moved and Vice Chair Wolfe seconded a motion to approve the minutes, as submitted. The motion passed 4-0-1 (Commissioner Cloven abstained as he was not a member of the Planning Commission on December 13, 2016).**

Commissioner Cloven recused himself from the meeting chambers.

## 5. PUBLIC HEARINGS

- 5.a. **SPR-01-17, Site Plan Review Permit, Charles and Susan Levy, 1567 North Mitchell Canyon Road, APN: 119-582-002.** A request for approval of a Site Plan Review Permit to allow the construction of a single-story addition measuring approximately 1,330 square-feet in area and 21 feet in height on an existing single-story single-family residence.

The staff report was presented by Assistant Planner Milan Sikela, Jr.

Commissioner Altwal had the following questions:

- Was there a color scheme diagram submitted as part of the application materials? *Assistant Planner Sikela indicated that there are different ways to convey the proposed exterior colors and materials; one method is to submit a colors and materials board and another way is to provide an exterior colors and materials callout on the actual plans themselves which is the method that the applicant opted for.*
- Does the City have any regulations for residential color schemes or do we look at each proposal individually? *Assistant Planner Sikela indicated that, depending on where the residence is located, there may be pertinent exterior colors and materials requirements, such as in the Town Center, but, otherwise, we analyze each project individually. If the applicant proposed exterior colors and materials that did not meet Clayton Municipal Code Section 17.44.040.G in terms of being complementary with adjacent existing structures, staff could recommend denial of the project to the Planning Commission.*

Vice Chair Wolfe asked if staff knew the sizes of the existing residences directly north and south of the subject residence. *Assistant Planner Sikela indicated that staff did not analyze exact square-footage areas of the existing residences directly north and south of the subject residence. As part of staff's analysis, a site visit was conducted to observe the architecture of the existing residences in order to gauge whether or not the project was complementary with these existing structures, in accordance with Clayton Municipal Code Section 17.44.040.G.*

Commissioner Gall asked if staff has received any comments in response to the distribution of the public hearing notice for the project. *Assistant Planner Sikela indicated that staff did not receive any comments regarding the project.*

Chair Richardson had the following questions:

- With the roofline changes, would the project add a second story to the existing residence? *Assistant Planner Sikela responded that the residence would remain a single-story structure.*

- With the roofline changes, would the window sightlines into the neighboring properties be increased? *Assistant Planner Sikela indicated that, although new windows were being added as part of the project, the height and sightline of the windows would not increase.*

The public hearing was opened.

Kirk Shelby, the project architect, indicated the following:

- The intent of the project is to enhance the residence since the kitchen and bathrooms are smaller in area as a result of the existing residence being constructed in the 1960s.
- The applicants host social gatherings and wish to enlarge certain areas of the residence as well as create a great room for increased space and comfort.
- The project was designed in an effort to maintain the profile of the residence while increasing the roofline to provide more volume inside and to allow for more space for the increased insulation that is required as part of current energy codes.

The public hearing was closed.

Commissioner Gall indicated that all his questions have been answered and he has no further comment.

Vice Chair Wolfe indicated support for the project.

Commissioner Altwal indicated that the project complies with all applicable codes and regulations.

Chair Richardson indicated that the project will be a benefit to the neighborhood and he expressed support for people to continue living in the community they grew up in.

**Commissioner Gall moved and Vice Chair Wolfe seconded a motion to conditionally approve Site Plan Review Permit SPR-01-17 to allow the construction of a single-story addition measuring approximately 1,330 square feet in area and 21 feet in height on an existing single-story single-family residence at 1567 North Mitchell Canyon Road (APN: 118-081-002). The motion passed 4-0.**

Commissioner Cloven returned to the meeting chambers.

**6. OLD BUSINESS**

None.

**7. NEW BUSINESS**

None.

**8. COMMUNICATIONS**

**8.a. Staff**

Director Gentry provided updates for the Sign Provision modifications and density calculations being brought before the Planning Commission at the next meeting on April 25, 2017 as well as California Environmental Quality Act initiation for the Oak Creek Canyon project.

Assistant Planner Sikela provided updates on the Verna Way Residential Subdivision project and St. John’s Episcopal Church/Southbrook Drive Mixed Use Planned Development project.

**8.b. Commission**

The Planning Commission welcomed new Planning Commissioner Peter Cloven to the Planning Commission.

Commissioner Cloven indicated that he is very happy to be serving on the Planning Commission and loves living in Clayton.

**9. ADJOURNMENT**

9.a. The meeting was adjourned at 7:30 p.m. to the regularly-scheduled meeting of the Planning Commission on April 25, 2017.

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Submitted by  
Mindy Gentry  
Community Development Director

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Approved by  
Dan Richardson  
Chair

Community Development\Planning Commission\Minutes\2017\0411

**PLANNING COMMISSION  
STAFF REPORT**

**Meeting Date:** April 25, 2017

**Item Number:** 5.a.

**From:** Mindy Gentry *MAG*  
Community Development Director

**Subject:** General Plan Amendment and Ordinance to Modify the Calculation of Residential Density on Parcels with Sensitive Land Areas (GPA-03-16 and ZOA-03-17)

**Applicant:** City of Clayton

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**REQUEST**

The City of Clayton is requesting a public hearing to consider a City-initiated General Plan Amendment to its Land Use Element and an Ordinance to modify the residential density calculations and to not require a minimum density on residentially-designated parcels containing sensitive land areas (**Attachment A**). The Ordinance would amend Title 17 "Zoning" by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas (GPA-03-16 and ZOA-03-17).

**PROJECT INFORMATION**

**Location:** Citywide

**Environmental:** Pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was adopted by the Clayton City Council on July 18, 1985 with the finding that the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR.

**Public Notice:** On April 14, 2017, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the City.

## **BACKGROUND**

On October 25, 2016, the Planning Commission held a study session to provide feedback regarding a General Plan Amendment to allow a net acreage density calculation in lieu of gross or legal acreage on properties with physical constraints. This issue is described in full detail in the Planning Commission study session staff report from October 25, 2016 (**Attachment B**); however a brief summary is provided below.

This issue was derived due to the Silver Oak Estates project, located between the northerly terminus of Lydia Lane and south of Oakhurst Drive, having to contend with large physical constraints on the property and the inability for a project to be designed to meet both the prescribed General Plan density range and the product type. More specifically, the parcel contains undevelopable areas such as the Mount Diablo Creek, which requires a substantial setback as well as sloped topography, conditions which have made it difficult to meet the designated density range of 43 to 70 units. Further, the physical constraints or sensitive land areas such as the aforementioned creek and slope contained on the property made it questionable whether the remaining parcel was large enough to fit a detached single-family product type, as required by the City's General Plan, and within the prescribed density range of 3.1 to 5 units per acre. This issue is occurring because the General Plan bases the density range on legal or gross acreage of the parcel whether or not there are physical constraints on the property. Given this predicament, which could affect other parcels within the City, the Planning Commission expressed support at their October 25, 2016 meeting for initiating a General Plan amendment and any associated Zoning Code changes to allow net acreage density calculations when a site has a physical constraint or sensitive land areas in order to meet the density range and product type as identified by the City's General Plan.

## **DISCUSSION**

The General Plan has established minimum and maximum densities for all residentially designated uses within the City. That density range is currently calculated from the legal or gross acreage of the parcel, which is considered to be all land including easements and rights-of-way. Gross acreage and net acreage are commonly used measurements of land area. Net acreage would be any developable acreage following any required subtractions which could include open space or public rights-of-way, amongst others.

Further, the General Plan requirement for density on the legal or gross acreage of the parcel fits for those properties that are flat and/or minimally constrained; however this requirement does not appropriately apply to those properties that are limited in their developable land due large physical site constraints. The City of Clayton is approximately 98 percent built-out and many of the available properties left to develop are marginal or more difficult, particularly properties with site constraints such as slopes or creeks. The overall intent of these amendments would be to prevent unwarranted density on a site that is really much smaller, given the constraints that exist, and to provide the City with the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density.

## **GENERAL PLAN AMENDMENT**

After receiving support and direction from the Planning Commission at the study session, staff began to research the issue of determining residential density calculations while also conforming to the goals and policies of the City's General Plan. The proposed language changes to the Land Use Element are contained within one paragraph at the beginning of the discussion on Residential Designations, located on Page II-5 (**Attachment C**). These proposed changes would allow density calculations to be determined based off of the net developable acreage of the parcel as well as not require the minimum



density to be met for sites that have sensitive land areas. The intent of the proposed change will allow developers with constrained lots containing sensitive areas to meet both the prescribed General Plan density and product type. Further, given the community's lack of interest for higher density housing developments and the General Plan's support of lower density developments, these amendments would apply to and be required for all qualifying property and not optional.

The City of Clayton's General Plan Land Use Element contains the following goals:

- To maintain the rural character that has been the pride and distinction of Clayton.
- To encourage a balance of housing types and densities consistent with the rural character of Clayton.
- To preserve natural features, ecology, and scenic vistas of the Clayton area.

The proposed amendment captures the intent and vision as discussed in the goals of the General Plan. The amendment would decrease the overall density to help retain the rural character of Clayton, while balancing a variety of housing types and densities. The amendment will also help to preserve natural features, ecology, and scenic vistas by decreasing the overall required density on a property that has sensitive land uses such as creeks and rock outcroppings.

In addition, the General Plan Land Use Element, under Objective 1, identifies a policy of establishing density designations based on terrain, circulation, adjacent uses, and area characteristics. This proposed change in density calculations would help to fulfill this General Plan policy because as outlined in the proposed Ordinance, any slopes over 26% would be subtracted from the developable acreage thereby better fitting the density to the terrain and would retain sensitive land areas, which would result in developments better tailored to the area characteristics.

### *Housing Element Compliance*

The City has a total Regional Housing Needs Assessment (RHNA) obligation of 141 units for the 2014-2022 planning period. The City's certified Housing Element, after taking into consideration a subsequently approved General Plan Amendment, has an estimated capacity of 272 housing units, which results in a housing surplus of 131 units. The subject General Plan Amendment may reduce the overall residential density capacity of the assumed and identified housing units within the Housing Element. However, the Housing Element did assume some known constraints, such as slopes, on particular properties, which were taken into account when determining the realistic capacity, but not all constraints were documented on vacant or underdeveloped properties. Given that the City has an estimated housing surplus of 131 units and this proposed amendment would only impact parcels with sensitive land areas, it is anticipated the decrease in density will still result in adequate capacity to accommodate its RHNA obligation give the large surplus of housing units. Even after taking the largest available parcel, 13.96 acres (Silver Oak Estates), for development into consideration, it would still result in a surplus of 104 to 108 units.

### ZONING ORDINANCE

As referenced in the language of the General Plan amendment, the calculation of residential densities is to be further defined and described in the Clayton Municipal Code. The proposed addition of Chapter 17.22 in the Clayton Municipal Code would provide those details on how to calculate residential densities when sensitive land areas existing on a residential parcel. The Ordinance sets the parameters for determining developable acreage as well as what sensitive land areas are considered to be excluded from the gross or legal acreage of the parcel. The sensitive land areas that were identified were features that were clearly definable and constituted areas that cannot be developed, should avoid being developed, or should be preserved due to their environmental value such as floodplains, creeks, and

wetlands.

For illustrative purposes, if a developer has a property that is ten legal or gross acres in size and the property has a General Plan designation of Single Family Medium Density General Plan (3.1 to 5 units per acre) it would result in a density range of 31 to 50 units. However if the property happens to contain sensitive land areas, such as 1.3 acres of land within the 100-year floodplain and 0.7 acres with a slope that exceeds 26%, then those combined two acres would need to be subtracted from the gross or legal acreage to determine the developable acreage. Following the exclusion of these sensitive areas, it would result in eight developable acres, which would create a density range of 24.8 to 40 units per acre. This calculation results in lowering the overall density on residential parcels with sensitive land areas.

### **RECOMMENDATION**

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 01-17 recommending the City Council approve:

- 1) A General Plan Amendment to modify the calculation of residential densities and not require a minimum density for residential parcels with sensitive land areas; and
- 2) An Ordinance adding Chapter 17.22 to Title 17 "Zoning" determining the methodology of residential density calculations for residential parcels with sensitive land areas.

### **ATTACHMENTS**

- A. Planning Commission Resolution 01-17 with attachment:
  - Exhibit 1 – Draft Ordinance Adding Chapter 17.22 in Title 17 "Zoning" with attachment:
  - Exhibit A - Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Uses
- B. October 25, 2016 Planning Commission Study Session Staff Report and Minutes
- C. Redline Changes to the General Plan Land Use Element

# ATTACHMENT A

## CITY OF CLAYTON PLANNING COMMISSION RESOLUTION NO. 01-17

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### RECOMMENDING CITY COUNCIL APPROVAL OF A GENERAL PLAN AMENDMENT TO THE LAND USE ELEMENT TO MODIFY THE CALCULATION OF RESIDENTIAL DENSITIES AND NOT REQUIRE A MINIMUM DENSITY FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS AND AN ORDINANCE ADDING MUNICIPAL CODE CHAPTER 17.22 – RESIDENTIAL DENSITY CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND USES IN TITLE 17, “ZONING” (GPA-03-16 AND ZOA-03-17)

**WHEREAS**, State Planning and Zoning Law, and specifically California Government Code Section 65358, authorizes cities to amend their general plans; and

**WHEREAS**, the City of Clayton is ninety-eight (98) percent built-out and the majority of properties available to develop are marginal or more difficult due to sensitive land areas such as slopes or creeks; and

**WHEREAS**, the City of Clayton wishes to amend its General Plan to create the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density; and

**WHEREAS**, the City of Clayton wishes to protect sensitive land areas in a manner that these areas would be excluded from the gross or legal acreage of a developable residential parcel; and

**WHEREAS**, the City has a certified Housing Element with a total Regional Housing Needs Allocation (RHNA) obligation of 141 units and there is a total of 272 available units identified in the City’s certified 2015-2023 Housing Element, which provides a surplus of 131 units; and

**WHEREAS**, this General Plan amendment will still provide the City with adequate capacity to accommodate its Regional Housing Needs Allocation (RHNA) obligation and the proposed amendment is internally consistent with the balance of the General Plan; and

**WHEREAS**, the proposed amendment of the General Plan Land Use Element would be in the public interest; and has been assessed for potential impacts and has been determined to not be detrimental to the public health, safety, or welfare; and

**WHEREAS**, this Ordinance will amend Title 17 “Zoning” by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas with the purpose of describing and determining the calculation of General Plan residential densities for proposed residential projects when sensitive land areas exist on a residential parcel; and

**WHEREAS**, the Planning Commission has determined that the proposed amendments to the Clayton Municipal Code and Land Use Element of the General Plan do not conflict and are in general conformance with the City of Clayton General Plan because the amendments fulfill the goals and policies outlined in the Land Use Element and do not conflict with the development standards in the Clayton Municipal Code; and

**WHEREAS**, pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was certified by the Clayton City Council on July 18, 1985 with the finding that the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR; and

**WHEREAS**, proper notice of this public hearing was given in all respects as required by law; and

**WHEREAS**, on April 25, 2017, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony, both oral and documentary, and recommended approval to the City Council of the proposed General Plan Amendment to modify the calculation of residential densities and not require a minimum density for residential properties with sensitive land uses and an Ordinance to modify Title 17 "Zoning" by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Uses; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Clayton, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of an amendment to the General Plan Land Use Element of a section entitled "Residential Designations" on Page II-5 and Page II-6 to be amended as follows:

#### **"RESIDENTIAL DESIGNATIONS**

There are seven residential designations. The density ranges for each residential land use designation are based on the developable acreage of the parcel. Developable acreage and residential density calculations are further defined and described in the Clayton Municipal Code regarding residential parcels with sensitive land areas. Maximum density cannot be guaranteed but will fall within the range identified for each residential land use designation. Due to differences in developable acreage because of the constraints attributable to sensitive land areas, residential parcels with sensitive land areas shall fall within the not to exceed maximum density for developable acreage, and shall not have a minimum density requirement. Second dwelling units are exempt from the determination of residential densities.

When clustering is proposed for development, the City may provide relief from the lot coverage standards discussed below.

Unless otherwise noted, the following uses are allowed in each of the General Plan residential categories, provided they meet the requirements of the underlying zoning district, applicable specific plan policies and guidelines, and applicable general plan policies:

- Churches and places of worship;
- Public / quasi-public buildings and facilities;
- Day care centers, family day care homes, and residential care facilities;
- Bed and breakfast facilities;
- Lodges, fraternal organizations, and clubs;
- Crop and tree farming and horticulture, not including the raising or keeping of any animals other than ordinary household pets; and
- Publicly-owned parks and playgrounds.

Additional uses allowed under each category are described below.”

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the Planning Commission of the City of Clayton, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of the proposed Ordinance to add Chapter 17.22 to the Clayton Municipal Code pertaining to residential density calculations for residential parcels with sensitive land areas, attached hereto as Exhibit 1 and incorporated herein by this reference.

**PASSED AND ADOPTED** by the Planning Commission of the City of Clayton at a regular meeting on the 25<sup>th</sup> day of April, 2017.

