PLANNING COMMISSION
AGENDA
Regular Meeting
Tuesday, November 22, 2022
7:00 p.m.

Hoyer Hall at Clayton Community Library
6125 Clayton Road, Clayton, California
and
Via Zoom Webinar
Webinar ID: 842 1216 5241

This meeting is being held with accommodations for both in-person and virtual attendance and participation by the public. Members of the public who prefer to view or listen to the meeting and to address the Planning Commission remotely during the meeting may do so using the methods listed under "Instructions for Virtual Planning Commission Meeting Participation" below.

Chair: Daniel Richardson
Vice Chair: Richard Enea
Commissioner: Justin Cesarin
Commissioner: Maria Shulman
Commissioner: Ed Miller

Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; and 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton. A digital copy of the Agenda with a complete packet of information including staff reports and exhibits related to each agenda item is available for public review on the City's website at https://claytonca.gov/community-development/planning/planning-commission/planning-commision-agendas/.

Any writings or documents provided to a majority of the Planning Commission after distribution of the Agenda Packet and regarding any public item on this Agenda are available for review on the City's website at https://claytonca.gov/community-development/planning/planning-commission/planning-commision-agendas/.

If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at 925-673-7300.

Most Planning Commission decisions are appealable to the City Council within 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 spoken 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.

Instructions for Virtual Planning Commission Meeting Participation

The following options are provided as a courtesy for those who would prefer to view, listen to, or provide comments remotely for the meeting. While City staff will make every effort to facilitate virtual participation in the meeting, the City cannot guarantee that the public's access to teleconferencing technology will be uninterrupted, and technical difficulties may occur from time to time.

Videoconference: To join the meeting on-line via smart phone or computer, click on the link: https://us02web.zoom.us/j/84212165241; or, through the Zoom application, enter **Webinar ID: 842 1216 5241**. No registration or meeting password is required.

Phone-in: Dial toll free 877-853-5257. When prompted, enter the Webinar ID above.

E-mail Public Comments: If preferred, please e-mail public comments to the Community Development Director at danaa@claytonca.gov by 5:00 p.m. on the day of the Planning Commission meeting. All emailed public comments received prior to 5:00 p.m. on the day of the Planning Commission meeting will be forwarded to the entire Planning Commission.

Each person attending the meeting via video conferencing or telephone and who wishes to speak on an agendized or non-agendized matter shall have a set amount of time to speak as determined by the Planning Commission Chair.

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **PRESENTATIONS**

5. **ACCEPTANCE OF THE AGENDA:** The Planning Commission will discuss the order of the agenda, may amend the order, add urgency items, note disclosures or intentions to abstain due to conflict of interest on agendized public hearing or action items, and request Consent Calendar items be removed from the Consent Calendar for discussion. The Planning Commission may also remove items from the Consent Calendar prior to that portion of the Agenda.

6. **PUBLIC COMMENT (Non-Agenda Items):** This time has been set aside for members of the public to address the Planning Commission on items of general interest within the subject matter jurisdiction of the City. Although the Planning Commission values your comments, pursuant to the Brown Act, the Planning Commission generally cannot take any action on items not listed on the posted agenda. At the Chair's discretion, up to three minutes will be allotted to each speaker.

7. **CONSENT CALENDAR:** The following routine matters may be acted upon by one motion. Individual items may be removed by the Planning Commission for separate discussion at this time or under Acceptance of the Agenda.

   A. **MINUTES:**
   Planning Commission Meeting of September 13, 2022

8. **STUDY SESSION**

   A. **Study Session on the City of Clayton Draft Housing Element Update for the 6th Cycle (2023-2031).**
   This is a study session for the purposes of reviewing comments received from the California Department of Housing and Community Development (HCD) on the HCD Review Draft Housing Element for the 6th Cycle (2023-2031), and to discuss the revisions to policies, programs and the housing sites inventory that have been made to the draft Housing Element in response to HCD's review. No recommendation from the Planning Commission to the City Council to adopt the Housing Element is requested at this meeting.

9. PUBLIC HEARING

A. Request for Extension of Land Use Approvals for the Clayton Community Church Project Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16) and Tree Removal Permit (TRP-38-16).

This is a request by the Clayton Community Church (Applicant) for a one-year extension to exercise the development approvals granted by the Clayton Planning Commission on April 27, 2021 for the Clayton Community Church Project. The Project encompasses removal of existing trees, installation of new landscaping and surface parking facilities, and construction of a new, approximately 13,998 square foot Church building for religious assembly purposes on 4.4 acres located at 1027 Pine Hollow Court, Clayton (Assessor's Parcel Number 119-050-036). At the meeting of April 27, 2021, the Planning Commission adopted the Clayton Community Church Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program in accordance with the requirements of the California Environmental Quality Act (CEQA), and no additional findings are necessary for CEQA compliance for the current request for extension of entitlements of the approved Project.

10. COMMUNICATIONS: This time is set aside for the Planning Commission to make requests of staff, and/or for issues of concern to Planning Commissioners to be briefly presented, prioritized, and set for future meeting dates. This time is also provided for staff to share any informational announcements with the Commission.

11. ADJOURNMENT

The next Planning Commission Regular Meeting is Tuesday, December 13, 2022.

Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, September 13, 2022

1. CALL TO ORDER

Vice Chair Miller called the meeting to order at 7:01 p.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Richard Enea led the Pledge of Allegiance.

3. ROLL CALL

Present: Vice Chair Ed Miller
Commissioner Justin Cesarin
Commissioner Richard Enea
Commissioner Maria Shulman
Commissioner Daniel Richardson

Planning Commission Secretary/Community Development Director Dana Ayers and Assistant Planner Milan Sikela were present from City staff.

4. ELECTION OF CHAIR AND VICE CHAIR

Vice Chair Miller stated that, to avoid any discontinuity to the Planning Commission should he be elected to the City Council, he did not wish to be elected as Planning Commission Chair. He was happy to serve with the Commission as a member. He then invited a motion for election of the Planning Commission Chair for the current fiscal year.

Commissioner Enea moved to elect Commissioner Richardson as Chair of the Planning Commission. Commissioner Shulman seconded the motion. The motion passed by vote of 5 to 0.

Vice Chair Miller invited a motion for election of the Planning Commission Vice Chair for the current fiscal year.

