CITY OF CLAYTON

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AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

***

TUESDAY, May 7, 2013

7:00 P.M.

Hoyer Hall, Clayton Community Library
6125 Clayton Road, Clayton, CA 94517

Mayor: Julie K. Pierce
Vice Mayor: Hank Stratford

Council Members
Jim Diaz
Howard Geller
David T. Shuey

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail on Monday prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at **www.ci.clayton.ca.us**
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

* CITY COUNCIL*

May 7, 2013

7:00 P.M.

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Pierce.

2. **CLOSED SESSION** – None.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Pierce.

4. **CONSENT CALENDAR**

Consent Calendar items are typically routine in nature and are considered for approval by the City Council with one single motion. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Mayor.

(a) Approve the minutes of the regular meeting of April 16, 2013 and of the special meeting of April 19, 2013. (View Here)

(b) Approve Financial Demands and Obligations of the City. (View Here)

(c) Approve a multi-year low-bid contract with Waraner Brothers Tree Service in the first–year amount of $29,500.00 (potential 4-year cost of $123,416) for performance of annual weed abatement for fire hazards on City real properties, paid by the Citywide Landscape Maintenance District (CFD 2007-1). (View Here)

5. **RECOGNITIONS AND PRESENTATIONS** – None.

6. **REPORTS**

(a) Planning Commission – Commissioner Dan Richardson.
(b) Trails and Landscaping Committee – No meeting held.
(c) City Manager/Staff
(d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.
(e) Other

7. PUBLIC COMMENT ON NON - AGENDA ITEMS

Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may at its discretion request Staff to report back at a future meeting concerning the matter.

Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the City Council.

8. PUBLIC HEARING

(a) Public Hearing on the proposed Introduction and First Reading of Ordinance No. 446 amending Chapter 17.37 of the Clayton Municipal Code approving a 3-year time extension for certain waiver of on-site parking standards for specified development(s) in the Clayton Town Center. (View Here)
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Approve a motion to have the City Clerk read Ordinance No. 446 by title and number only and waive further reading; and **5)** By motion, approve Ordinance No. 446 for Introduction.

9. ACTION ITEMS

(a) Consider the Second Reading and Adoption of Ordinance No. 445 adding Chapter 15.92 to the Clayton Municipal Code regarding Universal Design to Facilitate Residential Development for Individuals with Disabilities in Projects over Five Units. (View Here)
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Approve a motion to have the City Clerk read Ordinance No. 445 by title and number only and waive further reading; and **4)** By motion, adopt Ordinance No. 445.

10. COUNCIL ITEMS – limited to requests and directives for future meetings.

11. ADJOURNMENT– the next regularly scheduled City Council meeting is May 21, 2013.

# # # # #

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 5-7-13

Agenda Item: 4a

TUESDAY, April 16, 2013

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 6:30 p.m. by Mayor Pierce in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Pierce, Vice Mayor Stratford, Councilmembers Diaz and Geller. Councilmembers absent: Councilmember Shuey. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Interim Community Development Director Ken Craig, and City Clerk Laci Jackson

2. **CLOSED SESSION**- On call by Mayor Pierce the Council adjourned into Closed Session for the following purpose:

(a) Conference with Legal Counsel - Anticipated Litigation (*Government Code Section 54956.9 (c)*) Initiation of Litigation (One Potential Case).

7:03 p.m. Report out of Closed Session: Mayor Pierce stated there was no reportable action and Council gave direction to staff.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Pierce.

4. **CONSENT CALENDAR**- **It was moved by Councilmember Geller, seconded by Vice Mayor Stratford, to approve the Consent Calendar as amended (Passed; 4-0 vote).**

(a) Approved the minutes of the regular meeting of April 2, 2013.

(b) Approved the amended Financial Demands and Obligations of the City.

5. **RECOGNITIONS AND PRESENTATIONS**

(a) Certificates of Recognition to "Do The Right Thing" public school students exemplifying the character trait of "Self-Discipline".

Mayor Pierce and Mt. Diablo Elementary School teacher Mrs. Blazer recognized students Jordan Webster and Rulon Adams.

Mayor Pierce and Diablo View Middle School Principal Patty Banister and teacher Mrs. Clutz recognized students Wyatt York and Madison Webster.

Mayor Pierce, teacher Kat Marzel, and Coach Murphy recognized Clayton Valley Charter High School students Cesar Luengas, Gillian Reiman, Devyn Weisendanger, and Adeyemi Fasholo.

(b) Presentation: Clayton Community Library Foundation's Annual Report for 2012.

Joyce Atkinson, CCLF President, presented its Annual Report and thanked the City for its support of the library. She noted the Clayton Library volunteers provided 7,773 hours of service last year. She stated the Library Foundation generated income of $45,885 and also received many donations of books to be added to the materials collection.

(c) Proclamation declaring April 21-27, 2013 as "Clayton Community Library Volunteer Recognition Week" and recognition of Clayton's "Library Volunteers of the Year".

Mayor Pierce presented Carol Wolfe and Yola Yang Certificates of Recognition as Library Volunteers of the Year.

Mayor Pierce read aloud the Proclamation declaring April 21-27, 2013 as "Clayton Library Volunteer Recognition Week".

(d) Presentation by District Attorney Mark Peterson regarding areas of mutual concern.
Mr. Peterson stated he is providing this information to all of the cities in the County. He presented a slide show with statistical information about law enforcement and prosecution concerns, crime rates and trends, and information on new realignment laws for housing prisoners.

Councilmember Geller asked what effect realignment would have on communities? Mr. Peterson responded there will be unintended consequences but that the County Sheriff would be better suited to answer some of the questions regarding realignment and prisoner housing.

6. REPORTS

(a) Planning Commission- Chair Keith Haydon reported on the Planning Commission meeting of April 9th. He stated the Commission approved a Site Plan Review for a two story addition with modifications. The Commission also approved extending the Municipal Code amendment which waives parking requirements within the Town Center.

(b) Trails and Landscaping Committee – No meeting held.

(c) The City Manager reported Saturday April 27th is the Clayton Cleans Up sponsored by the Clayton Pioneer and those who participate will receive a t-shirt. He noted the City's Annual Re-Paving Project is ongoing and the Library and City Hall parking lots will be started at the end of the week.

(d) City Council

Councilmember Diaz attended the Fire Services Ad-Hoc sub-committee meeting where 15 citizens were in attendance as well as City staff. He noted Fire Chief Louder was in attendance and announced he is retiring in October. He stated the next meeting will be held May 13th to finalize recommendations to the Council.

The City Manager stated all of the City Managers and the County Administrator are meeting to set the agenda for a joint meeting of City Councils with the Fire District Board.

Vice Mayor Stratford attended the Habitat Conservancy meeting and stated the biggest issue it is working on is resetting mitigation fees for development in the City and the County.

Councilmember Geller attended the Mayors' Conference.

Mayor Pierce attended the CalCOG meeting, attended the Contra Costa Council luncheon, attended Transpac and TransPlan meetings, ABAG meetings, and a Joint Policy Committee meeting with MTC. She also noted a major forum for the Sustainable Communities plan is being held next Monday evening at the Marriot Hotel in Walnut Creek. Lastly, she attended a Joint Policy Committee Executive Committee meeting and a meeting with the chief field representative from Assemblywoman Susan Bonilla's office.

(e) Other – None.

7. PUBLIC COMMENTS

Sonia Wilkin presented the City Council with information about The Village Movement. She stated the program is geared toward aging in place and provides services to ensure that happens. She has attended conferences and learned information about the grassroots efforts in other areas but stated it is expensive and time consuming. She stated her goal was to bring the program to the Council's attention.

Mayor Pierce stated it is an interesting concept and agreed there are going to need to be different ways sustaining seniors as they age.

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

(a) Introduction and First Reading of Ordinance No. 445 adding Chapter 15.92 to the Clayton Municipal Code regarding Universal Design to Facilitate Residential Development for Individuals with Disabilities in Projects Over Five Units.

Interim Community Development Director Ken Craig presented the staff report. He stated the proposed Universal Design Ordinance is required by the 2009 Housing Element. He stated the City must consider the feasibility of the Universal Design Ordinance and the Planning Commission has recommended this Ordinance for approval. The purpose of the Ordinance is to provide more housing adaptability for persons with disabilities, such as enhanced access around the home, wider doorways, zero grade thresholds, and wider landings. The requirement to offer these features would only apply to residential projects with more than five units and not to rehabilitation projects. He stated the proposed Ordinance does not mandate the requirement for developers but requires them to offer the services at the cost to the homebuyer/homeowner. The Planning Commission held four hearings on this Ordinance and felt it was feasible and made sense to provide these accessibility options during construction. He stated the City is not obligated to adopt this Ordinance but it would be helpful to show good faith efforts with our Housing Element implementation plan.

Vice Mayor Stratford asked what the value of this Ordinance is and if it is for those builders who may not want to be bothered by requests for accessibility. The Interim Community Development Director stated it would level the field for all developers with project more than five units and this particular Ordinance fills the gap where the State has not required these features for single family homes.

The City Manager stated it mutually enhances the buyer's awareness and enhances the seller's tool bag to sell homes.

Councilmember Geller commended the Planning Commission for not making the options mandatory on home builders.

Mayor Pierce stated these are simple things that can done at virtually no cost when homes are built. She believes more people will be requesting these modifications.

Mayor Pierce asked for Public Comments.

Planning Commissioner Dan Richardson stated the Commission tried to balance what contractors wanted and the needs of the community. He stated the goal is to get the word out with the brochure and he encouraged the Council to approve the Ordinance.

Planning Commission Chair Keith Haydon stated the Commission grappled with this Ordinance for some time and tried to balance the impacts. He stated this will be an educational process and requiring the brochure is beneficial.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to have the City Clerk read Ordinance No. 445 by title and number only and waive further reading (Passed; 4-0 vote).

The City Clerk read Ordinance No. 445 by title and number only.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to approve Ordinance No. 445 for Introduction (Passed; 4-0 vote).

10. COUNCIL ITEMS

The City Manager stated this is the first and final appearance of Interim Community Director Ken Craig at the City Council meeting. He stated thanked Mr. Craig for his work for the community. Mr. Craig stated it was a pleasure working with staff, the Commission, and the community.

11. ADJOURNMENT– on call by Mayor Pierce the meeting adjourned at 8:56 p.m. in remembrance of former Clayton Police Chief Fred Albrecht who passed away recently. She also stated a Special Meeting of the City Council will be held on Friday, April 19, 2013 at 9:00 a.m. at City Hall.

# # # # #

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Julie K. Pierce, Mayor

MINUTES
OF THE
SPECIAL MEETING
CLAYTON CITY COUNCIL

Agenda Date: 5-7-13

Agenda Item: 4a

FRIDAY, April 19, 2013

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 9:01 a.m. by Mayor Pierce in the 1st Floor City Hall Conference Room, 6000 Heritage Trail, Clayton, CA. Councilmembers present: Mayor Pierce, Vice Mayor Stratford, and Councilmembers Diaz. Councilmembers absent: Councilmembers Geller and Shuey. Staff present: City Manager Gary Napper and City Clerk Laci Jackson.

2. **CLOSED SESSION**- None.

3. **PUBLIC COMMENTS** – None.

4. **ACTION ITEMS**

(a) Consider a Resolution awarding a 3-year contract (with option for three 1-year extensions) to Environtech Enterprises in the amount of $177,000.00 ($59,000/year) for abatement of noxious and exotic weeds in specified open space areas of the Oakhurst Development, funded by the Citywide Landscape Maintenance District (CFD 2007-1).

The City Manager stated the Council previously awarded contract to D&H Landscaping for this service they company they did not fully understand the scope of field services and have since asked to be released from the contract. Staff recommends approving the Resolution so the 2nd low-bid contractor can commence work as soon as possible.

No public comments were received.

It was moved by Vice Mayor Stratford, seconded by Councilmember Diaz, to adopt Resolution 11-2013 awarding the contract (Passed; 3-0 vote).

5. **ADJOURNMENT**– on call by Mayor Pierce the meeting adjourned at 9:09 a.m.

