



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, August 25, 2009
Hoyer Hall, 6125 Clayton Road, Clayton

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Selection of Chair and Vice Chair.
- 1B. Review of agenda items.
- 1C. Chair Catalano to report at the City Council meeting on September 1, 2009.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of August 11, 2009.

Public Hearings

- 3A. **ZOA 02-09, Municipal Code Amendment, City of Clayton.** A public hearing regarding amendments to Clayton Municipal Code Section 17.36.020 (Building Height Restrictions) to consider removing specified outdated building height references and to clarify the purpose of this Section. *Continued from the Planning Commission meeting of August 11, 2009.*

Proposed Action: Approve Resolution No. 03-09

- 3B. **SPR 11-07, Extension of Site Plan Review Permit, Ramon Velasquez, 1816 Ohlone Heights, APN 118-392-001.** A request for a twelve-month extension for a previously-approved Site Plan Review Permit (previously approved on September 17, 2008) for an existing retaining wall, screen fence atop the retaining wall, and landscape and related improvements in the exterior side yard of the subject property.

Proposed Action: Approval

Old Business

- 4. None.

New Business

5. None.

Communications

- 6A. Staff – Distribution of information for Complete Streets.
- 6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is scheduled for **Tuesday, September 8, 2009.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
City of Clayton Planning Commission Meeting
Tuesday, August 11, 2009

Call to Order

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

Present: Chair Tuija Catalano, Commissioner Bob Armstrong, Commissioner Sandra Johnson, Commissioner Ted Meriam, Commissioner Dan Richardson

Absent: None

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Administrative

1A. Review of agenda items.

1B. Chair Catalano to report at the City Council meeting on September 1, 2009.

Approval of Minutes

2. Approval of minutes from the meeting of July 14, 2009.

Commissioner Richardson moved and Chair Catalano seconded a motion to approve the minutes from the meeting of July 14, 2009, as amended. The motion passed 5-0.

Public Hearings

3. **ZOA 02-09, Municipal Code Amendment, City of Clayton.** A public hearing regarding amendments to Clayton Municipal Code Section 17.36.020 (Building Height Restrictions) to consider removing specified outdated building height references and to clarify the purpose of this Section.

Director Woltering and Assistant Planner Sikela presented the staff report. Director Woltering explained that staff had contacted the City Attorney who indicated that Government Code Section 53091 requires that the structures and buildings listed in Section 17.36.020 be either permitted by right or conditionally permitted with a Use Permit as a pre-requisite to the application of Section 17.36.020. If the structures and buildings listed did not comply with either threshold, then the exemption to height limitations allowable by Section 17.36.020 would not apply. Director Woltering further indicated that staff would recommend taking Commission comments and direction on this current version of the ordinance amendment, but then staff would recommend the matter be continued to the next Commission meeting to allow staff time to modify the ordinance as presently drafted to reflect the City Attorney's comments. At the very least, staff anticipated needing to add amendments to other sections of the City's Municipal Code to permit or conditionally permit windmills (including wind chargers and other wind-harnessing structures) in the Agricultural (A) District and other districts, assuming a minimum lot size of 40,000 square feet.

Planning Commission comments and questions included:

- Supported considering further amendments to the Municipal Code to allow structures and buildings listed in Section 17.36.020 to be permitted by right or conditionally permitted with a Use Permit.
- How do we ensure compatibility with surrounding properties for windmills proposed on lots that are 40,000 square feet in area but not located in an Agricultural District? Director Woltering indicated that the Use Permit process would ensure that any windmill proposals would be reviewed for compatibility with surrounding properties.

- Are there any City regulations addressing “mechanical appurtenances”? Assistant Planner Sikela indicated that the Town Center Specific Plan had a requirement that rooftop equipment be screened from off-site locations. Staff indicated that they would review provisions of the Code pertaining to mechanical appurtenances to make sure that there would be no conflicts with the proposed Code amendment.
- Chair Catalano requested that the wording of the proposed provision that gives the Community Development Director the authority to refer applications to the Planning Commission for consideration refer to “standards and buildings” similar to other provisions being recommended.
- Generally supported the amendments proposed by staff.
- Supported continuing the item to the next regularly-scheduled Planning Commission meeting, given the additional input from the City Attorney.

Commissioner Johnson moved and Commissioner Richardson seconded a motion to continue Municipal Code Amendment ZOA 02-09 to the next regularly-scheduled Planning Commission meeting on August 25, 2009. The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff

Director Woltering indicated the following:

- Rivulet
As a result of City concerns regarding the financial capability of the developer to complete the project, a City Council sub-committee has been formed to seek out other entities that may be interested in developing the project through to fruition. The environmental document is basically complete; however, the environmental consultant is in a holding pattern until additional monies are received to fund the completion of the environmental document. Additionally, staff is still awaiting submittal of a complete tentative map for the project.

Planning Commission questions and comments included:

- Is the environmental consultant awaiting funds from the developer for past work already completed? Director Woltering indicated that the environmental consultant has been paid in a timely manner throughout the process and is currently paid in full.
- If a new developer undertook completion of the project, what would the impact be to the creek setback issue? Director Woltering indicated that, if the new developer maintained the currently-proposed setback, there would be no change. The current creek setback has been evaluated in the project’s environmental document and received preliminary approval from the California Department of Fish and Game. Modifying the setback to be closer to the creek would be problematic.
- The developer should be aware of the typical moratorium on construction between October 15 and April 15 in areas where stormwater runoff and degraded water quality may be a concern.

- Flora Square
Ground-floor occupancies will not occur until the required floodgates are made available and ready to install. The project is located in a 100-year flood plain.
 - Complete Streets
Director Woltering indicated that he contacted the Contra Costa Transportation Authority regarding this issue. The intent of the “complete streets” program is to ensure that, as development occurs, new streets are conducive to all modes of transportation—pedestrian, bicycle, public transit, and vehicular. The requirements of the complete streets program would also pertain to exiting streets that are being re-constructed. The intent is for all streets—new or re-constructed—become “multi-modal”.
- Planning Commission questions and comments included:
- Could staff provide an example of a complete street? Director Woltering indicated that an example of a complete street would be provided to the Planning Commission at its next meeting.
 - Adding sidewalks and bicycle lanes to a street during a construction project is an example of the type of improvements associated with a complete street project.
- 1816 Ohlone Heights
The property has a new owner who has submitted an application request for a twelve-month extension on the previously-approved Site Plan Review Permit for the site to allow more time to complete the required improvements.

6B. Commission

Commissioner Armstrong indicated that no TRANSPAC meeting was held this month.