Commissioner Shulman moved to elect Commissioner Enea as Vice Chair of the Planning Commission. Chair Richardson seconded the motion. The motion passed by vote of 5 to 0.

Chair Richardson took over as Chair of the meeting at this time. He thanked Commissioner Miller for his service as Vice Chair during the prior year. He acknowledged the new beginning of the Commission with its three new members

and two continuing members, and he looked forward to the opportunity to work with the Commission for the benefit of the community. Vice Chair Enea expressed gratitude for his election as Vice Chair and looked forward to being back on the Commission.

5. PRESENTATIONS

Director Ayers advised that there were no presentations on the evening's agenda. However, because this was only the second meeting with a hybrid in-person and virtual format, she requested an opportunity to review meeting protocol. She reminded all in-person meeting attendees to silence their cell phones and explained the means for virtual attendees to indicate a request to speak on an agendized item. She further explained that communications between a member of the public and an individual Commissioner during the meeting was prohibited outside of the public meeting setting, and relatedly, that the "chat" feature in the virtual meeting platform was turned off.

6. ACCEPTANCE OF THE AGENDA

There were no changes to the agenda as submitted.

7. PUBLIC COMMENT

There were no public comments.

8. CONSENT CALENDAR

A. Minutes of Planning Commission Meeting of June 28, 2022.

Director Ayers confirmed Commissioner Miller's statement that under Robert's Rules of Order, a Commissioner who had not attended a Planning Commission meeting could vote on that meeting's minutes; provided, that the Commissioner had reviewed the draft minutes. There being no member of the public attending in person or virtually who wished to comment on the Consent Calendar, Chair Richardson invited a motion on the item.

Commissioner Miller moved to adopt the Consent Calendar with Meeting Minutes of the June 28, 2022, meeting, as submitted. Commissioner Cesarin seconded the motion. The motion passed by vote of 5 to 0.

9. COMMENT SESSION

A. Comment Session on the Draft Environmental Impact Report Prepared for the City of Clayton 6th Cycle (2023-2031) Housing Element Update and Associated Land Use Element and Zoning Code Amendments.

This is a comment session for the purpose of soliciting spoken comments from interested parties, individuals and other public agencies on the Draft

Environmental Impact Report (EIR) prepared for the City of Clayton 6th Cycle (2023-2031) Housing Element Update and Associated Land Use Element and Zoning Code Amendments ("Project").

The Draft EIR is being circulated for 45 days for public and agency review and comment in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and Clayton's Local CEQA Guidelines (Resolution No. 62-2012). During the 45-day review and comment period, members of the Planning Commission, public and other agencies are invited to provide input on the analysis and discussion of alternatives contained within the Draft EIR. Planning Commissioners and other interested parties can provide their input on the Draft EIR via written letters or emails to the Community Development Department during the comment period, which began on August 19, 2022, and ends on October 3, 2022, or they may state their comments aloud at this comment session. Responses to all substantive comments on environmental issues of the Draft EIR, as well as revisions to the Draft EIR that result from those responses, will be incorporated into a Final Environmental Impact Report (Final EIR) that staff and the consultant will prepare following the end of the comment period and ahead of future noticed public hearings on the proposed Project with the Planning Commission and City Council.

Director Ayers presented the item and shared a slide deck summarizing Housing Element law, CEQA and the content of the Draft EIR prepared for the Project.

Chair Richardson invited Commissioners to ask questions of staff. No Commissioners had questions at this time. Chair Richardson explained that comments on the Draft EIR would be invited from members of the public first, followed by members of the Commission. He re-emphasized that written comments on the Draft EIR could continue to be submitted to City staff through October 3.

Vince Moita requested to speak. He stated that he was a land use attorney who lived in subsection A of the Marsh Creek Road Specific Plan (MCRSP) area between 1993 and 2006. He explained that few, if any, of the planned 290 housing units were actually built in the MCRSP area when he was growing up there. Given recent housing mandates from State and Association of Bay Area Governments (ABAG), as well as current severe lack of housing experienced by citizens, he suggested that it would be prudent to re-evaluate the current Countywide Urban Limit Line (ULL) at the northeastern municipal boundary of Clayton. Noting that the ULL and the MCRSP were adopted within months of each other, but that the ULL bifurcated a swath of area within the MCRSP area, he suggested that the City consider supporting a request to the Contra Costa County Board of Supervisors to review amendment to the ULL to match the MCRSP planning area boundary. He suggested that the inconsistency between the ULL, the

MCRSP planning area, and the City's Sphere of Influence (SOI) put the area outside the ULL off limits to the City to achieve its maximum buildout, and it robbed Clayton of opportunity for sustainable growth. He suggested that the land in the MCRSP area could be re-evaluated and its land use designations amended to increase densities to address the full 6th cycle regional housing needs allocation of 570 units with medium- and low-density residential growth that would be similar to existing neighborhoods on Eagle Peak Avenue or in Peacock Creek and that would preserve the character of Clayton. He suggested that "shutting the door" to this opportunity would cause the City to lose its development discretion and would force it to adopt projects like those that would be mandated pursuant to Senate Bill 35 to meet its housing needs. He explained that the City's General Plan envisions annexation of the SOI and suggested that the Draft EIR include an alternative scenario that includes adoption of the existing SOI. He stated that annexations of lands in the SOI that did not strain City resources would be consistent with current planning documents, and he specifically cited General Plan Land Use Element Objective 3 and Policy 3a. He concluded by requesting that the Draft EIR evaluate annexation of all lands within the MCRSP planning area to facilitate development of the MCRSP lands within the municipal boundary should the ULL be amended in 2026. He thanked the Commission and wished them the best Commission going forward.

There being no other member of the public attending in person or virtually who wished to speak on this item, Chair Richardson invited comments from Commissioners.

Vice Chair Enea requested that staff clarify the location of the SOI in the area that the Mr. Moita had referenced. Vice Chair Enea confirmed with Director Ayers and Assistant Planner Milan Sikela that the lands were unincorporated; outside the Clayton municipal boundary and therefore, subject to County land use designations and zoning; and that the lands were zoned by the County as Agricultural.

Commissioner Miller suggested that there be more explanation of the intent of the SOI.

