Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, August 24, 2010

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

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

1A. Review of agenda items.

1B. Commissioner Armstrong to report at the City Council meeting on September 7, 2010.

Public Comment

Approval of Minutes

2. Approval of minutes from the meeting of August 10, 2010.

Public Hearings

3A. **HOP 14-10, Home Occupation Permit, James and Carol Rackel,** 106 El Portal Place, APN 119-610-034. A home occupation permit to allow cooking classes to be conducted from a single-family residence. The cooking classes will occur twice a month and be approximately two (2) to four (4) hours in length per class. The classes will occur no earlier than 10:00 a.m. or later than 5:00 p.m. on on any given Monday through Saturday with a maximum of six (6) students per class. The classes will consist of cooking demonstrations and hands-on instruction.

Proposed Action: Approval, with conditions.

3B. **ZOA 05-09, Municipal Code Amendment, City of Clayton.** A public hearing to consider recommending City Council approval of a Landscape Water Conservation Ordinance to implement the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881, Laird). *Continued from the meeting of August 10, 2010.*

Proposed Action: Recommend City Council approval.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is scheduled for **Tuesday, September 14, 2010.**

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.

Plng Comm\Agendas\2010\0824

Minutes
Clayton Planning Commission Meeting
Tuesday, August 10, 2010

Call to Order
Chair Sandra Johnson called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

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

Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela

Administrative
1A. Review of agenda items.

By consensus, the Planning Commission moved Item 4 before Item 3.

1B. Commissioner Armstrong to report at the City Council meeting on September 7, 2010.

Public Comment
None.

Approval of Minutes
2. Approval of minutes from the meeting of July 13, 2010.

Vice Chair Richardson moved and Commissioner Armstrong seconded the motion to approve the minutes from the meeting of July 13, 2010, as submitted. The motion passed 5-0.

Old Business
4. Review Tree Replacement Options for removed Cypress Tree at The Grove Park.

Chair Johnson opened the discussion. Assistant Planner Sikela presented the staff report.

Commission comments and questions included:

- Redwood trees near the bathroom in the park seemed stressed and dying.
- Does the Maintenance Department want to plant a replacement tree where the cypress tree was removed? Maintenance Supervisor John Johnston replied, yes, because if no replacement tree is planted, it will create a walkway opportunity for pedestrians to take a "short-cut" through the subject landscape area.
- Chinese pistache and crape myrtle trees appear to be doing well in The Grove.
- Too many trees may be a problem in the future as the trees mature and compete for space with one another.
- It is desirable to avoid a situation where the Maintenance Department is constantly having to "fine-tune" the planting plan in the park. That is why it is good to select plantings with thought given to how these selections will mature over time. Supervisor Johnston responded that the Maintenance Department has made numerous changes already, given the plant materials that were initially installed.

- Support was indicated for Supervisor Johnston's position that planting of a replacement tree would discourage pedestrian cut-through traffic in the area. Supervisor Johnston added that the London Plane variety has done very well at the park and added that crape myrtles could also be considered.
- As the Maintenance Department staff has indicated, one London Plane tree would be a good replacement tree option for the location where the cypress tree was removed.

Commissioner Armstrong moved and Commissioner Meriam seconded a motion to have one (1) London Plane tree planted to replace the removed cypress tree. The motion passed 5-0.

Public Hearings

3. **ZOA 05-09, Municipal Code Amendment, City of Clayton.** A public hearing to consider recommending City Council approval of a Landscape Water Conservation Ordinance to implement the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881, Laird).

Chair Johnson opened the public hearing. Director Woltering presented the staff report.

Commission comments and questions included:

- A concern was raised about the use of moisture sensors and envapotransporation rates as overly-burdensome to smaller singe-lot projects such as residential additions. Director Woltering indicated that the requirements would only apply if more than 2,500 square feet of irrigated area was being modified associated with public or developer projects and 5,000 square feet or more for owner of single family lot projects.
- Is the Maintenance Department staff comfortable with the proposed standards? Director Woltering answered, yes, generally, but there was some concern about the provision precluding the use of overhead spray in areas with widths of eight feet or less. He further mentioned that, given the experience of the Maintenance Supervisors, it was hoped that the adopted ordinance would allow for the Supervisors to sign off on the required certifications that are part of "City" projects.
- Commissioners indicated support for the Maintenance Supervisors being able to sign off on the certifications for City projects.
- How would these regulations apply to multi-lot, large-developer type of projects such as single-family residential subdivisions? Director Woltering responded that the total amount of landscape area of all lots—which would generally pertain to the perimeter and front-yard landscape areas that developers typically get approval for—would be combined collectively to determine if a project triggers the thresholds.
- Would these requirements be triggered if a landscape area were irrigated by a well? Director Woltering answered, yes, if the irrigated area thresholds are exceeded?
- At the conclusion of its discussion, the Planning Commission requested that staff make the following changes to the draft ordinance:

  1. Under II. Applicability A. and C., merge respective items i and ii into a single descriptive parameter (item) to clarify the intended requirements.

  2. Under IV.B.ii., modify to a 5,000 square foot threshold to be consistent with applicability threshold for Owner-directed Single Family Projects.

3. For applicable Municipality and Public Agency Projects involving "City" projects conducted by City staff, allow the City's Maintenance Supervisors (as opposed to contracting out for these services) to sign-off on the needed certifications (i.e., Design, Installation, Maintenance, and Auditing) to facilitate the completion and cost containment on these projects, and the Maintenance Supervisors' knowledge and experience in these areas.

4. Modify the language under X.A. Irrigation Survey and Irrigation Water Use Analysis because of lack of a quantitative guide defining "efficient use" of water. The modified language is as follows:

> "To ensure the efficient use of landscape water, each owner of property in the City of Clayton is encouraged to utilize resources and services, such as irrigation surveys and landscape water use analyses that are offered by the local retail or wholesale water utility."

5. Add under XI. Public Education the following:

> "D. The City shall provide on its website links to resources that offer information about the principals of designing, installing, and maintaining water-efficient landscapes. An example of a link is to the local water utility, the Contra Costa Water District, and the landscape water conservation information that Agency offers."

Vice Chair Richardson moved and Chair Johnson seconded a motion to continue the public hearing for ZOA 05-09 to the meeting on August 24, 2010 to allow staff time to make the directed modifications to the draft ordinance amendment. The motion passed 5-0.

New Business

5. None.

Communications

6A. Staff.

