



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, January 8, 2008
Clayton Community Library Meeting Room
6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items
- 1B. Chair Haydon to report at the January 15, 2008 City Council meeting

Public Comment

Approval of Minutes

- 2A. Approval of minutes from the regular meeting of November 27, 2007
- 2B. Approval of minutes from the regular meeting of December 11, 2007

Public Hearings

- 3A. **UP 08-07, Use Permit, Lisa Benedict**, 5439-E Clayton Road, APN 118-031-052. A use permit to allow the operation of a proposed massage therapy business in conjunction with a proposed beauty salon/day spa in the Clayton Station Shopping Center.
Proposed Action: Approval, with conditions.
- 3B. **MAP 01-03, Tentative Subdivision Map Extension, Lemke Construction Incorporated**, Northeast corner of Regency Drive and Rialto Drive, APN 122-060-011. A request for a one-year time extension of a previously-approved tentative subdivision map for the 25-lot single-family Diablo Pointe Residential Subdivision.
Proposed Action: Approval.
- 3C. **GPA 01-07, Town Center General Plan Update, City of Clayton**. An amendment of the *General Plan* Land Use Element, Circulation Element, and Community Design Element to make additions, revisions, and deletions of various goals, policies, objectives, standards, permitted uses, guidelines, text, and figures regarding development in the Town Center as well as other miscellaneous minor revisions and updates. *Continued from the meeting of December 11, 2007.*
Proposed Actions: Review the Land Use Element and Community Design Element of the *General Plan* and make any appropriate modifications; approve Resolution No. 01-08, which recommends City Council approval of amendments of the Land Use Element and Community Design Element; and continue the public hearing to the meeting of January 22, 2008.

- 3D. **SPA 01-07, Town Center Specific Plan Update, City of Clayton.** An amendment of the *Town Center Specific Plan* including, but not limited to, Chapters 1 (Introduction), 3 (Municipal Services), 4 (Urban Design), 5 (Circulation), and 6 (Financial Implementation) to make additions, revisions, and deletions of various goals, policies, objectives, standards, permitted uses, guidelines, text, and figures. *Continued from the meeting of December 11, 2007.*
Proposed Action: No Action. Continue the public hearing to the meeting of January 22, 2008.
- 3E. **ZOA 01-07, Town Center Zoning Update, City of Clayton.** An amendment of the *Zoning Ordinance* including, but not limited to, revisions of the permitted uses in the Limited Commercial District (Chapter 17.24), Planned Development District (Chapter 17.28), and Professional Administrative Office District (Chapter 17.32); revisions of various requirements, standards, and findings for Use Permits (Chapter 17.60); establishment of various definitions (Chapter 17.04); as well as minor revisions of other sections regarding permitted uses and review procedures for uses in the Town Center.
Proposed Actions: Review the proposed zoning ordinance amendments and make any appropriate modifications; and approve Resolution No. 02-08, which recommends City Council approval of the amendments of the *Zoning Ordinance*.

Old Business

4. None

New Business

5. None

Communications

- 6A. Staff
6B. Commission

Adjournment

7. The next regular meeting of the Planning Commission is scheduled for **Tuesday, January 22, 2008.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340.

An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Minutes
City of Clayton Planning Commission Meeting
Tuesday, November 27, 2007

Call to Order

Chair Haydon called the meeting to order at 7:05 p.m. at the Library Meeting Room, Clayton Community Library, 6125 Clayton Road, Clayton.

Present: Chair Keith Haydon, Vice Chair Tuija Catalano, Commissioner Ed Hartley, Commissioner Joe Odrzywolski, Commissioner Bob Armstrong

Absent: None

Staff: Community Development Director Jeremy Graves
City Attorney Daniel Adams

Administrative

1A. Review of agenda items.

1B. Commissioner Armstrong to report at the December 4, 2007 City Council meeting.

Public Comment

None.

Approval of Minutes

2A. Approval of minutes from the meeting of October 23, 2007.

Chair Haydon moved and Commissioner Odrzywolski seconded a motion to approve the minutes from the meeting of October 23, 2007, with corrections. The motion passed 5-0.

2B. Approval of minutes from the meeting of November 13, 2007.

Commissioner Odrzywolski moved and Vice Chair Tuija Catalano seconded a motion to approve the minutes from the meeting of November 13, 2007, with corrections. The motion passed 5-0.

Public Hearings

3A. **UP 07-07, Use Permit, Clayton Community Church, 6055 Main Street, APN 119-011-003.** A use permit to allow the Clayton Community Church to hold a Christmas Eve Family Event open to the public. The event will occur on Monday, December 24, 2007 from approximately 2:00 p.m. to 5:00 p.m. and will involve the Clayton Community Church office building and property. The event will also involve hay rides in the Town Center.

The public hearing was opened. Director Graves presented the staff report. Applicant Patty Robinson was available for questions and concurred with the proposed conditions. The Commission had no comments.

Commissioner Hartley moved and Vice Chair Catalano seconded a motion to approve use permit UP 07-07, with the findings and conditions of approval recommended by staff. The motion passed 5-0.

- 3B. **GPA 01-07, Town Center General Plan Update, City of Clayton.** An amendment of the *General Plan* to make additions, revisions, and deletions of various goals, policies, objectives, standards, permitted uses, guidelines, text, and figures regarding development in the Town Center. *Continued from the meeting of November 13, 2007.*
- 3C. **SPA 01-07, Town Center Specific Plan Update, City of Clayton.** An amendment of the *Town Center Specific Plan* to make additions, revisions, and deletions of the various goals, policies, standards, permitted uses, guidelines, text, and figures. *Continued from the meeting of November 13, 2007.*
- 3D. **ZOA 01-07, Town Center Zoning Update, City of Clayton.** An amendment of the *Zoning Ordinance* including revisions of the permitted uses in the Limited Commercial District (Chapter 17.24), Planned Development District (Chapter 17.28), and Professional Administrative Office District (Chapter 17.32); revisions of various requirements, standards, and findings for Use Permits (Chapter 17.60); establishment of various definitions (Chapter 17.04); as well as minor revisions of other sections regarding permitted uses and review procedures for uses in the Town Center to maintain consistency with the companion updates of the *General Plan* (GPA 01-07) and *Town Center Specific Plan* (SPA 01-07). *Continued from the meeting of November 13, 2007.*

The continued public hearings were re-opened. Director Graves presented the staff report and distributed two items to the Commission and audience—proposed revisions of Chapter 2 (Land Use) and an email submitted by Pete Laurence. Director Graves explained that the proposed revisions he distributed pertain to the Town Center Commercial requirement for use permits for ground-floor offices on Main Street as discussed in the November 13th staff report. Staff recommends that the Town Center Commercial requirement for use permits be applied to all areas in the Town Center, not just Main Street, and that it be expanded to include commercial service, personal service, and studio uses on the ground floor. This action would be consistent with the following recent actions which prioritize the development of retail uses on the ground floor:

- The City Council's approval of *General Plan* amendments for increase the lot coverage on small parcels primarily used for retail on the ground floor;
- The parking waiver criteria available to retail and restaurant uses on the ground floor; and
- The recent development of ground floor retail uses by Longs Drugs and the Flora Square project.

Office, commercial service, personal service, and studio uses which want to locate on the ground floor in the Town Center Commercial designation would need to obtain a use permit from the Planning Commission. The Commission would need to determine, on a case-by-case basis, whether the proposed business, by its use, location, and size would interfere with the pedestrian and retail orientation of the Town Center.

Commissioner Odrzywolski asked if day care should be added to the use permits. The public testimony period was opened.

Mariana Behdjet, 32 Petar Court, indicated that it was upsetting to have 25% of the Town Center taken up by one use.

Joanne Caspar, 945 Oak Street, indicated that the best way for the City to have more revenue is to have more retail in the Town Center.

Roger Moseley, 8011 Kelok Way, indicated that he was in favor of the proposed changes to the *Town Center Specific Plan*.

Tami Anderson, 12 Goethals Court, indicated the following:

- A church at the Pioneer Inn does not work for Clayton.
- Churches could go in other locations throughout town.

Ron Roberts, 5186 Heritage Drive, Concord, submitted a letter and indicated the following:

- He is a member of the Clayton Community Church.
- He has contributed to the Clayton Community Church capital fund.
- If the proposed Chapter 2 wording changes are adopted, it will impact the Clayton Community Church's plans.
- Clayton Community Church did not learn of property availability until mid-2007.
- Have any City Council members, Planning Commissioners, or staff members participated in distribution of flyers regarding the Clayton Community Church's plans? *Chair Haydon responded that none of the Planning Commissioners have been involved in canvassing in neighborhoods. The Planning Commission has been considering Chapter 2 for some time. In addition, the Commission is looking at the Land Use chapter since so many things in the Town Center have changed in the past 15 years since the Plan was adopted and much of the remainder of the Plan is driven by the Land Use chapter. The Commission wants to move the Land Use chapter forward to the City Council to make sure the City Council agrees with the direction the Commission is taking.*

Lynn Hadley, 527 Hamburg Circle, indicated the following:

- Supports the changes to Chapter 2.
- Looking forward to more development like Flora Square.
- The time is right for more commercial development in the Town Center.

Matt Foley, 21 Mount Tamalpais Court, indicated that the *Town Center Specific Plan* was prepared in 1990 and development since then has satisfied some of Clayton's needs, such as meeting halls.

Lori Talbot-Briegleb, 3023 Windmill Canyon Drive, indicated the following:

- The Clayton Community Church could be an anchor to pay for the retail within the Town Center, just like shopping centers have an anchor.
- The Church would not utilize a "big box" design.
- Clayton is not a destination location.

Gary Carr, 714 Bloching Circle, indicated the following:

- Support changes to the *Town Center Specific Plan*.
- Happy to see new development.
- The subject parcel should be used totally for commercial.

Eric Murelatos, 15 Donner Creek Court, indicated the following:

- Agrees with proposed changes to eliminate entities which do not contribute revenue.
- Bringing in businesses which contribute revenue is a good policy.
- Retail is better than more property tax increases.
- The Clayton Community Church is a wonderful organization and he has been a member for 10 years.
- Where is the parking lot to accommodate 700 people that attend a church; especially since people would arrive and leave at one time and create traffic impacts.

Terry Lundsford, 226 Roundhill Place, indicated the following:

- Do not make changes to the *Town Center Specific Plan*.
- Theaters, plant nurseries, or farmers' markets would not be allowed.
- City receives most of its retail sales tax from Clayton Station.

Pete Laurence, 1120 Oakwood Circle, indicated the following:

- This is a land use issue since the Clayton Community Church is trying to force its way into the Town Center.
- The thrusts of the Mundie and Keyser-Marston market studies were to get more retail uses in the Town Center.
- Supports deletion of theaters as a land use allowed by a use permit.
- City purchased Endeavor Hall and now the community has a surplus of meeting halls; what we need are businesses.
- Supports the Clayton Community Church obtaining 10 acres outside of town.

Brad Brieglet, Attorney, 3023 Windmill Canyon Drive, indicated the following:

- The Planning Commission needs to keep in mind the appearance of targeting the Community Church's actions in development of their property since federal law says you cannot do that.
- In the drive to prohibit the church in the downtown are these amendments going to have dramatic impacts on other rights in the downtown?
- The currently-proposed changes to eliminate assembly uses did not exist until after public notice that the church had bought the property. Unfortunately it appears that the amendments were targeted on the church.
- The basis for removal of assembly uses or fraternal organization meetings is non-existent. The commentary is that somehow these uses do not produce retail. There no evidence to support that. Todos Santos Plaza [in Concord] has a restaurant in between two churches. That restaurant loves those churches since there are church conferences on Saturdays and those people spend lots of money in [Concord's] downtown.
- I spoke at the Planning Commission meeting 2 weeks ago and the staff report addresses some of the questions I raised.
- This section [of the Specific Plan] is the only section which impacts the church. Whether it is true or not, it appears this action is targeting the church.
- The staff report addresses the question whether religious uses can still be take place at Endeavor Hall. It says no such thing. It prohibits any fraternal organization or any assembly of any kind in the downtown. For example, it would preclude the CBCA from holding a dance in Endeavor Hall. *Chair Haydon indicated that is not true since the changes still allow public assemblies. The changes address future development.*

- I suggest the Commission delay this until the attorneys can look at these changes. There is no harm in waiting 120 days. The church is not breaking ground tomorrow; it needs to go through the process.

Ash Hakimi, 336 Mount Washington Way, indicated the following:

- Supports the changes to the *Specific Plan*.
- The changes and development going in the Town Center are making people excited about the Town Center.

Bill Jordan, 6690 Marsh Creek Road, indicated the following:

- Supports update of the *Specific Plan*.
- The Crossroads Church on Ygnacio Valley Road would not be appropriate in the Town Center.

Shawn Robinson, 1454 Carolina Drive, Concord indicated the following:

- I am the pastor of the Clayton Community Church and am saddened since people are getting entrenched.
- I am opposed to changes since the changes do not give enough credence to shop owners. I have worked in the Town Center for 11 years and seen many business owners struggle.
- One option we have not examined is trying to work together.
- Escrow closed today and we are the owners of the property behind our offices. We should be treated like as other property owner.

France Cleland, 501 Raven Place, indicated the following:

- I have been a resident of Clayton for 12 years.
- Having a community-based church in the Town Center is important.

Ron Munk, 5135 Laurel Drive, Concord, indicated the following:

- The Town Center needs more retail.
- I worked in commercial development for many years and have never worked with a developer that bought property without first getting plan approval or feedback from the City.

Patty Markiewith, 59 El Portal Drive, indicated that a church would be very limiting in our small town.

Nicci Shipstead, 8053 Kelok Way, indicated the following:

- I have met at the Clayton Community Church for the moms and preschool group.
- Meeting halls should be retained as an allowed land use.

Chair Haydon indicated that what we have reviewed related to the Town Center is the culmination of a long term project that the Planning Commission has been working on for many years.

Brian Smith, 69 El Molino Drive, indicated the following:

- The Village Market is about to open and that is good.
- Commercial projects are what we need in the Town Center to reduce the need for additional taxes.

Matt Mazzei, 8120 Marsh Creek Road, indicated the following:

- We cannot afford to have a church since we need a tax base to pay for infrastructure.
- I support retail in Clayton.

Lois Wullenweber, 963 Kenston Drive, indicated the following:

- I want more shops in the Town Center, including more restaurants.
- Clayton Community Church could build first floor retail below a sanctuary.

Brenda Ameri, indicated the following:

- I am business owner in Concord and have considered bringing my pilates business to the Clayton Community Church.
- The Church could offer land for parking by others.

Angela Hakimi, 332 Mount Washington Way, indicated that more retail should be encouraged.

With no more speakers, the public testimony period was closed.

The meeting was recessed at 8:50 p.m and reconvened at 9:00 p.m.

Commissioner Hartley indicated the following:

- It is unfortunate that the possible development of a vacant piece of property has become the surrogate for considering the future of downtown, because that is not what the Commission has been doing. The 1990 *Specific Plan Town Center* was a completely un-wieldy and virtually unreadable document. So the Commission saw the need to amend it, but before that could be done, the Commission needed to do some things in preparation. Those steps included addressing parking because that is going to be a driving factor in downtown development. Early on in the Commission's consideration of the *Specific Plan*, the Commission decided that instead of re-writing an almost 100 page document and then giving it to the City Council, the Commission thought we would pick the key parts and get some guidance and direction. Based upon that direction we would apply it to the other sections. That is sole reason why Chapter 2 (Land Use) has come up first.
- It is unfortunate that, what was then the proposed purchase by the Church and now the possible future development of a church project no one has seen yet, has now become the focus of these hearings. These amendments of the *Specific Plan* are not about a church; instead they are about re-adjusting the City's vision after 15 years of development, or lack thereof.
- As stated in Goal I, the *Specific Plan* is devoted to a mixture of commercial, civic, recreational, and residential uses. If the City Council wants a different vision, they will tell the Commission and we will apply it.
- The comments tonight have acted as though there is only one parcel in downtown. That is not true, there are plenty of other parcels in downtown which are vacant or a minimally-developed. The purpose of the *Specific Plan* is to lay out a vision. The Commission will pass it up to the City Council and see if they agree with it and want to change it, and then the Commission fill in the blanks. That is what our job is. We recognize that the *Specific Plan* may be amended in the future to accommodate projects we may not have thought of. So this is the context that the Commission has been using in looking at this plan, and it is a context that the Commission has been using for more than a year.

- The new Policies 1.3 and 1.4 listed on the yellow sheet distributed by staff are taken care of by other goals and policies.
- The yellow sheet distributed by staff includes an asterisk after several land uses, which indicates these land uses are limited to an upper floor unless a use permit is granted by the City. The yellow sheet also includes the review criteria for land uses which require a use permit. This review criteria allows sufficient flexibility and guidance for the Commission to determine if the use is appropriate.

Vice Chair Catalano indicated the following:

- How do the proposed amendments apply to assembly uses in the Town Center and how do they apply in the balance of the City? *Director Graves responded that the proposed amendments to delete meeting halls and fraternal organizations only apply to the parcels designated as Town Center Commercial designation within the Specific Plan area. Parcels which are designated Public Facility (such as The Grove Park, Endeavor Hall, Community Library, and City Hall) are not affected by the proposed amendment. The use permit provisions in the Zoning Ordinance allow different assembly uses such as religious assemblies or fraternal organizations to locate on commercial properties in other areas of town and on residentially-designated parcels. For example a church could apply for a use permit to locate on Easley Ranch property, on the Hurd Ranch property on Oakhurst Drive, or any of the residentially-designated parcels on South Mitchell Canyon Road.*
- It seems that Flora Square is the only project which has a building permit and hence a vested rights argument for being grand-fathered from what we are doing today. However with the lot coverage and parking waiver the Flora Square project is already tied into these restrictions. Other than the Flora Square project, has any project sponsor submitted an application to the City or is there any proposed project which is on file which would be depending on a use which we would be eliminating or changing? *Director Graves responded "There are none."*
- I'm content with the way Chapter 2 is drafted right now. It captures our vision and our needs quite well.

Commissioner Odrzywolski indicated the following:

- Our job as Planning Commissioners is to be unbiased.
- This document is not an iron gate and a developer can apply for an amendment.
- I can recall four projects in the past three years that have requested amendments for their projects which were approved.
- These changes capture the vision for the Town Center and I support it.
- Policy 1.2 and 1.4 are not necessary.
- Day care centers should be allowed with a use permit.

Commissioner Armstrong indicated that this should be moved along.

Chair Haydon indicated the following:

- The current wording in Chapter 2 has been improved by public comment.
- This chapter provides direction to developers before they spend their money on plans.
- Policy 1.3 and 1.4 are good additions.
- I support changes on preferred uses and changes to use permits.
- I support day care centers with a use permit.

The public testimony period was re-opened.

Pete Laurence, 1120 Oakwood Circle, indicated the following:

- Current wording in the *Specific Plan* refers to Main Street being a shopping street. This wording should be kept in the *Specific Plan*.

Larry Easterly, 1127 Peacock Creek Drive, indicates that Policy 1.4 discriminates against the Clayton Community Church since there is only one vacant parcel in the Town Center fronting Clayton Road.

The public testimony period was closed.

By consensus, the Commission decided to accept the wording proposed by staff on the yellow sheet with the following modifications:

- Policy I.3 should read: "Encourage future development to provide a continuous row of Permitted Uses with as few breaks as possible in the shopping frontage."
- Policy I.4 should read: "Encourage development of well-designed multi-story commercial buildings in order to enhance the prominence of the Town Center to motorists on Clayton Road."
- Day care centers should be added a use allowed, subject to a use permit.

Chair Haydon moved and Commissioner Hartley seconded a motion to approve Resolution 05-07, which recommends City Council approval of amendments of Chapter 2 (Land Use) of the Town Center Specific Plan as shown on the yellow sheet, including the modifications of the noted above. The motion passed 5-0.

Commissioner Odrzywolski moved and Chair Haydon seconded a motion to continue the public hearings for the Town Center Specific Plan Update SPA 01-07 and the Town Center Zoning Update ZOA 01-07 to the next regular meeting on December 11, 2007. The motion passed 5-0.

