



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, June 12, 2012
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 Manning to report at the City Council meeting on June 19, 2012.

Public Comment

Approval of Minutes

- 2. Approval of minutes from the meeting of May 22, 2012.

Public Hearing

- 3. None.

Old Business

- 4. None.

New Business

- 5A. **GPA 01-12, Capital Improvement Plan (CIP) Conformity with General Plan, City of Clayton.** Review of City of Clayton CIP projects projected to be undertaken in the coming fiscal year (FY 2012 – 2013) for conformity with the General Plan.

Proposed Action: Find specified CIP projects are in conformity with General Plan.

- 5B. **CDD 01-12, Solar Access Rights, City of Clayton.** Study session to consider methods for addressing the impact of vegetation on solar access rights.

Proposed Action: Review and discuss.

Communications

- 6A. Staff.
- 6B. Commission.

Adjournment

- 7. The next meeting of the Planning Commission is scheduled for **Tuesday, June 26, 2012.**

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7340. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present. Any writing or documents provided to the majority of the Planning Commission after distribution of the agenda packet regarding any item on this agenda will be made available for public inspection in the Community Development Department located at 6000 Heritage Trail during normal business hours.

Minutes
Clayton Planning Commission Meeting
Tuesday, May 22, 2012

Call to Order

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

Present: Chair Dan Richardson, Commissioner Bob Armstrong, Commissioner Sandra Johnson, and Commissioner Gregg Manning

Absent: Vice Chair Haydon

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

Administrative

1A. Review of agenda items.

1B. Commissioner Johnson to report at the City Council meeting on June 5, 2012.

Public Comment

None.

Approval of Minutes

2. Approval of minutes from the meeting of May 8, 2012.

Commissioner Manning moved and Commissioner Armstrong seconded a motion to approve the minutes, as submitted. The motion passed 4-0.

Vice Chair Haydon arrived to the meeting at 7:04 p.m.

Public Hearing

3. **HOP 05-12, Home Occupation Permit, Debra Marion, 50 Mt. Olympus Place, APN 119-212-034.** A request for a Home Occupation Permit to consider allowing a permanent cosmetic business to operate in a single-family residence.

Assistant Planner Sikela presented the staff report and indicated that staff was proposing an additional advisory note informing the applicant that she needed to review any applicable covenants, conditions, and restrictions (CC&Rs) of the subdivision in which her home is located to assure the proposed home business would conform with those requirements.

Commissioner Armstrong referred to Proposed Condition of Approval 2 (which allowed the maximum number of clients to be two per day) and asked if, in the instance that the level of business would necessitate an increase in the total number of clients allowed per day, could staff approve an increase administratively. *Director Woltering indicated that staff could not administratively approve an increase in the maximum number of client visits. The applicant would have to return to the Planning Commission in order to increase the maximum number of client visits. Assistant Planner Sikela added the Commission could consider at this time a somewhat higher number of client visits, while staying within the Code maximum of six client visits per day.*

Commissioner Manning indicated that, in the written supplement provided by the applicant, it was indicated that the applicant requested having one free consultation in addition to the two client visits per day. Can we amend Proposed Condition of Approval 2 in order to allow an additional free consultation? *Director Woltering indicated that the maximum number of clients visit could be amended by the Commission to include consultations.*

Vice Chair Haydon indicated that Proposed Condition of Approval 4 should be amended to specify that the business would operate “only” the last ten days of the month “from 10:00 a.m. to 5:00 p.m.”, excluding Sundays.

Chair Richardson asked, if approved, would the Home Occupation Permit run in perpetuity? *Assistant Planner Sikela indicated that, if the approved parameters and scope of the home occupation did not change, and the home occupation was conducted from the subject residence and was not relocated, then the Home Occupation Permit would run in perpetuity.*

The public hearing was opened.

The applicant, Debra Marion, distributed additional information regarding her proposed home occupation request, summarized the scope of her permanent cosmetic business, listed her qualifications and experience, and indicated the following:

- My husband and I moved into the subject residence in 1973.
- I am in town the last ten days of each month to care for my husband, Joseph Marion, and provide help in the home which includes cleaning, fixing meals, and looking after the grandchildren.
- In the past, my husband and I were very involved in community events and owned the ice cream store in the Town Center. Our children and grandchildren are still involved with the community, teaching at and attending local schools.
- I volunteer my time to support breast cancer survivors and caregivers.
- I am requesting this entitlement in order to bring in more income and to help my family.
- Prefer to have a maximum of three client visits per day and operating hours from 10:00 a.m. to 6:00 p.m.
- Permanent cosmetics provides a much-needed service in our community that is restorative and beautifying. It is important for older women and breast cancer survivors to feel good about themselves, and my services fulfill that need.
- The subject residence is handicap accessible with ramps already installed.
- The “softap” needles I use are the newest technologically advanced version of needles available and are easily disposable and prevent cross-contamination.
- Permanent cosmetics are merely one artistic service in my repertoire; I also paint porcelain China dolls, am a juried artist, and have worked with lace.

Commissioner Johnson had the following comments and questions:

- I noticed that the example release agreement (identified as Attachment 5 in the staff report) lists your business address in Washington, with the Washington address crossed out and the Clayton address hand-written in. In addition, the release agreement states that the releasor must be at least 18 years of age which conflicts with the staff-proposed Condition of Approval requiring clients to be 21 years of age. *The applicant indicated that the release agreement forms used for her business in Clayton would be amended to reflect the correct address and required age minimum.*

- Would you be providing other art services at the subject residence, such as China doll painting? *The applicant indicated that no other artist business would be conducted at the subject residence.*

Vice Chair Haydon had the following questions:

- Do you conduct the same type of business in Washington? *The applicant answered "Yes."*
- How long have you been providing permanent cosmetic services? *The applicant indicated that she has been providing permanent cosmetic services since 2009.*

Commissioner Manning had the following questions:

- Is the permanent cosmetic business in Washington conducted out of a residence? *The applicant responded no, the business in Washington is conducted out of a salon.*
- Is the business in Washington doing well? *The applicant indicated that the business in Washington was doing well, but that her husband was partially disabled, and her family needed the additional income. She added that she wanted to be closer to her children and grandchildren.*

Chair Richardson had the following questions:

- Did you notify your neighbors? *The applicant indicated she did not notify the neighbors since she understood that staff would be mailing out public hearing notices to the neighboring properties.*
- Do you agree to abide by the Proposed Conditions of Approval? *The applicant answered "Yes."*

Stan Zukowski, 40 Mt. Olympus Place, indicated the following:

- Objects to the Home Occupation Permit being approved.
- Since we live in a cul-de-sac, the permanent cosmetic business may cause parking impacts.
- Concerned about the applicant's grandchildren getting into the room where the home occupation will be conducted.
- If we were to sell our home, we would have to disclose that a permanent cosmetic business was being operated in the adjacent residence, which could make our property value go down.

Husband of the applicant, Joseph Marion, indicated the following:

- I contacted the neighbors about the proposed home occupation and there were no objections.
- The Zukowskis were out of town when I attempted to contact them.

Daughter of the applicant, Monique O'Sullivan, indicated the following:

- I am a teacher at various local schools and am working toward a teaching credential.
- My younger children live with their father but are often at the subject residence with me and the grandparents (applicant and applicant's husband).
- My younger children are 11 and 13.
- My older son, who is 19, lives at the subject residence.
- There would be no danger to the children caused by the conduct of the home occupation.

Jane Zukowski, 40 Mt. Olympus Place, indicated that she had concerns with the parking impacts that may be caused by clients visiting the subject residence.

The public hearing was closed.

Chair Richardson asked if staff had been contacted by any of the other neighbors that were not in attendance at tonight's meeting. *Assistant Planner Sikela indicated that no neighbors had contacted staff.*

Commissioner Armstrong indicated that the proposal was straightforward and, as conditioned, was in support of approving the Home Occupation Permit.

Commissioner Johnson indicated that, according to the photographs of the cul-de-sac where the subject residence is located, the parking is far less problematic than in her neighborhood and did not see parking at the subject residence as an issue. As conditioned, she was in support of approving the Home Occupation Permit.

Vice Chair Haydon indicated the following:

- As conditioned, and with the new wording he provided to amend Condition of Approval 4, he supports approving the Home Occupation Permit.
- The parking concerns raised will be minimal since only one client at a time will be at the subject residence.
- Was initially concerned about the children on-site but, because they are older, I have no concerns.
- As described and demonstrated, it appears the equipment proposed for use does not pose a safety threat.

Commissioner Manning indicated the following:

- We could amend Proposed Condition of Approval 2 to allow for one free consultation and two treatments per day. *Director Woltering indicated that differentiating between free consultations and actual treatments would be difficult, if not impossible, to track and enforce. Since the Clayton Municipal Code identifies the number of visits rather than the nature of the visits, it would be more appropriate to increase the number of allowed client visits per day from two to three.*
- He does not see a problem with the proposed use and supports approving the Home Occupation Permit, as conditioned, and to allow up to three client visits on the allowed days.

Chair Richardson indicated the following:

- His question regarding informing the neighbors about the home occupation proposal was asked in order to emphasize the importance of good communication between property owners and occupants within a neighborhood.
- It is always advisable to go around to your neighbors in the spirit of good will to obtain feedback from your neighbors.
- If approved, the conditions will address areas of concern.

Director Woltering indicated that Mr. and Mrs. Zukowski came to City Hall to discuss with him concerns regarding the Home Occupation Permit.

Commissioner Johnson moved and Commissioner Manning seconded the motion to approve Home Occupation Permit HOP 05-12 for the permanent cosmetic business at 50 Mt. Olympus Place, subject to the Findings of Approval, Conditions of Approval, and Advisory Notes recommended by staff, and subject to the following Conditions of Approval amended by the Planning Commission and following Advisory Notes added by staff:

Conditions of Approval (amended)

2. A maximum of ~~two (2)~~ three (3) clients per day are allowed.
4. The business shall operate only during the last ten (10) days of each month from 10:00 a.m. to 5:00 p.m., excluding Sundays.

Advisory Notes (added)

1. Prior to commencing the home occupation, the applicant shall obtain a business license from Code Enforcement Officer Rita Howe, 6000 Heritage Trail, Clayton, 925-673-7310.
2. 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.

The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

Communications

- 6A. Staff.

Community Development Director Woltering indicated that staff has been in contact with the environmental consultant for the Clayton Community Church project, LSA Associates, who have provided a revised schedule for the Environmental Impact Report (EIR) preparation with an anticipated release date of early October 2012 for the public review Final EIR.

- 6B. Commission.

Commissioner Armstrong mentioned that there had been discussion at a recent TRANSPAC meeting involving the claim that trees that absorbed carbon monoxide during their lifespan and would release the carbon monoxide back into the air once they were cut down. Accordingly, there was considerable discussion about the negative impacts of trees.

Chair Richardson indicated that trees are beneficial overall to the community.

Commissioner Johnson indicated that she had concerns, based on a neighbor's complaint, that trees are sometimes inappropriately selected and installed in a manner that has an adverse impact on neighboring properties' solar rights by growing to a height that blocks solar collectors from sunshine.

Commission consensus on the issue was as follows:

- The City need not duplicate State laws regarding solar rights. Since the State law already address solar rights issues, it would be a civil matter between property owners.
- Would be useful to provide information to Clayton citizens regarding State laws that govern solar rights.
- Other cities that have enacted local ordinances to regulate solar rights include Berkeley, which is now stepping back from enforcement to allow violations to be handled through civil litigation.
- This issue should be placed on a future agenda for research and discussion purposes.

Director Woltering indicated the following:

- Issues for consideration include the City taking on the responsibility of enforcement when there are already State laws in place that address solar rights issues.
- The Solar Shade Control Act of 1979 was established by the State and includes, but is not limited to, regulating that trees should not shade more than ten percent of a solar collector between 10:00 a.m. and 2:00 p.m.

Adjournment

7. The meeting was adjourned at 8:18 p.m. to the following regularly-scheduled meeting of June 12, 2012.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Dan Richardson
Chair

Plng Comm\Minutes\2012\0522

PLANNING COMMISSION STAFF REPORT

Meeting Date: June 12, 2012

From: David Woltering, AICP
Community Development Director 

Subject: Conformity with General Plan
2012/13– 2016/17 Capital Improvement Plan (GPA 01-12)

BACKGROUND AND ANALYSIS

Section 65401 of the California Government Code requires that the Planning Commission determine if projects proposed in the City's Capital Improvement Program (CIP) for the upcoming fiscal year are in conformity with the General Plan. Projects in the City's 2012/13-2016/17 CIP that may be undertaken during the 2012-2013 fiscal year are listed below. Additionally, citations from the Clayton General Plan are provided related to the particular project's conformity with the General Plan.

1. ADA Compliance Program (CIP No. 1039A) \$6,000
Each year the City sets aside \$6,000 of its annual Gas Tax revenues to build up sufficient revenues to perform handicap ramp corner cuts on public sidewalks. In addition to installing these ADA ramps where none exist, there may be revamping of existing ramps to satisfy current standards when street or sidewalk projects are installed in the adjacent area. These monies may also be used to repaint and remark existing ADA public parking spaces to current standards.

The maintenance of Clayton streets conforms to the General Plan by supporting Policy 9c of the Circulation Element to "[p]rovide systematic upgrades of streets and roads to applicable standards."

2. 2012 Neighborhood Street Rehab Project (CIP No. 10411) \$633,705
Merging annual Gas Tax monies and Measure J monies expected this fiscal year and residuals unused last fiscal year, the City has the opportunity to conduct another Neighborhood Street repaving and/or slurry seal project. Determination of which streets are candidates for improvement is decided by the City Council using the City's Pavement Condition Index rating. The time schedule for performance of this Project is slated for the summer of 2013.

The maintenance of Clayton streets conforms to the General Plan by supporting Policy 9c of the Circulation Element to "[p]rovide systematic upgrades of streets and roads to applicable standards."

3. East Marsh Creek Road Upgrade (CIP No. 10414) \$1,081,000
Receiving additional Measure J monies from the Contra Costa Transportation Authority's regional project fund, this capital improvement involves the widening of the roadway along east Marsh Creek Road (from Regency Drive to the City limit line) to provide two full-width travel lanes, continuity of bicycle lanes, and right-of-way shoulders and pedestrian paths.

The maintenance of Clayton streets conforms to the General Plan by supporting Policy 9c of the Circulation Element to "[p]rovide systematic upgrades of streets and roads to applicable standards" and Policy 9b of the Circulation Element to "[s]eek State and County support for developing and support of through traffic arterials."

4. Cardinet Trail Restoration Project (CIP No. 10421) \$50,000
Landscape Maintenance District funds were allocated last fiscal year to perform corrective work on a portion of this well-traveled trail to halt the erosion of the creek bank and elevated pathway. It is contemplated the trail restoration will be addressed this fiscal year.

These improvements conform to the General Plan by supporting Objective 2 of the Community Design Element "... to maintain landscape and natural vegetation found in Clayton as a means to provide greenery, open space, development buffer and rural atmosphere" and Objective 3 of the Community Design Element to "[p]romote use of the greenbelt system to encourage non-motorized travel throughout the city."

5. Collector Street Rehabilitation Project (CIP No. 10425) \$361,438
The City has been informed that it will receive federal Local Streets & Roads Shortfall funding by the federal government in its adoption of a FY 2013 Budget in October. These grant funds are restricted for use on arterial or collector streets in our community. At its May 15th meeting, the City Council earmarked receipt of these federal monies (\$285,438) along with \$76,000 in local Gas Tax funds (satisfying the local match requirement) for resurfacing the entire length of Regency Drive (from Marsh Creek Road to its cul-de-sac). Due to federal budget timing and release of funds, this Project will likely take place in the spring of 2013.

The maintenance of Clayton streets conforms to the General Plan by supporting Policy 9c of the Circulation Element to "[p]rovide systematic upgrades of streets and roads to applicable standards."

6. City Hall Parking Area Rehabilitation (CIP No. 10426) \$27,000
The public parking lot for City Hall is showing signs of deterioration and, except for crack sealing, has not received maintenance treatment since the opening of City Hall in 1998. Regular resurfacing of this infrastructure is necessary to preserve the initial capital investment. Presently, this potential project has been approved as a deductive

bid item in the upcoming 2012 Neighborhood Street Rehab Project bid (CIP No. 10411), although funding has not yet been identified (likely General Fund reserves).

These improvements conform to the General Plan by supporting Policy 1g of the General Plan to “[i]dentify needs for public facilities including...library and cultural facilities.”

7. Library Parking Lot Rehabilitation (CIP No. 10427) \$51,000

Similar to above project’s circumstance, the public parking lot for the Clayton Community Library is also displaying signs of deterioration and except for crack sealing it has not received maintenance treatment since the Library’s opening in 1995. Presently, this potential project has been approved as a deductive bid item in the upcoming 2012 Neighborhood Street Rehab Project bid (CIP No. 10411), although funding has not yet been secured (likely General Fund reserves).

These improvements conform to the General Plan by supporting Policy 1g of the General Plan to “[i]dentify needs for public facilities including...library and cultural facilities.”

8. Lydia Lane Park Parking Rehabilitation (CIP No. 10428) \$11,000

Akin to the above two projects’ circumstances, this public park’s parking lot is in poor condition and has never received maintenance treatment since the Park’s opening in 1988. Presently, this potential project has been approved as a deductive bid item in the upcoming 2012 Neighborhood Street Rehab Project bid (CIP No. 10411), although funding has not been secured yet (likely General Fund reserves).

These improvements conform to the General Plan by supporting Objective 3 of the Community Facilities Element to “provide cultural and sports facilities for the community.”

9. 2012 Trail Repaving Project (CIP No. 10429) \$50,000

Several years ago with the last Neighborhood Street Rehab Project, the City (through the Trails and Landscape Maintenance District) resurfaced the Bruce Lee Trail from north of Regency Drive to Grenache Circle. Last fiscal year the Trails and Landscape District set aside \$50,000 in its approved Budget to finish resurfacing of the remaining segment of this trail (from Grenache Circle to Center Street), and it is contemplated this work will be implemented in conjunction with CIP No. 10411 (2012 Neighborhood Street Project).

These improvements conform to the General Plan by supporting Objective 2 of the Community Design Element “... to maintain landscape and natural vegetation found in Clayton as a means to provide greenery, open space, development buffer and rural atmosphere” and Objective 3 of the Community Design Element to “[p]romote use of the greenbelt system to encourage non-motorized travel throughout the city.”

10. Clayton Road Median Landscape Project (CIP No. 10430) \$320,000

Recommended by the citizens’ Trails and Landscaping Maintenance District Oversight Committee and approved by the City Council at its May 1st meeting, a bid has been

awarded and work is already underway to implement the landscaping design, install plants and landscape features, and upgrade the irrigation system efficiency of the Clayton Road median from the Clayton Fountain to the intersection at Mitchell Canyon Road. Included in this Project is landscaping and irrigation system for the vacant terraced walls on Clayton Road east of the CVS/Pharmacy. Project is expected for completion by mid-August 2012.

11. Daffodil Hill Beautification Project (CIP No. 10431) \$ 44,500
In partnership with the Clayton Business and Community Association (CBCA), the City through a negotiated Change Order on CIP No. 10430 above will be completing the approved landscape plan for this prominent sloped corner at the intersection of Clayton Road and old Marsh Creek Road. Each party has agreed to equally share the improvement expense, and the project is scheduled for completion by mid-August 2012.

These improvements conform to the General Plan by supporting Objective 2 of the Community Design Element "... to maintain landscape and natural vegetation found in Clayton as a means to provide greenery, open space, development buffer and rural atmosphere."

All total, the proposed CIP projects for this fiscal year represent an investment of over \$2.6 million of the public's monies to maintain and improve the infrastructure of this community.

As a result of the above projects and related General Plan review and analysis, staff concludes that the CIP projects that may proceed in fiscal year 2012/2013 are consistent with the General Plan.

RECOMMENDATION

Staff recommends that the Planning Commission find the City's identified CIP projects for the 2012-2013 fiscal year are in conformity with the Clayton General Plan.