Director Woltering indicated the following:

- City staff signed off on a proof for signage being used to advertise the sale of the Creekside Terrace property.
- The State Department of Housing and Community Development certified the City's Housing Element on July 15, 2010.
- An Environmental Impact Report (EIR) Scoping Session for the Clayton Community Church EIR is scheduled for August 26, 2010.

6B. Commission.

None.

Adjournment

7. The meeting was adjourned at 8:30 p.m. The next regular meeting of the Planning Commission is scheduled on **Tuesday, August 24, 2010**.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Sandra Johnson
Chair

Plng Comm\Minutes\2010\0810

PLANNING COMMISSION
STAFF REPORT

Meeting Date: **August 24, 2010**

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

Subject: **James and Carol Rackel**
Home Occupation Permit HOP 14-10

REQUEST

A home occupation permit to allow cooking classes to be conducted from a single-family residence. The cooking classes will occur twice a month and be approximately two (2) to four (4) hours in length per class. The classes will occur no earlier than 10:00 a.m. or later than 5:00 p.m. on any given Monday through Saturday with a maximum of six (6) students per class. The classes will consist of cooking demonstrations and hands-on instruction.

PROJECT INFORMATION

Applicant / Location:	James and Carol Rackel 106 El Portal Place APN 119-610-034
General Plan Designation:	Low Density – Single Family Residential (1.1 to 3.0 units per acre). This proposal complies with the General Plan designation.
Zoning:	Single Family Residential R-10 District (10,000 square-foot minimum lot area).
Environmental Review:	Categorically exempt per Section 15305 of the State CEQA Guidelines.
Public Notice:	On August 12, 2010, a public hearing notice was posted at the notice boards, mailed to property owners within 300 feet of the site, and faxed to the newspapers. Comments received have been addressed within the staff report.
Agency Referrals:	Comments received from the Contra Costa County Environmental Health Department have been integrated into the staff report.
Authority:	Section 17.71.030.A of the Municipal Code authorizes the Planning Commission to approve a home occupation permit in accordance with the standards in Section 17.71.030.B.

DISCUSSION

The applicant has requested approval of a home occupation permit to allow clients/students to visit the subject residence where the applicant is proposing to conduct cooking classes. According to the written supplement submitted by the applicant (see **Attachment A**), the cooking classes will occur twice a month and be approximately two to four hours in length per class. The classes will occur no earlier than 10:00 a.m. or later than 5:00 p.m. on any given Monday through Saturday with a maximum of six students per class. The classes will consist of cooking demonstrations and hands-on instruction.

Section 17.71.020.A of the Municipal Code allows administrative approval of a home occupation permit in accordance with the home occupation permit standards in 17.71.020.B. However, Planning Commission review and approval of the home occupation permit is required if the home occupation generates client/student traffic to the residence, as in the case of the subject home occupation permit request. Section 17.71.030.B.2 of the Municipal Code states:

> "The home occupation shall not generate client/student traffic to the residence in excess of six (6) clients/students per day, unless the number is reduced by the Planning Commission. On Saturdays, client/student traffic may only occur between 9:00 a.m. and 5:00 p.m. Client/student traffic is prohibited on Sunday."

The maximum number of clients/students proposed to arrive at the residence will not exceed six per cooking class; therefore, the proposal meets the number and time parameters of the Municipal Code as related to client/student traffic as well as the other applicable home occupation standards of approval.

Parking Issues

The applicant has also provided a site plan showing the available off-street parking on the subject property (see **Attachment B**). The site plan shows that eight off-street parking spaces will be available in the applicant's driveway for clients/students to park their vehicles. Since the applicant's two vehicles will be parked in the garage, the eight off-street spaces in the driveway will be readily available. Staff has provided a condition that the applicant shall encourage clients/students to park in the off-street parking spaces in the driveway of the applicant's residence. Staff concludes that the parking plan has sufficiently addressed the parking issues related to the project by showing that parking (e.g. approximately eight off-street parking spaces) is available for clients/students visiting the applicant's residence as well as the street in the vicinity.

Contra Costa County Environmental Health Department Correspondence

As part of City review of the proposed home occupation, staff contacted the Contra Costa County Environmental Health Department (CCCEH) and discussed issues related to the proposal with the CCCEH inspector who has jurisdiction in Clayton. The CCCEH inspector informed staff that the cooking class would be allowed as long as the food produced on the subject property is not sold to the public. The CCCEH inspector elaborated that, according to CCCEH requirements, the proposal would fall into such non-regulated uses as church potlucks and wedding receptions where food preparation and consumption occur.

RECOMMENDATION

Staff recommends that the Planning Commission approve Home Occupation Permit HOP 14-10 to allow a cooking class to have clients/students visit the applicant's residence for instruction.

Proposed Findings of Approval

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 makes the following findings regarding the Site Plan Review Permit for the addition:

1. Is consistent with the General Plan designation and policies.
2. Meets the Home Occupation Permit standards of approval listed in Chapter 17.71 of the Municipal Code.

The above-stated findings assume acceptance and approval of the proposed conditions of approval listed below.

Proposed Conditions of Approval

1. A maximum of six (6) clients/students per day are allowed.
2. The applicant shall comply with the requirements of Clayton Municipal Code Section 17.71.020.B Standards of Approval: Standards 1-12, 14, and 15.
3. The cooking class shall be held twice a month, between the hours of 10:00 a.m. and 5:00 p.m., on any given Monday through Saturday.
4. The applicant shall encourage clients/students to park their vehicles in the off-street parking spaces in the driveway of the applicant's residence.
5. Food prepared in the cooking class shall not be sold to the public.
6. No merchandise shall be sold on the premises.
7. 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, but not limited to, attorney's fees, costs, 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.

Advisory Note

This advisory note is provided to inform the applicant of Clayton Municipal Code requirements and is not part of the conditions of approval.

1. This permit shall be used, exercised, or established within twelve (12) months after the 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).