# # # # #

Respectfully submitted,

Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Julie K. Pierce, Mayor

CITY OF CLAYTON
Founded 1857 Incorporated 1964

Agenda Date 5/7/2013

Agenda Item: 4b

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Jennifer Giantvalley, Accounting Technician

DATE: 5/7/2013

SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following Invoices:

5/7/2013	Cash Requirements Report		$ 1,217,132.26
		Total:	$ 1,217,132.26

Attachments:
Cash Requirements Report dated 5/3/2013 (6 pages)

City of Clayton
Cash Requirements Report
City Council Meeting 5/7/2013

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
AAUW								
AAUW	5/7/2013	4/24/2013	025629	deposit refund	$500.00	$0.00		$500.00
				Totals for AAUW:	*$500.00*	*$0.00*		*$500.00*
ABAG								
ABAG	5/7/2013	4/19/2013	1045710	ABAG Dues FY 13/14	$2,667.00	$0.00		$2,667.00
				Totals for ABAG:	*$2,667.00*	*$0.00*		*$2,667.00*
All City Management Services, Inc.								
All City Management Services, Inc.	5/7/2013	4/22/2013	31134	School Crossing Guard Services 4/7/13-4/20/	$465.00	$0.00		$465.00
All City Management Services, Inc.	5/7/2013	4/8/2013	30965	School Crossing Guard Services 3/24/13-4/6/	$232.50	$0.00		$232.50
				Totals for All City Management Services, Inc.:	*$697.50*	*$0.00*		*$697.50*
American Fidelity Assurance Company								
American Fidelity Assurance Company	5/7/2013	4/16/2013	A981265	Insurance - 5/1/13	$156.64	$0.00		$156.64
American Fidelity Assurance Company	5/7/2013	4/3/2013	845253A	FSA plans April 2013	$849.10	$0.00		$849.10
				Totals for American Fidelity Assurance Company:	*$1,005.74*	*$0.00*		*$1,005.74*
AT&T/ CalNet 2								
AT&T/ CalNet 2	5/7/2013	4/22/2013	4297372	Master Billing April 2013	$1,805.74	$0.00		$1,805.74
				Totals for AT&T/ CalNet 2:	*$1,805.74*	*$0.00*		*$1,805.74*
Bank of America								
Bank of America	5/7/2013	4/23/2013	304378	Escrow # 601-29244PCZ	$1,005,915.32	$0.00		$1,005,915.32
				Totals for Bank of America:	*$1,005,915.32*	*$0.00*		*$1,005,915.32*
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	5/7/2013	4/16/2013	700362,700363,7003	Legal Services March 2013	$11,493.52	$0.00		$11,493.52
				Totals for Best Best & Kreiger LLP:	*$11,493.52*	*$0.00*		*$11,493.52*
CalPERS Health								
CalPERS Health	5/7/2013	4/15/2013	966	Health Premiums May 2013	$28,611.72	$0.00		$28,611.72
				Totals for CalPERS Health:	*$28,611.72*	*$0.00*		*$28,611.72*
CalPERS Retirement								
CalPERS Retirement	5/7/2013	4/18/2013	PPE 4/14/13	PPE 4/14/13, Pay 4/17/13	$20,288.00	$0.00		$20,288.00
CalPERS Retirement	5/7/2013	5/1/2013	4/28/13	PPE 4/28/13, Pay 5/1/13	$20,454.52	$0.00		$20,454.52
CalPERS Retirement	5/7/2013	5/1/2013	4/24/13	City Council Month ending 4/24/13	$357.28	$0.00		$357.28
				Totals for CalPERS Retirement:	*$41,099.80*	*$0.00*		*$41,099.80*
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	5/7/2013	4/16/2013	1290660	Contract 3/15/13-4/14/13	$372.15	$0.00		$372.15
				Totals for Caltronics Business Systems, Inc:	*$372.15*	*$0.00*		*$372.15*
CCC General Services (Traffic)								

City of Clayton
Cash Requirements Report
City Council Meeting 5/7/2013

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CCC General Services (Traffic)	5/7/2013	3/5/2013	4843	Traffic signal maintenance January 2013	$2,478.06	$0.00		$2,478.06
CCC General Services (Traffic)	5/7/2013	1/30/2013	4803	Traffic signal maintenance December 2012	$2,103.58	$0.00		$2,103.58
				Totals for CCC General Services (Traffic):	*$4,581.64*	*$0.00*		*$4,581.64*
CCC Sheriff - Forensic Svc Div (Lab)								
CCC Sheriff - Forensic Svc Div (Lab)	5/7/2013	4/4/2013	CLPD-113	Blood Withdrawal Services	$820.05	$0.00		$820.05
				Totals for CCC Sheriff - Forensic Svc Div (Lab):	*$820.05*	*$0.00*		*$820.05*
City of Concord								
City of Concord	5/7/2013	4/5/2013	32184	Dispatch/Computer Services	$13,285.00	$0.00		$13,285.00
City of Concord	5/7/2013	4/5/2013	32181	Vehicle Labor	$82.50	$0.00		$82.50
				Totals for City of Concord:	*$13,367.50*	*$0.00*		*$13,367.50*
Clayton Pioneer								
Clayton Pioneer	5/7/2013	4/26/2013	2013 Concerts	Concert Ads 2013	$480.00	$0.00		$480.00
				Totals for Clayton Pioneer:	*$480.00*	*$0.00*		*$480.00*
Contra Costa Water Dist.								
Contra Costa Water Dist.	5/7/2013	4/16/2013	J	Irrigation	$9,323.80	$0.00		$9,323.80
				Totals for Contra Costa Water Dist.:	*$9,323.80*	*$0.00*		*$9,323.80*
Cop Shop Installations Inc								
Cop Shop Installations Inc	5/7/2013	4/25/2013	5018	Unit 1736 - Back Seat Kick Panel	$80.00	$0.00		$80.00
				Totals for Cop Shop Installations Inc:	*$80.00*	*$0.00*		*$80.00*
CR Fireline Inc								
CR Fireline Inc	5/7/2013	4/12/2013	95698	sprinker inspection City Hall	$110.00	$0.00		$110.00
CR Fireline Inc	5/7/2013	4/12/2013	95696	sprinkler inspection EH	$110.00	$0.00		$110.00
CR Fireline Inc	5/7/2013	4/12/2013	95694	sprinkler inspection Library	$110.00	$0.00		$110.00
				Totals for CR Fireline Inc:	*$330.00*	*$0.00*		*$330.00*
David Hosley								
David Hosley	5/7/2013	4/19/2013	06/22/13	Concert - Diamond Dave - 6/22/13	$1,600.00	$0.00		$1,600.00
				Totals for David Hosley:	*$1,600.00*	*$0.00*		*$1,600.00*
Diablo Oasis Pools								
Diablo Oasis Pools	5/7/2013	4/12/2013	0061	Deposit refund Project #8061	$1,904.55	$0.00		$1,904.55
				Totals for Diablo Oasis Pools:	*$1,904.55*	*$0.00*		*$1,904.55*
Don Stone								
Don Stone	5/7/2013	5/1/2013	05/25/13	Concert 5/25/13	$650.00	$0.00		$650.00
Don Stone	5/7/2013	5/1/2013	06/08/13	Concert 6/8/13	$650.00	$0.00		$650.00
Don Stone	5/7/2013	5/1/2013	06/22/13	Concert 6/22/13	$650.00	$0.00		$650.00
				Totals for Don Stone:	*$1,950.00*	*$0.00*		*$1,950.00*
Drew Harrison								

City of Clayton
Cash Requirements Report
City Council Meeting 5/7/2013

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Drew Harrison	5/7/2013	4/19/2013	5/11/2013	Concert - The Sun Kings 5/11/13	$2,000.00	$0.00		$2,000.00
				Totals for Drew Harrison:	*$2,000.00*	*$0.00*		*$2,000.00*
Globalstar LLC								
Globalstar LLC	5/7/2013	4/16/2013	1000000004669213	Service Ending 4/15/13	$43.79	$0.00		$43.79
				Totals for Globalstar LLC:	***$43.79***	***$0.00***		***$43.79***
Goldfarb & Lipman								
Goldfarb & Lipman	5/7/2013	4/17/2013	108078	Current fees thru 3/31/13	$245.00	$0.00		$245.00
				Totals for Goldfarb & Lipman:	*$245.00*	*$0.00*		*$245.00*
Hammons Supply Company								
Hammons Supply Company	5/7/2013	4/24/2013	77424	supplies Library	$135.32	$0.00		$135.32
Hammons Supply Company	5/7/2013	4/24/2013	77425	supplies Community Park	$198.47	$0.00		$198.47
Hammons Supply Company	5/7/2013	4/24/2013	77154-1	supplies Downtown Park	$95.61	$0.00		$95.61
Hammons Supply Company	5/7/2013	4/24/2013	77478	supplies Community Park	$134.11	$0.00		$134.11
Hammons Supply Company	5/7/2013	4/24/2013	77153-1	supplies City Hall	$67.36	$0.00		$67.36
Hammons Supply Company	5/7/2013	4/24/2013	77477	supplies Library	$134.11	$0.00		$134.11
Hammons Supply Company	5/7/2013	4/12/2013	77319	supplies Library	$33.25	$0.00		$33.25
				Totals for Hammons Supply Company:	*$798.23*	*$0.00*		*$798.23*
Harmony West Entertainment, Inc								
Harmony West Entertainment, Inc	5/7/2013	4/19/2013	06/08/2013	Concert - Tennessee River - 6/8/13	$1,500.00	$0.00		$1,500.00
				Totals for Harmony West Entertainment, Inc:	***$1,500.00***	***$0.00***		***$1,500.00***
Health Care Dental Trust								
Health Care Dental Trust	5/7/2013	4/16/2013	May	Dental May 2013	$2,733.68	$0.00		$2,733.68
				Totals for Health Care Dental Trust:	*$2,733.68*	*$0.00*		*$2,733.68*
ICMA Retirement Corporation								
ICMA Retirement Corporation	5/7/2013	4/5/2013	12421	Annual Plan Fee (billed qtrly) 4/1/13-6/30/13	$125.00	$0.00		$125.00
				Totals for ICMA Retirement Corporation:	*$125.00*	*$0.00*		*$125.00*
Jarvis Fay Doporto & Gibson, LLP								
Jarvis Fay Doporto & Gibson, LLP	5/7/2013	4/16/2013	March 2013	CCCounty Property Tax Admin Fees (PTAF) M	$56.07	$0.00		$56.07
				Totals for Jarvis Fay Doporto & Gibson, LLP:	*$56.07*	*$0.00*		*$56.07*
Jason Delmar								
Jason Delmar	5/7/2013	4/19/2013	301	Computer Services	$375.00	$0.00		$375.00
				Totals for Jason Delmar:	*$375.00*	*$0.00*		*$375.00*
John Deere Landscapes Inc								
John Deere Landscapes Inc	5/7/2013	4/8/2013	64153486	order # 6867737	$2,126.89	$0.00		$2,126.89
				Totals for John Deere Landscapes Inc:	*$2,126.89*	*$0.00*		*$2,126.89*
John Goodson								

City of Clayton
Cash Requirements Report
City Council Meeting 5/7/2013

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
John Goodson	5/7/2013	4/18/2013	025736	deposit refund	$311.00	$0.00		$311.00
				Totals for John Goodson:	*$311.00*	*$0.00*		*$311.00*
Julie Pierce								
Julie Pierce	5/7/2013	5/2/2013	Clayton Cleans Up 13	Extra Food for Clayton Cleans Up 2013	$166.83	$0.00		$166.83
				Totals for Julie Pierce:	***$166.83***	***$0.00***		***$166.83***
Ken Joiret								
Ken Joiret	5/7/2013	5/1/2013	5/11/13	Concert 5/11/13	$650.00	$0.00		$650.00
				Totals for Ken Joiret:	*$650.00*	*$0.00*		*$650.00*
Kimberly Morucci								
Kimberly Morucci	5/7/2013	4/24/2013	025966	Deposit refund	$500.00	$0.00		$500.00
				Totals for Kimberly Morucci:	*$500.00*	*$0.00*		*$500.00*
LarryLogic Productions								
LarryLogic Productions	5/7/2013	4/17/2013	1323	City Council Meeting 4/16/13	$350.00	$0.00		$350.00
				Totals for LarryLogic Productions:	*$350.00*	*$0.00*		*$350.00*
Laura Hoffmeister								
Laura Hoffmeister	5/7/2013	4/5/2013	computer supplies	reimburse for computer supplies	$168.89	$0.00		$168.89
				Totals for Laura Hoffmeister:	*$168.89*	*$0.00*		*$168.89*
Marken Mechanical Services Inc								
Marken Mechanical Services Inc	5/7/2013	4/16/2013	413-1148-4	City Hall Maintenance March 2013	$332.50	$0.00		$332.50
Marken Mechanical Services Inc	5/7/2013	4/16/2013	413-1147-4	EH maintenance April 2013	$247.00	$0.00		$247.00
				Totals for Marken Mechanical Services Inc:	*$579.50*	*$0.00*		*$579.50*
Neopost (add postage)								
Neopost (add postage)	5/7/2013	4/19/2013	postage	postage added	$300.00	$0.00		$300.00
				Totals for Neopost (add postage):	*$300.00*	*$0.00*		*$300.00*
NSP3								
NSP3	5/7/2013	4/12/2013	14159	supplies PO # 12-5112	$1,234.20	$0.00		$1,234.20
				Totals for NSP3:	*$1,234.20*	*$0.00*		*$1,234.20*
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	5/7/2013	5/24/2013	522981	Pay Phone May 2013	$73.00	$0.00		$73.00
				Totals for Pacific Telemanagement Svc:	*$73.00*	*$0.00*		*$73.00*
Paul Cotruvo								
Paul Cotruvo	5/7/2013	4/19/2013	5/25/13	Concert - Cover 2 Cover - 5/25/13	$875.00	$0.00		$875.00
				Totals for Paul Cotruvo:	***$875.00***	***$0.00***		***$875.00***
PERMCO, Inc.								
PERMCO, Inc.	5/7/2013	4/29/2013	9964	General Retainer	$4,693.99	$0.00		$4,693.99