Director Ayers screen shared the image of the City's General Plan land use map and identified the ULL, the SOI line and areas that were within the MCRSP planning area. She explained that the lands to which Mr. Moita spoke were north of Marsh Creek Road in the planning area. In response to Commissioner Miller, Director Ayers advised that the SOI line encompassed those lands that the City anticipated annexing. She explained that some lands inside the SOI were outside of the ULL. While any annexation of lands outside the municipal boundary would be subject to approval by the Contra Costa Local Agency Formation Commission (LAFCO), requests to annex lands outside the ULL would also be subject

to approval by the County Board of Supervisors. She explained that parts of the area that Mr. Moita referenced were pre-zoned as low-density residential in the MCRSP, and that those pre-zoning classifications would become effective upon approval of the lands being annexed into the City.

In response to Chair Richardson, Director Ayers spoke to the recent entitlement of the Oak Creek Canyon Development, a residential project of six single-family residences that was within the MCRSP planning area and within the municipal boundary near the City's eastern edge. She advised that the City Council approved that project in July 2021.

Commissioner Miller asked about the procedural requirements for changing the ULL and how the timelines for that process related to the deadlines for the Housing Element. He confirmed with staff that the process for annexations or amendments to the ULL would involve agencies outside of the City's control, and expressed concern about extended timelines in those instances.

Commissioner Shulman referenced page 2-24 of the Executive Summary, where population projections from the Contra Costa Water District Urban Water Master Plan (CCWD UWMP) were mentioned along with the Housing Element Update's (HEU's) population projections. She noted that the CCWD UWMP projected 530 new residents, which was significantly fewer residents than the HEU's projection of 2,364 new residents. She requested clarification on the source of the data that informed the CCWD UWMP and why the difference was so large. She expressed concern about water demands of increased housing given increased frequency of droughts in the region.

Commissioner Miller spoke to the Greenhouse Gas (GHG) and Utilities and Service Systems sections of the Draft EIR. He confirmed with staff that, based on the analysis in the Draft EIR, GHG impacts would not be fully mitigated, even with adoption of mitigation measures. He noted that all but one of the six recommended mitigation measures push toward electrification of vehicles and appliances and away from natural gas installations in new construction. He expressed concern that that particular mitigation could introduce an additional problem in the form of utilities and increased draw electrical power sources. He questioned whether the community would be underserved by electrical infrastructure with implementation of the measure. He felt that the GHG mitigation measures prohibiting natural gas seemed aggressive. By contrast, he liked the mitigation measure that encouraged energy efficiency measures, such as roof-mounted solar, that exceeded state standards, though he noted that that measure was not mandatory and might not even be implemented for certain projects, such as those that would be exempt from CEQA.

Commissioner Cesarin said he appreciated the forward thinking of the mitigation measure eliminating the need for natural gas. He believed there would be more limitations on that and more need for individuals to cut back on natural gas use in the future. He suggested the Draft EIR couple the mitigation measures with new technologies and new energy initiatives for power generation that would make up for the increased demand for electricity. Speaking to recommended mitigation measure MM GHG-2 regarding adoption of a zero net energy (ZNE) ordinance, he suggested removing the word "consider," to make more of a commitment to adopting a ZNE ordinance. He confirmed with Director Ayers that the analysis needed to develop and adopt a ZNE ordinance was lengthy, and he understood the analysis of the decision of whether to pursue ZNE ordinance would include a report of feasibility and cost-efficiency. He encouraged development of an alternative report that evaluated the viability and cost-effectiveness of *not* adopting and implementing a ZNE ordinance.

Speaking to the Alternatives in the Draft EIR, Commissioner Cesarin asked how Alternative 2 was developed for the Draft EIR. Director Ayers advised that Alternative 2 was "status quo" for the sites in the Town Center and housing inventory Site M. In that scenario, existing zoning designations and allowable densities would not change from what was already adopted for those sites. She advised that both Alternative 2 and Alternative 3, the latter of which added sites to the housing inventory based on property owner request, were developed based on public comments received in response to the Housing Element and Balancing Act surveys and input received during the community comment period on the Public Review Draft Housing Element in May and June 2022. Director Ayers advised that Site P and Site S were not new additions to the inventory of sites in the draft Housing Element Update, though Site U and Site V in Alternative 3 were.

There being no other member of the public attending in person or virtually who wished to speak, Chair Richardson closed public comment on the item.

10. PUBLIC HEARINGS

There were no public hearings.

11. COMMUNICATIONS

There were no Communications.

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12. ADJOURNMENT

The meeting was adjourned at 8:00 p.m. to the next regular meeting of the Planning Commission on September 27, 2022.

Respectfully submitted:

_____
Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:

_____
Daniel Richardson, Chair

AGENDA REPORT

To: **Honorable Chair and Planning Commissioners**

From: **Dana Ayers, AICP**
Community Development Director

Date: **November 22, 2022**

Subject: **Agenda Item 8.A**
Study Session on the City of Clayton Draft Housing Element Update for the 6th Cycle (2023-2031)

SUMMARY

This is a study session for the purposes of reviewing comments received from the California Department of Housing and Community Development (HCD) on the HCD Review Draft Housing Element for the 6th Cycle (2023-2031), and to discuss the revisions to policies, programs and the housing sites inventory that have been made to the draft Housing Element in response to HCD's review. No formal recommendation from the Planning Commission to the City Council is requested at this meeting.

RECOMMENDATION

That the Commission receive staff's presentation and comments from the public, and provide feedback to staff on any additional revisions to consider for inclusion in the draft Housing Element Update for the 6th Cycle. Staff anticipates returning to the Planning Commission at a public hearing scheduled for the Commission's December 13, 2022, regular meeting, with a request for the Commission to make a recommendation to the City Council on adoption of the Housing Element Update and related amendments to the General Plan Land Use Element.

BACKGROUND

Housing Element Overview: In accordance with Government Code Section 65583, every California city and county must have a general plan, and every general plan must address eight mandatory elements, one of which is housing. The housing element of a general plan must:

> …consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobile homes, and emergency shelters, and shall make adequate provisions for the existing and projected needs of all economic segments of the community. (Government Code Section 65583)

The updated Housing Element for the years 2023-2031 sixth housing cycle will establish programs, policies and actions to further the goal of meeting existing and projected housing needs of all income levels and will identify how the City plans to accommodate its Regional Housing Needs Allocation (RHNA) of at least 570 units through the year 2031, as established by the Association of Bay Area Governments. The City also proposes updates to the Land Use Element to correspond to the Housing Element's housing plan, as well as Zoning Code amendments necessary to implement the Housing and Land Use Elements, as amended. Other information about the Housing Element and the Housing Element process can be found on the City's website at https://claytonca.gov/community-development/housing/housing-element/.