ATTACHMENTS

A Written supplement with project description, submitted by the applicant, date stamped August 4, 2010

B Site plan showing available off-street parking, submitted by the applicant, date stamped August 4, 2010

HOP\2010\14-10.staff.report.106.El.Portal.Place

Date: August 2, 2010

To: City of Clayton
Milan Sikela
From: Ravioli's "Italian Market Place. "
Carol Rackel ck

Re: Home Occupation Permit – 106 El Portal Place, Clayton, CA 94517

Requested Information:
Max. Number of people at any given time
6

Max Number of cars
6

RECEIVED
Aug. 4, 2010
CLAYTON COMMUNITY
DEVELOPMENT

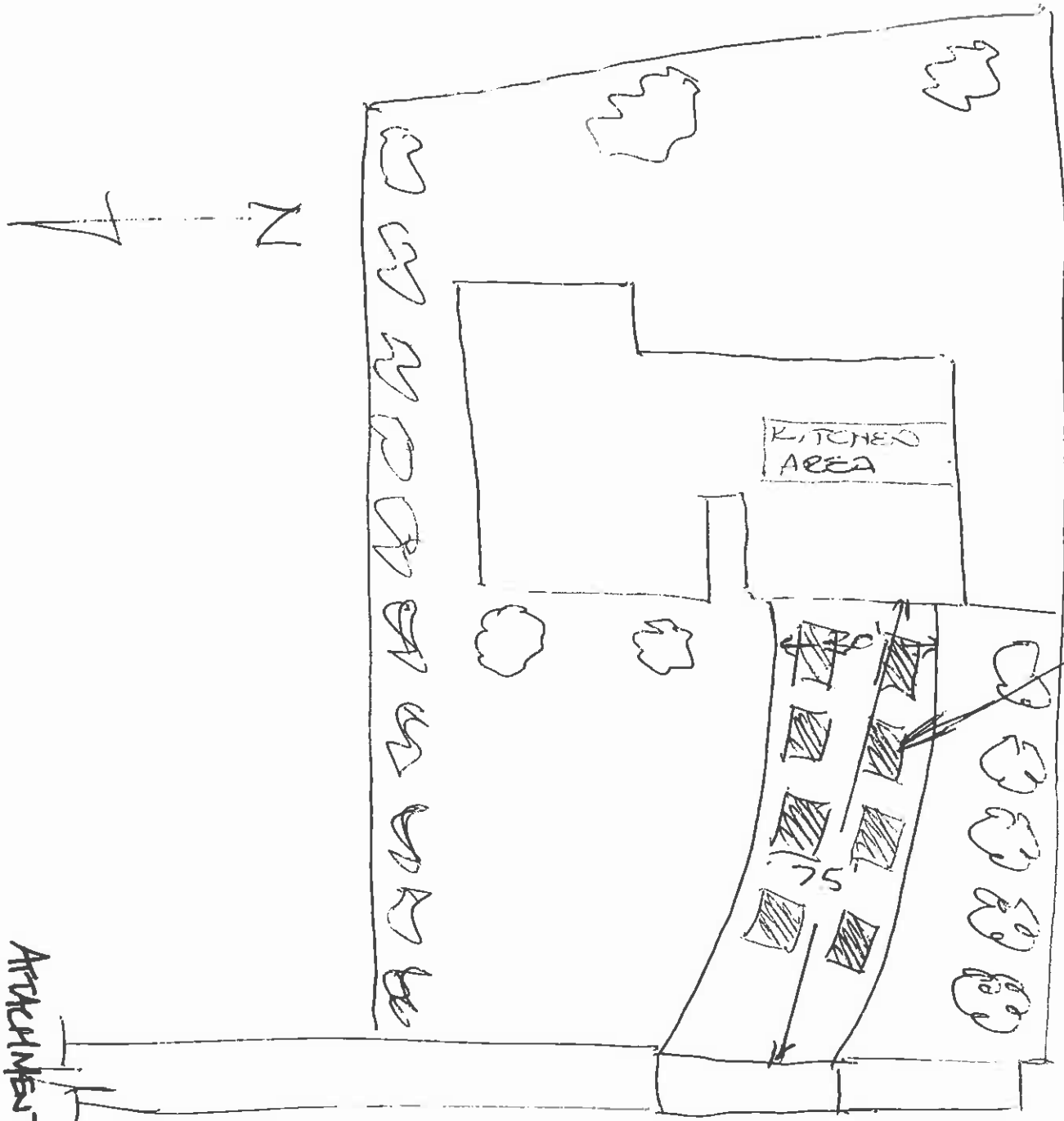
Location of parked cars
Drive-way (see site plan)

Dates and Times
Twice a month
After 10am and before 5pm
Each class will be approx. 2-4 hours

Description of Cooking Class Schedule
We are planning on having two (2) cooking classes a month and each class will we be 2-4 hours long. Each class not to exceed 6 people. The classes will be given between the hours 10am to 5pm. The day of the week that the classes will be given could be any day Monday through Saturday.

The classes will consist of cooking demonstrations and also some hands-on instructions.

ATTACHMENT A



Site Plan:
106 El Portal Place
Clayton, CA
94517
925-672-4531

Using one Room less than 25%

OFF STREET PARKING AVAILABLE FOR (8) CARS.

RECEIVED
AUG 4, 2010
CLAYTON COMMUNITY DEVELOPMENT DEPT

ATTACHMENT B

PLANNING COMMISSION
STAFF REPORT

Meeting Date: **August 24, 2010**

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

Subject: **Amendment to the Clayton Municipal Code (ZOA 05-09) to Implement the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881, Laird)**

BACKGROUND/ANALYSIS

At its August 10, 2010 meeting, the Planning Commission reviewed the draft ordinance presented by staff to implement the Water Conservation in Landscaping Act of 2006. A copy of the staff report from that meeting is attached. Based on its review, the Commission directed staff to make changes to the draft ordinance and then continued the matter to its August 24, 2010 meeting to give staff the opportunity to make the changes. The changes requested by the Planning Commission are as follows:

1. Under II. Applicability A. and C., merge respective items i and ii into a single descriptive parameter (item) to clarify the intended requirements.
2. Under IV.B.ii., modify to a 5,000 square foot threshold to be consistent with applicability threshold for Owner-directed Single Family Projects.
3. For applicable Municipality and Public Agency Projects involving "City" projects conducted by City staff, allow the City's Maintenance Supervisors (as opposed to contracting out for these services) to sign-off on the needed certifications (i.e., Design, Installation/Construction, Auditing, etc.) to facilitate the completion and cost containment on these projects, given the Maintenance Supervisors' knowledge and experience in these areas.
4. Modify the language under X.A. Irrigation Survey and Irrigation Water Use Analysis because of lack of a quantitative guide defining "efficient use" of water. The modified language is as follows:

   "To ensure the efficient use of landscape water, each owner of property in the City of Clayton is encouraged to utilize resources and services, such as irrigation surveys and landscape water use analyses that are offered by the local retail or wholesale water utility."
5. Add under XI. Public Education the following:

   "D. The City shall provide on its website links to resources that offer information about the principals of designing, installing, and maintaining water-efficient landscapes. An example of a link is to the local water utility, the Contra Costa Water District, and the landscape water conservation information that Agency offers."