ATTACHMENT

2012/2013 – 2016/17 City of Clayton Capital Improvement Program

GPA\2012\01-12.sr.pc-6.12.12

CITY OF CLAYTON

2012/13 – 2016/17

Capital Improvement Program

Adopted by the City Council on

Clayton, CA

June XX, 2012

Resolution No. XX-2012

City Council

Howard Geller, Mayor
Joseph Medrano, Vice-Mayor
Julie K. Pierce
Hank Stratford
David T. Shuey

Staff

Gary Napper
Rick Angrisani
David Woltering
Laci Jackson
Merry Pelletier

City Manager
City Engineer
Community Development Director
City Clerk
Finance Manager

CITY OF CLAYTON
2012/13 – 2016/17 CAPITAL IMPROVEMENT PROGRAM

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CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17

Completed and Active Projects - FY 98/99 thru 11/12

Project Number	Project Category	Project	Comp. Sched.	Comp. Actual	Original Budget	Actual Cost
10330	Streets	Overlays	99/00	99/00	\$ 570,000.00	\$ 514,000.00
10331	Streets	Slurry Seals	na	na	\$ -	included in 10330
10332	Streets	High Street Bridge	98/99	98/99	\$ 65,000.00	\$ 65,000.00
10333	Streets	Marsh Creek Road - TEA-21	99/00	02/03	\$ 1,300,000.00	\$ 1,300,000.00
10334	Parks	Community Dog Park	99/00	00/01	\$ 27,500.00	\$ 27,500.00
10335	Parks	El Molino Park	98/99	98/99	\$ 76,000.00	\$ 30,000.00
10336	Parks	Lydia Lane Park Ph. II	10/11	10/11	\$ 40,000.00	\$ 48,814.00
10337	Facilities	Keller House Preservation	05/06	05/06	\$ 219,523.00	\$ 219,523.00
10337A	Facilities	Keller House Rehabilitation	future		\$ 1,780,477.00	
10338	Facilities	Endeavor Hall	00/01	00/01	\$ 1,500,000.00	\$ 1,450,000.00
10339	Facilities	Youth Center/Gym	01/02	02/03	\$ 4,900,000.00	\$ 4,900,000.00
10340	Landscape	Marsh Creek Road Landscape	98/99	98/99	\$ 630,000.00	\$ 400,000.00
10341	Streets	Center Street Crossing	99/00	00/01	\$ 172,000.00	\$ 172,000.00
10342	GHAD	Windmill Debris Basin	98/99	98/99	\$ 75,000.00	\$ 75,000.00
10343	GHAD	Crow Debris Basin	future		\$ 100,000.00	
10344	GHAD	Obsidian Landslide	02/03	04/05	\$ -	included in 10347
10345	GHAD	Clayton Rd. Landslides	99/00	00/01	\$ 1,315,000.00	\$ 1,240,000.00
10346	GHAD	Black Diamond Landslide**	na	na	\$ -	\$ -
10347	GHAD	V-ditch Repairs	02/03	04/05	\$ 150,000.00	\$ 144,063.00
10347A	GHAD	Eagle Peak Slope Repair	future		\$ 1,125,000.00	
10348	GHAD	Keller Ridge Drive Area Slope Repair	future		\$ 50,000.00	
10349	GHAD	Community Park Slide Repair	future		\$ 100,000.00	
10350	Facilities	Downtown Elec. Conn.	99/00	99/00	\$ 25,000.00	\$ 40,000.00
10351	Facilities	Fire Station	00/01	00/01	\$ 1,680,000.00	\$ 1,610,000.00
10352	Landscape	Library Landscaping	00/01	02/03	\$ 157,000.00	\$ 194,000.00
10353	Streets	Downtown Revitalization	00/01	01/02	\$ 2,000,000.00	\$ 3,003,500.00
10354	Streets	Four Oaks Area	01/02	01/02	\$ 175,000.00	\$ 237,700.00
10355	Streets	Oak Street Bridge	00/01	00/01	\$ 60,000.00	\$ 62,000.00
10356	Landscape	Westwood Open Space	01/02	01/02	\$ 205,000.00	\$ 166,000.00
10357	Facilities	Old City Hall Renovation	98/99	98/99	\$ 80,000.00	\$ 72,000.00
10358	Facilities	Grove Property Acquisition	99/00	99/00	\$ 500,000.00	\$ 500,000.00
10359	Facilities	Endeavor Hall Parking I	00/01	01/02	\$ 107,000.00	\$ 108,000.00
10360	Facilities	Endeavor Hall Parking II	07/08	07/08	\$ 150,000.00	\$ 165,500.76
10361	Facilities	Stanley Property Acquisition	future		\$ 325,000.00	
10362	Facilities	Stanley Property Parking**	future		\$ -	\$ -
10363	Facilities	Corp. Yard Expansion	99/00	03/04	\$ 483,000.00	\$ 589,720.00
10364	Streets	Downtown Signage**	na	na	\$ -	\$ -
10365	Facilities	Library Parking Expansion	00/01	01/02	\$ -	included in 10352
10366	Facilities	Police Parking Expansion	01/02	03/04	\$ -	included in 10363
10367	Parks	Downtown Park	07/08	07/08	\$ 1,387,018.00	\$ 2,100,000.00
10368	Parks	City Hall Park**	na	na	\$ -	\$ -
10369	Streets	Marsh Creek Road Narrowing**	na	na	\$ -	\$ -
10370	Creeks	Creek Revitalization	future		\$ 3,000,000.00	
10371	Streets	Survey Monuments	02/03	04/05	\$ 30,000.00	\$ 30,000.00
10372	Streets	Traffic Signal Modifications	99/00	00/01	\$ 10,000.00	\$ 9,900.00
10373	Streets	Peacock Creek Dr. Signal	01/02	02/03	\$ 175,000.00	\$ 155,000.00
10374	Parks	North Valley Park	99/00	00/01	\$ 50,000.00	\$ 45,000.00
10375	Parks	Samuel Ct. Park	future		\$ 75,000.00	
10376	Facilities	Equestrian Staging Area	99/00	01/02	\$ 140,000.00	\$ 140,000.00
10377	Streets	DVMS - Right Turn Lane	01/02	01/02	\$ 42,000.00	\$ 51,100.00
10378	Streets	Keller Ridge Drive Planters	99/00	00/01	\$ 100,000.00	\$ 100,000.00
10379	Streets	Pine Hollow Road - Upgrade	future		\$ 300,000.00	
10380	Parks	Community Park - Rt. Turn Lane**	na	na	\$ -	\$ -
10381	Parks	Bocce Ball Courts	05/06		\$ 100,000.00	\$ 43,431.00
10382	GHAD	Inclinometers	00/01	00/01	\$ 60,000.00	\$ 50,000.00
10383	GHAD	Keller Drive Subdrain	99/00	99/00	\$ 5,000.00	\$ 5,000.00
10384	Streets	Mitchell Canyon Rd. Overlay	00/01	04/05	\$ 145,000.00	\$ 125,000.00
10385	Parks	Community Park Tot Lot Upgrade	02/03	04/05	\$ 75,000.00	\$ 112,496.00

Completed and Active Projects - FY 98/99 thru 11/12

Project Number	Project Category	Project	Comp. Sched.	Comp. Actual	Original Budget	Actual Cost
10386	GHAD	Wells (cancelled)	na	na	\$ -	\$ -
10387	Streets	Pavement Rehab 2002/03	02/03	02/03	\$ 1,000,000.00	\$ 994,000.00
10388	Streets	Pavement Rehab 2003/04**	na	na	\$ -	\$ -
10389	Streets	Pavement Rehab 2004	04/05	04/05	\$ 525,000.00	\$ 557,650.00
10390	Streets	Pavement Rehab 2005**	na	na	\$ 88,000.00	\$ -
10391	Streets	Pavement Rehab 2006	06/07		\$ 1,188,000.00	\$ 1,119,052.00
10392	Sewers	Oak - High Street	02/03	03/04	\$ 320,000.00	\$ 384,718.00
10393	Parks	Skateboard Park	future		\$ 300,000.00	
10394	Streets	Handicap Ramps - RDA Area	05/06	05/06	\$ 65,000.00	\$ 60,132.00
10394A	Streets	ADA Compliance Program	future		\$ 135,000.00	
10395	Streets	Catch Basin Modifications	future		\$ 75,000.00	
10396	Streets	East Marsh Creek Road Signal	future		\$ 230,000.00	
10397	Streets	Utility Undergrounding	future		\$ 3,000,000.00	
10398	Streets	Clayton Rd. MCR Slurry Seal	05/06	05/06	\$ 321,000.00	\$ 235,456.00
10399	Sewers	Pine Hollow Area	future	05/06	\$ 40,000.00	\$ 141,596.00
10400	Other	Downtown Economic Development	future		\$ 1,166,581.00	
10401	Streets	Pedestrian Xing Signals**	05/06	na	\$ 200,000.00	\$ -
10402	Streets	Clayton Road Trail Connection	07/08	09/10	\$ 100,000.00	\$ 264,879.00
10403	Streets	Downtown Entry Signs (in 10402)	07/08	09/10	\$ 50,000.00	\$ -
10404	Streets	Marsh Creek Rd. Retaining Wall	07/08	08/09	\$ 320,000.00	\$ 319,980.17
10405	Streets	2007 Pavement Patching Project	07/08	07/08	\$ 91,327.00	\$ 128,684.22
10406	Streets	2008 Pavement Rehab Project	08/09	08/09	\$ 864,090.00	\$ 1,060,427.68
10407	Parks	Community Park Upgrades	07/08	07/08	\$ 420,000.00	\$ 465,000.00
10408	Streets	2009 Pavement Rehab Project**	09/10	09/10	\$ 402,000.00	\$ -
10409	Streets	2010 Pavement Rehab Project	10/11	10/11	\$ 842,000.00	
10410	Streets	2011 Neighborhood Street Project**	11/12		\$ -	
10411	Streets	2012 Neighborhood Street Project	12/13		\$ 633,705.00	
10412	Streets	2009 Arterial Overlay Project	09/10		\$ 575,000.00	\$ 513,460.00
10413	Parks	Community Park Parking Lot Expansion	10/11	11/12	\$ 850,000.00	\$ 1,056,717.00
10414	Streets	East Marsh Creek Rd. Upgrade	12/13		\$ 1,081,000.00	
10415	Parks	Well Renovation	09/10	09/10	\$ 25,000.00	\$ 23,895.00
10416	Streets	Marsh Creek Rd. (old) Overlay	10/11	10/11	\$ 430,300.00	\$ 378,889.40
10417	Streets	2013 Neighborhood Street Project	13/14		\$ 315,000.00	
10418	Streets	2014 Neighborhood Street Project	14/15		\$ 315,000.00	
10419	Parks	Community Park Lighting, etc.	future		\$ 4,084,000.00	
10420	Parks	School Bridge Area Improvements	future		\$ 200,000.00	
10421	Creeks	Cardinet Trail Restoration	11/12		\$ 50,000.00	
10422	Sewers	El Molino Drive Sanitary Sewer Impr.	future		\$ 330,000.00	
10423	Facilities	Library Upgrades	future		\$ 1,000,000.00	
10424	Streets	2015 Neighborhood Street Project	15/16		\$ 315,000.00	
10425	Streets	Collector Street Rehabilitation Project	12/13		\$ 361,438.00	
10426	Facilities	City Hall Parking Area Rehabilitatoin	12/13		\$ 27,000.00	
10427	Facilities	Library Parking Lot Rehabilitatoin	12/13		\$ 51,000.00	
10428	Facilities	Lydia Lane Park Parking Rehabilitation	12/13		\$ 11,000.00	
10429	Facilities	2012 Trail Repaving Project	12/13		\$ 50,000.00	
10430	Landscape	Clayton Road Median Landscaping	12/13		\$ 320,000.00	
10431	Landscape	Daffodil Hill Landscaping	12/13		\$ 50,000.00	
10432	Streets	2016 Neighborhood Street Project	16/17		\$ 315,000.00	
Total Project Costs (budget) (actual)					\$ 48,968,959.00	\$ 28,005,784.23

Red denotes completed projects

Green denotes FY 12-13 active projects

**Deleted by City Council

CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17

Summary of Project Costs by Fiscal Year

****Deleted by City Council**

Project Number	Project Category	Project Description	Prior Year Funding	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	Future Costs	Total Budget
10330	Streets	Overlays	\$ 514,000.00	\$	\$	\$	\$	\$	\$	\$ 514,000.00
10331	Streets	Shury Seals	\$	\$	\$	\$	\$	\$	\$	\$
10332	Streets	High Street Bridge	\$ 65,000.00	\$	\$	\$	\$	\$	\$	\$ 65,000.00
10333	Streets	Marsh Creek Road - TEA-21	\$ 1,300,000.00	\$	\$	\$	\$	\$	\$	\$ 1,300,000.00
10334	Parks	Community Dog Park	\$ 27,500.00	\$	\$	\$	\$	\$	\$	\$ 27,500.00
10335	Parks	El Molino Park	\$ 30,000.00	\$	\$	\$	\$	\$	\$	\$ 30,000.00
10336	Parks	Lydia Lane Park Ph. II	\$ 48,814.00	\$	\$	\$	\$	\$	\$	\$ 48,814.00
10337	Facilities	Keller House Preservation	\$ 219,523.00	\$	\$	\$	\$	\$	\$	\$ 219,523.00
10337A	Facilities	Keller House Rehabilitation	\$	\$	\$	\$	\$	\$	\$	\$
10338	Facilities	Endeavor Hall	\$ 1,450,000.00	\$	\$	\$	\$	\$	\$ 1,780,477.00	\$ 1,780,477.00
10339	Facilities	Youth Center/Gym	\$ 4,900,000.00	\$	\$	\$	\$	\$	\$	\$ 4,900,000.00
10340	Landscape	Marsh Creek Road Landscape	\$ 400,000.00	\$	\$	\$	\$	\$	\$	\$ 400,000.00
10341	Streets	Center Street Crossing	\$ 172,000.00	\$	\$	\$	\$	\$	\$	\$ 172,000.00
10342	GHAD	Windmill Debris Basin	\$ 75,000.00	\$	\$	\$	\$	\$	\$	\$ 75,000.00
10343	GHAD	Crow Debris Basin	\$	\$	\$	\$	\$	\$	\$	\$
10344	GHAD	Obsidian Landslide (in 10347)	\$ 1,240,000.00	\$	\$	\$	\$	\$	\$	\$ 1,240,000.00
10345	GHAD	Clayton Rd. Landslides	\$	\$	\$	\$	\$	\$	\$	\$
10346	GHAD	Black Diamond Landslide**	\$	\$	\$	\$	\$	\$	\$	\$
10347	GHAD	V-ditch Repairs	\$ 144,063.00	\$	\$	\$	\$	\$	\$	\$ 144,063.00
10347A	GHAD	Bagle Peak Slope Repair	\$	\$	\$	\$	\$	\$	\$	\$
10348	GHAD	Keller Ridge Drive Area Slope Repair	\$	\$	\$	\$	\$	\$	\$	\$
10349	GHAD	Community Park Slide Repair	\$	\$	\$	\$	\$	\$	\$	\$
10350	Facilities	Downtown Elec. Conn.	\$ 40,000.00	\$	\$	\$	\$	\$	\$	\$ 40,000.00
10351	Facilities	Fire Station	\$ 1,610,000.00	\$	\$	\$	\$	\$	\$	\$ 1,610,000.00
10352	Landscape	Library Landscaping	\$ 194,000.00	\$	\$	\$	\$	\$	\$	\$ 194,000.00
10353	Streets	Downtown Revitalization	\$ 3,003,500.00	\$	\$	\$	\$	\$	\$	\$ 3,003,500.00
10354	Streets	Four Oaks Area	\$ 237,700.00	\$	\$	\$	\$	\$	\$	\$ 237,700.00
10355	Streets	Oak Street Bridge	\$ 62,000.00	\$	\$	\$	\$	\$	\$	\$ 62,000.00
10356	Landscape	Westwood Open Space	\$ 166,000.00	\$	\$	\$	\$	\$	\$	\$ 166,000.00
10357	Facilities	Old City Hall Renovation	\$ 72,000.00	\$	\$	\$	\$	\$	\$	\$ 72,000.00
10358	Facilities	Grove Property Acquisition	\$ 500,000.00	\$	\$	\$	\$	\$	\$	\$ 500,000.00
10359	Facilities	Endeavor Hall Parking I	\$ 108,000.00	\$	\$	\$	\$	\$	\$	\$ 108,000.00
10360	Facilities	Endeavor Hall Parking II	\$ 165,500.76	\$	\$	\$	\$	\$	\$	\$ 165,500.76
10361	Facilities	Stanley Property	\$	\$	\$	\$	\$	\$	\$ 325,000.00	\$ 325,000.00
10362	Facilities	Stanley Property Parking**	\$	\$	\$	\$	\$	\$	\$	\$
10363	Facilities	Corp. Yard Expansion	\$ 598,720.00	\$	\$	\$	\$	\$	\$	\$ 598,720.00
10364	Streets	Downtown Signage**	\$	\$	\$	\$	\$	\$	\$	\$
10365	Facilities	Library Parking Expansion	\$	\$	\$	\$	\$	\$	\$	\$
10366	Facilities	Police Parking Expansion	\$	\$	\$	\$	\$	\$	\$	\$
10367	Parks	Downtown Park	\$ 2,009,700.00	\$	\$	\$	\$	\$	\$	\$ 2,009,700.00
10368	Parks	City Hall Park**	\$	\$	\$	\$	\$	\$	\$	\$
10369	Streets	Marsh Creek Road Narrowing**	\$	\$	\$	\$	\$	\$	\$	\$
10370	Creeks	Creek Revitalization	\$	\$	\$	\$	\$	\$	\$	\$
10371	Streets	Survey Monuments	\$ 30,000.00	\$	\$	\$	\$	\$	\$ 3,000,000.00	\$ 3,000,000.00
10372	Streets	Traffic Signal Modifications	\$ 9,900.00	\$	\$	\$	\$	\$	\$	\$ 9,900.00
10373	Streets	Peacock Creek Dr. Signal	\$ 155,000.00	\$	\$	\$	\$	\$	\$	\$ 155,000.00
10374	Parks	North Valley Park	\$ 45,000.00	\$	\$	\$	\$	\$	\$	\$ 45,000.00
10375	Parks	Samuel Ct. Park	\$	\$	\$	\$	\$	\$	\$ 75,000.00	\$ 75,000.00
10376	Facilities	Equestrian Staging Area	\$ 140,000.00	\$	\$	\$	\$	\$	\$	\$ 140,000.00
10377	Streets	DVMIS - Right Turn Lane	\$ 51,100.00	\$	\$	\$	\$	\$	\$	\$ 51,100.00
10378	Streets	Keller Ridge Drive Planters	\$ 100,000.00	\$	\$	\$	\$	\$	\$	\$ 100,000.00

Summary of Project Costs by Fiscal Year

**Deleted by City Council

Project Number	Project Category	Project Description	Prior Year Funding	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	Future Costs	Total Budget
10379	Streets	Pine Hollow Road - Upgrade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 300,000.00	\$ 300,000.00
10380	Parks	Community Park - Rt. Turn Lane**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10381	Parks	Bocce Ball Courts	\$ 43,431.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 43,431.00
10382	GHAD	Inclinometers	\$ 50,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,000.00
10383	GHAD	Keller Ridge Drive Subdrain	\$ 5,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,000.00
10384	Streets	Mitchell Canyon Rd. Overlay	\$ 125,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 125,000.00
10385	Parks	Community Park Tot Lot Upgrade	\$ 112,496.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 112,496.00
10386	GHAD	Wells**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10387	Streets	Pavement Rehab 2002/03	\$ 994,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 994,000.00
10388	Streets	Pavement Rehab 2003/04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10389	Streets	Pavement Rehab 2004	\$ 537,650.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 537,650.00
10390	Streets	Pavement Rehab 2005**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10391	Streets	Pavement Rehab 2006	\$ 11,190,552.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,190,552.00
10392	Sewers	Oak - High Street	\$ 384,718.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 384,718.00
10393	Parks	Skateboard Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10394	Streets	Handicap Ramps - RDA Area	\$ 60,182.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 60,182.00
10394A	Streets	ADA Compliance Program	\$ 10,190.00	\$ 6,000.00	\$ 6,000.00	\$ -	\$ -	\$ -	\$ -	\$ 22,190.00
10395	Streets	Catch Basin Modifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10396	Streets	East Marsh Creek Road Signal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10397	Streets	Utility Undergrounding	\$ 215,469.00	\$ 21,000.00	\$ 21,000.00	\$ -	\$ -	\$ -	\$ -	\$ 257,469.00
10398	Streets	Clayton Rd. MCR Slurry Seal	\$ 235,456.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 235,456.00
10399	Sewers	Pine Hollow Area	\$ 141,596.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 141,596.00
10400	Other	Downtown Economic Development	\$ 1,166,581.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,166,581.00
10401	Streets	Pedestrian Xing Signals**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10402	Streets	Clayton Road Trail Connection	\$ 264,879.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 264,879.00
10403	Streets	Downtown Entry Signage (in 10402)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10404	Streets	Marsh Creek Rd. Retaining Wall	\$ 319,980.17	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 319,980.17
10405	Streets	2007 Pavement Patching Project	\$ 128,684.22	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 128,684.22
10406	Streets	2008 Pavement Rehab Project	\$ 1,060,427.62	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,060,427.62
10407	Streets	Clayton Road Trail Connection	\$ 465,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 465,000.00
10408	Streets	2009 Pavement Rehab Project**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10409	Streets	2010 Pavement Rehab Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10410	Streets	2011 Neighborhood Street Project**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10411	Streets	2012 Neighborhood Street Project	\$ 316,645.00	\$ 317,645.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 634,290.00
10412	Streets	2009 Arterial Overlay Project	\$ 513,460.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 513,460.00
10413	Parks	Community Park Parking Lot Exp.	\$ 1,056,717.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,056,717.00
10414	Streets	East Marsh Creek Rd. Upgrade	\$ 100,000.00	\$ 1,022,224.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,122,224.00
10415	Parks	Well Renovation	\$ 23,895.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 23,895.00
10416	Streets	Marsh Creek Rd. (064) Overlay	\$ 430,300.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 430,300.00
10417	Streets	2013 Neighborhood Street Project	\$ -	\$ -	\$ 315,000.00	\$ -	\$ -	\$ -	\$ -	\$ 315,000.00
10418	Streets	2014 Neighborhood Street Project	\$ -	\$ -	\$ 315,000.00	\$ -	\$ -	\$ -	\$ -	\$ 315,000.00
10419	Parks	Community Park Lighting, etc.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10420	Parks	School Bridge Area Improvements	\$ 200,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 200,000.00
10421	Creeks	Cardinet Trail Restoration	\$ 50,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,000.00
10422	Sewers	El Molino Drive Sanitary Sewer Impr.	\$ 330,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 330,000.00
10423	Facilities	Library Upgrades	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10424	Streets	2015 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ 315,000.00	\$ -	\$ -	\$ 1,000,000.00	\$ 1,315,000.00
10425	Streets	Collector Street Rehabilitation Project	\$ -	\$ 361,438.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 361,438.00
10426	Facilities	City Hall Parking Area Rehabilitation	\$ -	\$ 27,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 27,000.00
10427	Facilities	Library Parking Lot Rehabilitation	\$ -	\$ 51,670.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,670.00
10428	Facilities	Lydia Lane Park Parking Rehabilitation	\$ -	\$ 11,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,000.00
10429	Facilities	2012 Trail Repaving Project	\$ -	\$ 50,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,000.00
10430	Landscape	Clayton Road Median Landscaping	\$ -	\$ 320,090.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 320,090.00
10431	Landscape	Daffodil Hill Landscaping	\$ -	\$ 50,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,000.00
10432	Streets	2016 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 315,000.00	\$ -	\$ 315,000.00
Cost Totals			\$ 40,415,744.77	\$ 2,237,307.00	\$ 342,000.00	\$ 342,000.00	\$ 342,000.00	\$ 342,000.00	\$ 15,683,818.00	\$ 59,704,869.77