Old Business

4. None

New Business

5. Cancellation of December 25, 2007 Planning Commission meeting.

Commissioner Odrzywolski moved and Chair Haydon seconded a motion to cancel the December 25, 2007 Planning Commission meeting. The motion passed 5-0.

Communications

- 6A. Staff – None.
- 6B. Commission – None.

Adjournment

7. The meeting was adjourned at 10:10 p.m.

Submitted by
Jeremy Graves, AICP
Community Development Director

Approved by
Keith Haydon
Chair

Plng Comm 2007 Minutes 1127

Minutes
City of Clayton Planning Commission Meeting
Tuesday, December 11, 2007

Call to Order

Chair Haydon called the meeting to order at 7:06 p.m. at the Library Meeting Room, Clayton Community Library, 6125 Clayton Road, Clayton.

Present: Chair Keith Haydon, Commissioner Bob Armstrong, Commissioner Joe Odrzywolski

Absent: Vice Chair Catalano, Commissioner Ed Hartley,

Staff: Community Development Director Jeremy Graves

Administrative

1A. Review of agenda items.

1B. Commissioner Odrzywolski to report at the December 18, 2007 City Council meeting.

Public Comment

None.

Approval of Minutes

2. None.

Public Hearings

3A. **GPA 01-07, Town Center General Plan Update, City of Clayton.** An amendment of the *General Plan* to make additions, revisions, and deletions of various goals, policies, objectives, standards, permitted uses, guidelines, text, and figures regarding development in the Town Center. *Continued from the meeting of November 27, 2007.*

The continued public hearing was re-opened. Director Graves recommended the public hearing be continued to the next Commission meeting on January 8, 2008.

Chair Haydon moved and Commissioner Odrzywolski seconded a motion to continue the public hearing for the Town Center General Plan Update GPA 01-07 to the next regular meeting on January 8, 2008. The motion passed 3-0.

3B. **SPA 01-07, Town Center Specific Plan Update, City of Clayton.** An amendment of the *Town Center Specific Plan* to make additions, revisions, and deletions of the various goals, policies, standards, permitted uses, guidelines, text, and figures. *Continued from the meeting of November 27, 2007.*

3C. **ZOA 01-07, Town Center Zoning Update, City of Clayton.** An amendment of the *Zoning Ordinance* including revisions of the permitted uses in the Limited Commercial District (Chapter 17.24), Planned Development District (Chapter 17.28), and Professional Administrative Office District (Chapter 17.32); revisions of various requirements, standards, and findings for Use Permits (Chapter 17.60); establishment of various definitions (Chapter 17.04); as well as minor revisions of other sections regarding permitted uses and review procedures for uses in the Town Center to maintain consistency with the companion updates of the *General Plan* (GPA 01-07) and *Town Center Specific Plan* (SPA 01-07). *Continued from the meeting of November 27, 2007.*

The continued public hearings were re-opened. Director Graves presented the staff report.

The Commission reviewed draft wording for Chapter 1 (Introduction) and Chapter 4 (Urban Design) and provided direction on revised wording.

Commissioner Armstrong indicated that a paseo network, as suggested in Chapter 5 (Circulation), would only work on blocks that have undeveloped land. It would not be fair if one parcel has to accommodate a paseo and the adjoining parcel does not.

Commissioner Odrzywolski moved and Commissioner Armstrong seconded a motion to continue the public hearings for the Town Center Specific Plan Update SPA 01-07 and Town Center Zoning Update ZOA 01-07 to the next regular meeting on January 8, 2008. The motion passed 3-0.

Old Business

4. None

New Business

5. None.

Communications

6A. Staff – None.

6B. Commission – None.

Adjournment

7. The meeting was adjourned at 8:50 p.m.

Submitted by
Jeremy Graves, AICP
Community Development Director

Approved by
Keith Haydon
Chair

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PLANNING COMMISSION STAFF REPORT

Meeting Date: January 8, 2008

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Lisa Ferrari-Benedict
Use Permit (UP 08-07)

REQUEST

Approval of a use permit to allow the operation of a massage therapy business.

PROJECT INFORMATION

Applicant / Location: Lisa Ferrari-Benedict
5439-E Clayton Road
APN 118-031-052 (See **Exhibit A** for Location Map)

Property Owner: Clayton Station Shopping Center, LLC
c/o Anderson and Associates
P.O. Box 1695
Folsom, CA 95763

General Plan Designation: Kirker Corridor Commercial. This proposal complies with the *General Plan* designation.

Zoning: PD - Planned Development.

Environmental Review: Categorically exempt per Sections 15301(a) and 15332 of the State CEQA Guidelines.

Public Notice: On December 28, 2007, a public hearing notice was mailed to property owners within 300 feet of the site. To date, no comments have been received by staff.

Agency Referrals: The Police Department had no comments. Since the project does not involve authorization of new construction but, instead, entails only a use permit for a new business to share an existing commercial space with an existing business, referrals to the Engineering Department, Fire Protection District, and other agencies were not necessary.

Authority: Section 17.60.030.C.7 of the *Zoning Ordinance* authorizes the Planning Commission to approve a use permit for an establishment providing massages in accordance with the standards in Section 17.60.040.

BACKGROUND AND ANALYSIS

The applicant has requested a use permit to provide massage therapy services. The proposed massage business would share the same commercial space as Bella Mia Spa, a beauty salon/day spa in Clayton Station shopping center. Massage therapy would be provided in two rooms within the Bella Mia Spa tenant space. **Exhibit B** is a floor plan of Bella Mia Spa showing the location of the massage rooms. A total of eight massage therapists are proposed to work at the site. **Exhibit C** is a certificate from the American Institute of Massage and Therapy which identifies the on-site therapist as Lisa Ferrari.

According to the use permit regulations in Section 17.60.030.C.7 of the *Zoning Ordinance*, massage services, when not part of a recognized medical office or clinic, are a commercial-related use that are allowed with a use permit. The applicant has indicated to staff that the proposed massage business is therapeutic in nature and will provide a variety of professional massage services. The times of operation are proposed to be from 9 a.m. to 7 p.m. Staff has provided the following conditions related to massage therapy services at the site:

- Two massage therapists shall be allowed to work at one time in separate rooms (with one client in each room) with no more than eight massage therapists (including the applicant) allowed to provide massage therapy services at the site.
- The hours of operation for the massage therapy business shall be from 9:00 a.m. to 7:00 p.m.
- All massage therapists shall be certified by the American Institute of Massage and Therapy (or the institutional equivalent thereof approved in writing by the Community Development Director) and shall be screened and fingerprinted by the Police Department.

Parking Analysis

The massage therapy business would occupy two rooms measuring a total of approximately 200 square in area (approximately 100 square feet per room). Section 17.37.030A of the *Parking Regulations* requires that personal services (include massage therapy) provide one space per 250 square feet of floor area, which is the same parking requirement for retail sales. Since the Clayton Station shopping center parking lot was designed to accommodate retail parking demands, sufficient parking exists to provide the one required space for the massage therapy business.

Use Permit Standards

Since the type of massage to be provided by the business will be therapeutic in nature with only one individual allowed per session per massage room, staff has concluded that the project will not have a negative influence on minors. Furthermore, there will be no impacts upon the Clayton Station shopping center with regards to crime, loitering, or large congregations of people. Therefore, the applicable use permit standards of review listed in Section 17.60.040 of the *Zoning Ordinance* are met.

RECOMMENDATION

Staff recommends that the Planning Commission approve use permit UP 08-07 to allow the operation of a massage therapy business at 5439-E Clayton Road, based upon the following findings and subject to the following conditions.

Proposed Findings

Based on the evidence in the staff report and project file, as well as testimony at the hearing, the Planning Commission finds the project, as conditioned:

1. Is consistent with the *General Plan* designation and policies.
2. Meets the standards and requirements of the *Zoning Ordinance*, including the *Parking Regulations* of Chapter 17.37.
3. Preserves general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.
4. Imposes no significant negative impacts upon the health or general welfare of residents or employees of the City.
5. Incorporates a permit that will be in accord with the purpose of use permits as states herein.
6. Is not negatively influential to minors.
7. Will not present any impacts upon the Town Center with regards to increased litter, crime, loitering, or large concentrations of people.

Proposed Conditions of Approval

1. The applicant shall comply with all applicable state, county, and City codes, regulations, and adopted standards.
2. A maximum of two (2) rooms within the tenant space shall be devoted to the massage therapy operation.
3. A maximum of one (1) client shall be allowed to receive a massage at one time in one massage room.
4. A maximum of two (2) massage therapists shall be allowed to provide massages at one (1) time as long as the massages occur in separate rooms.
5. A maximum of eight (8) massage therapists (including the applicant) shall be allowed to provide massages at the site.
6. The hours of operation for the massage business shall not exceed 9:00 a.m. to 7:00 p.m. on a daily basis.
7. All massage therapists shall be certified by the American Institute of Massage and Therapy or institutional equivalent thereof approved in writing by the Community Development Director.
8. All massage therapists shall be screened and fingerprinted by the Police Department.

Advisory Note

Advisory notes are provided to inform the applicant of: (a) *Clayton Municipal Code* requirements; or (b) requirements imposed by other agencies. The advisory notes are not part of the conditions of approval.

1. This permit shall be used, exercised, or established within twelve months after granting of the permit, or a time extension must be obtained from the Planning Commission otherwise the permit shall be null and void (CMC § 17.64.010-030).

EXHIBITS

- A Location Map
- B Bella Mia Spa Floor Plan, provided by the applicant, date stamped December 14, 2007
- C Certificate from the American Institute of Massage and Therapy issued to Lisa Ferrari, date stamped December 14, 2007

UP 2007 08-07.sr1

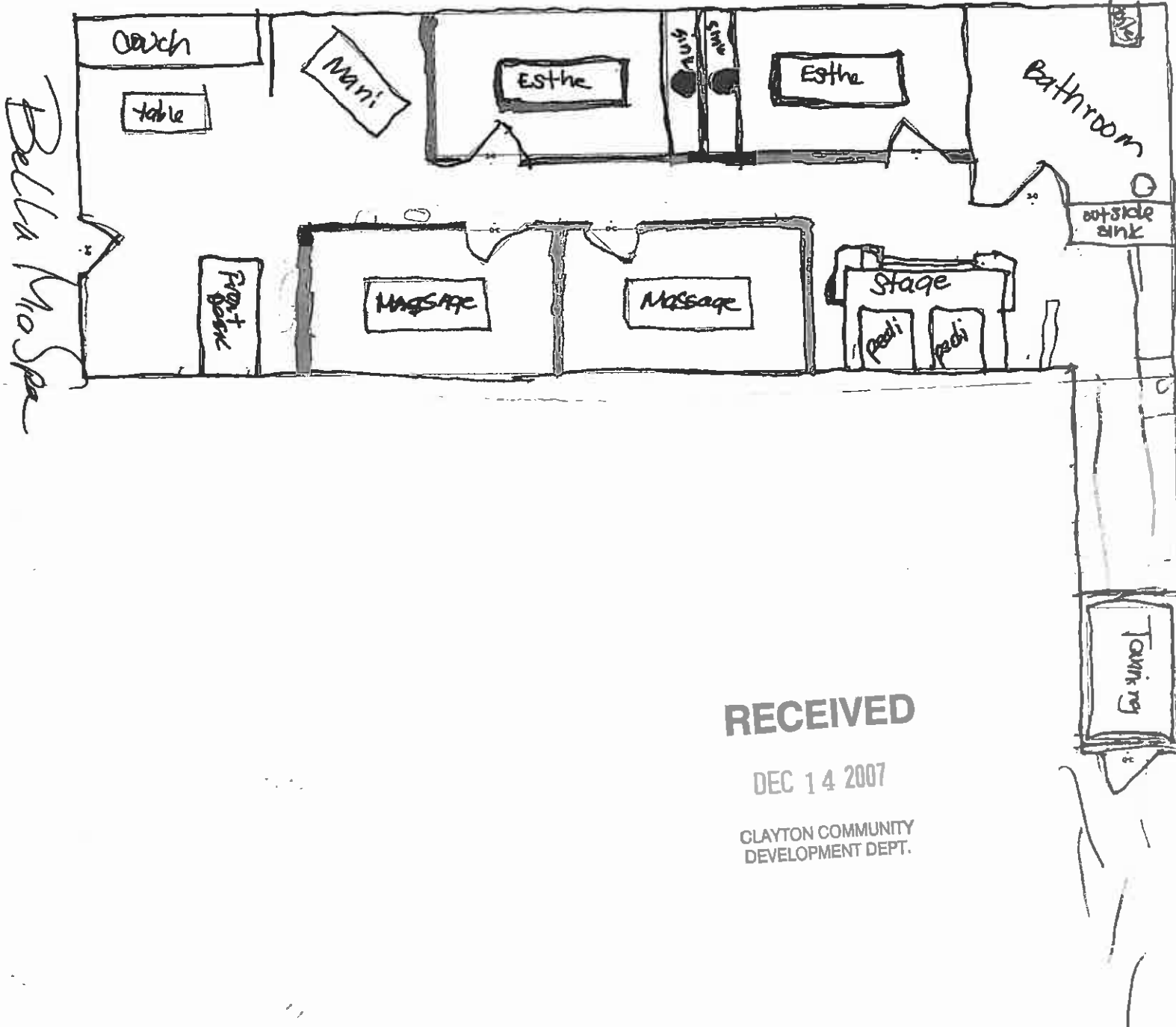


CLAYTON
STATION

CLAYTON VALLEY
CENTER

EXHIBIT A

2 stories



RECEIVED

DEC 14 2007

CLAYTON COMMUNITY
DEVELOPMENT DEPT.

EXHIBIT B

AMERICAN INSTITUTE OF MASSAGE AND THERAPY

Be it known that

LISA MARIE FERRARI

HAVING SATISFACTORILY AND HONORABLY COMPLETED THE PRESCRIBED COURSE OF TRAINING IN HEALTH
CULTURE, ANATOMY AND PHYSIOLOGY AND HAVING PASSED A CREDITABLE EXAMINATION IN THE ART OF
SCIENTIFIC SWEDISH MASSAGE AND THE UNDERLYING PRINCIPLES OF MASSAGE THERAPEUTICS IN THIS
SCHOOL IS AWARDED THIS CERTIFICATE OF COMPLETION AS A

RECEIVED

DEC 14 2007

CLAYTON COMMUNITY
DEVELOPMENT DEPT.

Massage Therapist

IN TESTIMONY WHEREOF I HAVE HEREUNTO SUBSCRIBED
MY NAME AND AFFIXED THE SEAL OF THE INSTITUTE THIS

22nd day of March AD. 19 20

Nanci Burr Nanci Burr DIRECTOR

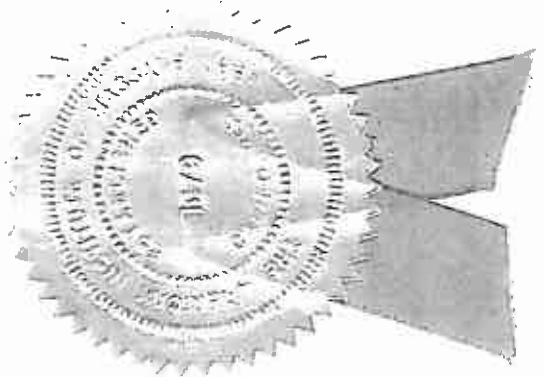


EXHIBIT C

PLANNING COMMISSION STAFF REPORT

Meeting Date: January 8, 2008

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Diablo Pointe Residential Subdivision
Tentative Subdivision Map (MAP 01-03)

REQUEST

Approval of a one-year time extension of a previously-approved tentative subdivision map for the 25-lot single-family Diablo Pointe Residential Subdivision.

PROJECT INFORMATION

Applicant/Property Owner: Lemke Construction Incorporated
49 Cosmic Court #C
Copperopolis, CA 95228

Location: Northeast corner of Regency Drive and Rialto Drive
APN 122-060-011 (see **Exhibit A** for Location Map)

General Plan Designation: Lots 1 – 24: Low Density - Single Family Residential (1.1 to 3.0 units per acre). This proposal complies with the *General Plan* designation

Lot 25: Public Park/Open Space/Open Space and Recreational (PU).
This proposal complies with the *General Plan* designation.

Zoning: Lots 1 – 3: Single-Family Residential R-40-H District (40,000 square-foot minimum lot area).

Lot 4: Single-Family Residential R-40 District (40,000 square-foot minimum lot area).

Lots 5 – 24: Single-Family Residential R-10 District (10,000 square-foot minimum lot area).

Lot 25: Public Facility District.

Environmental Review: The *Diablo Pointe Initial Environmental Study/Negative Declaration* (ENV 01-03) was approved by the City Council on December 21, 2004.

Public Notice: On December 28, 2007, a public hearing notice was mailed to property owners within 300 feet of the site. To date, no comments have been received by staff.

Agency Referrals: Not referred.

Authority: Section 66452.6(e) of the *Subdivision Map Act* authorizes the Planning Commission to extend the approval a tentative subdivision map.

BACKGROUND AND ANALYSIS

On November 30, 2004, the Planning Commission approved the tentative subdivision map for the division of an approximate 24-acre parcel into 25 lots for the Diablo Pointe Residential Subdivision. An approved tentative subdivision map expires three years after the date of approval. On November 19, 2007, the developer—Lemke Construction Incorporated—submitted a letter requesting a one-year extension on the tentative subdivision map (see **Exhibit B**). Since the expiration date was on November 30, 2007, approval of the tentative subdivision map extension would make the new expiration date November 30, 2008. The developer has obtained approval of a grading permit from the City Engineer on June 18, 2007 and commenced grading in late June 2007.

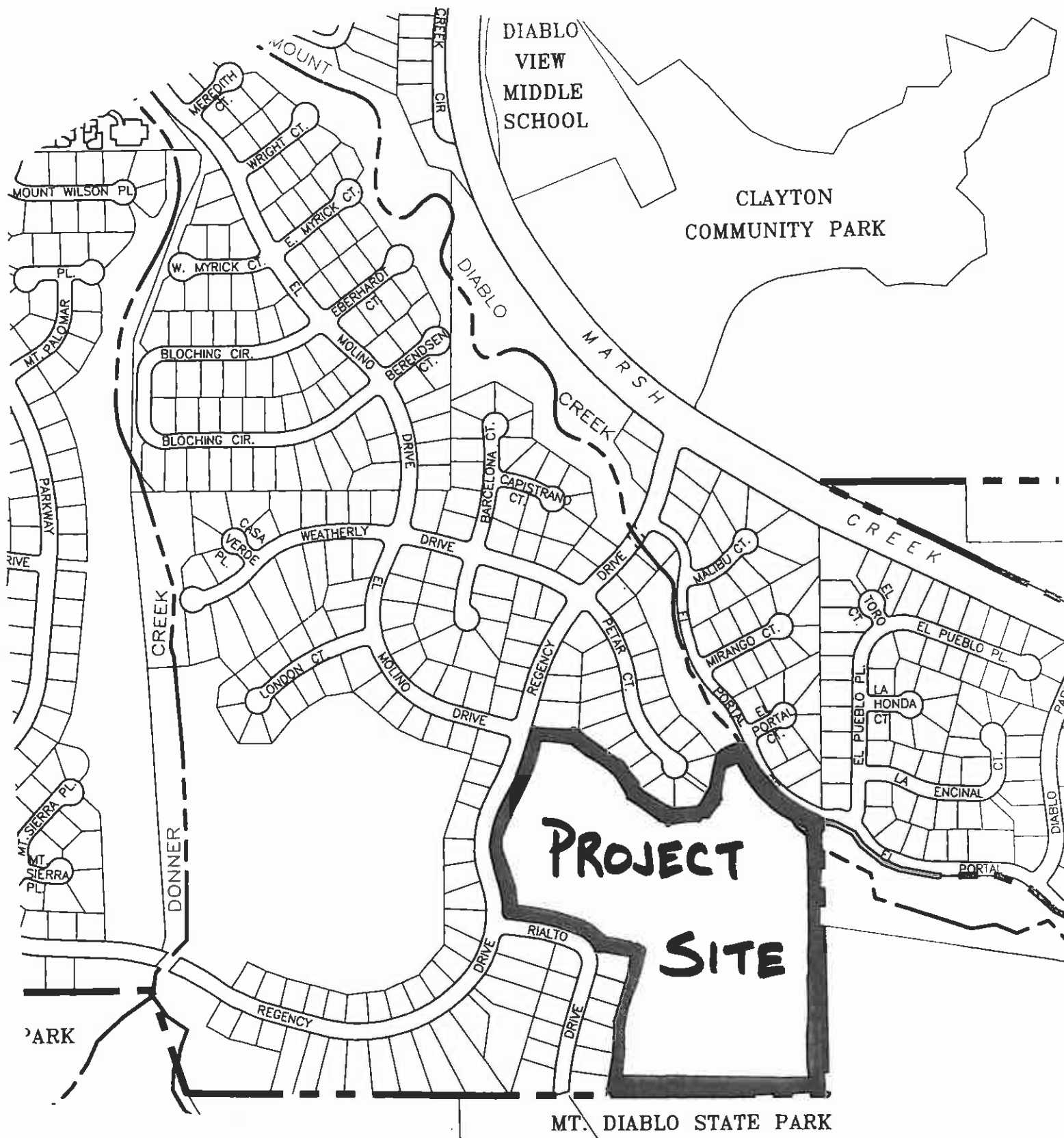
RECOMMENDATION

Staff recommends that the Planning Commission approve the one-year extension to November 30, 2008 for the Diablo Pointe tentative subdivision map.