Staff has made the changes to the draft ordinance as requested by the Planning Commission. These changes are reflected in the attached ordinance.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the attached Resolution 05-10, thereby recommending City Council approval of the proposed amendment to Title 17 of the Municipal Code to implement the Water Conservation in Landscaping Act of 2006.

Attachments:

1. Resolution and Ordinance
2. August 10, 2010 Planning Commission Staff Report regarding implementing the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881, Laird)

ZOA\2009\05-09.sr.pc.8.24.10

CITY OF CLAYTON PLANNING COMMISSION
RESOLUTION NO. 05-10

RECOMMENDING CITY COUNCIL APPROVAL OF AN AMENDMENT OF TITLE 17 OF THE MUNICIPAL CODE TO SUPERSEDE AND THEREBY REPLACE THE "WATER CONSERVING LANDSCAPE GUIDELINES" IN THEIR ENTIRETY IN CHAPTER 17.80 WITH "LANDSCAPE WATER CONSERVATION STANDARDS" FOR THE PURPOSE OF IMPLEMENTING SENATE BILL (SB) 1881, THE WATER CONSERVATION IN LANDSCAPING ACT OF 2006 (ZOA 05-09)

WHEREAS, Senate Bill (SB) 1881, passed in 2006, requires the California Department of Water Resources (DWR) to develop and implement a new State Landscape Water Conservation Ordinance (State Ordinance); and

WHEREAS, DWR developed the new State Ordinance, which became effective January 1, 2010; and

WHEREAS, all cities and counties in the State of California are to adopt and implement the State Ordinance as written or develop and adopt their own local ordinances that are equally effective in conserving landscape water usage; and

WHEREAS, in the circumstance that a city or county does not formally adopt either the State Ordinance or an equally effective local ordinance by the cited January 1, 2010 date, the State Ordinance becomes the effective default ordinance for local jurisdictions; and

WHEREAS, the Planning Commission reviewed the State Ordinance at its duly noticed meetings of November 10, 2009 and November, 24, 2009, and determined that the complexity of the State Ordinance would make it difficult to administer and implement and, accordingly, supported City staff working with representatives from other regional agencies, including other nearby cities and the County, the Contra Costa Water District (CCWD), and the East Bay Municipal Utility District, with CCWD taking the lead in this effort, to develop an equally effective alternative landscape water conservation ordinance; and,

WHEREAS, City staff participated with other regional representatives to develop an alternative landscape water conservation ordinance, which was developed and, subsequently, presented to the Planning Commission at a duly noticed public hearing on August 10, 2010, as a proposed amendment to Chapter 17.80 of the Clayton Municipal Code, whereby the "Water Conserving Landscape Guidelines" in Chapter 17.80 would be superseded and thereby replaced in their entirety with the proposed "Landscape Water Conservation Standards" for the purpose of implementing the Water Conservation in Landscaping Act of 2006; and

WHEREAS, at its public hearing on August 10, 2010 regarding the "Landscape Water Conservation Standards" ordinance amendment, the Planning Commission received and considered a staff report, background information, allowed for public comments and testimony, and discussed the information received, and, then, directed staff to make certain modifications to the draft ordinance amendment, including that the City's Maintenance Supervisors should be authorized to sign-off on certifications for public landscape and irrigation projects undertaken by City staff within the City of Clayton; and

WHEREAS, the Planning Commission continued the August 10, 2010 meeting to a date certain, its next regular meeting of August 24, 2010, to allow staff to make the directed changes to the draft ordinance amendment prior to making a formal recommendation on the matter to the City Council; and

WHEREAS, at a public hearing on August 24, 2010, the Planning Commission reviewed the revised draft ordinance amendment, determined the proposed amendment would qualify for a categorical exemption in accordance with Section 15061(b)(3) of the State California Environmental Quality Act (CEQA); determined this amendment would be in conformance with the General Plan; determined the public necessity, convenience, and general welfare would require adoption of the amendment; determined there is no evidence this amendment would 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 California Department of Fish and Game Code; and, determined the proposed "Landscape Water Conservation Standards" would be equally effective in conserving landscape-related water usage as the State Ordinance.

Now, Therefore, Be it Resolved That:

Section 1. The Planning Commission, based on the previously stated citations, recommends City Council approval of the attached Ordinance, amending Chapter 17.80 of the Clayton Municipal Code, whereby the "Water Conserving Landscape Guidelines" in Chapter 17.80 would be superseded and thereby replaced in their entirety with the proposed "Landscape Water Conservation Standards" for the purpose of implementing the Water Conservation in Landscaping Act of 2006.

Adopted by the Planning Commission on_____.

APPROVED

_____
Sandra Johnson
Chair

ATTEST

_____
David Woltering, AICP
Community Development Director

Attachment: "Landscape Water Conservation Standards" Ordinance

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ORDINANCE NO. ____

AMENDMENT OF TITLE 17 OF THE MUNICIPAL CODE TO SUPERSEDE AND THEREBY REPLACE THE "WATER CONSERVING LANDSCAPE GUIDELINES" IN THEIR ENTIRETY IN CHAPTER 17.80 WITH "LANDSCAPE WATER CONSERVATION STANDARDS" FOR THE PURPOSE OF IMPLEMENTING SENATE BILL (SB) 1881, THE WATER CONSERVATION IN LANDSCAPING ACT OF 2006 (ZOA 05-09)

THE CITY COUNCIL
City of Clayton, California

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

WHEREAS, Senate Bill (SB) 1881, passed in 2006, requires the California Department of Water Resources (DWR) to develop and implement a new State Landscape Water Conservation Ordinance (State Ordinance); and

WHEREAS, DWR developed the new State Ordinance, which became effective January 1, 2010; and

WHEREAS, all cities and counties in the State of California are to adopt and implement the State Ordinance as written or develop and adopt their own local ordinances that are equally effective in conserving landscape water usage; and

WHEREAS, in the circumstance that a city or county does not formally adopt either the State Ordinance or an equally effective local ordinance by the cited January 1, 2010 date, the State Ordinance becomes the effective default ordinance for local jurisdictions; and