Red denotes completed projects
 Green denotes active projects funded in FY 2015
 Blue denotes active projects funded prior to FY 12/13
 ** Deleted by City Council

CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17

Budget Cost by Funding Source - FY 2012/13

Fund Name		Carry Forward	Gas Tax	Fed. Funds	Measure J	Community Fac. Fee	Offsite Arterial Fee	PG&E Rule 20A	Unknown	LMD	CBCA	12/13 Project Totals
Fund Balance as of 6/30/12			\$ -	\$ -	\$ -	\$ 5,124	\$ 73,458	\$ -	\$ -	\$ -	\$ -	
Estimated Revenue thru FY 12/13			\$ 173,825	\$ 285,438	\$ 1,248,044	\$ -	\$ -	\$ 21,000	\$ 89,000	\$ 345,000	\$ 25,000	
Estimated non-CIP Expenses in FY 12/13			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Funds Available for CIP in FY 12/13			\$ 173,825	\$ 285,438	\$ 1,248,044	\$ 5,124	\$ 73,458	\$ 21,000	\$ 89,000	\$ 345,000	\$ 25,000	
#	Category	Project										
10337A	Facilities	Keller House Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10343	GHAD	Crow Debris Basin	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10347A	GHAD	Eagle Peak Slope Repairs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10348	GHAD	Keller Ridge Drive Area Slope Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10349	GHAD	Community Park Slide Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10361	Facilities	Stanley Property	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10370	Creeks	Creek Revitalization	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10375	Parks	Samuel Ct. Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10379	Streets	Pine Hollow Road - Upgrade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10393	Parks	Skateboard Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10394A	Streets	ADA Compliance Program	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10395	Streets	Catch Basin Modifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10396	Streets	East Marsh Creek Road Signal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10397	Streets	Utility Undergrounding	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10400	Other	Downtown Economic Development	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10410	Streets	2011 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10411	Streets	2012 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10413	Parks	Community Park Parking Lot Exp.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10414	Streets	East Marsh Creek Rd. Upgrade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10417	Streets	2013 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10418	Streets	2014 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10419	Parks	Community Park Lighting, etc.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10420	Parks	School Bridge Area Improvements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10421	Creeks	Cardinet Trail Restoration	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10422	Sewers	El Molino Drive Sanitary Sewer Impr.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10423	Facilities	Library Upgrades	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10424	Streets	2015 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10425	Streets	Collector Street Rehabilitation Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10426	Facilities	City Hall Parking Area Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10427	Facilities	Library Parking Lot Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10428	Facilities	Lydia Lane Park Parking Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10429	Facilities	2012 Trail Repaving Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10430	Landscape	Clayton Road Median Landscaping	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10431	Landscape	Daffodil Hill Landscaping	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10432	Streets	2016 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total CIP Expenditures in FY 12/13			\$ 173,825	\$ 285,438	\$ 1,248,044	\$ -	\$ -	\$ 21,000	\$ 89,000	\$ -	\$ -	\$ 2,237,307
Fund Balance as of June 30, 2013			\$ -	\$ -	\$ -	\$ 5,124	\$ 73,458	\$ -	\$ -	\$ -	\$ -	

Red denotes projects completed in FY 11/12

Green denotes active projects funded in FY 12/13

Blue denotes active projects funded prior to FY 12/13

CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17

Budget Cost by Funding Source - FY 2013/14

	Fund Name	Carry Forward	Gas Tax	Fed. Funds	Measure J	Community Fac. Fee	Offsite Arterial Fee	PG&E Rule 20A	12/13 Project Totals
	Fund Balance as of 6/30/13		\$ -	\$ -	\$ -	\$ 5,124	\$ 73,458	\$ -	
	Estimated Revenue thru FY 13/14		\$ 116,000	\$ -	\$ 205,000	\$ -	\$ -	\$ 21,000	
	Estimated non-CIP Expenses in FY 13/14		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Funds Available for CIP in FY 13/14		\$ 116,000	\$ -	\$ 205,000	\$ 5,124	\$ 73,458	\$ 21,000	
#	Category	Project							
10337A	Facilities	Keller House Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10343	GHAD	Crow Debris Basin	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10347A	GHAD	Eagle Peak Slope Repairs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10348	GHAD	Keller Ridge Drive Area Slope Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10349	GHAD	Community Park Slide Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10361	Facilities	Stanley Property	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10370	Creeks	Creek Revitalization	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10375	Parks	Samuel Ct. Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10379	Streets	Pine Hollow Road - Upgrade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10393	Parks	Skateboard Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10394A	Streets	ADA Compliance Program	\$ 16,190	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,000
10395	Streets	Catch Basin Modifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10396	Streets	East Marsh Creek Road Signal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10397	Streets	Utility Undergrounding	\$ 236,469	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,000
10400	Other	Downtown Economic Development	\$ 1,166,581	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,000
10411	Streets	2012 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10414	Streets	East Marsh Creek Rd. Upgrade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10417	Streets	2013 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10418	Streets	2014 Neighborhood Street Project	\$ -	\$ -	\$ 205,000	\$ -	\$ -	\$ -	\$ 315,000
10419	Parks	Community Park Lighting, etc.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10423	Facilities	Library Upgrades	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10424	Streets	2015 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10425	Streets	Collector Street Rehabilitation Project	\$ 1,102,224	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10426	Facilities	City Hall Parking Area Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10427	Facilities	Library Parking Lot Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10428	Facilities	Lydia Lane Park Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10429	Facilities	2012 Trail Repaving Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10430	Landscape	Clayton Road Median Landscaping	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10431	Landscape	Daffodil Hill Landscaping	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10432	Streets	2016 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Total CIP Expenditures in FY 13/14		\$ 116,000	\$ -	\$ 205,000	\$ -	\$ -	\$ 21,000	\$ 342,000
	Fund Balance as of June 30, 2014		\$ -	\$ -	\$ -	\$ 5,124	\$ 73,458	\$ -	\$ -

Red denotes projects completed in FY 12/13

Green denotes active projects funded in FY 13/14

Blue denotes active projects funded prior to FY 13/14

**CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17**

Budget Cost by Funding Source - FY 2014/15

Fund Name		Carry Forward	Gas Tax	Fed. Funds ARRA	Measure J	Community Fac. Fee	Offsite Arterial Fee	PG&E Rule 20A	14/15 Project Totals
Fund Balance as of 6/30/14									
Estimated Revenue thru FY 14/15			\$ 116,000	\$ -	\$ 205,000	\$ -	\$ 73,458	\$ 21,000	
Estimated non-CIP Expenses in FY 14/15			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Funds Available for CIP in FY 14/15			\$ 116,000	\$ -	\$ 205,000	\$ 5,124	\$ 73,458	\$ 21,000	
#	Category	Project							
10337A	Facilities	Keller House Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10343	GHAD	Crow Debris Basin	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10347A	GHAD	Eagle Peak Slope Repairs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10348	GHAD	Keller Ridge Drive Area Slope Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10349	GHAD	Community Park Slide Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10361	Facilities	Stanley Property	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10370	Creeks	Creek Revitalization	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10375	Parks	Samuel Ct. Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10379	Streets	Pine Hollow Road - Upgrade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10393	Parks	Skateboard Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10394A	Streets	ADA Compliance Program	22,190	\$ 6,000	\$ -	\$ -	\$ -	\$ -	6,000
10395	Streets	Catch Basin Modifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10396	Streets	East Marsh Creek Road Signal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10397	Streets	Utility Undergrounding	257,469	\$ -	\$ -	\$ -	\$ -	\$ 21,000	21,000
10400	Other	Downtown Economic Development	1,166,581	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10417	Streets	2013 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10418	Streets	2014 Neighborhood Street Project	\$ -	\$ 110,000	\$ -	\$ -	\$ -	\$ -	\$ 110,000
10419	Parks	Community Park Lighting, etc.	\$ -	\$ -	\$ 205,000	\$ -	\$ -	\$ -	\$ 205,000
10423	Facilities	Library Upgrades	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10424	Streets	2015 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10425	Streets	Collector Street Rehabilitation Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10432	Streets	2016 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total CIP Expenditures in FY 14/15			\$ 116,000	\$ -	\$ 205,000	\$ 5,124	\$ 73,458	\$ 21,000	\$ 342,000
Fund Balance as of June 30, 2015			\$ -	\$ -	\$ -	\$ 5,124	\$ 73,458	\$ -	\$ -

Red denotes projects completed in FY 13/14
Green denotes active projects funded in FY 14/15
Blue denotes active projects funded prior to FY 14/15

CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17

Budget Cost by Funding Source - FY 2015/16

Fund Name		Carry Forward	Gas Tax	Fed. Funds	Measure J	Community	Offsite	PG&E	15/16 Project
				ARRA		Fac. Fee	Arterial Fee	Rule 20A	Totals
Fund Balance as of 6/30/15			\$ -	\$ -	\$ -	\$ 5,124	\$ 73,458	\$ -	
Estimated Revenue thru FY 15/16			\$ 116,000	\$ -	\$ 205,000	\$ -	\$ -	\$ 21,000	
Estimated non-CIP Expenses in FY 15/16			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Funds Available for CIP in FY 15/16			\$ 116,000	\$ -	\$ 205,000	\$ 5,124	\$ 73,458	\$ 21,000	
#	Category	Project							
10337A	Facilities	Keller House Rehabilitation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10343	GHAD	Crow Debris Basin	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10347A	GHAD	Eagle Peak Slope Repairs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10348	GHAD	Keller Ridge Drive Area Slope Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10349	GHAD	Community Park Slide Repair	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10361	Facilities	Stanley Property	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10370	Creeks	Creek Revitalization	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10375	Parks	Samuel Ct. Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10379	Streets	Pine Hollow Road - Upgrade	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10393	Parks	Skateboard Park	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10394A	Streets	ADA Compliance Program	28,190	\$ 6,000	\$ -	\$ -	\$ -	\$ -	6,000
10395	Streets	Catch Basin Modifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10396	Streets	East Marsh Creek Road Signal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10397	Streets	Utility Undergrounding	278,469	\$ -	\$ -	\$ -	\$ -	\$ 21,000	21,000
10400	Other	Downtown Economic Development	1,166,581	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10418	Streets	2014 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10419	Parks	Community Park Lighting, etc.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10423	Facilities	Library Upgrades	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10424	Streets	2015 Neighborhood Street Project	\$ -	\$ 110,000	\$ 205,000	\$ -	\$ -	\$ -	\$ 315,000
10432	Streets	2016 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total CIP Expenditures in FY 15/16			\$ 116,000	\$ -	\$ 205,000	\$ -	\$ -	\$ 21,000	\$ 342,000
Fund Balance as of June 30, 2016			\$ -	\$ -	\$ -	\$ 5,124	\$ 73,458	\$ -	\$ -

Red denotes projects completed in FY 14/15
Green denotes active projects funded in FY 15/16
Blue denotes active projects funded prior to FY 15/16

**CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17**

Budget Cost by Funding Source - FY 2016/17

Fund Name		Carry Forward	Gas Tax	Fed. Funds	Measure J	Community Fac. Fee	Offsite Arterial Fee	PG&E Rule 20A	12/13 Project Totals
Fund Balance as of 6/30/15									
Estimated Revenue thru FY 16/17			\$ 116,000		205,000	5,124	73,458	21,000	
Estimated non-CIP Expenses in FY 16/17									
Funds Available for CIP in FY 16/17			\$ 116,000		205,000	5,124	73,458	21,000	
#	Category	Project							
10337A	Facilities	Keller House Rehabilitation	\$						
10343	GHAD	Crow Debris Basin	\$						
10347A	GHAD	Eagle Peak Slope Repairs	\$						
10348	GHAD	Keller Ridge Drive Area Slope Repair	\$						
10349	GHAD	Community Park Slide Repair	\$						
10361	Facilities	Stanley Property	\$						
10370	Creeks	Creek Revitalization	\$						
10375	Parks	Samuel Ct. Park	\$						
10379	Streets	Pine Hollow Road - Upgrade	\$						
10393	Parks	Skateboard Park	\$						
10394A	Streets	ADA Compliance Program	\$	16,190					
10395	Streets	Catch Basin Modifications	\$						6,000
10396	Streets	East Marsh Creek Road Signal	\$						
10397	Streets	Utility Undergrounding	\$	299,469				21,000	
10400	Other	Downtown Economic Development	\$	1,166,581					21,000
10419	Parks	Community Park Lighting, etc.	\$						
10423	Facilities	Library Upgrades	\$						
10424	Streets	2015 Neighborhood Street Project	\$						
10430	Streets	2016 Neighborhood Street Project	\$						
			\$ 110,000		205,000				315,000
Total CIP Expenditures in FY 16/17			\$ 116,000		205,000			21,000	342,000
Fund Balance as of June 30, 2017			\$			5,124	73,458		

Red denotes projects completed in FY 15/16
Green denotes active projects funded in FY 16/17
Blue denotes active projects funded prior to FY 16/17

CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17

Master Index of Projects by Number

* Completed - no project sheet included

**Deleted by City Council

Project Number	Project Category	Project	Project Number	Project Category	Project
10330	Streets	Overlays*	10381	Parks	Bocce Ball Courts**
10331	Streets	Slurry Seals (deleted)*	10382	GHAD	Inclinometers*
10332	Streets	High Street Bridge*	10383	GHAD	Keller Ridge Drive Subdrain*
10333	Streets	Marsh Creek Road - TEA-21*	10384	Streets	Mitchell Canyon Rd. Overlay*
10334	Parks	Community Dog Park*	10385	Parks	Community Park Tot Lot*
10335	Parks	El Molino Park*	10386	GHAD	Wells (cancelled)*
10336	Parks	Lydia Lane Park Ph. II*	10387	Streets	Pavement Rehab 2002/03*
10337	Facilities	Keller House Preservation*	10388	Streets	Pavement Rehab 2003/04*
10337A	Facilities	Keller House Rehabilitation	10389	Streets	Pavement Rehab 2004**
10338	Facilities	Endeavor Hall*	10390	Streets	Pavement Rehab 2005**
10339	Facilities	Youth Center/Gym*	10391	Streets	Pavement Rehab 2006*
10340	Landscape	Marsh Creek Road LS*	10392	Sewers	Oak - High Street*
10341	Streets	Center Street Crossing*	10393	Parks	Skateboard Park
10342	GHAD	Windmill Debris Basin*	10394	Streets	Handicap Ramps - RDA Area*
10343	GHAD	Crow Debris Basin	10394A	Streets	ADA Compliance Program
10344	GHAD	Obsidian Landslide*	10395	Streets	Catch Basin Modifications
10345	GHAD	Clayton Rd. Landslides*	10396	Streets	East Marsh Creek Road Signal
10346	GHAD	Black Diamond Landslide**	10397	Streets	Utility Undergrounding
10347	GHAD	V-ditch Repairs*	10398	Streets	Clayton Rd. MCR Slurry Seal*
10347A	GHAD	Eagle Peak Slope Repair	10399	Sewers	Pine Hollow Area*
10348	GHAD	Keller Ridge Slope Repair	10400	Other	Downtown Economic Development
10349	GHAD	Community Park Slide Repair	10401	Streets	Pedestrian Xing Signals**
10350	Facilities	Downtown Elec. Conn.*	10402	Streets	Clayton Road Trail Connection*
10351	Facilities	Fire Station*	10403	Streets	Downtown Entry Signs*
10352	Landscape	Library Landscaping*	10404	Streets	Marsh Creek Rd. Retaining Wall*
10353	Streets	Downtown Revitalization*	10405	Streets	2007 Pavement Patching Project*
10354	Streets	Four Oaks Area*	10406	Streets	2008 Pavement Rehab Project*
10355	Streets	Oak Street Bridge*	10407	Parks	Community Park Upgrades*
10356	Landscape	Westwood Open Space*	10408	Streets	2009 Pavement Rehab Project**
10357	Facilities	Old City Hall Renovation*	10409	Streets	2010 Pavement Rehab Project*
10358	Facilities	Grove Property Acquisition*	10410	Streets	2011 Neighborhood Street Project**
10359	Facilities	Endeavor Hall Parking I*	10411	Streets	2012 Neighborhood Street Project
10360	Facilities	Endeavor Hall Parking II*	10412	Streets	2009 Arterial Overlay Project*
10361	Facilities	Stanley Property	10413	Parks	Community Park Parking Lot Expan.*
10362	Facilities	Stanley Property Parking**	10414	Streets	East Marsh Creek Rd. Upgrade
10363	Facilities	Corp. Yard Expansion*	10415	Parks	Well Renovation*
10364	Streets	Downtown Signage**	10416	Streets	Marsh Creek Rd. (old) Overlay*
10365	Facilities	Library Parking Expansion*	10417	Streets	2013 Neighborhood Street Project
10366	Facilities	Police Parking Expansion*	10418	Streets	2014 Neighborhood Street Project
10367	Parks	Downtown Park*	10419	Parks	Community Park Lighting, etc.
10368	Parks	City Hall Park**	10420	Parks	School Bridge Area Improvements
10369	Streets	Marsh Creek Road Narrowing**	10421	Creeks	Cardinet Trail Restoration
10370	Creeks	Creek Revitalization	10422	Sewers	El Molino Drive Sanitary Sewer Impr.
10371	Streets	Survey Monuments*	10423	Facilities	Library Upgrades
10372	Streets	Traffic Signal Modifications*	10424	Streets	2015 Neighborhood Street Project
10373	Streets	Peacock Creek Dr. Signal*	10425	Streets	Collector Street Rehabilitation Project
10374	Parks	North Valley Park*	10426	Facilities	City Hall Parking Area Rehabilitation
10375	Parks	Samuel Ct. Park	10427	Facilities	Library Parking Lot Rehabilitation
10376	Facilities	Equestrian Staging Area*	10428	Facilities	Lydia Lane Park Parking Rehabilitation
10377	Streets	DVMS - Right Turn Lane*	10429	Facilities	2012 Trail Repaving Project
10378	Streets	Keller Ridge Drive Planters*	10430	Landscape	Clayton Road Median Landscaping
10379	Streets	Pine Hollow Road - Upgrade	10431	Landscape	Daffodil Hill Landscaping
10380	Parks	Community Park - Rt. Turn Lane**	10432	Streets	2016 Neighborhood Street Project