Adjournment

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

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Tuija Catalano
Chair

Plng Comm\2009\Minutes\0811

PLANNING COMMISSION STAFF REPORT

Meeting Date: August 25, 2009

From: Milan Sikela, Jr. *MS*
Assistant Planner

Subject: Amendments to Clayton Municipal Code (ZOA 02-09) Related to Clarifying the Intent and Addressing Outdated References of Section 17.36.020 (Building Height Restrictions)

BACKGROUND AND DISCUSSION

At its meeting of August 11, 2009, the Planning Commission held a public hearing to review possible amendments to the Clayton Municipal Code regarding clarifying the intent of Section 17.36.020 to address height limitations of structures and buildings that otherwise would be permitted in a respective district and to address references to outdated structures and buildings in this Section. During the August 11th meeting, the Commission provided the following direction:

- Supported considering further amendments to the Municipal Code to allow structures and buildings listed in Section 17.36.020 to be permitted by right or conditionally permitted with a Use Permit.
- Chair Catalano requested that the wording of the proposed provision that gives the Community Development Director the authority to refer applications to the Planning Commission for consideration refer to “structures and buildings” similar to other provisions being recommended.

The Commission had concerns about ensuring compatibility with surrounding properties for windmills proposed on lots that are 40,000 square feet in area but not located in an Agricultural District. Staff has added the necessary proposed modifications to Section 17.060.020 (Use Permits) in the attached draft Ordinance. These proposed changes would allow the Use Permit process to be used to ensure that all windmill proposals on lots that are 40,000 square feet in area or larger and not located in an Agricultural District be compatible with surrounding properties. Additionally, staff has also provided the necessary proposed modifications to Section 17.12.020 (Agricultural District) to allow windmill proposals to be permitted by right. As was indicated by staff at the August 11th meeting, there is a proposed clause in the draft wording that allows the Community Development Director to refer a structure to the Planning Commission if the Director believes that the structure may not be compatible, given that it exceeds the height limit of the applicable district.

Mechanical Appurtenances

Staff has researched the Municipal Code for references to mechanical appurtenances and found that there were no conflicts with the proposed Code amendments.

RECOMMENDATION

Staff recommends that the Planning Commission approve Resolution No. 03-09 which recommends City Council approval of an ordinance to amend Section 17.36.020 of and add Sections 17.12.020.D and 17.60.030.A.16 to the Municipal Code regarding clarifying the intent of Section 17.36.020 to address height limitations of structures and buildings that otherwise would be permitted in a respective district and to address (i.e., remove or modify) references to outdated structures in this Section.

ATTACHMENT

Clayton Planning Commission Resolution 03-09 with draft ordinance.

ZOA\2009\02-09.sr3

**CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 03-09**

**AMENDMENT OF SECTION 17.36.020 (BUILDING HEIGHT RESTRICTIONS)
AND RELATED AMENDMENTS ADDING LANGUAGE TO
SECTION 17.12.020 AND SECTION 17.60.030
OF THE CLAYTON MUNICIPAL CODE TO CLARIFY THE INTENT
AND ADDRESS REFERENCES TO OUTDATED STRUCTURES AND BUILDINGS
(ZOA 02-09)**

Whereas, the Planning Commission held a duly-noticed study session on July 14, 2009 to review the proposed amendments to Section 17.36.020 of the Municipal Code to remove references to outdated structures and buildings; and

Whereas, at the July 14, 2009 Planning Commission study session, the Planning Commission directed staff to prepare a draft ordinance amendment, which staff completed, to modify Section 17.36.020 of the Municipal Code to clarify the intent of this Section and to address the issue of height limitations pertaining to structures and buildings otherwise permitted in the respective districts and to remove references to outdated structures and buildings; and

Whereas, the Planning Commission held duly-noticed public hearings on August 11, 2009 and August 25, 2009 on the amendments to the wording in Section 17.36.020, additions to Section 17.12.020, and additions to Section 17.60.030 of the Municipal Code; and

Whereas, the Planning Commission considered the public testimony and staff reports received at the August 11, 2009 and August 25, 2009 meetings; and

Whereas, the amendments to the wording in Section 17.36.020, additions to Section 17.12.020, and additions to Section 17.60.030 of the Municipal Code are exempt from the California Environmental Quality Act (CEQA) in accordance with Sections 15305 of the CEQA Guidelines.

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission determines that the proposed amendments to the Municipal Code related to references to clarifying the intent and addressing references to outdated structures and buildings related to Section 17.36.020 described in the **Attachment** would be in general conformance with the General Plan, including any affected implementation programs, and would be in the public interest as well as support the public necessity, convenience, and general welfare.

Section 2. The Planning Commission recommends that the City Council approve the proposed amendments of the Clayton Municipal Code related to clarifying the intent and addressing references to outdated structures and buildings related to Section 17.36.020.

Adopted by the Planning Commission on _____.

Resolution No. 03-09

Page 2

APPROVED

ATTEST

Tuija Catalano
Chair

David Woltering, AICP
Community Development Director

Attachment: Draft ordinance for amending Section 17.36.020 and adding to Sections 17.12.020 and 17.60.030 of the Municipal Code

ORDINANCE NO. ____

**AMENDMENT OF SECTION 17.36.020 (BUILDING HEIGHT RESTRICTIONS)
AND RELATED AMENDMENTS ADDING LANGUAGE TO
SECTION 17.12.020 AND SECTION 17.60.030
OF THE CLAYTON MUNICIPAL CODE TO CLARIFY THE INTENT
AND ADDRESS REFERENCES TO OUTDATED STRUCTURES AND BUILDINGS
(ZOA 02-09)**

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

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

WHEREAS, Section 17.36.020 of the Municipal Code allows certain structures and buildings to be exempt from building heights; and

WHEREAS, Section 17.36.020 of the Municipal Code contains references to certain outdated structures and buildings; and

WHEREAS, it is determined to be beneficial to amend Section 17.36.020 and related Sections of the Clayton Municipal Code to clarify the intent of this Section to address height limitations of structures and buildings otherwise permitted in the respective districts and to remove references to outdated structures and buildings so that these structures and buildings are no longer exempt from building heights and, as a result, will not negatively impact the neighborhoods within Clayton; and

WHEREAS, an amended version of Section 17.36.020 of the Municipal Code has been prepared in order to clarify the intent of this Section and to remove references to outdated structures and buildings; and

WHEREAS, an amended version of Sections 17.12.020 and 17.60.030 of the Municipal Code have been prepared in order to provide consistency with the amendments to Section 17.36.020; and

WHEREAS, the Planning Commission held duly-noted public hearings on August 11, 2009 and August 25, 2009 to address the matters of clarifying the intent and addressing references to outdated structures and buildings of Section 17.36.020 as well as amending Sections 17.12.020 and 17.60.030; determined that these amendments of the Municipal Code involve minor alterations of land use limitations which would not result in any changes in land use or density and would qualify for categorical exemptions from the California Environmental Quality Act (CEQA) in accordance with Section 15305 of the State CEQA Guidelines; determined that these amendments would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of these amendment; and recommended City Council approval of these amendment; and

WHEREAS, on [month] [day], 2009 and [month] [day], 2009, the City Council held duly-noticed public hearings and gave due consideration to all testimony, comments, and documents received; and

WHEREAS, the City Council determined that the amendment of the Municipal Code involves minor alterations of land use limitations which would not result in any changes in land use or density and would qualify for categorical exemptions from the California Environmental Quality Act (CEQA) in accordance with Section 15305 of the State CEQA Guidelines; and

WHEREAS, the City Council determined that the following amendment would be in general conformance with the General Plan; and