WHEREAS, the Planning Commission reviewed the State Ordinance at its duly noticed meetings of November 10, 2009 and November, 24, 2009, and determined that the complexity of the State Ordinance would make it difficult to administer and implement and, accordingly, supported City staff working with representatives from other regional agencies, including other nearby cities and the County, the Contra Costa Water District (CCWD), and the East Bay Municipal Utility District, with CCWD taking the lead in this effort, to develop an equally effective alternative landscape water conservation ordinance; and,

WHEREAS, City staff participated with other regional representatives to develop an alternative landscape water conservation ordinance, which was developed and, subsequently, presented to the Planning Commission at a duly noticed public hearing on August 10, 2010, as a proposed amendment to Chapter 17.80 of the Clayton Municipal Code, whereby the "Water Conserving Landscape Guidelines" in Chapter 17.80 would be superseded and thereby replaced in their entirety with the proposed "Landscape Water Conservation Standards" for the purpose of implementing the Water Conservation in Landscaping Act of 2006; and

WHEREAS, at its public hearing on August 10, 2010 regarding the "Landscape Water Conservation Standards" ordinance amendment, the Planning Commission received and considered a staff report, background information, allowed for public comments and testimony, and discussed the information received, and, then, directed staff to make certain modifications to the draft ordinance amendment, including that the City's Maintenance Supervisors should be authorized to sign-off on certifications for public landscape and irrigation projects undertaken by City staff within the City of Clayton; and

WHEREAS, the Planning Commission continued the August 10, 2010 meeting to a date certain, its next regular meeting of August 24, 2010, to allow staff to make the directed changes to the draft ordinance amendment prior to making a formal recommendation on the matter to the City Council; and

WHEREAS, at a public hearing on August 24, 2010, the Planning Commission reviewed the revised draft ordinance amendment, determined the proposed amendment would qualify for a categorical exemption in accordance with Section 15061(b)(3) of the State California Environmental Quality Act (CEQA); determined this amendment would be in conformance with the General Plan; determined that the public necessity, convenience, and general welfare would require adoption of the amendment; determined the proposed "Landscape Water Conservation Standards" would be equally effective in conserving landscape-related water usage as the State Ordinance; and recommended City Council approval of the cited categorical exemption and ordinance amendment; and

WHEREAS, on September___, 2010 and September___, 2010, the City Council held duly-noticed public hearings and gave due consideration to the Planning Commission's recommendation, testimony, comments, and documents received regarding the proposed "Landscape Water Conservation Standards" ordinance amendment; and

WHEREAS, the City Council determined this amendment of the Municipal Code would qualify for categorical exemption from the California Environmental Quality Act (CEQA) in accordance with Section 15061(b)(3) of the State CEQA Guidelines; and

WHEREAS, the City Council determined this amendment would be in conformance with the General Plan; determined the public necessity, convenience, and general welfare would require adoption of the amendment; and determined the proposed "Landscape Water Conservation Standards" would be equally effective in conserving landscape-related water usage as the State Ordinance; and

WHEREAS, the City Council determined there is no evidence this amendment would 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 California Department of Fish and Game Code.

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

SECTION 1. Title 17 of the Municipal Code shall be amended to supersede and thereby replace in Chapter 17.80 "Water Conserving Landscape Guidelines" in their entirety with the proposed "Landscape Water Conservation Standards", referred to herein and provided as an **Attachment**.

SECTION 2. 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 3. 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 _____, 2010.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on _____, 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

_____

Hank Stratford, Mayor

ATTEST

_____
Laci J. Jackson, City Clerk

APPROVED AS TO FORM

_____
Dan Adams, City Attorney

APPROVED BY ADMINISTRATION

_____
Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on _____, 2010, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on_____, 2010.

_____
Laci J. Jackson, City Clerk

Attachment: "Landscape Water Conservation Standards"

ZOA\2009\05-09.ord1

Attachment: "Landscape Water Conservation Standards"

I. Title

This ORDINANCE shall be known as the "Landscape Water Conservation Standards" Ordinance.

II. Applicability

After [insert effective date of ordinance], the indicated provisions of this Ordinance shall apply to landscape projects as follows:

A. Developer Projects: New and rehabilitated landscape development for commercial, multi-family, and single family projects:

   i. With irrigated landscape areas equal to or greater than 2,500 square feet and requiring a building permit, grading permit, plan check, or design review shall complete Section III, the Landscape Project Application (LPA), and comply with all other sections of this Ordinance.

B. Municipality and Public Agency Projects: New and rehabilitated projects designed and installed by the City of Clayton with irrigated landscape areas equal to or greater than 2,500 square feet shall comply with sections IV, VI, VIII, IX, X, XII, and XIII;

C. Owner-Directed Single Family Projects: New and rehabilitated owner-directed single family projects:

   i. With irrigated landscape areas equal to or greater than 5,000 square feet and requiring a building permit, grading permit, plan check, or design review shall complete Section III, the Landscape Project Application (LPA), and comply with all other sections, except section VIII, of this Ordinance.

D. Existing Landscapes: Existing landscapes are only subject to the provisions in Section X, "Provisions for Existing Landscapes" and "XI, Public Education"

E. The provisions of this Ordinance shall not apply to:

   i. Landscapes that are only temporarily irrigated for establishment purposes and landscapes that are not irrigated with a permanent irrigation system;

   ii. Registered local, state or federal historical sites, as determined by the planning commission or city council;

   iii. Community gardens, botanical gardens and arboretums open to the public.

III. Landscape Project Application (LPA) Requirements

Applicant shall choose one of the two options below to comply with this ordinance:

A. Option A: Proposed landscape project does not include any:

i. Water features with more than 100 square feet of total surface area;" or

ii. Turf or other high water use plants, unless they qualify as a "Special Landscape Area. High water use plants are those designated as 'high water use' in the Water Use Classification of Landscape Species (WUCOLS) report[1].

The applicant shall complete the following:

iii. Project Application Sheet;

iv. Certification Sheets;

v. Landscape Plans (See Section V);

vi. Maintenance Schedule (See Section VIII).

B. Option B: Proposed landscape project does include:

i. Water features with more than 100 square feet of total surface area; or

ii. Turf or other high water use plants not qualifying as a "Special Landscape Area." The Estimated Total Water Use (ETWU) for the proposed landscape shall not exceed the Maximum Applied Water Allowance (MAWA) for the site. The MAWA formula will use an ET Adjustment Factor of 0.7.