APPROVED:

ATTEST:

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Dan Richardson  
Chair

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Mindy Gentry  
Community Development Director

**ATTACHMENTS**

Exhibit 1 – Draft Ordinance Adding Chapter 17.22 with Exhibit:

A: Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Uses

**EXHIBIT 1**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
CLAYTON, AMENDING TITLE 17, "ZONING", BY ADDING CHAPTER 17.22 TO  
THE CLAYTON MUNICIPAL CODE REGARDING RESIDENTIAL DENSITY  
CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS**

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

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS  
FOLLOWS:**

**WHEREAS**, the City of Clayton is ninety-eight (98) percent built-out and the majority of properties available to develop are marginal or more difficult due to sensitive land areas such as slopes or creeks; and

**WHEREAS**, the City of Clayton wishes to create the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density; and

**WHEREAS**, the City of Clayton wishes to protect sensitive land areas in a manner that these areas would be excluded from the gross or legal acreage of a developable residential parcel; and

**WHEREAS**, the City has a total Regional Housing Needs Allocation (RHNA) obligation of 141 units and there is a total of 272 available units identified in the City's certified 2015-2023 Housing Element, which provides a surplus of 131 units; and

**WHEREAS**, the proposed amendments to the Clayton Municipal Code will still provide the City with adequate capacity to accommodate its Regional Housing Needs Allocation (RHNA) obligation; and

**WHEREAS**, the proposed amendments to the Clayton Municipal Code do not conflict and are in conformance with the City of Clayton General Plan because an amendment to the General Plan has been brought simultaneously to modify the calculations of residential densities and not require a minimum density for residential properties with sensitive land uses; and

**WHEREAS**, the Clayton Planning Commission held a duly-noticed public hearing on April 25, 2017, at which it adopted Resolution No. 01-17 recommending City Council approval of the proposed Ordinance to amend Title 17 of the Clayton Municipal Code, by adding Chapter 17.22 – Residential Density Calculations for Residential Parcels with Sensitive Land Areas; and

**WHEREAS**, proper notice of the public hearing on this Ordinance was given in all respects as required by law; and

**WHEREAS**, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this matter.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES ORDAIN AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are hereby incorporated into this Ordinance.

**Section 2. Amendment.** Chapter 17.22 of the Clayton Municipal Code is hereby added to read in full as set forth in Exhibit A, attached and incorporated by this reference.

**Section 3. Severability.** If any section, subsection, sentence, clause, or phrase 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 4. CEQA.** The City Council hereby determines, pursuant to CEQA Guideline Section 15166, the Environmental Impact Report (EIR) was included as part of the City's General Plan, which provided an analysis of the potential significant effects that may occur as a result of the General Plan implementation. The EIR was certified by the Clayton City Council on July 18, 1985 with the finding that the impacts associated with the implementation of the General Plan can be mitigated to a less-than-significant level. Adoption of this General Plan amendment and Ordinance will result in activities less intense than assumed in the Clayton City Council adopted EIR; therefore these activities would be covered under the existing General Plan EIR.

**Section 5. Conflicting Ordinances Repealed.** Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

**Section 6. Effective Date and Publication.** 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 of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on [month] [day], 2017.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on [month] [day], 2017, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
Jim Diaz, Mayor

ATTEST

\_\_\_\_\_  
Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

\_\_\_\_\_  
Malathy Subramanian, 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], 2017, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on [month] [day], 2017.

\_\_\_\_\_  
Janet Brown, City Clerk



# Exhibit A

## Chapter 17.22

### RESIDENTIAL DENSITY CALCULATIONS FOR RESIDENTIAL PARCELS WITH SENSITIVE LAND AREAS

#### Sections:

- 17.22.010 Purpose
- 17.22.020 Calculating Density for Residential Parcels with Sensitive Land Areas
- 17.22.030 Determining Capacity
- 17.22.040 Density Calculation
- 17.22.050 Constraints Map

17.22.010 Purpose. The purpose of this section is to describe and determine how General Plan residential densities are calculated for proposed residential projects when sensitive land areas exist on a residential parcel.

17.22.020 Calculating Density for Residential Parcels with Sensitive Land Areas. The General Plan establishes minimum and maximum densities for all residentially designated uses within the City. Residential density is a computation expressing the number of dwelling units per acre based on the developable acreage of the land. The developable acreage shall not include sensitive land areas for purposes of calculating the permitted subdivision capacity (density) on a parcel or parcels of land. Because of the constraints due to sensitive land areas, residential parcels with sensitive land areas shall fall within a not to exceed maximum density for developable acreage and shall not have a minimum density requirement.

Public rights-of-way and utility easements are to be considered as part of the developable acreage.

17.22.030 Determining Capacity. Developable acreage shall be determined by excluding the following sensitive land area(s) from the gross or legal acreage of a parcel(s):

- 1) Land within the 100-year floodplain;
- 2) Land or slopes exceeding 26 percent;
- 3) Creeks, streams, and the associated setback provisions as set forth in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan as implemented by City Ordinance No. 412;
- 4) Rock outcroppings; and
- 5) Wetlands as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan;
- 6) Land containing species of endangered plants that have been identified as a no-take species as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan; and

7) Any other similar features as determined by the Planning Commission.

17.22.040     Density Calculation. To calculate the numerical maximum range of housing units; exclude the identified sensitive land areas from the legal or gross acreage and then multiply the remaining acreage by the highest number in the density range for the applicable residential General Plan land use designation for the maximum density.


17.22.050     Constraints Map. Prior to permitting any request for a subdivision or parcel map allowing for the construction of any residential units, a constraints map shall be submitted analyzing the developable and non-developable acreage of the property.

# ATTACHMENT B

## PLANNING COMMISSION STAFF REPORT

**Meeting Date:** October 25, 2016

**Item Number:** 5.b.

**From:** Mindy Gentry   
Community Development Director

**Subject:** Study Session to Consider a General Plan Amendment to Allow Net Acreage Density Calculations on Properties with Physical Site Constraints (GPA-01-16)

**Applicant:** City of Clayton

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### DISCUSSION

#### SILVER OAK ESTATES GENERAL PLAN CONFORMANCE ISSUE

The proposed Silver Oak Estates project consists of 59 units which are comprised of seven (7) single-family homes, 28 town homes, and 24 "Green Courts" located on approximately 5.37 acres; a neighborhood swimming pool and cabana on 0.59 acres; roadways on 2.10 acres; and open space on 7.84 acres. The project is to be located on the 13.96-acre Hurd Ranch property located between the northerly terminus of Lydia Lane and south of Oakhurst Drive in Clayton. The currently proposed project has been going through the City's entitlement process since approximately 2010, which has included the completion of a draft Initial Study/Mitigated Negative Declaration and the start of the process to undertake an Environmental Impact Report.

Due to staffing changes and following staff's cursory review of the project in 2016, it became apparent the attached product type being proposed by the applicant, the 28 town homes and 24 "Green Courts", were not in conformance with the City's General Plan. The General Plan designation for the property is Single Family Medium Density (MD) (3.1 to 5 units per acre) which is described in the General Plan as being "intended for and allows planned unit development (PUD) and single-family subdivisions. Development will range from a standard single-family subdivision to a zero lot line or single-family home." This General Plan designation would allow for 43 to 70 units on the subject property. While the proposed number of units, 59, fits within the overall allowed density, the General Plan land use designation of Single Family Medium Density (MD) is reserved for various single-family detached product types; therefore, the proposed attached product type would not fit within the Single Family Medium Density designation and would only fit within one of the three Multifamily General Plan land use designations, Multifamily Low, Multifamily Medium, or Multifamily High Density. In regards to product type, this determination has been consistently applied throughout the City and there is no evidence the City has ever deviated from its interpretation of the General Plan Single Family land use designation as being anything other than a designation for a single-family detached product type. In light of the proposed product type only fitting into the three multifamily land use designations, another issue arises because these designations require a higher density with more units to the acre, which, if applied to the subject site, would result in additional units being required in order to fit the General Plan density range of which the subject property really cannot manage given the physical constraints—the creek and sloping topography—located on the site. A General Plan amendment to Multifamily Low Density would result in a minimum unit count 106 units (7.6 units/acre) in order to allow the proposed product type, which would be an overall increase of 47 units on the property from the proposed 59

units.

Further, if the applicant were to try and fit the prescribed product type on the subject site it would result in a small lot single-family development of detached homes more than likely with a zero lot line or minimal setbacks. Given the physical constraints of the property, it is questionable whether the parcel is large enough to even fit a detached single-family product type.

#### PREVIOUSLY SUBMITTED PROJECT BACKGROUND FOR SILVER OAK ESTATES

Prior to 2010, the project previously filed with the City back in 2000 on the subject property consisted of a single-family detached residential development with 28 homes. The applicant is claiming at the time this application was subject to and required a General Plan amendment to change the land use density of the site from Multifamily Medium Residential to Single Family Medium Residential, which is evidenced by a letter from the Community Development Director at the time, Jeremy Graves. Mr. Graves indicated in his letter dated August 7, 2000 to the applicant, Callida Development LLC, "The current *General Plan Diagram* designation for the site is Multi-Family Medium Density (10.1 – 15 units per gross acre). Since the density proposed for the project is approximately 2.1 units per gross acre, an amendment of the *General Plan Diagram* designation for the site to [Single Family] Low Density (1.1 – 3 units per gross acre) is needed." Even though Mr. Graves identified the property having a designation of Multifamily Medium Density residential, staff is unable to find any indication in the official City records that the property ever had a Multifamily residential land use designation. The previously adopted Housing Elements, one adopted in June of 2000 and the other adopted in September of 2005 both show the property designated as Single Family Medium Density (3.1 to 5 units per acre). Further, City Council resolutions approving any General Plan amendments on this property are absent.

#### GENERAL PLAN AMENDMENT

Given the difficulty of being able to meet the General Plan density range with the allowed product type and the community contention surrounding the project, the applicant has requested that the City take the lead in processing a General Plan amendment. Further, the applicant has alluded to the processing of this amendment would assist in alleviating the previous determinations made by staff.

The General Plan Land Use Element currently states, "The acreages are based on the legal or gross acreage of the parcel. Maximum density cannot be guaranteed but density will fall within a range due to differences in sites" (**Attachment A**). The concept of the proposed General Plan amendment would be to allow projects with large physical site constraints to determine the density calculation based on net developable acreage rather than the gross or legal acreage of the parcel. The amendment would be drafted in a manner to allow the City Council or the Planning Commission the opportunity to make findings to support the request to use net acreage in instances where the site contains a certain percentage of slopes over 25%, or if the site contains a flood plain, rock outcroppings, a creek, or another type of physical constraint.

For example, the subject site for the Silver Oak Estates project contains large physical constraints such as sloping topography and Mount Diablo Creek (**Attachment B**). In particular, the Habitat Conservation Easement is 6.53 acres, which includes a minimum 50-foot required setback from the top of bank of Mount Diablo Creek. This constraint alone removes almost half, 47%, of the developable acreage of the site, making it nearly impossible for a development project to fit within the parameters of the General Plan as it pertains to development intensity and allowed product type. Further, the topography on the property additionally restricts the number of units due the slope and required grading.

These physical constraints on the project site provide limited land available for development in order to fit the required number of units and to provide the allowable product type identified in the General Plan. This issue is occurring because the General Plan bases the density range on legal or gross acreage of the parcel whether or not there are physical constraints on the property. Another way to categorize the issue would be trying to fit unwarranted intense density on a site that is really much smaller given the constraints that exist. By not providing the option of using the net acreage by subtracting the constrained property, this could result in a less desirable project given that the site may not necessarily have a proper land use designation due to the constraints and the resulting development intensity would not correspond given its location and surroundings.

The General Plan requirement for density on the legal or gross acreage of the parcel fits for those properties that are flat and/or minimally constrained; however this requirement does not appropriately apply to those properties that are limited in their developable land due large physical site constraints. The City of Clayton is approximately 98 percent built-out and the available properties left to develop are marginal or more difficult, particularly properties with site constraints such as slopes or creeks. This amendment could provide the City with the opportunity for more desirable developments rather than applying a singular approach in regards to the determination of density.

The particulars of the General Plan amendment and possibly appropriate corresponding changes to the Clayton Municipal Code would be addressed during this process. The proposed details such as the applicability, standards, and findings would come back at a later date to the Planning Commission and City Council for review and consideration. For example, a benchmark, such as a percentage of property that is constrained, identifying when the net acreage versus gross acreage could be applied to a property that contains a physical constraint could result from the process. The amendment is envisioned so that the required findings and/or standards of review for the use of net acreage versus gross acreage would need to be considered and identified during a site specific entitlement process as well.

#### **OTHER CONSIDERATIONS**

- HCD – The City has a total Regional Housing Needs Assessment (RHNA) obligation of 141 units for the 2014-2022 planning period. The City’s Housing Element has an estimated capacity of 275 housing units, which results in a housing surplus of 137 units. The subject property was included in the City’s inventory of available sites for housing units, which help to demonstrate that the City could accommodate its given RHNA (**Attachment C**). The City’s Housing Element identified the site with an assumed realistic capacity (80% of maximum density) of 56 units; however the physical constraints were not fully taken into consideration, which resulted in a much higher estimate of capacity given the allowed product types within the General Plan. If the site were to be developed not utilizing the gross developable acreage as called for in the General Plan, but rather a net acreage by removing, at a minimum, the 6.53 acre Conservation easement the property would yield approximately 23 to 37 units. This would decrease the City’s adopted Housing Element’s assumed realistic capacity to 29 units from the assumed 56, assuming no further acreage deductions would be necessary for the sloping topography. By applying the unit range of the General Plan designation based on the reduced acreage, the City of Clayton would still have adequate housing capacity based on the density range, 104 to 118 additional housing units above its RHNA obligation.
- Other Applications – While this proposed amendment has been generated from one particular situation, it could be beneficial to other parcels in the City. For example, one parcel that could benefit from this amendment, if applied, would be the vacant High Street property behind the Post Office. This property has a significant slope, which could constrain the property from achieving the required density, at 20 units per acre. This amendment could also assist the property in resulting in a more suitable development for the area.

#### **RECOMMENDATION**

It is recommended the Planning Commission consider and discuss as well as provide feedback to staff regarding whether a formal General Plan amendment process, along with associated changes to the Clayton Municipal Code, if required, should be initiated. Considerations as to the scope of the General Plan amendment and changes to the Clayton Municipal Code, if that process is recommended, are also being requested by staff.

#### **ATTACHMENTS**

- A. Excerpt from the General Plan Land Use Element
- B. Sample Constraints Map
- C. Excerpt from the Housing Element – Capacity to Accommodate the 2014-2022 RHNA

# ATTACHMENT A

- 7b Support establishment of a Heritage Center that would permit uses that support historical heritage and community activity within the Town Center.
- 7c Support development of community playfields. (Amended by Resolution 21-87, dated 5/16/87)

## **Objective 8**

To direct development of Keller Ranch within appropriate areas as constrained by topography, visual corridors, geologic factors, water courses and other planning considerations.

## **Policies**

- 8a Utilize map designation footprint to indicate development form.
- 8b Permit density transfer among residential development areas within the overall unit limit.
- 8c Designate Country Club and athletic field facilities as Open Space/Facility.
- 8d Permit minor design deviation among residential development, open space, open space/facility, and commercial designation footprints through the Planned Development approval process. (Amended by Resolution 21-87, dated 5/16/87)

## **LAND USE DESIGNATIONS**

The General Plan Diagram indicates application, location, extent, type and density of development. Designations provide assurance of city policy and guidance to homeowners, landowners, and developers. (Amended by Resolution 25-2004, dated 6/1/04)

## **RESIDENTIAL DESIGNATIONS**

There are seven residential designations. The acreages are based on the legal or gross acreage of the parcel. Maximum density cannot be guaranteed but density will fall within a range due to differences in sites. Second dwelling units are exempt from the determination of residential densities.

When clustering is proposed for development, the City may provide relief from the lot coverage standards discussed below.

Unless otherwise noted, the following uses are allowed in each of the General Plan residential categories, provided they meet the requirements of the underlying zoning district, applicable specific plan policies and guidelines, and applicable general plan policies:

- Churches and places of worship;
- Public / quasi-public buildings and facilities;
- Day care centers, family day care homes, and residential care facilities;
- Bed and breakfast facilities;
- Lodges, fraternal organizations, and clubs;

- Crop and tree farming and horticulture, not including the raising or keeping of any animals other than ordinary household pets; and
- Publicly-owned parks and playgrounds.

(Amended by Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

Additional uses allowed under each category are described below.

