



**AGENDA
PLANNING COMMISSION
Regular Meeting**

7:00 P.M. on Tuesday, September 10, 2013

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

- 1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**
- 2. ADMINISTRATIVE**
 - 2.a. Review of agenda items.
 - 2.b. Declaration of Conflict of Interest.
 - 2.c. Planning Commissioner Keith Haydon to report at the City Council meeting of October 1, 2013 (alternate: Vice Chair Dan Richardson).
- 3. PUBLIC COMMENT**
- 4. MINUTES**
 - 4.a. Approval of the minutes for the August 27, 2013 regular meeting.
- 5. PUBLIC HEARINGS**
 - 5.a. **SPR-05-13, Site Plan Review Permit, Steve and Sue Brye, 19 Atchinson Stage Road, APN: 120-031-003.** Public Hearing to consider a Site Plan Review Permit request to construct a single-story addition on an existing single-story single-family residence. The addition is proposed to be approximately 515 square feet in area and 16 feet, 6 inches in height.

Staff Recommendation: Approve subject to Conditions and find the proposal is exempt under CEQA.
 - 5.b. **(Continued Item) ZOA-03-13, Municipal Code Amendment, City of Clayton.** Public Hearing to consider a City-initiated Ordinance to Amend Portions of Title 17 of the Clayton Municipal Code, Establishing Regulations for Cottage Food Operations.

Staff Recommendation: Adopt Resolution No. 05-13, recommending City Council approval of an Ordinance amending Title 17 of the Clayton Municipal Code, establishing regulations for cottage food operations and find there is no possibility that the proposed amendment may have a significant effect on the environment under CEQA.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

- Planning Commission Procedures and Protocol.
- Planning Commission Conflict of Interest Maps.

8.b. Commission.

9. ADJOURNMENT

- 9a. The next regularly-scheduled meeting of the Planning Commission will be held on Tuesday, September 24, 2013 at 7:00 p.m.**

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, August 27, 2013

1. CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

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

Present: Chair Gregg Manning
Commissioner David Bruzzone
Commissioner Keith Haydon
Commissioner Sandra Johnson

Absent: Vice Chair Dan Richardson (excused)

Staff: Community Development Director Charlie Mullen
Assistant Planner Milan J. Sikela, Jr.

2. ADMINISTRATIVE

2.a. Review of agenda items. No Changes.

2.b. Declaration of Conflict of Interest. None.

2.c. Planning Commissioner Sandra Johnson to report at the City Council meeting of September 17, 2013 (alternate: Commissioner Keith Haydon).

3. PUBLIC COMMENT

3.a. None.

4. MINUTES

4.a. Approval of the minutes for the July 23, 2013 regular meeting.

Commissioner Haydon moved and Commissioner Bruzzone seconded a motion to approve the minutes, as submitted. The motion passed 3-0-1-1 (Commissioner Johnson abstained and Vice Chair Richardson was an excused absence).

5. PUBLIC HEARINGS

5.a. **SPR-04-13, Site Plan Review Permit, Andres Gonzalez, 944 Douglas Court, APN: 119-560-007.** Public Hearing to consider a Site Plan Review Permit request to construct a detached accessory pool house/recreation structure measuring approximately 714 square feet in area and 13 feet, 6 inches in height.

Assistant Planner Sikela presented the staff report.

The public hearing was opened.

Chair Manning asked if gutters were going to be installed on the subject structure. The applicant, Andres Gonzalez, responded yes, gutters would be installed.

Commissioner Johnson requested general clarification on the floor plan of the subject structure, specifically asking how the bathroom relates to the other areas in the structure. Assistant Planner Sikela explained that the main interior area of the subject structure would be open and unwall on the west (front) and north (left side) elevations, similar to a cabana. The main interior area is proposed to contain a bar and kitchenette. The bathroom is proposed without a shower and would be located outside of and not have a direct doorway connection to the main interior area. No bedroom is proposed in the subject structure.

Commissioner Bruzzone asked about the second dwelling unit concerns raised by staff. Director Mullen explained that, although the current property owner has indicated that the subject structure will not be used as a second dwelling unit, future owners of the property may not be aware of the requirements and approval process for second dwelling units. As a result, staff has provided conditions that preclude the subject structure from being converted into a second dwelling unit unless properly permitted.

Commissioner Haydon indicated that the subject structure has been well designed and should not be visible to neighbors.

The public hearing was closed.

Commissioner Haydon moved and Commissioner Johnson seconded a motion to approve Site Plan Review Permit SPR-04-13, with the findings of approval and conditions of approval recommended by staff. The motion passed 4-0-1 (Vice Chair Richardson was an excused absence).

- 5.b. **ZOA-03-13, Municipal Code Amendment, City of Clayton.** Public Hearing to consider a City-initiated Ordinance to Amend the Clayton Municipal Code Title 17, Establishing Regulations for Cottage Food Operations.

Assistant Planner Sikela presented the staff report.

Commissioner Haydon had the following comments and questions:

- Since there is a definition for the term “cottage food operation” provided in the draft Ordinance, a definition for the term “cottage food” should also be included to provide an intuitive connection between the two terms.
- Is there a maximum limit on the number of family members that are allowed to be involved in the cottage food operation? Assistant Planner Sikela responded no, there is no limit on the number of family members that can be involved.
- It appears as if it up to the applicant to self-enforce their own cottage food operation in accordance with Assembly Bill 1616 and the California Health and Safety Code. Director Mullen indicated that to some extent that was correct.