HCD Review Draft Housing Element and HCD Comment Letter: City staff made publicly available between the dates of May 20 and June 20, 2022, the Public Review Draft Housing Element for the 6th Cycle. The 30-day public review period met the requirements of California Government Code section 65585 that requires the City to give the public an opportunity to comment on the draft housing element before the City submits the document to HCD for review. On May 24 and June 14, 2022, the Planning Commission held comment sessions for the purposes of receiving community input on the Public Review Draft, and on May 31, 2022, the City Council also held a comment session for the same purpose. On June 23, 2022, the City Council directed staff to make additional changes to the draft and to submit the draft document to HCD. Staff submitted the HCD Review Draft Housing Element for the 6th Cycle to HCD on electronically on July 14, 2022, followed by a print copy delivered on July 19, 2022.

HCD completed their review of Clayton's HCD Review Draft Housing Element and sent comments to City staff on October 12, 2022. The HCD Review Draft and HCD staff's review letter have been posted to the City's Housing Element webpage and can be viewed online at https://claytonca.gov/community-development/housing/housing-element/. HCD's comment letter is also attached to this staff report as Attachment D; in that attachment, annotations are provided to indicate how MIG and City staff have addressed the HCD staff member's comment through revisions to the text and/or tables of the draft Housing Element.

HCD's review comments are broadly summarized as follows:

- Augment existing analysis of the City's current and proposed efforts to affirmatively further fair housing (AFFH), including a larger regional assessment of fair housing opportunities in Clayton compared to other proximate jurisdictions, and more evaluation of how the housing opportunity sites identified in the draft element would advance fair housing in the City.

- Provide additional explanation, including quantifiable metrics and milestones, of how the draft element's goals and actions would advance fair housing in Clayton.
- Expand upon the bases used to determine development feasibility and realistic residential development capacity for identified housing opportunity sites, including nonvacant sites, City-owned sites and small sites (less than 0.5 acre).
- Reduce the number of ADUs presumed to be built during the next housing cycle to match the average pace of ADU construction in Clayton since 2018.
- Clarify existing regulations and proposed amendments to the City's Zoning Ordinance and development review processes that are necessary to ensure zoning for a variety of housing types in the City and removal of constraints to local housing production.
- Explain the efforts that were made to involve all economic segments of the community in the development of the housing element.

Staff of the City and MIG have made revisions to the draft Housing Element in response to HCD staff's comment letter. Revisions have primarily been made to Chapter 2 (Housing Plan), Chapter 4 (Constraints Analysis) and Chapter 5 (Housing Resources), and these revisions are reflected in track changes in the draft documents attached to this staff report. Notable revisions in these documents are summarized below:

- Two new sites—Site U (Golf Course Driving Range) and Site V (Seen Hill)—which were identified during the public comment period on the Public Review Draft Housing Element in spring, have been added to the Site Inventory Summary on pages 2-2 and 2-3, and are described further in Chapter 5 on page 5-1.
- The descriptions of the City's existing Code Enforcement program and Reasonable Accommodation provisions, as well as its proposed pre-approved accessory dwelling unit plan program are clarified in Programs A1, B1 and H2.
- The City's obligations with respect to the Surplus Lands Act are clarified in Program C.
- The City's timeframe for implementing Zoning Ordinance amendments related to the Housing Element Update is further clarified in Program D-1, and additional amendments to facilitate diversification of the City's housing stock and reduce impediments to housing production are identified in Programs D-2, H1 and J3.
- Additional explanation of the entitled affordable units and approved accessory dwelling units in the City is provided in Chapter 5 on pages 5-2 through 5-4.
- The projected pace of ADU construction through the next 8-year housing cycle has been adjusted from four ADUs per year to three ADUs per year in Chapter 5 on page 5-5.
- Additional explanation and justification for the projected housing unit count during the upcoming 8-year cycle is provided in Chapter 5, beginning on page 5-5, through page 5-11. With the changes to the sites inventory and development assumptions, the total number of units that could be accommodated by zoning classifications in the next housing cycle is 796.
- The text of Chapter 4 (Constraints Analysis) describes the constraints that could impede housing construction. New text in this chapter is added to better

explain the justification between the proposed Housing Element programs in Chapter 2 and the identified constraint.

Comments from Commissioners and community members are welcome at tonight's meeting. The focus of the discussion at this evening's study session is on the changes to the programs and policies and the housing inventory, which have been made in response to community input and HCD comments received subsequent to the Public Review Draft Housing Element last spring.

The Commission is not asked to take any formal action with respect to adoption of the Housing Element at this time. Following tonight's study session, City and MIG staff will make any additional needed corrections or adjustments and produce a Public Hearing Review Draft Housing Element for the Commission's consideration at a public hearing scheduled for the Commission's next regular meeting on December 13, 2022. At that meeting, the Commission will be asked to make a recommendation to the City Council to adopt the Housing Element Update for the 6th Cycle, as well as related amendments to the General Plan Land Use Element.

CONCLUSION

Staff requests that the Commissioners offer any comments and provide an opportunity for interested parties to provide spoken comments on the sites inventory and draft policies and programs proposed to be incorporated into the Housing Element Update for the 6th housing cycle. No recommendation from the Commission to the City Council is requested at this time.

ATTACHMENTS

A. Draft Housing Element Revised Chapter 2 with track changes
B. Draft Housing Element Revised Chapter 4 with track changes
C. Draft Housing Element Revised Chapter 5 with track changes
D. HCD Comment Letter with Annotated MIG/City Staff Comments
E. Public Comments Received to Date (including Balancing Act Program and Maptionnaire Survey results summaries)

2. Housing Plan

INTRODUCTION

This Housing Plan's goals, policies, and programs have been established to address housing issues in Clayton and to meet state law housing requirements. The City's enduring objective is to facilitate and encourage safe, decent housing that fulfills the diverse needs of current and future residents. To achieve this vision, the Housing Plan identifies long-term housing goals and shorter-term policies and programs to address identified housing needs, constraints to development, and resources available to address housing needs. These objectives are informed by the housing needs assessment, housing constraints analysis, housing resources analysis, and review of the previous Housing Element.