CITY OF CLAYTON
CAPITAL IMPROVEMENT PROGRAM FY 2012/13 to 2016/17

*Completed - no project sheet included

**Deleted by City Council

Master Index of Projects by Type

Project Number	Project Category	Project	Project Number	Project Category	Project
<u>CREEKS</u>			<u>PARKS (cont'd.)</u>		
10370	Creeks	Creek Revitalization	10367	Parks	Downtown Park*
10421	Creeks	Cardinet Trail Restoration	10368	Parks	City Hall Park
<u>FACILITIES</u>			10374	Parks	North Valley Park*
10337	Facilities	Keller House Preservation*	10375	Parks	Samuel Ct. Park
10337A	Facilities	Keller House Rehabilitation	10380	Parks	Community Park - Rt. Turn Lane**
10338	Facilities	Endeavor Hall*	10381	Parks	Bocce Ball Courts**
10339	Facilities	Youth Center/Gym*	10385	Parks	Community Park Tot Lot*
10350	Facilities	Downtown Elec. Conn.*	10393	Parks	Skateboard Park
10351	Facilities	Fire Station*	10407	Parks	Community Park Upgrades*
10357	Facilities	Old City Hall Renovation*	10413	Parks	Community Park Parking Lot Exp.*
10358	Facilities	Grove Property Acquisition*	10415	Parks	Well Renovation*
10359	Facilities	Endeavor Hall Parking I*	10419	Parks	Community Park Lighting, etc.
10360	Facilities	Endeavor Hall Parking II*	10420	Parks	School Bridge Area Improvements
10361	Facilities	Stanley Property	<u>STREETS</u>		
10362	Facilities	Stanley Property Parking**	10330	Streets	Overlays*
10363	Facilities	Corp. Yard Expansion*	10331	Streets	Slurry Seals (deleted)*
10365	Facilities	Library Parking Expansion*	10332	Streets	High Street Bridge*
10366	Facilities	Police Parking Expansion*	10333	Streets	Marsh Creek Road - TEA-21*
10376	Facilities	Equestrian Staging Area*	10341	Streets	Center Street Crossing*
10423	Facilities	Library Upgrades	10353	Streets	Downtown Revitalization*
10426	Facilities	City Hall Parking Area Rehabilitation	10354	Streets	Four Oaks Area*
10427	Facilities	Library Parking Lot Rehabilitation	10355	Streets	Oak Street Bridge*
10428	Facilities	Lydia Lane Park Parking Rehabilitation	10364	Streets	Downtown Signage**
10429	Facilities	2012 Trail Repaving Project	10369	Streets	Marsh Creek Road Narrowing**
<u>GHAD</u>			10371	Streets	Survey Monuments*
10342	GHAD	Windmill Debris Basin*	10372	Streets	Traffic Signal Modifications*
10343	GHAD	Crow Debris Basin	10373	Streets	Peacock Creek Dr. Signal*
10344	GHAD	Obsidian Landslide*	10377	Streets	DVMS - Right Turn Lane*
10345	GHAD	Clayton Rd. Landslides*	10378	Streets	Keller Ridge Drive Planters*
10346	GHAD	Black Diamond Landslide**	10379	Streets	Pine Hollow Road - Upgrade
10347	GHAD	V-ditch Repairs*	10384	Streets	Mitchell Canyon Rd. Overlay*
10347A	GHAD	Eagle Peak Slope Repair	10387	Streets	Pavement Rehab 2002/03*
10348	GHAD	Keller Ridge Slope Repair	10388	Streets	Pavement Rehab 2003/04*
10349	GHAD	Community Park Slide Repair	10389	Streets	Pavement Rehab 2004*
10382	GHAD	Inclinometers*	10390	Streets	Pavement Rehab 2005**
10383	GHAD	Keller Ridge Drive Subdrain*	10391	Streets	Pavement Rehab 2006*
10386	GHAD	Wells (cancelled)*	10394	Streets	Handicap Ramps - RDA Area*
<u>LANDSCAPE</u>			10394A	Streets	ADA Compliance Program
10340	Landscape	Marsh Creek Road LS*	10395	Streets	Catch Basin Modification
10352	Landscape	Library Landscaping*	10396	Streets	East Marsh Creek Road Signal
10356	Landscape	Westwood Open Space*	10397	Streets	Utility Undergrounding
10430	Landscape	Clayton Road Median Landscaping	10398	Streets	Clayton Rd. MCR Slurry Seal*
10431	Landscape	Daffodil Hill Landscaping	10401	Streets	Pedestrian Xing Signals**
<u>OTHER</u>			10402	Streets	Clayton Road Trail Connection*
10392	Sewers	Oak - High Street*	10403	Streets	Downtown Entry Signs*
10399	Sewers	Pine Hollow Area*	10404	Streets	Marsh Creek Rd. Retaining Wall*
10401	Other	Downtown Economic Development	10405	Streets	2007 Pavement Patching Project*
10422	Sewers	El Molino Drive Sanitary Sewer Imp.	10406	Streets	2008 Pavement Rehab Project*
<u>PARKS</u>			10408	Streets	2009 Pavement Rehab Project**
10334	Parks	Community Dog Park*	10409	Streets	2010 Pavement Rehab Project*
10335	Parks	El Molino Park*	10410	Streets	2011 Neighborhood Street Project**
10336	Parks	Lydia Lane Park Ph. II*	10411	Streets	2012 Neighborhood Street Project
			10412	Streets	2009 Arterial Overlay Project*
			10414	Streets	East Marsh Creek Rd. Upgrade
			10416	Streets	Marsh Creek Rd. (old) Overlay*
			10417	Streets	2013 Neighborhood Street Project
			10418	Streets	2014 Neighborhood Street Project
			10424	Streets	2015 Neighborhood Street Project
			10425	Streets	Collector Street Rehabilitation Project
			10430	Streets	2016 Neighborhood Street Project

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Facilities	10337A	Keller House Rehabilitation

DESCRIPTION - LOCATION

Rehabilitation of historical ranch home and grounds located across Mt. Diablo Creek from the library.



COMMENTS

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$1,780,477	\$1,780,477
CM/Inspection								
ROW Acquisition								
Other								
TOTAL							\$1,780,477	\$1,780,477

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$1,780,477	\$1,780,477
Total							\$1,780,477	\$1,780,477

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
GHAD	10343	Crow Place – Debris Basin

DESCRIPTION - LOCATION

Clean out debris basin located in GHAD easement behind golf course and single family lots.



COMMENTS

Subject to approval of increased assessments.

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design							\$10,000	\$10,000
Construction							\$85,000	\$85,000
CM/Inspection							\$5,000	\$5,000
ROW Acquisition								
Other								
TOTAL							\$100,000	\$100,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$100,000	\$100,000
Total							\$100,000	\$100,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
GHAD	10347A	Eagle Peak Slope Repair

DESCRIPTION - LOCATION

Stabilize and/or repair large slope moving adjacent to single family houses and streets in Eagle Peak Subdivision.

COMMENTS

Cost estimate per Soils Engineer.
Dependent on GHAD assessment increase.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design							\$70,000	\$70,000
Construction							\$1,015,000	\$1,015,000
CM/Inspection							\$40,000	\$40,000
ROW Acquisition								
Other								
TOTAL							\$1,125,000	\$1,125,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$1,125,000	\$1,125,000
Total							\$1,125,000	\$1,125,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
GHAD	10348	Keller Ridge Drive Area - Slope Repair

DESCRIPTION - LOCATION

Stabilize and/or repair small slope pop-out adjacent to single family homes.

COMMENTS

Subject to approval of increased assessments.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design							\$5,000	\$5,000
Construction							\$40,000	\$40,000
CM/Inspection							\$5,000	\$5,000
ROW Acquisition								
Other								
TOTAL							\$50,000	\$50,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$50,000	\$50,000
Total							\$50,000	\$50,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
GHAD	10349	Community Park - Landslide

DESCRIPTION - LOCATION

Repair landslides that occurred above Field #3 (uppermost field).

COMMENTS

Subject to approval of increased assessments.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design							\$7,000	\$7,000
Construction							\$85,000	\$85,000
CM/Inspection							\$8,000	\$8,000
ROW Acquisition								
Other								
TOTAL							\$100,000	\$100,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$100,000	\$100,000
Total							\$100,000	\$100,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Facilities	10361	Stanley Property

DESCRIPTION - LOCATION

Assist in the development and construction of affordable housing.

COMMENTS

Funding availability uncertain due to demise of RDA



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction								
CM/Inspection								
Acquisition								
Other							\$325,000	\$325,000
TOTAL							\$325,000	\$325,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
GIP Const							\$325,000	\$325,000
Total							\$325,000	\$325,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Creeks	10370	Creek Revitalization

DESCRIPTION - LOCATION

Clean out creeks, improve access to creek banks, reinforce creek banks and repair adjacent trails where needed, replace riparian vegetation.

City-Wide

COMMENTS

Catch-all project for when City hits the lottery.

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$3,000,000	\$3,000,000
CM/Inspection								
ROW Acquisition								
Other								
TOTAL							\$3,000,000	\$3,000,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$3,000,000	\$3,000,000
Total							\$3,000,000	\$3,000,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10375	Samuel Ct. Park

DESCRIPTION - LOCATION

Install landscaping and irrigation improvements.

COMMENTS



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design							\$5,000	\$5,000
Construction							\$65,000	\$65,000
CM/Inspection							\$5,000	\$5,000
ROW Acquisition								
Other								
TOTAL							\$75,000	\$75,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$75,000	\$75,000
Total							\$75,000	\$75,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10379	Pine Hollow Rd. - Upgrade

DESCRIPTION - LOCATION

Improve City entry on Pine Hollow Road with new painting, monument sign, etc.



COMMENTS

Revised 3/08/10. Widen north side of Pine Hollow Road with new curb, gutter, and sidewalk between Pine Hollow Estates and westerly City Limit.

Work will require acquisition of right of way for new improvements. Conform paving will cross City Limit line into Concord. Install previously purchased entry sign on south side of roadway within existing pavement/ROW area.

Originally scheduled for funding from Measure J. This funding has been transferred for the overlay of Marsh Creek Road (old), CIP Project No. 10416.

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								\$25,000
Construction								\$202,000
CM/Inspection								\$15,000
ROW Acquisition								\$50,000
Other								
TOTAL								\$292,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded								\$292,000
Total								\$292,000

City of Clayton

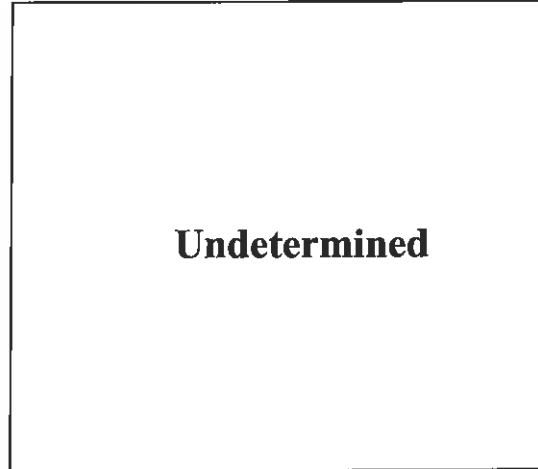
2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Parks	10393	Skateboard Park

DESCRIPTION - LOCATION

Construct skateboard park at an undetermined location.

COMMENTS



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design							\$25,000	\$25,000
Construction							\$240,000	\$240,000
CM/Inspection							\$35,000	\$35,000
ROW Acquisition								
Other								
TOTAL							\$300,000	\$300,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$300,000	\$300,000
Total							\$300,000	\$300,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10394A	ADA Compliance Program

DESCRIPTION - LOCATION

Construction of various improvements.

COMMENTS

As needed to comply with ADA standards as determined by City's transition plan

City-Wide

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$500,000	\$500,000
CM/Inspection								
ROW Acquisition								
Other								
TOTAL							\$500,000	\$500,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Gas Tax	\$10,190	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$459,810	\$500,000
Total	\$10,190	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$459,810	\$500,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10395	Catch Basin Modifications

DESCRIPTION - LOCATION

Add bar across openings.

COMMENTS

City Wide

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$75,000	\$75,000
CM/Inspection								
ROW Acquisition								
Other								
TOTAL							\$75,000	\$75,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$75,000	\$75,000
Total							\$75,000	\$75,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10396	East Marsh Creek Road Traffic Signal

DESCRIPTION - LOCATION

Install traffic signal on Marsh Creek Road
somewhere east of Diablo Parkway.

COMMENTS

City Council postponed project.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design							\$15,000	\$15,000
Construction							\$150,000	\$150,000
CM/Inspection							\$15,000	\$15,000
ROW Acquisition								
PG&E Poles							\$50,000	\$50,000
TOTAL							\$230,000	\$230,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$230,000	\$230,000
Total							\$230,000	\$230,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10397	Utility Undergrounding

DESCRIPTION - LOCATION

Underground overhead utility lines at undetermined locations.

COMMENTS

City Wide

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$3,000,000	\$3,000,000
CM/Inspection								
ROW Acquisition								
Other								
TOTAL							\$3,000,000	\$3,000,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$2,679,531	\$2,679,531
PG&E Rule 20A	\$215,469	\$21,000	\$21,000	\$21,000	\$21,000	\$21,000		\$320,409
Total	\$215,469	\$21,000	\$21,000	\$21,000	\$21,000	\$21,000	\$2,679,531	\$3,000,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Other	10400	Downtown Economic Development

DESCRIPTION - LOCATION

Provide funding for improving the economic viability of the downtown area.

COMMENTS



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction								
CM/Inspection								
ROW Acquisition								
Other							\$1,166,581	\$1,166,581
TOTAL							\$1,166,581	\$1,166,581

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
CIP Const	\$1,166,581							\$1,166,581
Total	\$1,166,581							\$1,166,581

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10411	2012 Neighborhood Street Project

DESCRIPTION - LOCATION

Pavement resurfacing and treatment on various streets throughout City.

Various Locations

COMMENTS

Prior year funding from CIP 10410.
Local Street and Road Shortfall (LS&RS)
Funds plus \$76,000 in Gas Tax Funds moved to CIP 10425 per Council direction 5/25/12

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design	\$15,000							\$15,000
Construction		\$593,705						\$593,705
CM/Inspection		\$25,000						\$25,000
ROW Acquisition								
Other								
TOTAL	\$15,000	\$618,705						\$633,705

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Gas Tax	\$231,480	\$91,825						\$323,305
Measure J	\$84,480	\$225,820						\$310,300
Total	\$314,060	\$317,645						\$631,705

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10414	East Marsh Creek Road Upgrade

DESCRIPTION - LOCATION

Widen existing roadway to provide two full-width travel lanes, bike lanes, shoulders and pedestrian paths.

COMMENTS

Due to possible land movement areas and steep grades along the roadway, there may be the need for additional right of way in order to complete the proposed work. The stormwater requirements coming into effect will necessitate some type of water treatment.



Original budget was \$1,200,000; \$119,000 transferred to Marsh Creek Road (old) Overlay project , CIP Project No. 10416; upon completion of 10416, \$41,224 transferred back to 10414.

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design	\$20,000	\$10,000						\$30,000
Final Design		\$60,000						\$60,000
Construction			\$942,224					\$942,224
CM/Inspection			\$60,000					\$60,000
RCW Acquisition		\$30,000						\$30,000
Other								
TOTAL	\$20,000	\$100,000	\$1,002,224					\$1,122,224

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Measure J	\$100,000	\$1,022,224						\$1,122,224
Total	\$100,000	\$1,022,224						\$1,122,224

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10417	2013 Neighborhood Street Project

DESCRIPTION - LOCATION

Pavement resurfacing and treatment on various streets throughout City.

COMMENTS

Various Locations

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design			\$10,000					\$10,000
Construction			\$290,000					\$290,000
CM/Inspection			\$15,000					\$15,000
ROW Acquisition								
Other								
TOTAL			\$315,000					\$315,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Gas Tax			\$110,000					\$110,000
Measure J			\$205,000					\$205,000
Total			\$315,000					\$315,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10418	2014 Neighborhood Street Project

DESCRIPTION - LOCATION

Pavement resurfacing and treatment on various streets throughout City.

COMMENTS

Various Locations

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design				\$10,000				\$10,000
Construction				\$290,000				\$290,000
CM/Inspection				\$15,000				\$15,000
ROW Acquisition								
Other								
TOTAL				\$315,000				\$315,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Gen. Fund				\$110,000				\$110,000
Measure J				\$205,000				\$205,000
Total				\$315,000				\$315,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Parks	10419	Community Park Lighting, & Resurfacing

DESCRIPTION - LOCATION

Install sports field lighting, remove and replace turf with synthetic surfacing at Clayton Community Park

COMMENTS

Cost estimates per Cost-Benefit Analysis prepared by PMC and dated August 31, 2009



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$4,084,000	\$4,084,000
CM/Inspection								
ROW Acquisition								
Other								
TOTAL							\$4,084,000	\$4,084,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$4,084,000	\$4,084,000
Total							\$4,084,000	\$4,084,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10420	School Bridge Area Improvements

DESCRIPTION - LOCATION

Improve area at Mt. Diablo Elementary School Bridge and Mitchell Creek to enhance Town Center area.



COMMENTS

Includes decorative wall, landscaping and riparian vegetation restoration; funding transferred from CIP No. 10400, Downtown Economic Development

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design		\$20,000						\$20,000
Construction		\$160,000						\$160,000
CM/Inspection		\$20,000						\$20,000
ROW Acquisition								
Other								
TOTAL		\$200,000						\$200,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
CIP Const	\$200,000*							\$200,000*
Total	\$200,000*							\$200,000*

*transfer from CIP 10400

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10421	Cardinet Trail Restoration

DESCRIPTION - LOCATION

Construct creek bank reinforcement and perform trail restoration work along Cardinet Trail locations to repair damage caused by creek erosion.

Various Locations

COMMENTS

Funding from Citywide Landscape Maintenance District; significant permitting requirements

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design		\$15,000						\$15,000
Construction		\$50,000						\$50,000
CM/Inspection		\$10,000						\$10,000
RCW Acquisition								
Other								
TOTAL		\$75,000						\$75,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
LMD	\$75,000							\$75,000
Total	\$75,000							\$75,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10422	El Molino Drive Sanitary Sewer Improvements

DESCRIPTION - LOCATION

Construct modifications to existing sanitary sewer mains to prevent potential sewer overflows in areas adjacent to Mt. Diablo Creek .



COMMENTS

Includes pipe enlargement and construction of a bypass line in El Molino Drive; funding from CIP 10400, Downtown Economic Development

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design	\$10,000	\$30,000						\$40,000
Construction		\$270,000						\$270,000
CM/Inspection		\$20,000						\$20,000
ROW Acquisition								
Other								
TOTAL	\$10,000	\$320,000						\$330,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
CIP Const.	\$330,000*							\$330,000*
Total	\$330,000*							\$330,000*

*transfer from CIP 10400

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10423	Library Upgrades

DESCRIPTION - LOCATION

Construct improvements to update Library including automatic checkout facilities, coffee/snack bar, etc.



COMMENTS

Includes 3,500 sf building addition plus new equipment and furniture

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$850,000	\$850,000
CM/Inspection								
ROW Acquisition								
Other							\$150,000	\$150,000
TOTAL							\$1,000,000	\$1,000,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded							\$1,000,000	\$1,000,000
Total								

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10424	2015 Neighborhood Street Project

DESCRIPTION - LOCATION

Pavement resurfacing and treatment on various streets throughout City.

COMMENTS

Various Locations

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design					\$10,000			\$10,000
Construction					\$290,000			\$290,000
CM/Inspection					\$15,000			\$15,000
ROW Acquisition								
Other								
TOTAL					\$315,000			\$315,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
State Tax					\$110,000			\$110,000
Measure J					\$205,000			\$205,000
Total					\$205,000			\$205,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10425	Collector Street Rehabilitation Project

DESCRIPTION - LOCATION

Pavement resurfacing and treatment on various collector streets throughout City.

COMMENTS

Local Streets & Roads Shortfall (LS&RS) funding is federal requiring extensive processing for construction approval. Gas Tax funding from CIP 10411 for Regency Drive west of El Molino Dr. to end.

Various Locations

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design		\$15,000						\$15,000
Final Design		\$10,000						\$10,000
Construction		\$311,438						\$311,438
CM/Inspection		\$25,000						\$25,000
ROW Acquisition								
Other								
TOTAL		\$361,438						\$361,438

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
LS&RS		\$211,438						\$211,438
Gas Tax*		\$76,000						\$76,000
Total		\$361,438						\$361,438

*from 10411 per Council direction 5/15/12

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10426	City Hall Parking Area Rehabilitation Project

DESCRIPTION - LOCATION

Pavement resurfacing of Heritage Trail and City Hall parking areas

COMMENTS

Included in CIP 10411 bid.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction		\$26,000						\$26,000
CM/Inspection		\$1,000						\$1,000
ROW Acquisition								
Other								
TOTAL		\$27,000						\$27,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded		\$27,000						\$27,000
Total		\$27,000						\$27,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10427	Library Parking Lot Rehabilitation Project

DESCRIPTION - LOCATION

Pavement resurfacing of Library Parking Lot.

COMMENTS

Included in CIP 10411 bid.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction		\$50,000						\$50,000
CM/Inspection		\$1,000						\$1,000
ROW Acquisition								
Other								
TOTAL		\$51,000						\$51,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded		\$51,000						\$51,000
Total		\$51,000						\$51,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10428	Lydia Lane Park Parking Area Rehabilitation Project

DESCRIPTION - LOCATION

Pavement resurfacing of Lydia Lane Park parking area.

COMMENTS

Included in CIP 10411 bid.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction		\$10,000						\$10,000
CM/Inspection		\$1,000						\$1,000
ROW Acquisition								
Other								
TOTAL		\$11,000						\$11,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Unfunded		\$11,000						\$11,000
Total		\$11,000						\$11,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10429	2012 Trail Repaving Project

DESCRIPTION - LOCATION

Repave the Bruce Lee Trail from Center St. to Grenache Circle

COMMENTS

Included in CIP 10411 bid.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction		\$48,000						\$48,000
CM/Inspection		\$2,000						\$2,000
ROW Acquisition								
Other								
TOTAL		\$50,000						\$50,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
LMD		\$50,000						\$50,000
Total		\$50,000						\$50,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10430	Clayton Road Median Landscaping Project

DESCRIPTION - LOCATION

Install new landscaping and irrigation in Clayton Road Medians between Mitchell Canyon Road and Oakhurst Drive

COMMENTS

Includes landscaping along CVS retaining walls.



Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction		\$292,000						\$292,000
CM/Inspection		\$28,000						\$28,000
ROW Acquisition								
Other								
TOTAL		\$320,000						\$320,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
LMD		\$320,000						\$320,000
Total		\$320,000						\$320,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10431	Daffodil Hill Landscaping Project

DESCRIPTION - LOCATION

Modify irrigation and install landscaping on Daffodil Hill at SE corner of Clayton Road and Marsh Creek Road



COMMENTS

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design								
Construction		\$45,000						\$45,000
CM/Inspection		\$5,000						\$5,000
ROW Acquisition								
Other								
TOTAL		\$50,000						\$50,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
LMD		\$25,000						\$25,000
CBCA		\$25,000						\$25,000
Total		\$50,000						\$50,000

City of Clayton

2012/13-2016/17 Capital Improvement Program

Category	Project Number	Project
Streets	10432	2016 Neighborhood Street Project

DESCRIPTION - LOCATION

Pavement resurfacing and treatment on various streets throughout City.