WHEREAS, the City Council determined that the public necessity, convenience, and general welfare would require adoption of the amendment; and

WHEREAS, there is no evidence that the amendments will have the potential for any individual or cumulative adverse effects on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

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

SECTION 1. Section 17.36.020 of the Municipal Code is amended to read as follows:

“17.36.020 Building Height Restrictions. The limits of heights of structures or buildings established in this title for any district in which the structures or buildings would otherwise be permitted shall not apply to chimneys, ~~stacks~~, fire towers, ~~radio towers~~, ~~television towers~~, water towers, ~~windmills~~, ~~oil and gas well derricks~~, ~~wind chargers~~, grain elevators, penthouses, cupolas, spires, belfries, ~~domes~~, monuments, flagpoles, ~~telephone poles~~, ~~telegraph poles~~, utility poles, ~~silos~~, water tanks, and necessary mechanical appurtenances attached to buildings. Windmills, wind chargers, and other wind-harnessing structures are permitted by right in the Agricultural (A) District or with a Use Permit on lots in any zone except within the Town Center Specific Plan area that are greater than 40,000 square feet in area. In all cases, parapets or fire walls on buildings or structures otherwise conforming to the regulations established in this title may be constructed ~~not higher than~~ a maximum of three feet in height.

If any of the structures and buildings listed in the Section are proposed for construction in a manner that, in the judgement of the Community Development Director, may not comply with the intent of this Section or may not comply with Standards of Review listed in Section 17.44.040, the Director shall require the structure to be subject to an administrative or Planning Commission Site Plan Review Permit.”

SECTION 2. Section 17.12.020.D of the Municipal Code is added to read as follows:

“D. Windmills, wind chargers, and other wind-harnessing structures.”

SECTION 3. Section 17.60.030.A.16 of the Municipal Code is added to read as follows:

“16. Windmills, wind chargers, and other wind-harnessing structures.* ”

SECTION 4. If any provision of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

SECTION 5. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinance and public notices.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Clayton held on [month] [day], 2009.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on [month] [day], 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Julie K. Pierce, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Dan Adams, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on [month] [day], 2009, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on [month] [day], 2009.

Laci J. Jackson, City Clerk

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PLANNING COMMISSION STAFF REPORT

Meeting Date: August 25, 2009

From: David Woltering, AICP, Community Development Director *DW*

Subject: Request for Extension of Time for Site Plan Review Permit Approval - 1816 Ohlone Heights (SPR 11-07)

REQUEST

A request for extension of time for a Site Plan Review Permit approval to modify an existing retaining wall, screen fence atop the retaining wall, and landscape and related improvements in the exterior side yard of property at 1816 Ohlone Heights.

PROJECT INFORMATION

Applicant/Location: Ramon Velasquez
1816 Ohlone Heights
Clayton, CA 94517
APN 118-392-001 (See **Exhibit A** for Location Map)

General Plan Designation: Medium Density - Single Family Residential (3.1 to 5.0 units per acre). This proposal complies with the *General Plan* designation.

Zoning: Planned Development.

Environmental Review: Categorically exempt per Section 15303(e), Class 3 of the State CEQA Guidelines.

Public Notice: On August 12, 2009, a public hearing notice was posted on the notice boards, mailed to property owners within 300 feet of the site, and faxed to the newspapers.

Agency Referrals: No comments were provided by the City Engineer, City Stormwater Manager, or Contra Costa County Building Inspection Department.

Authority: Condition No. 6 of the Notice of Decision (NOD) issued on September 17, 2008 for this Site Plan Review Permit approval indicates this approval is for a period of 12 months but may be extended by the Planning Commission. The extension that may be granted by the Planning Commission could be for a maximum period of 12 months pursuant to Section 17.64.010-030 of the Clayton Municipal Code.

BACKGROUND

On September 9, 2008, the Clayton Planning Commission considered and approved a Site Plan Review Permit to modify an existing retaining wall, screen fence atop the retaining wall, and landscape and related improvements in the exterior side yard of the property at 1816 Ohlone Heights. The attached Notice of Decision (NOD) (see **Exhibit B**) was issued on September 17, 2008 for this action of the Planning Commission. This approval was granted for a 12-month period, to expire on September 17, 2009, if not acted upon. This action and the related conditions of approval in the NOD provide the roadmap to remedy the outstanding code violations associated with the existing retaining wall and the fence above the wall. The City of Clayton had issued a citation regarding these improvements on October 17, 2006. The citation indicated that the wall in combination with the fence above exceeded the maximum allowed height of six feet (seven feet with an administrative use permit) for such a structure. The fence was located directly behind and above the wall, and, therefore, the combined height of the structures is considered when applying the City's pertinent code provisions. If the fence would be offset by a minimum of three feet, then the two structures would be considered independently. Portions of the existing fence and wall in combination range up to approximately 13 feet. The citation also indicated that the retaining wall was built without a Site Plan Review Permit (additionally, the retaining wall lacks a Building Permit because a Site Plan Review Permit is required as a prerequisite to obtaining a Building Permit).

The NOD issued on September 17, 2008 requires the property owner to apply for a Building Permit to ensure the retaining wall is safe and constructed in accordance with applicable Uniform Building Code requirements, and to replace the existing solid board fence above the wall with an open-type of fence that would be set back a minimum of three feet from the rear edge of the wall. This fence is not to exceed five feet in height. The conditions of approval also require that certain plant materials be installed or replaced to soften the appearance of the retaining wall and fence.

Subsequent to the Site Plan Review Permit approval that was granted in September of 2008 by the Planning Commission, the owner of the property at 1816 Ohlone Heights sold the property and had not during the intervening period satisfied the conditions of approval. A new owner took possession of this property on May 29, 2009, and moved into the property during the following week. This new owner is Mr. Ramon Velasquez. The City Attorney had the Planning Commission's September 2008 NOD recorded against the title of the subject property prior to the sale of the property.

Staff contacted Mr. Velasquez after he had moved into the property and scheduled a meeting with him to familiarize him and his wife with the conditions of approval in the NOD and the process for complying with those conditions or seeking a modification to that approval. Staff has had telephone conversations and meetings with Mr. Velasquez during July and August of this year. At our last meeting on August 10th, Mr. Velasquez had a structural engineer accompany him to formally discuss the conditions of approval of the NOD and approaches to remedy the code violations. The other attendees at the meeting were Community Development Director David Woltering and Contra Costa Building Department representatives Phil Ludolph and Harry Attri. Mr. Velasquez indicated that he was aware that there was a concern regarding the existing retaining wall that needed to be addressed when he purchased the property, but he was unaware of the extent of the concern or the financial ramifications of addressing the matter. The structural engineer representing Mr. Velasquez suggested, based upon his brief visual inspection of the property, that it is unlikely that the existing

retaining wall would be in compliance with current Uniform Building Code requirements. He offered to review the NOD conditions of approval and the existing improvements and report back to Mr. Velasquez the options he could consider for responding to the NOD.