EXHIBITS

- A Location Map
- B Letter from Lemke Construction Incorporated, dated November 19, 2007

MAP 2003\01-03.sr14



Location Map
Diablo Pointe Residential Subdivision
APN 122-060-011

EXHIBIT A



Lic. 260216

Development
Construction
Since 1967

Lemke
Construction
Incorporated

Received

NOV 18 2007

City of Clayton

November 19, 2007

Mr. Jeremy Graves
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

RECEIVED

DEC 11 2007

CLAYTON COMMUNITY
DEVELOPMENT DEPT

RE: Diablo Pointe Residential Subdivision
Tentative Subdivision Map (MAP 01-03)

Dear Mr. Graves:

In accordance with my prior email correspondence, this letter is submitted as our formal request for approval of a one-year extension of time for recordation of the Diablo Pointe Subdivision Map. Although we are in the midst of installing the onsite infrastructure and expect to complete the improvements and record the map, an extension of time is needed for finalization of the requisite documentation.

As always, we appreciate your professionalism in the processing of this request. Please let me know if anything further is needed.

Thanks again.

Sincerely,

Susan Larson
Director of Planning

cc: Rick Angrisani

Sierra Foothill Division
Corporate Office
49 Cosmic Ct. #C
Copperopolis, CA 95228
(209) 785-0700
(209) 785-0702 Fax

Bay Area Division
Concord, CA
(925) 672-8895

EXHIBIT B

PLANNING COMMISSION STAFF REPORT

Meeting Date: January 8, 2008

From: Jeremy Graves, Community Development Director 

Subject: Town Center General Plan Update (GPA 01-07)
Land Use Element and Community Design Element

PROJECT INFORMATION

Applicant City of Clayton

Location City-wide

Environmental Review *The Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration* (ENV 01-06), which studied the environmental impacts of various amendments of the *General Plan*, was approved by the City Council on January 16, 2007. Those aspects of the subject amendments which were not evaluated in the *Initial Environmental Study/Negative Declaration* (ENV 01-06) are exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15061(b)(3), 15305, and 15332 of the CEQA Guidelines.

Public Notices On December 28, 2007, a public hearing notice was published in the *Contra Costa Times*; mailed to all property owners and occupants within the *Town Center Specific Plan* area and Clayton Station (and adjoining Clayton commercial areas); mailed to all property owners within 300 feet of the *Town Center Specific Plan* area and Clayton Station (and adjoining Clayton commercial areas), and 6780 Marsh Creek Road; posted at six locations in the Town Center, three locations in Clayton Station, and one location at 6780 Marsh Creek Road, and posted on three noticing bulletin boards, including the Ohm's Board in the Town Center.

Authority Section 65354 of the *California Government Code* requires the Planning Commission to provide the City Council with a written recommendation on general plan amendments.

DISCUSSION

On December 11, 2007, the Planning Commission approved Planning Commission Resolution No. 05-07, which recommended City Council approval of amendments of Chapter 2 (Land Use) of the *Town Center Specific Plan*. In order to maintain consistency between the *General Plan* and the recommended amendments of *Specific Plan*, staff initiated companion amendments of the *General Plan* which are discussed in this staff report. A separate staff report addresses companion amendments of the *Zoning Ordinance* to maintain consistency between the *Zoning Ordinance* and the recommended amendments of *Specific Plan*.

The proposed amendments of *Specific Plan* require modifications of the Land Use Element and Community Design Elements as discussed below.

Land Use Element

The following modifications are proposed for the text of the Land Use Element, as shown in **Exhibit A**.

- **Town Center Commercial.** The listing of allowed uses in the Town Center Commercial land use designation has been replaced with a referral to the list of allowed uses in the “Town Center Commercial” land use designation of the *Specific Plan*. This change ensures consistency between the allowed uses in the two plans and eliminates a repetitive list in the Land Use Element. Wording is also added to ensure that the design themes listed in the *Specific Plan* are used in the review of commercial development projects.
- **General Uses Allowed in Residential Designations.** Wording has been added in the introductory paragraph of the Residential Designations section to clarify that certain types of land uses are allowed in all general plan residential land use designations, unless otherwise noted. This provision is needed to address certain land uses (e.g., churches, public/quasi-public buildings, day care centers, lodges and fraternal organizations) which are allowed in all zoning districts with a use permit, but are not listed as allowed uses in the *General Plan*. In order to approve a use permit for any of these land uses, the Planning Commission needs to make a finding that the land use is consistent with the *General Plan*. The addition of this wording will allow (but not obligate) the Planning Commission to make such a finding.

The proposed wording includes a requirement that the particular land use must meet the requirements of the underlying zoning district, applicable specific plan policies and guidelines, and applicable general plan policies.

- **Re-Arrangement of Text.** The current order of the Land Use designations is Residential, Open Space, Commercial, Annexation, and Public / Quasi-Public. This has been re-arranged to follow a more-logical sequence of Residential, Commercial, Public / Quasi-Public, Open Space, and Annexation.
- **Clean Up Modifications.** Several minor wording changes have been made to reflect projects which have been constructed or are under construction (i.e., new fire station and development of the seminary property). In addition, the “Neighborhood Description” section has been deleted since it is out-of-date and not necessary for the Land Use Element.

Community Design Element

The following modifications are proposed for the text and figures of the Community Design Element, as shown in **Exhibit B**.

- **Goals, Objective, and Policies.** The listing of goals, objectives, and policies was revised to reflect recommendations approved by the Planning Commission for Chapter 2 (Land Use) of the *Specific Plan*. For example, a goal was added regarding the establishment of a pedestrian-friendly Town Center with a mixture of commercial, civic, recreational, and residential uses. The proposed wording matches Goal I in Chapter 2 (Land Use) of the *Specific Plan* recommended amendments. Additional changes are proposed for objectives

and policies regarding historical structures, application of the design guidelines in the *Specific Plan*, and priorities for ground floor uses in the Town Center. Objective 13 and Policies 13a and 13b regarding construction of a northern bypass in the Town Center are deleted since the bypass has been constructed.

- Town Center. The Community Design Element was written in the mid-1980's prior to the preparation of the *Specific Plan*. As a result, most of the Town Center discussion and diagrams in the Community Design Element were superseded by the approval of the *Specific Plan* in 1990. In fact, the *Specific Plan* included recommendations for amending several sections of the Community Design Element text and figures which were out-of-date in the late 1980's. These amendments were never carried out during the *Specific Plan*'s approval in 1990.

Staff has inserted an overview description of the Town Center which includes references to the *Specific Plan*, various development projects, construction of the Clayton Road bypass, and installation of the Center Street infrastructure improvements. The balance of the Town Center discussion is recommended for deletion since it is out-of-date or superseded by design policies and guidelines in the *Specific Plan*.

- Historical Resources. The current text addresses historical resources primarily in the context of the Town Center. This discussion has been moved and expanded to include historical resources on a city-wide basis.
- Clean Up Modifications. Several minor wording changes have been made to reflect projects which have been constructed (i.e., Oakhurst, Clayton Station).

RECOMMENDATIONS

Staff recommends that the Planning Commission take the following actions:

- Open the public hearing;
- Take public testimony;
- Review the proposed modifications of the Land Use Element and Community Design Element and make any appropriate modifications;
- Approve Resolution No. 01-08, which recommends City Council approval of amendments of the Land Use Element and Community Design Element of the *General Plan* (see **Exhibit C**); and
- Continue the public hearing on the Town Center General Plan Update (GPA 01-07) to the next regular Planning Commission meeting on January 22, 2008.

EXHIBITS

- A Land Use Element, Proposed Version (Prepared January 4, 2008)
- B Community Design Element, Proposed Version (Prepared January 4, 2008)
- C Planning Commission Resolution 01-08 (draft)
- D *Initial Environmental Study/Negative Declaration* (ENV 01-06) – Not attached; please contact the Clayton Community Development Department or go to www.ci.clayton.ca.us.

GPA 2007-01-07-sr-1

Section II

LAND USE ELEMENT

PREAMBLE TO THE GENERAL PLAN GOALS AND OBJECTIVES

GOALS, OBJECTIVES, POLICIES, AND IMPLEMENTATION MEASURES

LAND USE DESIGNATIONS

RESIDENTIAL DESIGNATIONS

COMMERCIAL DESIGNATIONS

PUBLIC AND QUASI PUBLIC FACILITIES

OPEN SPACE DESIGNATIONS

~~NEIGHBORHOOD DESCRIPTION~~

ANNEXATION AND ULTIMATE BOUNDARY

EXHIBIT A
(15 PAGES)

PREAMBLE TO THE GENERAL PLAN GOALS AND OBJECTIVES

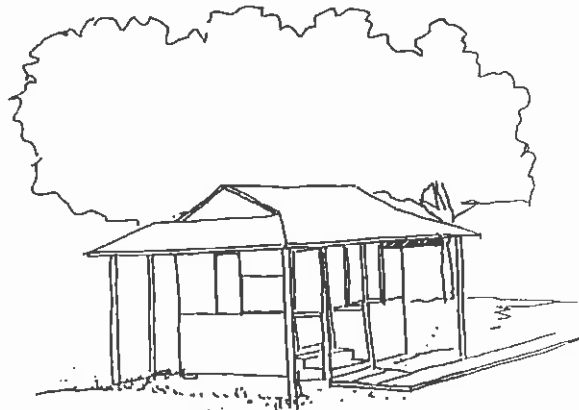
It is important to recognize that this General Plan describes the kind of city that Clayton intends to become. The Plan is the culmination of a legally defined process of citizen review, professional advice, public hearings, and adoption. The Plan, subject to periodic review, is a living document which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

When an amendment to the Plan is considered, the proposed amendment must be considered in the context of the General Plan Goals and Objectives, and any such amendment must be shown to be consistent with them. These Goals and Objectives follow:

General Plan Goals

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

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



CLAYTON CITY HALL

LAND USE ELEMENT

Goal

To provide a mixture of land uses that responds to needs of the City of Clayton ~~to the year 2000~~.

Residential

Objective 1

To retain the rural character of Clayton through a predominance but not exclusive use of single-family, low-density residential development balancing needs of the housing element and preservation of open space.

(Amended by Resolution 21-81, dated 5/16/87)

Policies

1a Establish density designations based on terrain, circulation, adjacent uses and area characteristics.

1b Identify a variety of densities, which decrease as slope increases.

1c Permit limited high density areas.

1d Preserve historic structures and open space areas with uses such as community facilities, bed and breakfast facilities, or large single-family homes.

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

1e Encourage the clustering of development to preserve open space.

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

Objective 2

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

Policies

2a To prevent deterioration of scenic or sensitive areas, development should be clustered in less sensitive areas and an Open Space designation should be applied to undeveloped portions of parcels.

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

2b Promote mitigation measures that maintain the aesthetic quality of the hills in transition areas.

Objective 3

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

Policies

- 3a Promote annexation of all land area within the City's Sphere of Influence, provided there is no drain on current City resources.
- 3b Encourage Contra Costa County to follow the example of Santa Clara County and other progressive counties in establishing policies supporting city annexation within spheres.
- 3c The City should review its Sphere of Influence at least every five years and request a boundary amendment as needed. (Amended by Resolution 43-95, dated 6-28-95)

Commercial

Objective 4

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

Policies

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

Objective 5

To prevent strip development and other inappropriate commercial uses.

Policies

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

Major Developments

Objective 6

To promote development of the Keller Ranch with Clayton (~~see Appendix A~~).

Policies

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

Objective 7

To promote community amenities within the Keller Ranch development.

Policies

- 7a Support development of a country club facility that would include a golf course, tennis courts, swimming pool, clubhouse, restaurant, overnight accommodations and other uses deemed ancillary by the Planning Commission.
- 7b Support establishment of a ~~Cultural~~ Heritage Center that would permit uses that support historical heritage and community activity within the Town Center ~~designation~~.
- 7c Support development of community playfields. (Amended by Resolution 21-87, dated 5/16/87)

Objective 8

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

Policies

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

LAND USE DESIGNATIONS

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

RESIDENTIAL DESIGNATIONS

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

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

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

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

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

Additional uses allowed under each category are described below.

Rural Estate (0 to 1.0 Units Per Acre)

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

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

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

This density range is intended for development of single-family houses on lots that range between 12,500 and 40,000 square feet. This designation has been the predominant density in Clayton. Uses allowed under this designation include single-family homes, and the accessory structures and uses normally auxiliary to them. Second dwelling units are also allowed. (Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 25-2004, dated 6/1/04)

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

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

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

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

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

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

Multifamily Low Density (7.6 to 10 Units Per Acre)

This designation is intended for and allows cluster units such as townhouses, garden units, and other types of PUDs, including single family detached dwellings on smaller lots, that provide a development with amenities to balance the increased density. This density must be adequately buffered from single-family and estate development. Development intensity can reach 100% of individual parcel coverage provided that each unit has access to private outdoor space, use of outdoor recreational amenities, and provision of useable open space. Structural coverage, excluding recreational amenities, shall not exceed 30% of the site area. Second dwelling units are allowed.

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

Multifamily Medium Density (10.1 to 15 Units Per Acre)

This designation is intended for and allows multifamily units located where the site area, circulation system and other features can comfortably accommodate increased density. Development within this density shall be required to use a PUD concept and standards with incorporation of significant design and amenity in the project. Development intensity can reach 100% of individual parcel coverage provided that each unit has access to private outdoor space and use of outdoor recreational amenities. Structural coverage, excluding recreational amenities shall not exceed 40% of the site area. Second dwelling units are allowed.

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

Institutional Density

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

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

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

Residential Density and Population Projections

The 1980 census indicated that Clayton had an average population of 3.23 persons per unit for occupied units. The California State Department of Finance indicated the person per unit for all units was 3.14. Clayton's high occupancy rate compared to other cities in Contra Costa County is due to the large homes on large parcels. As homes decrease in size, occupant size can also be expected to decrease. (Amended by Resolution 21-87, dated 5/16/87, and Resolution 43-95, dated 6/28/95)

Text to added is printed in Double Underline. Text to be deleted is printed in ~~Strike-Out~~.

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

<u>Designation</u>	<u>Persons Per Unit</u>
Rural Estate	3.3
Low Density	3.1
Medium Density	2.8
High Density	2.5
Multifamily Low Density	2.3
Multifamily Medium Density	2.1
Institutional	1.2

(Amended by Resolution 21-87, dated 5/16/87, Resolution 43-95, dated 6/28/95, and Resolution 64-98, dated 12/1/98)

COMMERCIAL DESIGNATIONS

The commercial designations, including uses and development standards are listed below. The development standards apply to the net acreage of the commercial parcels and exclude any areas dedicated for public right-of-way.

(Amended by Resolution 05-2007, dated 2/6/07)

Town Center

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

Uses

The uses allowed permitted within this designation are the retail sales, commercial service, restaurant, bar, commercial recreation, child day care, office, upper-floor residential, visitor-accommodation uses listed in the "Town Center Commercial" land use designation of the Town Center Specific Plan. ~~shall include retail sales establishments for antiques, art, auto parts, books, bicycles, business equipment, clothing, flowers, hardware, hobby and craft, home furnishings, jewelry, music, nursery, liquor, records, sporting goods, toys, winery sales and similar products. Retail service establishments shall include animal grooming, appliance repair, bar, blue printing, café, exercise gym, gardening, home furnishing, period style hotel, photography studio, restaurant, saddlery, shoe repair, television repair, and similar establishments.~~

~~Offices shall include answering services, business and professional, engineering, financial institution, medical or dental, public and quasi public, veterinarian, and related offices.~~

~~Assembly uses shall include art studios, business schools, meeting halls, schools of physical instruction, and similar facilities.~~

~~Temporary and seasonal outdoor uses shall include Christmas tree lots, displays, pumpkin patches, sidewalk sales, and similar uses.~~

Text to added is printed in Double Underline. Text to be deleted in printed in ~~Strike-Out~~.

~~Town Center Commercial permits a mixture of retail, office, and upper-floor residential uses.~~
Population in residential uses is estimated at 1 person per 300 square feet.

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

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

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

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

X is the Maximum Structural Coverage in percent

Y is the Square Footage of the Parcel in 1,000's of square feet

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

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

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

$$X = 100 - 40$$

$$X = 60$$

- Parcels greater than 40,000 square feet: Up to forty (40) percent structural coverage.

(Amended by Resolution 05-2007, dated 2/6/07)

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

(Amended by Resolution 05-2007, dated 2/6/07)

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

Kirker Corridor

Kirker Corridor represents the only commercial location in the city limits of Clayton that has regional potential. Nearly all of Clayton's sales tax dollars are lost to neighboring communities. The Kirker Corridor represents a series of sites, that can serve to recapture a portion of that lost income, provide local control over the types of shops and facilities needed and reduce the extent of travel to commercial centers further away. The primary emphasis is

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on retail facilities although the complementary office and retail service uses are necessary for variety and market balance. Structural coverage shall not exceed thirty (30) percent of the site and height shall not exceed fifty (50) feet.

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

Uses

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

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

Convenience Commercial

This designation is highly restricted and designated for those sites that provide specific commercial needs for the community. Currently there are two sites along Marsh Creek Road where such uses exist; a landscape nursery exists near the town center, and a general store operates in the Marsh Creek Road Specific Plan area. This designation allows retail uses of a neighborhood convenience nature where facility and operation are compatible with surrounding residential areas. Structural coverage on these sites shall not exceed twenty-five (25) percent of the site area. Building height shall not exceed thirty five (35) feet.