**Rural Estate (0 to 1.0 Units Per Acre)**

This density range is intended for single-family estates, or horse set-ups on individual lots of an acre or more. Allowable uses include single-family homes, private stables and corrals with access to greenbelts and equestrian facilities, and accessory structures and uses normally auxiliary to them. Second dwelling units are also allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

**Single Family Low Density (1.1 to 3 Units per Acre)**

This density range is intended for development of single-family houses on lots that range between 12,500 and 40,000 square feet. This designation has been the predominant density in Clayton. Uses allowed under this designation include single-family homes, and the accessory structures and uses normally auxiliary to them. Second dwelling units are also allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

**Single Family Medium Density (3.1 to 5 Units Per Acre)**

This density is intended for and allows planned unit development (PUD) and single-family subdivisions. Development will range from a standard single-family subdivision to a zero lot line or single-family home. Accessory structures and uses normally auxiliary to them are also allowed, as well as second dwelling units.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

**Single Family High Density (5.1 to 7.5 Units Per Acre)**

This designation is an urban single-family density that will allow patio homes, zero lot line and cluster homes in a PUD development. Accessory structures and uses normally auxiliary to them are also allowed, as well as second dwelling units. Second dwelling units are also allowed. Development will require innovative design with a combination of development concentration and open space. Development intensity will permit individual parcel coverage of up to 75% provided common open space is provided. Development excluding recreational amenities shall not exceed total structural land coverage of 25%.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

**Multifamily Low Density (7.6 to 10 Units Per Acre)**

This designation is intended for and allows cluster units such as duplexes, triplexes, townhouses, garden units, and other types of PUDs, as well as single family detached dwellings on smaller lots with a conditional use permit, that provide a development with amenities to balance the increased density. This density must be adequately buffered from single-family and estate development. Structural coverage, excluding recreational amenities, shall not exceed 40% of the site area. Second dwelling units are allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 64-98, dated 12/1/98, and Resolution 11-2012, dated 4/3/12)



### **Multifamily Medium Density (10.1 to 15 Units Per Acre)**

This designation is intended for and allows multifamily units, including duplexes, triplexes, and townhouses, located where the site area, circulation system and other features can comfortably accommodate increased density. Development within this density shall be encouraged to use a PUD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 50% of the site area. Second dwelling units are allowed.

*(Amended by Resolution 21-87, dated 5/16/87, Resolution 25-2004, dated 6/1/04, and Resolution 11-2012, dated 4/3/12)*

### **Multifamily High Density (15.1 to 20 Units Per Acre)**

This designation is intended for and allows two-story (or higher) apartments or condominiums located where higher densities may be appropriate, such as near major public transportation and commercial centers. Development within this density shall be encouraged to use a PUD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 65% of the site area.

*(Resolution 11-2012, dated 4/3/12)*

### **Institutional Density (7.6 to 20 Units Per Acre)**

This designation is intended for development of various forms of senior housing under sponsorship of public or quasi-public agencies. The density of senior projects is not always equivalent to standard concepts of density; therefore, a density range of 7.6 to 20 units per acre may be permitted. Group dining, limited vehicles, medicine-dispensing services and other characteristics make this form of housing unique.

Senior projects must be submitted as planned developments and will have to be reviewed for site limitations including density, number of stories and structure height, on a case-by-case basis. It is assumed that densities can exceed 15 units per acre when possible impacts can be mitigated. Development intensity can reach 100% structural coverage of each individual parcel. Structural coverage shall not exceed 50% of the site area, however, specific sites and relationship to adjacent uses may pose additional limitations.

*(Amended by Resolution 21-87, dated 5/16/87, Resolution 64-98, dated 12/1/98, Resolution 25-2004, dated 6/1/04, and Resolution 11-2012, dated 4/3/12)*

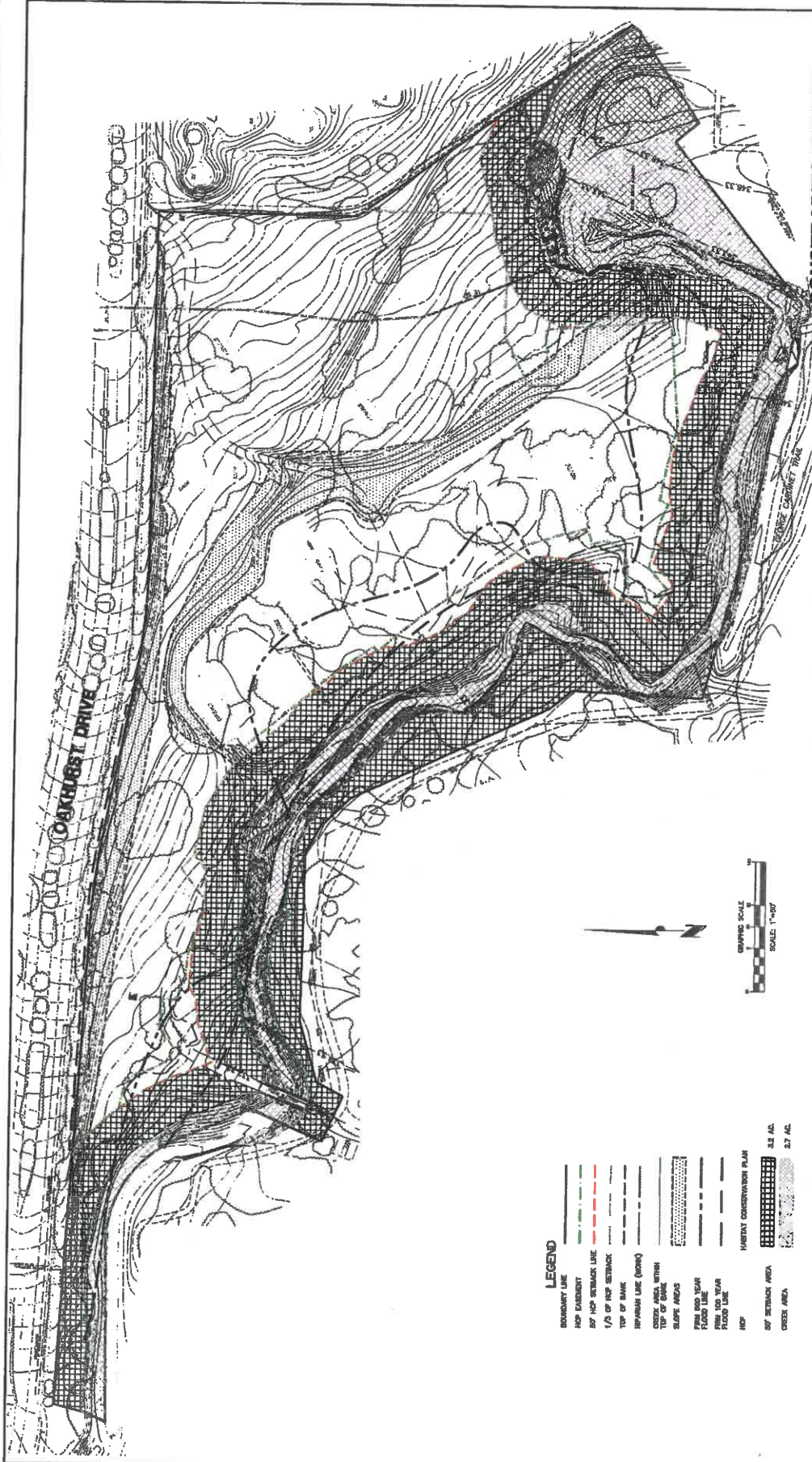
### **Residential Density and Population Projections**

The 2010 census indicated that Clayton had an average population of 2.72 persons per unit for occupied units. Clayton's high occupancy rate compared to other cities in Contra Costa County is due to the large homes on large parcels. As homes decrease in size, occupant size can also be expected to decrease.

The analysis of the relationship of units per acre to population is not direct. Population is based on relationship of residential unit size and living pattern of residents. Generally the size of the units will indicate the number of bedrooms. Variables include the reduced size of the family, larger homes on smaller lots, ethnic and cultural preferences for family size and use of space, economic fluctuations, percentage of unmarried shared rent households and changes in taste. The projected population levels are as follows:

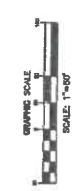


# ATTACHMENT B



### LEGEND

- BOUNDARY LINE
- 100' EASEMENT
- 50' HCP SETBACK LINE
- 1/3 OF HCP SETBACK
- TOP OF BANK
- SEPPANUM LINE (Dotted)
- CREEK AREA WITH TOP OF BANK
- SLOPE AREAS
- FINAL 100 YEAR FLOOD LINE
- FINAL 500 YEAR FLOOD LINE
- HCP
- 50' SETBACK AREA
- CREEK AREA



5.8 AC.  
5.7 AC.

**CONSTRAINTS EXHIBIT**  
**SILVER OAK ESTATES**  
 CLAYTON · CONTRA COSTA COUNTY · CALIFORNIA  
 OCTOBER 19, 2018



# ATTACHMENT C

CITY OF CLAYTON <small>CLAYTON, MISSOURI</small>	<b>HOUSING ELEMENT</b>
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As stated in Implementation Measure I.1.1, the City will continue to track and monitor the inventory of available sites throughout the planning period to ensure that adequate sites remain available to accommodate the City's RHNA.

**Table 45. Capacity to Accommodate the 2014–2022 RHNA**

Income Category	RHNA	Planned/ Approved (see Table 46) <sup>1</sup>	Vacant Land (see Table 47) <sup>2</sup>	Underdeveloped Sites (see Table 48) <sup>2</sup>	Remaining Need (Surplus)
Extremely Low	25	2	57	86	(69)
Very Low	26				
Low	25				
Moderate	31	11	79	43	(68)
Above Moderate	34				
<b>Total</b>	<b>141</b>	<b>13</b>	<b>136</b>	<b>129</b>	<b>(137)</b>

*Source: ABAG 2014–2022 Regional Housing Needs Allocation 2013; Clayton Community Development Department 2014*

<sup>1</sup> Units estimated in the lower-income categories will be deed-restricted for affordability in the Creekside Terrace and Oak Creek Canyon Projects. <sup>2</sup> Units estimated in the lower-income categories are located in General Plan land use designations that allow up to at least 20 units per acre (Multi-family High Density and Town Center Commercial), in keeping with the "default density" for the City of Clayton as determined by HCD.

## 6.2 Adequate Sites Inventory

State law requires that the Housing Element include an "inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment" (Government Code Section 65583[a][3]). State law further requires that the Housing Element analyze zoning and infrastructure on these sites to ensure that housing development during the planning period is actually feasible. Through this process, the City must demonstrate that it has sufficient land to accommodate its fair share of the RHNA as described above.

The City must also show that the land supply is capable of supporting housing demand for all economic segments of the community, including lower-income households. The state has generally held that the best way to demonstrate capacity for "affordable" housing is to provide sufficient and suitable land zoned for higher-density multi-family housing.

All sites identified in the inventory are shown on the map in **Appendix B**.

### Approved Projects

As of March 2014, 13 housing units were approved for development in the City of Clayton. As shown in **Table 46**, these units are located in the Creekside Terrace and Oak Creek Canyon projects.

C1

- 5.b. **GPA-01-16; General Plan Amendment; City of Clayton.** A study session to consider a General Plan amendment to allow net acreage density calculations on properties with physical site constraints.

Director Gentry presented the staff report and indicated that an email was received from a citizen in support of the General Plan amendment.

Chair Richardson asked how the City will determine what the “constraints” are. *Director Gentry indicated that staff will create a list of constraints once we receive feedback.*

Commissioner Altwal indicated that it would be good to have a list of site constraints and was supportive of utilizing a tool that would allow projects to achieve compliance with applicable General Plan densities.

Vice Chair Catalano asked is staff proposing to change the General Plan definition from gross acreage to net acreage or will the City continue to use gross acreage and just allow projects with site constraints to use net acreage? *Director Gentry indicated that, as currently proposed, gross acreage would continue to be used and then we would need to still determine whether this would a City-generated necessity to use net acreage or would the use of net acreage be at the request of the developer.*

The public hearing was opened.

Mark Kelson, 29 Tiffin Court, expressed support for the General Plan amendment.

Jennifer Butticci, 343 Alexander Place, expressed opposition to the Silver Oak Estates project, specifically raising concerns over the impacts the development would cause to wildlife current living on the project site.

Ann Vestal, 1737 Indian Wells Way, expressed opposition to the Silver Oak Estates project, specifically raising concerns over project-generated traffic, the height of the proposed structures, and the compatibility of the project with the existing neighborhoods in Clayton.

Heather Prewitt, 1778 Indian Wells Way, expressed opposition to the Silver Oak Estates project, specifically raising concerns over the impacts the development would cause to wildlife current living on the project site, project-generated traffic, the height of the proposed structures.

Cedric Jensen, 301 Saclan Terrace, indicated that the number of units proposed for the Silver Oak Estates project should be compliant with what the neighboring property owners want.

The public hearing was closed.

**By consensus, the Planning Commission expressed support for initiating the General Plan amendment process, along with associated changes to the Clayton Municipal Code to allow net acreage density calculations on properties with physical site constraints.**

# ATTACHMENT C

## Section II

### LAND USE ELEMENT

#### PREAMBLE

#### GOALS, OBJECTIVES, POLICIES, AND IMPLEMENTATION MEASURES

#### LAND USE DESIGNATIONS

#### RESIDENTIAL DESIGNATIONS

#### COMMERCIAL DESIGNATIONS

#### PUBLIC AND QUASI PUBLIC FACILITY

#### OPEN SPACE DESIGNATIONS

#### ANNEXATIONS AND SPHERE OF INFLUENCE

## PREAMBLE

It is important to recognize that this General Plan describes the kind of city that Clayton intends to become. The Plan is the culmination of a legally defined process of citizen review, professional advice, public hearings, and adoption. The Plan, subject to periodic review, is a living document which takes on meaning as it is translated into policies and regulatory ordinances.

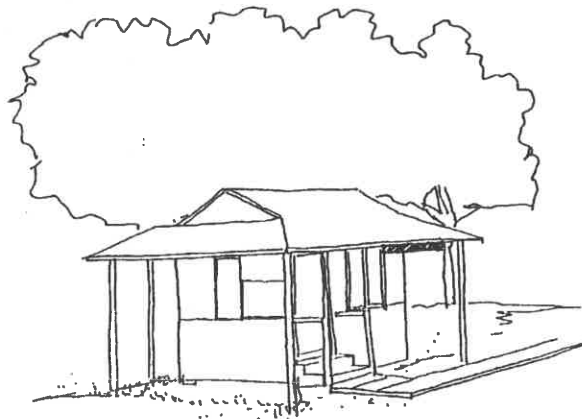
When an amendment to the Plan is considered, the proposed amendment must be considered in the context of the following goals, objectives, and policies and any such amendment must be shown to be consistent with them.

## LAND USE ELEMENT

### GOALS

1. To maintain the rural character that has been the pride and distinction of Clayton.
2. To encourage a balance of housing types and densities consistent with the rural character of Clayton.
3. To preserve the natural features, ecology, and scenic vistas of the Clayton area.
4. To control development through appropriate zoning, subdivision regulations and code enforcement.
5. To provide a comprehensive, integrated, greenbelt system, which includes bicycle, equestrian, and walking paths and is connected to regional systems.
6. To encourage a pedestrian-oriented community with areas of open space and recreational facilities for public use.
7. To enhance the sense of identity and pride in and to encourage historical awareness of Clayton.
8. To ensure an adequate commercial tax base for Clayton.
9. To create and maintain an attractive Town Center area and to make it the commercial, civic, and heritage focus for the community.
10. To provide housing opportunities which serve the varied social and economic segments of the Clayton community.

(Amended by Resolution 64-98, dated 12/1/98)



CLAYTON CITY HALL

## **GOAL**

To provide a mixture of land uses that responds to needs of the City of Clayton.

### **Residential**

#### **Objective 1**

To retain the rural character of Clayton through a predominance but not exclusive use of single-family, low-density residential development balancing needs of the housing element and preservation of open space. (Amended by Resolution 21-81, dated 5/16/87)

#### **Policies**

- 1a Establish density designations based on terrain, circulation, adjacent uses and area characteristics.
- 1b Identify a variety of densities, which decrease as slope increases.
- 1c Permit limited high density areas.
- 1d Preserve historic structures and open space areas with uses such as community facilities, bed and breakfast facilities, or large single-family homes. (Amended by Resolution 43-95, dated 6/28/95)
- 1e Encourage the clustering of development to preserve open space. (Amended by Resolution 43-95, dated 6/28/95)

#### **Objective 2**

To preserve the natural beauty and the feeling of openness in the community by preserving ridgelines and limiting development in the hills.

#### **Policies**

- 2a To prevent deterioration of scenic or sensitive areas, development should be clustered in less sensitive areas and an Open Space designation should be applied to undeveloped portions of parcels. (Amended by Resolution 43-95, dated 6/28/95)
- 2b Promote mitigation measures that maintain the aesthetic quality of the hills in transition areas.

#### **Objective 3**

To establish boundaries for the City of Clayton that follow standard principles of urban design and municipal development.

#### **Policies**

- 3a Promote annexation of all land area within the City's Sphere of Influence, provided there is no drain on current City resources.
- 3b Encourage Contra Costa County to follow the example of Santa Clara County and other progressive counties in establishing policies supporting city annexation within spheres.



- 3c The City should review its Sphere of Influence at least every five years and request a boundary amendment as needed. (Amended by Resolution 43-95, dated 6/28/95)

## **Commercial**

### **Objective 4**

To plan for and promote adequate commercial facilities to serve the needs of Clayton residents.

### **Policies**

- 4a Expand the commercial tax base in appropriate areas.
- 4b Maintain the Town Center and the commercial areas of Kirker Pass Road and Marsh Creek Road as the sole areas for commercial development.  
(Amended by Resolution 43-95, dated 6/28/95)
- 4c Require a master development plan for combination of parcels where appropriate.

### **Objective 5**

To prevent strip development and other inappropriate commercial uses.