DISCUSSION

Mr. Velasquez has not had the benefit of the full term of the Site Plan Review Permit approval to satisfy the conditions of the NOD and, thereby, correct the violations. He and his family moved into this property in June of this year. And, only very recently has the new owner contracted with a structural engineer to evaluate how to proceed with addressing this matter. Based on the recent feedback received from this engineer, it is likely that the correction work required for the retaining wall will be involved and likely require a modification to the Site Plan Review Permit. The process to correct the violations and address the NOD will involve the following: determining a feasible approach to correcting the violations; preparing needed plans to depict the solution; applying for and receiving Site Plan Review Permit approval as needed; submitting construction documents for plan check and approval; completing the work; and, finally, receiving final inspection approval. Given the scope of work yet to be accomplished and the fact that there is a new owner, staff supports the request of extension of time to address the NOD and correct the code violations on the property.

RECOMMENDATION

Staff recommends the Planning Commission approve the request of Mr. Velasquez to extend for 12 months to September 17, 2010 the Notice of Decision (NOD) for Site Plan Review Permit SPR 11-07 to modify an existing retaining wall, screen fence atop the retaining wall, and landscape and related improvements in the exterior side yard of the subject property. This recommendation and related action are based upon the following:

1. The findings and conditions of the previously approved Site Plan Review Permit are still pertinent and applicable, and will be in full force and effect; and,
2. The new owner of the property at 1816 Ohlone Heights did not have the benefit of the full initial time frame of the Site Plan Review Permit approval to remedy the code violations that exist on this property.

EXHIBITS

- A Location Map
- B Letter from Mr. Velasquez requesting the Extension of Time
- C September 17, 2008 Notice of Decision (NOD) for Site Plan Review Permit Approval (SPR 11-07)
- D Proposed Schematic Landscape Plan and Proposed Landscape: Cross Section A-A', both submitted by the applicant, date stamped August 22, 2008

SPR\2007\11-07.sr2



Location Map
1816 Ohlone Heights
APN 118-392-001

DATE: August 9, 2009

TO: David Woltering, AICP
(Community Development Director)
6000 Heritage Trail
Clayton, CA 94517

RE: Extension Request for Site Plan Review Approval (SPR 11-07)

Mr. Woltering,

As you know by now, I am the new owner of 1816 Ohlone Heights, Clayton Ca. 94517. I had been informed of the **Notice of Decision (NOD)** during the process of purchasing the subject home, that there were some issues pertaining to the retaining wall, fencing and the side landscaping. I officially closed escrow back in May 29, 2009. I had little time or opportunity to look at and overview the N.O.D., since it took us nearly two months to finally settle in and get situated. Per the N.O.D., and letters sent to the previous owner (Ruth Reed), she had twelve months to get a site plan review approved. Since the site plan review for approval applied to Ruth Reed starting September 2008, I feel that I should not be bound to the remaining two months left of the twelve months schedule set forth since I had no notification or knowledge until recently.

However, I do understand the importance and the severity of the violations of the policies and municipal local codes. I am willing to do everything I can to cooperate and remedy the corrections and to have an amicable solution with the city of Clayton and county of Contra Costa.

Per my request, I am asking for a (12) twelve months extension to get a site plan approval. I understand that this project pertaining to the retaining wall, fencing and side landscaping would be a major job. And I am hopeful that the site plan request for an approval will be granted.

Thank you.

A handwritten signature in black ink, appearing to read "Ramon I. Velasquez", with a stylized flourish at the end.

Ramon I. Velasquez
1816 Ohlone Heights
Clayton, Ca. 94517



6000 Heritage Trail • Clayton, California 94517
925-673-7300 • Fax 925-672-4917

PLANNING COMMISSION NOTICE OF DECISION

DATE: September 17, 2008

TO: Ruth Reed
1816 Ohlone Heights
Clayton, CA 94517

75-5919 Walua Road
Kailua-Kona, Hawaii 86740

76-836 Kalana Io Place
Kailua, Konahi, Hawaii 86740

RE: Site Plan Review Permit (SPR 11-07)

Following a public hearing, the Clayton Planning Commission approved the following project on September 9, 2008. The project was approved based on the findings and conditions listed below.

Project Description

Approval of a Site Plan Review Permit to allow an existing retaining wall, screen fence atop the retaining wall, and landscaping and related improvements in the exterior side yard of the property located at 1816 Ohlone Heights (APN 118-392-001).

Findings

Based upon the evidence set forth in the staff reports, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission finds the Site Plan Review permit for the addition, as conditioned:

1. Is consistent with the *General Plan* designation and policies.
2. Meets the standards and requirements of the *Zoning Ordinance*.
3. Complies with the Oakhurst Country Club conditions of approval.
- 4.. Preserves general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.
5. Maintains solar rights of adjacent properties.
6. Reasonably maintains the privacy of adjacent property owners and/or occupants.

7. Reasonably maintains the existing views of adjacent property owners and/or occupants.
8. Is complementary, although not identical with adjacent existing structures in terms of materials, colors, size, and bulk.
9. Is compatible with the neighborhood and surrounding land uses.

Conditions of Approval

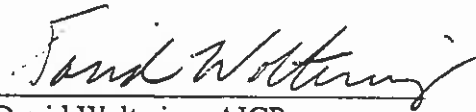
These conditions of approval apply to the Proposed Schematic Landscape Plan and Proposed Landscape: Cross Section A-A', submitted by the applicant, date stamped August 22, 2008.

1. The applicant shall obtain an Administrative Use Permit from the City to allow the existing retaining wall height which exceeds at certain locations six (6) feet but is less than a maximum of seven (7) feet in height. The height of the existing retaining wall shall not be increased pursuant to obtaining the Administrative Use Permit.
2. The new wrought iron fence shall match the gauge and quality of wrought iron fences used throughout Oakhurst, not exceed five feet in height, and be set back a minimum of three feet from the rear edge of the retaining wall, to the satisfaction of the Community Development Director.
3. Prior to building permit issuance for the retaining wall, Final Landscape and Irrigation Plans shall be submitted to the City for review and approval by the Community Development Director, City Engineer, and Maintenance Supervisor. The Final Landscape and Irrigation Plans shall include, but not be limited to, the following:
 - a. Camphor trees shall be 24-inch by 24-inch box in size.
 - b. Boston Ivy or Creeping Fig shall be 1-gallon in size and planted 10 inches on center
 - c. Hopseed shall be 5-gallon in size and planted 5 feet on center.
 - d. The Final Landscape Plan shall include notes and details pertaining to soil amendments, planting specifications, tree staking, erosion control measures, attachment of vines to fencing/wall, etc.
 - e. The Final Irrigation Plan shall avoid spray in favor of drip and bubble-type irrigation features. All equipment shall be identified as to type, size, and manufacturer.
4. Prior to building permit issuance for the retaining wall, the applicant shall enter into a landscape and maintenance agreement with the City for the purpose of specifying and assuring the enforcement of acceptable performance standards for any landscaping and irrigation installed as part of the project. The landscape and maintenance agreement shall be recorded and run with the land. Any associated recording costs shall be incurred by the applicant. This condition shall be performed to the satisfaction of the Community Development Director and the City Attorney.
5. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgements, liens, levies, costs, and expenses of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.
6. This Site Plan Review Permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be void (CMC §17.64.010-030).