Commissioner Bruzzone had the following comments and questions:

- Asked if we should remove the term “full time” from the definition of “cottage food operation” so that it will not appear that we are regulating whether or not the one allowed employee will be part time or full time. We are only specifying the maximum number of employees, not the number of hours the employee works at the cottage food operation. Director Mullen indicated that could be better clarified.

Chair Manning had the following comments and questions:

- What constitutes a “small child” as it is used in the draft Ordinance? Director Mullen responded that the draft Ordinance was crafted to conform with State

requirements while allowing the wording to be flexible enough to remain consistent as future modifications that may be made by the State to the cottage food operation regulations in the Health and Safety Code. As a result, no definition is provided for “small child.” However, as home occupation requests for cottage food operations are submitted to the City in the future, we would require the applicant to provide information about household size, number of people involved in the operation, hours and days of operations, type of food being produced, etc. in order to get a better understanding of what is proposed and to provide conditions, as needed, to ensure the highest level of compliance with State regulations. The intent of this State mandate is to encourage cottage food operations and not prohibit them. From staff’s perspective, these types of operations would survive by the product it produces, which would assist in the self-enforcing aspect of the operation.

- Who decides what type of foods can be produced by a cottage food operation and who do we petition to initiate changes to the foods that are allowed to be produced? Assistant Planner Sikela responded that the State Public Health Officer has the authority to decide what types of foods can be produced by a cottage food operation and can change the types of foods allowed to be produced.
- Does the County Environmental Health Department have a form that cottage food operation applicants fill out? Assistant Planner Sikela responded that for City approved cottage food operations the County will then provide approval documentation and a registration number. As part of the Planning Commission review of a home occupation permit request for a cottage food operation, staff will include a condition that requires the applicant to provide this approval documentation and registration number to the City prior to commencing the cottage food operation.
- How are issues related to enforcement addressed? Assistant Planner Sikela responded that City staff, including the Code Enforcement Officer, would work with the County Environmental Health Department to address complaints and/or violations committed by a cottage food operation.

Commissioner Johnson had the following comments and questions:

- Will the cottage food operation be required to get a City business license? Assistant Planner Sikela explained yes and that a condition would be included in the Home Occupation Permit requiring the applicant to obtain a business license prior to commencing the cottage food operation, which is standard procedure for the permitting of all home occupation permits.
- We want to make sure that preparation of food is conducted in a manner allowed by the Health and Safety Code.
- I do not see a cottage food operation as being any different than a normal food-preparing business in terms of cleanliness, safety, and licensing.

The public hearing was opened. There were no public comments. The public hearing was closed.

By consensus, the Planning Commission directed staff to amend the draft Ordinance based on Commission input, return with a revised draft, and continued the public hearing for Municipal Code Amendment ZOA-03-13 to the regular meeting on September 10, 2013.

- 5.c. **ZOA-04-13, Municipal Code Amendment, City of Clayton.** Public Hearing to Consider a City-initiated Ordinance to Amend the Clayton Municipal Code Title 17, Establishing Regulations for Emergency Shelters.

Director Mullen presented the staff report.

Commissioner Bruzzone had the following comment and question:

- By designating the Keller property as the most suitable emergency shelter site, would it preclude other City projects from being proposed at the same site in the future? Director Mullen responded that no, this designation would not preclude other City projects from being proposed at the Keller property site in the future.
- Is my understanding correct in that we are not promoting emergency shelter uses at the Keller property but, rather, merely listing the site as the best location for a potential emergency shelter? Director Mullen responded that was correct. The City is not soliciting the site for emergency shelter purposes but, instead, would only be designating the site as a possible location for such a use. If the City was approached by a prospective applicant the City would have a better discretionary ability to control the development and operation if the potential shelter site is located on City property.

Commissioner Johnson had the following comment and questions:

- It is good to designate the Keller property for emergency shelter uses since a potential applicant would not have to pursue other locations within the City as these other locations might be located closer to residential areas.
- How did you arrive at ten as the maximum number of people allowed to be served nightly in beds within the shelter? Director Mullen indicated that, as he researched other jurisdictions' emergency shelter standards, he tried to strike a balance between serving a feasible number of people while avoiding overcrowding and found the number ten to be the least number of people served nightly in beds within the shelters ordinances that staff researched.
- Can the City deny a potential applicant proposing to construct an emergency shelter? Director Mullen responded that yes, the City has the right to deny an application. The City is not obligated to accept an application for an emergency shelter just because it is an emergency shelter proposal.

Commissioner Haydon inquired is the City is just showing a good faith effort toward establishing a location within Clayton for emergency shelters rather than actually being required to produce this type of facility? Director Mullen indicated that was correct. The proposed amendment entail satisfying an Implementation Measure in the Housing Element and State law.