City of Clayton
Cash Requirements Report
City Council Meeting 5/7/2013

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
PERMCO, Inc.	5/7/2013	4/29/2013	9965	PG&E Minor EP	$373.50	$0.00		$373.50
PERMCO, Inc.	5/7/2013	4/29/2013	9966	AT&T Minor EP	$41.50	$0.00		$41.50
PERMCO, Inc.	5/7/2013	4/29/2013	9967	CCWD Minor EP	$290.50	$0.00		$290.50
PERMCO, Inc.	5/7/2013	4/29/2013	9968	General Stormwater Tasks/Inspections	$1,017.75	$0.00		$1,017.75
PERMCO, Inc.	5/7/2013	4/29/2013	9969	Diablo Pointe Construction Inspection	$166.00	$0.00		$166.00
PERMCO, Inc.	5/7/2013	4/29/2013	9970	Construction Activity Permit Inspection, non-	$41.50	$0.00		$41.50
PERMCO, Inc.	5/7/2013	4/29/2013	9970	Construction Activity Permit Inspection, non-	$41.50	$0.00		$41.50
PERMCO, Inc.	5/7/2013	4/29/2013	9971	2013 Pavement Rehabilitation Project	$12,734.92	$0.00		$12,734.92
PERMCO, Inc.	5/7/2013	4/29/2013	9972	Land Acquisition - Clayton Comm. Church	$549.00	$0.00		$549.00
PERMCO, Inc.	5/7/2013	4/29/2013	9973	Oakhurst - New Contract	$1,104.90	$0.00		$1,104.90
PERMCO, Inc.	5/7/2013	4/29/2013	9974	PG&E Replace Gas Lines Dana Hills	$2,383.00	$0.00		$2,383.00
PERMCO, Inc.	5/7/2013	4/29/2013	9975	PG&E Tower Ridge Raising Keller Ridge Dr	$1,079.00	$0.00		$1,079.00
				Totals for PERMCO, Inc.:	*$24,517.06*	*$0.00*		*$24,517.06*
PG&E								
PG&E	5/7/2013	4/17/2013	April 2013	Service gas/electric 2/22/13-4/16/13	$16,471.32	$0.00		$16,471.32
PG&E	5/7/2013	4/24/2013	April 2013	service 3/23/13-4/23/13	$2,680.77	$0.00		$2,680.77
				Totals for PG&E:	*$19,152.09*	*$0.00*		*$19,152.09*
Pinnacle Construction Services, Inc								
Pinnacle Construction Services, Inc	5/7/2013	3/25/2013	1649	Management Services for Diablo Pointe BAD	$4,099.00	$0.00		$4,099.00
Pinnacle Construction Services, Inc	5/7/2013	4/26/2013	1669	Management Diablo Estates BAD May 2013	$4,099.00	$0.00		$4,099.00
				Totals for Pinnacle Construction Services, Inc:	*$8,198.00*	*$0.00*		*$8,198.00*
Professional Floor & Design Inc								
Professional Floor & Design Inc	5/7/2013	4/30/2013	21274	Carpeting	$17,375.00	$0.00		$17,375.00
				Totals for Professional Floor & Design Inc:	*$17,375.00*	*$0.00*		*$17,375.00*
Rich Veal								
Rich Veal	5/7/2013	4/8/2013	CERT	Parts for CERT training	$94.65	$0.00		$94.65
				Totals for Rich Veal:	*$94.65*	*$0.00*		*$94.65*
Riso Products of Sacramento								
Riso Products of Sacramento	5/7/2013	4/18/2013	107402	Kyocera Contract 4/18/13-5/17/13	$94.86	$0.00		$94.86
				Totals for Riso Products of Sacramento:	*$94.86*	*$0.00*		*$94.86*
SPRAYTEC (Sprayer Sales Co)								
SPRAYTEC (Sprayer Sales Co)	5/7/2013	1/25/2013	11605	Monthly Maintenance Service 1/17/13	$225.00	$0.00		$225.00
SPRAYTEC (Sprayer Sales Co)	5/7/2013	10/16/2012	11447	Monthly maintenance service 9/11 & 9/21/12	$225.00	$0.00		$225.00
				Totals for SPRAYTEC (Sprayer Sales Co):	*$450.00*	*$0.00*		*$450.00*
Stericycle Inc								
Stericycle Inc	5/7/2013	5/1/2013	3002229118	Quarterly Billing 5/13-7/13	**$242.61**	**$0.00**		**$242.61**
				Totals for Stericycle Inc:	*$242.61*	*$0.00*		*$242.61*

City of Clayton
Cash Requirements Report
City Council Meeting 5/7/2013

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Turf Star, Inc.								
Turf Star, Inc.	5/7/2013	4/15/2013	6798305-02	supplies	$149.78	$0.00		$149.78
Turf Star, Inc.	5/7/2013	4/19/2013	6798305-03	supplies	$106.31	$0.00		$106.31
Turf Star, Inc.	5/7/2013	4/12/2013	6798305-00	supplies	$55.68	$0.00		$55.68
Turf Star, Inc.	5/7/2013	4/16/2013	6798305-01	supplies	$99.11	$0.00		$99.11
				Totals for Turf Star, Inc.:	*$410.88*	*$0.00*		*$410.88*
Waraner Brothers Tree Service								
Waraner Brothers Tree Service	5/7/2013	4/10/2013	10359	Tree Work - Stranahan - Pine Tree	$1,200.00	$0.00		$1,200.00
				Totals for Waraner Brothers Tree Service:	*$1,200.00*	*$0.00*		*$1,200.00*
Wildland Resource Management								
Wildland Resource Management	5/7/2013	4/24/2013	Final	Work Performed 3/6/13-4/17/13	$1,500.00	$0.00		$1,500.00
				Totals for Wildland Resource Management:	*$1,500.00*	*$0.00*		*$1,500.00*
YP (Advertising - yellow pages)								
YP (Advertising - yellow pages)	5/7/2013	4/23/2013	YP 4/23/13	Directory Advertising	$79.00	$0.00		$79.00
				Totals for YP (Advertising - yellow pages):	*$79.00*	*$0.00*		*$79.00*
				GRAND TOTALS:	**$1,217,132.26**	**$0.00**		**$1,217,132.26**

Agenda Date: 5-7-13

Agenda Item: 4c

CITY OF CLAYTON

Founded 1857 . . . Incorporated 1964

Approved:

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MAINTENANCE SUPERVISOR

DATE: May 7, 2013

SUBJECT: AWARD OF MULTI-YEAR CONTRACT FOR WEED ABATEMENT ANNUAL CITYWIDE WEED ABATEMENT SERVICES ON PUBLIC PROPERTIES

RECOMMENDATION

Approve a one-year contract, with options for three (3) one-year extensions for a total of four years for annual weed abatement services on City-owned public properties to Waraner Brothers Tree Service (Clayton) as the lowest responsible bidder in the first-year amount of $29,500.00; with a 3% cost of living increase in year two for $30,385.00, a 3% cost of living in year three for $31,296.00, and a 3% cost of living in year four for $32,235.00 (total 4-year amount of $123,416.00).

BACKGROUND

For the past thirteen years the Clayton Maintenance Department has contracted out the majority of its annual weed abatement work within the Citywide Landscape Maintenance Assessment District (CFD 2007-1). The contract work includes all hand work and discing within the Landscape District while the City Maintenance Department flail-mows with its tractor the large areas of the City's open space (Note: the City looked at adding the latter work to this contract as a supplemental bid item but City personnel can still get this work done using the City's tractor more cost efficiently than can the contractor). The standard of work is for a thirty-foot wide firebreak from fence lines made around homes that border on the City's open space. This weed abatement work is separate and distinct from the annual noxious weed abatement services performed on various Oakhurst hill slopes by a different contractor (also paid by the Citywide Landscape Maintenance District).

The Maintenance Department has determined the vast majority of weed abatement work is done more cost efficiently using an outside contractor. Over the last thirteen years this work has been performed once a year. The contractor performing this work in the Landscape District over the past 4 years has been Warner Brothers Tree Service. During the past years this work usually started in the middle of May with the work completed by mid-June or

earlier. Measure B Landscape District standards approved by public vote in November 2007 continued this once-per-year weed abatement/firebreak service in the large open areas but did augment weed abatement services to twice a year for a single-pass mow strip immediately abutting certain public trails.

This year, staff solicited yet received only 2 bids for the one year weed abatement contract with three additional years (for a contract total of four years). The lowest responsible bidder is Waraner Brother Tree Services. The Maintenance Department has worked with Waraner Brothers Tree Service for the past twenty years doing all of the City's major tree work and over the last four years doing the annual weed abatement for the Clayton Landscape District. Staff has worked closely with the owner, Ed Waraner, and has found him very responsive to our needs when it comes to tree work within the City and over the past four years with the weed abatement. Maintenance staff has full confidence that Mr. Waraner will continue to be just as responsive as he has been in past years when doing the annual weed abatement work. The company is licensed to professionally perform such services.

FISCAL IMPACT

Funds for this contract are budgeted in the approved Landscape Maintenance Assessment District budget for Fiscal Year 2012-13 (restricted-use monies). This year's budget allocated $35,000.00 for the weed abatement contract, which is the same amount spent on weed abatement in the previous year. With the Waraner Brothers Tree Service bid, the first year contract amount of $29,500.00 is $5,500.00 lower than the approved budget amount. Over the four year term of the contract, the total savings by using Warner Brothers Tree Service will be $94,678.00 over the other bidder, JPA Landscape & Construction:

Company	2013	2014	2015	2016	3-Year Total
Warner Brothers Tree Service	$29,500.00	$30,385.00	$31,296.00	$32,235.00	**$ 123,416.00**
JPA Landscape & Construction	$52,131.00	$53,694.00	$55,305.00	$56,964.00	**$ 218,094.00**

Attachments: 2 pgs. bids
1 pg map
1 pg scope of work

JPA Landscape & Construction, Inc.

Commercial Landscape Maintenance Services
Since 1981

Proposal #11416

April 17, 2013

Submitted To: City of Clayton
Mark Janney

Clayton, CA 94517

Project: City of Clayton

Clayton, CA 94517

Estimated Price: To Be Determined

Scope

We propose to furnish the following scope of work to complete the above mentioned project:

This is a proposal to perform weed abatement for the City of Clayton.

Year	Standard Contract Bid Item 9	Supplemental Contract Bid Item 10
2013	$48,446 + Discing $3,685	$19,523
2014	$49,899 + Discing $3,795	$20,108
2015	$51,396 + Discing $3,909	$20,711
2016	$52,938 + Discing $4,026	$21,332

Please see attachment for original scope of work and map of areas.