Advisory Notes

Advisory notes are provided to inform the applicant of: (a) Clayton Municipal Code requirements; or (b) requirements imposed by other agencies. The advisory notes state requirements that may be in addition to the conditions of approval.

1. If additional work at the project site is necessary, the applicant shall prepare an erosion and stormwater control plan for review and approval by the City Engineer prior to obtaining a building permit.
2. If additional work at the project site is necessary, the applicant shall obtain City approval of a construction and demolition recycling plan prior to obtaining a building permit.
3. The applicant shall comply with all applicable state, county, and city codes, regulations, and adopted standards.
4. All grading, construction, and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless previously authorized in writing by the City Engineer (CMC §15.01.010) located at 1005 Oak Street, 925-672-9700.
5. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
6. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&R's) administered by a homeowners association, additional requirements and/or approvals may be required by the homeowners association. Before proceeding with the project, it is advisable to check with the homeowners association to ensure any applicable requirements are met.


David Woltering, AICP
Community Development Director

9-17-08
Date

INSTRUCTIONS TO APPLICANT: Please sign and return one copy of this Notice of Decision to the Community Development Department, 6000 Heritage Trail, Clayton, CA, 94517; and retain the other copy for your files. If you have any questions, please call 925-673-7340.

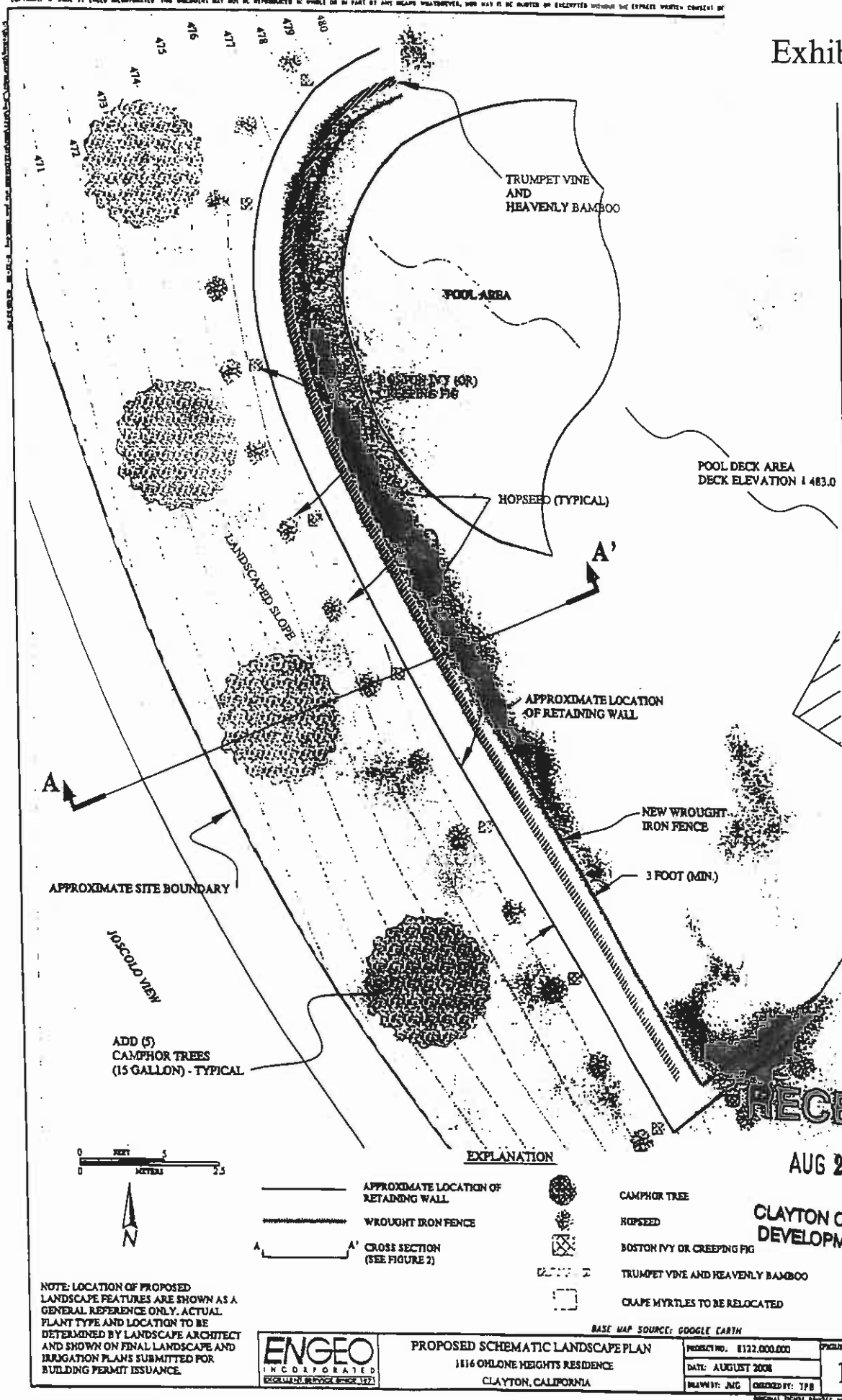
I (We) agree to comply with the above conditions.

_____, this ____ day of _____, 20 ____
Applicant's Signature

All actions of the Planning Commission are subject to appeal to the City Council as provided in Chapter 17.68 of the Clayton Municipal Code. Any appeal must be made in writing to the City Clerk within 10 days from the date of this Notice of Decision and must be accompanied by an appeal fee. An appeal form is available at the Community Development Department.