### **Policies**

- 5a Review commercial development to ensure compatibility with surrounding uses and the environmental setting.
- 5b Provide strict control of nuisance characteristics of uses.

## **Major Developments**

### **Objective 6**

To promote development of the Keller Ranch with Clayton.

### **Policies**

- 6a Require a design constraints analysis prior to Keller Ranch development.
- 6b Review the design for Keller Ranch as a whole rather than a piecemeal process.
- 6c Incorporate or promote adoption of all reasonable mitigation measures for Keller Ranch development whether in the City of Clayton or in another jurisdiction.

### **Objective 7**

To promote community amenities within the Keller Ranch development.

### **Policies**

- 7a Support development of a country club facility that would include a golf course, tennis courts, swimming pool, clubhouse, restaurant, overnight accommodations and other uses deemed ancillary by the Planning Commission.

7b Support establishment of a Heritage Center that would permit uses that support historical heritage and community activity within the Town Center.

7c Support development of community playfields. (Amended by Resolution 21-87, dated 5/16/87)

### **Objective 8**

To direct development of Keller Ranch within appropriate areas as constrained by topography, visual corridors, geologic factors, water courses and other planning considerations.

### **Policies**

8a Utilize map designation footprint to indicate development form.

8b Permit density transfer among residential development areas within the overall unit limit.

8c Designate Country Club and athletic field facilities as Open Space/Facility.

8d Permit minor design deviation among residential development, open space, open space/facility, and commercial designation footprints through the Planned Development approval process. (Amended by Resolution 21-87, dated 5/16/87)

## **LAND USE DESIGNATIONS**

The General Plan Diagram indicates application, location, extent, type and density of development. Designations provide assurance of city policy and guidance to homeowners, landowners, and developers. (Amended by Resolution 25-2004, dated 6/1/04)

### **RESIDENTIAL DESIGNATIONS**

There are seven residential designations. The ~~acreages~~ density ranges for each residential land use designation are based on the ~~legal or gross developable~~ acreage of the parcel. Developable acreage and residential density calculations are further defined and described in the Clayton Municipal Code regarding residential parcels with sensitive land areas. Maximum density cannot be guaranteed but ~~density~~ will fall within ~~the~~ range identified for each residential land use designation. ~~Due to differences in developable acreagesites because of the constraints attributable to sensitive land areas, residential parcels with sensitive land areas shall fall within the not to exceed maximum density for developable acreage and shall not have a minimum density requirement.~~ Second dwelling units are exempt from the determination of residential densities.

When clustering is proposed for development, the City may provide relief from the lot coverage standards discussed below.

Unless otherwise noted, the following uses are allowed in each of the General Plan residential categories, provided they meet the requirements of the underlying zoning district, applicable specific plan policies and guidelines, and applicable general plan



policies:

- Churches and places of worship;
- Public / quasi-public buildings and facilities;
- Day care centers, family day care homes, and residential care facilities;
- Bed and breakfast facilities;
- Lodges, fraternal organizations, and clubs;
  
- Crop and tree farming and horticulture, not including the raising or keeping of any animals other than ordinary household pets; and
- Publicly-owned parks and playgrounds.

(Amended by Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

Additional uses allowed under each category are described below.

#### **Rural Estate (0 to 1.0 Units Per Acre)**

This density range is intended for single-family estates, or horse set-ups on individual lots of an acre or more. Allowable uses include single-family homes, private stables and corrals with access to greenbelts and equestrian facilities, and accessory structures and uses normally auxiliary to them. Second dwelling units are also allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

#### **Single Family Low Density (1.1 to 3 Units per Acre)**

This density range is intended for development of single-family houses on lots that range between 12,500 and 40,000 square feet. This designation has been the predominant density in Clayton. Uses allowed under this designation include single-family homes, and the accessory structures and uses normally auxiliary to them. Second dwelling units are also allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

#### **Single Family Medium Density (3.1 to 5 Units Per Acre)**

This density is intended for and allows planned unit development (PUD) and single-family subdivisions. Development will range from a standard single-family subdivision to a zero lot line or single-family home. Accessory structures and uses normally auxiliary to them are also allowed, as well as second dwelling units.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

#### **Single Family High Density (5.1 to 7.5 Units Per Acre)**

This designation is an urban single-family density that will allow patio homes, zero lot line and cluster homes in a PUD development. Accessory structures and uses normally auxiliary to them are also allowed, as well as second dwelling units. Second dwelling units are also allowed. Development will require innovative design with a combination of development concentration and open space. Development intensity will permit individual parcel coverage of up to 75% provided common open space is provided. Development excluding recreational amenities shall not exceed total structural land coverage of 25%.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

#### **Multifamily Low Density (7.6 to 10 Units Per Acre)**

This designation is intended for and allows cluster units such as duplexes, triplexes, townhouses, garden units, and other types of PUDs, as well as single family detached dwellings on smaller lots with a conditional use permit, that provide a development with amenities to balance the increased density. This density must be adequately buffered from

single-family and estate development. Structural coverage, excluding recreational amenities, shall not exceed 40% of the site area. Second dwelling units are allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 64-98, dated 12/1/98, and Resolution 11-2012, dated 4/3/12)

#### **Multifamily Medium Density (10.1 to 15 Units Per Acre)**

This designation is intended for and allows multifamily units, including duplexes, triplexes, and townhouses, located where the site area, circulation system and other features can comfortably accommodate increased density. Development within this density shall be encouraged to use a PUD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 50% of the site area. Second dwelling units are allowed.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 25-2004, dated 6/1/04, and Resolution 11-2012, dated 4/3/12)

#### **Multifamily High Density (20 Units Per Acre)**

This designation is intended for and allows two-story (or higher) apartments or condominiums located where higher densities may be appropriate, such as near major public transportation and commercial centers. Development within this density shall be encouraged to use a PUD concept and standards with incorporation of significant design and amenity in the project. Structural coverage, excluding recreational amenities, shall not exceed 65% of the site area.

(Resolution 11-2012, dated 4/3/12, Amended by Resolution 49-2016, dated July 19, 2016)

#### **Institutional Density (7.6 to 20 Units Per Acre)**

This designation is intended for development of various forms of senior housing under sponsorship of public or quasi-public agencies. The density of senior projects is not always equivalent to standard concepts of density; therefore, a density range of 7.6 to 20 units per acre may be permitted. Group dining, limited vehicles, medicine-dispensing services and other characteristics make this form of housing unique.

Senior projects must be submitted as planned developments and will have to be reviewed for site limitations including density, number of stories and structure height, on a case-by-case basis. It is assumed that densities can exceed 15 units per acre when possible impacts can be mitigated. Development intensity can reach 100% structural coverage of each individual parcel. Structural coverage shall not exceed 50% of the site area, however, specific sites and relationship to adjacent uses may pose additional limitations.

(Amended by Resolution 21-87, dated 5/16/87, Resolution 64-98, dated 12/1/98, Resolution 25-2004, dated 6/1/04, and Resolution 11-2012, dated 4/3/12)

#### **Residential Density and Population Projections**

The 2010 census indicated that Clayton had an average population of 2.72 persons per unit for occupied units. Clayton's high occupancy rate compared to other cities in Contra Costa County is due to the large homes on large parcels. As homes decrease in size, occupant size can also be expected to decrease.

The analysis of the relationship of units per acre to population is not direct. Population is based on relationship of residential unit size and living pattern of residents. Generally the size of the units will indicate the number of bedrooms. Variables include the reduced size of the family, larger homes on smaller lots, ethnic and cultural preferences for family size and use of space, economic fluctuations, percentage of unmarried shared rent households and changes in taste. The projected population levels are as follows:

<u>Designation</u>	<u>Persons Per Unit</u>
Rural Estate	3.3
Low Density	3.1
Medium Density	2.8
High Density	2.5
Multifamily Low Density	2.3

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 11-2012, dated 4/3/12)

## COMMERCIAL DESIGNATIONS

The commercial designations, including uses and development standards are listed below. The development standards apply to the net acreage of the commercial parcels and exclude any areas dedicated for public right-of-way. (Amended by Resolution 05-2007, dated 2/6/07)

### **Town Center**

This designation is located in the center of the City of Clayton which has been a historical commercial center since Clayton's inception.

### **Uses**

The uses allowed within this designation are the retail sales, commercial service, restaurant, bar, commercial recreation, child day care, office, upper-floor residential, visitor-accommodation uses listed in the "Town Center Commercial" land use designation of the *Town Center Specific Plan*. Population in residential uses is estimated at 1 person per 300 square feet.

All new development projects shall be reviewed for design compatibility with existing structures, as well as the theme and character of the Town Center, as described in the *Town Center Specific Plan*. Building height shall not exceed forty (40) feet. Structural coverage of a site primarily used for ground-floor retail with upper-floor retail, upper-floor office, and/or upper-floor residential purposes shall comply with the standards listed below. Structural coverage of a site primarily used for ground-floor office purposes or other uses shall not exceed thirty-five (35) percent.

(Amended by Resolution 21-87, dated 5/16/87 and Resolution 05-2007, dated 2/6/07)

1. Parcels 10,000 square feet or less: Up to one hundred (100) percent structural coverage.
2. Parcels between 10,001 and 40,000 square feet: Up to the percent structural coverage allowed by the following formula.

$$X = 100 - 2(Y - 10)$$

X is the Maximum Structural Coverage in percent  
Y is the Square Footage of the Parcel in 1,000's of square feet

For example, a 30,000 square foot parcel is allowed 60 percent structural coverage.

$$X = 100 - 2(30 - 10)$$

$$X = 100 - 2(20)$$

$$X = 100 - 40$$

$$X = 60$$

3. Parcels greater than 40,000 square feet: Up to forty (40) percent structural coverage.  
(Amended by Resolution 05-2007, dated 2/6/07)

Development projects must comply with the structural coverage standards applicable to the square footage of the respective Parcel(s) as shown on the Assessor's Maps of the Contra Costa County Assessor's Office as of January 1, 2007. Notwithstanding this provision, any Parcel larger than one acre may be initially subdivided into two parcels. Upon subdivision, each resultant parcel (termed "Resultant Parcel") shall be subject to the applicable structural coverage standard set forth in the above criteria which shall continue to apply to any further subdivision of a Resultant Parcel. (Amended by Resolution 05-2007, dated 2/6/07)

Additional Town Center discussion may be found in the Community Design Element.

### **Kirker Corridor**

Kirker Corridor represents the only commercial location in the city limits of Clayton that has regional potential. Nearly all of Clayton's sales tax dollars are lost to neighboring communities. The Kirker Corridor represents a series of sites that can serve to recapture a portion of that lost income, provide local control over the types of shops and facilities needed and reduce the extent of travel to commercial centers further away. The primary emphasis is on retail facilities although the complementary office and retail service uses are necessary for variety and market balance. Structural coverage shall not exceed thirty (30) percent of the site and height shall not exceed fifty (50) feet.

(Amended by Resolution 21-87, dated 5/16/87 and Resolution 05-2007, dated 2/6/07)

### **Uses**

All uses permitted in the Town Center. In addition, the following shall be permitted: auto sales and service, hotel and motel, wholesale distribution and other commercial uses determined to be consistent with the designation and overall development.

In order to prevent the Kirker Corridor from becoming a strip commercial site or to limit potential for future development, it will be necessary to present any specific proposal within the context of concept master plans for the entire area covering issues such a circulation, architectural design theme, and site planning.

### **Convenience Commercial**

This designation is highly restricted and designated for those sites that provide specific commercial needs for the community. Currently there are two sites along Marsh Creek Road where such uses exist; a landscape nursery exists near the town center, and a general store operates in the Marsh Creek Road Specific Plan area. This designation allows retail

uses of a neighborhood convenience nature where facility and operation are compatible with surrounding residential areas. Structural coverage on these sites shall not exceed twenty-five (25) percent of the site area. Building height shall not exceed thirty five (35) feet.

(Amended by Resolution 21-87, dated 5/16/87 and Resolution 05-2007, dated 2/6/07)

### **Implementation**

Implementing ordinances shall be developed to guide and control use and appearance for all commercial designations. Development in the Kirker Corridor shall produce a unified concept.

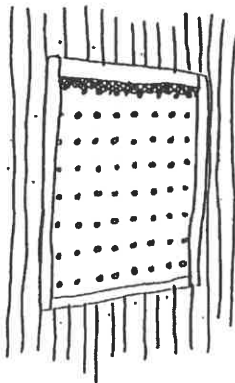
The size of Clayton and its commercially designated area provides a series of limitations on the extent of uses that can be permitted. Uses that do not fit into the categories mentioned, such as mini-warehouse, contractor yards and non-office industrial uses, may have to locate elsewhere due to the severe space limitations.

## **PUBLIC AND QUASI PUBLIC FACILITY DESIGNATIONS**

This designation applies to public and private school facilities, city facilities, fire district facilities, and other public and quasi-public uses. Day care facilities are consistent with this designation.

New public facilities should be located so that they will not intrude on residential areas. Where a public facility must be located adjacent to residences, all feasible mitigation measures shall be considered.

(Amended by Resolution 21-87, dated 5/16/87)



**JAIL WINDOW:  
PERFORATED BROILER  
PLATE**



## **OPEN SPACE DESIGNATIONS**

The City of Clayton seeks to preserve open space and provide recreational opportunities to Clayton residents within the City Limits. Four designations have been created to fulfill these goals: Private Open Space, Public Park/Open Space, Quarry, and Agriculture. The following text describes these four categories:

(Amended by Resolution 21-87, dated 5/16/87, and Resolution 43-95, dated 6/28/95)

1. **Private Open Space (PR)**

This designation includes privately-owned open spaces. Typical examples in Clayton include the Oakhurst golf course and areas where development has been clustered to retain open space. Other examples include private recreational facilities such as the riding club southeast of Clayton, the swimming pools at Marsh Creek Park Villas and Dana Hills, and the open space within Dana Hills and Westwood. These facilities allow individuals to expand their recreational opportunities at a cost and benefit to the users rather than the public at large. Such facilities should be promoted so long as traffic, noise and other related impacts are mitigated.

Only open space development, recreation and preservation are allowed in this designation. Owners' potential rights to other types of development on these properties have been clustered on adjoining parts of some parcels.

(Amended by Resolution 43-95, dated 6/28/95)

2. **Public Park/Open Space/Open Space and Recreational (PU)**

This designation applies to lands under City, County or State jurisdiction. Such uses within the planning area include City-owned open space areas and developed neighborhood and community parks, creek corridors, Mt. Diablo State Park, and the Open Space areas within the Oakhurst subdivision (dedicated to the City). Allowable uses in this designation include trails, greenbelts, playfields and parks, as well as accessory structures and uses normally auxiliary to them.

(Amended by Resolution 43-95, dated 6/28/95)

3. **Quarry (Q)**

Uses allowed under this designation include quarries and accessory structures and uses normally auxiliary to them.

There are no quarries located within the city limits of Clayton; however, the Lone Star quarry is located on the southwestern edge of the community. The quarry produces high quality rock and gravel and the quarry has an expected life in excess of 50 years. There are two negative impacts generated by quarry operation. First, there are occasional blasts to separate the rock and secondly, there is an average of 160 trucks per day traveling along Mitchell Canyon Road. This figure is based on information obtained from Lone Star Quarry. The quarry has taken a series of measures to mitigate its effect upon Clayton.

(Amended by Resolution 43-95, dated 6/28/95)

4. **Agriculture (AG)**

Areas to the northeast and east of the city limits include rugged terrain that is primarily used as rangeland for livestock and other similar open uses. The City supports and encourages the continuation of agriculture in these areas. Given the low intensity of agricultural activities, the minimum parcel size is 20 acres but is encouraged to be 40 acres to ensure agricultural viability.

The purpose of the Agriculture designation is to preserve and protect lands capable of and generally used for the production of food, fiber, and plant materials. The title is intended to be descriptive of the predominant land-extensive agricultural uses that take place in these areas, but the land use title allows other types of

agricultural, open space or non-urban uses.

(Amended by Resolution 43-95, dated 6/28/95)

## **ANNEXATIONS AND SPHERE OF INFLUENCE**

The City of Clayton wishes to have control over those areas that demand services, that make up its urban form, that affect its livelihood and that help create an efficient unit of government services. It is therefore the policy of the City of Clayton to annex all land within its Sphere of Influence and to promote development of land in the City of Clayton. Support for the concept of City development is included in the scale of community responsiveness to needs, efficiency and consistency of standards.

The Sphere of Influence and Planning Area boundary should be reviewed at least at 5 year increments to determine whether expansion is warranted.

(Amended by Resolution 43-95, dated 6/28/95)

If development is proposed in the un-sphered area north or east of Clayton, Clayton will request expansion of its Sphere at that time to the limits of its Planning Area.


The City of Clayton will be interested in any development along Marsh Creek Road between Clayton and Byron, due to the direct effect on traffic through the City. The effect on Clayton circulation should be considered in any County proposal.