Option 1: Four Year Standard Contract

Estimated $218,068.00

Option 1 Plus Supplemental Contract

Estimated $299,742.00

PO Box 1292 Pleasanton CA 94566 (925) 960-9602 Fax: (925) 960-9620 email: CustomerService@JPALandscape.com

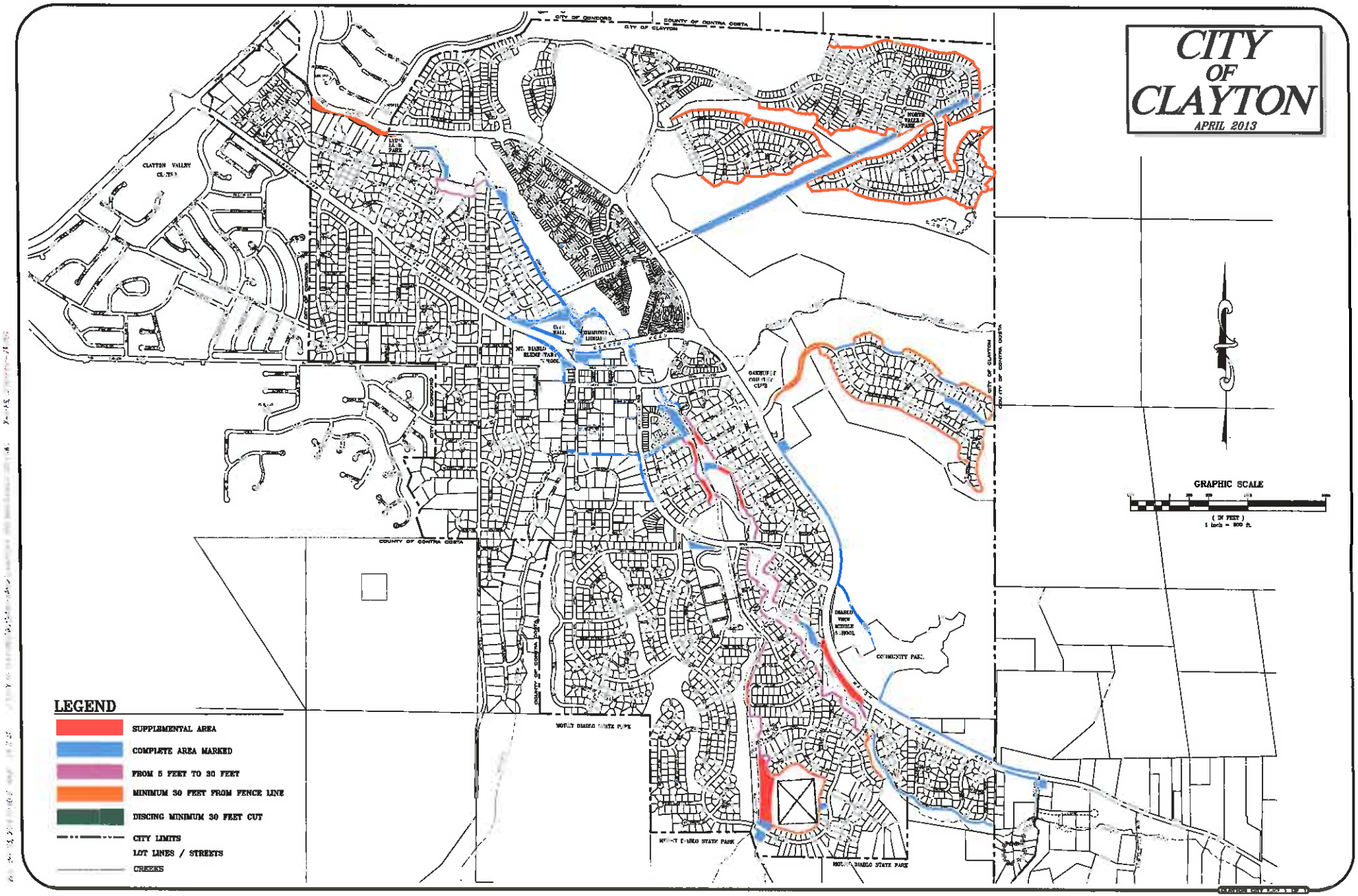
Warner BROS Tree Service

Scope of Work
For
Weed Abatement

1. To perform weed abatement throughout the City of Clayton for fire protection using any type of mechanical equipment to perform this work including but not limited to weed eaters and flail mowers
2. All weeds are to be cut to a maximum of 2 1/2 inches from grade.
3. All areas that abut streets, sidewalks, and drainage ditches will be clean of all debris that is produced by the abatement.
4. This work will not start any later than May 14 of each year (unless agree upon by the City for a later start date) and will not start any earlier than May 1 of each year. Start date is approved yearly by the City of Clayton Maintenance Supervisor.
5. This work will be completed and pass the Cities inspection no latter than June 23 of each year
6. Work crews will be on site everyday once work has started (by May 14 unless agreement is made by the City for a later start date)
7. Contractor must have work crews consisting of a minimum of 5 workers on site once work starts.
8. Work will be performed Monday through Friday during normal business hours (7am-5pm) excluding City Holidays unless given prior permission by the City of Clayton.
9. All work will be performed in areas marked on City map and work will be consisted to the map legend (please read map carefully) Do not include Red area (supplemental area) in this bid
10. Enter a separate supplemental bid on doing the purple area as a blue area. (do all areas from fence line or streets to creeks that are purple instead of the 5 to 30 feet stated on legend) and do all red areas marked supplemental.
11. This contract is for one year (2013) with 3 more yearly extensions in 2014, 2015, and 2016 for a total of 4 years. Please include costs for each year after the initial contract year of 2013 with total for 4 years.
12. Any question on the work to be performed can be sent to Mark Janney with the City of Clayton Maintenance Department call at 925-673-7327 or e-mail at mjannney@ci.clayton.ca.us

Year	Standard Contract Bid Item 9	Supplemental Contract Bid Item 10
2013	29,500 ""	9235 ""
2014	30 385 ""	9512 ""
2015	31 296 ""	9797 ""
2016	32,235 ""	10,090 ""

Total for four years Standard Contract $ 123,416 ""
Total for four years Standard plus supplemental Contract $ 38634 ""


CITY OF CLAYTON
APRIL 2013
GRAPHIC SCALE
(IN FEET)
1 inch = 800 ft.
LEGEND
SUPPLEMENTAL AREA
COMPLETE AREA MARKED
FROM 5 FEET TO 30 FEET
MINIMUM 30 FEET FROM FENCE LINE
DISCING MINIMUM 30 FEET CUT
CITY LIMITS
LOT LINES / STREETS
CREEKS
CITY OF CONCORD
COUNTY OF CONTRA COSTA
CITY OF CLAYTON
CLAYTON VALLEY CH. JR. H.
LYDIA HAM PARK
NORTH VALLEY PARK
MT. DIABLO HIGH SCHOOL
OAKHURST COUNTRY CLUB
DIABLO VIEW MIDDLE SCHOOL
COMMUNITY PARK
MOUNT DIABLO STATE PARK

Scope of Work
For
Weed Abatement

1. To perform weed abatement throughout the City of Clayton for fire protection using any type of mechanical equipment to perform this work including but not limited to weed eaters and flail mowers
2. All weeds are to be cut to a maximum of 2 1/2 inches from grade.
3. All areas that abut streets, sidewalks, and drainage ditches will be clean of all debris that is produced by the abatement.
4. This work will not start any later than May 14 of each year (unless agree upon by the City for a later start date) and will not start any earlier than May 1 of each year. Start date is approved yearly by the City of Clayton Maintenance Supervisor.
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6. Work crews will be on site everyday once work has started (by May 14 unless agreement is made by the City for a later start date)
7. Contractor must have work crews consisting of a minimum of 5 workers on site once work starts.
8. Work will be performed Monday through Friday during normal business hours (7am-5pm) excluding City Holidays unless given prior permission by the City of Clayton.
9. All work will be performed in areas marked on City map and work will be consisted to the map legend (please read map carefully) Do not include Red area (supplemental area) in this bid
10. Enter a separate supplemental bid on doing the purple area as a blue area. (do all areas from fence line or streets to creeks that are purple instead of the 5 to 30 feet stated on legend) and do all red areas marked supplemental.
11. This contract is for one year (2013) with 3 more yearly extensions in 2014, 2015, and 2016 for a total of 4 years. Please include costs for each year after the initial contract year of 2013 with total for 4 years.
12. Any question on the work to be performed can be sent to Mark Janney with the City of Clayton Maintenance Department call at 925-673-7327 or e-mail at mjannney@ci.clayton.ca.us

Year	Standard Contract Bid Item 9	Supplemental Contract Bid Item 10
2013		
2014		
2015		
2016		

Total for four years Standard Contract $_____

Total for four years Standard plus supplemental Contract $_____

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

Agenda Date: 5-7-13

Agenda Item: 8a

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 7, 2013

SUBJECT: PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 17.37, SECTION 17.37.030.C (WAIVER PERIOD) OF THE CLAYTON MUNICIPAL CODE FOR THE PURPOSE OF EXTENDING FROM JUNE 30, 2013 THROUGH JUNE 30, 2016 THE PARKING WAIVER PROVISION IN THE TOWN CENTER AREA (ZOA-01-13).

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing, receive and consider the staff report and any public comment; have the City Clerk read the Ordinance (see Attachment 1) by title and number only and waive further reading; and if determined to be appropriate following the City Clerk's reading the City Council may approve the introduction and first reading of the Ordinance.

BACKGROUND

In 2007, the City of Clayton amended Chapter 17.37, the City's Off-Street Parking and Loading Regulations, to along with other changes, reduce the on-site parking requirements for specified land uses in the City's Town Center. The waiver provisions are contained in Section 17.37.030 Parking and Loading Space Requirements, Sub-section C. Waiver Period (see attached excerpt Section 17.37.030).

The purpose of offering the waiver of required on-site parking was to provide an incentive to develop certain land uses and promote overall development activity in the Town Center area. The adopted parking waiver provisions are intended to encourage and promote retail, restaurant, office and personal service uses. The basis for the recommended changes were born out of the Town Center Parking Study developed in May 2006.

The original amendment to Chapter 17.37 provided a waiver period to June 30, 2010. Since that time, the Planning Commission considered and the City Council approved on July 20, 2010, an extension of the parking waiver allowances until June 30, 2013.

Planning Commission Action

On April 9, 2013, the Planning Commission conducted a public hearing and after considering the Town Center parking waiver provisions, adopted Resolution No. 02-13 recommending City Council approval of the Ordinance extension. No members of the public or business community spoke on the matter.

DISCUSSION

The purpose of the City offering the parking waiver and associated provisions in 2007 was primarily to encourage and provide incentive to potential development for retail and restaurant uses in the Town Center. This action supported Town Center Specific Plan policy to "Maintain and enhance retail and restaurant uses in the Town Center in order to sustain similar uses in the Town Center..." (Goal II, Page 9) as well as Town Center Policy I.5 to "Encourage developers to seize incentives provided in the General Plan for increased site coverage of smaller parcels in the Town Center." Increasing site coverage of smaller parcels is greatly enhanced when parking waiver provisions are provided. The purpose at the time was also to "jump start" commercial development in the Town Center area and assist in generating the "critical mass" needed to establish the Town Center as a competitive commercial location.

When the City Council originally approved the parking waiver provisions, as suggested in the 2006 Parking Study, the parking waiver was intended to be in effect for three years or until a pre-determined on-street and off-street parking threshold was reached. The City Council set the threshold for reconsideration of the parking waiver provisions when 200 parking spaces that normally would have been required with development had been waived (Section 17.37.030.D). The purpose of this provision was to ensure that existing conditions in the Town Center area were not compromised with respect to the availability of public parking, patterns of utilization, and parking needs of future commercial. To date, no private development projects have utilized this parking space waiver. A previous City Redevelopment sponsored project, called the Creekside Terrace Mixed Use Project located on the west side of Oak Street and north of High Street, was granted a waiver of seven parking spaces through the payment of in-lieu fees per Section 17.37.070, however that project has not been developed and no in-lieu fees paid. The Flora Square project was found exempt and therefore the parking was not waived.

The parking waiver provision requires the Community Development Director to monitor the number of parking spaces waived and report back to the Planning Commission. The Planning Commission, in turn, is responsible for reviewing the Director's report and making a recommendation to the City Council. No written reports to date have been provided to the Planning Commission or City Council as no projects have utilized the parking waiver.

The potential development and generation of the "critical mass" was dealt a significant setback with the onset of the economic recession and the state's termination of redevelopment agencies. However, staff is optimistic based on recent developer inquires, that a renewed interest in our Town Center area may be on the horizon. Staff believes that

the same reasons exist in 2013 that did in 2007 that warrant continued incentive for potential commercial development in the Town Center. The parking waiver provision will hopefully serve as an effective tool to encourage and promote private development of retail and restaurant uses in the Town Center area. Given the dismantling of state redevelopment agencies, many cities are having to turn to incentives, such as parking waivers, in order to assist and encourage commercial development in their communities.

If the City Council continues to agree with this development incentive, the Council can approve another three-year extension of the parking waiver until June 30, 2016.

If the City Council does not agree with this development incentive, then several alternatives could be considered:

A. Extend the parking waiver period for a lesser time, either 1 or 2 years; or

B. Allow the parking waiver provision to expire on June 30, 2013 wherein, the City would have the option of only permitting payment of in-lieu fees for projects that cannot meet their parking requirements under the City Parking Ordinance, per Section 17.37.070.

FISCAL IMPACT

Negligible. Some staff time as well as printing cost have and will be associated with this responsibility and obligation.

CONCLUSION

Staff recommends that the City Council conduct a public hearing, receive and consider the staff report and any public comment; have the City Clerk read the Ordinance (see Attachment 1) by title and number only and waive further reading; and if determined to be appropriate following the City Clerk's reading the City Council may approve the introduction and first reading of the Ordinance.