To make adequate provision for the housing needs for people of all income levels, State law (Government Code 65583[c]) requires that the City, at a minimum, identify programs that do all of the following:

- Identify adequate sites, with appropriate zoning and development standards and services to accommodate the locality's share of the regional housing needs for each income level.
- Assist in the development of adequate housing to meet the needs of extremely low-, very low-, low-, and moderate-income households.
- Address and, where possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for people at all income levels, as well as housing for people with disabilities.
- Conserve and improve the condition of the existing affordable housing stock and preserve assisted housing developments at risk of conversion to market-rate housing.
- Promote equal housing opportunities for all people, regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

FRAMING THE CHALLENGE AND FINDING SOLUTIONS

Clayton is located within one of the most expensive housing regions in the country. The cost of existing homes remains high because of insufficient inventory and the desirability of Clayton's semi-rural character. Throughout the Bay Area, high materials and labor costs constrain housing production. Clayton has experienced very little new development since 2010, with almost no housing constructed for lower- and moderate-income households. Low wage earners and middle-income households who work in Bay Area counties and wish to buy a home—or just find something affordable for a family of four—often commute two hours or more to Central Valley communities such as Tracy or Stockton.

Other factors constraining housing production in Clayton include adverse geologic conditions on the City's east side that require significant investments to remedy unstable slope conditions, continuing concerns over drought conditions, high fire hazards associated with climate change, and limited job opportunities in Clayton, thus requiring commutes out of the community every day. This very limited jobs and

commercial base means that Clayton operates on a small municipal budget and must carefully consider the costs of providing adequate public services to new residences and residents.

The City recognizes that it shares similar challenges with many Bay Area communities, all of which have been tasked with creating new housing opportunities for people of all income levels. Historically, Clayton's land use and zoning regulations have capped residential densities at 20 units per acre, a density which does not provide much incentive to multi-family housing developers. The City's limited financial resources do not allow it to incentivize or partner with affordable housing developers to bring such needed homes into the community. Thus, to accommodate willing housing providers and the RHNA allocation of at least 570 units, the City's chief strategy is to zone properties at sufficient densities that will attract developers. In conjunction with adoption of this 2023-2031 Housing Element, the City has adopted new General Plan land use and zoning regulations that support this commitment.

Meeting regional and local housing needs extends beyond simply planning for new home construction. Often one of the best ways to provide reasonably priced housing is to preserve older housing stock that is already somewhat affordable. While this housing stock is very limited in Clayton—as homeowners have continued to invest in homes constructed in the 1960s to preserve their value—owners of such properties might consider building an accessory dwelling unit on their lot or subdividing the lot for a new home or two. This element identifies the City's stepped-up efforts to support homeowners's efforts to create new units within existing neighborhoods.

For this sixth cycle Housing Element update, the State has required much closer examination of how minority and lower-income households may have been discouraged or excluded from moving into Clayton through practices such as redlining or landlords not adhering to fair housing laws, or how such communities today face other challenges when looking to live in Clayton. The new commitment to encouraging affordable housing production looks to affirmatively further fair housing practices.

The natural environment that surrounds Clayton is a valued community asset that this Housing Element looks to protect by focusing new housing production in already developed areas of the City and limiting it in sensitive habitats, high fire hazard areas, and unstable hillsides. Planning for housing within the Town Center and along corridors with ready access to community amenities represents good planning practice that will benefit current and future Clayton residents.

To ensure this Housing Element addresses all economic segments of the community, the City engaged with local churches who have outreach connections to underrepresented communities. The City also conducted outreach to affordable housing developers. Chapter 8 (Community Engagement and Outreach) provides a thorought explanation of the City's outreach and public participation in the development of this Housing Element.

SITES INVENTORY SUMMARY

Housing development projects that have been approved (as of June 2022) account for 113 units, or about 20 percent of the RHNA. Vacant properties zoned for residential use total only 13.9 acres (Silver Oaks property), and the owner has indicated an intent to plan for about 32 units on that site. To accommodate the balance of the RHNA, this Housing Element identifies the following types of sites, described in detail in Chapter 5:

- Vacant properties zoned for residential, public, or agricultural use
- An overflow parking lot owned by the Oakhurst Country Club, as well as a portion of the driving range (adjacent to an existing residential neighborhood)
- A portion of the Seeno property
- Within the Town Center, vacant properties (including a significant City-owned site), public parking lots, and private properties that could be redeveloped with mixed-use projects
- Properties that currently developed with a single-family home but are large enough to support a multifamily housing project
- Sites owned by religious institutions that have expressed interest in developing housing on portions of their properties

Not all of these properties are designated and zoned for residential use and for those that are, the density yields are not considered high enough to encourage private redevelopment efforts. Thus, for this sixth cycle Housing Element, to accommodate its RHNA of 570 units the City will need to amend General Plan land use policy to increase residential densities to support multifamily housing, amend the Zoning Code

GOAL 1. Maintain and enhance long-established housing and neighborhoods while accommodating moderate growth.

to provide for consistency with General Plan policy, and rezone properties to reflect parallel General Plan land use designations. With the proposed amendments, the City is able to plan for the RHNA and create a planning buffer that responds to State laws regarding no net loss of affordable housing capacity should a site planned for below-market-rate housing be developed otherwise.

GOALS AND POLICIES

Policy 1.1 **Neighborhood Preservation.** Preserve the architectural and design quality of established residential neighborhoods.

Policy 1.2 **Impacts of New Housing.** Consider and mitigate the impacts of new housing on the City's infrastructure, open space, natural resources, and public services.

Policy 1.3 **Targeted Growth.** Target new housing development to areas in Clayton near major travel corridors and commercial centers.

Policy 1.4 **Code Enforcement.** Continue to utilize the City's code enforcement program to improve overall housing conditions, and promote increased awareness among property owners and residents of the importance of property maintenance.