cc: Contra Costa County Building Inspection Department

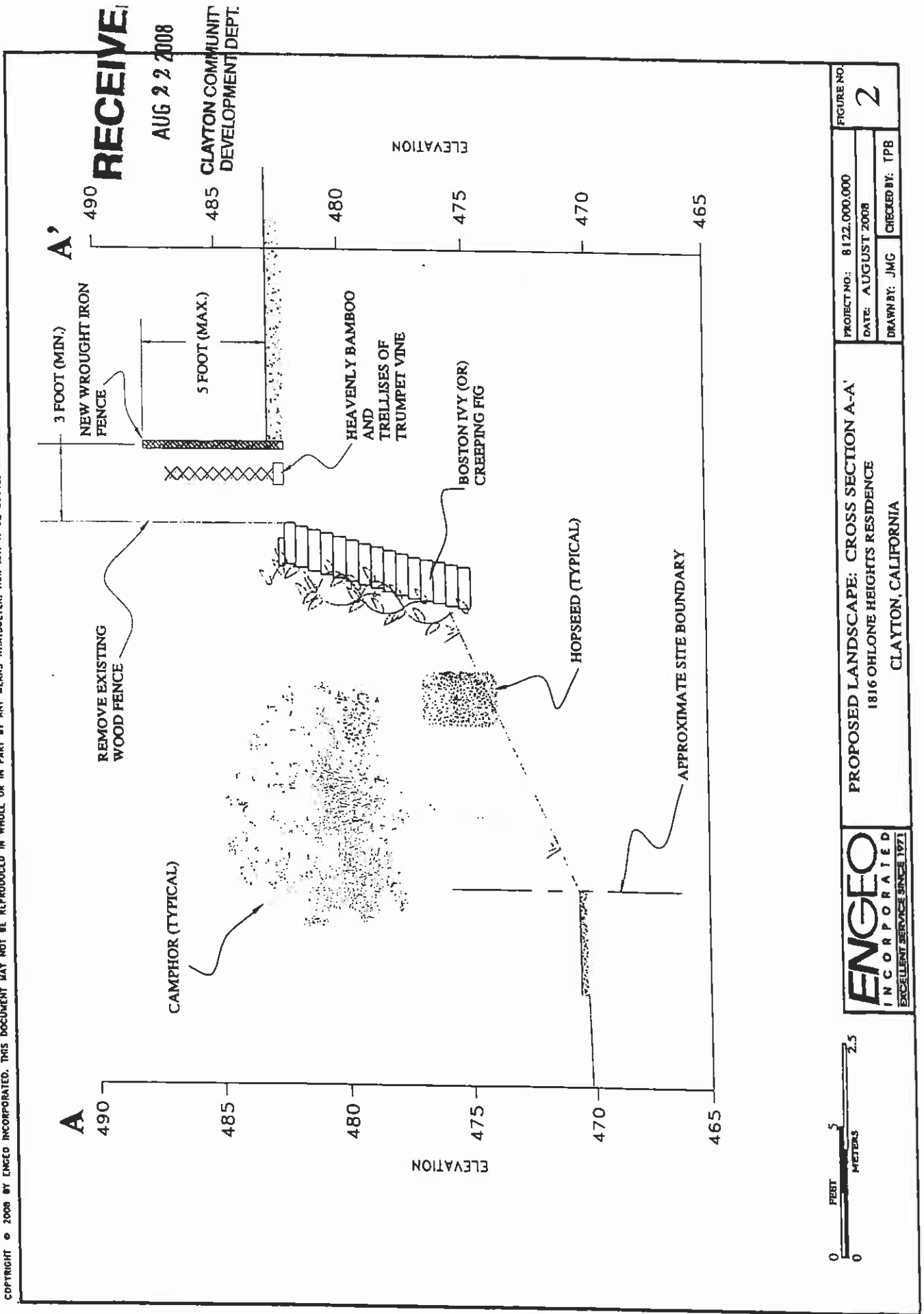
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AUG 22 2008
CLAYTON COMMUNITY DEVELOPMENT DEPT.

ENGEO INCORPORATED REGISTERED PROFESSIONAL ENGINEER 1171	PROPOSED SCHEMATIC LANDSCAPE PLAN 1116 OHLONE HEIGHTS RESIDENCE CLAYTON, CALIFORNIA		PROJECT NO.: 8122.000.000 DATE: AUGUST 2008 DRAWN BY: JMG CHECKED BY: TPB	SHEET NO.: 1

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CITY OF CLAYTON

Founded 1857... Incorporated 1964

COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
JULIE K. PIERCE, MAYOR
HANK STRATFORD, VICE MAYOR
HOWARD GELLER
JOSEPH A. MEDRANO
DAVID T. SHUEY

Memorandum

To: Chairperson Catalano and Members of the Planning Commission

From: David Woltering, Community Development Director 

Date: August 20, 2009

Subject: August 25, 2009 Planning Commission Agenda Item 6A – Information for Complete Streets

We had a brief discussion about the term “Complete Streets” at our last Planning Commission meeting. Commissioner Armstrong had brought this subject up at a prior Commission meeting. It is a timely subject for discussion, given developing Complete Streets is encouraged in the Draft Contra Costa Bicycle and Pedestrian Master Plan, currently under consideration. Moreover, Assembly Bill (AB) 1358, the “California Complete Streets Act of 2008,” requires “that the legislative body of a city or county, upon any substantive revision of the circulation element of the general plan, modify the circulation element to plan for a balanced, multi-modal transportation network that meets the needs of all users [including] motorists, pedestrians, bicyclists, children, persons with disabilities, seniors, movers of commercial goods, and users of public transportation....” This provision of the law goes into effect on January 1, 2011. This law directs the Governor’s Office of Planning and Research to amend its guidelines for the development of circulation elements so as to assist cities and counties in meeting these requirements.

Attached are some informational materials collected from the internet that depict Complete Streets and provide related background information as requested at the Planning Commission meeting on August 11, 2009.

Attachments: Four (4) Informational Handouts Regarding the Subject of “Complete Streets”

COMPLETE STREETS FAQ

What are complete streets, and complete streets policies?

Complete streets are designed and operated to enable safe access for all users. Pedestrians, bicyclists, motorists and transit riders of all ages and abilities must be able to safely move along and across a complete street.

Creating complete streets means transportation agencies must change their orientation toward building primarily for cars. Instituting a complete streets policy ensures that transportation agencies routinely design and operate the entire right of way to enable safe access for all users. Places with complete streets policies are making sure that their streets and roads work for drivers, transit users, pedestrians, and bicyclists, as well as for older people, children, and people with disabilities.

What does a complete street look like?

Since each complete street is unique, it is impossible to give a single description. But ingredients that may be found on a complete street include sidewalks, bike lanes (or wide paved shoulders), special bus lanes, comfortable and accessible transit stops, frequent crossing opportunities, median islands, accessible pedestrian signals, curb extensions, and more. A complete street in a rural area will look quite different from a complete street in a highly urban area. But both are designed to balance safety and convenience for everyone using the road. Look at our ['Many Types of Complete Streets' slideshow](#) to see examples from across the country.

Why do we need complete streets policies?

Complete streets improve safety. A Federal Highways Administration safety review found that streets designed with sidewalks, raised medians, better bus stop placement, traffic-calming measures, and treatments for disabled travelers improve pedestrian safety. Some features, such as medians, improve safety for all users: they enable pedestrians to cross busy roads in two stages, reduce left-turning motorist crashes to zero, and improve bicycle safety. Complete streets encourage walking and bicycling for health. The National Institutes of Medicine recommends fighting childhood obesity by establishing ordinances to encourage construction of sidewalks, bikeways, and other places for physical activity. One study found that 43% of people with safe places to walk within 10 minutes of home met recommended activity levels; among individuals without safe place to walk, just 27% were active enough.

Complete streets address climate change and oil dependence. The potential to reduce carbon emissions by shifting trips to lower-carbon modes is undeniable. The 2001 National Household Transportation Survey found 50% of all trips in metropolitan areas are three miles or less and 28% of all metropolitan trips are one mile or less - distances easy to walk, bike, or hop a bus or train. Yet 65% of the shortest trips are now made by automobile, in part because of incomplete streets that make it dangerous or unpleasant for other modes of travel. Complete streets would help convert many of these short automobile trips to multi-modal travel. Simply increasing bicycling from 1% to 1.5% of all trips in the U.S. would save 462 million gallons of gasoline each year. Using transit has already helped the United States save 1.4 billion gallons of fuel each year, which is a savings of 3.9 million gallons of gasoline every day.

Complete Streets foster strong communities. Complete streets play an important role in livable communities, where all people - regardless of age, ability or mode of transportation - feel safe and welcome on the roadways. A safe walking and bicycling environment is an essential part of improving public transportation and creating friendly, walkable communities.