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

Implementation

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

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

PUBLIC AND QUASI PUBLIC FACILITIES

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

~~In the event that the fire station moves to another site, the City of Clayton should make every effort to acquire the old facility for conversion to library or other community use.~~

~~The other potential institutional facility is the seminary, although it has been used for non-congregational religious operations. If new construction on the seminary site is proposed, a comprehensive architectural redesign of the facility should be considered. The purpose~~

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~~of such redesign would be to bring the architecture into harmony with its setting. Specific uses can vary from a private school to facility for a public agency to a care home for the elderly. Any proposal will be considered in terms of the potential effect of the surrounding residential area.~~

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

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



OPEN SPACE DESIGNATIONS

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

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

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

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

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

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

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

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

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

3. **Quarry (Q)**

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

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

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

4. **Agriculture (AG)**

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

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

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

NEIGHBORHOOD DESCRIPTION

~~The extent of identification of Clayton residents with their City and their neighborhoods is very strong. Most identification is based on subdivision names provided by the developer, including Easley Estates, Regency Woods, Silvercreek, Jeffry Ranch, Southbrook, Glen Almond, Marsh Creek Park Villas, Briarwood, Mitchell Canyon Estates, Dana Hills and Diablo Downs.~~

~~Old town is an identification that does not refer to a specific geographical area but generally to development of individual custom homes prior to incorporation.~~

~~The term neighborhood has different meaning depending upon the geographical region. In large cities a neighborhood may be 40,000 people in size and include full commercial, industrial and institutional autonomy. In other areas a neighborhood may be a series of blocks bound by geographical landmarks or ethnic characteristics. The Census Bureau combines census tracts in rectangular patterns based on numerical ranges and physically defines areas by roadways and city limits.~~

~~In Clayton the term neighborhood is used for subdivisions. The uniting factors among neighborhoods is the period of construction, the style of housing, the price range of housing and common circulation and land use issues. There does not appear to be any significant distinguishing features among the neighborhoods except location.~~

~~Due to the size and character of the city, there is no need for neighborhood analysis or programs for specific neighborhood improvement. Neighborhoods as described above are indicated in Exhibit II-4.~~

ANNEXATION AND ULTIMATE BOUNDARY

The City of Clayton will ~~never rival Concord or Walnut Creek in size; however, as does any city,~~ Clayton wishes to have control over those areas that demand services, that make up its urban form, that affect its livelihood and that help create an efficient unit of government services. It is therefore the policy of the City of Clayton to annex all land within its Sphere of Influence and to promote development of land in the City of Clayton. ~~Cities across America have consistently demanded control over development that directly affects their limits. Most of the country recognizes the need for cities to be the predominant location of residential development, the standard-setter and the urban service provider. Many counties in California have accepted this concept.~~

Support for the concept of City development is included in the scale of community responsiveness to needs, efficiency and consistency of standards. ~~It is no coincidence that so many unincorporated communities have recently chosen to incorporate.~~

[Delete aerial photo]



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

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

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

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

Section V

COMMUNITY DESIGN ELEMENT

GOAL, OBJECTIVES, POLICIES, AND IMPLEMENTATION MEASURES

DESIGN FEATURES OF THE COMMUNITY

COMMERCIAL DEVELOPMENT

RESIDENTIAL DEVELOPMENT

CIRCULATION

SCENIC ROUTES

HISTORIC RESOURCES

TOWN CENTER

~~TOWN CENTER BOUNDARY~~

~~TOWN CENTER CIRCULATION~~

~~EXISTING TOWN CENTER LAND USE~~

EXHIBIT B
(25 PAGES)

COMMUNITY DESIGN ELEMENT

GOALS

To maintain the rural and historical character of Clayton's in the central area of the City and its neighborhoods.

To establish an attractive and vibrant pedestrian-friendly Town Center with a mixture of commercial, civic, recreational, and residential uses.

OVERALL COMMUNITY DESIGN

Objective 1

To protect historical structures and sites of historical significance. ~~To establish an Historical Area where structures and sites of historical significance are situated.~~

Policies

- 1a Develop criteria for designating sites of historical significance.
- 1b Apply the urban design guidelines of the *Town Center Specific Plan* to new construction, additions, and remodels in the Town Center. ~~Establish criteria for design review of structures within the Town Center.~~
- ~~1c Use the Historical site concept as the focal point for development of commercial within Clayton's Town Center.~~
- 1c Ensure renovations of historic buildings and structures retain the building or structure's historic character.
- 1d Pursue measures to promote attention to historic sites and structures.

Objective 2

To maintain landscape and natural vegetation found in Clayton as a means to provide greenery, open space, development buffer and rural atmosphere.

Policies

- 2a Maintain the greenbelt system as an edge to streets and development.
- 2b Identify areas where vegetation should be preserved.
- 2c Require creative landscaping for new developments.
- 2d Use vegetation as screens to development.
- 2e Coordinate street landscape.
- 2f Promote concepts such as landscape districts to provide and maintain vegetation.

Objective 3

Promote use of the greenbelt system to encourage non-motorized travel throughout the city.

Policies

- 3a Provide signs for the greenbelt system to encourage its use.
- 3b Include standards for enhancement and maintenance of the greenbelt/park system in the subdivision ordinance.
- 3c Safeguard direct access to points within the greenbelt system for emergency and police vehicle access.

Objective 4

To facilitate circulation within Clayton without encouraging through traffic.

Policies

- 4a Use the linear form of the Clayton Valley as the basis for directing traffic to either side of the valley floor.
- 4b Minimize congestion by controlling arterial intersections.
- ~~4c Locate major arterials and collector streets on the periphery of the central area.~~

Objective 5

To protect and enhance views of the foothills and Mt. Diablo.

Policies

- 5a Protect scenic vistas and view corridors.
- 5b Prevent development of ridgelines.
- 5c Evaluate developments as to their effect on scenic qualities of the Clayton area.

Objective 6

To prevent aspects of urban blight.

Policies

- 6a Continue to require undergrounding of utilities within new subdivisions.
- 6b Control illuminated advertising in the Town Center.
- 6c Promote alternative measures for needed sound attenuation in order to prevent unsightly or endless walls.
- 6d Design parking lots with ample screening and vegetation

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- 6e Investigate formation of underground utility districts in the Marsh Creek Road Specific Plan area ~~Town Center~~ and other areas.

Objective 7

To establish design criteria for different areas of the community.

Policies

- 7a Develop design criteria for commercial development along Kirker Pass Road.
- 7b Develop standards for residential subdivisions promoting design and diversity.
- 7c Coordinate design plans citywide with those of the Town Center.

SCENIC ROUTES ~~HIGHWAYS~~

Objective 8

To provide a continuous, varied scenic route system coordinated with Contra Costa County's system and scenic corridors of Concord and Walnut Creek.

Policies

- 8a Select routes for scenic designation that are highly traveled and provide strong visual amenities.
- 8b Coordinate Clayton routes with other scenic routes in the region.

Objective 9

To establish a right-of-way/corridor system that will enhance visual and cultural amenities of the scenic route.

Policies

- 9a Use a boundary of 1000 feet on each side of the centerline of the route as the basis for scenic project review until a view-oriented plan can be prepared.
- 9b Provide map indicating boundaries.

Objective 10

Cooperate with property owners on alternative means to allow development that is compatible with the scenic corridor objectives.

Policies

- 10a Identify criteria for "scenic" review of development.
- 10b Encourage property owner solutions to conflicts between development and view enhancement.

TOWN CENTER

Objective 11

To create a cohesive, attractive, and vibrant pedestrian-friendly village ~~ambiance~~ within the Town Center, with as few breaks as possible in the shopping frontage.

Policies

- ~~11a~~ Establish the limits of the Town Center based on physical and land use criteria.
- 11a Promote the land uses necessary to strengthen and enhance the Town Center including specialty retail shops and restaurants ~~office~~.
- 11b Prioritize and stimulate the development of multi-story buildings with ground floor uses which enhance pedestrian activity in the Town Center.
- 11c Integrate open space, courtyards, and paseos into new and re-configured projects. ~~Identify areas for buffer and transition design.~~
- ~~11d~~ Designate the area within the Town Center as Town Center Commercial permitting either retail or office on the ground floor and residential on the second story subject to review for design and compatibility with adjacent uses.

Objective 12

To integrate design plan elements into projects which to provide a focal points for the community that will satisfy the community's shopping, cultural and civic needs.

Policies

- 12a Maintain an inventory of important downtown features, historic sites, structures, etc.
- 12b Use existing historic buildings and structures in the Town Center as the basis for and overall design themes in the Town Center.
- 12c Ensure historic buildings in the Town Center which retain their historic character are incorporated into commercially-viable uses, re-uses, or adaptations.
- 12d Apply the urban design guidelines of the Town Center Specific Plan to new construction, additions, and remodels in the Town Center. ~~Establish architectural standards and criteria for new development.~~
- ~~12d~~ Identify public and private improvements necessary to implement the Town Center plan.

~~Objective 13~~

~~To develop the circulation configuration that will least disrupt community activities.~~

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Policies

- ~~13a~~ — ~~Reduce dependence on any single street in the Town Center by developing a northern bypass and upgrading Main and Center Streets for a traffic split.~~
- ~~13b~~ — ~~Strengthen the greenbelt system visually and functionally as a non-vehicular route to the Town Center.~~

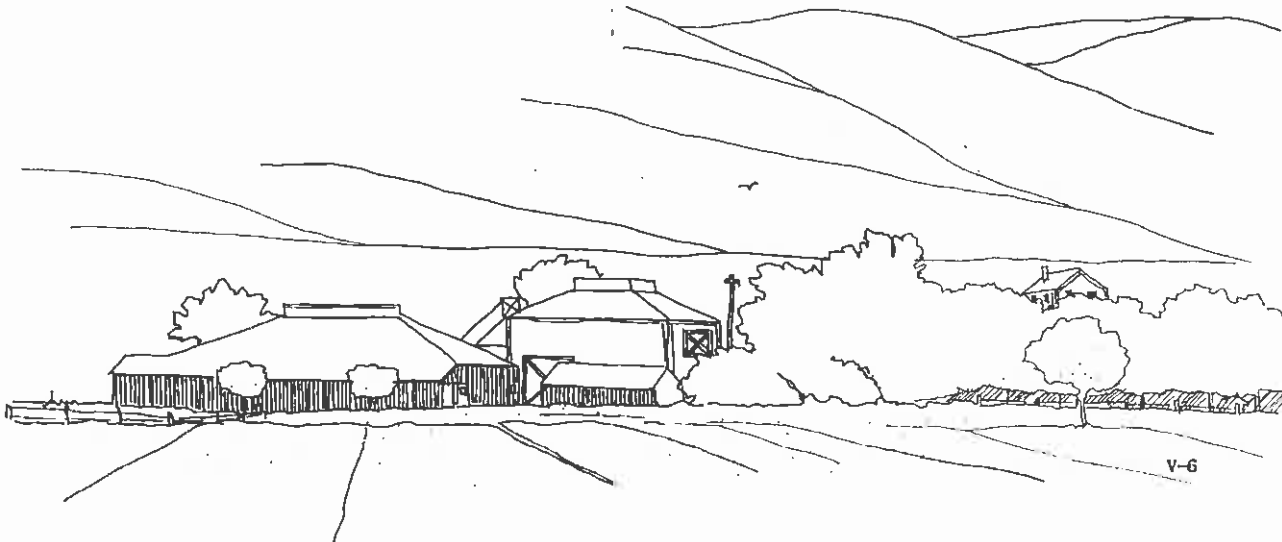
Implementation Measures

- 1. Develop criteria for designating sites of historical significance.
- ~~1.~~ — ~~Establish a list of appropriate landscape vegetation for Clayton.~~
- 2. Prepare a scenic route view corridor map, identify specific features to be preserved, and identify appropriate measures for City action.
- ~~3.~~ — ~~Prepare an updated improvement program for Town Center.~~
- ~~4.~~ — ~~Establish an inventory of important downtown features.~~
- ~~5.~~ — ~~Establish architectural standards and criteria for new development.~~
- 3 6. Investigate establishment of an underground utility districts in the Marsh Creek Road Specific Plan area and neighborhoods with existing overhead utility lines.

DESIGN FEATURES OF THE COMMUNITY

~~In previous surveys,~~ The residents of Clayton responded that they were ~~are~~ attracted to the community by the rural atmosphere, trail system, ~~village environment~~, quiet, and open space. ~~They felt that~~ Residential development should be rustic in nature, ~~that there should be~~ with a clearly-defined central business district ~~as opposed to neighborhood centers~~. Features to be preserved included clean air, trees, open space, surrounding hills, rural feeling and natural arroyos. In planning a residential neighborhoods, residents emphasized preservation of trees and natural terrain ~~should be emphasized and preferred new development to be custom homes on large lots.~~

As the pressure for development and greater efficiency in the use of land increases, it will be up to site planning and design to fill the gap between increased development and preservation of a rural residential atmosphere.



V-6

COMMERCIAL DEVELOPMENT

New commercial development will be located along Kirker Pass Road, in the Town Center, and at other locations as designated for Convenience Commercial within the Land Use Element General Plan. Commercial designations ~~will include~~ retail, restaurant, and office uses. Heavy sService commercial uses, such as contractor yards or auto garages, are ~~to be~~ discouraged. Development of commercial uses is important for Clayton to retain sales tax, to reduce dependence on commercial facilities in Concord, to provide convenience to residents and to allow for diversity of appearance.

[Amended by Resolution 64-98, dated 12/1/98]

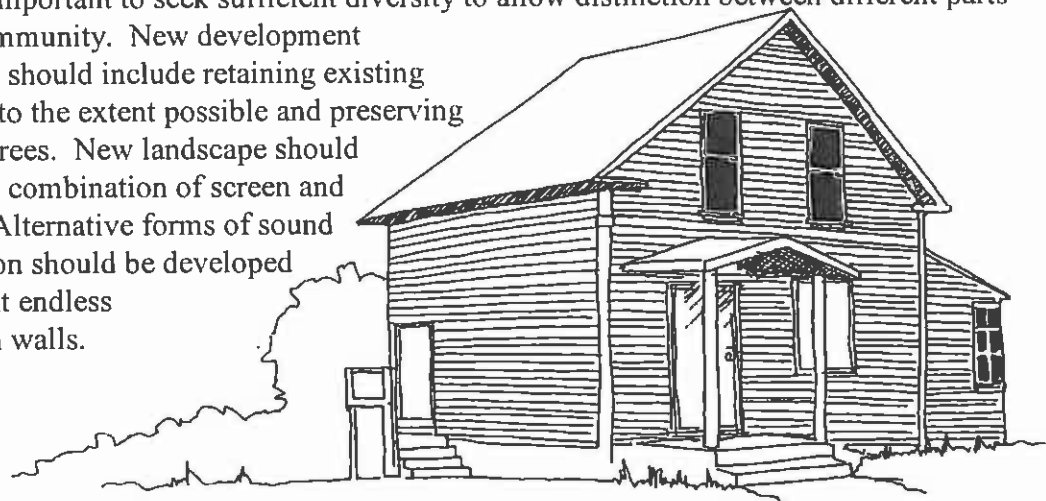
Commercial development on Kirker Pass Road has a coordinated design and appearance which distinguishes it from nearby commercial areas in Concord.

~~Commercial development on Kirker Pass Road can provide a distinction in appearance between Clayton and Concord if a coordinated theme can capture the character of Clayton. This will help provide design separation between the adjacent cities.~~

RESIDENTIAL DEVELOPMENT

Clayton is a residential community which began as individual homes on large lots. The older, larger lots are responsible for much of the open space and vegetation of the community. Many design features that capture the character of Clayton can be found in these sites. This includes large trees and shrubs, unique residential design, open space vistas, stock fences, barns, long entryways to set back units and houses. Retention of large estates should be encouraged, but if they are to be redeveloped, then development should be done in such a way as to preserve trees, provide adequate screening from roads, and prevent the loss of atmosphere.

New development has occurred in subdivision tracts. Many tracts are similar in character and it is important to seek sufficient diversity to allow distinction between different parts of the community. New development standards should include retaining existing contours to the extent possible and preserving existing trees. New landscape should provide a combination of screen and cluster. Alternative forms of sound attenuation should be developed to prevent endless unbroken walls.



BELIEVED JOEL CLAYTON'S SECOND HOUSE

CIRCULATION

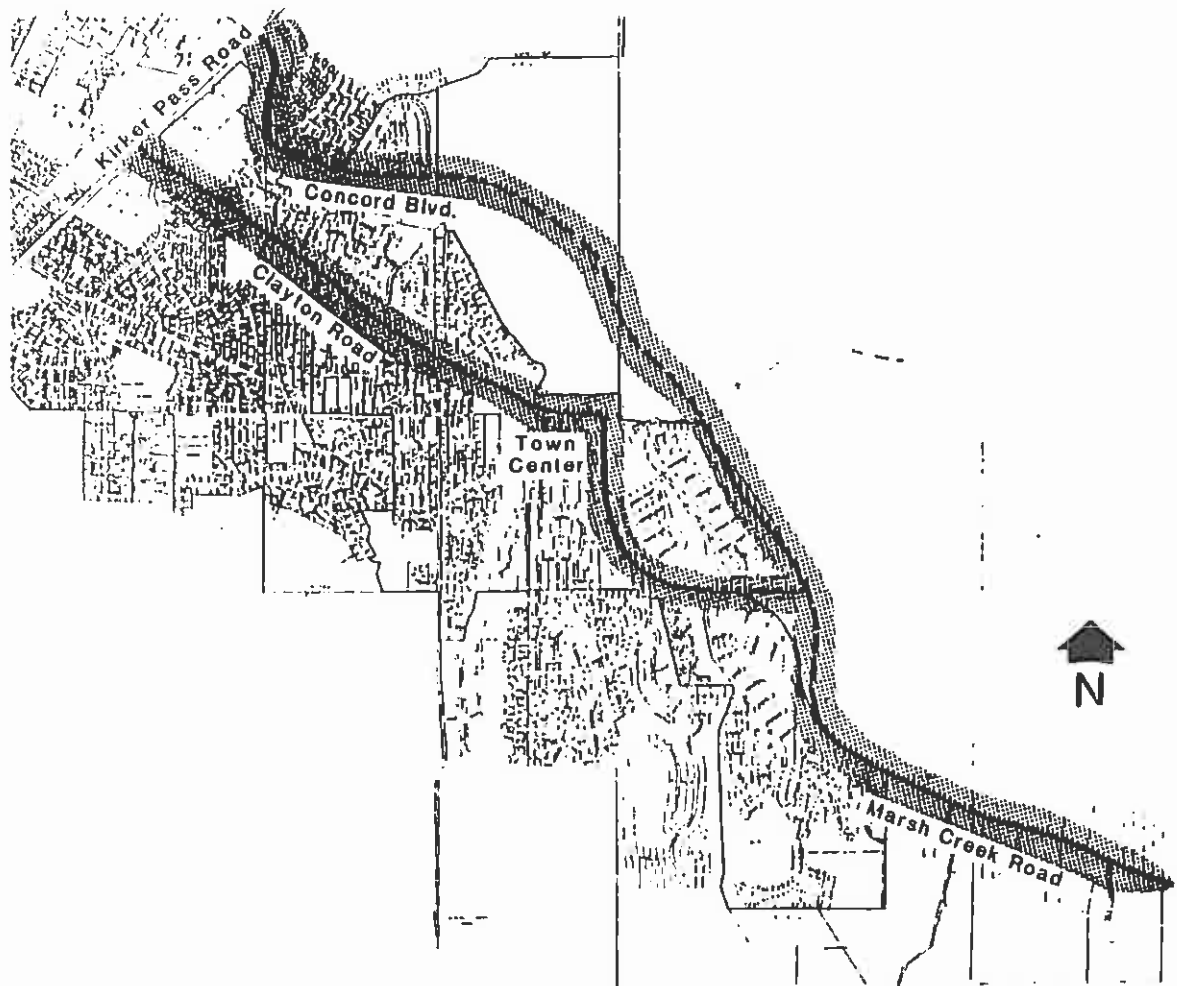
The street system in Clayton includes three standards: City, County, and Rural. New streets built at the City standard include a full section with street, curb, gutter and monolithic sidewalk. Streets built to the County standard include street, curb, and gutter. Streets built to Rural standards may not have curbs, road side ditches, meandering pathways and parking bays. Older areas of town were built in the County with rural roads. These routes are extremely narrow, are poorly paved, and irregular in development. However, they maintain a sense of character due to the vegetation, the diversity of appearance, and limited setback.



In the development of new streets, alternative non-monolithic sidewalk concepts are desirable particularly in greenbelt area. In hillside areas where adequate right-of-way exists, the grade separation of streets and use of one-way streets can also provide a high degree of visual interest while reducing grading on the hillside. A split street concept is illustrated above.

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

Exhibit V-1



SCENIC ROUTES

The scenic routes and corridors are those thoroughfares through Clayton indicated in Exhibit V-1. These routes have been selected due to the incidental and panoramic view of Mt. Diablo, the foothills surrounding Mt. Diablo and the border vegetation along the route.

Clayton Road – This route extends from Kirker Pass Road around ~~to~~ the Town Center to connect with Marsh Creek Road southeast of the Town Center.