Chair Manning had the following questions and comments:

- Is a site that is designated for emergency shelter purposes required to be City-owned property? Director Mullen indicated that no, a site designated for emergency shelter purposes does not have to be City-owned property. However, after discussing the issue with the City Manager and City Attorney, it was seen as the best choice since locating a shelter on City-owned property would allow the City to have greater control over the shelter.
- Instead of including the Keller House for emergency shelter purposes, could we place another building on the Keller property that could be used, thereby avoiding impacts to the Keller House. Director Mullen responded yes.
- Although the two churches that are located in Clayton do not contain homeless or emergency shelter facilities, there are twenty churches outside of Clayton in neighboring cities that do provide services in the winter for homeless citizens.

The public hearing was opened. There were no public comments. The public hearing was closed.

Commissioner Haydon moved and Commissioner Johnson seconded a motion to adopt Resolution No. 06-13 recommending City Council approval of an Ordinance amending the Clayton Municipal Code Title 17, establishing regulations for emergency shelters, and specifically establishing emergency shelters as a permitted use in the Public Facilities (PF) Zoning District, establishing an emergency shelters definition and establishing development and managements standards for emergency shelters. The motion passed 4-0-1 (Vice Chair Richardson was an excused absence).

6. OLD BUSINESS

None.

7. NEW BUSINESS

- 7.a. **GPA-03-13, Capital Improvement Program (CIP) Conformity with General Plan, City of Clayton.** Review of City of Clayton CIP projects proposed to be undertaken in the coming fiscal year (FY 2013 – 2014) for conformity with the General Plan.

Director Mullen presented the staff report.

Commissioner Bruzzone indicated that, regarding Project 10433 (DVMS Safety Signing), it appears that we are setting aside \$40,000 for budgeting of this capital improvement. Director Mullen indicated that the flashing beacons, signs, and radar speed readouts are pre-made units so the capital improvement will involve installation only.

Commissioner Johnson moved and Commissioner Haydon seconded a motion to find the City's CIP projects for the 2013-2014 fiscal year are in conformity to the Clayton General Plan. The motion passed 4-0-1 (Vice Chair Richardson was an excused absence)..

8. COMMUNICATIONS

- 8.a. Staff.

Director Mullen provided updates on Silver Oak Estates, Skipolini's Bocce Ball Courts, and anticipated items on the September 10, 2013 Planning Commission agenda.

- 8.b. Commission.

None.

9. ADJOURNMENT

- 9a. The meeting was adjourned at 8:25 p.m. to the next regularly-scheduled meeting of the Planning Commission on Tuesday, September 10, 2013 at 7:00 p.m.

Submitted by
Charlie Mullen
Community Development Director

Approved by
Gregg Manning
Chair

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PLANNING COMMISSION STAFF REPORT

Meeting Date: September 10, 2013

Item Number: 5.a

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Public Hearing to consider a Site Plan Review Permit request to construct a 515 square-foot single-story addition on an existing single-story single-family residence (SPR-05-13)

Applicant: Steve and Sue Brye

REQUEST

Public Hearing to consider a Site Plan Review Permit request to construct a single-story addition on an existing single-story single-family residence. The addition is proposed to be approximately 515 square feet in area and 16 feet, 6 inches feet in height.

PROJECT INFORMATION

Location: 19 Atchinson Stage Road
APN: 120-031-003

General Plan Designation: Low Density – Single Family Residential (1.1 to 3.0 units per acre).

Zoning: Single Family Residential R-12 District (12,600 square-foot minimum lot area).

Environmental Review: Categorically exempt per Section 15303(a), Class 3 of the California Environmental Quality Act (CEQA) Guidelines.

Public Notice: On August 30, 2013, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the project site.

Authority: Section 17.44.020 of the Clayton Municipal Code (CMC) authorizes the Planning Commission to approve a site plan review permit in accordance with the standards of review in CMC Section 17.44.040.

DISCUSSION

The applicant is requesting Planning Commission consideration of a Site Plan Review Permit request to allow the construction of a single-story addition on the front and side of an existing single-story single-family residence. The project is proposed to be approximately 515 square feet in area and 16 feet, 6 inches in height and entails a new fourth bedroom, master bathroom, and garage addition. The vicinity map is provided as **Attachment 1** and the site plan, roof plan, floor plan, and architectural elevations are provided as **Attachment 2**. The addition has been designed with matching fascia, trim, stucco siding, and 4:12 roof pitch. The existing wood shingle roof material is proposed to be replaced with composition roof material. The proposed exterior materials and colors provide integration which will complement the residence. The proposed design of the addition provides visual interest and articulation through the recessed step-ins in the front, left side, and rear facades. Public views of the front elevation of the residence from right-of-way areas would benefit from the visual balancing provided by the project. The extension of the main building component out toward the left side property line adds massing to the overall structure that lends a visual balancing in the form of the extended main roof line being punctuated by the roof peak of the garage section.

Setback Analysis

The project meets the R-12 District standards as shown below.

Required Setbacks	Existing Setbacks	Proposed Setbacks	Project Compliance
Front Setback 20'	East 20'	East No Change	Yes
Side Setback 10' interior	North 15'	North No Change	Yes
	South 27' 6"	South 15' 6"	Yes
25' aggregate	Aggregate 42'	Aggregate 30' 6"	Yes
Rear Setback 15'	West 31'	North No Change	Yes

Residential Floor Area Analysis

Building Footprint

The proposal meets the building footprint requirements as shown below.