Z:\Community Development\GPA\2016\GPA-01-16 - Density Increase in MHD\General Plan Land Use - Section II 07192016.doc

## PLANNING COMMISSION STAFF REPORT

**Meeting Date:** April 25, 2017

**Item Number:** 5.b.

**From:** Mindy Gentry   
Community Development Director

**Subject:** Ordinance to Amend the Sign Provisions (ZOA-02-17)

**Applicant:** City of Clayton

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### REQUEST

The City of Clayton is requesting a public hearing to consider a City-initiated Ordinance amending Title 15 "Building and Construction", Chapter 15.08 – Sign Provisions of City of Clayton Municipal Code in order to revise the Sign Provisions to comply with the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona*, to prohibit mobile billboards, and to incorporate other best practices (ZOA-02-17) (**Attachment A**).

### PROJECT INFORMATION

**Location:** Citywide

**Environmental:** This Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

**Public Notice:** On April 14, 2017, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the City.

### BACKGROUND

The United States Supreme Court ruled in the case *Reed vs. Town of Gilbert, Arizona* that the provisions of a municipality's sign code must be content-neutral (**Attachment B**). Portions of the Town of Gilbert's sign code were struck down by the United States Supreme Court due to the sign code subjecting ideological, political, and directional signs to different rules with respect to size, location, and length of display time. The Court found these rules to be content-based, as opposed to content-neutral, and did not meet the strict legal standard of serving a compelling governmental interest. The Court was clear that, as long as the regulation is not based upon a sign's message, local governments may regulate the size, lighting, location, timing, and number of signs. These regulations apply to fixed versus electronic messaging, placement on public versus private property, commercial versus residential, and on-premises versus off-premise signs.



## **SIGNIFICANT PROPOSED CHANGES TO CITY'S ORDINANCE**

In response to the United State Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* and other required updates, City staff is recommending amendments to the Clayton Municipal Code as it pertains to its Sign Provisions. A redline copy of the proposed amendments to the Clayton Municipal Code has been included as **Attachment C** to easily see the changes.

The major changes to the City's Sign Ordinance are as follows:

### *Content-Neutral*

The majority of the proposed changes occur in Section 15.08.020 – Definitions in order to clarify and create definitions that do not distinguish between sign content such as ideological, political, or directional. These changes are specifically in response to the decision rendered by the United States Supreme Court on *Reed vs. Town of Gilbert, Arizona*.

### *Prohibition of Mobile Billboards*

While this has not been an issue in the City of Clayton, staff is recommending this prohibition in the interest of the public for the safe movement of vehicular traffic, reduction of air pollution, and to improve the aesthetic appearance of the City. The prohibition of these types of signs have been upheld by the courts because the ordinances were narrowly tailored to significant government interests in traffic control, public safety, and aesthetics. Further, the proposed ordinance has left other adequate alternatives for advertising.

### *Clean Up Items*

- Addition and deletion of zoning districts that have been removed or added since the last update to the Sign Provisions.
- Consistency in height for Monument Signs, Pole Signs, Commercial Entry Signs and Noncommercial Signs.
- Consistency with the prohibition of signs in the public right-of-way.

## **RECOMMENDATION**

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution No. 02-17, recommending City Council approval of an Ordinance amending the City's Sign Provisions (**Attachment A**).

## **ATTACHMENTS**

- A. Planning Commission Resolution No. 02-17, with attachment:  
Exhibit 1 – Draft Ordinance Amending Chapter 15.08 – Sign Provisions
- B. United States Supreme Court Decision Syllabus
- C. Redline Changes to Chapter 15.08 – Sign Provisions

# ATTACHMENT A

## CITY OF CLAYTON PLANNING COMMISSION RESOLUTION NO. 02-17

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### RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING MUNICIPAL CODE TITLE 15, "BUILDING AND CONSTRUCTION", CHAPTER 15.08 SIGN PROVISIONS (ZOA-02-17)

**WHEREAS**, the United States Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* deemed municipalities sign provisions must be content-neutral; and

**WHEREAS**, the City wishes to amend Chapter 15.08 – Sign Provisions to comply with the U.S. Supreme Court decision in *Reed vs. Town of Gilbert, Arizona* and to incorporate other best practices; and

**WHEREAS**, the City Council further wishes to eliminate mobile billboard advertising within the City in order to promote the safe movement of vehicular traffic, to reduce air pollution, and to improve the aesthetic appearance of the City as recognized in *Showing Animals Respect & Kindness v. City of West Hollywood* (2008) 166 Cal.App.4th 815 and other applicable laws; and

**WHEREAS**, this Ordinance will ensure that City residents and others are able to exercise their constitutional right to free speech subject to the City's substantial interests in traffic safety, aesthetics, and otherwise ensuring the general health, safety and welfare; and

**WHEREAS**, this Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment; and

**WHEREAS**, proper notice of this public hearing was given in all respects as required by law; and

**WHEREAS**, on April 25, 2017, the Clayton Planning Commission held a duly-noticed public hearing on the matter, and received and considered testimony, both oral and documentary, and recommended approval to the City Council of the proposed Ordinance to amend the Sign Provisions in compliance with *Reed vs. Town of Gilbert, Arizona*; to eliminate mobile billboards; and implement best practices; and

**WHEREAS**, the Planning Commission has determined that the proposed amendments to the Clayton Municipal Code do not conflict with and are in general conformance with the City of Clayton General Plan.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Clayton, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of the proposed Ordinance to amend the Clayton Municipal Code Sign Provisions, attached hereto as Exhibit 1 and incorporated herein by this reference.

**PASSED AND ADOPTED** by the Planning Commission of the City of Clayton at a regular meeting on the 25<sup>th</sup> day of April, 2017.

APPROVED:

ATTEST:

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Dan Richardson  
Chair

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Mindy Gentry  
Community Development Director

**ATTACHMENTS**

Exhibit 1 – Draft Ordinance Amending the Sign Provisions with Exhibits:

A: Amended Chapter 15.08 – Sign Provisions

B: Sign Illustrations

**EXHIBIT 1**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
CLAYTON, AMENDING CHAPTER 15.08 OF THE CLAYTON MUNICIPAL  
CODE REGARDING SIGN PROVISIONS**

**THE CITY COUNCIL**

**City of Clayton, California**

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS  
FOLLOWS:**

**WHEREAS**, the City Council wishes to update its sign regulations to comply with the US Supreme Court's decision in *Reed v. Town of Gilbert* and to incorporate other current best practices;

**WHEREAS**, the City Council further wishes to eliminate mobile billboard advertising within the city in order to promote the safe movement of vehicular traffic, to reduce air pollution, and to improve the aesthetic appearance of the city as recognized in *Showing Animals Respect & Kindness v. City of West Hollywood* (2008) 166 Cal.App.4th 815 and other applicable law; and

**WHEREAS**, this Ordinance will ensure that City residents and others are able to exercise their constitutional right to free speech subject to the City's substantial interests in traffic safety, aesthetics and otherwise ensuring the general health, safety and welfare.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES  
ORDAIN AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are hereby incorporated into this Ordinance.

**Section 2. Amendment.** Chapter 15.08 of the Clayton Municipal Code is hereby amended to read in full as set forth in Exhibit A, attached and incorporated by this reference. As set forth in Section 15.08.020 of Exhibit A, the graphic attached as Exhibit B to this Ordinance shall be inserted into Section 15.08.020 in any codification of this Ordinance or the Clayton Municipal Code.

**Section 3. Severability.** If any section, subsection, sentence, clause, or phrase 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 4. CEQA.** The City Council hereby determines that this Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA

Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment.

**Section 5. Conflicting Ordinances Repealed.** Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

**Section 6. Effective Date and Publication.** 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 of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on [month] [day], 2017.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on [month] [day], 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
Jim Diaz, Mayor

ATTEST

\_\_\_\_\_  
Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

\_\_\_\_\_  
Malathy Subramanian, 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], 2017, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on [month] [day], 2017.

\_\_\_\_\_  
Janet Brown, City Clerk

## Exhibit A

### Chapter 15.08 SIGN PROVISIONS

#### Sections:

15.08.010	Purpose Statements
15.08.020	Definitions
15.08.030	Permit Procedures
15.08.040	Exempt Signs
15.08.050	Prohibited Signs
15.08.060	General Sign Requirements and Standards
15.08.070	Regulations for Special Signs
15.08.080	Computation of Sign Area and Height
15.08.090	Maintenance
15.08.100	Non-conforming Signs
15.08.105	Substitution
15.08.110	Enforcement

15.08.010     Purpose. The purpose of this chapter is to provide standards for the height, size, location, and appearance of building and street graphics, in order to:

- A. Encourage sound signing practices as an aid to business and to inform the public. Signage is to be used primarily for identification, not for advertising.
- B. Create an attractive economic and business climate.
- C. Preserve and improve the appearance of the city as a place in which to live and work and as an attraction to nonresidents who come to visit or trade.
- D. Protect and enhance the rural atmosphere of the city.
- E. Minimize adverse effects on public and private property.
- F. Prevent excessive and confusing sign displays.
- G. Reduce hazards to motorists and pedestrians.
- H. Enable the fair and consistent enforcement of sign regulations.
- I. Promote the public health, safety, and general welfare.

#### 15.08.020     Definitions.

- A. Address Sign: A sign listing the street address and, in the case of a residential use, the name of the occupants of the premises.
- B. Animated Sign: A sign that conveys its message or attracts attention through moving, rotating, changing, or flashing lights or components.
- C. Awning: A hood or cover that projects from the wall of a building and is composed of rigid or non-rigid materials.
- D. Awning Sign: A sign or graphic attached to or printed on an awning (see Sign Illustrations).
- E. Banner: A temporary commercial or noncommercial sign of lightweight fabric, plastic, paper, or similar material that is mounted on a building (see Sign Illustrations).

- F. Billboard: A sign that directs attention to a product, place, activity, person, institution, business, or subject that is not entirely related to the premises on which the sign is located.
- G. Building Marker: A sign indicating the name of a building, date of construction, and incidental information about its construction, which is cut into masonry or made of bronze or other permanent material.
- H. Building Sign: A permanent sign attached to a building or other structure that is an integral part of a building. A building sign includes an awning sign, a projecting sign, a suspended sign, a wall sign, and a window sign, an address sign, and a building marker.
- I. Canopy (or Marquee): A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, wood, glass, or plastic.
- J. Commercial Center Entry Sign: A sign located at the entry to a shopping center, business area, or office park identifying the center, area, or park and identifying the businesses located therein.
- K. Commercial Sign: Any sign with an image or message which primarily concerns the commercial or economic interests of the sign sponsor or intended audience, or which proposes a commercial transaction.
- L. Directory Sign: A sign or set of similarly designed individual signs displayed in sequence that lists tenants or occupants within a building or business center, and is designed or be viewed primarily by pedestrians (see Sign Illustrations).
- M. Flag: Fabric, banner, or bunting containing distinctive colors, patterns, or symbols.
- N. Ground Sign (or Freestanding Sign): A permanent sign supported by one or more uprights, poles, or braces in or upon the ground or placed upon a planter, wall, retaining wall, or other structure that is not an integral part of a building. A ground sign includes a monument sign, a pole sign, a kiosk sign, commercial center entry sign, directory sign, multiple address sign, neighborhood/district entry sign.
- O. Incidental Sign: An informational sign, whose purpose is secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives.
- P. Interior Sign: A sign located in the interior of a building, mall, court, standing or enclosed lobby intended for interior viewing only.
- Q. Kiosk Sign: A sign located on a small freestanding structure which has three (3) or more surfaces.
- R. Mobile Billboard: Any vehicle, or wheeled conveyance which carries, conveys, pulls, or transports any sign or billboard for the primary purpose of advertising. Mobile billboard shall not include (1) any vehicle which displays an advertisement or business identification of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisements; (2) buses; or (3) taxicabs.
- S. Monument Sign: A type of ground sign constructed upon a solid appearing base or pedestal (see Sign Illustrations).
- T. Multiple Address Sign: A sign or set of similarly designed individual signs displayed in sequence placed at the entrance of a private residential street or area that lists the street address and names of the occupants of the residences along the street or within the area.



- U. Mural: A work of art, containing no commercial message, applied to and made an integral part of an exterior wall.
- V. Neighborhood/District Entry Sign: A sign identifying a neighborhood or district (see Sign Illustrations).
- W. Noncommercial Sign: Any sign displaying a message that is not commercial.
- X. Noncommercial Location Sign: A sign identifying a noncommercial use.
- Y. Nonconforming Sign: A sign legally existing at the time of the effective date of this Chapter which does not conform to the provisions of this Chapter.
- Z. Off-Site Sign: A sign directing attention to a business, service, product, or entertainment that is not sold or offered on the site where the sign is located, including billboards and other outdoor advertising signs.
- AA. On-Site Sign: A sign directing attention to a business, service, product, or entertainment that is sold or offered on the site where the sign is located.
- BB. Parapet or Parapet Wall: That portion of a building wall that rises above the roof level or eave line.
- CC. Pennant: A sign of lightweight fabric, plastic, or similar material that is attached to a pole at one edge (see Sign Illustrations).
- DD. Permanent Sign: Any sign intended for use for a period greater than thirty (30) calendar days.
- EE. Personal Property Sale Sign: A temporary commercial sign advertising a sale of personal property.
- FF. Pole Sign: A type of ground sign mounted to or hanging from a pole or similar structure (see Sign Illustrations).
- GG. Portable Sign: A sign not permanently attached to the ground, building, or other permanent structure and designed to be transported, including but not limited to: signs designed to be transported by means of wheels; signs in the form of A-frames or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked in or visible from the public right of way, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs do not include mobile billboards.
- HH. Projecting Sign: A sign extending from a building face or wall so that the sign face is perpendicular or at an angle to the building face or wall (see Sign Illustrations).
- II. Real Estate Sign: A commercial sign advertising the sale, lease, or rent of property and the identification of the firm handling the sale, lease, or rent.
- JJ. Residential Open House Sign: A temporary commercial sign advertising an open house for a house for sale.
- KK. Roof Sign: A sign erected upon or above a roof or parapet of a building or structure. A sign mounted on a vertical extension of a wall that extends above a roof structure is considered a wall sign.
- LL. Sign: Any name, identification, description, symbol, display, illustration, or device, including any structure, machine (including vending machine), component parts and paint, viewable by the general public that directs attention to a product, place, activity, person, institution, or business.
- MM. Sign Area: The area within a perimeter which forms the outside shape, including any frame, and forms an integral part of the display, but excluding the necessary supports,

- poles, or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas visible from any position at one (1) time will be totaled.
- NN. Sign Face: The visible portions of a sign including all characters and symbols, but excluding structural elements not an integral part of the display.
- OO. Sign Illustrations: Examples of various signs in pictorial format incorporated into Section 15.08.020 of the Clayton Municipal Code.
- PP. String Pennant: A lightweight plastic, fabric, or other material, whether or not containing a message or symbols, suspended from a rope, wire, or string in series, usually designed to move in the wind.
- QQ. Subdivision Marketing Pole Pennant: A single piece of lightweight plastic, fabric, or other material, whether or not containing a message of any kind that is temporarily suspended from a pole and is designed to move in the wind to promote the sale of newly subdivided lots and/or newly constructed dwellings.
- RR. Subdivision Marketing Signs: Temporary commercial signs, including ground signs, wall-mounted signs, pole signs, pennants, and real estate signs, designed to promote the sale of newly subdivided lots and/or newly constructed dwellings (see Sign Illustrations).
- SS. Suspended Sign: A sign attached to and located below any permanent eave, roof, or canopy (see Sign Illustrations).
- TT. Temporary Commercial Sign: Any commercial sign intended for use for a period of less than thirty (30) days.
- UU. Temporary Noncommercial Sign: Any noncommercial temporary sign displaying an ideological, political or other noncommercial message, that is constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.
- VV. Wall Sign: A sign not exceeding six (6) inches in thickness that is painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of said wall (see Sign Illustrations).
- WW. Window Sign: A sign displayed on window glass (including the glass of doors) or within three (3) feet of a window, designed to be viewed from the exterior of the window (see Sign Illustrations).

15.08.030 Permit Procedures.

- A. City Review - General. City review and approval is required for all signs except those specified by this Chapter as exempt or prohibited. No City review or approval is required for a change of copy on an existing permitted sign that is in full compliance with the requirements and standards of this Chapter. In addition to meeting the requirements of this Chapter, all signs shall comply with all applicable California Building Code requirements. No sign shall be constructed, placed, erected, or modified unless such construction, placement, erection, or modification is authorized by the owner, or his or her representative, of the property upon which the sign is to be placed. Application for sign review and approval shall be accompanied by written authorization from the property owner, or his or her authorized representative, for placement of the proposed sign or signs.