Policy 1.5 **Facilitate Reinvestment.** Make it easy for homeowners to reinvest in their properties by having staff-level review processes for the home renovations and additions that meet minimum development standards.

GOAL 2. Encourage a variety of housing types, densities, and affordability levels to meet the diverse needs of the community, including a mix of ownership and rental

Policy 2.1 **Adequate Housing Sites.** Maintain and implement land use policies and zoning regulations that accommodate a range of residential housing types that can fulfill local housing needs and accommodate the City's Regional Housing Needs Allocation of at least 570 units.

Policy 2.2 **Variety of Densities and Housing Types.** Implement land use policies and standards that allow for a range of residential densities and housing types that will enable households of all types and income levels opportunities to find suitable ownership and rental housing in the City.

Policy 2.3 **Accessory Dwelling Units.** Promote construction of accessory dwelling units as a way to increase the housing stock, particularly for lower-income households, seniors, young adults and persons with disabilities, recognizing that ADUs also promote investment in existing properties and reduce ongoing housing costs for property owners.

Policy 2.4 **Urban Lot Splits.** Recognize urban lot splits, as defined and allowed by State law, as a viable means to create new housing.

Policy 2.5 **Mixed-use Development**. Promote mixed-use development in Downtown Clayton that includes residential uses above ground-floor commercial and office uses, with ground-floor residential allowed under limited circumstances, such as along side streets or behind street-facing commercial uses on Center and Main Streets.

Policy 2.6 **Housing on Religious Institution Lands.** Create land use regulations that encourage the development of housing, particularly below market-rate housing, on properties owned by religious institutions.

GOAL 3. Provide opportunities for housing that respond to the needs of special needs households.

Policy 3.1 **Persons with Living with Disabilities**. Ensure zoning regulations accommodate development approaches that support special consideration for persons living with disabilities of all types.

Policy 3.2 **Assistance and Incentives**. Facilitate the development of lower- and moderate-income housing by offering developers incentives such as density bonuses, streamlined entitlement and permitting processes, City participation in on- and off-site public improvements, and flexible development standards.

Policy 3.3 **Seniors, Large Families, Single-parent Households, Foster Youth.** Encourage development of housing that meets the specific needs of seniors, large families, single-parent households, and youth transitioning out of the foster care system.

Policy 3.4 **Supportive and Transitional Housing.** Ensure that zoning regulations respond to evolving laws regarding supportive and transitional housing.

Policy 3.5 **Unhoused Persons and Families.** Support regional programs focused on finding safe housing for persons and families who are temporarily or chronically without a place to live.

GOAL 4. Remove governmental constraints and obstacles to the production of housing for all income groups.

Policy 4.1 **General Plan Land Use Policy.** Ensure that General Plan land use policies permit higher density housing development within a range that can support and encourage affordable housing.

Policy 4.2 **Residential Development Standards**. Review and adjust residential development standards, regulations, ordinances, departmental processing procedures, and residential fees related to rehabilitation and construction that are determined to constrain housing development.

Policy 4.3 **Policy Assessments**. Identify, assess, and, when appropriate, amend ordinances and policies that adversely affect housing cost.

GOAL 5. Ensure equal housing opportunities for all persons in Clayton regardless of age, race, religion, sex, marital status, national origin, color, disability, or other barriers that prevent choice in housing.

Policy 5.1 **Anti-Discrimination**. Promote equity and prohibit discrimination in the sale, rental, or financing of housing based on race, color, ancestry, religion, national origin, sex, sexual orientation, gender identity, age, disability/medical condition, familial status, marital status, source of income, or any other arbitrary factor.

Policy 5.2 **Fair Housing**. Assist in the enforcement of fair housing laws by providing references for residents to organizations that can receive and investigate fair housing allegations, monitor compliance with fair housing laws, and refer possible violations to enforcing agencies.

Policy 5.3 **Housing Distribution.** Distribute affordable housing throughout all Clayton neighborhoods.

Policy 5.4 **Quality Living Environments**. Avoid concentrating low-income housing in areas with high pollution loads and low levels of public services.

Policy 5.5 **Inclusion.** Facilitate increased participation in civic conversations and decision-making by residents who have traditionally been underrepresented or hesitant to engage.

Policy 5.6 **Education.** Support continuing education for landlords regarding their fair housing legal responsibilities and tenants regarding their fair housing rights.

GOAL 6. Incorporate sustainability practices intohousing production and operations.

Policy 6.1 **New Subdivisions.** Require developers to incorporate sustainable practices into the design of subdivisions.

Policy 6.2 **Appliances.** Promote the use of clean, energy-efficient appliances in new homes.

Policy 6.3 **Energy Efficient Retrofits.** Promote home retrofits that reduce consumption of water and energy resources.

Policy 6.4 **High Standards**. Establish high sustainability standards for new multi-family housing and mixed-use develoments.

PROGRAMS

The City will pursue the following programs to implement Housing Element goals and policies. As part of its annual budgeting process, the City Council will evaluate its ability to fund ongoing programs and new initiatives, and will use the budgeting process to prioritize efforts for the coming year.

PROGRAM A: MAINTAINING THE EXISTING HOUSING STOCK

Program A1 – Code Enforcement

Code enforcement is an important tool for maintaining the quality of residential neighborhoods. Clayton staff provide inspection services on a complaint basis. Residences citywide generally are maintained in good to excellent condition, with evident pride of ownership. Examples of code violations—which are few—include poor landscape maintenance, fencing in need of repair, and minor property improvements. Between 2019 and 2022, the City identifed only two units that needed to be "red-tagged" due to building conditions. Actions the City will take to preserve the existing housing stock in good condition include:

- Provide ongoing inspection services to review code violations on a complaint basis.
- Work with neighborhood organizations and other groups to create programs that recognize homeowners for exemplary property maintenance.
- Create an ADU amnesty program that allows owners of illegally converted garages, detached accessory structures, and attached accessory living quarters to convert those units to units that comply with the building code and ADU ordinance.

Responsibility: Community Development Department

Time Frame: Code Enforcement annually

Amnesty program by 2026

Other efforts ongoing

Funding: General Fund, grants

PROGRAM B: CREATING OPPORTUNITIES FOR NEW HOUSING

Program B1 – Accessory Dwelling Units

Increase the number and affordability of assessory dwelling units by pursuing the following initiatives, with the goal of facilitating development of at least 10 ADUs annually.