COMMENTS

Various Locations

Estimated Cost	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Preliminary Design								
Final Design						\$10,000		\$10,000
Construction						\$290,000		\$290,000
CM/Inspection						\$15,000		\$15,000
ROW Acquisition								
Other								
TOTAL						\$315,000		\$315,000

Funding (Sources)	Prior Yrs.	2012-13	2013-14	2014-15	2015-16	2016-17	Future	TOTAL
Open Tax						\$110,000		\$110,000
Measure J						\$205,000		\$205,000
Total						\$315,000		\$315,000

City of Clayton

Memorandum

To: Chair Richardson and Planning Commissioners

From: David Woltering, Community Development Director 

Date: June 12, 2012

Subject: Agenda Item 5B. – CDD 01-12, Solar Access Rights, City of Clayton

At the Planning Commission's May 22, 2012 meeting, the Commission requested that the topic of solar access rights related primarily to the planting of off-site vegetation be placed on a future Commission agenda for discussion. The focus for this discussion relates to the sometimes competing objectives: A) the planting of trees and vegetation for, among other reasons, their aesthetic value and shading benefits; and, B) the increased use of solar collectors to generate electricity and, thereby, reduce dependency on non-renewable resources.

Commissioner Johnson commented that as the installation of solar collectors are encouraged and more installed, it is likely that the number of complaints received will increase about trees and other vegetation shading and adversely impacting the effectiveness of these solar collectors. She questioned whether the City of Clayton should take a more active role in addressing this issue. Commissioner Johnson provided an example from the City of Berkeley, Berkeley Municipal Code Chapter 12.45, Solar Access and Views (See **Attachment 1**) in which that City provides active guidance for its private property owners relating to the resolution of disputes because of loss of views or sunlight due to tree growth.

Staff mentioned at the May 22nd meeting that currently there is the California Solar Shade Control Act (Amended in 2008) (Act) (See **Attachment 2**) which provides guidance and regulation in the area of this discussion item. In addition to the Act, staff has gathered and attached a number of documents to facilitate this discussion. These documents include a review of the California Solar Shade Control Act (See **Attachment 3**); an article from the law firm of Stimmel, Stimmel & Smith titled, "Encroaching Trees: Who Has The Right To Do What?" (See **Attachment 4**); Chapter 15.70, Tree Protection, of the Clayton Municipal Code, CMC, (See **Attachment 5**); and, Chapter 16.50, Hillside Development, Open Space, and Trees of the CMC (See **Attachment 6**).

The threshold for violation in Section 25982 of California's Solar Shade Control Act is that "it prohibits certain tree owners from planting or allowing a newly planted tree or shrub to cast a shadow over more than ten percent of a solar collector on a neighboring property at any one time during the hours between 10:00 a.m. and 2:00 p.m." However, the Act as amended in 2008 exempts all trees and shrubs planted prior to the time of the installation of a solar collector.

The attached Berkeley Municipal Code Chapter 12.45, Solar Access and Views does provide substantial guidance on dispute resolution and mediation, but, ultimately, under Section 12.45.070, Enforcement, indicates that if the dispute cannot be resolved “[t]he complaining party shall have the right to bring injunctive action to enforce any restorative action ordered pursuant to this chapter.” Accordingly, at that point, it is likely that a private action relying on the provisions of the California Solar Shade Control Act would be applicable.

Attachments:

- 1 Berkeley Municipal Code Chapter 12.45, Solar Access and Views
- 2 California Solar Shade Control Act (Amended in 2008)
- 3 Review of the California Solar Shade Control Act
- 4 “Encroaching Trees: Who Has The Right To Do What?” by Law Offices of Stimmel, Stimmel & Smith
- 5 Chapter 15.70, Tree Protection, Clayton Municipal Code
- 6 Chapter 16.50, Hillside Development, Open Space, and Trees Chapter, clayton Municipal Code

comdev/CDD/2012/01-12.Solar Access Rights

Chapter 12.45

SOLAR ACCESS AND VIEWS

Sections:

12.45.010	Purpose and objectives.
12.45.020	Definitions.
12.45.030	Procedures.
12.45.040	Standards for resolution of disputes.
12.45.050	Apportionment of costs.
12.45.060	Liabilities.
12.45.070	Enforcement.
12.45.080	Severability.

Section 12.45.010 Purpose and objectives.

A. The purpose of this chapter is to:

1. Set forth a procedure for the resolution of disputes between private property owners relating to the resolution of sunlight or views lost due to tree growth.
2. This view chapter does not impair obligations imposed by an existing easement, or a valid pre-existing enforceable covenant or agreement.
3. Nothing in this chapter is meant to replace the peaceful, sensible and just resolution of differences between neighbors acting in good faith. The provisions contained in this chapter are meant to encourage that such resolution occurs prior to engaging in the legal remedies provided by it.

B. The objectives of this chapter are:

1. To preserve and promote the aesthetic and practical benefits which trees provide for individuals and the entire community;
2. To discourage ill-considered harm to or destruction of trees;
3. To encourage the use of solar energy for heat and light;
4. To encourage food production in private gardens;
5. To restore access to light and views from the surrounding locale;
6. To encourage the maintenance of positive relationships within a neighborhood when there is conflict between objectives 1-2 and 3-5 above.
7. It is not an objective of this chapter to facilitate or encumber the transmission of radio and television signals. (Ord. 6286-NS § 1 (part), 1995: Ord. 6173-NS § 1 (part), 1993: Ord. 5817-NS § 1 (part), 1987)

Section 12.45.020 Definitions.

A. For the purposes of this chapter, the meaning and construction of words and phrases hereinafter set forth shall apply:

1. "Solar access" means the availability of sunlight to a property.
2. "Views" mean a distant vista or panoramic range of sight of Berkeley, neighboring areas or the San Francisco Bay. Views include but are not limited to skylines, bridges, distant cities, geologic features, hillside terrains and wooded canyons or ridges.
3. "Trees" means any woody perennial plant, usually with one or more major trunks attaining a height of at least fifteen feet at maturity.
4. "Complaining party" means any property owner (or legal occupant without objection of property owner) who wishes to alter or remove a tree(s) on the property of another which creates an obstruction to his or her access to sunlight or view whether such access is gained from an original dwelling or any addition thereto used as a dwelling.
5. "Tree owner" means any individual owning real property in Berkeley upon whose land is located a

tree or trees alleged by a complaining party to cause an obstruction.

6. "Obstruction" means any substantial blocking or diminishment of a view from a structure lawfully used as a dwelling or access to sunlight to the real property which is attributable to the growth, maintenance or location of tree(s).

7. "Tree mediator or tree arbitrator" means any trained and experienced mediator or mediator/arbitrator acceptable to both complaining party and tree owner to mediate or arbitrate a tree dispute.

8. "Restorative action" means any specific requirement to resolve a tree dispute.

9. "Thinning" means the selective removal of entire branches from a tree so as to improve visibility through the tree and/or improve the tree's structural condition.

10. "Tree removal" means the elimination of any tree from its present location.

11. "Trimming" means the selective removal of portions of branches from a tree so as to modify the tree(s) shape or profile or alter the tree's appearance.

12. "Topping" means removal of the top portion of a tree's main leader stems, resulting in an overall reduction in the tree's height and size.

13. "Tree claim" means the written basis for arbitration or court action under the provisions of this article which includes all of the following:

a. The nature and extent of the alleged obstruction, including pertinent and corroborating physical evidence. Evidence may include, but is not limited to photographic prints, negatives or slides. Such evidence must show absence of the obstruction at any documentable time during the tenure of the current property owner (or legal occupant without objection of property owner), hereinafter referred to as complaining party. Evidence to show date of acquisition must be included.

b. The location of all trees alleged to cause the obstruction, the address of the property upon which the tree(s) are located, and the present tree owner's name and address. This requirement may be satisfied by the inclusion of the tree location, property address, and tree owner information.

c. Any mitigating actions proposed by the parties involved to resolve the tree claim.

d. The failure of personal communication between the complaining party and the tree owner to resolve the alleged obstruction as set forth in Section 12.45.030 of this chapter. The complaining part must provide physical evidence that written attempts at conciliation have been made and failed. Evidence may include, but is not limited to, copies of and receipts for certified or registered mail correspondence. (Ord. 6286-NS § 1 (part), 1995: Ord. 6173-NS § 1 (part), 1993: Ord. 5817-NS § 1 (part), 1987)

Section 12.45.030 Procedures.

A. The procedures described in this section shall be followed in the resolution of tree disputes between private parties.

1. Initial reconciliation: A complaining party who believes in good faith that the growth, maintenance or location of tree(s) on the private property of another (hereinafter referred to as tree owner) diminishes the beneficial use of economic value of his or her property because such tree(s) interfere with the access to sunlight or views which existed prior to such growth, maintenance or location of the tree(s) on the property during the time the complaining party has occupied the property, shall notify the tree owner in writing of such concerns. The notification should, if possible, be accomplished by personal discussions to enable the complaining party and tree owner to attempt to reach a mutually agreeable solution.

2. Mediation: If the initial reconciliation attempt fails, the complaining party shall propose mediation as a means to settle the dispute on a relatively informal basis. Acceptance of mediation by the tree owner shall be voluntary. If mediation is elected, the parties shall mutually agree upon a tree mediator.

The mediation meeting may be informal, and no written record is necessary unless desired by the parties. The mediation process may include the hearing of viewpoints of lay or expert witnesses, and shall include a site visit to the properties of the complaining party and the tree owner. Parties should be encouraged to give notice to immediate neighbors and solicit input. The tree mediator shall consider the objectives, benefits and burdens set forth in this chapter in attempting to help both parties reach a resolution of the dispute. The tree mediator shall not have the power to issue binding orders for restorative action, but shall strive to enable the parties to resolve their dispute at this stage in order to eliminate the need for binding arbitration or litigation.

3. Tree claim preparation: In the event that the initial reconciliation process fails and mediation either is not elected or fails, the complaining party must prepare a tree claim (as defined in 12.45.020) and provide a copy to the tree owner, in order to pursue either binding arbitration or litigation. This constitutes a filing of a tree claim.

4. Binding arbitration: In those cases where the initial reconciliation process fails and where mediation has not resolved the dispute, the complaining party must offer to submit the dispute to binding arbitration and the tree owner may elect binding arbitration. The identity of the tree arbitrator shall be agreed upon by both the complaining party and the tree owner who shall indicate such agreement in writing. This agreement may provide for employment of experts representing the parties or may be limited to an investigation of the tree claim conducted by the tree arbitrator. The tree arbitrator shall follow the provisions of this chapter to reach a fair resolution of the tree claim and shall submit a complete written report to the complaining party and the tree owner. This report shall include the tree arbitrator's findings with respect to all standards listed in Section 12.45.040 (Standards) of this chapter, a pertinent list of all mandated restorative actions with any appropriate conditions concerning such actions including a schedule by which mandates must be completed. Such actions must be completed with due regard for the health of the tree. A copy of the arbitrator's report shall be filed with the City Clerk.

5. Litigation: In those cases where initial reconciliation fails and binding arbitration is not elected, civil action may be pursued by the complaining party for resolution of the sunlight access or view tree claim under the provisions of this chapter. The litigant must state in the lawsuit that arbitration was offered and not accepted, and that a copy of the lawsuit was filed with the City Clerk. A copy of any order or settlement in the lawsuit shall also be filed with the City Clerk. (Ord. 6286-NS § 1 (part), 1995: Ord. 6173-NS § 1 (part), 1993: Ord. 5817-NS § 1 (part), 1987)

Section 12.45.040 Standards for resolution of disputes.

A. In resolving the tree dispute, the tree mediator, tree arbitrator or court shall consider the benefits and burdens derived from the alleged obstruction within the framework of the objectives of this chapter as set forth in Section 12.45.010 in determining what restorative actions, if any, are appropriate. The burden of proof shall be on the complaining party.

1. Benefits:

a. Visual quality of the tree(s), including but not limited to species characteristics, size, growth, form and vigor.

b. Location with respect to overall appearance, design, and/or use of the tree owner's property.

c. Soil stability provided by the tree(s) considering soil structure, degree of slope and extent of the tree's root system.

d. Visual, auditory and wind screening provided by the tree(s) to the tree owner and to neighbors. Existing privacy provided by the tree(s) to the tree owner's home shall be given particular weight.

e. Energy conservation and/or climate control provided by the tree(s).

f. Wildlife habitat provided by the tree(s).

g. The economic value of the tree(s) as measured by criteria developed by the International Society of Arboriculture and the economic value of the property as a result of the tree(s).

h. Other tree-related factors, including but not limited to:

(i) The degree to which the species is native to the local region or area

(ii) Indigenous nature of the species to which the tree belongs

(iii) Specimen tree quality

(iv) Rare tree species, and the frequency of new planting of a tree

2. Burdens:

a. The hazard posed by a tree or trees to persons or structures on the property of the complaining party including but not limited to fire danger and the danger of falling limbs or trees.

b. The extent to which the trees diminish the amount of sunlight available to the garden or home of the complaining party.

c. The extent to which the trees interfere with efficient operations of a complaining party's pre-existing

solar energy system.

d. The existence of landmarks, vistas or other unique features which cannot be seen because of growth of trees since the acquisition of the property.

e. The extent to which the alleged obstruction interferes with sunlight or view. The degree of obstruction shall be determined by means of a measuring instrument or photography.

f. The extent to which solar access or the view is diminished by factors other than trees.

g. Deleterious effect of the trees upon the complaining party's vegetation through loss of heat and light except that the dropping of leaves or maintenance factors shall not be a burden under this chapter.

3. Restorative actions: The tree mediator shall recommend or the tree arbitrator or court shall order restorative action or no action according to Section 12.45.040 (Standards). Restorative actions may include written directions as to appropriate timing of trimming, thinning, topping or removal. Such restorative actions are to apply only to current parties to the dispute. The tree arbitrator or court may require compensation to the tree owner for value lost due to restorative actions.

Possible restorative actions may include:

- Trimming
- Thinning
- Delayed trimming or thinning
- Topping
- Tree removal, possibly with replacement plantings

a. Restorative actions shall be limited to the trimming and/or thinning of branches where possible and practical.

Trimming or thinning may be on a delayed basis, providing time for the top of the tree to grow above the point where it obstructs sunlight or view.

b. When trimming and/or thinning of branches is not a feasible solution, the impact on the health of the tree shall be considered and replacement may be required. Topping is not a generally accepted arboricultural practice and therefore is not recommended by the City.

c. In those cases where tree removal eliminates or significantly reduces the tree owner's benefits, replacement plantings shall at the tree owner's option be set forth in writing prior to the tree removal. The tree owner may elect tree removal with replacement plantings (as an alternative to trimming, thinning and topping).

d. All trimming, thinning, topping and tree removal required under this chapter shall be performed by a person or firm selected by the tree owner with the concurrence of the complaining party, except that in the event that the complaining party is not obligated to bear any of the cost for such action, his or her concurrence is not required. The use of a certified arborist for such work is encouraged but not required.

e. The extent of solar access or view available and documentable as present at any time during the tenure of the present owner or legal occupant is the limit of restorative action which may be required. If the complaining party is seeking a view or sunlight from an addition, the complaining party has no right to a view or solar access greater than that which existed at the time the construction of the addition was completed, or August 6, 1987, whichever date is later.

f. No restorative action may be required concerning any tree the base of which is more than three hundred feet from the immediate vicinity of the dwelling of the complaining party's property. If no dwelling exists, the distance shall be determined from the most likely dwelling site upon the property or from the geographical center of the property at the discretion of the mediator, arbitrator or court as appropriate.

g. A tree which has been the subject of restorative action under the terms of this chapter is exempted from other property owners' claims for a period of five years from date of filing of a tree claim.

h. Nothing in this section shall be construed to deny compensation to a tree owner to which a tree owner would be entitled under any other provision of law. (Ord. 6286-NS § 1 (part), 1995; Ord. 6173-NS § 1 (part), 1993; Ord. 5817-NS § 1 (part), 1987)

Section 12.45.050 Apportionment of costs.

A. Cost of mediation and arbitration:

1. The complaining party shall pay all the costs, if any, of mediation.

2. The complaining party and the tree owner shall each pay fifty percent of all the costs of the arbitrator's professional fee, if any.

B. Cost of litigation:

1. The complaining party shall pay one hundred percent of both parties' reasonable attorneys' fees in the event that his or her claim is finally denied, or no action is ordered pursuant to Section 12.45.040, unless the tree owner has refused to participate in either the initial reconciliation or mediation.

2. In all other cases, the complaining party and the tree owner shall each pay his or her attorney's fees. Court costs shall be allocated to the parties at the court's discretion.

C. Cost of restorative actions: At any time during the procedure specified in this chapter, the parties may agree between themselves as to the allocation of the costs of restorative action. If such an agreement is not reached, the following shall apply:

1. As to trees planted prior to August 6, 1987, the complaining party shall pay one hundred percent of the costs of the initial restorative action. The complaining party shall pay the cost of subsequent restorative action as the result of the recurrence of the same obstruction.

2. As to trees planted subsequent to August 6, 1987, the tree owner and the complaining party shall each be responsible for fifty percent of the costs of restorative action and subsequent recurrence of the same obstruction.

D. Compensation for value of restorative actions: In the event a tree arbitrator or court orders restorative action and compensation to the tree owner therefor, the tree arbitrator or court may use any of the following methods to determine value lost: fair market value, replacement value, or trunk formula. "Trunk formula" shall mean the method of determining value as set forth in latest edition of the "Guide for Plant Appraisal," published by the Council of Tree and Landscape Appraisers. (Ord. 6286-NS § 1 (part), 1995; Ord. 6173-NS § 1 (part), 1993; Ord. 5817-NS § 1 (part), 1987)

Section 12.45.060 Liabilities.

A. The issuance of mediation findings, an arbitration report or a court decision shall not create any liability of the City with regard to the restorative actions to be performed.

B. The complaining party shall indemnify and hold harmless the tree owner with respect to any damages or liability incurred by said owner, arising out of the performance of any work at the behest of the complaining party as follows:

1. With respect to trees planted prior to August 6, 1987, the complaining party shall indemnify the tree owner as to one hundred percent of any such damages or liability.

2. With respect to trees planted after August 6, 1987, the complaining party shall indemnify the tree owner as to fifty percent of any such damages or liability.

C. Failure to enforce on the part of the City will not give rise to any civil or criminal liabilities. (Ord. 6286-NS § 1 (part), 1995; Ord. 6173-NS § 1 (part), 1993; Ord. 5817-NS § 1 (part), 1987)

Section 12.45.070 Enforcement.

A violation of this chapter is not a misdemeanor, and the enforcement of this chapter shall be by private parties involved. The complaining party shall have the right to bring injunctive action to enforce any restorative action ordered pursuant to this chapter. (Ord. 6286-NS § 1 (part), 1995; Ord. 6173-NS § 1 (part), 1993; Ord. 5817-NS § 1 (part), 1987)

Section 12.45.080 Severability.

If any portion of this chapter is struck down by court action, all other portions will remain in effect. (Ord. 6286-NS § 1 (part), 1995; Ord. 6173-NS § 1 (part), 1993; Ord. 5817 § 1 (part), 1987)

Attachment 2

PUBLIC RESOURCES CODE
SECTION 25980-25986

25980. This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

25981. (a) As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, on the roof of a building, that is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system that makes use of solar energy for any or all of the following purposes:

- (1) Water heating.
- (2) Space heating or cooling.
- (3) Power generation.

(b) Notwithstanding subdivision (a), for the purpose of this chapter, "solar collector" includes a fixed device, structure, or part of a device or structure that is used primarily to transform solar energy into thermal, chemical, or electrical energy and that is installed on the ground because a solar collector cannot be installed on the roof of the building receiving the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building.

(c) For the purposes of this chapter, "solar collector" does not include a solar collector that is designed and intended to offset more than the building's electricity demand.

(d) For purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and not less than 10 feet above the ground. A solar collector may be less than 10 feet in height only if, in addition to the five-foot setback, the solar collector is set back three times the amount lowered.

25982. After the installation of a solar collector, a person owning or in control of another property shall not allow a tree or shrub to be placed or, if placed, to grow on that property so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m., local standard time.

25982.1. (a) An owner of a building where a solar collector is proposed to be installed may provide written notice by certified mail

installed may provide a record of persons receiving the notice pursuant to subdivision (a) to a transferee of the building.

(2) A transferor receiving a notice pursuant to subdivision (a) may provide the notice to a transferee of the property.

25983. A tree or shrub that is maintained in violation of Section 25982 is a private nuisance, as defined in Section 3481 of the Civil Code, if the person who maintains or permits the tree or shrub to be maintained fails to remove or alter the tree or shrub after receiving a written notice from the owner or agent of the affected solar collector requesting compliance with the requirements of Section 25982.

25984. This chapter does not apply to any of the following:

(a) A tree or shrub planted prior to the installation of a solar collector.

(b) A tree planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops.