Lot Size	Building Footprint Allowed	Existing Building Footprint	Proposed Building Footprint	Project Compliance
12,100 sq ft	3,600 sq ft	2,655 sq ft	3,170 sq ft	Yes

Floor Area

The proposal meets the floor area requirements as shown below.

Lot Area	Floor Area Allowed	Existing Floor Area	Proposed Floor Area	Project Compliance
12,100 sq ft	5,200 sq ft	2,655 sq ft	3,170 sq ft	Yes

Conclusion

Staff has reviewed the design aspects of the proposed plans relative to the Zoning Ordinance standards for Site Plan Review Permits and has determined that the project, as conditioned, is in conformance with the Zoning Ordinance standards. The proposed findings of approval listed below specifically address the standards.

RECOMMENDATION

Staff recommends the Planning Commission consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, approve Site Plan Review Permit SPR-05-13 to allow the construction of a single-story addition measuring approximately 515 square feet in area and 16 feet, 6 inches in height on an existing single-story single-family residence.

Proposed Findings of Approval

Based upon the evidence set forth in the staff report, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following findings that Site Plan Review Permit SPR-05-13, as conditioned:

1. Is consistent with the General Plan designation and policies.
2. Meets the standards and requirements of the Zoning Ordinance.
3. Preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.
4. Maintains solar rights of adjacent properties.
5. Reasonably maintains the privacy of adjacent property owners and/or occupants.
6. Reasonably maintains the existing views of adjacent property owners and/or occupants.
7. Is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk.
8. Is compatible with the neighborhood and surrounding land uses.

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

Proposed Condition of Approval

This condition of approval applies to the Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Teresa Muscarella Designs, date stamped August 14, 2013.

1. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

Advisory Notes

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

1. The applicant shall comply with all applicable State, County, and City codes, regulations and adopted standards as well as pay all associated fees and charges.
2. Prior to obtaining a building permit, the applicant shall prepare an erosion and stormwater control plan for review and approval by the City Engineer (Clayton Municipal Code Chapter 13.12).
3. This Site Plan Review Permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be null and void (Clayton Municipal Code Sections 17.64.010-17.64.030).
4. All construction and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless specifically authorized in writing by the City Engineer (Clayton Municipal Code Section 15.01.101) located at 5375 Clayton Road, Concord, 925-363-7433.
5. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
6. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.
7. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&Rs) administered by a homeowners' association (HOA), additional requirements and/or approvals may be required by the HOA. Before proceeding with the project, it is advisable to check with the HOA to ensure any applicable requirements are met.

Attachments:

1. Vicinity Map
2. Site Plan, Roof Plan, Floor Plan, and Architectural Elevations, prepared by Teresa Muscarella Designs, date stamped August 14, 2013

SPR\2013\05-13.brye.addition\05-13.sr.pc.mtg.9.10.13.brye.addition



VICINITY MAP

	Brye Residence SPR-05-13 Addition 19 Atchinson Stage Road APN: 120-031-003	N  (Not to Scale)
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Symbol Key

number division

Over or 1/2

Equal number

• CUBIC 2 1/2 1/4 1/2 1 1 1/2

Number - jump to upper

OR

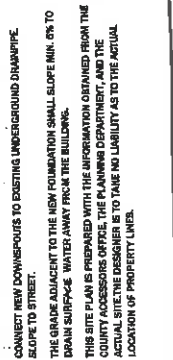
→ 1/2 1/4 1/2 1 1/2

→ OR (Cubic center 1/2)