- Publicize information in the general application packet and posting information on the City's website.
- Create a preapproved set of standard construction plans for several types of ADUs that property owners can use to reduce planning and building permit plan check costs.
- Provide incentives for developers of new housing to use ADUs to meet the City's inclusionary housing requirements.

Responsibility: Community Development Department

Time Frame: Publicize on website by June 2023

Standard Plans – By end of 2023

Other efforts annually through budget cycle~~, 2023–2031~~

Funding: General Fund, grants

Program B2 – Town Center Mixed Use

Amend the Town Center Specific Plan to allow for and encourage compact, creative types of housing, including live/work units, senior housing, efficiency apartments, and co-housing.

Responsibility: Community Development Department

Time Frame: Amend the Specific Plan by 202~~5~~4

Funding: General Fund, grants

Program B3 – Affordable Housing Development

Both for-profit and non-profit developers can provide affordable housing in Clayton. While the City has extraordinarily limited resources to help fund development and/or provide land, the City can assist by expediting applications, reducing fees, and allowing additional building height and/or density bonuses beyond those allowed by State statutes—or as a matter of right rather than as a concession/waiver pursuant to density bonus law. To encourage such development, the City will:

- Create a database of sites to help developers identify suitable sites for affordable residential and mixed-use developments.

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- Develop a process that prioritizes the processing of affordable housing applications.
- Encourage use of the density bonus provisions through technical assistance and information dissemination.
- Alert housing developers with known interest in developing within the City when opportunities are available (e.g. sites, partnerships, City-owned land, availability of funding).
- Adopt a policy to provide priority water and sewer service to new housing developments for lower-income households.

Responsibility: Community Development Department

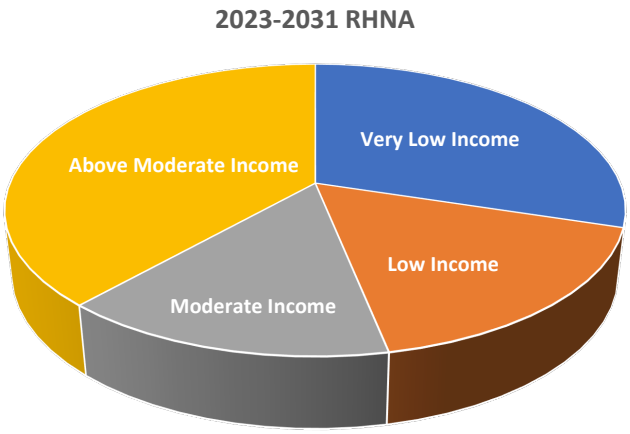
Time Frame: Database by end of 2024

Expedited process and priority policy by end of 2024

~~Ongoing~~ Annually for alerting developers

Funding: General Fund, grants

PROGRAM C: ADEQUATE SITES



The City of Clayton has been allocated a Regional Housing Needs Assessment (RHNA) target of 570 new housing units, distributed among four income categories: very low, low, moderate, and above moderate. The inventory of sites to accommodate this RHNA consists of vacant properties zoned for residential use, developed properties that have potential to be redeveloped at higher residential densities, mixed-use properties in the Town Center, properties owned by religious institutions that have surplus parking areas capable of supporting residential development, and accessory dwelling units (ADUs). As of 2022, General Plan land use policy and zoning do not have capacity sufficient to support this level of development; therefore, General Plan and zoning amendments are required to accommodate the RHNA. Program D below identifies the amendments the City will undertake to ensure that land use policies and regulations can support the RHNA.

Actions:

- Comply with the Surplus Lands Act (SLA).
- At such time that the City declares land surplus, the City will proactively seek out an affordable housing developer.

Housing Plan

- Continue to provide appropriate land use designations and maintain an inventory of suitable sites for residential development.
- Establish a means to track all housing sites in the inventory to guard against no net loss of sites identified as suitable for lower-income housing development consistent with Government Code Section 65863. Maintain a priority list of sites for rezoning, if needed to guard against no net loss.
- Provide technical assistance and information on available City-owned parcels for lower-income developments to private or non-profit housing providers.
- Maintain a database of available housing sites and conduct targeted outreach to multifamily housing developers to promote private development and redevelopment efforts.

Responsibility: Community Development Department

Time Frame: SLA Compliance annually and ongoing

Implementation and annual reporting throughout the planning period

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Establish no-net-loss tracking within one year of Housing Element adoption and continuously track upon adoption

Technical assistance and database: Ongoing

Funding: General Fund

PROGRAM D: GENERAL PLAN AND ZONING CODE AMENDMENTS TO REMOVE CONSTRAINTS

Program D-1: General Plan Amendments

The City will amend the General Plan Land Use Element to clarify the density ranges for multi-family housing. Parallel amendments will be made to the Zoning Code. These revisions will increase zoning capacity for multi-family housing and thereby encourage development of housing for people of all income levels and desired housing choices. The amendments will be as follows:

- Amend Objective 1 and related policies to reflect higher allowed densities along major corridors.
- Amend the Multifamily Medium Density land use designation to describe a broader range of desired housing types and establish a density range of 10.1 to 20 units per acre.
- Amend the Multifamily High Density land use designation to describe a broader range of desired housing types and establish a density range of 20.1 to 30.0 units per acre.
- Amend the Institutional land use designation to allow for residential development within a density range of 10.1 to 30 units per acre, and at a minimum density of 20 units per acre on sites where religious assembly uses already exist.
- Amend the allowed uses in the Town Center designation to accommodate ground-floor residential under prescribed circumstances, such as along side streets or behind street-facing commercial uses on Center and Main Streets and to allow for densities of up to 30 units per acre. Revisit the lot coverage standards to provide conditions that can accommodate higher densities.
- Amend the General Plan land use map to identify housing sites inventory properties for affordable housing as Multifamily High Density.
- Amend the General Plan to include policy language that allows for 100 percent affordable housing developments at 40 units per acre.

- Amend the Accessory Dwelling Unit -(ADU) provisions to comply with current state law.
- Adopt a new policy in the Land Use Element requiring that development be built in accordance with minimum densities of the land use designation in which they are located.