B. City Review and Approval. The City shall review and approve signs according to the following procedures:

1. Administrative Review and Approval. The following signs shall be reviewed and approved administratively by the Community Development Department if they conform to the general sign requirements and standards of Section 15.08.060 and the regulations for special signs of Section 15.08.070.
  - a. Directory signs provided the sign does not exceed ten (10) square feet in area, nor a height of six (6) feet.
  - b. Any sign proposed for a property consistent in terms of size, number, and location with a previously-approved master sign plan, unless otherwise specified in an applicable master sign plan.
  - c. All building and ground signs proposed for individual businesses that are located on a property that have a previous approval for similar signage, and the proposed sign(s) are consistent in terms of size, number, and location with the previous approval. (This provision does not apply to a Corner Lot or Through Lot where signage is being proposed along multiple property frontages)
2. Exception. Any sign proposal considered within the parameters of this subsection that in the judgment of the Community Development Director may not comply with the intent or purpose of this Chapter may be referred to the Planning Commission for consideration.
3. Planning Commission Review and Approval. The following signs shall be reviewed and approved by the Planning Commission in accordance with Chapter 17.64 of the Clayton Municipal Code.
  - a. Master sign plans.
  - b. Neighborhood/district entry signs.
  - c. Commercial center entry signs.
  - d. Subdivision marketing sign program.
  - e. Noncommercial locational signs.
  - f. Directory signs that exceed ten (10) square feet in area and six (6) feet in height.
  - g. All building and ground signs for individual businesses that are located on a property that have not had previous approval for signage, involve signage on multiple frontages, and/or involve an increase in the previously-approved signage area, increase in the number of signs, or substantially change the location of signage.
  - h. Any sign proposal that, in the judgment of the Community Development Director, may not comply with the intent or purpose of this Chapter.
4. Variance. A variance shall be required from the Planning Commission for any deviations from the general sign requirements and standards of Section 15.08.060 or the regulations for special signs of Section 15.08.070 of this Chapter according to the procedures set out in Chapter 17.52 of the Clayton Municipal Code.

15.08.040 Exempt Signs. The following signs shall not require review and approval by City:

- A. Address signs, provided the sign does not exceed two (2) square feet in area.

- B. Public information, identification, civic event, and directional signs erected by a public agency or public utility.
- C. Incidental signs.
- D. Legal notices posted by law.
- E. Building markers, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- F. Signs displayed by private individuals, when required by law or regulations of any governmental agency.
- G. Temporary noncommercial signs on private real property, provided the aggregate signage displayed at one time does not exceed thirty (30) square feet in area per parcel.
- H. Wall signs indicating the historical significance of a site or building, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- I. Signs displayed in the interior of a building, mall, court, stadium, or enclosed lobby more than three (3) feet from an exterior window or door and intended for interior viewing only.
- J. Multiple address signs, provided the individual signs do not exceed four (4) inches by twenty-four (24) inches.
- K. Residential open house signs for a home sale in accordance with the standards of Section 15.08.070 of this Chapter.
- L. Flags, provided they are not used in a commercial manner or to advertise a business or its location.
- M. Murals containing no commercial message, provided the mural has intrinsic artistic value or appeal regardless of the business in the building on whose wall the mural is painted. Murals shall take into consideration the overall architecture of the building and shall not be placed on decorative surfaces or finishes. The colors and materials used shall be reasonably harmonious with those in the area.
- N. Personal property sale signs, in accordance with the standards of Section 15.08.070 of this Chapter.
- O. Real estate signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- P. Portable signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- Q. Banners and pennants in accordance with the provisions of Section 15.08.070 of this Chapter.

15.08.050 Prohibited Signs. The following signs are prohibited anywhere in the City:

- A. Animated signs.
- B. Flags used in a commercial manner or to advertise a business or its location.
- C. Signs that by color, wording, design, location, or illumination resemble or conflict with any traffic-control device or with safe and efficient flow of traffic.
- D. Signs that obstruct the free and clear vision of or create confusion for motorists or pedestrians.
- E. Signs with lighting detrimental to surrounding property or prevents peaceful enjoyment of residential uses.
- F. Banners and pennants, except as provided in Section 15.08.070 of this Chapter.
- G. Roof signs.
- H. String pennants.
- I. Balloons and similar inflatable signs.

- J. Permanent signs mounted on fences or deck/balcony railings.
- K. Portable signs except as provided in Section 15.08.070 of this Chapter.
- L. Temporary signs are prohibited in the public right-of-way except for signs for City-sponsored community events in location(s) approved by the City.
- M. Signs located on private property without the property owner's approval.
- N. Off-site signs except for:
  - 1. Temporary noncommercial signs.
  - 2. Residential open house signs.
  - 3. Garage or yard sale signs.
  - 4. Signs attached to trees, shrubs, or other natural features.
- O. Mobile billboard operating on a street or other public place within the city in which the public has the right of travel.

15.08.060 General Sign Requirements and Standards.

- A. Signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts - Sign Permits. A sign permit is required in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts for all non-exempt signs as follows:
  - 1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
  - 2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
  - 3. Subdivision marketing sign program in accordance with the standards of Section 15.08.070 of this Chapter.
  - 4. No other non-exempt signs are allowed in these districts.
- B. Signs in the L-C District - Sign Permits. A sign permit is required in the L-C District for all non-exempt signs as follows:
  - 1. Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
  - 2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
  - 3. Master sign plan in accordance with the standards of Section 15.08.070 of this Chapter.
  - 4. Commercial center entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
  - 5. Subdivision marketing sign program in accordance with Section 15.08.070 of this Chapter.
- C. Signs in the L-C District - Standards. Ground and building signs relating to on-site commercial activities are authorized in the L-C Districts in accordance with the following standards:
  - 1. The aggregate sign area of any combination of ground signs and building signs for a building or a business shall not exceed one (1) square foot per lineal foot of building frontage or store frontage. Exempt signs, directory signs, commercial center entry signs, pennants, and portable signs are not subject to this aggregate sign limit.
  - 2. Monument signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable

aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.

3. Pole signs (ground signs) shall not exceed eight (8) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
  4. Kiosk signs (ground signs) shall not exceed twenty-four (24) square feet in area (all faces) and shall not exceed seven (7) feet in height.
  5. Projecting signs (building signs) shall not exceed twelve (12) square feet in area and shall maintain a vertical clearance of at least eight (8) feet.
  6. Suspended signs (building signs) oriented toward pedestrian areas or walkways shall not exceed six (6) square feet in area and shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path.
  7. Suspended signs (building signs) oriented toward street traffic and/or parking lots shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path, and may not be displayed over vehicular access. The size of such a suspended sign may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty (20) square feet.
  8. Window signs (building signs) shall not cover more than forty (40) percent of the glazed area of an individual window panel or more than twenty (20) percent of the aggregate glazed area on any one building frontage or store frontage.
  9. Wall Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
  10. Awning Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
- D. Signs in the PD District. Signs in the PD District shall conform to the standards or signs for uses defined in the applicable General Plan designation. For signs in areas designated residential, cultural center, institutional, school, or open space by the General Plan, the requirements and standards for signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts shall apply. For signs in areas designated commercial by the General Plan, the requirements and standards for signs in the L-C District shall apply unless otherwise specified by a master sign plan.

15.08.070 Regulations for Special Signs.

- A. Neighborhood/District Entry Signs. Neighborhood/district entry signs are allowed in all districts subject to the following standards:
  1. The sign shall include only the name of the neighborhood or district.
  2. Lettering shall not exceed eighteen (18) inches in height.
  3. The top of the letters shall not exceed six (6) feet in height.
- B. Commercial Center Entry Signs. Commercial center entry signs are allowed in commercial districts subject to the following standards:
  1. One (1) sign may be located near each main vehicular entrance to the shopping center, business area, or office park fronting on a public roadway.
  2. The sign may be a pole sign or monument sign.
  3. The sign shall not exceed eight (8) feet in height.

4. Lettering shall not exceed twenty-two (22) inches in height.
- C. Banners. Banners for new or relocated businesses are allowed temporarily in commercial districts subject to the following standards:
1. Banner in lieu of permanent sign:
    - a. The banner shall be secured on all sides.
    - b. The banner may only be displayed for up to thirty (30) days, with up to an additional thirty (30) day extension if approved administratively by the Community Development Department.
    - c. The banner must conform to the sign area dimensions and location of Section 15.08.060 C of this Chapter.
  2. Promotional banner. A second banner in addition to that noted above may be allowed subject to the following standards:
    - a. The banner may be a wall, window, or suspended sign.
    - b. The banner may only be displayed for up to thirty (30) days.
    - c. The banner may be no larger than the banner as approved per Section 15.08.070 C1 and must conform to the sign area dimensions of Section 15.08.060 C of this Chapter.
- D. Pennants. Pennants are allowed in commercial districts subject to the following standards.
1. Only one (1) pennant may be displayed by any one (1) business.
  2. The pennant shall be secured to a pole on one (1) side and shall be hanging.
  3. The pennant shall not exceed two (2) feet in width or four (4) feet in length.
  4. The pennant shall be made in a professional manner and workmanship of fabric, plastic, or similar material designed to withstand at least six (6) months of outdoor exposure. Paper pennants shall not be allowed.
  5. The bottom of a pennant shall be at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path. A pennant may not be displayed over a street, driveway, or vehicular access.
- E. Portable Signs. Portable signs are allowed in commercial districts subject to the following standards:
1. Only one (1) portable sign may be displayed by any one (1) business.
  2. The sign shall only be in the form of an A-frame, sandwich board, menu board, or umbrella.
  3. The sign shall not exceed three (3) feet in height or two (2) feet in width per face, except for an umbrella.
  4. The sign shall be displayed only during the hours the business is open to the public and shall be removed during non-business hours.
  5. The sign shall be displayed immediately adjacent to the business it advertises.
  6. The sign shall not be displayed in a public right-of-way nor shall it obstruct a pedestrian walkway.
  7. The sign shall be constructed out of a stable and rigid material (i.e., PVC is not considered an acceptably rigid material).
- F. Residential Open House and Personal Property Sale Signs. Residential open house and personal property sale signs are allowed for residential uses subject to the following standards:
1. A total of one (1) on-site sign and up to six (6) off-site signs.

2. Only one (1) off-site sign may be displayed at any one intersection for each residential open house or personal property sale.
  3. The signs shall not exceed three (3) feet in height or two (2) feet in width.
  4. The signs shall only be displayed up to one (1) hour before, during, and up to one (1) hour following the residential open house or personal property sale.
  5. The signs shall not be displayed in a public right-of-way nor shall they obstruct a pedestrian walkway, except signs shall be allowed behind the sidewalk or behind the curb if there is no sidewalk.
  6. No signs shall be displayed on private property without the prior consent of the property owner.
  7. Balloons, flags, pennants, animated devices, and similar objects are prohibited. (see Section 17.16.020E of the Municipal Code for further regulations for Personal Property Sales).
- G. Noncommercial Locational Signs. Noncommercial locational signs are allowed in all districts subject to the following standards:
1. The signs may include building signs and ground signs.
  2. The aggregate sign area may not exceed twenty-four (24) square feet for a lot up to forty thousand (40,000) square feet in size. For lots larger than forty thousand (40,000) square feet, sign area may be increased subject to specific Planning Commission review and approval.
  3. No ground or pole sign shall exceed eight (8) feet in height.
- H. Real Estate Signs. Real estate signs are allowed in all districts subject to the following standards:
1. Only one (1) on-site real estate sign may be displayed on a front or side yard frontage. An additional real estate sign may be displayed on a rear yard frontage.
  2. Real estate signs in residential districts shall not exceed six (6) square feet in area. Real estate signs in commercial districts shall not exceed twelve (12) square feet in area.
  3. The sign may be in the form of a pole sign or a wall sign.
  4. The sign shall not exceed six (6) feet in height.
  5. The sign shall be removed within ten (10) days of the lot or building(s) being sold, leased, or rented.
  6. Real estate signs located off-site of the subject property (e.g., at nearby intersection, public landscape, public property, public right of way) are not allowed.
- I. Subdivision Marketing Sign Program. Subdivision marketing signs are allowed in residential districts subject to the approval of a subdivision marketing sign program in accordance with the following standards:
1. The program may include a combination of temporary ground signs, wall signs, subdivision marketing pole pennants, and real estate signs.
  2. All subdivision marketing signs shall be displayed within the boundaries of the subdivision.
  3. Subdivision marketing pole pennants shall not exceed twenty-five (25) feet in height or be located closer than every fifty (50) feet.
  4. All subdivision marketing signs shall be removed within thirty (30) days of the opening of escrow for sale of the last home in the subdivision.



5. The dimensions of any sign shall not exceed eight (8) feet in length, nor eight (8) feet in height, nor a total area of sixty (60) square feet.
- J. Master Sign Plan. At the discretion of the City or one or more property owners, a master sign plan may be established for a shopping center, business area, office park, or similar identifiable geographic area. Such master sign plan may impose sign requirements and standards addressing the number, height, area, color, or other sign characteristics in a manner more restrictive than that allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter. Such a master sign plan may be established to promote an enhanced sense of identity, aesthetic value, or other feature. A master sign plan will not only identify and describe those sign characteristics that are more restrictive than those allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter, but also the purpose or goal for which the master sign plan is established.

15.08.080 Computation of Sign Area and Height. The following principles shall govern the computation of sign area and height.

- A. Computation of Area of Individual Signs. The sign area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative wall when such wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.
- B. Computation of Area of Multi-Faced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.
- C. Computation of Height. The height of a sign shall be computed as the distance from the grade at the edge of the public way along which a sign is placed or oriented to the highest point of the sign, or any structural or architectural component of the sign. When the grade at the edge of the public way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the public way shall not be included in determining the sign's overall height.
- D. Computation of Total Permitted Sign Area. The total area of all individual signs permitted on a lot shall be computed according to Section 15.08.060 C of this Chapter. Property fronting two (2) or more streets are allowed the permitted sign area specified in Section 15.08.060 C for each such street frontage.

15.08.090 Maintenance. All signs shall be maintained in good repair and shall be cleaned, painted, and replaced as necessary to present a neat appearance at all times.

15.08.100      Nonconforming Signs.

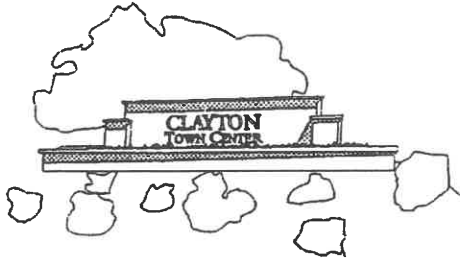
- A.      Except for regular maintenance, no non-conforming sign shall be altered, modified, added to, or increased in area, unless the entire sign is brought into conformity with the requirements and standards of this Chapter.
- B.      Any non-conforming sign that is damaged or destroyed to the extent of fifty (50) percent or more of its estimated market value shall not be replaced or repaired except by a sign that conforms to the requirements and standards of this Chapter.
- C.      Any non-conforming sign relating to a business that has not operated for six (6) consecutive months shall be removed.

15.08.105      Substitution. In each instance and under the same conditions to which this Chapter permits any sign, a sign containing an ideological, political or other noncommercial message that is constructed to the same physical dimensions of the permitted sign shall be permitted.

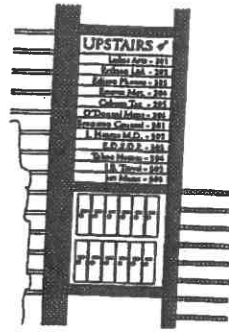
15.08.110      Enforcement. Any person erecting, displaying, or maintaining a sign in violation of this Chapter is guilty of an infraction and shall be subject to enforcement and penalties set out in Chapters 1.12, 1.14, 1.16, and 1.20 of Title 1 of the Clayton Municipal Code.