Attachments:

1. Ordinance No. 446 – Extension of Town Center Parking Waiver Ordinance.
2. Existing CMC Section 17.37.030 Parking and Loading Requirements (excerpt).
3. Planning Commission Resolution No. 02-13.
4. April 9, 2013 Planning Commission meeting minutes.
5. April 9, 2013, Planning Commission Staff Report (without attachments).

ORDINANCE NO. 446

AN ORDINANCE AMENDING CHAPTER 17.37, SECTION 17.37.030.C (WAIVER PERIOD) OF THE CLAYTON MUNICIPAL CODE FOR THE PURPOSE OF EXTENDING FROM JUNE 30, 2013 THROUGH JUNE 30, 2016 THE PARKING WAIVER PROVISION IN THE TOWN CENTER AREA (ZOA-01-13)

THE CITY COUNCIL
City of Clayton, California

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

WHEREAS, Ordinance No. 408 was adopted by the Clayton City Council on June 26, 2007, which provided a waiver period to allow specified reductions for on-site parking for development projects satisfying certain stated criteria as an incentive for development and redevelopment to occur in Clayton's Town Center area; and

WHEREAS, the initial waiver period contained within Ordinance No. 408 and reflected in 17.37.030.C of the Clayton Municipal Code expired on June 10, 2010 and then was amended again by Ordinance No. 428 and expires on June 30, 2013; and

WHEREAS, the Planning Commission held a duly-noticed public hearings on April 9, 2013, to consider an amendment to the Parking Waiver provision in the Clayton Municipal Code to extend the Parking Waiver allowance reflected in Section 17.37.030.C from June 30, 2013 to June 30, 2016; and

WHEREAS, because only limited development has occurred in the Town Center area since the adoption of Ordinances No. 408 and 428, continuing to provide incentives to encourage general development and redevelopment in the Town Center area to projects which conform with the Clayton Town Center Specific Plan remains desirable; and

WHEREAS, on April 9, 2013 the Planning Commission recommended City Council approval of a three-year extension of the Town Center parking waiver from June 30, 2013 to June 30, 2016; and

WHEREAS, the Planning Commission, based on the information it received and considered has determined the proposed amendment to Sections 17.37.030.C of the Municipal Code would be in conformance with the General Plan; the public necessity, convenience, and general welfare would require adoption of the amendment; the adoption of the amendment would not result in a significant adverse environmental impact as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the adoption of the Town Center and Vicinity Planning Amendments IES/ND (ENV 01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines; and has found there was no evidence that the amendment will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

WHEREAS, on May 7, 2013 the City Council held duly-noticed public hearing and gave due consideration to all testimony, comments, and documents received pertaining to the amendment to Section 17.37.030.C of the Municipal Code; and

WHEREAS, at the duly-noticed public hearing on May 7, 2013 the City Council received the recommendation of the Planning Commission, the related staff report and other documents and public testimony concerning the amendment and determined that the amendment would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of the amendment; the adoption of the amendment would not result in a significant adverse environmental impact as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the adoption of the Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration (ENV 01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines; and has found there was no evidence that the amendment will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

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

SECTION 1. Chapter 17.37 (Off-Street Parking and Loading Regulations), Section 17.37.030.C (Waiver Period) of the Clayton Municipal Code is amended to read as follows:

"C. Waiver Period. In order to encourage development of retail, restaurant, office, and personal service uses in the Town Center before June 30, 2016, a waiver period extending through June 30, 2016 is established during which the number of off-street parking and loading spaces required for projects meeting all of the criteria listed in subsections 1-4 below is reduced in accordance with Schedule 17.37.030.D."

SECTION 2. 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 3. 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 4. 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 by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 1 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on May 7, 2013.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on May 21, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Julie Pierce, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

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 May 7, 2013 and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on May 21, 2013.

Laci J. Jackson, City Clerk

I. Administrative Relief. Subject to the following requirements, administrative relief from the terms of this chapter may be granted for matters regarding dimensions and square footage, as well as design standards for parking spaces, loading spaces, and parking lots.

1. The Director makes express written findings that the requirements of this chapter are impractical as applied to the project; and

2. Measures are incorporated into the project and the Director expressly finds in writing that the measures advance the purposes of this chapter; and

3. The City Attorney reviews and approves the Director's action as complying with all applicable laws.

17.37.030 Parking and Loading Space Requirements.

A. Parking and Loading Space Schedules. Off-street parking spaces shall be provided in accordance with Schedule 17.37.030A. Off-street loading spaces shall be provided for non-residential uses in accordance with Schedule 17.37.030B or as required by the Planning Commission. References to spaces per square foot are to be computed on the basis of gross floor area unless otherwise specified, and shall include allocations of shared restroom, halls and lobby area, and mechanical equipment or maintenance areas, but shall exclude area for vertical circulation (e.g., stairs, elevators).

B. Parking Schedule with Public Parking Easement. In lieu of the parking space requirements provided in Schedule 17.37.030A, the number of off-street parking spaces required for projects meeting all of the criteria listed in subsections 1-3 below shall be in accordance with Schedule 17.37.030C.

1. The parcel is located within the planning area of the Town Center Specific Plan (as amended).

2. The project involves new construction and/or addition(s) of retail, restaurant, service, or office uses.

3. The City Council accepts an offer of a public parking easement from the property owner. The public parking easement allows the general public to park in the off-street parking facility when any business establishment operating on the property is not open for business.

C. Waiver Period. In order to encourage development of retail, restaurant, office, and personal service uses in the Town Center before June 30, 2013, a waiver period extending through June 30, 2013 is established during which the number of off-street parking and loading spaces required for projects meeting all of the criteria listed in subsections 1-4 below is reduced in accordance with Schedule 17.37.030.D." (Ord. 428).

1. The parcel is located within the planning area of the Town Center Specific Plan (as amended).

2. The project involves construction, establishment, and/or addition(s) of retail, restaurant, office, or personal services uses.

3. A building permit (if required) for the project has been issued within two (2) years of project approval. Construction and a final building permit inspection are completed within one (1) year of the issuance of the building permit. These time periods may be extended once up to six (6) months by the Planning Commission upon a showing of good cause (Ord. 428).

4. City Council approval is granted for any individual project in which the requirement for more than seventy-five (75) parking spaces is waived.

D. Monitoring of Spaces During Waiver Period. The Director shall monitor the amount of retail, restaurant, office, and personal service development within the planning area of the Town Center Specific Plan (as amended) during the waiver period. The Director shall determine the number of parking spaces which would have been required in accordance with Schedule 17.37.030A. Upon determining that new retail, restaurant, office, and personal service development has occurred or has been proposed, or other reductions in parking space requirements have been granted for which the aggregate number exceeds 200 reduced spaces, a report shall be presented to the Planning Commission. The Planning Commission shall review the report and make any appropriate recommendations for consideration by the City Council. This report shall include an assessment of the existing parking conditions in the planning area of the Town Center Specific Plan with respect to the availability of public parking, patterns of utilization, and parking needs of future commercial development in Town Center.

E. Director Determination. Where the proposed use classification is not specified herein, the Director shall determine the probable use and the number of parking and loading spaces required. In order to make this determination, the Director may require the submission of survey or other data from the applicant or have data collected at the applicant's expense.

CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 02-13

RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING SECTION 17.37.030.C (WAIVER PERIOD) OF THE CLAYTON MUNICIPAL CODE FOR THE PURPOSE OF EXTENDING FROM JUNE 30, 2013 THROUGH JUNE 30, 2016 THE PARKING WAIVER PROVISION IN THE TOWN CENTER AREA
(ZOA 01-13)

WHEREAS, Ordinance No. 408 was adopted by the Clayton City Council on June 26, 2007, which provided a waiver period to allow specified reductions for on-site parking for development projects satisfying stated criteria as an incentive for development and redevelopment to occur in Clayton's Town Center area; and

WHEREAS, the waiver period contained within Ordinance No. 408 and reflected in 17.37.030.C of the Clayton Municipal Code expired on June 10, 2010; and

WHEREAS, the Planning Commission and City Council held duly-noticed public hearings and on July 20, 2010 the City Council extended the expiration date to June 30, 2013 on the recommendation of the Planning Commission; and

WHEREAS, only limited development has occurred in the Town Center area since the adoption of Ordinance No. 408 and its 2010 amendment; and

WHEREAS, the circumstance of continuing to provide incentives to encourage general development and redevelopment in the Town Center area to projects which conform with the Clayton Town Center Specific Plan continue to be desirable; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on April 9, 2013 to consider a three-year extension of the Town Center parking waiver from June 30, 2013 to June 30, 2016; and

WHEREAS, on April 9, 2013 the Planning Commission recommended City Council approval of a three-year extension of the Town Center parking waiver from June 30, 2013 to June 30, 2016; and

WHEREAS, the Planning Commission, based on the information it received and considered, determined that the proposed amendments to Sections 17.37.030.C of the Municipal Code would be in conformance with the General Plan; the public necessity, convenience, and general welfare would require adoption of the amendments; the adoption of the amendments would not result in a significant adverse environmental impacts as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the adoption of the Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration (ENV 01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines; and found there was no evidence that the amendment will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

Now, Therefore, Be it further Resolved That:

Section 1. The Planning Commission recommends that the City Council approve Ordinance No. ____ (ZOA 01-13), thereby amending Section 17.37.030.C (Waiver Period) of the Clayton Municipal Code for the purpose of extending from June 30, 2013 through June 30, 2016 the Parking Waiver provision in the Town Center area.

Adopted by the Planning Commission on April 9, 2013.

APPROVED

Keith Haydon
Chair

ATTEST

Kenneth H. Craig
Interim Community Development Director

Attachment: Ordinance

Com Dev\Plng Comm\Resolutions\2013\02-13.parking.waiver.extension

ORDINANCE NO. XXX

AN ORDINANCE AMENDING SECTION 17.37.030.C (WAIVER PERIOD) OF THE CLAYTON MUNICIPAL CODE FOR THE PURPOSE OF EXTENDING FROM JUNE 30, 2013 THROUGH JUNE 30, 2016 THE PARKING WAIVER PROVISION IN THE TOWN CENTER AREA (ZOA 01-13)

THE CITY COUNCIL
City of Clayton, California

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

WHEREAS, Ordinance No. 408 was adopted by the Clayton City Council on June 26, 2007, which provided a waiver period to allow specified reductions for on-site parking for development projects satisfying certain stated criteria as an incentive for development and redevelopment to occur in Clayton's Town Center area; and

WHEREAS, the initial waiver period contained within Ordinance No. 408 and reflected in 17.37.030.C of the Clayton Municipal Code expired on June 10, 2010 and then was amended again by Ordinance No. 428 and expires on June 30, 2013; and

WHEREAS, the Planning Commission held duly-noticed public hearings on April 9, 2013, to consider an amendment to the Parking Waiver provision in the Clayton Municipal Code to extend the Parking Waiver allowance reflected in Section 17.37.030.C from June 30, 2013 to June 30, 2016; and

WHEREAS, because only limited development has occurred in the Town Center area since the adoption of Ordinances No. 408 and 428, continuing to provide incentives to encourage general development and redevelopment in the Town Center area to projects which conform with the Clayton Town Center Specific Plan remains desirable; and

WHEREAS, on April 9, 2013 the Planning Commission recommended City Council approval of a three-year extension of the Town Center parking waiver from June 30, 2013 to June 30, 2016; and

WHEREAS, the Planning Commission, based on the information it received and considered has determined the proposed amendment to Sections 17.37.030.C of the Municipal Code would be in conformance with the General Plan; the public necessity, convenience, and general welfare would require adoption of the amendment; the adoption of the amendment would not result in a significant adverse environmental impact as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the adoption of the Town Center and Vicinity Planning Amendments IES/ND (ENV 01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines; and has found there was no evidence that the amendment will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

WHEREAS, on XXXX, 2013 the City Council held duly-noticed public hearings and gave due consideration to all testimony, comments, and documents received pertaining to the amendment to Section 17.37.030.C of the Municipal Code; and

WHEREAS, at the duly-noticed public hearing on XXXX, 2013 the City Council received the recommendation of the Planning Commission, the related staff report and other documents and public testimony concerning the amendment and determined that the amendment would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of the amendment; the adoption of the amendment would not result in a significant adverse environmental impact as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the adoption of the Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration (ENV 01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines; and has found there was no evidence that the amendment will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

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

SECTION 1. Section 17.37.030.C of the Municipal Code is amended to read as follows:

"C. Waiver Period. In order to encourage development of retail, restaurant, office, and personal service uses in the Town Center before June 30, 2013, a waiver period extending through June 30, 2016 is established during which the number of off-street parking and loading spaces required for projects meeting all of the criteria listed in subsections 1-4 below is reduced in accordance with Schedule 17.37.030.D."