(c) The replacement of a tree or shrub that had been growing prior to the installation of a solar collector and that, subsequent to the installation of the solar collector, dies, or is removed for the protection of public health, safety, or the environment.

(d) A tree or shrub that is subject to a city or county ordinance.

25985. (a) A city, or for unincorporated areas, a county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of the ordinance shall not be subject to the California Environmental Quality Act (commencing with Section 21000).

(b) Notwithstanding the requirements of this chapter, a city or a county ordinance specifying requirements for tree preservation or solar shade control shall govern within the jurisdiction of the city or county that adopted the ordinance.

25986. Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.

California's Solar Shade Control Act

A Review of the Statutes and Relevant Cases

Scott J. Anders

Kevin Grigsby

Carolyn Adi Kuduk

Taylor Day

Updated March 2010

Originally Published January 2007

Energy Policy Initiatives Center
University of San Diego School of Law



Disclaimer: The materials included in this paper are intended to be for informational purposes only, and should not be considered a substitute for legal advice in any particular case.

About EPIC

The Energy Policy Initiatives Center (EPIC) is a nonprofit academic and research center of the USD School of Law that studies energy policy issues affecting the San Diego region and California. EPIC integrates research and analysis, law school study, and public education, and serves as a source of legal and policy expertise and information in the development of sustainable solutions that meet our future energy needs.

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1. INTRODUCTION

California has been a leader in promoting solar energy since 1976, when it began to provide financial incentives for investment in solar energy technologies.¹ One legacy of California's early interest in solar energy is a series of laws designed to protect a consumer's right to install and operate solar energy technology on a home or business, including access to sunlight, or solar access. Although California's solar energy laws have been around for nearly thirty years, we now examine this groundbreaking legislation for two reasons. First, consumers and businesses often misunderstand the provisions and application of these laws. Second, given the significant financial incentives available for solar technologies in California and the availability of property-assessed clean energy ("PACE") financing programs,² it is likely that the number of operating solar energy systems will increase dramatically. As a result, it is reasonable to expect that the number of solar access questions in California will also increase.

This paper examines Sections 25980–25986 of the California Public Resources Code,³ known as the Solar Shade Control Act (hereinafter "the Act"), and reviews lawsuits brought under the Act. Through the Act, which was enacted in 1978⁴ and later amended in 2008,⁵ the Legislature sought to balance the desired effects of planting trees and shrubs for shade and visual appeal with the desire for increased use of solar energy devices, whose performance can be hindered by shade from nearby vegetation. The Act provides for specific and limited controls of trees and shrubs to protect the use of nearby solar energy systems. However, the extent to which the Act protects solar energy systems from vegetation-created shade is frequently misunderstood, and the subject of many disputes between neighboring property owners. Thus, this paper is intended to provide solar energy users and neighboring tree and shrub owners more information about the content and application of California's solar laws.

1.1. Organization of the Paper

This paper is organized into the following sections:

1. Section 2 provides detailed information about the Act, including key provisions, and discusses how and to whom the Act applies.
2. Section 3 lists statutory criteria included in the Act to help solar energy system owners and tree owners⁶ determine whether the provisions of the Act apply.

¹ A solar energy tax credit was created in 1976 and codified in California Revenue and Taxation Code Section 23601 (repealed 1987).

² PACE programs allow local government entities to offer sustainable energy project loans to eligible property owners. Through the creation of financing districts, property owners can finance renewable onsite generation installations and energy efficiency improvements through a voluntary assessment on their property tax bills.

³ Unless otherwise indicated, all further references are to this code.

⁴ 1978 Cal. Stat. ch. 1366.

⁵ 2008 Cal. Stat. ch. 176.

⁶ The Solar Shade Control Act refers to both shrub owners and tree owners. In this paper, we use only the phrase "tree owner" for simplicity.

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3. Section 4 discusses California case law under the Act.
4. Section 5 follows with a general conclusion.
5. The Appendix, Section 6, provides other informative resources related to the Act, and the full text of the Act.

2. THE SOLAR SHADE CONTROL ACT

In concept, California's solar access laws spring from deep historical roots. The Romans, whose architecture was designed to take advantage of the sun's light and heat, likely were the first to codify protections of a homeowners' access to sunlight.⁷ Similarly, the doctrine of ancient lights protected landowners' access to sunlight as far back as seventeenth century Great Britain.⁸

California's interest in solar access laws began in 1973, when the United States faced an energy crisis on multiple fronts, including an inadequate electricity supply, climbing fuel prices, and an oil embargo. This crisis, in conjunction with a second that occurred in 1979-1980, increased consumer and government interest in resource conservation and alternative energy technologies. Consequently, in 1978 California passed, among other energy-related measures, legislation that provided financial incentives for consumers and businesses to invest in solar energy technologies, as well as Assembly Bill 2321, the Solar Shade Control Act.⁹ The Act was later amended in 2008 after the story of two Santa Clara County residents being criminally prosecuted and convicted under the Act for letting their redwoods cast shade on a neighbor's solar panels received national attention.¹⁰

The Act provides limited protection to solar energy system owners from shading caused by trees and shrubs on adjacent properties. Generally speaking, the Act prohibits a property owner from allowing trees or shrubs to shade an existing solar energy system installed on a neighboring property, provided the shading trees or shrubs were planted after the solar collecting device was installed.¹¹ The Act includes the following key provisions.

2.1. California's Policy Intent

Section 25980 provides a policy rationale for the Act: "It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources." This section also encourages the planting of trees and shrubs to create shade and moderate ambient air temperature.¹² But with passage of the Act, the Legislature recognized that circumstances may exist "in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs" when plant shading interferes with the use of solar systems on adjacent properties.¹³

⁷ Melvin M. Eisenstadt, *Access to Solar Energy: The Problem and its Current Status*, 22 Nat. Resources J. 21, 21 (1982).

⁸Id.

⁹ See 1978 Cal. Stat. ch. 1366 (enacted the Act); 1978 Cal. Stat. ch. 1154 (provided for solar easements and a solar tax credit).

¹⁰ See Felicity Barringer, *In California Neighbors' Dispute, Officials Find It's Time to Speak for the Trees*, N.Y. Times, July 23, 2008. See also 2008 Cal. Stat. ch. 176.

¹¹ Cal. Pub. Res. Code § 25982 (2009).

¹² § 25980.

¹³ Id.

2.2. Definition of “Solar Collector”

Section 25981(a) of the Act provides the statutory definition of a solar collector as “a fixed device, structure, or part of a device or structure . . . that is used primarily to transform solar energy into thermal, chemical, or electrical energy.” In 2008, the Act was amended to exclude from its protection any solar device or structure that is “designed and intended to offset more than the building’s electricity demand.”¹⁴ Under the Act, a solar collector is to be used as part of a system which makes use of solar energy for water heating, space heating or cooling, or power generation.¹⁵ Based on this statutory definition, the following common solar energy systems would be considered “solar collectors”:

- Photovoltaics.
- Solar water heating for use in buildings.
- Solar water heating for space heating.
- Solar pool heating.

The Act does not specify whether a residential structure designed to take advantage of the sun’s light and warmth, sometimes referred to as a passive solar home, would be defined as a solar collector by the Act. However, this question was answered in *Sher v. Leiderman*, in which the California Court of Appeal held that a passive solar home would not meet the definition of a “solar collector,” as defined in Section 25981.¹⁶ The court reasoned that statutory language defining a solar collector was not intended to accord protection to passive systems.¹⁷ Consequently, the *Sher* court held that exclusively passive solar homes are not protected from shading by the Solar Shade Control Act.¹⁸

Confusion over what systems are “active” or “passive” under the Act is compounded by system-specific terminology. For example, there are two main types of solar water heating systems: active and passive. Active systems use pumps and sensors to control the flow of water into and out of the collector. Passive systems have no moving parts and rely on existing water pressure from the home’s plumbing and convection to move water through the collector. But, because both active and passive solar water heating systems are used primarily to convert solar energy into hot water, they are “solar collectors” under the Act, and entitled to protections from shading thereunder.

2.3. Installation Requirements

A solar collector is defined under Section 25981(a) as including only those devices or structures fixed on the roof of a building.¹⁹ However, if “a solar collector cannot be installed on the roof of [a] building receiving

¹⁴ § 25981(c).

¹⁵ § 25981(a).

¹⁶ *Sher v. Leiderman*, 181 Cal. App. 3d 867, 883 (1986).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ § 25981(a).

the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building,” the Act promulgates that a solar collector can instead be installed on the ground.²⁰

Whether affixed to the roof or the ground, Section 25981(d) provides that the Act’s protections only apply to solar collectors, as defined above, that have been installed and comply with all local building and setback regulations. In relevant part, the Act specifies that solar collectors must “be set back not less than five feet from the property line, and not less than 10 feet above the ground. A collector may be less than 10 feet in height, only if, in addition to the five-foot set back, the solar collector is set back three times the amount lowered.”²¹ Thus, it is possible that a solar energy system that meets Section 25981’s definition of a solar collector may be installed in a manner that violates the Section 25981(d) setback requirements. In such a case, the solar energy system would not be protected by the provisions of the Act.

2.3.1. Optional Notice Prior to Installation

The Act’s amendment authorizes property owners contemplating solar collector installations to provide notice to affected neighbors of a proposed solar collector installation. While this is not required, Section 25982.1(a) states that the owner of a property where a solar collector is proposed to be installed may provide, no more than sixty days prior to its installation, a written notice by certified mail to the owners of the affected property using a specified form. The notice would state, in part, the property owner’s contact information, the specific location of where the solar collector will be installed on the property, and the proposed installation date of the solar collector.²² A copy of the specified form to be used is provided in Section 25982.1(a) and included here in Section 6.2 of the Appendix.

2.4. Threshold for Violation

Specifically, Section 25982 of the Act prohibits certain tree owners from planting or allowing a newly planted tree or shrub to cast a shadow over more than ten percent of a solar collector on a neighboring property at any one time during the hours of 10:00 a.m. and 2:00 p.m. However, the Act’s amendment exempts all trees and shrubs planted prior to the time of the installation of a solar collector.²³ In other words, the Act allows trees and shrubs to grow and shade solar panels without penalty as long as they predate the neighboring solar collector.

2.5. Who is Liable Under the Act?

Section 25983 provides that “the person who maintains or permits the tree or shrub to be maintained” can be liable if they violate the Act. Specifically, the Act states that those people who fail to “remove or alter the tree or shrub after receiving a written notice from the owner or agent of the affected solar collector requesting compliance with the requirements” of the Act can be held responsible for violations of the Act.²⁴

²⁰ § 25981(b).

²¹ § 25982.

²² § 25982.1(a).

²³ § 25984(a). The Act, however, does not explicitly define the phrase “time of installation.”

²⁴ § 25983.

2.6. Penalties for Violation

Prior to its amendment in 2008, violators of the Act could be criminally prosecuted and convicted of maintaining a public nuisance for allowing their trees to shade neighboring solar collectors.²⁵ California legislators acted to change this punishment after the story of two Santa Clara County residents being criminally convicted and ordered to prune their redwood trees sparked national debate.²⁶ After the Act's amendment, violations are no longer considered criminal.²⁷ Instead, Section 25983 provides that violations of Section 25982 now constitute a private nuisance, as defined in Section 3481 of the California Civil Code. It should be noted, however, that the 2008 amendment is not retroactive. In other words, any criminal convictions issued under the prior Act still stand.

2.7. Procedures for Seeking Protection Under the Act

Before the Act's amendment became effective January 1, 2009, solar collector owners seeking to enforce the Act had to have their claims prosecuted by a district attorney or other prosecutor. This entailed demonstrating to the prosecutor that a violation occurred, having the prosecutor deliver a thirty day abatement notice to the offending tree owner to cure the violation, and finally prosecuting the tree owner if the violation was not abated within thirty days.²⁸

Now that violations of the Act are no longer criminally prosecuted, the solar collector owner is solely responsible for enforcing the protections afforded by the Act. This is essentially a two step process. First, the affected solar collector owner must provide the tree owner written notice requesting compliance with the requirements of Section 25982.²⁹ Second, if the tree owner fails to comply with the written notice requesting compliance with the Act, the affected solar collector owner may bring a private nuisance suit under the Act against the neighboring tree owner to remedy the solar shading.³⁰

2.8. Exemptions for Certain Property Owners

The Act both explicitly and implicitly exempts certain property owners and certain trees and shrubs from the Act. Indeed, the solar collector owner's right to sunlight is not absolute.

2.8.1. Exemption for Existing Trees or Shrubs

Section 25984(a) states that the Act does not apply to trees or shrubs planted prior to the installation of a solar collector. Therefore, trees or shrubs planted before a solar collector is installed and later grow to cast a shadow over more than ten percent of the solar collector are completely exempt from the Act.

²⁵ Cal. Pub. Res. Code § 25983 (2007), *amended by* Cal. Pub. Res. Code § 25983 (2009).

²⁶ Felicity Barringer, *Trees Block Solar Panels, and a Feud Ends in Court*, N.Y. Times, April 7, 2008.

²⁷ § 25983 (2009).

²⁸ § 25983 (2007), *amended by* Cal. Pub. Res. Code § 25983 (2009).

²⁹ § 25983 (2009).

³⁰ *Id.*

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2.8.2. Exemption for Timberland and Agricultural Land

Section 25984(b) of the Act specifically exempts all trees planted, grown, or harvested on timberland or on land devoted to the production of commercial agricultural crops.³¹

2.8.3. Exemption for Replacement Trees³²

Section 25984(c) provides an exemption for trees or shrubs planted to replace trees or shrubs that had been growing prior to the installation of a solar collector. Consequently, if a tree planted prior to the installation of the solar collector dies, or is removed for the protection of public health, safety, or the environment, and is subsequently replaced, the replacement tree is exempt from the Act, even if it shades the solar collector in a way that would otherwise violate the Act.³³

2.8.4. Exemption for Trees Subject to a Local Ordinance

Section 25984(d) exempts from the provisions of the Act any “tree or shrub that is subject to a city or country ordinance.”

2.8.5. Exemption for Municipalities

Section 25985(a) of the Act allows any city or unincorporated areas of a county to adopt an ordinance exempting itself from the Act.³⁴ This exemption applies only to trees planted and maintained by the municipality itself, and not to trees owned by private citizens. *Zipperer v. County of Santa Clara*, 133 Cal. App. 4th 1013 (2005), discussed in Section 4.3 of this paper, further discusses this exemption.

2.8.6. Exemption for Passive Systems

Section 25986 permits owners of passive solar systems that would cast a shadow over a solar collector on an adjacent property to seek an exemption from the Act. To grant an exemption, the court must find that the net energy savings from the passive solar system would exceed those of the shaded solar collector.³⁵

As discussed in Section 2.2 of this paper, the statute does not clearly define what solar energy systems or structures constitute a “passive or natural solar heating system or cooling system” and are exempt from the

³¹ § 4526 defines “Timberland” as:

[L]and, other than land owned by the federal government and land designated by the board as experimental forest land, which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees. Commercial species shall be determined by the board on a district basis after consultation with the district committees and others.

³² § 25984 does not specifically define what constitutes a replacement tree.

³³ § 25984(c).

³⁴ § 25985(a) further states that “adoption of the ordinance shall not be subject to the California Environmental Quality Act.” The following California jurisdictions have exempted themselves from the Act: Butte County, City of Santee, City of Shasta Lake, Sacramento County, and Santa Clara County. Note that this is not an exhaustive list. Review local municipal codes or contact local officials to determine if a municipality has an exemption.

³⁵ § 25986.

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Act's protections. A passive or natural solar heating or cooling system could be interpreted to mean a structure or building that is designed to use orientation, thermal mass, and shading for passive heating or cooling. Alternatively, a passive or natural solar heating or cooling system could be interpreted to mean deciduous trees that would block summer sunlight but permit winter sunlight to enter a building. Trees or shrubs used as passive or natural solar heating or cooling systems that shade an adjacent active solar system may be exempt from the provisions of the Act, provided the court finds that the passive system provides greater net energy savings than the adjacent solar collector.³⁶

³⁶ See generally John W. Gergacz, *Legal Aspects of Solar Energy: Statutory Approaches for Access to Sunlight*, 10 B.C. Envtl. Aff. L. Rev. 1, 20 (1982) ("tree and shrub placement may work passively with the design of a building to naturally heat or cool it, at least in part").

3. HOW THE PROVISIONS AFFECT EACH PARTY

We have grouped the key provisions of the Act to demonstrate the threshold for the solar collector owner to demonstrate a violation under the Act, and the tree owner to determine if the alleged violation is actionable.

3.1. Solar Collector Owner

The following provides a listing of the statutory conditions necessary to demonstrate that a tree or shrub on an adjacent property is shading a solar collector in a way violates the Act. The solar collector owner must be able to answer the following questions in the affirmative to be protected by the Act:

- Was the tree or shrub in question planted after the solar collector's installation?
- Was the solar collector installed pursuant to Section 25981(d)'s setback requirements?
- Does the solar collector meet the statutory definition of a "solar collector" provided in Section 25981?
- Does the neighboring tree or shrub shade more than ten percent of the solar collector between 10:00 a.m. and 2:00 p.m. local standard time?

3.2. Tree Owner

The following provides a list of the statutory conditions necessary to determine if a property or tree owner is violating the Act. There may be no violation of the Act if the tree owner can answer in the negative to any of the following questions:

- Does the tree or shrub shade more than ten percent of the solar collector between 10:00 a.m. and 2:00 p.m. local standard time?
- Was the tree or shrub in question planted after the solar collector was installed?
- Did the solar collector owner, or their agent, provide written notice requesting compliance with the requirements of Section 25982?

Further, there may be no violation of the Act if the tree owner also can answer any of the following questions in the affirmative:

- Was the solar collector designed and intended to offset more than the building's electricity demand?
- Is the tree or shrub in question owned by a municipality that has passed an ordinance exempting itself from the Act?
- Is the tree or shrub subject to a city or county ordinance?
- Is the tree or shrub in question growing on land designated as timberland or agricultural land?
- Are the trees or shrubs in question part of a passive cooling and heating strategy in which net energy savings from the passive solar system are demonstrably greater than those of the shaded solar collector?

4. CASES RELATING TO THE ACT

Though relatively few cases have examined the Solar Shade Control Act since its enactment in 1978, the following cases provide insight into the Act's interpretation and legal argumentation:

- *California v. Bissett*, No. BB727255 (Cal. Sup. Ct. Santa Clara County Mar. 28, 2008).
- *Sher v. Leiderman*, 181 Cal. App. 3d 867 (1986).
- *Zipperer v. County of Santa Clara*, 133 Cal. App. 4th 1013 (2005).
- *Kucera v. Lizga*, 59 Cal. App. 4th 1141 (1997).
- *Prah v. Maretti*, 108 Wis. 2d 223 (1982).

4.1. California v. Bissett

The first and only prosecution under the Act occurred in *California v. Bissett*.³⁷ The story begins in 1996, when defendant Bissett and her husband Treanor introduced three redwood trees in their backyard.³⁸ Over the next five years, they planted five more redwoods.³⁹ In 2001, plaintiff neighbor Vargas installed solar panels on his roof and shortly thereafter asked the defendants to remove or prune the shading redwood trees.⁴⁰ After the defendants refused to comply, the District Attorney's Office commenced its prosecution against the defendants under the Act.⁴¹

Upon concluding that some of the redwood trees were in violation of the Act, Judge Kumli of the Santa Clara County Superior Court convicted Bissett and Treanor under the state's nuisance law.⁴² As part of the conviction, Judge Kumli ordered Bissett and Treanor to alter or remove any offending tree so that less than ten percent of Vargas' solar panels would be shaded.⁴³ After the conviction, and in order to comply with the court's order, the defendants eventually pruned one of the redwood tree's upper branches.⁴⁴

As a result of this case, and the widespread attention it received nationwide following the conviction, California State Senator Joe Simitian introduced Senate Bill 1399 (2008), an amendment to the Solar Shade Control Act.⁴⁵ The bill exempting all trees and shrubs planted prior to the installation of a solar panel was signed into law by Governor Arnold Schwarzenegger in July 2008 and became effective January 1, 2009.⁴⁶

³⁷ No. BB727255 (Cal. Sup. Ct. Santa Clara County Mar. 28, 2008).

³⁸ Barringer, *supra* note 26.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Bissett*, No. BB727255.

⁴³ *Id.*

⁴⁴ Barringer, *supra* note 10.

⁴⁵ Barringer, *supra* note 26.

⁴⁶ 2008 Cal. Stat. ch. 176.