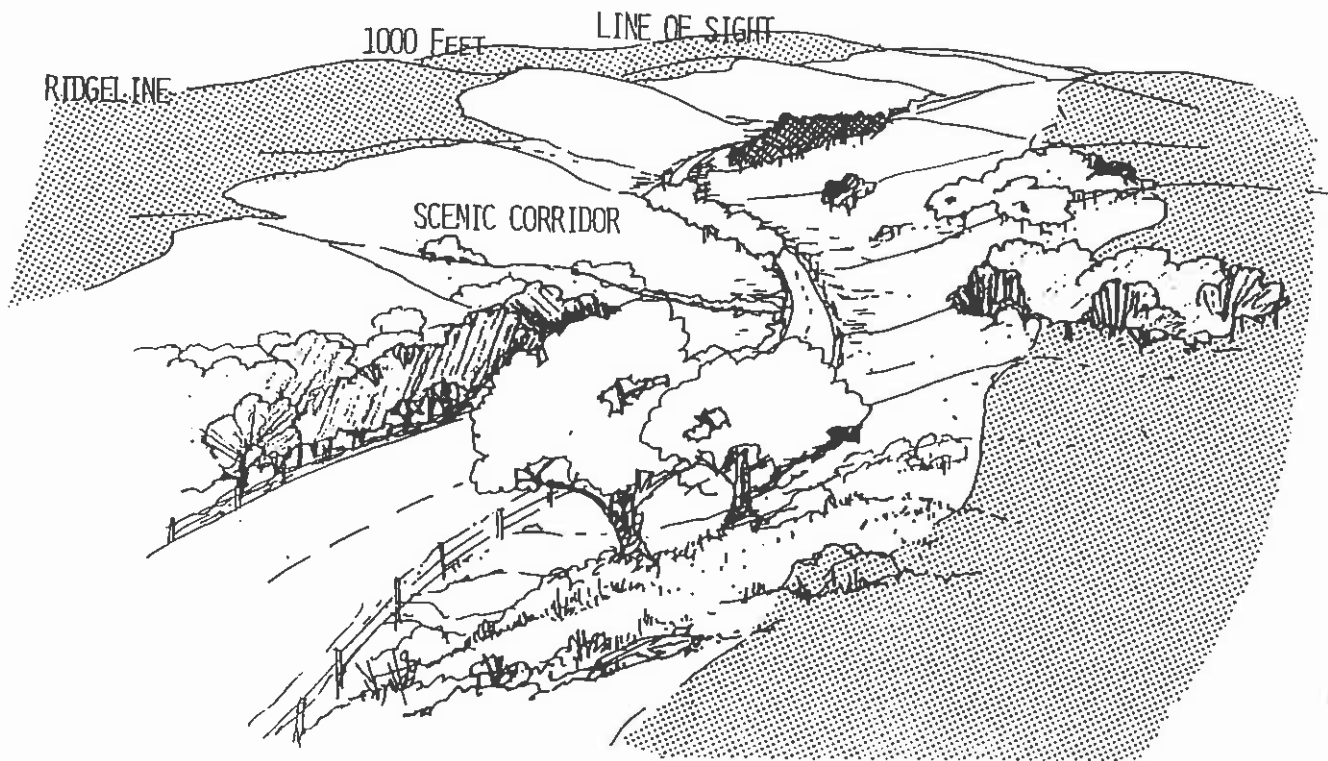
Marsh Creek Road – This route extends from the eastern limits of the planning area through ~~to~~ the Town Center and connects with Clayton Road.

Oakhurst Drive / Concord Boulevard – This route ~~will~~ extends from Kirker Pass Road and to connects ~~with~~ Clayton Marsh Creek Road.

The scenic corridor concept is illustrated in Exhibit V-2. (Amended by Resolution 43-95, dated 6 28 95)

Exhibit V-2

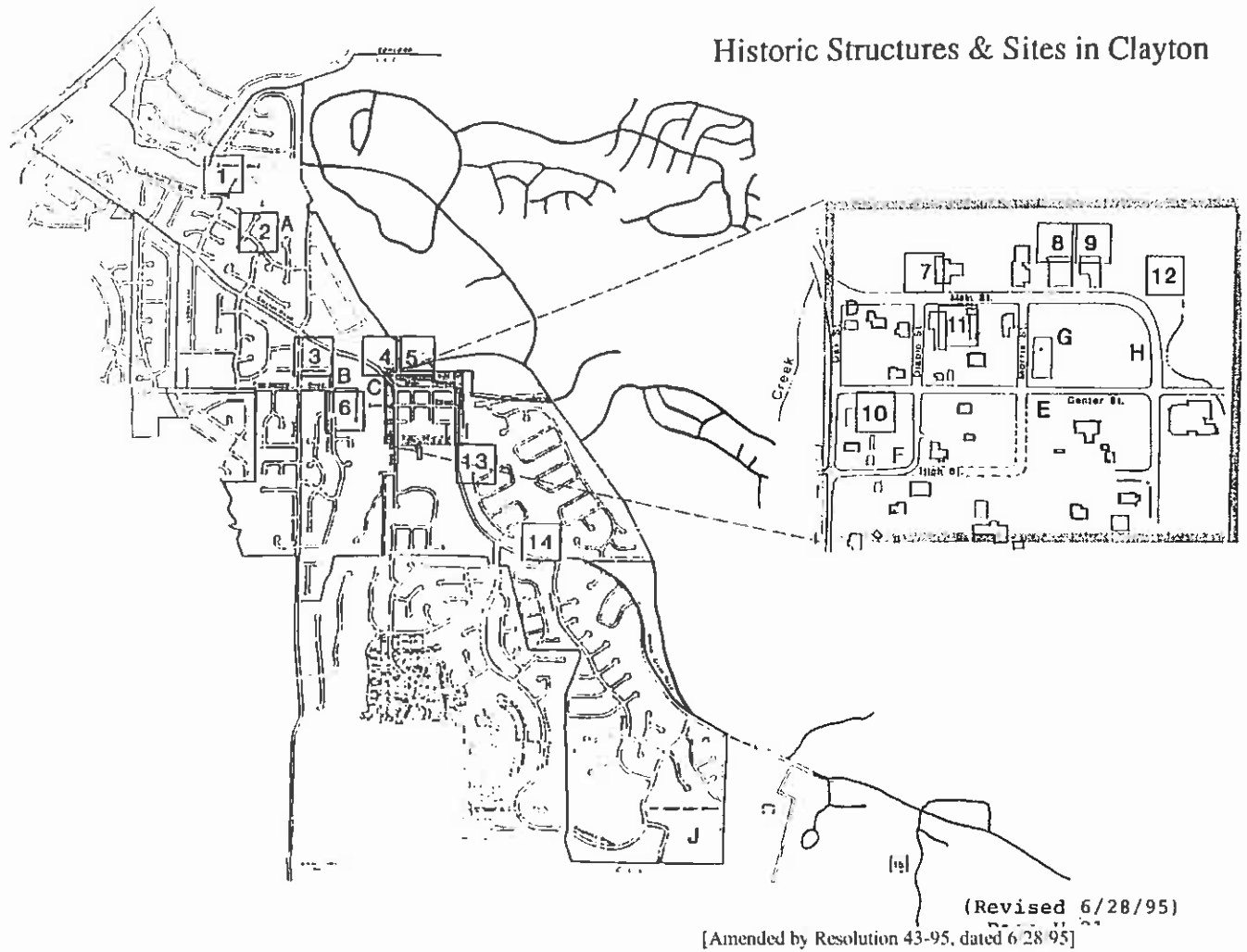
Scenic Corridor Concept



HISTORIC RESOURCES

[Note to P/C: This figure has been relocated to this page.]

Exhibit V-3



Text to added is printed in Double Underline. Text to be deleted in printed in ~~Strike-Out~~.

Historic structures and sites are indicated in Exhibit V-3. The structures provide a link to the past and promote a diversity of appearance.

[Note to P/C: The following text has been re-located to this page.]

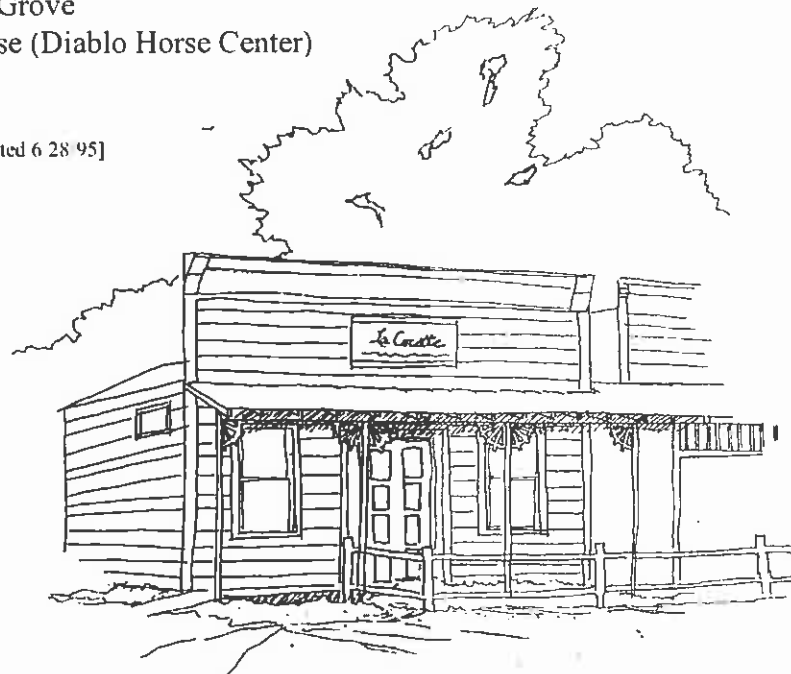
Historical Buildings

- | | |
|---|--|
| 1. Hurd Home (Yolanda Ranch Site) | 6. Will Frank Home |
| 2. Jeffry Homestead | 7. Former Pioneer Inn (former stagecoach stop) |
| 3. Douglas Home (Clayton Road) | 8. Clayton- Pape House |
| 4. DeMartini Winery | 9. Former La Cocotte Restaurant |
| 5. Keller Ranch House | 10. Endeavor Hall |
| a. Foundation ruins of Joel Clayton's Dairy Cellar | 11. Clayton Club |
| b. Mounds of temescal; | 12. Clayton Town Center Street Lamps |
| c. Site of the two graves of Joel Clayton's children; | 13. Site of Stranahan Winery |
| d. Barns and outbuildings; | 14. Easley Homestead and Mt. Diablo Winery |
| e. Indian temescal within creek. | 15. Llewellyn House |

Historical Sites

- Heritage Oak Trees on Four Oaks Lane
- A. Trees on Jeffry property
- B. Site of Mt. Diablo Elementary School
- C. Bully Ingram's Cave Site (Oak and Main)
- D. 6000 Main Street; site of Blacksmith Shop and first City Hall
Site of Congregational Church (Diablo and Center)
Dutch Trette House (Diablo and Center) old blacksmith
- G. Keller and Doug Mitchell Home (site of Village Market)
- H. Former Eucalyptus Grove
- I. Stranahan Farmhouse (Diablo Horse Center)
- J. Former Seminary

[Amended by Resolution 43-95, dated 6 28 95]



TOWN CENTER

The Town Center Specific Plan establishes goals and policies for the development of the Town Center as the core for the community's commercial and civic activities. In addition, the Specific Plan envisions a mixture of recreational and residential uses in the Town Center. A planning boundary for the Town Center is delineated in the Specific Plan and takes into account the natural features of the creeks and hillsides, and includes the historic DeMartini Winery and Keller Ranch House.

Land Use Issues

The Specific Plan includes a Land Use Plan with commercial, residential, and public facility land use designations for the Town Center, as well as a listing of the uses allowed in each land use category. Design guidelines for site plans, project architecture, landscaping, parking lots, and signage are also provided in the Specific Plan.

Circulation Issues

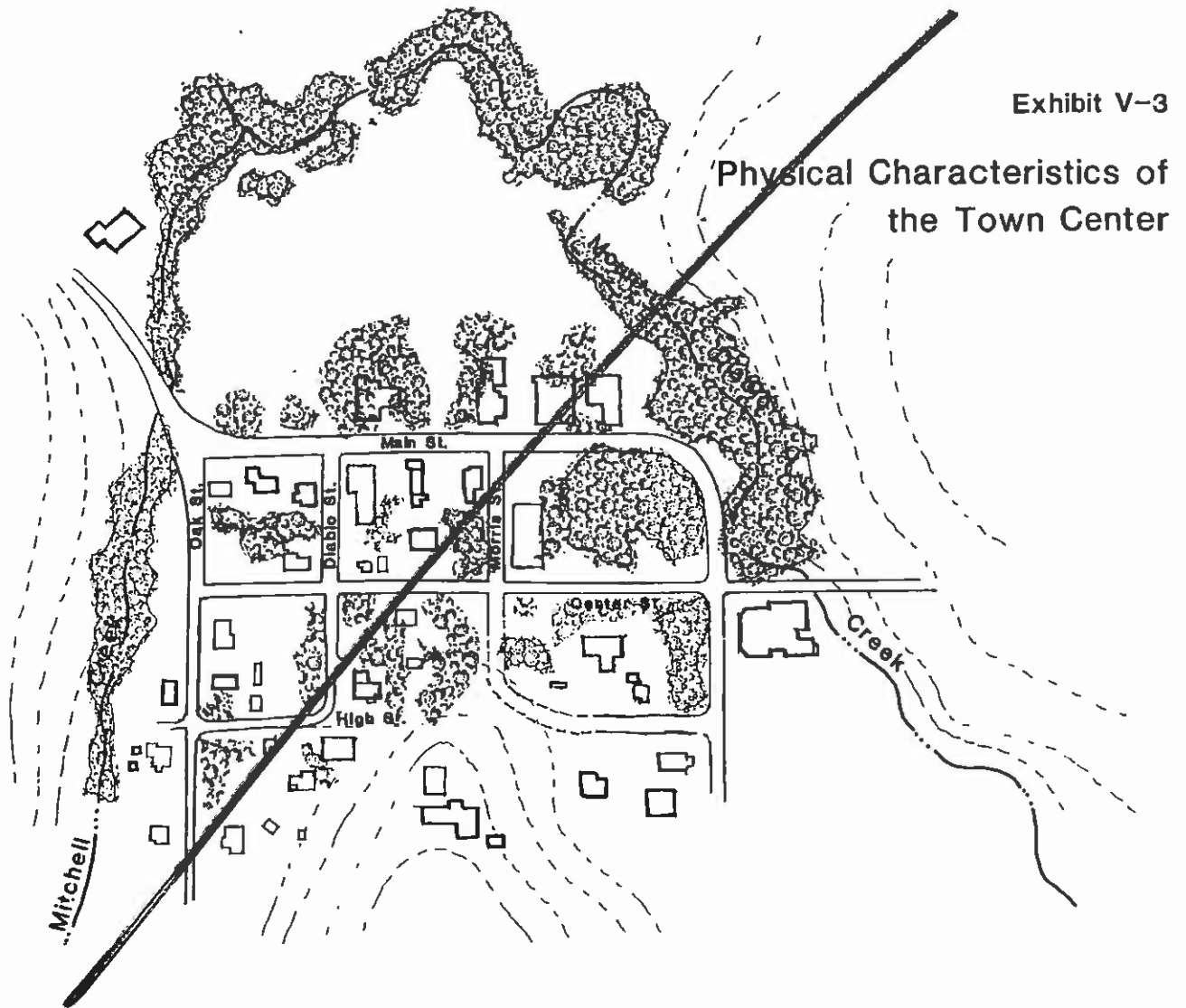
Circulation issues which affect the design and character of the Town Center area include the Circulation Element's designation of Clayton Road and Marsh Creek Road as arterials for through traffic, as well as the plank-wood sidewalks, parking locations, and trail connections. Goals and policies addressing pedestrian and parking issues are provided in the Specific Plan.

With the construction of several road and circulation improvements (e.g., the Clayton Road bypass north of Main Street, Center Street widening and sidewalks) in the Town Center area, most of the circulation infrastructure needed for future development has been completed. The need for additional parking facilities in strategic locations will need to be periodically reviewed.

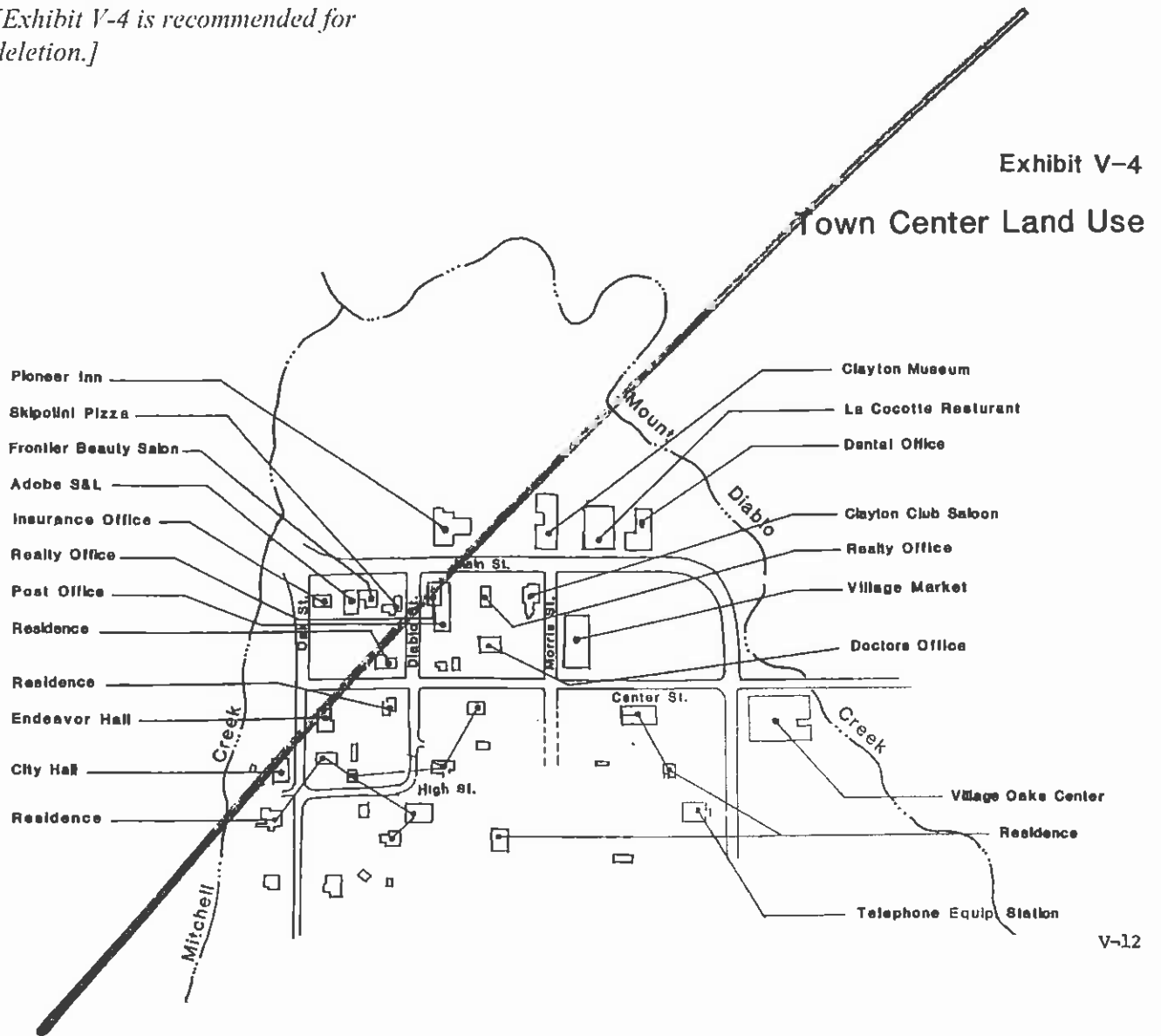
Design attention must be given to Clayton Road and Marsh Creek Road to maintain vistas and provide gateways to the Town Center. Directional signs can strengthen the Town Center's image.