SECTION 2. 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 3. 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 4. 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 by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 1 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on XXXX, 2013.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on XXXX, 2013 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Julie Pierce, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

Malathy Subramanian, City Attorney

APPROVED BY ADMINISTRATION

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 XXXX, 2013 and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on XXXX, 2013.

Laci J. Jackson, City Clerk

Com Dev\ZOA\2013\01-13.draft.ordinance.pc.mtg.4.9.13.parking.waiver

Commissioner Bruzzone noted the importance of the issues and the difficulty in balancing the applicant's right to improve their property with the neighbors' concerns regarding impacts to privacy and views. He feels the revised wall is good mitigation. He understands Mr. Dodd's concern but believes the project should move forward. He discussed perhaps some vegetation planting on the side might be helpful, as noted by Director Craig. He was supportive of the translucent windows.

Commissioner Johnson agreed with Commissioner Bruzzone's comments and noted that you cannot see Mr. Dodd's property from the rear yard, based on her observations during her site visit, since an existing pine tree already obstructed the views. She thought some planting would help to mitigate the wall effect and privacy issues.

Vice Chair Manning indicated he had no issues with the proposal. He felt the applicant did more to address the neighbors' concerns than was even necessary or that most applicants would be willing to do.

Commissioner Richardson stated his appreciation for the applicant getting together with the neighbors. He noted that the Commission, among other things, is looking at compatibility and consensus. He liked the design efforts made in order to resolve the issues. He is supportive of the window treatments and even more so of the left (west) wall alternative for the balcony with no window in the wall. He is not interested in requiring any side yard landscaping or landscape treatment on the left wall on the balcony.

Chair Haydon acknowledged that he has some familiarity with the site because he knew the previous property owner of the subject property and had been in the house before. He understands the reason why the new owners want the balcony to be located where it is in order to be able to view the pool area. He thinks the small balcony is appropriate. Views are already blocked by existing vegetation. He is pleased with the discussion between neighbors over the proposal. He also understands the natural tendency for neighbors to not want things to change in the neighborhood but the property owners have a right to modify their house.

Commissioner Richardson moved and Vice Chair Manning seconded to approve SPR 02-13 as amended with the straight wall design without the window on the left (west) elevation of the balcony and with translucent windows on the left (west) elevation of the second story of the addition. The motion passed 5-0.

3B. **ZOA 01-13, Municipal Code Amendment, City of Clayton.** Consideration of an extension of the off-street (on-site) parking waiver in the Town Center area from June 30, 2013 to June 30, 2016. The purpose of the proposed extension is to provide incentive to promote development activity in the Town Center area for retail and restaurant land uses.

Interim Director Craig presented the staff report.

Commissioner Richardson noted that with an improving economy and new development interest, now more than ever these kinds of incentives are needed to promote downtown development.

Commissioner Richardson moved and Vice Chair Manning seconded to recommend that the City Council amend Municipal Code Section 17.37.030.C to extend the parking waiver for another three-year period, through June 30, 2016. The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

PLANNING COMMISSION
STAFF REPORT

Meeting Date:	**April 9, 2013**
From:	**Kenneth Craig** **Interim Community Development Director**
Subject:	**Extension of Off-Street (On-Site) Parking Waiver in the Town Center Area (ZOA 01-13)**

REQUEST

City-Initiated Proposal to Extend Off-Street (On-Site) Parking Waiver Provisions of Municipal Code Chapter 17.37, Off-Street Parking and Loading Requirements, in the Town Center Area.

PROJECT INFORMATION

Applicant/Location:	City/Town Center
General Plan Designation:	Town Center Commercial
Town Center Specific Plan Designation:	Town Center Commercial
Zoning Classification:	Limited Commercial (L-C) and Planned Development (PD)
Public Notice:	On March 29, 2013, a public hearing notice was mailed to property owners within 300 feet of the site and posted on the project site.

BACKGROUND

In 2007, the City of Clayton amended Chapter 17.37, the City's Off-Street Parking and Loading Regulations, to, along with other changes, reduce the on-site parking requirements for specified land uses in the City's Town Center. The waiver provisions are covered in several locations, including in Section 17.37.030.C and Schedule 17.37.030.D (see attached excerpt of Chapter 17.37 of the Municipal Code).

The purpose of offering the waiver of required on-site parking was to provide incentive to develop certain land uses and promote overall development activity in the Town Center area. The adopted parking waiver provisions primarily promote retail and restaurant land uses, though some parking reductions were all provided for other office uses. The basis for the recommended changes were born out of the Town Center Parking Study developed in May 2006.

The original amendment to Chapter 17.37 provided a waiver period to June 30, 2010. Since that time, the Planning Commission considered, and the City Council approved on July 20, 2010, an extension of the parking waiver allowances until June 30, 2013. In addition to the parking waiver time extension, the City Council also approved various entitlements associated with the Creekside Mixed Use Project along with a change to Section 17.37.030.C.3 establishing the requirement for executing use of the parking waiver provisions to be reliant upon obtaining a building permit within one year (as opposed to the previous requirement of two years) of project approval. The Creekside Mixed Use Project was the first project to take advantage of the parking waiver provisions.

DISCUSSION

The purpose of the City offering the parking waiver and associated provisions in 2007 was primarily to encourage and provide incentive to potential development for retail and restaurant uses in the Town Center. This action supported Town Center Specific Plan policy to "Maintain and enhance retail and restaurant uses in the Town Center in order to sustain similar uses in the Town Center..." (Goal II, Page 9) as well as Town Center Policy I.5 to "Encourage developers to seize incentives provided in the General Plan for increased structural coverage of smaller parcels in the Town Center." Increasing structural coverage of smaller parcels is greatly enhanced when parking waiver provisions are provided. The purpose at the time was also to "jump start" commercial development in the Town Center area and assist in generating the "critical mass" needed to establish the Town Center as a competitive commercial location.

When the City Council originally approved the parking waiver provisions, as suggested in the 2006 Parking Study, the parking waiver was intended to be in effect for three years or until a pre-determined on-street and off-street parking threshold was reached. The City Council set the threshold for reconsideration of the parking waiver provisions when 200 parking spaces that normally would have been required with development had been waived (Section 17.37.030.D). The purpose of this provision was to ensure that existing conditions in the Town Center area were not compromised with respect to the availability of public parking, patterns of utilization, and parking needs of future commercial. To date, only seven parking spaces have been waived through the payment of in-lieu fees per Section 17.37.070, for the Creekside Terrace Mixed Use Project located on the west side of Oak Street and north of High Street (Flora Square project was found exempt and therefore the parking was not waived). The Community Development Director is responsible for monitoring this threshold and reporting back to the Planning Commission. The Planning Commission, in turn, is responsible for reviewing the Director's report and making a recommendation to the City Council. No written reports to date have been provided to the Planning Commission given the low level of development activity which have resulted in a limited number of parking waivers (seven) being applied toward the 200 parking space threshold.

The potential development and generation of the "critical mass" was dealt a significant setback with the onset of the Great Recession of 2008. As of late, based on developer inquires for Town Center properties, a turnaround could be on the horizon. Developer interest is supported by slowing rising land and real estate values in the area, according to the developers who have made inquiries. Staff believes that the same reasons exist in 2013 that did in 2007 to incentivize potential commercial development in the Town Center. The tools chosen to accomplish this task also appear to continue to be supportive and effective for these efforts.

If the Planning Commission continues to agree with this determination, then the Commission could recommend another three-year extension of the parking waiver until June 30, 2016 to the City Council.

If the Planning Commission does not agree with this determination, then several alternatives could be considered:

A. Recommend allowing the parking waiver provision to expire on June 30, 2013 wherein, the City would have the option of only permitting payment of in-lieu fees for projects that cannot meet their parking requirements under the City Parking Ordinance, per Section 17.37.070; or

B. Recommend extending the parking waiver period for a lesser time.

RECOMMENDATION

Staff recommends the Planning Commission recommend that the City Council amend Municipal Code Section 17.37.030.C to extend the parking waiver for another three-year period, through June 30, 2016.

ATTACHMENT

A Planning Commission Resolution No. 02-13
B Chapter 17.37, Off-Street Parking and Loading Regulations (Excerpt)

ZOA\2012\02-12.sr.pc.universal.design.3.26.13

CITY OF CLAYTON
Founded 1857 – Incorporated 1964

Agenda Date: 5-7-13

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: CHARLIE MULLEN, COMMUNITY DEVELOPMENT DIRECTOR

DATE: MAY 7, 2013

SUBJECT: SECOND READING AND ADOPTION OF ORDINANCE NO. 445 ADDING CHAPTER 15.92 TO THE CLAYTON MUNICIPAL CODE (CMC) REGARDING UNIVERSAL DESIGN TO FACILITATE RESIDENTIAL DEVELOPMENT FOR INDIVIDUALS WITH DISABILITIES IN RESIDENTIAL DEVELOPMENT PROJECTS OVER FIVE UNITS

RECOMMENDATION

Staff recommends that the City Council receive any public comment; have the City Clerk read the ordinance by title and number only and waive further reading; following the City Clerks reading the City Council may adopt the Ordinance (see Attachment 1).

BACKGROUND

At its April 16, 2013, City Council meeting, the attached Ordinance was introduced. With the exception of receiving input from two Planning Commissioners, no other public comments were received, and the City Council approved the introduction and first reading (by title only) of the Universal Design Ordinance (UDO) as recommended by staff and the Planning Commission.

DISCUSSION

The purpose of the UDO is to facilitate greater adaptability and accessibility of housing for persons with disabilities. A primary feature of the proposed Clayton UDO is that it does not prescribe mandatory installations by developers but rather, only mandates a residential development over five (5) units to offer various installation features. The Ordinance will become effective 30 days after its adoption.

Attachments:

1. Ordinance No. 445 - City of Clayton Universal Design Ordinance
2. April 16, 2013, City Council Staff Report (without attachments)

ORDINANCE NO. 445

AN ORDINANCE ADDING CHAPTER 15.92 TO THE CLAYTON MUNICIPAL CODE REGARDING UNIVERSAL DESIGN TO FACILITATE RESIDENTIAL DEVELOPMENT FOR INDIVIDUALS WITH DISABILITES

THE CITY COUNCIL
City of Clayton, California

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

WHEREAS, the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act ("fair housing laws") prohibit discrimination in housing against individuals with disabilities and require that cities take affirmative action to eliminate regulations and practices that deny housing opportunities to individuals with disabilities;

WHEREAS, fair housing laws require that cities provide individuals with disabilities (or their representatives, or developers of housing for people with disabilities) flexibility in the application of development regulations;

WHEREAS, cities are required to identify constraints to providing housing for individuals with disabilities and develop strategies for removing those constraints;

WHEREAS, the City of Clayton 2009-2014 General Plan Housing Element reflects the City's intention to encourage housing for those individuals with disabilities by including several implementation measures that specifically add regulations and practices that offer housing opportunities to individuals with disabilities, such as Implementation Measure IV.3.3:

"The City will evaluate the feasibility of a universal design ordinance that provides greater adaptability and accessibility of housing for persons with disabilities. If a universal design ordinance is determined to be feasible, the City will prepare an ordinance and produce a brochure on universal design, resources for design, and compliance with City requirements. The City will distribute the brochure to developers and to community organizations serving individuals with disabilities;"

WHEREAS, Government Code section 65583 requires that the Housing Element address and, where appropriate and legally possible, remove governmental constraints on the maintenance, improvement, and development of housing for individuals with disabilities. This universal design ordinance, as described in the implementation measure above, will remove constraints to, and provide opportunities for housing for individuals with disabilities;

WHEREAS, the Planning Commission held duly-noticed public hearings on the proposed Ordinance on November 13, 2012, December 11, 2012, January 08, 2013, and March 26, 2013 and gave due consideration to all testimony, comments, and documents received regarding the Ordinance; and

WHEREAS, the Planning Commission determined that the proposed Ordinance is exempt from the California Environmental Quality Act ("CEQA") under Public Resources Code section 15061(b)(3) because it does not have the potential for causing a significant adverse effect on the environment.

WHEREAS, based on its consideration of the information nit received and its deliberation and discussion of the Ordinance, the Planning Commission adopted Resolution No. 01-13 on March 26, 2013, recommending that the City Council adopt the proposed Ordinance and approves the accompanying brochure.

WHEREAS, on April 16, 2013 the City Council held a duly-noticed public hearing and gave due consideration to all testimony, comments and documents received regarding the Ordinance; and

WHEREAS, the City Council finds the following regarding the amendment of the Clayton Municipal Code to add Chapter 15.92 regarding Universal Design:

A. Conforms with the General Plan by satisfying the Clayton 2009-2014 Housing Element Implementation Measure IV.3.3 by requiring the offer of universal design features in specified housing units to make housing more accessible to those individuals with disabilities.

B. Is needed for the public necessity, convenience, and general welfare.

THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above Recitals are true and correct and hereby incorporated in this Ordinance as if restated in full.