4.2. Sher v. Leiderman

Sher v. Leiderman, briefly discussed in Section 2.2 of this paper, provides guidance as to whether a passive solar home meets the Act's definition of a "solar collector."⁴⁷

The Shers designed and constructed a house that takes advantage of winter heat and light.⁴⁸ The Shers installed south-facing windows, skylights, and a large south-facing concrete patio as passive design features to light and heat the home's interior.⁴⁹ The home, which did not include any solar collectors as defined by the Act, was characterized by the trial court as a "passive solar" home, even though it had no thermal mass features to store and emit radiation of heat.⁵⁰

In the decades after the Shers built their house, trees on the adjoining property, owned by the Leidermans, matured and prevented winter sunlight from reaching the Sher's home.⁵¹ Between December and February, the trees cast a shadow on much of the Sher's home from 10:00 a.m. to 2:00 p.m.⁵² To restore sunlight to the Sher's home, some trimming, topping, and removal of the Leiderman's trees would have been necessary.⁵³ As required by then-existing Section 25983, the Shers contacted the Santa Clara County District Attorney, who determined that the Solar Shade Control Act did not apply to the Sher's situation and did not offer a notice to abate to the Leidermans.⁵⁴

The Shers then sued their neighbors on three causes of action: (1) private nuisance; (2) public nuisance under the California Solar Shade Control Act; and (3) negligent infliction of emotional distress.⁵⁵ We focus primarily on the application and interpretation of the Solar Shade Control Act in this case. The court noted in its ruling that at the time no case law had developed regarding the Act, so the question of whether a passive solar home is eligible for the protections afforded solar collectors under the Act was one of first impression.⁵⁶

The California Court of Appeal ruled against the Shers, holding that a passive solar home designed to collect solar heat does not meet the statutory definition of "solar collectors" contained in Section 25981.⁵⁷ The court also held that blockage of sunlight in and of itself does not constitute a private nuisance.⁵⁸

⁴⁷ *Sher v. Leiderman*, 181 Cal. App. 3d 867, 881–83 (1986).

⁴⁸ *Id.* at 873.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 874.

⁵² *Id.*

⁵³ *Id.* at 875.

⁵⁴ *Id.* at 880.

⁵⁵ *Id.* at 875.

⁵⁶ *Id.* at 881 (A case of first impression is the first time such a specific legal question on that specific topic has been considered by the court).

⁵⁷ *Id.* at 883.

⁵⁸ *Id.* at 879–80.

In its ruling, the court referred to then-existing Section 25981, which defined “solar collector” as “a fixed device, structure, or part of a device or structure, which is used primarily to transform solar energy into thermal, chemical, or electrical energy.”⁵⁹ The Act further provided that a “solar collector shall be used as part of a system which makes use of solar energy for any or all of the following purposes: (1) water heating, (2) space heating or cooling, and (3) power generation.”⁶⁰

The Shers argued that their passive solar home is a “structure, or part of a...structure... used as part of a system which makes use of solar energy,” thereby meeting the definition of “solar collector” as promulgated under the Act.⁶¹ The court disagreed, stating that the key word in the definition of a solar collector under the Act is “primarily,” rather than “structure.” Although the Sher’s south-facing windows were part of a strategy to passively heat and cool their home, the court did not agree that the primary function of their windows were to heat their home, since the windows also allowed light into the home.⁶²

The court further held that permitting the Sher’s home to be considered a solar collector would create a definitional problem whereby every home that has a south facing window would be considered a solar collector, regardless of any intention to passively heat or cool their home, and therefore be eligible to receive the protections of the Act.⁶³ The court additionally referred to the Act’s setback restrictions to support its conclusion that the Sher’s home was not a solar collector.⁶⁴ The court reasoned that the setback restrictions pertain to a solar collector that would be installed on a home or building and not to the home itself.⁶⁵ Lastly, the court noted that if the Legislature had intended to apply the rights and remedies of the Act to buildings, it would have indicated its intent through explicit statutory language.⁶⁶

4.3. Zipperer v. County of Santa Clara

Zipperer v. County of Santa Clara examines the municipal exemption contained in Section 25985 of the Act.⁶⁷ The central question in this case was whether a municipality could exempt itself from the Solar Shade Control Act after the alleged violation of the Act.⁶⁸

The Zipperers built a home with solar heating and cooling systems in the mid-1980s.⁶⁹ The County of Santa Clara purchased an adjacent property in 1991, which contained a small grove of trees, and designated this

⁵⁹ *Id.* at 881.

⁶⁰ Cal. Pub. Res. Code § 25981 (1986), amended by Cal. Pub. Res. Code § 25981 (2009).

⁶¹ *Leiderman*, 181 Cal. App. 3d at 881.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.* at 882–83.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ 133 Cal. App. 4th 1013 (2005).

⁶⁸ *Id.* at 1023–25.

⁶⁹ *Id.* at 1018.

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land as a park reserve.⁷⁰ After the County acquired the land, the trees on this parcel grew significantly and began to shade the Zipperer's home, hindering the performance of their solar system.⁷¹ In 1997, the Zipperers requested that the County trim or remove the offending trees.⁷² The County did not respond to this request, but in 2002 passed an ordinance exempting itself from the Act.⁷³ In 2004, the Zipperers brought suit against the County seeking relief under the Act.⁷⁴ The Zipperers alleged that the County violated the Act well before it exempted itself, and that allowing the exemption to retroactively apply would allow the County to escape liability for preexisting violations.⁷⁵

The court found in the County's favor, holding that Santa Clara County may, without limitation, exempt itself from the Act.⁷⁶ Because the Legislature expressly empowered cities and counties to exempt themselves from the Act, the *Zipperer* court held that the County's validly enacted ordinance extinguished any statutory Solar Shade Control Act claim.⁷⁷

4.4. Kucera v. Lizza

Kucera v. Lizza concerns the validity of a town ordinance protecting property views and sunlight against unreasonable obstruction by tree growth.⁷⁸ One of the issues addressed by the California Court of Appeal was whether the Solar Shade Control Act preempts separate local ordinances regarding blockage of sunlight not related to solar collectors.⁷⁹

A Town of Tiburon ordinance, entitled "View and Sunlight Obstruction from Trees," prohibited trees from blocking neighboring homeowners' preexisting views and access to sunlight.⁸⁰ When neighboring trees began to obstruct the Kucera's views of San Francisco Bay, the Kuceras brought suit against Lizza, the neighboring tree owner, for violating the town's ordinance. Lizza argued, in part, that the Act preempted the local ordinance due to the perceived conflict between the state law and the Town of Tiburon ordinance.⁸¹

The *Kucera* court disagreed with Lizza, holding that the Act does not preempt local ordinances restricting the growth of trees from unreasonably blocking views and sunlight.⁸² The court reasoned that the town's

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.* at 1022, note 4.

⁷⁴ *Id.*

⁷⁵ *Id.* at 1022.

⁷⁶ *Id.* at 1023–25.

⁷⁷ *Id.* at 1025.

⁷⁸ 59 Cal. App. 4th 1141, 1143 (1997).

⁷⁹ *Id.* at 1151–53.

⁸⁰ *Id.* at 1144.

⁸¹ *Id.* at 1152–53.

⁸² *Id.* at 1153.

ordinance was not preempted by the Act partly because Lizza identified “no provisions of Tiburon’s ordinance as inconsistent with the state legislation.”⁸³ Therefore, the court’s ruling in *Kucera* holds that local ordinances principally concerned with preserving views and sunlight will not be preempted by the Act.⁸⁴

4.5. *Prah v. Maretti*

Prah v. Maretti is a Wisconsin Supreme Court case in which a homeowner sued a neighbor whose construction plans would block sunlight needed for the homeowner’s solar collector.⁸⁵ At the time, Wisconsin had no state law protecting access to sunlight, so the homeowners claimed that blocking sunlight from reaching their solar collector constituted a private nuisance.⁸⁶

In this case, the circuit court ruled in favor of the neighbor on a summary judgment motion.⁸⁷ The circuit court held that private nuisance law does not apply to blockage of sunlight, and therefore there is no claim upon which the homeowners can seek relief.

The Wisconsin Supreme Court reversed the circuit court’s ruling and determined that the case should proceed to trial on the merits.⁸⁸ The Wisconsin Supreme Court posited that private nuisance law might apply to obstruction of sunlight for solar energy purposes, and therefore the homeowners stated a claim for which relief could be granted.⁸⁹ The case was remanded back to the circuit court.⁹⁰

In reversing the circuit court ruling, the Wisconsin Supreme Court detailed arguments for why blockage of sunlight could constitute a private nuisance. The court noted that this question “requires the court to make ‘a comparative evaluation of conflicting interests and to weigh the gravity of the harm to the plaintiff against the utility of the defendant’s conduct.’”⁹¹ The *Prah* court also examined three policy reasons explaining why other jurisdictions have traditionally been unwilling to apply the broad power of private nuisance to cases involving solar access.⁹² The first of these is the longstanding right of landowners to use property as they wish as long as they did not cause physical damage to a neighbor.⁹³ Secondly, sunlight has historically only

⁸³ *Id.*

⁸⁴ See *id.*

⁸⁵ 108 Wis. 2d 223, 224–25 (1982). Note that because *Prah* is not a California case, California courts are not required to abide by its holding.

⁸⁶ *Id.* at 229. Shortly after *Prah* was decided, Wisconsin passed legislation similar to California’s Solar Shade Control Act, and which provided two remedies for solar shading claims. See former Wis. Stat. § 66.031 (now Wis. Stat. § 66.0401) and former Wis. Stat. § 66.032 (now Wis. Stat. § 66.0403).

⁸⁷ *Id.* at 225.

⁸⁸ *Id.*

⁸⁹ *Id.* at 240.

⁹⁰ *Id.* at 243.

⁹¹ *Id.* at 230 (citation omitted).

⁹² *Id.* at 235.

⁹³ *Id.*

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been valued for aesthetic enjoyment or for illumination, not as a means of power generation.⁹⁴ Third, society has a strong interest in not restricting or impeding land development.⁹⁵ The Wisconsin Supreme Court argued that all three of these policy concerns are no longer fully accepted or relevant, especially considering the increase in regulation and development of the use of sun for energy purposes.⁹⁶

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.* at 236–37.

5. CONCLUSION

California's Solar Shade Control Act provides limited protections for solar collector owners whose devices are shaded by neighboring trees and shrubs. These protections are limited because the Act contains specific requirements that determine which solar collectors are eligible for protections under the Act, including the function of the collector, the manner in which it was installed on the building, and the date the offending tree or shrub was planted.

We revisit this landmark law because its provisions are generally not well understood and California's solar market will grow significantly in the coming decade as a result of expanded financial incentives for solar energy systems. This paper provides information and analysis on the Act to help parties understand the provisions of the law and to understand how the law affects them. Our research should help solar collector owners determine if they are eligible for protections under the Act, help tree owners determine if they are liable for an allegation brought under the Act, and help municipalities understand their ability to be exempt from the provisions in the Act.

6. APPENDIX

6.1. Legal Journals and Law Review Articles

For information about the Act's possible conflicts with the U.S. Constitution, and other interpretations of the Act, the following law review articles and books are a useful resource.⁹⁷

- Sara C. Bronin, *Solar Rights*, 89 B.U.L. Rev. 1217 (2009). This article outlines the various means of protecting the right to solar access and devotes some discussion to the Act.
- Melvin M. Eisenstadt, *Access to Solar Energy: The Problem and its Current Status*, 22 Nat. Resources J. 21 (1982). This general article on solar energy devotes a few pages to specific interpretations of the Act.
- *Energy; Solar Shade Control*, 10 Pac. L.J. 484 (1979). This article provides an overview of the Act including unresolved interpretational questions.
- John. W. Gergacz, *Legal Aspects of Solar Energy: Statutory Approaches for Access to Sunlight*, 10 B.C. Envtl. Aff. L. Rev., 1 (1982–1983). This article discusses the possibility that the Act violates the U.S. Constitution and other specifics of the Act.
- Stephen B. Johnson, *State Approaches to Solar Legislation: A Survey*, 1 Solar L. Rep. 55 (1979). This article also devotes a few pages to discuss various interpretations of the Act.
- Stephen M. Murphy, *Comprehensive Solar Access Regulation in California as a Taking of Property: A Future Battleground for an Old Conflict?*, 15 U.S.F. L. Rev. 537 (1980–1981). This article also addresses the Act's potential conflicts with the U.S. Constitution.
- Robert L. Thayer, *Solar Access, "It's The Law!": A Manual on California's Solar Access Laws for Planners, Designers, Developers, and Community Officials* 9–13, (1981). This is a handbook on California's solar laws, discussing applications and interpretations of the Act.

⁹⁷ This is not intended to be an exhaustive list of resources available on the Solar Shade Control Act.

6.2. Full Text of Solar Shade Control Act

The Solar Shade Control Act is contained in the California Public Resources Code Sections 25980–25986. The full text of the statutes is provided below.⁹⁸

25980. This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

25981. (a) As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, on the roof of a building, that is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system that makes use of solar energy for any or all of the following purposes:

- (1) Water heating.
- (2) Space heating or cooling.
- (3) Power generation.

(b) Notwithstanding subdivision (a), for the purpose of this chapter, "solar collector" includes a fixed device, structure, or part of a device or structure that is used primarily to transform solar energy into thermal, chemical, or electrical energy and that is installed on the ground because a solar collector cannot be installed on the roof of the building receiving the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building.

(c) For the purposes of this chapter, "solar collector" does not include a solar collector that is designed and intended to offset more than the building's electricity demand.

(d) For purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and not less than 10 feet above the ground. A solar collector may be less than 10 feet in height only if, in addition to the five-foot setback, the solar collector is set back three times the amount lowered.

25982. After the installation of a solar collector, a person owning or in control of another property shall not allow a tree or shrub to be placed or, if placed, to grow on that property so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m., local standard time.

⁹⁸ All current California laws can be found at <http://www.leginfo.ca.gov>.

Solar Shade Control Act

25982.1. (a) An owner of a building where a solar collector is proposed to be installed may provide written notice by certified mail to a person owning property that may be affected by the requirements of this chapter prior to the installation of the solar collector. If a notice is mailed, the notice shall be mailed no more than 60 days prior to installation of the solar collector and shall read as follows:

SOLAR SHADE CONTROL NOTICE

Under the Solar Shade Control Act (California Public Resources Code Sec. 25980 et seq.) a tree or shrub cannot cast a shadow greater than 10 percent of a solar collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m. local standard time if the tree or shrub is placed after installation of a solar collector. The owner of the building where a solar collector is proposed to be installed is providing this written notice to persons owning property that may be affected by the requirements of the act no more than 60 days prior to the installation of a solar collector. The building owner is providing the following information:

Name and address of building owner:

Telephone number of building owner:

Address of building and specific location where a solar collector will be installed (including street number and name, city/county, ZIP Code, and assessor's book, page, and parcel number):

Installation date of solar collector:

Building Owner, Date

(b) If the owner of the building where a solar collector is proposed to be installed provided the notice pursuant to subdivision (a), and the installation date is later than the date specified in that notice, the later date shall be specified in a subsequent notice to persons receiving the initial notice.

(c) (1) A transferor of the building where the solar collector is installed may provide a record of persons receiving the notice pursuant to subdivision (a) to a transferee of the building.

(2) A transferor receiving a notice pursuant to subdivision (a) may provide the notice to a transferee of the property.

25983. A tree or shrub that is maintained in violation of § 25982 is a private nuisance, as defined in Section 3481 of the Civil Code, if the person who maintains or permits the tree or shrub to be maintained fails to remove or alter the tree or shrub after receiving a written notice from the owner or agent of the affected solar collector requesting compliance with the requirements of § 25982.

25984. This chapter does not apply to any of the following:

(a) A tree or shrub planted prior to the installation of a solar collector.

Solar Shade Control Act

(b) A tree planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops.

(c) The replacement of a tree or shrub that had been growing prior to the installation of a solar collector and that, subsequent to the installation of the solar collector, dies, or is removed for the protection of public health, safety, or the environment.

(d) A tree or shrub that is subject to a city or county ordinance.

25985. (a) A city, or for unincorporated areas, a county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of the ordinance shall not be subject to the California Environmental Quality Act (commencing with Section 21000).

(b) Notwithstanding the requirements of this chapter, a city or a county ordinance specifying requirements for tree preservation or solar shade control shall govern within the jurisdiction of the city or county that adopted the ordinance.

25986. Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.



ENCROACHING TREES: WHO HAS THE RIGHT TO DO WHAT?

Introduction:

As discussed in our article on nuisance, property owners have certain duties to maintain and utilize their property so that it does not constitute a nuisance for either other property owners nearby or the public. The traditional cases involved inappropriate use (a smelly pig farm in a residential area or a saloon next to a school) or obnoxious use (loud noises that make adjoining locales unpleasant for living, etc.)

One "nuisance" often alleged involves the encroachment of trees, shrubs and other vegetation from one lot onto an adjoining lot. This issue can easily become an emotional one with a property owner loving a large elderly tree while the adjoining neighbor complains about the branches overhanging the property.

Does one have a right to trim trees or branches that actually extend into one's property? Does one have a right to enter adjoining land to trim trees?

In California there is ample statutory authority to answer these questions and this article discusses both the law... and some practical considerations a property owner may want to keep in mind before pulling the chain saw out.

Basic Law:

In California a duty is imposed upon a landowner to prevent nuisances that could adversely affect the property of an adjoining owner of land. "Nuisance" is usually defined as a substantial interference with the "right to use and enjoy" the land and it may be intentional or negligent in origin. Some nuisances impose severe statutory liability if they involve hazardous conditions or substances.

A nuisance must derive from the defendant's activity or neglect. If a nuisance conflicts with another person's quiet enjoyment of the use of the adjoining property, a cause of action lies including the right to seek an injunction ordering the end of the nuisance by removal, repair, rehabilitation or demolition. The burden of proof is on the party claiming the nuisance and damages can be assessed against the defendant if the plaintiff has been injured.

The encroachment of shrubs or vegetation, including a tree, upon a neighbor that causes any damage could be held to be a nuisance and damages could lie against the owner of the land on which the tree was located. In most states, a landowner is held to a duty of "common reasonable prudence" in maintaining shrubs and trees on their own property so as to prevent injury to others or to property of another. Assuming damage is demonstrated, or clear potential for damage, liability would exist. A typical example is a half broken large limb overhanging the roof of an adjoining neighbor which will clearly break and fall in the next storm.

It should be noted that minus some degree of failure to maintain, a property owner is not responsible for Acts of God, e.g. unforeseen events that can cause damage to the adjoining lot. A example would be a lightning strike which causes a burning tree to collapse on the neighbors automobile next door.

Some damage is prolonged and fully foreseeable, such as tree roots damaging a fence or concrete walkway. Roots can also be considered encroachment.

A tree that is on two lots, a "boundary tree" is considered jointly owned and should not be removed without mutual consent or court order. And in most jurisdictions, leaves falling onto an adjacent lot are not considered a nuisance and are the responsibility of the owner of the lot with the leaves to remove. Such falling of leaves is considered a "natural occurrence" and not a nuisance. And recall that in the United States, there is no easement for light, so if a

tree causes shade or blocks a view, that is not considered in itself a nuisance.

Every state allows property owners to trim and remove branches, shrubs and roots that invade their property but most states require the owner to first give the owner of the tree or shrub adequate notice to solve the problem him or herself and advise them that such cutting is planned. Usually, the trimming may only be up to the property line and one cannot enter the adjoining property without prior consent unless there is immediate danger to life or property.

One is not allowed to cut the entire tree down or to cut it in such a manner that it will kill the tree. Indeed, some jurisdictions do not allow such cutting that would create greater harm or ruin the aesthetics of the tree. A good example is to cut the tree so that it is lopsided and likely to topple over in the next storm. There are also various county or city statutes that may apply, including those that protect various species of trees or animal life or prohibit the cutting of shade trees above a certain size. Penalties and even criminal liability may lie for ignoring these laws.

California Basic Statutes:

The following California statutes should be reviewed by anyone considering taking action:

Section 833 Civil Code:

Trees whose trunks stand wholly upon the land of one owner belong exclusively to him, although their roots grow into the land of another.

Section 834 Civil Code:

Trees whose trunks stand partly on the land of two or more coterminous owners, belong to them in common.

Section 841 Civil Code:

Coterminous owners are mutually bound equally to maintain:

- 1. The boundaries and monuments between them;**
- 2. The fences between them, unless one of them chooses to let his land lie without fencing; in which case, if he afterwards incloses it, he must refund to the other a just proportion of the value, at that time, of any division fence made by the latter.**

Section 841.4 Civil Code:

Any fence or other structure in the nature of a fence unnecessarily exceeding 10 feet in height maliciously erected or maintained for the purpose of annoying the owner or occupant of adjoining property is a private nuisance. Any owner or occupant of adjoining property injured either in his comfort or the enjoyment of his estate by such nuisance may enforce the remedies against its continuance prescribed in Title 3, Part 3, Division 4 of this code.

Section 3346 Civil Code:

(a) For wrongful injuries to timber, trees, or underwood upon the land of another, or removal thereof, the measure of damages is three times such sum as would compensate for the actual detriment, except that where the trespass was casual or involuntary, or that the defendant in any action brought under this section had probable cause to believe that the land on which the trespass was committed was his own or the land of the person in whose service or by whose direction the act was done, the measure of damages shall be twice the sum as would compensate for the actual detriment, and excepting further that where the wood was taken by the authority of highway officers for the purpose of repairing a public highway or bridge upon the land or adjoining it, in which case judgment shall only be given in a sum equal to the actual detriment.

(b) The measure of damages to be assessed against a defendant for any trespass committed while acting in reliance upon a survey of boundary lines which improperly fixes the location of a boundary line, shall be the actual detriment incurred if both of the following conditions exist: (1) The trespass was committed by a defendant who either himself procured, or whose principal, lessor, or immediate predecessor in title procured the survey to be made; and (2) The survey was made by a person licensed under the laws of this State to practice land surveying.

(c) Any action for the damages specified by subdivisions (a) and (b) of this section must be commenced within five years from the date of the trespass.

Section 3479 Civil Code:

Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

Section 3480 Civil Code:

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Section 3481 Civil Code:

Every nuisance not included in the definition of the last section is private.

Section 3482 Civil Code:

Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

Section 3483 Civil Code:

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it.