The trail and greenbelt linkages to the Town Center must be maintained and expanded. Trail standards and design should minimize conflicts between trail users, including pedestrians, equestrians, and bicyclists. As envisioned in the Trails Plan, trails will be provided along both Mt. Diablo and Mitchell Creeks to provide access to the Town Center. In addition, additional hitching posts can be installed on the edge of the Town Center to encourage equestrians.

[Exhibit V-3 is recommended for deletion.]

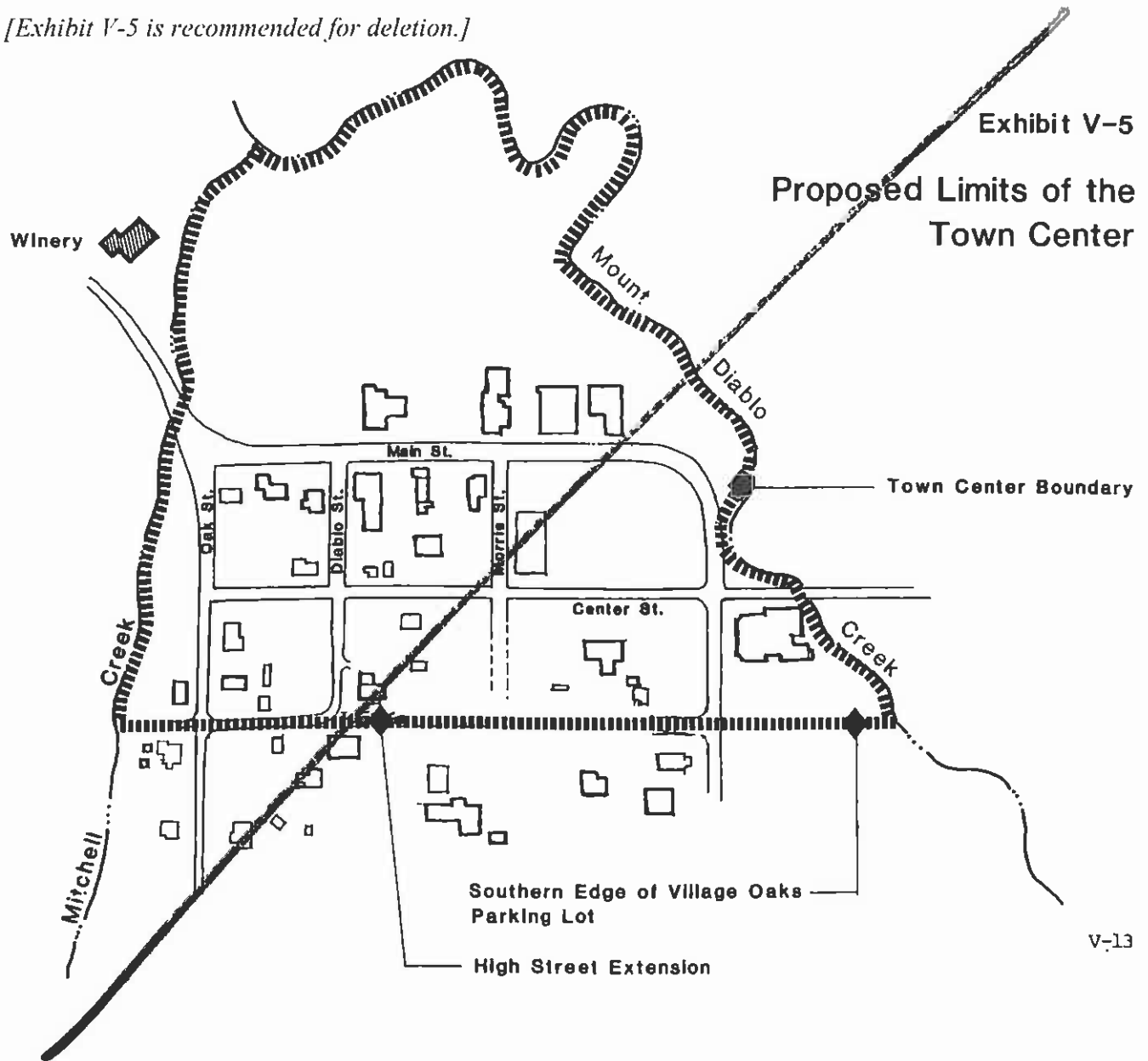


[Exhibit V-4 is recommended for deletion.]



V-12

[Exhibit V-5 is recommended for deletion.]



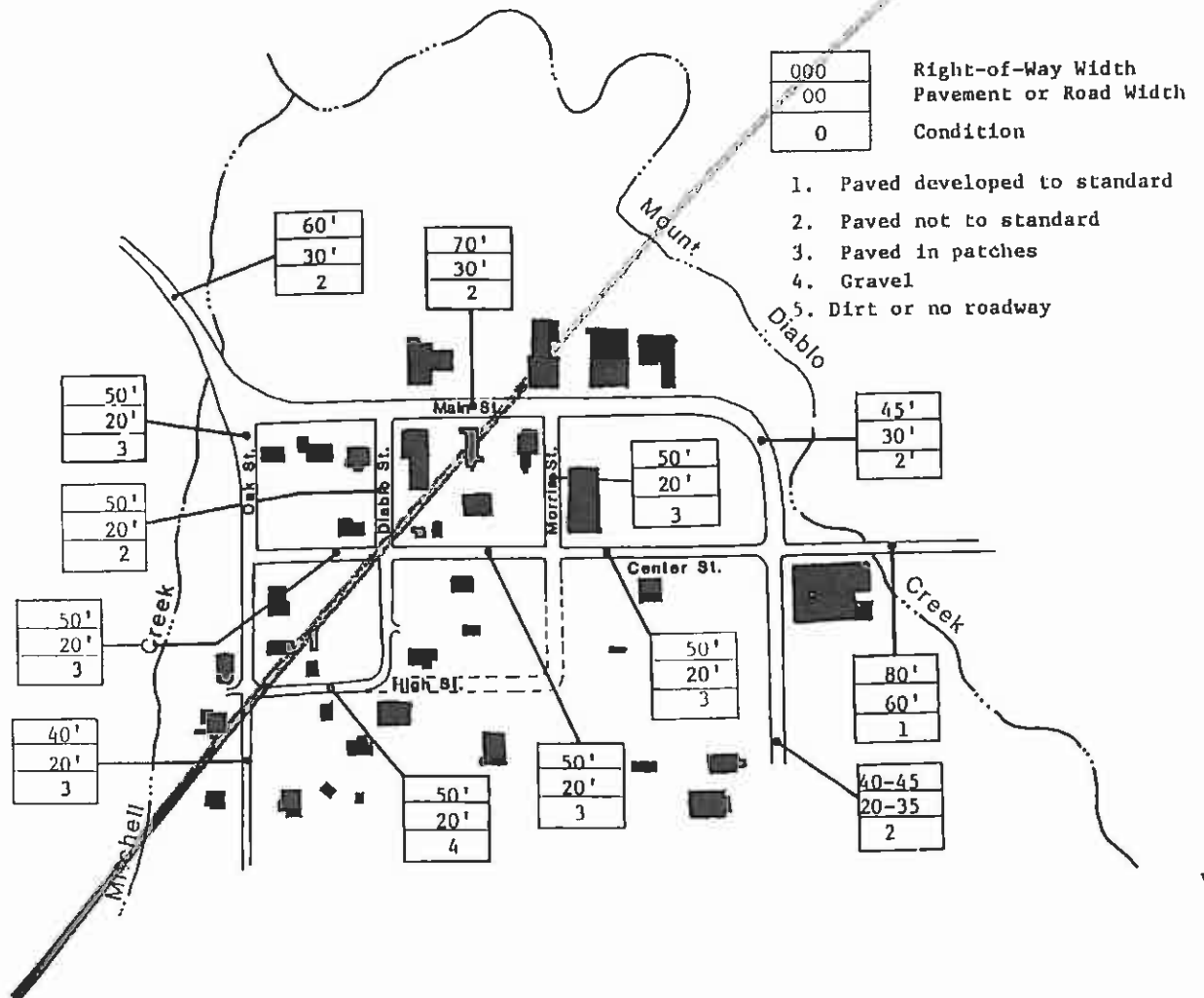
V-13

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[Exhibit V-6 is recommended for deletion.]

Exhibit V-6

Town Center Circulation



V-14

~~TOWN CENTER BOUNDARY~~

~~The Town Center will be the core of commercial and administrative facilities serving Clayton. The present business area lies on both sides of Main Street and generally extends from Oak Street east to Marsh Creek Road. The district features a number of older residences and small retail uses. Commercial zoning currently exists on both sides of Main Street.~~

~~From a design standpoint, the Town Center limits should be based on limits that are readily apparent. These factors include physical topography of creeks and hillsides, circulation features, existing land use patterns and adequate area to provide necessary transition or buffer between the Town Center and residential area.~~

~~The Town Center boundary, particularly after the area has been developed, should be clear to the average observer as well as the land owner. Land uses, landscape, roads and other features are used to reinforce the Town Center concept and boundary.~~

~~Exhibit V-3 provides the physical characteristics of the Town Center area. Exhibit V-4 provides the land use patterns of the Town Center area. Exhibit V-5 provides the proposed limits for the Town Center based on considerations mentioned above.~~

~~The boundaries for the Town Center generally consist of Mitchell Creek to the west; Clayton Road to the north, Center Street to the east and the extension of High Street along the south. Additionally, the DeMartini Winery and the historic Keller Ranch which are located to the north of Clayton Road, and are designated Cultural Center by the General Plan, are included within the Town Center (see Exhibit V-10 Town Center Plan).~~

~~[Amended by Resolution 64-98, dated 12-1-98]~~

~~TOWN CENTER CIRCULATION~~

~~Circulation issues that will affect the design and character of the Town Center area include the arterial configuration for through and local traffic, collector street location, boardwalk and sidewalk design, parking location and greenbelt system integration. Town Center circulation features are provided in Exhibit V-6.~~

~~Arterials~~

~~Basic to the concept for the development of a unified pedestrian-oriented Town Center was the decision in previous plans to relocate through traffic from Main Street to the north on Clayton Road.~~

~~[Amended by Resolution 21-87, dated 5-16-87 and Resolution 64-98, dated 12-1-98]~~

~~The Town Center Circulation Plan depicted in Exhibit V-7 provides connections between the Town Center and surrounding areas. The Town Center is accessed from eastbound Clayton Road by an exit which leads to Main Street. Marsh Creek Road connects the Town Center to Clayton Road to the north and also extends south through Clayton. Center Street exits the Town Center to the east and connects to Clayton Road.~~

~~[Resolution 64-98, dated 12-1-98, deleted former Exhibit V-7 and amended above text]~~

~~Design attention must be given to Clayton Road and Marsh Creek Road to maintain vistas and provide introduction to the upcoming Town Center. Placement of vegetation, directional signs and construction will provide the menus to strengthen the Town Center image.~~

~~Main Street, between Oak Street and Marsh Creek Road, has a 70 foot right-of-way that can be used to accommodate two wide travel lanes (14 feet), two off-street parking bays (9 feet), two boardwalk/sidewalks/streetscape areas (12 feet). Changes in design and right-of-way for streets within the Town Center will be considered in subsequent engineering and design studies. Precise alignments will be determined based on circulation criteria.~~ [Amended by Resolution 21-87, dated 5-16-87 and Resolution 64-98, dated 12-1-98]

~~Boardwalks and Sidewalks~~

~~A combination of boardwalks and sidewalks is proposed for all public streets within the Town Center. The boardwalks would be composed of wood, bomanite or other approved material or texture.~~

~~As Main Street is envisioned to be the major shopping street in the future, widths of 8 to 12 feet for the boardwalks are planned on this street. Sidewalks on other streets would have a minimum width of 5 feet. The intersections of Morris and Diablo with Main Street are proposed to have special paver treatment as primary pedestrian crossings. Standards for sidewalks are provided in Appendix C.~~

~~Parking~~

~~It is recommended that parking areas be constructed at strategic locations to intercept inbound shopper traffic from the major approach streets. In order that a pedestrian-oriented shopping area concept be implemented, there should be a minimum number of parking areas, located and landscaped in such a way that they do not become the dominant characteristic of the Center, yet large enough that patrons do not have to drive from area to area in search of parking. Existing and proposed parking is indicated in Exhibit V-8. Parking design standards are provided in Appendix C.~~

[Amended by Resolution 64-98, dated 12-1-98]

~~Greenbelt System in Town Center~~

~~The greenbelt linkages to the Town Center must be identified and marked. To prevent congestion and conflict between path users, funds should be set aside to provide pathway separation between equestrian, pedestrian and bicycle traffic.~~

~~As envisioned in the Trails Plan for the City, trails will be provided along both Mt. Diablo and Mitchell Creeks to provide access to and through the Town Center area. Additional trails within the Town Center are not proposed, but hitching posts may be encouraged on the edge of the Center if equestrian related uses are built.~~

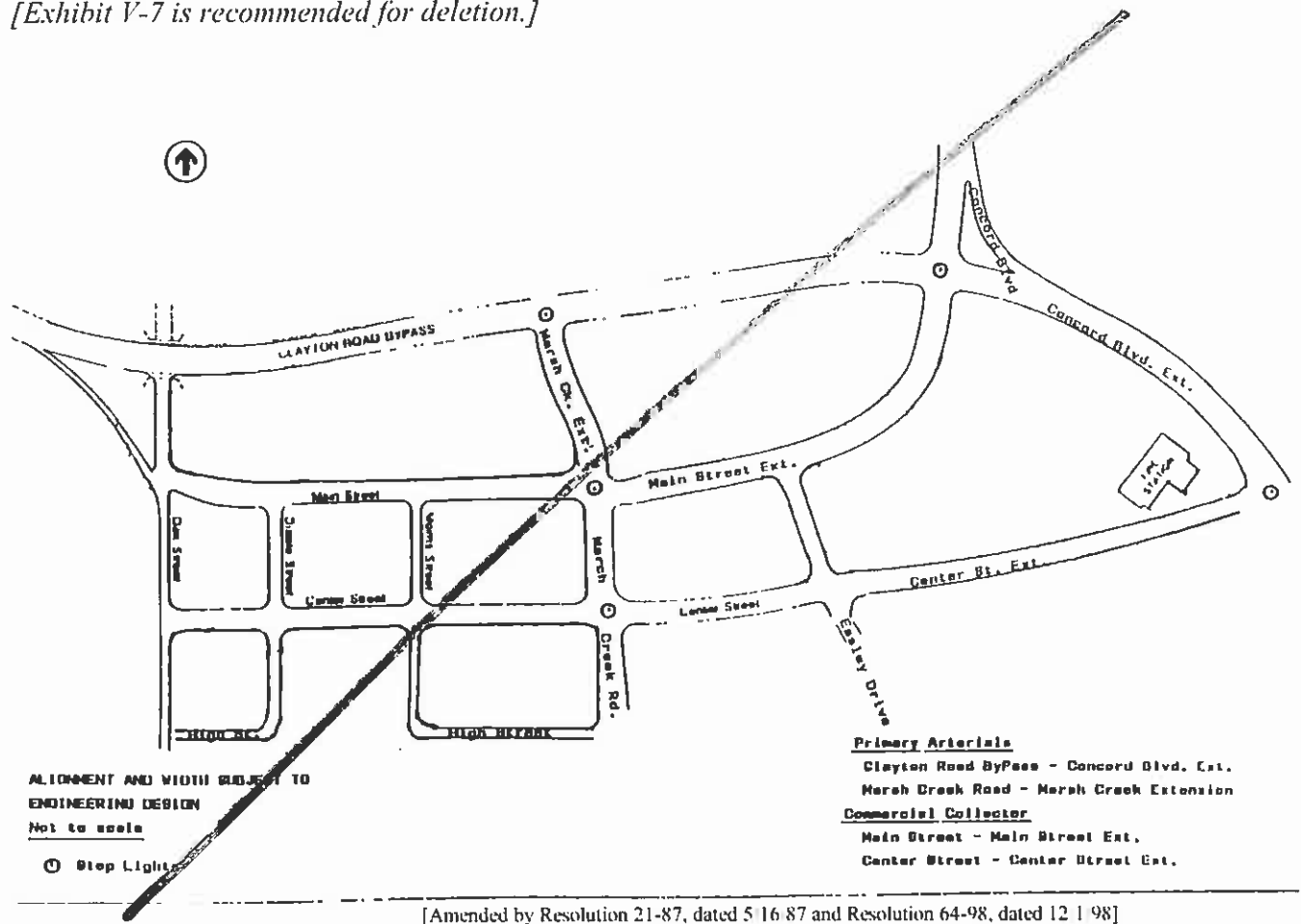
~~Bicycle Routes~~

~~Bicycle traffic will be diverted to bicycle lanes within greenbelt areas and along arterial routes to the extent possible.~~ [Amended by Resolution 21-87, dated 5-16-87]

Text to added is printed in Double Underline. Text to be deleted is printed in ~~Strike-Out~~.

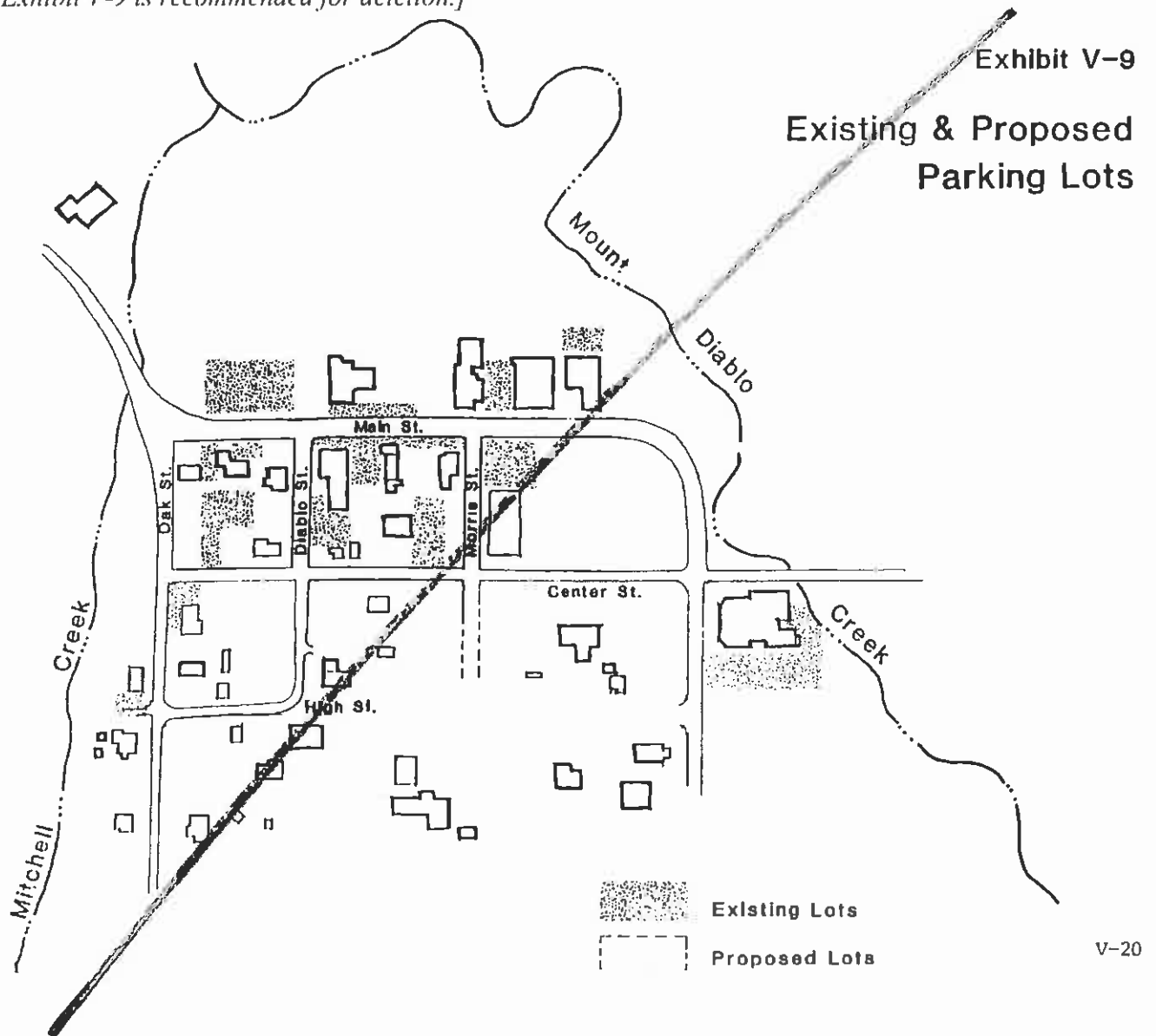
Exhibit V-7
Town Center Circulation

[Exhibit V-7 is recommended for deletion.]