SECTION 2. Chapter 15.92, entitled "Universal Design" is hereby added to the Clayton Municipal Code to read as follows:

Chapter 15.92

UNIVERSAL DESIGN

Section:

15.92.010 Purpose and Intent
15.92.020 Findings
15.92.030 Definitions
15.92.040 Scope and Application
15.92.050 Exemptions
15.92.060 Standards: Primary Entrance
15.92.070 Standards: Interior Routes
15.92.080 Standards: Primary Floor Powder Room/Bathroom Entry and Facilities
15.92.090 Standards: Kitchen and Facilities
15.92.100 Standards: Common Use Room
15.92.110 Standards: Bedroom
15.92.120 Standards: Miscellaneous Areas
15.92.130 Standards: General Components
15.92.140 Standards: New Construction or Substantial Rehabilitation—Permissive Options
15.92.150 Enforcement
15.92.160 Severability
15.92.170 Effective Date

15.92.010 Purpose and Intent

A. To facilitate the development of residential dwelling units that are visitable, usable, and safe for occupancy by persons with disabilities.

B. To allow buyers of new homes the option of incorporating universal design principles into their future homes in order to enhance their ability to remain in their homes during periods of temporary, developing, or permanent disabilities; and

C. To accommodate a wide range of individual preferences and functional abilities while not significantly impacting housing costs and affordability.

15.92.020 Findings

A. Pursuant to California Health and Safety Code Section 17959, the City Council finds that:

1. According to the Clayton Housing Element, approximately 12.8 percent of City residents (16 years or older) have one or more disabilities. In addition, approximately nine percent of all Clayton residents are over the age of 65. Individuals with mobility difficulties may require special accommodations to their homes to allow for continued independent living.

2. The provisions of this chapter are reasonably necessary to serve these populations as well as those anticipating a disability by enhancing opportunities for the full life-cycle use of housing without regard to the physical abilities or disabilities of a home's occupants or guests. This is done in order to accommodate a wide range of individual preferences and functional abilities.

3. The provisions of this chapter are substantially the same as the model universal design ordinance adopted by the State of California Department of Housing and Community Development and are not less restrictive than the requirements of the California Building Code as adopted by the City.

15.92.030 Definitions

For the purpose of this chapter, the following terms shall have the following definitions:

Accessible: Consistent with or as defined by the California Building Code, Chapter 11A.

ANSI A117.1: The most current version of the "Standard on Accessible and Usable Buildings and Facilities", commonly known as "ICC/ANSI A117.1", published by the International Code Council and American National Standards Institute, Inc.

Bathroom: A room containing a toilet (water closet), lavatory (sink), and either a shower, bathtub, combination bathtub/shower, or both a shower and bathtub. It includes a compartmented bathroom in which the fixtures are distributed among interconnected rooms.

CBC, Chapter 11A: Chapter 11A of the California Building Code (located in Part 2, Title 24, California Code of Regulations), or its successor provisions.

Common Use Room: A room commonly used by residents or guests to congregate.

New Construction: The construction of a new building. New construction does not include additions, alterations, or remodels to existing buildings.

Owner-Occupied: Any residential dwelling unit not intended to be occupied as a rental dwelling at the time of application for the building permit.

Powder Room: A room containing a toilet (water closet) and lavatory (sink), but no bathtub or shower. It includes a compartmented powder room in which the fixtures are distributed among interconnected rooms.

Primary Entry: The principal entrance through which most people enter a building or residential unit, as designated by the Building Official.

Rental: Any residential dwelling unit not intended to be occupied by the owner at the time of application for a building permit.

Residential Dwelling: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Visitable Residential Dwelling: A residential unit subject to the requirements of this chapter by virtue of being within the scope of this chapter as defined in Section 15.92.040.

15.92.040 Scope and Application

A. Unit Coverage. All residential dwelling units which are a part of a residential development project in excess of five units, and are intended to be, owner-occupied or rental for which an application for a new construction building permit is submitted to the Community Development Department 30 or more days after the effective date of this chapter shall be visitable residential dwellings.

B. Unit Types: New construction of all single-family, duplex, and triplex residential dwellings except for custom-built homes.

C. Conditions of Approval. Any tentative map, conditional use permit, site development review or building permit master plan check subject to this chapter shall contain conditions sufficient to ensure compliance with the provisions of this chapter.

15.92.050 Exemptions

A. When the applicant adequately demonstrates and the Community Development Director and Building Official determine that compliance with any portion of any regulation under this chapter would create an undue hardship, or that equivalent facilitation is not available, an exception to that portion of the regulation shall be granted.

B. When the applicant adequately demonstrates and the Community Development Director and Building Official determine that compliance with any portion of any regulation under this chapter would create an undue hardship due to topographical conditions of the site, the size of the site, other site constraints, or legal constraints, and that no equivalent facilitation is available, an exemption to that portion of the regulation shall be granted.

C. When the applicant adequately demonstrates and the Community Development Director and Building Official determine that a residential dwelling unit is being reconstructed as a result of a disaster, an exemption to all or any portion of this chapter shall be granted.

D. This ordinance shall not be applicable to any residential structure that has its primary entry located over below-ground or grade-level parking.

15.92.060 Standards: Primary Entrance

A. New Construction—Mandatory to Install: The following items for the accessible entrance on the primary entry level shall be installed: None

B. New Construction—Mandatory to Offer: The following options for the accessible entrance on the primary entry level shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with 15.92.140:
    1. An exterior accessible route that is either:
        a. Consistent with the requirements of CBC Chapter 11A; or
        b. Not less than forty inches (40") wide and not having a slope greater than one (1) unit vertical in twenty (20) units horizontal.
    2. The accessible primary entrance that is consistent with the requirements of CBC Chapter 11A.
    3. The floor or landing at and on the exterior and interior side of the accessible entrance door that is either of the following:
        a. Consistent with the requirements of CBC Chapter 11A; or
        b. The width of the level area on the side to which the accessible entrance door swings shall extend twenty-four inches (24") past the strike edge of the door.
    4. The exterior accessible entry door that is either:
        a. Consistent with the requirements of CBC Chapter 11A, or
        b. Have a thirty-four inch (34") net clear opening.
    5. A second exterior door that is installed in a manner so that it is accessible as provided in this Section 15.92.060 with a thirty-two inch (32") net clear opening.
    6. Where at least one eyehole is provided in the accessible entry door, one shall be at standard height and a second one that is between forty-two inches (42") and forty-four inches (44") from the finished floor.
    7. Where at least one doorbell is provided for the accessible entry door, one that is between forty-two inches (42") and forty-eight inches (48") from the finished floor must be offered.

15.92.070 Standards: Interior Routes

A. New Construction—Mandatory to Install: The following items for interior routes shall be installed: None.

B. B. New Construction—Mandatory to Offer: The following options for accessible interior routes on the primary entry level shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 15.92.140:
    1. At least one accessible route through the hallways consistent with the requirements of CBC Chapter 11A from the accessible entrance of the dwelling unit to the primary entry level powder room or bathroom, a common use room, and the kitchen if located on the primary entry level.
    2. No sunken or raised area in the bathroom or powder room, the common use room, and the kitchen, if on the primary entry level, on an accessible route.
    3. Handrails installed in a manner consistent with CBC Chapter 11A on one or both sides of the accessible route, at the option of the purchaser.
    4. Handrail reinforcement installed on one or both sides of the accessible route.

5. An accessible route with a minimum width of forty-two inches (42"). Alternatively, a thirty-nine inch (39") hallway width may be provided when all doors leading to any bathroom, powder room, common use room, or kitchen, if on the primary entry level, that must be accessible have a minimum clear door opening of thirty-four inches (34"), or a thirty-six inch (36") hallway width may be provided when all doors leading to any bathroom, powder room, common use room, or kitchen on the primary entry level that must be accessible have a minimum clear door opening of thirty-six inches (36").

15.92.080 Standards: Primary Floor Powder Room/Bathroom Entry and Facilities

A. New Construction—Mandatory to Install: The following items for the primary floor powder room/bathroom entry and facilities shall be installed: None

B. New Construction—Mandatory to Offer: The following options for the accessible bathroom or powder room on the route from the primary entrance shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 15.92.140:

1. At least one powder room or bathroom, at the option of the purchaser, on the primary entry level of a visitable residential dwelling which complies with the requirements of CBC Chapter 11A.
2. Clear space in the bathroom or powder room that is either:
    a. Consistent with the requirements of CBC Chapter 11A; or
    b. Outside of the swing of the door and either a forty-eight inch circle, forty-eight inches by sixty inches (48" x 60") or a sixty-inch (60") diameter circle, at the option of the purchaser.
3. A bathtub or shower meeting the requirements of ANSI A117.1
4. Either of the following:
    a. Grab bar reinforcement consistent with CBC Chapter 11A; or
    b. Grab bars installed in a manner consistent with CBC Chapter 11A for the toilet, shower/bath, or lavatory, or any combination thereof, at the option of the purchaser.
5. Faucets and handles not requiring tight grasping, pinching, or twisting of the wrist and consistent with the requirements of CBC Chapter 11A.
6. A lavatory or sink installed consistent with CBC Chapter 11A.
7. A toilet installed consistent with CBC Chapter 11A.
8. Removable cabinets under the lavatory/sink.
9. Where mirrors and towel fixtures are provided in the accessible bathroom or powder room, installation consistent with the requirements of CBC Chapter 11A.

15.92.090 Standards: Kitchen and Facilities

A. New Construction—Mandatory to Install: The following items for the kitchen and facilities shall be installed: None

B. New Construction—Mandatory to Offer: If there is a kitchen on the primary entry level, the following options shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 15.92.140:
    1. An accessible route to the kitchen, with a pathway through the kitchen to the stove, oven, or combination stove-oven consistent with the requirements of CBC Chapter 11A.
    2. One or more of the following, at the purchaser's option:
        a. At least a forty-eight inch by sixty-inch (48" x 60") clear space in front of a stove at the base of a U-shaped kitchen;
        b. At least a thirty-inch by forty-eight inch (30" x 48") clear space in front of the sink (counting open access underneath, if available);
        c. At least one eighteen-inch (18") wide breadboard and/or at least eighteen inches (18") in counter space at a thirty-four inch (34") height, or any combination thereof, at the option of the purchaser.
    3. Sink controls consistent with CBC Chapter 11A.
    4. Adjustable sink and/or removable under-sink cabinets consistent with Chapter 11A.
    5. Hood fan controls at light switch level or lower level.

15.92.100 Standards: Common Use Room

A. New Construction—Mandatory to Install: The following items for common use room shall be installed: None.

B. New Construction—Mandatory to Offer: The following options for the common use room on the primary entry level shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 15.92.140:
    1. At least one common use room, such as a dining room or living room, on the accessible route. Sunken or raised areas not exceeding fifty percent (50%) of the area of the room's floor space shall be permitted as an option of the purchaser in a common use room on the accessible route when an accessible route connects a usable portion of the common use room to the accessible bathroom or powder room and the accessible exterior entrance door.
    2. No sunken areas in a common use room on an accessible route.
    3. Standards related to access to and flatness of any other common area room on the primary entry level.

15.92.110 Standards: Bedroom

A. New Construction—Mandatory to Install: The following items for bedrooms shall be installed: None.

B. New Construction—Mandatory to Offer: If there is a bedroom on the primary entry level, the following options shall be offered and, if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 15.92.140:
    1. At least one bedroom on the accessible route of travel with all components meeting the requirements of Section 15.92.130. A closet shall have at least a thirty-two inch

(32") net opening and adjustable closet rods and shelving. A family room or den may satisfy this bedroom requirement if a sleeping structure (such as a bed, futon, hide-away, or Murphy bed) can be placed in the room and if the room complies with provisions for emergency escape and rescue and smoke alarms in the California Building Code.

15.92.120 Standards: Miscellaneous Areas

A. New Construction—Mandatory to Install: The following items for miscellaneous areas shall be installed: None.

B. New Construction—Mandatory to Offer: The following options shall be offered, and if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 15.92.140:

1. If on the primary entry level, miscellaneous areas or facilities (such as a patio or yard, laundry room, or storage area) for the dwelling must have an accessible route to and from the accessible entrance, either through the dwelling unit or around the dwelling unit.

15.92.130 Standards: General Components

A. New Construction—Mandatory to Install: The following general component items shall be installed: None

B. New Construction—Mandatory to Offer: The following options shall be offered, and if accepted, installed at the request and cost of the purchaser, if requested when installation is consistent with Section 15.92.140:

1. Rocker light switches and controls installed pursuant to either of the following:
    a. In all rooms required to be accessible and on the accessible route.
    b. Throughout the balance of the residential dwelling unit.
2. On an accessible route in an interior room or hallway, interior doors or openings for rooms and routes of travel required to be accessible consistent with CBC Chapter 11A.