The applicant shall complete the following:

iii. Project Application Sheet;

iv. Certification Sheets;

v. Water Allowance Work Sheets;

vi. Landscape Plans (See Section V);

vii. Maintenance Schedule (See Section VIII).

An applicant requesting design review approval shall submit, at a minimum, a preliminary landscaping plan with the design review application; however, the applicant must submit all components of the Landscape Project Application (LPA) concurrently with the application for building permit or grading permit for the project.

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[1] Water Use Classification of Landscape Species (WUCOLS) report which is available at http://www.water.ca.gov?wateruseefficiency/publications/ A Guide to Estimating, Part 2.

The Community Development Director or his/her designee shall review each LPA for compliance with the provisions of this ordinance and may withhold issuance of zoning approval for a building permit or grading permit for which its corresponding LPA does not comply with this ordinance.

IV. Water-Efficient Landscape Standards

The proposed landscape design shall incorporate the most recent acceptable best management practices for water-efficient landscape design and shall comply with the following standards:

A. Plant Design:

i. Plants selected shall be well suited to the area's climate and the site's soil conditions.

ii. The proposed landscape shall be designed so that distinct hydrozones are irrigated separately by one or more irrigation valves. A hydrozone is an area with similar sun exposure, irrigation precipitation rate, soil conditions, slope, and plant material with similar water needs. Refer to the WUCOLS report for plant water needs.

iii. Plants shall be spaced appropriately based on their expected mature spread.

iv. If the geometry of the planting area does not conform to the spray pattern of the sprinkler, resulting in overspray onto the adjacent pavement, then overhead irrigation shall not be used.

v. Plants shall be spaced so that at mature size they do not block sprinklers.

vi. Turf shall not be planted on slopes steeper than 15%.

vii. Turf shall not be planted in any medians or in areas narrower than 8'0".

B. Irrigation System:

The irrigation system design shall comply with the following requirements:

i. Smart irrigation controller(s) using one of the below methods shall be required on all irrigation systems:

a. Daily evapotranspiration data

b. Daily soil moisture sensor data

ii. Specify a dedicated landscape water meter for landscapes with an irrigated area greater than 5,000 square feet, or per retail water supplier regulations;

iii. Recycled water shall be used for landscape irrigation if it is available at the project site;

iv. Specify technology and practices to prevent runoff, low head drainage, overspray, or other water waste;

v. Overhead irrigation shall not be permitted within 12" of any non-permeable surface.

vi. Specify sprinkler heads and other emission devices that have matched precipitation rates within each irrigation zone. No irrigation zone shall specify a precipitation rate greater than 1.2 inches per hour. On slopes steeper than 25%, the specified precipitation rate shall not exceed 0.75 inches per hour.

vii. Specify irrigation controls so the dynamic water pressure at sprinkler head or other emission device is within manufacturer's recommended optimal operating range.

viii. No overhead irrigation shall be specified in planting areas less than 8'0" wide in any dimension, unless demonstrated that water waste will not occur.

ix. Specify a manual shut-off valve for each point of connection and specify that each shut-off valve be identified on the controller map.

x. Prepare a controller map and programming table and specify that this be stored in the controller cabinet. The controller map shall visually differentiate each controller zone. For each irrigation valve, the controller programming table shall list the plant water requirement (high, medium, low, or very low), the sun exposure, irrigation emission device type, precipitation rate, station flow rate, optimal pressure, soil type, infiltration rate, square foot area, and degree of slope.

xi. Each irrigation valve shall control irrigation to only one distinct hydrozone. A hydrozone is an area with similar sun exposure, irrigation precipitation rate, soil conditions, slope, and plant material with similar water needs. Refer to the WUCOLS report for plant water needs.

xii. Specify a separate irrigation valve and hydrozone for the top of a slope and the bottom of a slope.

C. Water Features:

i. All water features shall have re-circulating water systems

ii. Fountain(s) shall be designed so that no wind drift or overspray occurs

D. Grading and Soil Preparation:

The landscape design shall:

i. Comply with Storm Water Control Plan requirements (C.3), if applicable;

ii. Be designed to improve or maintain the infiltration rate of landscape soils typical of their soil texture and minimize soil erosion;

iii. Be designed to avoid drainage onto non-permeable hardscapes within the property lines and prevent runoff of all irrigation and natural rainfall outside property lines;

iv. Only specify soil amendments if appropriate for the selected plants;

v. Specify a minimum two-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas unless there is a horticultural reason not to use mulch in a portion of the planting area. Mulch, such as shredded bark, shall be specified in bioretention areas so that they will stay in place during rain events.

V. Landscape Plan Requirements

The Landscape plans shall demonstrate that all the water-efficient landscape standards have been met:

A. The planting plan shall:

i. Identify Special Landscape Areas. Special Landscape Areas include: landscape dedicated solely to edible plants, such as vegetable gardens or orchards, areas irrigated with recycled water, water features using recycled water, cemeteries, and areas dedicated to active play, such as parks, sports fields, and golf courses where turf provides a playing surface;

ii. Identify plants by their common and botanical names;

iii. Identify type and surface area of water features.

B. The irrigation plan shall:

i. Show the location and size of the landscape irrigation water meter;

ii. Show the location, type and size of all components of the irrigation system, including, but not limited to, controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices;

iii. Identify the static water pressure at the point of connection to the public water supply;

iv. Identify the flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station.

C. Landscape plans shall include details and specifications reflecting the most recent acceptable best management practices for water-efficient landscape design.

VI. Landscape Water Audit Requirements

A landscape water audit shall be performed to ensure that the installed landscape meets the requirements of this Ordinance.

A. A landscape water audit shall be conducted within thirty (30) days of the start of the landscape maintenance period or, if no maintenance period, then upon completion of the landscape installation. An EPA WaterSense certified Irrigation System Auditor shall conduct the landscape audit and submit a Certificate of Compliance, Landscape Water Audit sheet.

B. The Landscape Auditor shall inform the applicant of all non-compliance issues with the Ordinance. This shall include, but not be limited to, all items listed on the Certificate of Compliance, Landscape Water Audit sheet.

C. All non-compliance issues shall be repaired and the site shall be re-audited for compliance with the criteria of the Ordinance prior to final inspection/permit and final sign off.

VII. Certifications

Water Efficiency Landscape Checklist/Certification sheets will be part of the Landscape Rebate Application (LPA) requirements.