[Editor's note: Resolution No. 64-98 amended the above exhibit to reflect a re-configuration of Center Street and the elimination of the extension of Main Street to the east of Marsh Creek Road. Contact the Community Development Department for additional information.]

[Exhibit V-9 is recommended for deletion.]



V-20

EXISTING TOWN CENTER LAND USE

~~The land uses of the Town Center are provided in Exhibit V-4. The sites and structures with historic merit in the Town Center are indicated in Exhibit V-9. The structures should be preserved and restored to the extent possible since they provide a link to the past and promote a diversity of appearance. Vegetation must also be preserved. The tall trees contribute to the rural feel of the community as well as provide physical landmarks signifying the Town Center.~~

Town Center Plan

~~The plan is indicated in Exhibit V-10. A series of uses will be incorporated into the plan. The primary designation will be Town Center (TC). It will permit the following uses:~~

Retail Commercial

~~Retail Stores, specialty shops, convenience shopping facilities, restaurants and service commercial.~~

Professional Office

~~Professional administrative offices, public and quasi-public facilities.~~

Accessory Uses

~~Medical and dental laboratories, printshops, storage facilities and similar supportive services. These uses will require review for compatibility with the retail/office functions of the Town Center.~~

Residential Uses

~~Second-story residential uses shall be permitted subject to review for design and compatibility.~~

Greenway

~~Comprising about 10% of the total Town Center area, the greenways along both Mitchell Creek and Mt. Diablo Creek are intended to serve several important functions within the Town Center area. Greenways provide identifiable open space entries to and from the Town Center. Their designation preserves the natural topography and tree cover within the riparian corridor and greenways contain riding and hiking trails through the Town Center. Wherever possible, these areas should be either owned by the City of Clayton or controlled by the City through an open space easement. As greenbelts become part of public ownership and use, they will be maintained by the City as part of the Landscape and Maintenance Improvement District.~~

Open Space

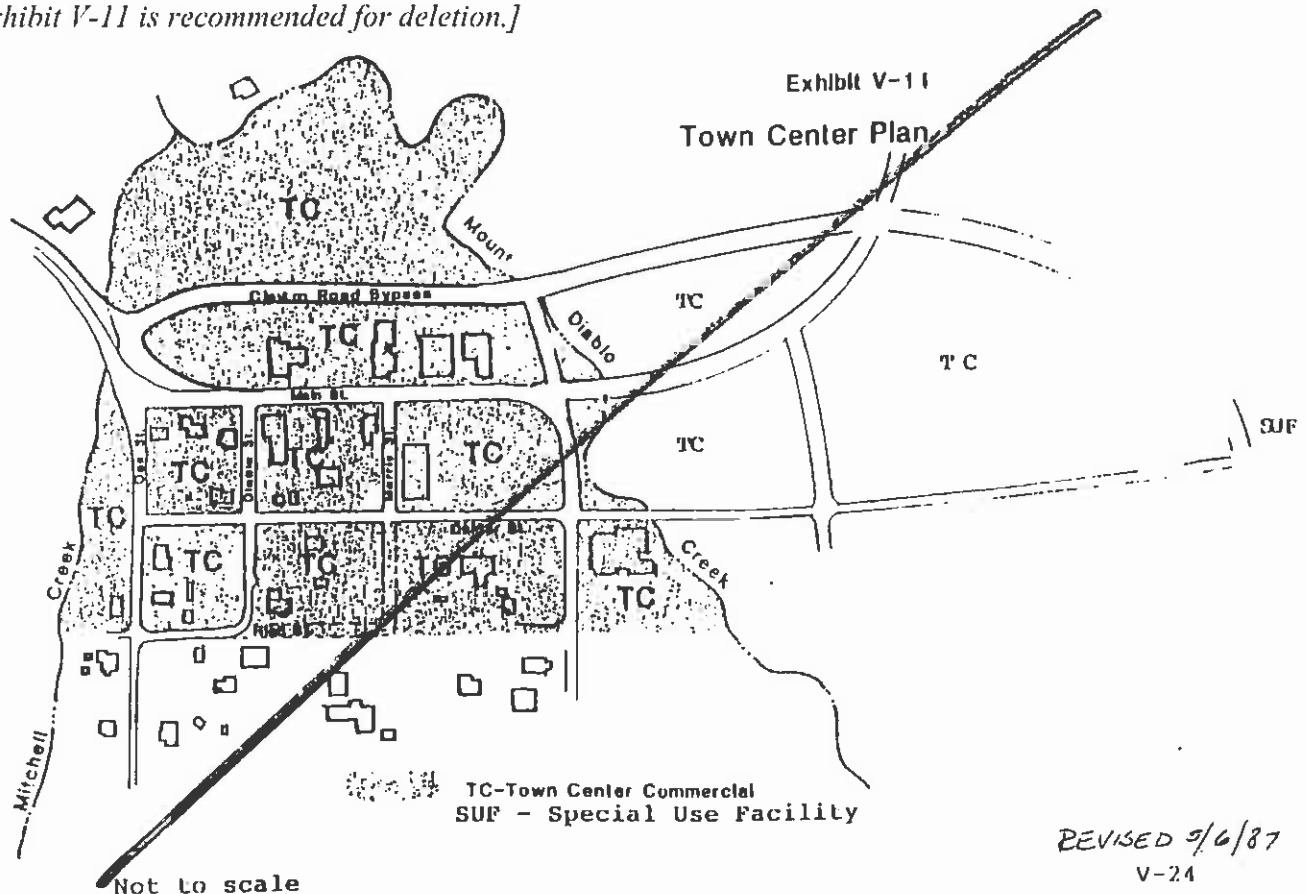
~~Open space preservation must be incorporated into site plans to preserve significant trees, archaeological sites and areas adjacent to creeks.~~

Text to added is printed in Double Underline. Text to be deleted is printed in ~~Strike-Out~~.

Landscape

The most striking feature of the downtown area is the ~~eucalyptus grove~~ which requires maintenance to keep the trees healthy and prevent them from becoming a hazard or nuisance. Other area landscape has evolved haphazardly over the years. Thick clumps of mixed vegetation provide a unique flavor in contrast to the symmetric, manicured, sparse vegetation of other Central County communities. It is important that vegetation be drought resistant and planted where there is adequate space to expand.

[Exhibit V-11 is recommended for deletion.]



[Amended by Resolution 21-87, dated 5 16 87 and Resolution 64-98, dated 12 1 98]

[Editor's note: Resolution No. 64-98 amended the above exhibit to reflect a re-configuration of Center Street and the elimination of the extension of Main Street to the east of Marsh Creek Road. Contact the Community Development Department for additional information.]

Text to added is printed in Double Underline. Text to be deleted in printed in ~~Strike-Out~~.

Impediments to Town Center Development

1. ~~Provision of adequate facilities including streets, sidewalks, parking areas, sewer, water, drainage.~~
2. ~~Unknown status of Keller Ranch.~~
3. ~~Through circulation.~~

Issues

1. ~~Winery and Keller Ranch buildings should be incorporated into the Town Center area. Once their ultimate use is established.~~
2. ~~Open space areas should be retained.~~
3. ~~Outdoor spaces for informal meeting need to be identified.~~
4. ~~Residential development in conjunction with Town Center commercial needs to be promoted.~~
5. ~~Through Town Center circulation and gateway issues need to be resolved.~~

Implementation Measures Used

1. ~~Design review of new projects.~~
2. ~~Sign control.~~
3. ~~Screening and landscape requirements.~~
4. ~~Location of greenbelts.~~
5. ~~Adequate grading controls.~~
6. ~~Tree planting.~~
7. ~~Undergrounding utilities.~~
8. ~~Hillside development review.~~

Implementation Measures Possible

1. ~~Underground utilities district.~~
2. ~~Road plan development standards. Master plan of street grades, storm drainage, sanitary sewers and water.~~
3. ~~Redevelopment designation, assessment district and of methods of funding for improvements.~~
4. ~~Historic preservation.~~
5. ~~Height limitation.~~

**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 01-08**

**TOWN CENTER GENERAL PLAN UPDATE
AMENDMENT OF THE LAND USE ELEMENT
AND COMMUNITY DESIGN ELEMENT
OF THE GENERAL PLAN.
GPA 01-07**

Whereas, Section 65353 of the *Government Code* requires the Planning Commission to make a recommendation to the City Council on amendment of the general plan; and

Whereas, the City of Clayton has proposed amendments of the *Land Use Element* and *Community Design Element* of the *General Plan* to make additions, revisions, and deletions of various goals, objectives, policies, permitted uses, text, and figures regarding development in the Town Center as well as other miscellaneous minor revisions and updates; and

Whereas, the Planning Commission held a duly-noticed public hearing on January 8, 2008 on the proposed amendments of the *Land Use Element* and *Community Design Element* of the *General Plan*; and

Whereas, the Planning Commission considered the public testimony and staff report; and

Whereas, the *Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration* (ENV 01-06), which has been previously approved by the City, studied the environmental impacts of amendments of the *General Plan*, and those aspects of the project which were not evaluated in the *Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration* (ENV 01-06) are exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15061(b)(3), 15305, and 15332 of the CEQA Guidelines; and

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission recommends the City Council approve amendments of the *Land Use Element* and *Community Design Element* of the *General Plan* as provided in **Attachments A and Attachment B**.

Section 2. The amendments of the *Land Use Element* and *Community Design Element* of the *General Plan* would be in general conformance with the *General Plan*, including any affected implementation programs; would be in the public interest; and have been assessed for potential impacts and have been determined to not be detrimental to the public health, safety, or welfare.

EXHIBIT C
(2 PAGES)

Resolution No. 01-08

Page 2

Adopted by the Planning Commission on January 8, 2008.

APPROVED

ATTEST

Keith Haydon
Chair

Jeremy Graves, AICP
Community Development Director

Attachments:

- A General Plan Land Use Element (Revised January ___, 2008)
- B General Plan Community Design Element (Revised January ___, 2008)

PLANNING COMMISSION STAFF REPORT

Meeting Date: January 8, 2008

From: Jeremy Graves, Community Development Director 

Subject: Town Center Zoning Ordinance Update (ZOA 01-07)

PROJECT INFORMATION

Applicant City of Clayton

Location City-wide

Environmental Review *The Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration* (ENV 01-06), which studied the environmental impacts of various amendments of the *Zoning Ordinance*, was approved by the City Council on January 16, 2007. Those aspects of the subject amendments which were not evaluated in the *Initial Environmental Study/Negative Declaration* (ENV 01-06) are exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15061(b)(3), 15305, and 15332 of the CEQA Guidelines.

Public Notices On December 28, 2007, a public hearing notice was published in the *Contra Costa Times*; mailed to all property owners and occupants within the *Town Center Specific Plan* area and Clayton Station (and adjoining Clayton commercial areas); mailed to all property owners within 300 feet of the *Town Center Specific Plan* area and Clayton Station (and adjoining Clayton commercial areas), and 6780 Marsh Creek Road; posted at six locations in the Town Center, three locations in Clayton Station, and one location at 6780 Marsh Creek Road, and posted on three noticing bulletin boards, including the Ohm's Board in the Town Center.

Authority Section 17.56.060 of the *Zoning Ordinance* requires the Planning Commission to make recommendations to the City Council on zoning ordinance amendments.

DISCUSSION

On December 11, 2007, the Planning Commission approved Planning Commission Resolution No. 05-07, which recommended City Council approval of amendments of Chapter 2 (Land Use) of the *Town Center Specific Plan*. In order to maintain consistency between the *Zoning Ordinance* and the recommended amendments of *Specific Plan*, staff initiated companion amendments of the *Zoning Ordinance* which are discussed in this staff report. A separate staff report addresses companion amendments of the *General Plan* to maintain consistency between the *General Plan* and the recommended amendments of *Specific Plan*.

The proposed amendments of *Specific Plan* require modifications of the Zoning Ordinance as discussed below.

Use Permits (Chapter 17.60)

The following modifications are proposed for the text of the Use Permit regulations, as shown in **Exhibits A and B**.

- Section 17.60.030.A – Public/Quasi-Public Related Uses. A notation (indicated by an asterisk (*)) was added to several land uses which are not allowed in the Town Center Commercial land use designation of the *Specific Plan*. The affected land uses include schools, congregate care facilities, churches, public safety facilities, lodges and fraternal organizations, and recreation/sports facilities. The addition of the notation indicates that these use are not allowed in Town Center Commercial land use designation, but continue to be permitted in other areas of the City, subject to the approval of a use permit.
- Section 17.60.030.C – Commercial Related Uses. The same notation discussed above was added to the several land uses, including service stations, movie theaters, and animal boarding facilities.

A new category regarding ground floor uses was added to list of commercial uses requiring a use permit. This category will implement the proposed requirement in Chapter 2 (Land Use) of the *Specific Plan* that certain non-retail uses must obtain a use permit for ground floor locations in the Town Center Commercial land use designation of the *Specific Plan*. A letter commenting on this issue was submitted by Stephen Coates, manager of the Village Oaks commercial building (see **Exhibit E**). In addition, “large-appliance stores” and “furniture stores” were added to the list of uses requiring a use permit in order to be consistent with the proposed requirements of Chapter 2 in the *Specific Plan*.

A modification was made to stipulate that “boarding stables” are only allowed in the Agricultural District. Lastly, the listing of uses was re-ordered to place similar uses together.

- Section 17.60.040 – Standards of Review. The Standards of Review currently list 12 standards that need to be considered for use permits. Since many of the standards are similar, staff consolidated the standards into 6 categories. This will simplify the analysis of proposed use permits without diminishing the effectiveness of the standards of review.

In addition, a new standard of review, Town Center Compatibility, was added to address businesses which require a use permit for ground floor locations in the Town Center. The intent of this standard is to provide the Planning Commission with the flexibility to determine if certain non-retail uses can be located in ground floor locations without interfering with the pedestrian and retail orientation of the Town Center.

- Section 17.60.060 – Required Findings. Wording was added to add business and property owners to the list of parties which cannot be subject to negative welfare or health impacts from projects with approved use permits.

Limited Commercial District (Chapter 17.24)

Wording was added in the Permitted Uses section (17.24.020) of the Limited Commercial (LC) District regulations to stipulate that the uses allowed on LC District parcels within the boundary of the *Specific Plan* are those uses listed in the “Town Center Commercial” land use designation of the *Specific Plan*. This proposed addition does not affect the permitted uses for the LC District parcels located at the corner of Clayton Road and Kirker Pass Road or at the corner of Marsh Creek Road and Mountaire Parkway. The proposed text is shown in **Exhibit C**.

Definitions (Chapter 17.04)

The definition of “Retail Business” currently includes the sale of “services” and “real property.” The proposed amendments of Chapter 2 (Land Use) of the *Specific Plan* stipulate that most service uses and real estate offices must be located on upper floors in the Town Center Commercial land use designation. Therefore, staff recommends that these two terms be removed from the definition of “Retail Business” in order to clarify that service uses and real estate-related activities are not retail activities and must be located in upper floor locations, unless a use permit is approved by the City. The proposed text is shown in **Exhibit C**.

RECOMMENDATIONS

Staff recommends that the Planning Commission take the following actions:

- Open the public hearing;
- Take public testimony;
- Review the proposed modifications of the *Zoning Ordinance* text and make any appropriate modifications; and
- Approve Resolution No. 02-08, which recommends City Council approval of the amendments of the *Zoning Ordinance* text (see **Exhibit D** for resolution).

EXHIBITS

- A Use Permits, Clean Copy, (Prepared January 4, 2008)
- B Use Permits, Mark-Up Copy, (Prepared January 4, 2008)
- C Limited Commercial District and Definitions, Proposed Version (Prepared January 4, 2008)
- D Planning Commission Resolution 02-08 (draft)
- E Letter from Stephen Coates, dated January 4, 2008
- F *Initial Environmental Study/Negative Declaration* (ENV 01-06) – Not attached; please contact the Clayton Community Development Department or go to www.ci.clayton.ca.us.

ZOA 2007 01-07-sr-2

Chapter 17.60

USE PERMITS

Sections:

17.60.010	Definition.
17.60.020	Purpose.
17.60.030	Use Permits Required.
17.60.040	Standards of Review.
17.60.050	Conditions of Approval.
17.60.060	Required Findings.

17.60.010 Definition. A Use Permit may allow certain uses or activities not permitted by right in specific zoning districts or areas. In some cases, these uses must comply with defined conditions in order to be allowed to develop and/or operate.

17.60.020 Purpose. The major purposes of the Use Permit are:

- A. To implement the General Plan and any applicable specific plans;
- B. To condition, restrict or prevent the development of uses whose effects are or may be detrimental to the health, safety and welfare of residents, businesses, property owners, and/or employees in the City; and
- C. To identify those types or aspects of development which may not be totally compatible with development permitted as a matter of right by this Title and to impose such conditions and restrictions, as necessary, to promote compatibility.

17.60.030 Use Permits Required.

- A. Public/Quasi-Public Related Uses. The establishment of the following uses or uses of a similar nature requires a Use Permit. Any change to an existing permitted use which is determined to be significant by the Community Development Director requires a Use Permit. Uses include but are not limited to the following:

- 1. Schools (public or private).*
- 2. Congregate care and convalescent care facilities.*
- 3. Churches, synagogues, temples, and places of worship.*
- 4. Governmental and quasi-public administrative offices, and similar uses.
- 5. Publicly-owned facilities including parks and recreation areas, libraries, museums, and community centers.
- 6. Fire stations, public safety facilities, and government corporation yards.*
- 7. Lodges, fraternal organizations, or clubs.*
- 8. Residential care facilities for seven or more persons.* (See Chapter 17.46)
- 9. Child day care centers and adult day care facilities, unless exempt by State law.
- 10. Bed and breakfast facilities. (See Chapter 17.38)
- 11. Recreational/sports facilities such as golf courses, tennis/racquet clubs, swimming clubs, driving ranges, batting cages, etc.*
- 12. Public utility facilities. (See Chapter 17.40)
- 13. Antennas. (See Chapter 17.42)
- 14. Fenced recreational enclosures. (See Section 17.36.076)

CLEAN COPY
EXHIBIT A
(4 PAGES)

Applicable Districts: All Districts, unless noted with an asterisk (*), in which case the use is not allowed within the Town Center Commercial land use designation of the *Town Center Specific Plan*.

- B. Residential Related Uses. The establishment of the following uses or uses of a similar nature requires a Use Permit. Any change to an existing permitted use which is determined to be significant by the Community Development Director requires a Use Permit. Uses include but are not limited to the following:

1. Model home complex/ subdivision sales office.
2. Equestrian livestock. (See Sections 17.16.130 and 17.36.060)
3. Agricultural animals. (See Sections 17.16.130 and 17.36.070)
4. Multiple household pets:
 - a. More than five and less than ten of any combination of dogs, pot bellied pigs, or cats over six months of age;
 - b. More than three and less than seven dogs or pot bellied pigs over six months of age;
 - c. More than five and less than ten cats over six months of age.

Applicable Districts: Agricultural; All Residential; and Planned Development (Residential).