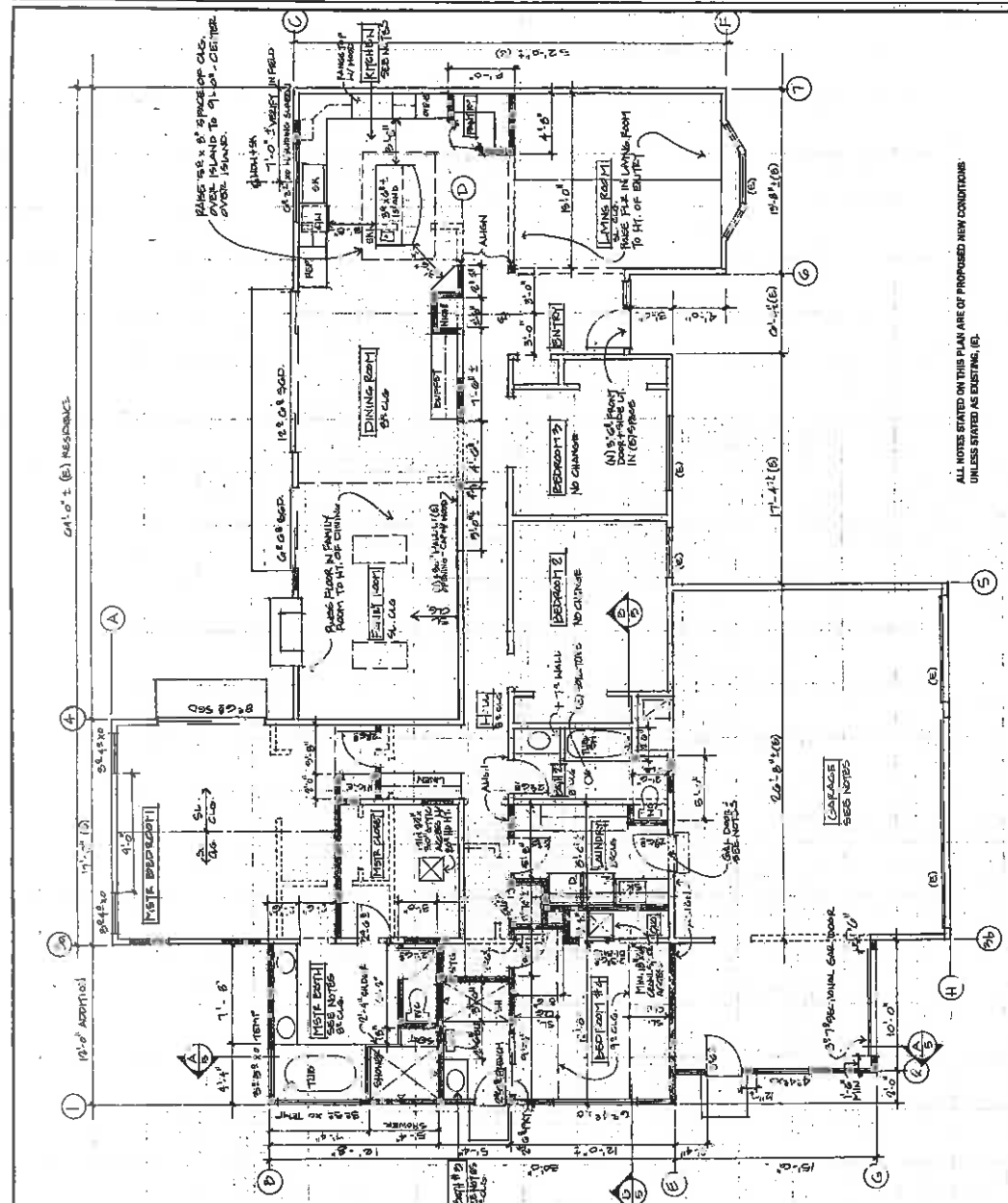
OR 1/2 center

List of Abbreviations

AK	air	dermat
BA	back	back
BR	brake	brake
CR	crack	crack
DR	draw	draw
GR	grass	grass
HR	hair	hair
IR	iron	iron
OR	orange	orange
UR	urine	urine
VR	vase	vase
WR	wire	wire
YR	yellow	yellow
ZR	zero	zero
AR	arm	arm
BR	breast	breast
CR	crust	crust
DR	draw	draw
GR	grass	grass
HR	hair	hair
IR	iron	iron
OR	orange	orange
UR	urine	urine
VR	vase	vase
WR	wire	wire
YR	yellow	yellow
ZR	zero	zero

[illegible]