A. The person(s) creating the landscape design shall complete the Certificate of Compliance, Landscape Design sheet certifying the landscape has been designed to comply with the criteria of the Ordinance.

B. The Landscape Contractor/Installer shall complete the Certificate of Compliance, Landscape Installation sheet certifying the landscape has been installed, as specified in the Landscape Plans, and complies with the criteria of the Ordinance.

C. The Landscape Auditor shall complete the Landscape Certificate of Compliance, Water Audit sheet certifying the landscape and irrigation system have been installed, as specified in the Landscape Plans, and comply with the criteria of the Ordinance.

D. The Maintenance Contractor/Person shall complete the Certificate of Compliance, Landscape Maintenance sheet certifying the landscape maintenance contractor agrees to manage the property using less water than the Maximum Applied Water Allowance.

E. For applicable Municipality and Public Agency Projects involving "City" projects conducted by City staff, the City's Maintenance Supervisors may sign-off on the needed certifications (i.e., Design, Installation, Maintenance, and Auditing), given the Maintenance Supervisors' knowledge and experience in these areas.

VIII. Landscape and Irrigation Maintenance Schedule

The landscape designer or installer shall develop a landscape maintenance specification and schedule for the landscape project that is consistent with the most recent acceptable best management practices for landscape maintenance. Schedules shall be submitted with the Certification of Completion.

A. An annual landscape maintenance schedule shall include at least the following: routine inspection; adjustment and repair of the irrigation system and its components; aerating turf areas; replenishing mulch; seasonal pruning; weeding in all landscape areas; and removing obstructions to emission devices;

B. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents;

C. Project shall be irrigated so that total annual water applied is less than or equal to the Maximum Applied Water Allowance (MAWA) (if applicable).

IX. Stormwater Management

The proposed landscape shall comply with the requirements of the National Pollutant Discharge Elimination System intended to implement storm water best management practices into the planting, irrigation, and grading plans to minimize runoff and to increase on-site retention and infiltration.

X. Provisions for Existing Landscapes

This section applies to existing landscapes that were installed before [*insert effective date of Ordinance*].

A. Irrigation Survey and Irrigation Water Use Analysis

To ensure the efficient use of landscape water, each owner of property in the City of Clayton is encouraged to utilize resources and services, such as irrigation surveys and landscape water use analyses that are offered by the local retail or wholesale water utility.

B. Water Waste Prevention

Each owner of property in the City of Clayton shall prevent water waste resulting from inefficient landscape irrigation by prohibiting runoff from the target landscape areas due to excessive irrigation run times, low head drainage, overspray, or other similar conditions where water flows onto an adjacent property, walks, roadways, parking lots, or structures.

XI. Public Education

A. All new model homes that are landscaped shall use signs, brochures and other written information to demonstrate the principles of water-efficient landscapes that are described in this Ordinance.

B. The architectural guidelines of a common interest development, which include homeowner associations, community apartment projects, condominiums, planned developments, and stock cooperatives, shall not prohibit conditions that have the effect of prohibiting the use of low water use plants as a group.

C. For new homes/commercial developments, applicant/owner is required to provide the irrigation controller map and programming table and annual maintenance schedules to new tenants or owners at transfer of ownership/maintenance responsibility.

D. The City shall provide on its website links to resources that offer information about the principals of designing, installing, and maintaining water-efficient landscapes. An example of a link is to the local water utility, the Contra Costa Water District, and the landscape water conservation information that Agency offers."

Definitions for Landscape Water Conservation Standards Ordinance

A. **Applicant** means the individual or entity submitting a Landscape Project Application (LPA) required under Section III, to request a permit, plan check, or design review from the local agency, or requesting new or expanded water service from the water district. A project applicant may be the property owner or his or her designee.

B. **Applied water** means the portion of water supplied by the irrigation system to the landscape.

C. **Backflow prevention device** means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

D. **Certified irrigation system auditor** means a person certified by the US Environmental Protection Agency's WaterSense Irrigation Partners Program.

E. **Conversion factor (0.62)** means the number that converts acre-inches per acre per year to gallons per square foot per year.

F. **Emission Device** means any device that is contained within an irrigation system that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, bubblers, and drip irrigation emitters.

G. **Estimated Total Water Use (ETWU)** means the estimated total water used for the landscape, as described in the Water Allowance Work Sheet (Attachment F).

H. **ET adjustment factor (ETAF)**

   i. Means a factor, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape.

   ii. When applied to reference evapotranspiration establishes the upper limit (Maximum Allowable Water Allowance) of the amount of water that can be applied through the irrigation system to sustain the landscape. The ETAF shall be 0.7 for all landscape areas except Special Landscape Areas where the ETAF shall be 1.0.

I. **ETo** stands for Reference Evapotranspiration, and means the water loss from a large field of 4-7 inch-tall, cool-season grass that is not water stressed. Local ETo numbers can be found through the California Irrigation Management Information System (CIMIS).

J. **Evapotranspiration** means the combination of water transpired from plants and evaporated from the soil and plant surfaces.

K. **Flow rate** means the rate at which water flows through pipes, valves, and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

L. **Geometry** means the size, shape, and angles of an area.

M. **Hardscape** means any durable material (pervious and non-pervious).

N. **Hydrozone** means a portion of the landscaped area having plants with similar water needs. This ordinance uses the publication *Water Use Classification of Landscape Species* (WUCOLS) to determine a plant's water needs. A hydrozone may be irrigated or non-irrigated.

O. **Landscape water audit** means an in-depth evaluation of the installed landscape to verify the landscape complies with the Water-Efficient Landscape Standards of the [*insert name of Entity*] Regional Landscape Water Conservation Ordinance, an acceptable evaluation report completes the Certificate of Compliance for a Landscape Water Audit.

P. **Irrigation efficiency (IE)** means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiency for purposes of this Ordinance is 71%. Greater irrigation efficiency can be expected from well-designed and well-maintained systems.

Q. **Irrigation survey** means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to, inspection, system test, and recommendations to improve performance of the irrigation system.

R. **Irrigation water use analysis** means an analysis of water use data based on meter readings and billing data.

S. **Landscape area** means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel, or stone walks, or other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

T. **Landscape contractor** means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

U. **Lateral line** means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

V. **Maximum Applied Water Allowance (MAWA)** means the upper limit of annual applied water for the established landscaped area, as specified in the "Water Allowance Work Sheets" (Attachment F).