- C. Commercial Related Uses. The establishment of the following uses or uses of a similar nature requires a Use Permit. Any change to an existing permitted use which is determined to be significant by the Community Development Director requires a Use Permit. Uses include but are not limited to the following:

1. Vehicle service/ fueling station.*
2. Vehicle repair garage.*
3. Vehicle lubrication service.*
4. Vehicle body shop.*
5. Large-appliance stores.
6. Furniture stores (except lamps and lighting).
7. Office, commercial service, personal service, or studio uses in ground floor locations which require a use permit in accordance the Town Center Commercial land use designation of the *Town Center Specific Plan*.
8. Establishments providing massages, unless part of a recognized medical office or clinic.
9. Recreational uses typically located inside buildings (e.g., movie theaters*, pool parlors, etc.).
10. Video arcades with more than three machines.
11. Establishments with dancing and/or live or video entertainment.
12. Any use open after 11:00 p.m.
13. Bars which are not part of a full service restaurant.
14. Adult-oriented uses.
15. Establishments with drive-through window service.
16. Outdoor sales treatment or storage of products or materials.

17. Animal boarding facilities:
 - a. Seven or more dogs or pot bellied pigs over six months of age;
 - b. Ten or more cats over six months of age;
 - c. Ten or more of any combination of dogs, pot bellied pigs, or cats over six months of age.
18. Boarding stables.*
19. A reduction in the total number of required parking spaces in a reciprocal off-street parking facility. (See Section 17.37.060)

Applicable Districts: Limited Commercial; Planned Development (Commercial); and Professional Administrative Office, unless noted with an asterisk (*), in which case the use is not allowed within the Town Center Commercial land use designation of the *Town Center Specific Plan*. Animal boarding facilities are only allowed in the Limited Commercial, Planned Development (Commercial), and Agricultural Districts. Boarding stables are only allowed in the Agricultural District.

17.60.040 Standards of Review. The factors to be reviewed by the Planning Commission (or the City Council upon appeal) shall, based on appropriateness, include but are not limited to:

- A. Parking/Access.
 1. Does the project provide sufficient off-street parking for vehicles and bicycles?
 2. Does the project provide safe and effective access for vehicles, pedestrians, and bicycles?
- B. Traffic Congestion.
 1. Could the project generate significant traffic congestion?
- C. Town Center Compatibility (Applicable only to uses which require a use permit for ground floor locations in the Town Center Commercial land use designation of the *Town Center Specific Plan*).
 1. Would the location of the use interfere with the pedestrian and retail orientation of the Town Center?
 2. Would the use or its size, in conjunction with existing uses, overwhelm the Town Center or interfere with the pedestrian and retail orientation of the Town Center?
- C. Noise.
 1. Could the project generate noise levels above the standards of the Noise Element of the General Plan?
 2. Could the project generate significant intermittent noise such as bouncing balls, announcements, grinding, sanding?
- D. Air Quality.
 1. Could the project generate significant levels of dust, airborne particulate?
 2. Could the airborne particulate be toxic?
 3. Could the project generate significant fumes or smells?
- E. Lighting/Litter.
 1. Could the lighting especially exterior night lighting disturb surrounding properties?
 2. Could the project generate significant litter?
- F. Crime.
 1. Could the project possibly result in the significant increase of crime in the area?
 2. Could the project potentially have a significant negative influence on minors?
- G. Concentration.
 1. Could the project represent a concentration of a particular activity in an area to the detriment of the health, safety and/or welfare of nearby residents, businesses, property owners, and/or employees?

17.60.050 Conditions of Approval. The City may impose such requirements, restrictions and conditions as a part of a Use Permit relating to factors including, but not limited to: location and site planning; construction; maintenance; operation, including hours of operation; and traffic control as it deems necessary for the protection of adjacent properties and the public interest. The City may require a cash or surety bond that such conditions will be or are being complied with by the operator.

17.60.060 Required Findings. In granting a Use Permit, the factors to be reviewed by the Planning Commission (or the City Council upon appeal) shall include but are not limited to the following findings:

- A. That the use shall be in conformity with the General Plan and any applicable specific plan;
- B. That the use shall be in conformity with City-adopted standards.
- C. That the use shall not negatively affect the general safety (e.g., seismic, landslide, flooding, fire, traffic) of the City or surrounding area.
- D. That the use shall not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City.
- E. That the permit will be in accord with the purpose of Use Permits as stated herein.

Chapter 17.60

USE PERMITS

Sections:

- 17.60.010 Definition.
- 17.60.020 Purpose.
- 17.60.030 Use Permits Required.
- 17.60.040 Standards of Review.
- 17.60.050 Conditions of Approval.
- 17.60.060 Required Findings.

17.60.010 Definition. A Use Permit may allow certain uses or activities not permitted by right in specific zoning districts or areas. In some cases, these uses must comply with defined conditions in order to be allowed to develop and/or operate.

17.60.020 Purpose. The major purposes of the Use Permit are:

- A. To implement the General Plan and any applicable specific plans;
- B. To condition, restrict or prevent the development of uses whose effects are or may be detrimental to the health, safety and welfare of residents, businesses, property owners, and/or employees in the City; and
- C. To identify those types or aspects of development which may not be totally compatible with development permitted as a matter of right by this Title and to impose such conditions and restrictions, as necessary, to promote compatibility.

Deleted: the zoning ordinance

17.60.030 Use Permits Required.

- A. Public/Quasi-Public Related Uses. The establishment of the following uses or uses of a similar nature requires a Use Permit. Any change to an existing permitted use which is determined to be significant by the Community Development Director requires a Use Permit. Uses include but are not limited to the following:

- 1. Schools (public or private).*
- 2. Congregate care and convalescent care facilities.*
- 3. Churches, synagogues, temples, and places of worship.*
- 4. Governmental and quasi-public administrative offices, and similar uses.
- 5. Publicly-owned facilities including parks and recreation areas, libraries, museums, and community centers.
- 6. Fire stations, public safety facilities, and government corporation yards.*
- 7. Lodges, fraternal organizations, or clubs.*
- 8. Residential care facilities for seven or more persons.* (See Chapter 17.46)
- 9. Child day care centers and adult day care facilities, unless exempt by State law.
- 10. Bed and breakfast facilities. (See Chapter 17.38)
- 11. Recreational/sports facilities such as golf courses, tennis/racquet clubs, swimming clubs, driving ranges, batting cages, etc.*
- 12. Public utility facilities. (See Chapter 17.40)
- 13. Antennas. (See Chapter 17.42)
- 14. Fenced recreational enclosures. (See Section 17.36.076)

MARK-UP COPY
EXHIBIT B
(4 PAGES)

Applicable Districts: All Districts, unless noted with an asterisk (*), in which case the use is not allowed within the Town Center Commercial land use designation of the *Town Center Specific Plan*.

B. Residential Related Uses. The establishment of the following uses or uses of a similar nature requires a Use Permit. Any change to an existing permitted use which is determined to be significant by the Community Development Director requires a Use Permit. Uses include but are not limited to the following:

1. Model home complex/ subdivision sales office.
2. Equestrian livestock. (See Sections 17.16.130 and 17.36.060)
3. Agricultural animals. (See Sections 17.16.130 and 17.36.070)
4. Multiple household pets:
 - a. More than five and less than ten of any combination of dogs, pot bellied pigs, or cats over six months of age;
 - b. More than three and less than seven dogs or pot bellied pigs over six months of age;
 - c. More than five and less than ten cats over six months of age.

Applicable Districts: Agricultural; All Residential; and Planned Development (Residential).

C. Commercial Related Uses. The establishment of the following uses or uses of a similar nature requires a Use Permit. Any change to an existing permitted use which is determined to be significant by the Community Development Director requires a Use Permit. Uses include but are not limited to the following:

1. Vehicle service/ fueling station.*
2. Vehicle repair garage.*
3. Vehicle lubrication service.*
4. Vehicle body shop.*
5. Large-appliance stores.
6. Furniture stores (except lamps and lighting).
7. Office, commercial service, personal service, or studio uses in ground floor locations which require a use permit in accordance the Town Center Commercial land use designation of the *Town Center Specific Plan*.
8. Establishments providing massages, unless part of a recognized medical office or clinic.
9. Recreational uses typically located inside buildings (e.g., movie theaters*, pool parlors, etc.).
10. Video arcades with more than three machines.
11. Establishments with dancing and/or live or video entertainment.
12. Any use open after 11:00 p.m.
13. Bars which are not part of a full service restaurant.
14. Adult-oriented uses.
15. Establishments with drive-through window service.
16. Outdoor sales treatment or storage of products or materials.

Deleted: bowling alleys.

Deleted: skating rinks.

17. Animal boarding facilities:*

- a. Seven or more dogs or pot bellied pigs over six months of age;
- b. Ten or more cats over six months of age;
- c. Ten or more of any combination of dogs, pot bellied pigs, or cats over six months of age.

18. Boarding stables.*

19. A reduction in the total number of required parking spaces in a reciprocal off-street parking facility. (See Section 17.37.060)

Applicable Districts: Limited Commercial; Planned Development (Commercial); and Professional Administrative Office, unless noted with an asterisk (*), in which case the use is not allowed within the Town Center Commercial land use designation of the *Town Center Specific Plan*. Animal boarding facilities are only allowed in the Limited Commercial, Planned Development (Commercial), and Agricultural Districts. Boarding stables are only allowed in the Agricultural District.

17.60.040 Standards of Review. The factors to be reviewed by the Planning Commission (or the City Council upon appeal) shall, based on appropriateness, include but are not limited to:

A. Parking/Access.

1. Does the project provide sufficient off-street parking for vehicles and bicycles?
2. Does the project provide safe and effective access for vehicles, pedestrians, and bicycles?

B. Traffic Congestion.

1. Could the project generate significant traffic congestion?
- C. Town Center Compatibility (Applicable only to uses which require a use permit for ground-floor locations in the Town Center Commercial land use designation of the *Town Center Specific Plan*).
 1. Would the location of the use interfere with the pedestrian and retail orientation of the Town Center?
 2. Would the use or its size, in conjunction with existing uses, overwhelm the Town Center or interfere with the pedestrian and retail orientation of the Town Center?

C. Noise.

1. Could the project generate noise levels above the standards of the Noise Element of the General Plan?
2. Could the project generate significant intermittent noise such as bouncing balls, announcements, grinding, sanding?

D. Air Quality.

1. Could the project generate significant levels of dust, airborne particulate?
2. Could the airborne particulate be toxic?
3. Could the project generate significant fumes or smells?

E. Lighting/Litter.

1. Could the lighting especially exterior night lighting disturb surrounding properties?
2. Could the project generate significant litter?

F. Crime.

1. Could the project possibly result in the significant increase of crime in the area?
2. Could the project potentially have a significant negative influence on minors?

G. Concentration.

1. Could the project represent a concentration of a particular activity in an area to the detriment of the health, safety and/or welfare of nearby residents, businesses, property owners, and/or employees?

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1 Could the project generate any significant other types of pollutants?
11 Traffic Congestion*

1. Could the project generate significant traffic congestion? If yes, where and when?*

1

Deleted: If yes, where, what potential types?

Deleted: J. Congregating*

1 Could the project possibly result in large numbers of persons congregating on the exterior? If yes, where and how many likely?*

K. Influence on Minors*

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17.60.050 Conditions of Approval. The City may impose such requirements, restrictions and conditions as a part of a Use Permit relating to factors including, but not limited to: location and site planning; construction; maintenance; operation, including hours of operation; and traffic control as it deems necessary for the protection of adjacent properties and the public interest. The City may require a cash or surety bond that such conditions will be or are being complied with by the operator.

17.60.060 Required Findings. In granting a Use Permit, the factors to be reviewed by the Planning Commission (or the City Council upon appeal) shall include but are not limited to the following findings:

- A. That the use shall be in conformity with the General Plan and any applicable specific plan;
- B. That the use shall be in conformity with City-adopted standards.
- C. That the use shall not negatively affect the general safety (e.g., seismic, landslide, flooding, fire, traffic) of the City or surrounding area.
- D. That the use shall not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City.
- E. That the permit will be in accord with the purpose of Use Permits as stated herein.

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Chapter 17.24

LIMITED COMMERCIAL (LC) DISTRICT

Sections:

- 17.24.010 Permitted Uses--Generally.
- 17.24.020 Permitted Uses--Principal.
- 17.24.030 Lot Area.
- 17.24.040 Building Height.
- 17.24.050 Setbacks.
- 17.24.060 Parking and Loading.

17.24.010 Permitted Uses—Generally. All land within a Limited Commercial District (map symbol LC) may be used for any of the uses under the regulations in this chapter.

17.24.020 Permitted Uses—Principal. The principal permitted uses in the Limited Commercial District are as listed below, unless project site is located within the boundary of the *Town Center Specific Plan* in which case the permitted uses are the retail sales, commercial service, restaurant, bar, commercial recreation, child day care, office, upper-floor residential, visitor-accommodation uses listed in the "Town Center Commercial" land use designation of the *Town Center Specific Plan*.

- A. Retail business or service establishment supplying commodities or performing services for residents of the surrounding community, such as a junior department store, grocery, fruit, or vegetable store, bakery outlet, drugstore, barbershop and beauty shop, clothes cleaning and laundry pickup station, business or professional offices and the like;
- B. Cafes, restaurants, grills, and similar enterprises, provided that such uses are conducted within a completely enclosed building;
- C. Business and technical schools, and schools and studios for photography, art, music and dance;
- D. Medical and dental offices and clinics;
- E. Administrative, executive, and editorial offices;
- F. Professional offices;
- G. Financial offices, including banks, and real estate and other general business offices;
- H. Outdoor sales activities, such as sidewalk cafes, and other similar uses, where the City finds any such use to be in the public interest and compatible with existing development in the general area where such use is proposed, and which use is maintained with sufficient screening or landscaping or both, where the same is or are determined by the City to be necessary to protect surrounding properties;
- I. Accessory uses and structures customarily appurtenant to a permitted use, such as incidental storage facilities;
- J. Any other retail business, office or service establishment which the Commission finds not to be inconsistent with the purpose of this title and which will not impair the present or potential use of adjacent properties.

17.24.030 Lot Area. Buildings or parts of buildings hereafter erected or altered for any of the uses described in this chapter shall be situated on a lot at least five thousand square feet in area and fifty feet in average width.

17.24.040 Building Height. The building height in the Limited Commercial District shall not exceed forty (40) feet.

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EXHIBIT C
(2 PAGES)

17.24.050 Setbacks. The setback in the Limited Commercial District shall be five (5) feet from all lot lines, unless the lot shares a common lot line with a lot in a residential district, in which case the setback shall be ten (10) feet from that portion of the common lot line. The setback may be reduced to zero (0) feet upon approval of a site plan review by the Planning Commission for the subject development in accordance with Chapter 17.44. (Ord. 403)

17.24.060 Parking and Loading. Off-street parking and loading shall be provided in accordance with the requirements of Chapter 17.37 (Off-Street Parking and Loading Regulations).

Chapter 17.04

DEFINITIONS

17.04.180 Retail Business. "Retail business means the sale, barter, and exchange of retail goods, wares, merchandise, or other personal property or any interest in them for profit or livelihood.

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**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 02-08**

**TOWN CENTER ZONING UPDATE
AMENDMENT OF USE PERMITS (CHAPTER 17.60),
LIMITED COMMERCIAL DISTRICT (CHAPTER 17.24), AND
DEFINITIONS (CHAPTER 17.04).
ZOA 01-07**

Whereas, Section 17.56.060 of the *Zoning Ordinance* requires the Planning Commission to make a recommendation to the City Council on zoning ordinance amendments; and

Whereas, the City of Clayton has proposed amendments of the Use Permit regulations (Chapter 17.60), Limited Commercial District regulations (Chapter 17.24), and Definitions (Chapter 17.04); and

Whereas, the Planning Commission held a duly-noticed public hearing on January 8, 2008 on the proposed amendments of the Use Permit regulations, Limited Commercial District regulations, and Definitions; and

Whereas, the Planning Commission considered the public testimony and staff report; and

Whereas, the *Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration* (ENV 01-06), which has been previously approved by the City, studied the environmental impacts of amendments of the *Zoning Ordinance*, and those aspects of the project which were not evaluated in the *Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration* (ENV 01-06) are exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15061(b)(3), 15305, and 15332 of the CEQA Guidelines; and

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission recommends the City Council approve amendments of the Use Permit regulations, Limited Commercial District regulations, and Definitions as provided the **Attachment**.

Section 2. The amendments would be in general conformance with the *General Plan*, would be in the public interest; and have been assessed for potential impacts and have been determined to not be detrimental to the public health, safety, or welfare.

EXHIBIT D
(2 PAGES)

Resolution No. 02-08

Page 2

Adopted by the Planning Commission on January 8, 2008.

APPROVED

ATTEST

Keith Haydon
Chair

Jeremy Graves, AICP
Community Development Director

Attachment: Use Permits, Limited Commercial District and Definitions, dated January ___, 2008



Member of
International Council
of Shopping Centers



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Management
Organization



January 4, 2008

RECEIVED

JAN 4 2008

**CLAYTON COMMUNITY
DEVELOPMENT DEPT.**

Mr. Jeremy Graves
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, California 94517-1250

Re: Town Center Specific Plan Update

Dear Mr. Graves:

Thank you for sending me the above referenced document for review. I would appreciate your willingness to provide each of the Planning Commissioners with a copy of this letter to review. I believe I possess some relevant experience in managing and leasing retail properties which might prove useful. I have been a Property Manager/Broker specializing in retail properties for the past thirty years. I currently manage and lease Village Oaks which I consider a mixed use property which attempts to provide retail uses on the ground floor and office uses on the second floor.

I have reviewed the Land Use Designations outlined in the Town Center Specific Plan Update (TCSPU) recommended for approval by the Planning Commission on November 27, 2006 and noted that of the seven current ground floor tenants at Village Oaks only two would not need a Use Permit under the proposed changes. The only two "Permitted Uses" (PM) uses are Ed's Mudville Grill and The Winner's Circle. The latter is struggling and would vacate if we could find a replacement tenant. The TCSPU is a noble attempt to bring a specific retail use to down town but the market, customer demand, visibility and parking are some of the parameters that will determine if these uses are actually viable.

I believe Village Oaks is a good bell weather of problems that other property owners may face as a result of the proposed TCSPU. I personally would like to fill our building with the permitted uses defined in the TCSPU but the truth is these tenant uses are hard to find for various reasons. If you drive by any new retail development you will notice that the smaller retail stores (I consider Village Oaks to have only small stores) are primarily filled with food uses. This is because these tenants are the ones which can generate the sales to pay the higher rents needed to justify new buildings. Retail business similar to our Toy Store that vacated several years ago – they were not asked to leave- were unable to generate sufficient sales from the community and left at the end of their lease.

EXHIBIT E
(2 PAGES)

Real Estate Management • Leasing • Sales • Consulting

Corporate Office: 1725 S. Bascom Avenue, Suite 104 • Campbell, CA 95008 • Bus. 408.371.8770 • Fax 408.371.4865

Las Vegas Office: 10161 Park Run Drive, Suite 150 • Las Vegas, NV 89145 • Bus. 702.835.6820 • Fax 702.835.6821



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Right now we have three available stores for lease. Two of these are occupied by The Winner's Circle and the Travel Center, both of which are doing poorly and have asked us to find a replacement tenants. We have been advertising in the local newspapers and informed retail brokers of their availability for several months. So far the only interest has come from office type uses. I believe the reason for this is that these vacancies (other than Winner's Circle) face the parking lot and have no street visibility. Retail tenants would normally not want a store that is not seen from the street.

I note that one of the newest buildings (B&B Building) in town which is located across the street from Village Oaks has no tenants that are "Permitted Uses". How do you propose to handle situations where a tenant that is not a PM vacates and a similar type user wants to occupy the space? Would the Landlord need to run each inquiry by the Planning Commission to determine if a use permit would be granted? How quick a turn around with this entail? How long would a store need to remain vacant without interest from a "Permitted Use" before the space can be leased to a non PM? These are some of the questions that you should consider before implementing the TCSPU.

Vacant stores do nobody any good. Unoccupied stores indicate that an area's business client is not vibrant and successful. With this in mind, I hope that the granting of Use Permits will very flexible and that Landlord's will not need to loose money by leaving stores empty until an acceptable permitted use comes along.

I appreciate your time and consideration for reading and considering the points raised in this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Stephen J. Coates", written over a horizontal line.

Stephen J. Coates, Manager
Village Oaks

Real Estate Management • Leasing • Sales • Consulting

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