RESIDENCE REMODEL AND ADDITION



14110

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LEGEND

- EXISTING WALLS TO REMAIN
NEW WALLS TO BE CONSTRUCTED
EXISTING WALLS TO BE REMOVED

NOTES

1. WINDOWS SHALL BE DUAL PANE LOW EMISSION GLASS UNLESS OTHERWISE NOTED ON PLAN.
2. ALL WINDOWS MUST HAVE A MINIMUM HEIGHT OF 6'-0" UNLESS OTHERWISE NOTED ON PLAN.
3. EMERGENCY EXIT OPENINGS AT GRADE FLOOR, IF EXTERIOR GRADE IS 4'-0" OR LESS TO WINDOW SILL, SHALL HAVE A MINIMUM NET CLEAR OPENING OF 8 SQ FT. WHEN GRADE TO WINDOW SILL IS MORE THAN 4'-0" NET, THE MINIMUM NET CLEAR OPENABLE HEIGHT OF 2' AND WIDTH OF 2'-0".
4. PROVIDE SLIDING GLAZED ENTRY DOORS AND SHOWER ENCLOSURES CONTAINING GLASS, AT TUB AND SHOWER ENCLOSURES, WITHIN 2'-0" OF DOOR, WITHIN 3'-0" OF THE FLOOR AND AT ALL STAIRWAYS AND LANDINGS. FINISHED SHOWER DOORS SHALL OPEN OUTWARDS.
5. PROVIDE IMPROVED ANY LIGHTS WHERE COVERED, WHETHER ENLIGHTENED OR UNENLIGHTENED. ALL LIGHTS SHALL BE LOCATED NO CLOSER THAN 10 FEET TO ANY OTHER LIGHT SOURCE. PROVIDE ONE (1) WATT PER SQUARE FOOT MANUFACTURING SPECIFICATIONS USE GENSPEC LIST HANGERS AS NEEDED FOR FRAMING.
6. NEW PLUMBING FIXTURES AND PLUMBING FITTINGS SHALL MEET THE STANDARD AS NOTED; LAVATORY CLOSERS-1.3 LB GPM, SHOWER HEAD-2.5 CFM MAX.; LAVATORY FAUCETS-1.5 GPM MAX. SINK FAUCETS-1.5 GPM MAX.
7. PROVIDE MECHANICAL VENTILATION WITH THE CAPACITY OF 90 CFM PER LINEAR FOOT OF BATH TUB IN NEW BATHROOMS, WATER CLOSET COMPARTMENTS, LAUNDRY ROOMS AND BREAKFAST ROOMS. DUCTILES FANS ARE NOT ACCEPTABLE.
8. PROVIDE WATER RESISTANT CYSELM BOARD AT ALL BATHROOM, LAUNDRY AND UTILITY AREAS.
9. SHOWER AND/OR TUB/SHOWER WALLS SHALL HAVE A SMOOTH, HARD, NONCOMBUSTIBLE SURFACE SUCH AS CERAMIC TILE OR FIREBRICKS OVER A MOISTURE RESISTANT UNDERLAYMENT OF "DURICO" OR EQUAL AT A MINIMUM THICKNESS OF 1/2".
10. ALL WATER CLOSETS LOCATED IN THE SMALL SHALL HAVE A 2'-0" CLEARANCE IN FRONT OF THE WATER CLOSET TO THE NEAREST OBSTRUCTION.
11. ALL TUBS AND SHOWERS SHALL HAVE PRESSURE-BALANCE OR THERMOSTATIC MIXING VALVE ARM CONTROL.
12. MINIMUM 1/2" DIA. AIR TRAP AND DRAIN PIPE SIZE SHALL BE 2" DIAMETER FOR SHOWER PAN.
13. PROVIDE LANDINGS AT ALL NEW EXTERIOR DOORS. WIDTH TO BE AT LEAST 3'-0" AND DEPTH TO BE AT LEAST 3'-0" IN THE CASE OF DOUBLE DOORS. DOORS SHOULD SWING AWAY FROM THE DIRECTION OF TRAVEL. MAINTAIN MINIMUM 3'-0" CLEARANCE FROM EXTERIOR DOORS NOT SWING AWAY FROM LANDING. WHERE DOORS SWING OUTSIDE THE BUILDING, PROVIDE A MINIMUM 3'-0" CLEARANCE FROM EXTERIOR SIDE OF THE DOOR SWINGING. THIS INCLUDES ON THE GARAGE ADJACENT TO AND SUPPORTING THE RESIDENCE.
14. PROVIDE A MINIMUM OF 22"x30" ATTIC ACCESS WITH WEATHER STRIPPING HAVING A MINIMUM CLEAR HEIGHT OF 30" IN LOCATION AS SHOWN ON PLAN. PROVIDE SWITCHED LIGHTING WITHIN REACH OF HAND FROM ENTRANCE TO ATTIC.
15. PROVIDE R-13 INSULATION IN ALL NEW EXTERIOR WALLS AND ROOFS.
16. PROVIDE R-43 INSULATION IN ALL NEW EXTERIOR WALLS AND IN WALLS COMMON TO HOUSES AND GARAGE.
17. NEW WALLS AND CEILING COMMON TO HOUSE AND GARAGE SHALL BE OF THE RESISTIVE CONSTRUCTION SMEARED WITH 5/8" TYPE "2" CYSELM BOARD ON THE GARAGE SIDE FROM THE DRAINAGE TO THE "TUB" END OF THE DOOR SWEEPING. THIS INCLUDES ON THE GARAGE SIDE OF THE DOOR SWEEPING. THIS INCLUDES ON THE GARAGE ADJACENT TO AND SUPPORTING THE RESIDENCE.
18. DOOR COMMON TO HOUSE AND GARAGE SHALL BE 2-0 MINUTE LABELED TRY-FITTING DOOR, WEATHER STRIPPED WITH A SELF CLOSURE AND EMERF LATCH.
19. PAU-USE EXISTING DUCTS TO SERVICE NEW AREAS. LOCATE DUCTS IN CROWN SPACE.
20. ALL NEW ELECTRICAL WORK SHALL BE INSTALLED WITH A HIBES PROVIDED PER NEC CODE.
21. CONTRACTOR TO COORDINATE DUCT SIZES AND LOCATIONS WITH HVAC CONTRACTOR PRIOR TO CONSTRUCTION.
22. WATER HEATER-INSTALL NEW TANKLESS WATER HEATER AS SHOWN ON PLANS. INSTALL PER MANUFACTURER'S APPLICATIONS. PROVIDE COMBUSTION AIR VENT TO OUTSIDE AND PRESSURE RELIEF VALVE TO OUTSIDE.
23. PROVIDE NON-REMOVABLE VACUUM BREAKERS ON ALL EXTERIOR DOWNSPUTTERS.
24. PLUMBING WATER TERMINATIONS SHALL BE AT LEAST 10" AWAY FROM ANY OPENING INTO THE RESIDENCE.
25. DRYER VENT TO BE 4" IN DIAMETER, SMOOTH SURFACE, WITH BACKDRAFT DAMPER TO EXTERIOR, NOT TO EXCEED 14' AND 2 - 90 DEGREE ELBOW. TERMINATE MIN 9" FEET FROM OPENING.
26. PROVIDE KICK APPROVED DIRECT VENT FRUSTRACE WHERE OCCURS. INSTALL PER MANUFACTURER'S INSTRUCTIONS.
27. PROVIDE SMOKE DETECTOR AND ALARM ACCORDING TO CURRENT LOCAL CODES. PROVIDE SMOKE DETECTORS IN EVERY PACE.
28. CONTRACTOR TO VERIFY OR PROVIDE EVID TO METAL GAS AND WATER PIPES.
29. CLAIMER MAKER TO DETERMINE EXACT SIZE OF NEW CHIMNEYS IN FIELD. DO NOT SCALE THESE DRAWINGS. PROVIDE A MINIMUM OF 3'-0" BETWEEN BOLD AND COUNTERS/APPLIANCES.