W. **Medians** mean any planting area that separates opposing traffic lane on streets and parking areas in parking lots

X. **Mulch** means any organic material, such as leaves, bark, straw, or compost; or inorganic mineral materials, such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

Y. **Non-Permeable** means any surface or material that will not allow the passage of water through that surface or material and into the underlying soil at a rate that ensures run-off will not occur.

Z. **Operating pressure** means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

AA. **Overhead irrigation** means systems that deliver water through the air (e.g., sprayheads and rotors).

BB. **Overspray** means the irrigation water that is delivered beyond the target area.

CC. **Permit** means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

DD. **Plant factor** or **plant water use factor** is a factor that, when multiplied by ETo, estimates the amount of water needed by plants. The plant factors for this Ordinance are from the WUCOLS publication.

EE. **Precipitation rate** for this ordinance means the rate of application of water measured in inches per hour.

FF. **Project** means the total area comprising the landscape area, as defined in this Ordinance.

GG. **Rain switch** or **rain sensing shutoff device** means a component that automatically suspends an irrigation event when it rains.

HH. **Reference evapotranspiration** or **ETo** means a standard measurement of environmental parameters that affect the water use of plants.

II. **Rehabilitated landscape** means any re-landscaping project that requires a permit, plan check, or design review, or requires a new or expanded water service application.

JJ. **Retail water supplier** means any entity, including a public agency, city, county, district or private water company that provides retail water service.

KK. **Runoff** means water that is not absorbed by the soil or landscape to which it is applied and that flows from the landscape area.

LL. **Smart irrigation controllers** means controllers using weather information or soil moisture readings along with site information to automatically adjust the irrigation schedule on a daily basis.

MM. **Soil moisture sensor** or **soil moisture sensing device** means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

NN. **Special Landscape Area (SLA)** means an area of the landscape dedicated solely to edible plants, such as vegetable gardens or orchards, areas irrigated with recycled water, water features using recycled water, cemeteries, and areas dedicated to active play, such as parks, sports fields, and golf courses where turf provides a playing surface.

OO. **Sprinkler head** means a device that delivers water through a nozzle.

PP. **Station** means an area served by one valve or by a set of valves that operate simultaneously.

QQ. **Turf** means a ground cover surface of mowed grass. Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are examples of cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are examples of warm-season grasses.

RR. **Valve** means a device used to control the flow of water in the irrigation system.

SS. **Water feature** means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied).

TT. **WUCOLS** means the *Water Use Classification of Landscape Species*, published by the University of California Cooperative Extension, the Department of Water Resources, and the Bureau of Reclamation, 2000. (WUCOLS) report is available at http://www.water.ca.gov?wateruseefficiency/publications/. Search for WUCOLS, and then go to Part 2 WUCOLS III* 1999 Edition, Introduction

PLANNING COMMISSION
STAFF REPORT

Meeting Date: **August 10, 2010**

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

Subject: **Amendment to the Clayton Municipal Code (ZOA 05-09) to Implement the Water Conservation in Landscaping Act of 2006 (Assembly Bill 1881, Laird)**

BACKGROUND/ANALYSIS

In 2006, State Assembly Bill (AB) 1881 was passed. This legislation directed the California Department of Water Resources (DWR) to develop a new State Landscape Water Conservation Ordinance. DWR prepared this ordinance, which became effective January 1, 2010. The resulting Model Water Efficient Landscape Ordinance (See Attached), dated September 10, 2009, was presented to and reviewed with the Planning Commission at its meetings of November 10, and November 24, 2009, with related discussion at its February 9, 2010 meeting. This State Ordinance requires all new and rehabilitated landscapes be designed and installed to meet the latest best practices for water use efficiency. All cities and counties in California are required to adopt the State Ordinance as written or develop their own ordinance that is at least as effective in conserving water.

As discussed at the November 2009 meetings of the Planning Commission, the DWR Model ordinance would be onerous to administer and implement. Consequently, City of Clayton staff joined with staff members of other local communities and members of the East Bay Municipal Utility District and the Contra Costa Water District to develop an alternative ordinance that would be equally effective as the DWR ordinance, but less complicated and easier to administer and implement. The result of this joint effort is the attached Regional Landscape Water Conservation Ordinance.

The Regional Ordinance improves upon the State Ordinance in terms of making administration and implementation of this State water efficiency mandate easier and less complicated. The Regional Ordinance includes a checklist of planting and irrigation requirements, simplifying the process for design and review of the related plans. The Regional Ordinance includes *Certificate of Compliance* forms. These forms offer the opportunity for self-certification, based on satisfying specified requirements, by designers, installers, and water auditors. This is an important aspect of the Regional Ordinance as this self-certification feature should substantially reduce the cost and time for implementation. Additionally, the Regional Ordinance provides an incentive for

projects that have no turf. Projects with all water-efficient plants and no turf are provided a simplified application process and will be exempt from having to prepare a Maximum Applied Water Allowance calculation.

Presently, the City of Clayton has "Water Conserving Landscape Guidelines" contained in Chapter 17.80 of the Clayton Municipal Code. It is anticipated that this Chapter of the Municipal Code would be amended to insert in place of the "Guidelines" the City's adopted version of the Regional Ordinance. Clayton staff has reviewed the Regional Ordinance, and while this ordinance is substantially improved over the State version, staff suggests additional changes as follows:

1. Under II. Applicability A. and C., merge respective items i and ii into a single descriptive parameter (item).
2. Under IV.B.ii., modify to a 5,000 square foot threshold or eliminate.
3. For public (City) projects, allow City to determine necessary qualifications for those individuals signing certifications. City has individuals with 20 plus years experience and the necessary demonstrated knowledge and ability to perform certification work. It would not be cost-effective for the City to have to contract out to individuals with prescribed accreditations to certify work normally done by City staff.

Until the City adopts an alternative ordinance, the DWR Model Water Efficient Landscape Ordinance is the default ordinance in Clayton for applicable projects.

RECOMMENDATION

Staff recommends that the Planning Commission suggest appropriate "local" modifications to the attached Regional Landscape Water Conservation Ordinance. Based on those recommended modifications, staff will return at a future meeting with the necessary resolution and draft City Ordinance for the Planning Commission to make a formal recommendation for a City Council action on this matter.

Attachments:

1. Regional Landscape Water Conservation Ordinance, dated April 29, 2010.
2. Model Water Efficient Landscape Ordinance, dated September 10, 2009, from the State Department of Water Resources.