Section 3484 Civil Code:

The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

Section 3501 Civil Code:

The remedies against a private nuisance are:

- 1. A civil action; or,**
- 2. Abatement.**

Section 3502 Civil Code:

A person injured by a private nuisance may abate it by removing, or, if necessary, destroying the thing which constitutes the nuisance, without committing a breach of the peace, or doing unnecessary injury.

Section 3503 Civil Code:

Where a private nuisance results from a mere omission of the wrongdoer, and cannot be abated without entering upon his land, reasonable notice must be given to him before entering to abate it.

Conclusion:

Some common sense is useful in determining how to handle encroachment. One mistake we often see is that the neighbors quickly become angry and that trimming is done to "punish" another in such a way that feelings are exacerbated and lawyers become wealthy.

If there is truly a potential for danger to life or property, substantiate that danger via an expert letter from someone with credibility and make sure it is sent to the neighbor. If you are the neighbor whose tree is being threatened by claims of encroachment, do the same in reverse.

The court would take such a report quite seriously and if the experts indicate a pressing danger and the neighbor owning the tree ignores it, a suit for injunction is called for which can be drafted and filed quite quickly. The expert report is the key.

Some cities have their own programs for trimming dangerous trees and a call to the relevant department in the city would make sense.

The worst thing you can do is trespass to trim the tree. Absent true emergency, avoid doing that. Remember, you have to live there after the trimming is done and aside from likely litigation, you will have hard feelings around your home.

If you own the tree which you love, most of the time a tree expert can advise as to how to protect the tree without angering or endangering your neighbor. It may cost a bit to get that advice. Most likely, attorneys are more expensive than tree experts.

And both neighbors should remember the words of John Milton: "Accuse not Nature, she hath done her parts; Do thou but thine..."

*These Articles are to give the reader a general description of certain areas of the law. Legal advice is necessary to apply these legal concepts to your particular situation. **The Reader should obtain competent legal advice before relying on the Articles.***

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Chapter 15.70TREE PROTECTIONSections:

15.70.010	Purpose
15.70.015	Definitions
15.70.020	Permit Required
15.70.025	Application
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15.70.010 Purpose. The City of Clayton contains many species of trees that are of great significance. It is recognized that the preservation of these trees enhances natural scenic beauty, sustains potential increases in property values, encourages high-quality development, maintains the natural ecology, tempers extremes in climate, prevents erosion of top soil, aids in reducing air pollution, provides habitat for wildlife, and preserves the identity, character, and rural tradition of the City. For these reasons, the City Council finds that regulating the removal of trees will promote the health, safety, and general welfare of the residents and property owners within the City consistent with the right of an individual to develop private property in a manner which will not be prejudicial to the public interest. It is not the intent of this ordinance to prevent the removal of undesirable trees or to restrict the reasonable rights of property owners, but only to encourage the planting and retention of desirable trees to protect the beauty and ecological balance of the natural surroundings.

15.70.015 Definitions.

- A. "Development Application" means any proposed project that involves subdivision, alteration, development, or use of a property that requires one or more of the following permits: use permit, site plan permit, demolition permit, building permit, grading permit, encroachment permit, or moving building permit.
- B. "Director" means the Community Development Director, including his or her designated representative.
- C. "Protected Tree" means any tree that is of the following varieties: Ash (*Fraxinus Dipetala*); Bay (*Umbellularia Californica*); Box Elder (*Acer Negundo*); Buckeye (*Aesculus Californica*); Cherry (*Prunus Emarginata*, *Prunus Illicifolia*, *Prunus Subcordata*); Cottonwood (*Populus Fremontii*); Elderberry (*Sambucus Mexicana*); Hop Tree (*Ptelea Crenulata*); Madrone (*Arbutus Menziesii*); Maple (*Acer Macrophyllum*); Oak (*Quercus Agrofolia*, *Quercus Chrysolepis*, *Quercus Douglasii*, *Quercus Kelloggii*,

Quercus Lobata, Quercus Wislizeni); Sycamore (Platanus Racemosa); or Walnut (Juglans Hindsii).

- D. "Tree" means a live woody plant having a single perennial stem or a multi-stemmed perennial plant which is over fifteen (15) feet in height at maturity.
- E. "Trunk Diameter" means the diameter of a tree trunk as measured four (4) feet, six (6) inches above natural grade.

15.70.020 Permit Required. A tree removal permit shall be obtained prior to the removal of:

- A. A tree with a single trunk or multiple trunks with a cumulative trunk diameter of six (6) inches or greater, located on private or public property; or
- B. A tree of any size specifically required to be planted as part of a development application, landscape plan, or tree replacement plan approved by the City after April 1, 2005.

15.70.025 Application A permit application shall be completed and filed with the Community Development Department and shall include:

- A. The application form established by the Community Development Department in order to have the information needed to demonstrate compliance with the standards set forth in Section 15.70.035.
- B. A fee or deposit as established by resolution of the City Council.
- C. A site plan indicating the quantity, location, size, species, and dripline of the tree(s) proposed for removal as well as the tree(s) to be retained.
- D. An arborist report and/or soils report, if required by the Director. The arborist report shall be prepared by a certified arborist. The Director may require the certified arborist to be independent of the tree removal company. The arborist report shall address relevant issues including: health of the tree, soil conditions, irrigation conditions, grade levels of adjacent terrain, structural integrity, and options for removal of the tree.
- E. A tree replacement plan indicating the quantity, location, size, and species of the proposed replacement tree(s), if required by the Director, in accordance with Section 15.70.040.
- F. Any additional items that may be required by the Director to demonstrate compliance with the standards set forth in Sections 15.70.030.A or 15.70.035, as applicable.

15.70.030 Process. Based upon the application the Director shall, in the Director's sole discretion, determine which of the following review procedures is appropriate for review and action upon the application.

- A. Administrative Decision without Notice. The Director may approve or conditionally approve a tree removal permit if the application substantially conforms with one or more of the standards listed below. The Director may deny a tree removal permit if the application does not substantially conform with any of the following standards or the Director may review and act upon the application in accordance with Section 15.70.030.B.

1. The tree is weakened by incurable disease or infestation; age; storm; improper pruning; vandalism; or other injury.
2. The tree is causing damage or clearly posing a danger to an existing structure, improvement, or other tree; and the existing structure, improvement, or other tree cannot be reasonably relocated or modified to alleviate the damage or danger posed by the subject tree and thereby retain the subject tree.
3. The tree needs to be removed to allow construction of an improvement that is related to a development application; and the improvement cannot be reasonably relocated or modified to retain the subject tree.
4. The tree is obstructing or damaging utility service; the tree cannot be reasonably pruned to alleviate the obstruction or damage to the utility service; and the utility service cannot be reasonably relocated or modified to retain the subject tree.
5. The tree will be replaced by replacement tree(s) planted pursuant to a tree replacement plan prepared in accordance with the standards of Section 15.70.040 which fully mitigates the impacts created by the removal of the tree. The Director may waive the requirement for a tree replacement plan if the Director determines that removal of the tree will not cause a significant impact since the tree is minor in nature or existing trees on the property adequately compensate for removal of the tree.

B. **Administrative Decision with Notice.** A notice shall be mailed to the applicant as well as the residents and owners of real property, as shown on the latest assessment roll, located contiguous to or directly across any street abutting the property containing the subject tree. The notice shall provide a general explanation of the nature of request for a tree removal permit; a general description, in text or diagram, of the location of the property containing the subject tree; and a due date, not more than ten (10) days from the date of the notice, for submission of any written comments on the requested tree removal permit. At the conclusion of the comment period, the Director shall evaluate any comments received and take one of the following actions:

1. Approve or conditionally approve a tree removal permit if the application substantially conforms with one or more of the standards set forth in Section 15.70.035.
2. Deny a tree removal permit if the application does not substantially conform with one or more of the standards set forth in Section 15.70.035.
3. Refer the application to the Planning Commission for a decision in accordance with Section 15.70.030.C.

C. **Planning Commission Decision with Notice.** A notice shall be mailed to the applicant as well as the residents and owners of property, as shown on the latest assessment roll, located within three hundred (300) feet of the property containing the subject tree. The notice shall contain the information listed in subsection B above and provide the time, date, and place that the Planning Commission will consider the application. The Planning Commission shall consider the application and approve or conditionally approve the permit if the application substantially conforms with one or more of the

standards set forth in Section 15.70.035. The Planning Commission shall deny the permit if application does not substantially conform with one or more of the standards set forth in Section 15.70.035. Following action by the Planning Commission, a notice of decision shall be mailed to the applicant and any parties who provide testimony or written comments regarding the application.

- D. Permit Expiration. A tree removal permit is valid for ninety (90) days from the date of permit approval, unless otherwise specified.

15.70.035 Standards of Approval. A tree removal permit approved in accordance with Sections 15.70.030.B or C shall not cause or increase erosion in the vicinity of the tree and shall meet at least one of the standards listed below.

- A. The tree is weakened by incurable disease or infestation; age; storm; improper pruning; vandalism; or other injury. At the discretion of the Director or Planning Commission, this condition may require verification by a certified arborist at a cost paid for by the applicant. In situations involving a protected tree, the arborist may be required to be independent of the tree removal company.
- B. The tree is causing damage or posing a danger to an existing structure, improvement, or other tree.
- C. The tree needs to be removed to allow construction of an improvement that is related to a development application.
- D. The tree is obstructing or damaging utility service.
- E. The tree will be replaced by replacement tree(s) planted pursuant to a tree replacement plan prepared in accordance with the standards of Section 15.70.040 which fully mitigates the impacts created by the removal of the tree. The Director or Planning Commission may waive the requirement for a tree replacement plan if the Director or Planning Commission determines that removal of the tree is minor in nature and will not cause a significant impact.

15.70.040 Tree Replacement Plan. A tree replacement plan shall meet the following standards:

- A. At the time of planting, the replacement tree(s) shall meet one of the following criteria or a pro-rated combination of the criteria based upon the trunk diameters of the respective replacement trees:
 - 1. A cumulative trunk diameter that is equal to no less than fifty (50) percent of the trunk diameter of the removed tree.
 - 2. A cumulative trunk diameter that is equal to no less than thirty-three (33) percent of the trunk diameter of the removed tree if the replacement tree(s) are of a variety listed in Section 15.70.015.C as a protected tree. (Ord. 404, 2007)
- B. The replacement tree shall not impede the solar access rights of existing solar panels located on any other property.
- C. The replacement tree shall be irrigated on a regular basis until the tree is established.
- D. The property owner shall remain responsible for the health and survival of the replacement tree(s) for two (2) years after planting. If a replacement tree dies, is

damaged, or removed within the two (2) year period, the property owner shall replace the tree in accordance with the standards in this section and the originally-approved tree replacement plan. If the tree cannot be replaced for any reason, a tree removal permit for the replacement tree shall be obtained in accordance with Section 15.70.020.

- E. The Director or Planning Commission, as applicable, may require a tree replacement plan or a tree mitigation plan to be recorded with the Contra Costa County Recorder, with all recordation costs incurred by the applicant.
- F. If a replacement tree cannot be planted due to limitations of the site, the Director or Planning Commission, as applicable, may require the applicant to pay an in-lieu fee, as established by resolution of the City Council, to the City for the cost of purchasing and installing any tree(s) of equivalent value in public parks, open space areas, or landscape medians. Values established by the International Society of Arboriculture or a comparable arborist organization shall be used for calculating the value of any tree(s) removed.
- G. The replacement tree(s) shall be planted within sixty (60) days of the removal of the tree as otherwise specified by the Director or Planning Commission. (Ord. 404, 2007)

15.70.045 Tree Protection During Construction

- A. Tree Protection Plan Required. A tree protection plan shall be submitted for review and approval as part of a development application if a tree subject to Section 15.70.020 is located within fifty (50) feet of construction (including grading and installation of underground utility lines) associated with the respective development application.
- B. Preparation of Plan. At the discretion of the Director, the tree protection plan shall either be prepared by the applicant or a certified arborist. The applicant shall be responsible for any costs associated with preparation of the plan.
- C. Waiver of Plan. The Director or Planning Commission may waive the requirement for a tree protection plan if the Director or Planning Commission determines that the development activity is minor in nature and will not significantly modify the ground area within or immediately surrounding the dripline of the tree.
- D. Plan Requirements. The tree protection plan shall include, but not be limited to, the following attributes:
 - 1. Identify the location of the tree trunk and dripline of all on- and off-site trees subject to Section 15.70.020.
 - 2. A protective fence shall be installed around all trees subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.

3. Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.
4. Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.
5. Additional measures may be required, as determined by the Planning Commission or Director.

15.70.050 Emergency Tree Removal. A tree may be removed on an emergency basis under any of the circumstances listed below. The property owner shall retro-actively submit an application to the Community Development Department within seventy-two (72) hours of the tree removal. The application shall be subject to the requirements of Sections 15.70.025 through 15.70.035.

- A. The tree is in a dangerously substandard condition which poses an immediate threat to the safety of persons or structures.
- B. The tree is obstructing the containment of a fire.
- C. The tree is obstructing flood waters in creek beds or waterways, as determined by the City Engineer.

15.70.055 Violation and Penalty.

Any person who destroys or removes a tree in violation of this Chapter shall:

- A. Plant one (1) replacement tree in a twenty-four (24) inch box container for each two (2) inches of the trunk diameter of the destroyed or removed tree. The replacement tree species and locations shall be subject to the review and approval of the Director; or
- B. Pay restitution to the City in accordance with Section 15.70.040.F.
- C. In addition to the foregoing, any violation of this Chapter may be, at the discretion of the City Manager, charged and prosecuted as an infraction or misdemeanor, pursuant to Chapter 1.20.

15.70.060 Appeal. Any decision of the Director, made in accordance with Sections 15.70.030.A and 15.70.030.B, regarding a tree removal permit may be appealed to the Planning Commission within ten (10) days of the decision. Any decision of the Planning Commission regarding the tree removal permit may be appealed to the City Council within ten (10) days of the decision. The person filing the appeal shall file an appeal form stating the grounds of the appeal and pay the appeal fee established by resolution of the City Council. Any decision made by the City Council shall be final.”

(Ord 381, 2005)

Chapter 16.50HILLSIDE DEVELOPMENT, OPEN SPACE, AND TREESSections:

- 16.50.010 Purpose and Policy.
- 16.50.011 Development Standards.
- 16.50.020 Open Space.
- 16.50.030 Trees.
- 16.50.040 Density.
- 16.50.050 Grading.

16.50.010 Purpose and Policy. The City Council of the City of Clayton hereby finds that the terrain of certain areas of the City provides a unique and substantial character to the area, and forms an integral part of the City's total environment. Due to their physical dominance on the City's landscape, development of the hillside areas will definitely affect the visual and environmental character of the community. The City's primary objective regarding hillside development is to preserve the natural terrain, quality environment and aesthetic character of the City, while encouraging creative, innovative and safe residential development with a variety of housing types. Such characteristics will only be achieved when special consideration is given to those developments, subdivisions and lot splits within hillside areas on an individual basis, and proper consideration of the variations in conditions, design criteria and other requirements which must be flexible in order to achieve a development that meets the foregoing purpose consistent with the policies set forth herein below.

Subdivisions and other developments in hillside areas shall be subject to the provisions of this Chapter 16.20.

In enacting this Chapter 16.20 it is the intention and the policy of the City of Clayton to:

A. Preserve the most visually significant skylines, hilltops and hillsides as viewed from the streets that have been designated "Scenic Routes" by the City of Clayton's Scenic Routes Element of the General Plan.

B. Allow only minimal grading which relates to the natural contour of the land and which will round off, in a natural manner, sharp angles at the top and ends of cut and fill slopes, to provide a smooth transition from engineered slope to natural topography. Grading which creates a mass-graded, padded lot effect shall not be allowed, such as grading plans that propose the creation of high, artificial appearing slopes at the boundaries of developed areas. Land with 26% or greater slope shall not be graded except at the specific direction of the Planning Commission and/or City Council and only where it can be shown that a minimum amount of development is in the spirit of, and not incompatible with, the intention and purpose of the Safety Element of the General Plan.

C. Ensure that future hillside developments are visually and functionally compatible with the rural character of Clayton. The design of projects shall reflect sensitivity to the opportunities and conditions of the site. Allow new land developments only in a manner that compliments the natural features of the area, including the topography, creek channel,

vegetation, rock outcroppings and soil characteristics. A three dimensional view of the proposed project may be required.

D. Strongly encourage the retention and protection of significant trees, such as oaks, and riparian vegetation which stabilize steep hillsides and creek banks, retain moisture, prevent erosion and enhance the natural scenic beauty, and where necessary, require additional landscaping to enhance the scenic and safety qualities of the hillsides.

E. Require a variety of building types and designs to materially reduce grading and disturbance to the natural character of specific areas.

F. Ensure that preferential consideration is given to the grouping of houses in clusters when such clustering is in the spirit of and not inconsistent with the intention and purposes of the Hillside Ordinance. However, the overall density should be within the limits established by the General Plan and the prevailing Zoning District and ordinances which may be developed for specific projects.

G. Establish circulation which will serve local traffic efficiently with a minimum of disturbance to hillsides and with a minimum of conflict with existing residential neighborhoods.

H. To ensure safe development, careful consideration should be given to potentially hazardous geologic and soil conditions. Reports shall be required early in the planning process. In areas of difficult topography, density determinations shall be controlled by topographic and geologic limitations. (Ord. 325, 1996; Ord. 192, 1978)

16.50.011 Development Standards. The following development standards are established as the minimum deemed necessary to ensure public health, safety and welfare, and to accomplish their intent and purpose of minimum scarring of hillsides:

A. Hillside street standards shall reflect a rural rather than urban character. Street alignments, where practical, should be parallel to contours. Where a location between a valley and ridge is unavoidable, directional pavements should be split, with the principle of grading being half cut and half fill versus all fill or all cut. The detailed design characteristics for each type of street shall be very carefully considered within the framework of requiring absolute minimum geometric standards.

B. Sidewalk and walkways shall be provided in accordance with carefully conceived total pedestrian circulation plan, and not rigidly appended into every street.

C. Bicycle and equestrian trails should be integrated onto the overall circulation plan for any project in accordance with the City of Clayton's Master Trails Plan.

D. Street lighting in hillside areas should comply with City specifications, be of low profile design, be unobtrusive, and be designed to enhance a rural character.

E. When the terrain necessitates the elimination of on street parking alternative methods such as off street or intermittent widening of streets for parking and turnarounds shall be provided.

F. Building design and architectural features shall be compatible to the specific parcel to be developed and with the purpose and policies of this ordinance. Lot size, building types, height limits and setbacks shall be flexible in order to achieve this end; however, safety considerations shall be of foremost concern. (Ord. 325, 1996; Ord. 192, 1978)

16.50.020 Open Space. Those areas that are to remain as undeveloped open spaces such as undevelopable slopes and natural landmarks, etc., or to be used for recreational purposes, may be offered through dedication as part of an open space and park system. If however, such

an offer is not accepted, the developer shall make provisions for ownership and care of the open space in such a manner that there can be the necessary maintenance thereof. Such areas shall be provided with appropriate access and shall be designated as separate parcels or special easements which may be maintained through special fees charged to the residents of the subject development or through an appropriate homeowners association. (Ord. 325, 1996; Ord. 192, 1978)

16.50.030 Trees. No trees shall be removed except those specifically designated for removal on the plans approved by the Planning Commission or City Council. A tree protection plan shall be prepared in accordance with Section 15.70.045 for all trees to be retained.

- A. The developer shall be subject to the provisions of Chapter 15.70 for removal of any tree which was not designated for removal on the plans approved by the City.
- B. The tentative subdivision map and/or final development plan shall accurately locate all trees with a diameter of six (6) inches or greater at four (4) feet, six (6) inches above natural grade and within fifty (50) feet of an area that is planned for development or is to be graded. The trees should be identified by common name and trunk diameter. All trees to remain shall be clearly labeled and numbered. Orchards trees need not be shown unless they are required to be shown by the City.
- C. Prior to issuance of grading permits, the developer (or the arborist, if applicable) for the project shall certify that the driplines of all trees to be retained have been fenced, or protected in a similar manner in accordance with the tree protection plan. No grading is permitted within the driplines unless such grading is specifically approved by the Planning Commission or arborist. (Ord. 325, 1996; Ord. 192, 1978, Ord 381, 2005)

16.50.040 Density. The density for property subject to these standards shall decrease with increasing slope but the density shall be within the limits established by the General Plan. Said decrease in density shall be determined by the Planning Commission. (Ord. 325, 1996; Ord. 192, 1978)

16.50.050 Grading. Preliminary grading plans shall be submitted to the Planning Commission with the tentative subdivision map or final development plan. Said grading plans and necessary exhibits shall contain the following information. Grading plans should not be diagrammatic or generalized.

- A. Grading plans shall show all grading proposed for roads, driveways and building sites.
- B. The limit of fill and cut shall be clearly labeled.
- C. For critical or sensitive areas as determined by the Planning Commission, there shall be accurate sections.
- D. Two copies of colored cut and fill maps.

Upon approval of the preliminary grading plan and exhibits, a final grading plan and necessary exhibits shall be submitted to the City for review and approval by the City Engineer and Planning Director prior to City Council action on the final subdivision map. Said final grading plan shall be consistent with the preliminary grading plan approved by the Planning Commission. (Ord. 325, 1996; Ord. 192, 1978)