**CITY OF CLAYTON
PLANNING COMMISSION
STAFF REPORT**

Meeting Date: September 10, 2013

Item Number: 5.b

From: Charlie Mullen, Community Development Director 
Milan J. Sikela, Jr., Assistant Planner 

Subject: (Continued Item) Public Hearing to Consider a State-Mandated City-Initiated Ordinance Amending Portions of Title 17 of the Clayton Municipal Code, Establishing a Definition and Regulations for Cottage Food Operations for Home-Based Businesses in Clayton (ZOA-03-13).

Applicant: City of Clayton

REQUEST

Continued Public Hearing item to consider a State-mandated City-initiated Ordinance amending portions of Title 17 of the Clayton Municipal Code, establishing a definition and regulations for Cottage Food Operations for home-based businesses in Clayton.

PROJECT INFORMATION

Location: Citywide

General Plan Designation: Citywide

Zoning Classification: Citywide

Public Notice: On August 16, 2013, a public hearing notice was posted at designated locations in the City and, on August 17, 2013, a public hearing notice was published in the Contra Costa Times.

BACKGROUND AND DISCUSSION

On August 27, 2013, the Clayton Planning Commission conducted a public hearing on this item to consider a State-mandated City-initiated Ordinance amending portions of Title 17 of the Clayton Municipal Code, establishing a definition and regulations for Cottage Food Operations for home-based businesses in Clayton. At that meeting the Commission received a detailed staff report and presentation, open and closed the public hearing with no public input being provided, and after discussion gave input and direction to staff to bring back a revised draft Ordinance to clarify the definition and regulations as they relate to a potential cottage food operation employee. Please see the draft meeting minutes from the August 27th meeting in this agenda packet for further reference.

In order to address the Planning Commission's direction and input, staff took a second look at the entire draft Ordinance and sought additional input from our City Attorney. As a result of this additional review and input, staff has prepared an amended and revised draft Ordinance for Cottage Food Operations.

Specifically, after further review of AB 1616 and input from the City Attorney, staff has amended the Ordinance to clarify that a maximum of one (1) full-time "equivalent" cottage food employee is allowed. This in essence means a cottage food operator could potentially have one (1) full time employee or several part-time employees provided that the combined employment hours of the part-time employees do not exceed one (1) full-time equivalent employee (i.e. 40 hours per week). However, staff and the City Attorney do believe we can limit the attendance of employees at any one time and therefore also recommend adding an additional provision that "No more than one (1) employee may work at the cottage food operation at any one time."

In addition, staff and the City Attorney identified an inconsistency with several of the existing home occupation provisions relating to the business area in the home and the employee prohibition and therefore have added the following additional provision that "The cottage food operation shall not be subject to 17.71.020.B.4 and 17.71.020.B.5."

Lastly, staff and the City Attorney made some additional minor technical editorial clean-ups to the draft Ordinance.

With these final revision edits, staff and the City Attorney believe the draft Ordinance establishes City compliance with the Health and Safety Code, as prescribed by AB 1616, while still maximizing our discretionary review authority by allowing the Planning Commission to review and approve future proposed cottage food operations in a public hearing forum.

CEQA

Pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3) it can be seen with certainty that there is no possibility that these zoning amendments to portions of Title 17 of the Clayton Municipal Code may have a significant effect on the environment, and therefore are not subject to CEQA.

RECOMMENDATION

Staff recommends the Planning Commission consider all information provided and submitted, take and consider any additional public testimony and, if determined to be appropriate, adopt Resolution No. 05-13, recommending City Council approval of an Ordinance amending portions of Title 17 of the Clayton Municipal Code, establishing a definition and regulations for the review and approval process for proposed cottage food operations as home-based businesses within the City of Clayton.

Attachment:

1. Planning Commission Resolution No. 05-13, with attachment:
Exhibit A – Draft Ordinance Establishing Regulations for Cottage Food Operations

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**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 05-13**

**RECOMMENDING CITY COUNCIL APPROVAL OF
AN ORDINANCE AMENDING PORTIONS OF TITLE 17
OF THE CLAYTON MUNICIPAL CODE
ESTABLISHING A DEFINITION AND REGULATIONS FOR
HOME-BASED COTTAGE FOOD OPERATIONS
(ZOA-03-13)**

WHEREAS, the Planning Commission held a duly-noticed public hearing on August 27, 2013, at which they continued the item to September 10, 2013 in order to address the matters described herein to amend Title 17 of the Clayton Municipal Code; and

WHEREAS, California State Assembly Bill 1616 became effective on January 1, 2013; and

WHEREAS, Assembly Bill 1616 amends the California Health and Safety Code to allow for home-based cottage food operations; and

WHEREAS, Assembly Bill 1616 and the California Health and Safety Code require that cities not prohibit home-based cottage food operations; and

WHEREAS, currently no provisions exist in the Clayton Municipal Code for home-based cottage food operations; and

WHEREAS, the home occupation permit process listed in Clayton Municipal Code Title 17 is the process administered by the City to review and approve home-based businesses; and

WHEREAS, Title 17 of the Clayton Municipal Code does not have a definition and regulations for and does not address home-based cottage food operations; and