Where are complete streets being built?

Many states and cities have adopted bike plans or pedestrian plans that designate some streets as corridors for improvements for bicycling and walking. But a few places have gone beyond this to ensure that every street project takes all road users into account.

Among the places with some form of complete streets policy are the states of Oregon, California, Illinois, South Carolina, and Florida. The City of Santa Barbara, CA calls for "achieving equality of convenience and choice" for pedestrians, bicyclists, transit users, and drivers. Columbia, MO adopted new street standards to encourage healthy bicycling and walking. And the regional body that allocates federal transportation dollars around Columbus, OH has determined that all projects must provide for people on foot and bicycle.

What are some of the benefits of complete streets?

Complete streets can offer many benefits in all communities, regardless of size or location. The National Complete Streets Coalition has developed a [number of fact sheets](#), which are available through our website.

How can I get a complete streets policy adopted in my community?

This website has many resources to help you. See the [Changing Policy](#) tab for information on developing and implementing a good policy, working with local advocates, and the answers to many questions on implementation. The National Complete Streets Coalition offers interactive workshops led by national experts on policy development and policy implementation. Need to find transportation planning and engineering professionals ready to help create complete streets? Our [Complete Streets Partner firms](#) can offer the expertise and dedication you need.

CHANGING POLICY

Complete streets policies formalize a community's intent to plan, design, and maintain streets so they are safe for all users of all ages and abilities. Policies direct transportation planners and engineers to consistently design and construct the right-of-way to accommodate all anticipated users, including pedestrians, bicyclists, public transportation users, motorists, and freight vehicles. Some communities have paid special attention to other users, such as equestrians and those using golf carts.

Currently, few government agencies require roads to be complete transportation corridors. Many times, projects add automobile capacity and increase vehicle speeds, but do nothing to mitigate the negative effects this can have on those traveling by foot, bike, or public transportation.

Complete streets can be achieved through a variety of policies: ordinances and resolutions; rewrites of design manuals; inclusion in comprehensive plans; internal memos from directors of transportation agencies; and executive orders from **elected** officials, like Mayors or Governors.

- The State of California and the Cities of Seattle, WA and DeSoto, MO **passed legislation** to require complete streets within their jurisdictions.
- City Councils in North Little Rock, AR and Columbus, OH **adopted resolutions**, setting a guiding principle for city staff to include all users in transportation projects.
- An **executive order** was issued by the Governor of Delaware, directing the Department of Transportation to accommodate all users on state projects.
- The Bloomington/Monroe County Metropolitan Planning Organization and the California Department of Transportation have **created internal policies** that guide staff in creating complete streets.
- Louisville/Jefferson County in Kentucky incorporated complete streets into its **comprehensive plan**, as did Scottsdale, AZ and Champaign, IL.
- The Massachusetts Department of Transportation undertook a major **rewrite of its design manual** (the Project Design and Development Guide), incorporating complete streets principles throughout - and won several national awards for their effort. Louisville/Jefferson County followed up its planning goals with a rewrite of their design manuals as well.

DOWNLOAD: [*Complete Streets: Policy & Implementation brochure \(.pdf\)*](#)

How are Complete Streets policies implemented?

Complete Streets policies can end the project-by-project struggle for better facilities, by requiring all road construction and improvement projects to begin with evaluating how the street serves all who use it - pedestrians, cyclists, public transportation vehicles and passengers, trucks, and automobiles. An effective complete streets policy should prompt transportation agencies to:

Restructure procedures to accommodate all users on every project.

Re-write design manuals to include the safety of all users.

Provide training for planners and engineers in balancing the needs of diverse users.

Establish performance measures to gauge how well the streets are serving all users.

Schedule a workshop!

To help communities successfully adopt complete streets policies, the National Complete Streets Coalition offers interactive, full-day workshops led by national experts on policy development and policy implementation. Visit our website for more information about scheduling a workshop.

Dozens of states, counties, and cities have been adopting policies at an accelerating pace, including the States of California and Illinois, and cities like Seattle and Iowa City. Keep track by signing up for our newsletter!

How can I get involved with Complete Streets?

A broad coalition of advocates and transportation professionals are working to enact complete streets policies across the country.

JOIN US BY BECOMING A MEMBER OR PARTNER!

Becoming a member or partner is easy. We simply ask that you endorse the Coalition's mission by returning the sign-up form available on our web site; collaborate with leading national and regional organizations to advance complete streets and make an annual contribution at the appropriate level.

While donations are not a requirement, they are central to our ability to spread the word, coordinate action, and help organizations nationwide get it right.

The National Complete Streets Coalition
Steering Committee:

AARP

Active Living by Design
Alliance for Biking and Walking
America Bikes
America Walks

American Council of the Blind
American Planning Association

American Public Transportation Association

American Society of Landscape Architects

Association of Pedestrian and Bicycle Professionals

City of Boulder

Institute of Transportation of Engineers

Kimley-Horn and Associates

League of American Bicyclists

McCann Consulting

National Center for Bicycling and Walking

Safe Route to School National Partnership

Smart Growth America

National Complete Streets Coalition

1707 L St NW, Suite 1050

Washington DC 20036

(202) 207-3355

info@completestreets.org



The streets of our cities and towns ought to be for everyone.

Whether young or old, motorist or bicyclist, walker or wheelchair user, bus rider or shopkeeper.

But too many of our streets are designed only for speeding cars.

Or worse, creeping traffic jams. These streets are unsafe for people on foot or bike and unpleasant for everybody.

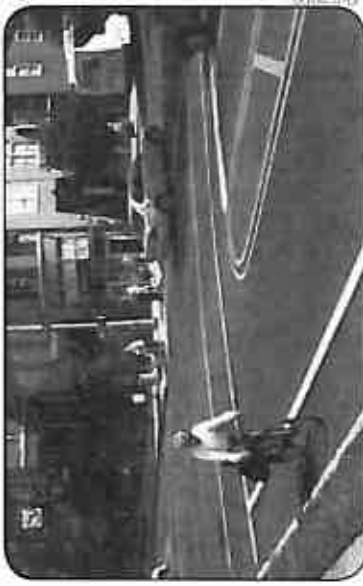
Now in communities across the country, a movement is growing to complete the streets. States, cities, and towns are asking their planners, engineers, and designers to build road networks that welcome all citizens.

POLICY & IMPLEMENTATION

www.completestreets.org

What are Complete Streets policies?

Complete Streets policies direct transportation planners and engineers to consistently design with all users in mind, including drivers, public transportation vehicles users, pedestrians, and bicyclists as well as older people, children, and people with disabilities.



Why do we need Complete Streets policies?

Many streets where people bicycle or walk are incomplete.

Our states, cities, counties, and towns have built many miles of streets and roads that are safe and comfortable only for travel by motor vehicle. These roadways often lack sidewalks, crosswalks, and space for bicyclists; furthermore, roadways often make no room for public transportation vehicles and riders and no accommodation for people with disabilities.

Americans want mobility.