# EXHIBIT B

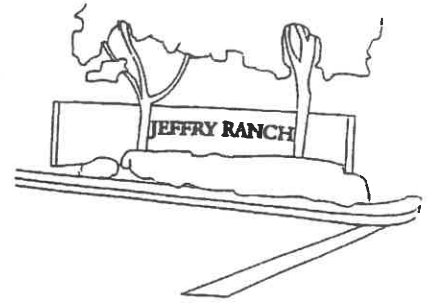
## SIGN ILLUSTRATIONS



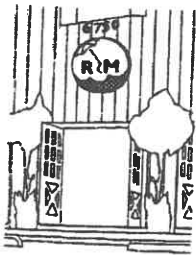
Monument Sign



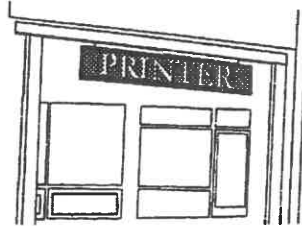
Directory Sign



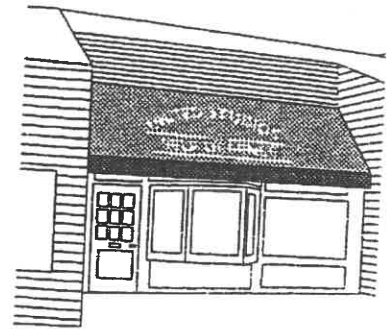
Neighborhood/District Entry Sign



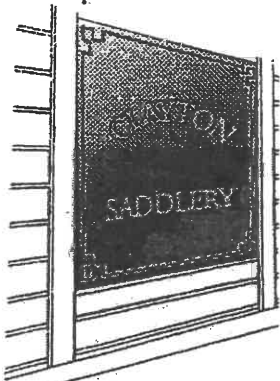
Wall Sign



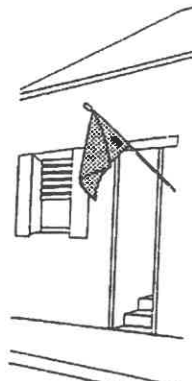
Suspended Sign



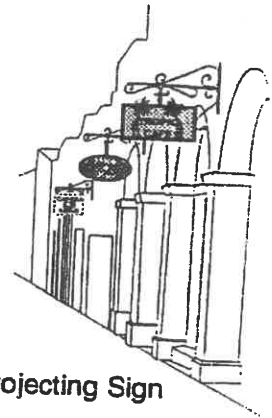
Awning Sign



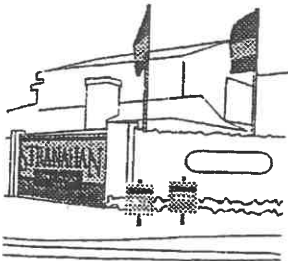
Window Sign



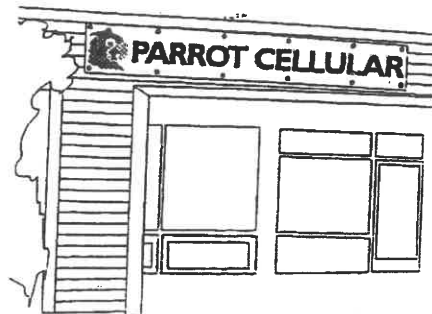
Pennant



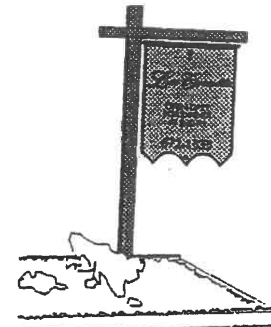
Projecting Sign



Subdivision Marketing Signs



Banner



Pole Sign

# ATTACHMENT B

(Slip Opinion)

OCTOBER TERM, 2014

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## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

### Syllabus

REED ET AL. *v.* TOWN OF GILBERT, ARIZONA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT

No. 13–502. Argued January 12, 2015—Decided June 18, 2015

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. “Ideological Signs,” defined as signs “communicating a message or ideas” that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. “Political Signs,” defined as signs “designed to influence the outcome of an election,” may be up to 32 square feet and may only be displayed during an election season. “Temporary Directional Signs,” defined as signs directing the public to a church or other “qualifying event,” have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the “qualifying event” and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code’s sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

*Held:* The Sign Code’s provisions are content-based regulations of

## Syllabus

speech that do not survive strict scrutiny. Pp. 6–17.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g.*, *R. A. V. v. St. Paul*, 505 U. S. 377, 395. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g.*, *Sorrell v. IMS Health, Inc.*, 564 U. S. \_\_\_, \_\_\_–\_\_\_. And courts are required to consider whether a regulation of speech “on its face” draws distinctions based on the message a speaker conveys. *Id.*, at \_\_\_. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be “justified without reference to the content of the regulated speech,” or were adopted by the government “because of disagreement with the message” conveyed. *Ward v. Rock Against Racism*, 491 U. S. 781, 791. Pp. 6–7.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign’s communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government’s justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. Pp. 7.

(c) None of the Ninth Circuit’s theories for its contrary holding is persuasive. Its conclusion that the Town’s regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government’s benign motive, content-neutral justification, or lack of “animus toward the ideas contained” in the regulated speech. *Cincinnati v. Discovery Network, Inc.*, 507 U. S. 410, 429. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit’s conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints

## Syllabus

is a “more blatant” and “egregious form of content discrimination,” *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829, but “[t]he First Amendment’s hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic,” *Consolidated Edison Co. of N. Y. v. Public Serv. Comm’n of N. Y.*, 447 U. S. 530, 537. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code’s categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, “laws favoring some speakers over others demand strict scrutiny when the legislature’s speaker preference reflects a content preference.” *Turner Broadcasting System, Inc. v. FCC*, 512 U. S. 622, 658. This same analysis applies to event-based distinctions. Pp. 8–14.

(d) The Sign Code’s content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code’s differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett*, 564 U. S. \_\_\_\_, \_\_\_\_. Assuming that the Town has a compelling interest in preserving its aesthetic appeal and traffic safety, the Code’s distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network, supra*, at 425. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 14–15.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789, 817. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—*e.g.*, warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 16–17.

## Syllabus

707 F. 3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined

# ATTACHMENT C

## Chapter 15.08 SIGN PROVISIONS

### Sections:

15.08.010	Purpose Statements
15.08.020	Definitions
15.08.030	Permit Procedures
15.08.040	Exempt Signs
15.08.050	Prohibited Signs
15.08.060	General Sign Requirements and Standards
15.08.070	Regulations for Special Signs
15.08.080	Computation of Sign Area and Height
15.08.090	Maintenance
15.08.100	Non-conforming Signs
<u>15.08.105</u>	<u>Substitution</u>
15.08.110	Enforcement

15.08.010     Purpose. The purpose of this chapter is to provide standards for the height, size, location, and appearance of building and street graphics, in order to:

- A. Encourage sound signing practices as an aid to business and to inform the public. Signage is to be used primarily for identification, not for advertising.
- B. Create an attractive economic and business climate.
- C. Preserve and improve the appearance of the city as a place in which to live and work and as an attraction to nonresidents who come to visit or trade.
- D. Protect and enhance the rural atmosphere of the city.
- E. Minimize adverse effects on public and private property.
- F. Prevent excessive and confusing sign displays.
- G. Reduce hazards to motorists and pedestrians.
- H. Enable the fair and consistent enforcement of sign regulations.
- I. Promote the public health, safety, and general welfare.

15.08.020     Definitions.

- A. Address Sign: A sign listing the street address and, in the case of a residential use, the name of the occupants of the premises.
- B. Animated Sign: A sign that conveys its message or attracts attention through moving, rotating, changing, or flashing lights or components. ~~This does not include a barber pole or time and temperature sign.~~
- C. Awning: A hood or cover that projects from the wall of a building and is composed of rigid or non-rigid materials.
- D. Awning Sign: A sign or graphic attached to or printed on an awning (see Sign Illustrations).
- E. Banner: A temporary commercial or noncommercial sign of lightweight fabric, plastic, paper, or similar material that is mounted on a building (see Sign Illustrations).



- F. Billboard: A sign that directs attention to a product, place, activity, person, institution, business, or subject that is not entirely related to the premises on which the sign is located.
- G. Building Marker: A sign indicating the name of a building, date of construction, and incidental information about its construction, which is cut into masonry or made of bronze or other permanent material.
- H. Building Sign: A permanent sign attached to a building or other structure that is an integral part of a building. A building sign includes an awning sign, a projecting sign, a suspended sign, a wall sign, and a window sign, an address sign, and a building marker.
- I. Canopy (or Marquee): A permanent roof-like shelter extending from part or all of a building face over a public right-of-way and constructed of some durable material such as metal, wood, glass, or plastic.
- J. Commercial Center Entry Sign: A sign located at the entry to a shopping center, business area, or office park identifying the center, area, or park and identifying the businesses located therein.
- ~~J.K.~~ Commercial Sign: Any sign with an image or message which primarily concerns the commercial or economic interests of the sign sponsor or intended audience, or which proposes a commercial transaction.
- ~~K.~~ Community Event: An occasional and/or seasonal event open to the general public sponsored by a public/quasi public institution or by a private party if the event promotes Clayton and its rural tradition. (Note: Such a community event typically requires a temporary use permit.)
- ~~L.~~ Community Event Sign: A temporary ground sign, building sign, portable sign, or banner advertising a community event.
- M.L. Directory Sign: A sign or set of similarly designed individual signs displayed in sequence that lists tenants or occupants within a building or business center, and is designed or be viewed primarily by pedestrians (see Sign Illustrations).
- ~~N.M.~~ Flag: Fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government or political subdivision. Fabric, banner, or bunting signifying identification with any private or quasi public institution or business is not considered a flag.
- ~~Personal Property Sale Sign: A temporary sign advertising a personal property sale.~~
- O.N. Ground Sign (or Freestanding Sign): A permanent sign supported by one or more uprights, poles, or braces in or upon the ground or placed upon a planter, wall, retaining wall, or other structure that is not an integral part of a building. A ground sign includes a monument sign, a pole sign, a kiosk sign, commercial center entry sign, directory sign, multiple address sign, neighborhood/district entry sign.
- ~~P.~~ Holiday Decorations: Temporary decorations, containing no commercial content, that celebrate or commemorate a holiday or season, including greetings, banners, announcements, and displays.
- O.O. Incidental Sign: ~~A non governmental~~An informational sign, whose purpose is secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone", and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

~~Integrated Development: A group of two (2) or more uses or parcels planned and developed in a joint manner with undivided or non-segregated parking facilities shared by them or that are governed by a common business, tenant, homeowner, or other association or by common conditions, covenants, and restrictions (CC&Rs).~~

~~R.P.~~ Interior Sign: A sign located in the interior of a building, mall, court, standing or enclosed lobby intended for interior viewing only.

~~Q.~~ Kiosk Sign: A sign located on a small freestanding structure which has three (3) or more surfaces.

~~S.R.~~ Mobile Billboard: Any vehicle, or wheeled conveyance which carries, conveys, pulls, or transports any sign or billboard for the primary purpose of advertising. Mobile billboard shall not include (1) any vehicle which displays an advertisement or business identification of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly or primarily to display advertisements; (2) buses; or (3) taxicabs.

~~T.S.~~ Monument Sign: A type of ground sign constructed upon a solid appearing base or pedestal (see Sign Illustrations).

~~U.T.~~ Multiple Address Sign: A sign or set of similarly designed individual signs displayed in sequence placed at the entrance of a private residential street or area that lists the street address and names of the occupants of the residences along the street or within the area.

~~V.U.~~ Mural: A work of art, containing no commercial message, ~~that is~~ applied to and made an integral part of an exterior wall.

~~V.~~ Neighborhood/District Entry Sign: A sign identifying a neighborhood or district (see Sign Illustrations).

~~W.~~ Noncommercial Sign: Any sign displaying a message that is not commercial.

~~X.~~ Noncommercial Location Sign: A sign identifying a noncommercial use.

~~X.Y.~~ Nonconforming Sign: A sign legally existing at the time of the effective date of this Chapter which does not conform to the provisions of this Chapter.

~~Y.Z.~~ Off-Site Sign: A sign directing attention to a business, service, product, or entertainment that is not sold or offered on the site where the sign is located, including billboards and other outdoor advertising signs.

~~Z.AA.~~ On-Site Sign: A sign directing attention to a business, service, product, or entertainment that is sold or offered on the site where the sign is located.

~~AA.BB.~~ Parapet or Parapet Wall: That portion of a building wall that rises above the roof level or eave line.

~~BB.CC.~~ Pennant: A sign of lightweight fabric, plastic, or similar material that is attached to a pole at one edge (see Sign Illustrations).

~~CC.DD.~~ Permanent Sign: Any sign intended for use for a period greater than thirty (30) calendar days.

~~EE.~~ Personal Property Sale Sign: A temporary commercial sign advertising a sale of personal property sale.

~~DD.FF.~~ Pole Sign: A type of ground sign mounted to or hanging from a pole or similar structure (see Sign Illustrations).

~~EE.~~ Political Sign: A temporary sign concerning a candidate, party, or proposition.

~~FF.GG.~~ Portable Sign: A sign not permanently attached to the ground, building, or other permanent structure and designed to be transported, including but not limited to: ~~s~~Signs designed to be transported by means of wheels; signs in the form of A-frames or T-

frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked in or visible from the public right of way, unless said vehicle is used in the normal day-to-day operations of the business. **Portable signs do not include mobile billboards.**

~~GG.HH.~~ Projecting Sign: A sign extending from a building face or wall so that the sign face is perpendicular or at an angle to the building face or wall (see Sign Illustrations).

~~HH.~~ Public/Quasi Public Institution: ~~A church, synagogue, or other place of worship, hospital, public school, private school, day care center, community service organization, social club, philanthropic organization or similar use.~~

~~H.~~ Public/Quasi Public Institution Sign: ~~A ground sign or building sign displayed by a public/quasi public institution.~~

~~JJ.II.~~ Real Estate Sign: A **commercial** sign advertising the sale, lease, or rent of property and the identification of the firm handling the sale, lease, or rent.

~~KK.JJ.~~ Residential Open House Sign: A temporary **commercial** sign advertising an open house for a house for sale.

~~LL.KK.~~ Roof Sign: A sign erected upon or above a roof or parapet of a building or structure. A sign mounted on a vertical extension of a wall that extends above a roof structure is considered a wall sign.

~~MM.~~ Service/Community Service Organization: ~~Club or association not organized for profit but for the purpose of promoting community interests, patriotism, welfare of youth, and other like purposes.~~

~~NN.LL.~~ Sign: Any name, identification, description, symbol, display, illustration, or device, including any structure, machine (including vending machine), component parts and paint, viewable by the general public that directs attention to a product, place, activity, person, institution, or business.

~~OO.MM.~~ Sign Area: The area within a perimeter which forms the outside shape, including any frame, and forms an integral part of the display, but excluding the necessary supports, poles, or uprights on which the sign may be placed. If the sign consists ~~of~~ more than one section or module, all areas visible from any position at one (1) time will be totaled.

~~PP.NN.~~ Sign Face: The visible portions of a sign including all characters and symbols, but excluding structural elements not an integral part of the display.

~~OO.~~ Sign Illustrations: **Examples of various signs in pictorial format incorporated into Section 15.08.020 of the Clayton Municipal Code.**

~~QQ.PP.~~ String Pennant: A lightweight plastic, fabric, or other material, whether or not containing a message or symbols, ~~that is~~ suspended from a rope, wire, or string in series, usually designed to move in the wind.

~~RR.QQ.~~ Subdivision Marketing Pole Pennant: A single piece of lightweight plastic, fabric, or other material, whether or not containing a message of any kind that is temporarily suspended from a pole and is designed to move in the wind to promote the sale of newly subdivided lots and/or newly constructed dwellings.

~~SS.RR.~~ Subdivision Marketing Signs: Temporary **commercial** signs, including ground signs, ~~w~~all-mounted signs, pole **signs**, pennants, and real estate signs, designed to promote the sale of newly subdivided lots and/or newly constructed dwellings (see Sign Illustrations).

~~TT.SS.~~ Suspended Sign: A sign attached to and located below any permanent eave, roof, or canopy (see Sign Illustrations).



~~UU.TT.~~ Temporary Commercial Sign: Any commercial sign intended for use for a period of less than thirty (30) days, ~~constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.~~

UU. Temporary Noncommercial Sign: Any noncommercial temporary sign displaying an ideological, political or other noncommercial message, that is constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other similar lightweight materials, with or without frames which is designed or intended to be displayed for a limited period of time.

VV. Wall Sign: A sign not exceeding six (6) inches in thickness that is painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign parallel to the plane of said wall (see Sign Illustrations).

WW. Window Sign: A sign, displayed on window glass (including the glass of doors) or within three (3) feet of a window, designed to be viewed from the exterior of the window (see Sign Illustrations).

#### 15.08.030 Permit Procedures.

A. City Review - General. City review and approval is required for all signs except those specified by this Chapter as exempt or prohibited. No City review or approval is required for a change of copy on an existing permitted sign that is in full compliance with the requirements and standards of this Chapter. In addition to meeting the requirements of this Chapter, all signs shall comply with all applicable Uniform California Building Code requirements. No sign shall be constructed, placed, erected, or modified unless such construction, placement, erection, or modification is authorized by the owner, or his or her representative, of the property upon which the sign is to be placed. Application for sign review and approval shall be accompanied by written authorization from the property owner, or his or her authorized representative, for placement of the proposed sign or signs.

B. City Review and Approval. The City shall review and approve signs according to the following procedures:

1. Administrative Review and Approval. The following signs shall be reviewed and approved administratively by the Community Development Department if they conform to the general sign requirements and standards of Section 15.08.060 and the regulations for special signs of Section 15.08.070.

a. Directory signs provided the sign does not exceed ten (10) square feet in area, nor a height of six (6) feet.

~~b. Community event signs. (Note: A temporary use permit is typically required for the community event itself)~~

~~e.b.~~ Any sign ~~that is~~ proposed for a property ~~that is~~ consistent in terms of size, number, and location with a previously-approved master sign plan, unless otherwise specified in an applicable master sign plan.

~~d.c.~~ All building and ground signs proposed for individual businesses that are located on a property that have a previous approval for similar signage, and the proposed sign(s) are consistent in terms of size, number, and location with the previous approval. (This provision does not apply to a

Corner Lot or Through Lot where signage is being proposed along multiple property frontages)

2. Exception. Any sign proposal considered within the parameters of this subsection that in the judgment of the Community Development Director may not comply with the intent or purpose of this Chapter may be referred to the Planning Commission for consideration.
3. Planning Commission Review and Approval. The following signs shall be reviewed and approved by the Planning Commission in accordance with Chapter 17.64 of the Clayton Municipal Code.
  - a. Master sign plans.
  - b. Neighborhood/district entry signs.
  - c. Commercial center entry signs.
  - d. Subdivision marketing sign program.
  - e. ~~Public/quasi-public institution~~ Noncommercial locational signs.
  - f. Directory signs that exceed ten (10) square feet in area and six (6) feet in height.
  - g. All building and ground signs for individual businesses that are located on a property that have not had previous approval for signage, involve signage on multiple frontages, and/or involve an increase in the previously-approved signage area, increase in the number of signs, or substantially change the location of signage.
  - h. Any sign proposal that, in the judgment of the Community Development Director, may not comply with the intent or purpose of this Chapter.
4. Variance. A variance shall be required from the Planning Commission for any deviations from the general sign requirements and standards of Section 15.08.060 or the regulations for special signs of Section 15.08.070 of this Chapter according to the procedures set out in Chapter 17.52 of the Clayton Municipal Code.