    EXCEPTIONS: A thirty-four inch (34") clear doorway width may be requested from a hallway with a thirty-nine inch (39") width, and a thirty-six inch (36") clear doorway width may be requested from a hallway with a thirty-six inch (36") width.
3. The width of the level area on the side toward which an accessible door swings consistent with CBC Chapter 11A.
4. If the Community Development Director and Building Official determine that the accessible route and doorway width options prescribed by Chapter 11A are not feasible and that a less wide accessible route is necessary, a functional alternative to ensure that all entries into rooms required to be accessible may be approved by the Community Development Director and Building Official if it meets at least one of the following requirements and if the hallway is not less than thirty-six (36") inches in width:

a. The entry door to the room must be at the end of a hallway or passageway, or open directly from another room on an accessible route of travel, so that no turn of ninety degrees (90°) or more is necessary to enter the room.
b. The hallway wall opposite the room must be inset enough to allow an area of at least eight inches (8") wide with at least a sixty-inch (60") run centered on the center of the entry door opening [e.g., an 8" by 60" notch or alcove.]
c. The hallway wall on the same side as the room must be inset enough to allow an area of at least eight inches (8") wide with at least a sixty-inch (60") run centered on the center of the entry door opening [e.g., an 8" by 60" notch or alcove.]
d. The hallway wall directly opposite the room door must open to another room with at least a sixty-inch (60") opening on a level with the accessible passageway or hallway.

NOTE: Doors or openings to the rooms required to be accessible may be wider and the notch or alcove smaller if equivalent access is not impeded. In addition, for a doorway at the end of a hallway or in other circumstances, the notch or alcove need not be centered on the doorway if equivalent access is not impeded.

5. Hand-activated door hardware complying with CBC Chapter 11A.
6. Flooring throughout the residential dwelling unit consistent with CBC Chapter 11A.
7. The installation of all receptacle outlets, lighting controls and environmental controls throughout the balance of the residential dwelling unit must comply with CBC Chapter 11A or applicable provisions of the California Electrical Code.
8. Standards pertaining to residential structures from ANSI A117.1 may be used throughout this chapter when CBC Chapter 11A does not contain specific standards or when the ANSI Standards are equivalent to the Chapter 11A standards.
9. Conduit for the future wiring of assistive technologies in all exterior walls consistent with the National Electrical Code.
10. Outlets at the bottom and top of any stairs to facilitate the use of a chair lift.

15.92.140 Standards: New Construction or Substantial Rehabilitation—Permissive Options

A. The developer or builder of a visitable residential dwelling must offer an opportunity to select any of the features listed in this chapter to a prospective purchaser of a visitable residential dwelling prior to the sale of the dwelling.

B. The developer or builder of a visitable residential dwelling shall construct or install any requested features identified in this chapter unless it would result in an unreasonable delay in the construction or significant unreimbursable costs to the developer or builder, as verified and determined by the Community Development Director and the Building Official.

C. The developer or builder of a visitable residential dwelling, at his or her option, may offer or utilize standards for structural or design features, components or appliances and facilities, including but not limited ANSI Standards, which meet or exceed Chapter 11A and which offer greater availability, access or usability, and these are deemed to be in compliance with

this chapter, as determined by the Community Development Director and the Building Official.

D. The City may develop a means of providing public certification as to any residential dwelling unit's compliance with this chapter. No such certification shall be affixed to the residential dwelling unit or the property on which it is located without the authorization of the owner or renter.

15.92.150 Enforcement.

A. It is unlawful for any person or entity to fail to comply with the requirements of this chapter.

B. The City may prescribe administrative, civil, or criminal penalties or consequences, or any combination thereof, for violations of this chapter, which are consistent with those applicable for what it deems comparable municipal provisions. These may include, but are not limited to, enforcement provisions of the State Housing Law of the California Health and Safety Code, Sections 17910 et seq.; injunctive relief or civil penalties; and requiring compliance prior to issuance of a final inspection report or certificate of occupancy.

C. Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil, criminal, or administrative. The remedies provided herein shall be cumulative and not exclusive.

D. Whenever the Building Official or designee re-inspects or otherwise takes any enforcement action against a residential dwelling unit which is governed by this chapter to determine compliance with this chapter, the Building Official may assess fees against the owner to recover the costs to the City and/or County Building Inspection Department according to an established fee schedule. The assessment and collection of these fees shall not preclude the imposition of any administrative or judicial penalty or fine for violations of this chapter or applicable state laws or regulations.

15.92.160 Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Clayton hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

15.92.170 Effective Date.

This ordinance shall take effect and will be enforced thirty (30) days after its adoption, provided that a copy of the ordinance has first been filed with the State of California Department of Housing and Community Development in accordance with Health and Safety Code Section 17959(b)(2).

Within fifteen (15) days after the passage of the ordinance, the City Clerk shall cause a copy of the ordinance, including the names of the City Council members voting for and against 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.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on the 16th day of April 2013.

PASSED, ADOPTED AND ORDERED posted at a regular meeting of the City Council of the City of Clayton on the 7th day of May 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

The City Council of Clayton, California

_____
Julie K. Pierce, Mayor

ATTEST:

_____
Laci Jackson, City Clerk

APPROVED AS TO FORM:

_____
Malathy Subramanian, City Attorney

APPROVED AS TO ADMINISTRATION:

_____
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 the 16th day of April 2013 and was duly adopted and ordered posted at a regular meeting of the City Council held on the 7th day of May, 2013.

_____
Laci Jackson, City Clerk

Attachment 2

CITY OF CLAYTON

Agenda Date: 4-16-13

Agenda Item: 9a

Approved:

Gary A. Napper
City Manager/Executive Director

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: KENNETH CRAIG, INTERIM COMMUNITY DEVELOPMENT DIRECTOR

DATE: APRIL 16, 2013

SUBJECT: CONSIDERATION OF AN ORDINANCE ADDING CHAPTER 15.92 TO THE CLAYTON MUNICIPAL CODE (CMC) REGARDING UNIVERSAL DESIGN TO FACILITATE RESIDENTIAL DEVELOPMENT FOR INDIVIDUALS WITH DISABILITIES IN PROJECTS OVER FIVE UNITS

RECOMMENDATION

Staff recommends the City Council receive public comment; have the City Clerk read the ordinance (**See Attachment 2**) by title and number only and waive further reading; following the City Clerks reading, approve the introduction and first reading of the Ordinance. Staff also recommends the City Council accept and approve the brochure (**See Attachment 3**).

BACKGROUND

On April 20, 2010, the City Council approved the Clayton 2009-2014 General Plan Housing Element. As a part of its certification of the Element, the State Department of Housing and Community Development (HCD) approved over 30 categories of implementation measures that Clayton must undertake. One of the Implementation Measures IV.3.3, states that the:

> "The City will evaluate the feasibility of a universal design ordinance that provides greater adaptability and accessibility for housing for persons with disabilities. If a universal design ordinance is determined feasible, the City will prepare an Ordinance and produce a brochure on universal design, resources for design, and compliance with City requirements. The City will distribute the brochure to developers and to community organizations serving individuals with disabilities."

Staff hired Raney Planning and Management consultants and worked with the City Attorney's office to explore the feasibility of preparing both a universal design ordinance (UDO) and a universal design brochure. A Draft UDO and brochure was developed and is based on the City of Dublin's Ordinance (**See Attachment 4**) which has been in effect since November 2007. No other local cities to date have considered a UDO so no others were evaluated. The City of Dublin and the Draft Clayton UDO have been designed utilizing the

basic framework of the model universal design ordinance adopted by the State Department of Housing and Community (**See Attachment 5**).

Staff consulted with the architect Dan Hale, whose firm designed the Toll Brothers' Diablo Estate project as well as obtained input from Braddock and Logan and DR Horton who are currently building projects in the Dublin. Chief Building Official for the City of Dublin, Gregory Shreeve, was also consulted and provided valuable input in explaining Dublin's experience developing their UDO as well as their five years of on going implementation.

The Planning Commission held four public hearings and considered the comments from the various consulted parties along with additional information in its deliberation and development of the recommended Draft UDO and Brochure. From those meetings, staff received and incorporated various comments from the Planning Commission into the current UDO being presented to the City Council for consideration.

DISCUSSION

The purpose of the UDO is to facilitate greater adaptability and accessibility of housing for persons with disabilities. These disabilities include those related to aging and cycle-of-life issues affecting one's mobility and dexterity. The general concept is that with appropriate adaptions/modifications to housing at time of construction (when it is most cost effective to install), a person can stay in the home longer, more safely and conveniently, and with greater comfort.

One of the primary features of the proposed Clayton UDO is that it does not prescribe mandatory installations by developers at all but, rather, only mandatory requirements for a developer to offer various installation features. The developer would need to provide the options to all potential buyers and, if requested by the buyer, install them, but the buyer would have to pay for any added installation cost above the cost to provide what is offered in the developer base unit design.

The fundamental concepts incorporated into the Draft Clayton UDO are summarized as follows:

1. Applicable to owner-occupied or rental residential single-family, duplex, and triplex (but not custom homes and projects with primary entrances located over below-ground or grade-level parking) projects in excess of five units or more;
2. Undue hardship exemption provision eliminates the requirements offer;
3. No mandatory installation of any kind is required of the developer;
4. Mandatory offer only with all cost born by the buyer for any added features;
5. Mandatory offerings focus on accessibility of primary entrance, interior routes, primary floor powder room/bathroom entry and facilities, kitchen and facilities, common use room, bedroom, and miscellaneous areas;
6. Mandatory offerings of General Components including such items as rocker light switches, hand-activated door hardware, receptacle outlets, lighting controls and environmental controls, outlets at the bottom and top of stairs to facilitate the use of a

chair lift, accessible doorbells, hand-activated sink controls, and reinforcement for grab bars in the bathroom.

The primary differences between the Dublin UDO and the proposed Clayton UDO are:

A. The threshold for applicability for Dublin is a project in excess of 20 units versus Clayton at five units;
B. A lower level doorbell is a mandatory installation for Dublin and not for Clayton;
C. Grab bar reinforcements and disabled-friendly installation features are mandatory installation for Dublin and not for Clayton;
D. Sink controls are mandatory installations for Dublin and not for Clayton;
E. Hand-activated door hardware, rocker light switches, and specialized receptacle outlets are mandatory installation features for Dublin and not for Clayton.

Based on the experiences of the City of Dublin and the developers in Dublin, the staff and Planning Commission concluded that such an Ordinance is feasible for the City of Clayton and would not hinder residential development or impact housing cost and affordability.

The Planning Commission did, however, have significant discussions on whether the Draft UDO should include several mandatory to install elements that it felt would be cost effective and easy to install upfront and that would be most beneficial to the targeted user group (those with disabilities). These items included features such as lowered doorbells, provision of sink faucet controls, hand-activated door hardware, rocker light switches, more accessible receptacle outlets, and reinforcement for bathroom grab bars. It also considered a purchaser opt-out provision for all these features for any homebuyer who did not want these items installed in their home.

The discussion over whether to include these features included the appropriateness of requiring features that may not be desirable for the average homeowner in every home. They also discussed the problem associated with a developer having to prepare additional architectural plans in order to provide universal design options such as greater hallway kitchen, bathroom, and doorway clearances in the various models. And finally, they discussed the value in providing such features up front in order to make it cost effective for people with limitations as well as the possibility that emerging technologies could make many of the electrical-related improvements unnecessary since they can increasingly be controlled by applications on phones, computers, and tablets when accompanied by installation of more expensive switches, hardware and receptacles (**See Attachments 6a-d**). Upon further reflection of these issues and others at the meeting of March 26, 2013, the Planning Commission opted to recommend no Mandatory to Install provisions.

FISCAL IMPACT

Negligible. The Community Development Department is responsible for copying and distributing the Universal Design Brochure to developers and community organizations serving individuals with disabilities. Some staff time as well as printing cost will be associated with this responsibility and obligation.

CONCLUSION

After reviewing the Dublin UDO and their implementation experience, considering the cost and installation issues associated with implementation, looking at the potential impacts on the non-targeted homebuyer as well as evaluating the intent of providing disability friendly improvements, the Planning Commission is recommending the City Council approve the Clayton UDO with no mandatory options for installation and approve the accompanying brochure.

Attachments:

1. Planning Commission Resolution No. 01-13
2. City of Clayton Universal Design Ordinance No 445
3. Universal Design Brochure
4. City of Dublin Universal Design Ordinance
5. State Department of Housing and Community Development Model Ordinance
6. Planning Commission Staff Report (partial) and minutes from the meetings of:
    a. November 13, 2012
    b. December 11, 2012
    c. January 08, 2013
    d. March 26, 2013