Americans expect a variety of choices, and a multi-modal system of complete streets provides alternatives to driving. Recent opinion polls found that 52% of Americans want to bicycle more, and 55% would prefer to drive less and walk more.

More than half (54%) of older adults who reported an inhospitable walking, bicycling, and transit environment outside their homes said they would walk, bicycle and take transit more if the streets were improved.

About one-quarter of walking trips take place on roads without sidewalks or shoulder, and bike lanes are available for only about 5 percent of bicycle trips. A national survey of pedestrians and bicyclists found that the top complaints were the lack of sidewalks and bikeways - essentially, incomplete streets.

What does a good Complete Streets policy include?

- A vision for how and why the community wants to complete its streets
- Specifies that 'all users' includes pedestrians, bicyclists, and public transportation passengers of all ages and abilities, as well as trucks, public transportation vehicles, and automobiles.
- Encourages street connectivity and aims to create a comprehensive, integrated, connected network for all modes.
- Is adoptable by all agencies to cover all roads.
- Applies to both new and retrofit projects, including design, planning, maintenance, and operations, for the entire right-of-way.
- Makes any exceptions specific and sets a clear procedure that requires high-level approval of exceptions.
- Directs the use of the latest and best design standards while recognizing the need for flexibility in balancing user needs.
- Directs that complete streets solutions will complement the context of the community.
- Establishes performance standards with measurable outcomes.
- Includes specific next steps for implementation of the policy.

Complete Streets foster strong communities.

Complete streets play an important role in livable communities, where all people - regardless of age, ability or mode of transportation - feel safe and welcome on the roadways. A safe walking and bicycling environment is an essential part of improving public transportation and creating friendly, walkable communities. Complete streets provide benefits to the community in many ways, by improving public health, lowering transportation costs for families, fighting climate change, reducing our dependence on foreign oil, increasing capacity, and improving mobility for all.



Few states build roads as complete transportation corridors.

In 2000, the US Department of Transportation advised states receiving federal funds that "bicycling and walking facilities will be incorporated into all transportation projects unless exceptional circumstances exist." Unfortunately, fewer than half the states follow this federal guidance. Many highway projects add automobile capacity and increase vehicle speeds, but do nothing to mitigate the negative impact this can have on walking, biking, and taking public transportation.

What about the costs of Complete Streets?

Complete streets are sound financial investments in our communities that provide long-term savings. An existing transportation budget can incorporate complete streets projects with little to no additional funding, accomplished through re-prioritizing projects and allocating funds to projects that improve overall mobility. In such a balanced and fiscally sound transportation system, complete streets facilities should not be treated as additional costs to a project. Implementing complete streets allows for an efficient and optimal use of limited resources: time, fuel, land, public health, the environment, and money.

For more information, visit www.completestreets.org



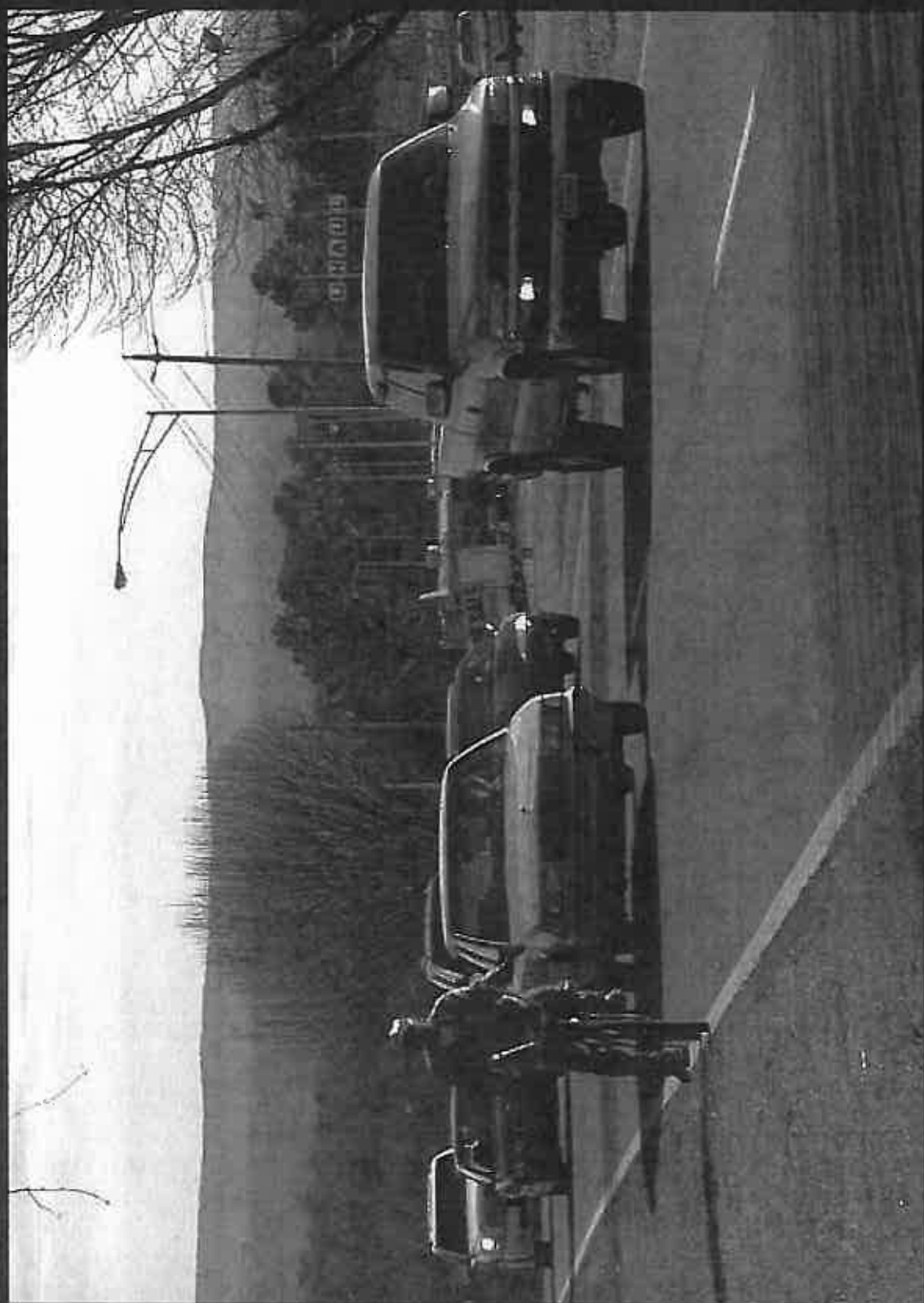
Complete the Streets

Complete Streets:

Serving all users

Barbara McCann
McCann Consulting





What is a Complete Street?



Benefits: for Safety

FHWA review of safety literature found:

- Sidewalks
- Raised medians
- Better bus stop placement
- Traffic calming
- Treatments for disabled travelers

All improve pedestrian safety.

We know how to build right



Creating Complete Streets



Bridgeport Way, University Place,
Washington

For More Information: www.completestreets.org

- Links to success stories & existing policies
- How-to Tools
- Resources: power-point, brochures
- Newsletter sign up