WHEREAS, pursuant to Assembly Bill 1616 and the California Health and Safety Code, amendments to Title 17 of the Clayton Municipal Code are proposed in order to provide a definition and regulations for home-based cottage food operations; and

WHEREAS, the Planning Commission has determined that, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3), it can be seen with certainty that there is no possibility that these amendments to Title 17 of the Clayton Municipal Code may have a significant effect on the environment and, therefore, is not subject to CEQA; and

WHEREAS, the Planning Commission determined the proposed amendments to the Clayton Municipal Code are in general conformance with the Clayton General Plan; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Planning Commission has reviewed all written evidence and oral testimony presented to date.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Clayton, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of the proposed Ordinance to amend Title 17 of the Clayton Municipal Code for the purpose of addressing home-based cottage food operations.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 10th day of September, 2013.

APPROVED

ATTEST

Gregg Manning
Chair

Charlie Mullen
Community Development Director

Attachment:

Exhibit A – Draft Ordinance Establishing Regulations for Cottage Food Operations

ORDINANCE NO. ____

**AN ORDINANCE AMENDING PORTIONS OF TITLE 17
OF THE CLAYTON MUNICIPAL CODE
ESTABLISHING A DEFINITION AND REGULATIONS FOR
HOME-BASED COTTAGE FOOD OPERATIONS
(ZOA-03-13)**

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

**THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY FIND AS
FOLLOWS:**

WHEREAS, California State Assembly Bill 1616 became effective on January 1, 2013; and

WHEREAS, Assembly Bill 1616 amends the California Health and Safety Code to allow for home-based cottage food operations; and

WHEREAS, Assembly Bill 1616 and the California Health and Safety Code require that cities not prohibit home-based cottage food operations; and

WHEREAS, currently no provisions exist in the Clayton Municipal Code that address home-based cottage food operations; and

WHEREAS, the home occupation permit process listed in Clayton Municipal Code Title 17 is the process administered by the City to review and approve home-based businesses; and

WHEREAS, Title 17 of the Clayton Municipal Code does not have a definition or regulations for home-based cottage food operations; and

WHEREAS, pursuant to Assembly Bill 1616 and the California Health and Safety Code, amendments to Title 17 of the Clayton Municipal Code are proposed in order to provide a definition and regulations for home-based cottage food operations; and

WHEREAS, the Clayton Planning Commission held a duly-noticed public hearing on August 27, 2013, at which they continued the item to September 10, 2013, and then adopted Resolution No. 05-13 recommending City Council approval of the proposed Ordinance to amend Title 17 of the Clayton Municipal Code, establishing regulations for home-based cottage food operations; and

WHEREAS, the Planning Commission determined the proposed amendments to the Clayton Municipal Code are in general conformance with the Clayton General Plan; and

WHEREAS, the Clayton City Council, at regular public meetings on [month] [day], 2013 and [month] [day], 2013, held duly-noticed public hearings to review and consider an Ordinance amending Title 17 of the Clayton Municipal Code, establishing a definition and regulations for home-based cottage food operations; and

WHEREAS, the City Council has determined that, pursuant to California Environmental Quality Act (CEQA) Guideline 15061(b)(3), it can be seen with certainty that there is no possibility that these amendments to Title 17 of the Clayton Municipal Code may have a significant effect on the environment and, therefore, is not subject to CEQA; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Clayton City Council has reviewed all written evidence and oral testimony presented to date on this local matter.

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

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Section 17.04.070 of the Clayton Municipal Code, entitled “Building Height” is hereby renumbered as Section 17.04.062.

Section 3. Section 17.04.075 of the Clayton Municipal Code, entitled “Building – Main or Principal” is hereby renumbered as Section 17.04.064.

Section 4. Section 17.04.070 of the Clayton Municipal Code is hereby added to read in full as follows:

“17.04.070 Cottage Food Operation. “Cottage Food Operation” means an enterprise that is operated by a cottage food operator and may have a maximum of one (1) full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct or indirect sale to consumers, as defined in California Health and Safety Code section 113758, and is subject to all applicable regulations, standards, definitions, and requirements of the California Health and Safety Code. No more than one (1) employee may work at the cottage food operation at any one time.”

Section 5. Section 17.71.030.B.5 of the Clayton Municipal Code is hereby added to read in full as follows:

- “5. Any home occupation permit request for a cottage food operation shall also comply with the following standards:
- a. A maximum of one (1) full-time equivalent cottage food employee, not including a family member or household member, is allowed in the conduct of the cottage food operation. No more than one (1) employee may work at the cottage food operation at any one time.
 - b. Approval by the Contra Costa County Environmental Health Department of the self-certification checklist for the cottage food operation and its approval of the cottage food operation itself are required as part of the application materials.
 - c. The cottage food operation shall comply with all applicable regulations, standards, definitions, and requirements of the California Health and Safety Code.
 - d. The cottage food operation shall not be subject to 17.71.020.B.4 and 17.71.020.B.5.”

Section 6. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 7. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 8. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Sections 2-5 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton held on [month] [day], 2013.

DRAFT

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Julie K. Pierce, Mayor

ATTEST

Laci J. Jackson, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Clayton held on [month] [day], 2013, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on [month] [day], 2013.

Laci J. Jackson, City Clerk