15.08.040 Exempt Signs. The following signs shall not require review and approval by City:

- A. Address signs, provided the sign does not exceed two (2) square feet in area.
- B. Public information, identification, civic event, and directional signs erected by a public agency or public utility.
- C. Incidental signs.
- D. Legal notices posted by law.
- E. Building markers, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- F. Signs displayed by private individuals, when required by law or regulations of any governmental agency.
- G. ~~Political~~ Temporary noncommercial signs ~~at~~ on private real property, provided ~~that~~ the ~~sign~~ aggregate signage displayed at one time does not exceed ~~three~~ thirty (30) square feet in area, ~~is not displayed on public property or public right of way, is limited to one (1) sign per property for each candidate, party, or issue, and is removed within five (5) days after the election per parcel.~~
- H. ~~Signs that are displayed during the course of and at the site of a political event or demonstration, provided the signs are displayed no more than twenty four (24) hours prior to the event and are removed within twenty four (24) hours following the event.~~

- ~~I.~~ ~~Holiday decorations that do not contain any commercial message, provided they are removed within seven (7) days after the holiday.~~
- J.H. Wall signs indicating the historical significance of a site or building, provided the sign does not exceed four (4) square feet in area and is not illuminated.
- ~~K.I.~~ Signs displayed in the interior of a building, mall, court, stadium, or enclosed lobby more than three (3) feet from an exterior window or door and intended for interior viewing only.
- ~~L.~~ ~~Signs prohibiting trespassing provided the sign does not exceed two (2) sq. ft. in area.~~
- M.J. Multiple address signs, provided the individual signs do not exceed four (4) inches by twenty-four (24) inches.
- N.K. Residential open house signs for a home sale in accordance with the standards of Section 15.08.070 of this Chapter.
- ~~O.L.~~ Flags, provided they are not used in a commercial manner or to advertise a business or its location.
- P.M. Murals containing no commercial message, provided the mural has intrinsic artistic value or appeal regardless of the business in the building on whose wall the mural is painted. Murals shall take into consideration the overall architecture of the building and shall not be placed on decorative surfaces or finishes. The colors and materials used shall be reasonably harmonious with those in the area.
- Q.N. Personal property sale signs, in accordance with the standards of Section 15.08.070 of this Chapter.
- R.O. Real estate signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- S.P. Portable signs in accordance with the provisions of Section 15.08.070 of this Chapter.
- T.Q. Banners and pennants in accordance with the provisions of Section 15.08.070 of this Chapter.

15.08.050 Prohibited Signs. The following signs are prohibited anywhere in the City:

- A. Animated signs.
- B. Flags used in a commercial manner or to advertise a business or its location.
- C. Signs that by color, wording, design, location, or illumination resemble or conflict with any traffic-control device or with safe and efficient flow of traffic.
- D. Signs that obstruct the free and clear vision of or create confusion for motorists or pedestrians.
- E. Signs with lighting ~~that is~~ detrimental to surrounding property or prevents peaceful enjoyment of residential uses.
- F. Banners and pennants, except as provided in Section 15.08.070 of this Chapter.
- G. Roof signs.
- H. String pennants.
- I. Balloons and similar inflatable signs.
- J. Permanent signs mounted on fences or deck/balcony railings.
- K. Portable signs except as provided in Section 15.08.070 of this Chapter.
- ~~L.~~ ~~Signs that bear or contain statements, words, or pictures of an obscene, untruthful, or misleading character, except for political signs.~~
- ~~M.L.~~ ~~Signs located within a public right of way or posted on utility poles or on any other public property, except when placed on such property by the public agency having jurisdiction. Notwithstanding the foregoing, private and political temporary signs are~~

~~prohibited in the public right-of-way except for signs for City-sponsored community events in location(s) approved by the City may be allowed by permit within the public right-of-way in accordance with and subject to terms, conditions and standards to be adopted by resolution of the City Council. Signs installed without a valid permit may be removed without notice, in addition to issuance of citation for Code violation.~~

~~N.M.~~ Signs located on private property without the property owner's approval.

~~O.N.~~ Off-site signs except for:

1. ~~Political~~ Temporary noncommercial signs.
2. ~~Community event signs.~~
3. Residential open house signs.
4. Garage or yard sale signs.
5. Signs attached to trees, shrubs, or other natural features.

O. Mobile billboard operating on a street or other public place within the city in which the public has the right of travel.

#### 15.08.060 General Sign Requirements and Standards.

- A. Signs in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts - Sign Permits. A sign permit is required in the R-10, R-12, R-15, R-20, R-40, R-40-H, M-R, M-R-M, M-R-H, PF, and A Districts for all non-exempt signs as follows:
1. ~~Public/quasi public institution~~ Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
  2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
  3. Subdivision marketing sign program in accordance with the standards of Section 15.08.070 of this Chapter.
  4. No other non-exempt signs are allowed in these districts.
- B. Signs in the L-C ~~and P-A-O~~ Districts - Sign Permits. A sign permit is required in the L-C ~~and P-A-O~~ Districts for all non-exempt signs as follows:
1. ~~Public/quasi public institution~~ Noncommercial locational signs in accordance with the standards of Section 15.08.070 of this Chapter.
  2. Neighborhood/district entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
  3. Master sign plan in accordance with the standards of Section 15.08.070 of this Chapter.
  4. Commercial center entry signs in accordance with the standards of Section 15.08.070 of this Chapter.
  5. Subdivision marketing sign program in accordance with Section 15.08.070 of this Chapter.
- C. Signs in the L-C ~~and P-A-O~~ Districts - Standards. Ground and building signs relating to on-site commercial activities are authorized in the L-C ~~and P-A-O~~ Districts in accordance with the following standards:
1. The aggregate sign area of any combination of ground signs and building signs for a building or a business shall not exceed one (1) square foot per lineal foot of building frontage or store frontage. Exempt signs, directory signs, commercial



center entry signs, pennants, and portable signs are not subject to this aggregate sign limit.

2. Monument signs (ground signs) shall not exceed ~~seventy~~eight (78) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
  3. Pole signs (ground signs) shall not exceed ~~seventy~~eight (78) feet in height, and the size of such signs may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty-four (24) square feet.
  4. Kiosk signs (ground signs) shall not exceed twenty-four (24) square feet in area (all faces) and shall not exceed seven (7) feet in height.
  5. Projecting signs (building signs) shall not exceed twelve (12) square feet in area and shall maintain a vertical clearance of at least eight (8) feet.
  6. Suspended signs (building signs) oriented toward pedestrian areas or walkways shall not exceed six (6) square feet in area and shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path.
  7. Suspended signs (building signs) oriented toward street traffic and/or parking lots shall maintain a vertical clearance of at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path, and may not be displayed over vehicular access. The size of such a suspended sign may be no greater than sixty percent (60%) of the allowable aggregate sign area for the building frontage to a maximum of twenty (20) square feet.
  8. Window signs (building signs) shall not cover more than forty (40) percent of the glazed area of an individual window panel nor more than twenty (20) percent of the aggregate glazed area on any one building frontage or store frontage.
  9. Wall Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
  10. Awning Signs (building signs) - one (1) square foot per lineal foot of building or store frontage.
- D. Signs in the PD District. Signs in the PD District shall conform to the standards or signs for uses defined in the applicable General Plan designation. For signs in areas designated residential, cultural center, institutional, school, or open space by the General Plan, the requirements and standards for signs in the R-10, R-12, ~~R-15~~, R-20, R-40, R-40-H, M-R, ~~M-R-M, M-R-H, PF~~, and A Districts shall apply. For signs in areas designated commercial by the General Plan, the requirements and standards for signs in the L-C ~~and P-A-O~~ Districts shall apply unless otherwise specified by a master sign plan.

15.08.070 Regulations for Special Signs.

- A. Neighborhood/District Entry Signs. Neighborhood/district entry signs are allowed in all districts subject to the following standards:
1. The sign shall include only the name of the neighborhood or district.
  2. Lettering shall not exceed eighteen (18) inches in height.
  3. The top of the letters shall not exceed six (6) feet in height.



- B. Commercial Center Entry Signs. Commercial center entry signs are allowed in commercial districts subject to the following standards:
1. One (1) sign may be located near each main vehicular entrance to the shopping center, business area, or office park fronting on a public roadway.
  2. The sign may ebe a pole sign or monument sign.
  3. The sign shall not exceed ten-eight (108) feet in height.
  4. Lettering shall not exceed twenty-two (22) inches in height.
- C. Banners. Banners for new or relocated businesses are allowed temporarily in commercial districts subject to the following standards:
1. Banner in lieu of permanent sign:
    - a. The banner shall be secured on all sides.
    - b. The banner may only be displayed for up to thirty (30) days, with up to an additional thirty (30) day extension if approved administratively by the Community Development Department.
    - c. The banner must conform to the sign area dimensions and location of Section 15.08.060 C of this Chapter.
  2. Promotional banner. A second banner in addition to that noted above may be allowed subject to the following standards:
    - a. The banner may be a wall, window, or suspended sign.
    - b. The banner may only be displayed for up to thirty (30) days.
    - c. The banner may be no larger than the banner as approved per Section 15.08.070 C1 and must conform to the sign area dimensions of Section 15.08.060 C of this Chapter.
- D. Pennants. Pennants are allowed in commercial districts subject to the following standards.
1. Only one (1) pennant may be displayed by any one (1) business.
  2. The pennant shall be secured to a pole on one (1) side and shall be hanging.
  3. The pennant shall not exceed two (2) feet in width ~~nor~~ four (4) feet in length.
  4. The pennant shall be made in a professional manner and workmanship of fabric, plastic, or similar material designed to withstand at least six (6) months of outdoor exposure. Paper pennants shall not be allowed.
  5. The bottom of a pennant shall be at least eight (8) feet above the surface of a walkway, sidewalk, or pedestrian path. A pennant may not be displayed over a street, driveway, or vehicular access.
- E. Portable Signs. Portable signs are allowed in commercial districts subject to the following standards:
1. Only one (1) portable sign may be displayed by any one (1) business.
  2. The sign shall only be in the form of an A-frame, sandwich board, menu board, or umbrella.
  3. The sign shall not exceed three (3) feet in height ~~nor~~ two (2) feet in width per face, except for an umbrella.
  4. The sign shall be displayed only during the hours the business is open to the public and shall be removed during non-business hours.
  5. The sign shall be displayed immediately adjacent to the business it advertises.
  6. The sign shall not be displayed in a public right-of-way nor shall it obstruct a pedestrian walkway.

7. The sign shall be constructed out of a stable and rigid material (i.e., PVC is not considered an acceptably rigid material).
- F. Residential Open House and Personal Property Sale Signs. Residential open house and personal property sale signs are allowed for residential uses subject to the following standards:
1. A total of one (1) on-site sign and up to six (6) off-site signs.
  2. Only one (1) off-site sign may be displayed at any one intersection for each residential open house or personal property sale.
  3. The signs shall not exceed three (3) feet in height ~~nor~~ two (2) feet in width.
  4. The signs shall only be displayed up to one (1) hour before, during, and up to one (1) hour following the residential open house or personal property sale.
  5. The signs shall not be displayed in a public right-of-way nor shall they obstruct a pedestrian walkway, except signs shall be allowed behind the sidewalk or behind the curb if there is no sidewalk.
  6. No signs shall be displayed on private property without the prior consent of the property owner.
  7. Balloons, flags, pennants, animated devices, and similar objects are prohibited. (see Section 17.16.020E of the Municipal Code for further regulations for Personal Property Sales).
- G. ~~Public/Quasi Public Institution Signs. Public and quasi-public institution signs~~  
Noncommercial Locational Signs. Noncommercial locational signs are allowed in all districts subject to the following standards:
1. The signs may include building signs and ground signs.
  2. The aggregate sign area may not exceed twenty-four (24) square feet for a lot up to forty thousand (40,000) square feet in size. For lots larger than forty thousand (40,000) square feet, sign area may be increased subject to specific Planning Commission review and approval.
  3. No ground or pole sign shall exceed ~~ten-eight (108)~~ feet in height.
- H. Real Estate Signs. Real estate signs are allowed in all districts subject to the following standards:
1. Only one (1) on-site real estate sign may be displayed on a front or side yard frontage. An additional real estate sign may be displayed on a rear yard frontage.
  2. Real estate signs in residential districts shall not exceed six (6) square feet in area. Real estate signs in commercial districts shall not exceed twelve (12) square feet in area.
  3. The sign may be in the form of a pole sign or a wall sign.
  4. The sign shall not exceed six (6) feet in height.
  5. The sign shall be removed within ten (10) days of the lot or building(s) being sold, leased, or rented.
  6. Real estate signs located off-site of the subject property (e.g., at nearby intersection, public landscape, public property, public right of way) are not allowed.
- I. Subdivision Marketing Sign Program. Subdivision marketing signs are allowed in residential districts subject to the approval of a subdivision marketing sign program in accordance with the following standards:

1. The program may include a combination of temporary ground signs, wall signs, subdivision marketing pole pennants, and real estate signs.
2. All subdivision marketing signs shall be displayed within the boundaries of the subdivision.
3. Subdivision marketing pole pennants shall not exceed twenty-five (25) feet in height nor be located closer than every fifty (50) feet.
4. All subdivision marketing signs shall be removed within thirty (30) days of the opening of escrow for sale of the last home in the subdivision.
5. The dimensions of any sign shall not exceed eight (8) feet in length, nor ~~ten-eight (108)~~ ten-eight (108) feet in height, nor a total area of sixty-four (640) square feet.

~~J. Community Event Signs. Community event signs are allowed in all districts subject to the following standards:~~

- ~~1. No more than one (1) community event sign shall be displayed on a building, lot, or area.~~
- ~~2. The sign shall not exceed twenty four (24) square feet in area; ground signs shall not exceed seven (7) feet in height.~~
- ~~3. Hanging or suspended signs shall not exceed twenty (20) square feet in area and shall maintain a vertical clearance of at least eight (8) feet over a pedestrian area and may not be displayed over vehicular access.~~
- ~~4. A community event sign shall not be calculated as part of a building's or lot's maximum allowable signage as specified in Sections 15.08.060 and 15.08.080 of this Chapter.~~
- ~~5. Any portable community event sign is also subject to the regulations of Section 15.08.070 E 1-4 of this Chapter.~~

~~K.J. Master Sign Plan.~~ At the discretion of the City or one or more property owners, a master sign plan may be established for a shopping center, business area, office park, or similar identifiable geographic area. Such master sign plan may impose sign requirements and standards addressing the number, height, area, color, or other sign characteristics in a manner more restrictive than that allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter. Such a master sign plan may be established to promote an enhanced sense of identity, aesthetic value, or other feature. A master sign plan will not only identify and describe those sign characteristics that are more restrictive than those allowed by the general sign requirements and standards of Section 15.08.060 of this Chapter, but also the purpose or goal for which the master sign plan is established.

15.08.080 Computation of Sign Area and Height. The following principles shall govern the computation of sign area and height.

A. Computation of Area of Individual Signs. The sign area of a sign face (which is also the sign area of a wall sign or other sign with only one (1) face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative wall when such wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

- B. Computation of Area of Multi-Faced Signs. The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one point. When two (2) sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.
- C. Computation of Height. The height of a sign shall be computed as the distance from the grade at the edge of the public way along which a sign is placed or oriented to the highest point of the sign, or any structural or architectural component of the sign. When the grade at the edge of the public way is higher than the site on which the sign is placed, that portion of the sign below the grade at the edge of the public way shall not be included in determining the sign's overall height.
- D. Computation of Total Permitted Sign Area. The total area of all individual signs permitted on a lot shall be computed according to Section 15.08.060 C of this Chapter. Property fronting two (2) or more streets are allowed the permitted sign area specified in Section 15.08.060 C for each such street frontage.

15.08.090     Maintenance. All signs shall be maintained in good repair and shall be cleaned, painted, and replaced as necessary to present a neat appearance at all times.

15.08.100     Nonconforming Signs.

- A. Except for regular maintenance, no non-conforming sign shall be altered, modified, added to, or increased in area, unless the entire sign is brought into conformity with the requirements and standards of this Chapter.
- B. Any non-conforming sign that is damaged or destroyed to the extent of fifty (50) percent or more of its estimated market value shall not be replaced or repaired except by a sign that conforms to the requirements and standards of this Chapter.
- C. Any non-conforming sign relating to a business that has not operated for six (6) consecutive months shall be removed.

15.08.105     Substitution. In each instance and under the same conditions to which this Chapter permits any sign, a sign containing an ideological, political or other noncommercial message that is constructed to the same physical dimensions of the permitted sign shall be permitted.

15.08.110     Enforcement. Any person erecting, displaying, or maintaining a sign in violation of this Chapter is guilty of an infraction and shall be subject to enforcement and penalties set out in Chapters 1.12, 1.14, 1.16, and 1.20 of Title 1 of the Clayton Municipal Code.