Responsibility: City Council, Planning Commission, Community Development Department

Time Frame: Immediately following adoption of the Housing Element, the City will prepare ~~The~~ General Plan and Zoning Code amendments. Amendments will be completed b~~B~~y ~~January~~ the statutory deadline of January 31, 2024~~3~~, with a goal of having them adopted before June, 2023.

ADU amendments by March 2023.

Funding: General Fund

Program D-2: Zoning Code Amendments

This Housing Element identifies a shortfall of properties zoned at appropriate densities to accommodate housing for the extremely low-, very low-, and low-income RHNA. State law (Government Code Section 65583.2(h) and (i)) requires that land rezoned or redesignated to meet a shortfall meet the following criteria:

- Require a minimum density of at least 20 units per acre
- Accommodate at least 16 units per site
- Allow multi-family housing by-right (without a use permit)
- At least 50 percent of rezoned sites must be designated for residential uses only

In 2012, the City established the Multi-Family High Density General Plan land use designation and the M-R-H zoning (High Density Multiple Family Residential) zoning district to accommodate the City's lower-income RHNA shortfall from the 2007–2014 Housing Element planning period. However, properties identified to meet the lower-income RHNA were not rezoned, and not all of the additional Zoning Code amendments were made. For this cycle, the City will:

- Amend the Zoning Code to include provisions for sites in the M-R-M (Medium Density Multiple Family Residential) and M-R-H zoning districts to allow at least 16 units regardless of density restrictions.
- Establish a Religious Institutional Overlay zone or similar mechanism to allow residential development on properties with an established religious use at a minimum density of 20 units per acre.

The Constraints analysis for this sixth cycle Housing Element identifies several Zoning Code amendment needed to address new state laws and remove potential constraints to development. In response, the City will:

- Revise the development standards for the M-R zone to increase the maximum allowable building height to 35 feet within 50 feet of an abutting single-family residential district.
- Revise the lot area regulation in Section 17.20.050 for the M-R-M zone to require a minimum of 10 units per acre and accommodate a maximum of 20 units per acre, and revise the lot area

regulation for the M-R-H zone to require a minimum of 20 units per acre and accommodate a maximum of 30 units per acre.

- Amend the zoning code to decrease the interior side yard setback requirement for multi-family residential zones from 15 feet to 10 feet to align with smaller lot single family residential zones.
- Establish a zoning overlay or other mechanism to allow affordable housing developments at a maximum density of 40 units per acre on properties occupied by a religious institution.
- Pursuant to the requirements of AB 101 (2017), amend the Zoning Code to allow Low Barrier Navigation Centers as a by-right use on properties zoned for mixed use and non-residential zones that permit multifamily housing.
- ~~Identify ways to s~~Streamline the site plan and development plan review processes, authorize the Planning Commission as the decision-making body for planned development permit approval, and make other procedural streamlining amendments to the Zoning Code as appropriate.
- Revise CMC Section 17.28.190 (Planned Development – Termination) to extend the Development Plan Permit expiration to 24 months.
- Revisit parking requirements for single-family residential uses to base requirements on the number of bedrooms in a unit instead of having the minimum standard of four per unit, and revise codified parking standards for multifamily residential uses to eliminate requirements for covered and guest parking.
- Revise CMC Section 17.20.150 (Multiple-Family Residential Zone - Open Area) to reduce the landscaping requirements for the multi-family residential zones.
- Update CMC Section 17.22.060 (Residential Density Calculations for Residential Parcels with Sensitive Land Areas – Exceptions) to add housing opportunity sites in the most recent Housing Element, in addition to sites identified in the previous Housing Element.
- Establish objective design standards for multifamily residential and qualifying mixed-use developments under State law.
- Amend the CMC, including but not limited to Titles 16 (Land Development and Subdivision) and 17 (Zoning), to remove Planning Commission and/or City Council discretion to increase objective standards (e.g., on-site parking or open space/landscaping) and/or reduce allowed density for residential development.
- Amend the CMC to allow by right residential care facilities or group homes for persons with disabilities for 7 or more persons, subject to objective development standards.
- Amend the CMC to allow transitional and supportive housing in all mixed-use zones that allow housing, subject to objective development standards.
- Amend the CMC to allow manufactured housing in all multifamily residential and all mixed-use zones that allow housing, subject to objective development standards.
- Amend the CMC to allow by right employee housing consisting of no more than 12 units or 36 beds to be permitted in the agricultural zone, subject to objective development standards.

Because the Housing Element sites inventory includes sites identified in the fourth and fifth cycles, Government Code section 65583.2(c) requires that the City allow residential development by right (not subject to discretionary review) for any project with at least 20 percent of the units affordable to lower-income households. The Zoning Code amendments will include such provisions.

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The Constraints analysis for this sixth cycle Housing Element identifies the need for written procedures to address new state laws and remove potential constraints to development. In response, the City will create written procedures for the SB 35 Streamlined Ministerial Approval Process.

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Responsibility: City Council, Planning Commission, Community Development Department

Time Frame: By January 31, 2024

Funding: General Fund and/or grants

PROGRAM E: INCREASED HOMEBUYING OPPORTUNITIES

Program E1: Mortgage Programs

Continue to refer interested persons to information regarding Contra Costa County's Mortgage Credit Certificate Program, Mortgage Revenue Bond Program, Owner-Occupied Housing Rehabilitation Program, and other programs the County may offer over time.

Responsibility: Community Development Department

Time Frame: Add to City's Housing webpage by end of 2023

Update Resource Links Annually~~Ongoing, 2023–2031~~

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Funding: General Funds (used to post information)

Program E2: Mortgage Assistance

Seek funding to develop and implement a sustainable downpayment assistance program for first-time homebuyers by working with the County or by developing the City's own program that can be used with the Mortgage Credit Certificate program, new inclusionary units, or alone.

Responsibility: City Council, Planning Commission, Community Development Department

Time Frame: Examine funding sources and program opportunities by 2025

Funding: CalHome, HOME, or other available sources

PROGRAM F: REGULATORY INCENTIVES

Program F1 – Town Center Specific Plan Amendment

To encourage development of mixed-use projects in the Town Center, the City has adopted the Clayton Town Center Specific Plan which provides detailed policy direction, standards, and guidelines that encourage mixed-use and second-story residential development. The City will amend the Specific Plan to identify housing opportunity sites at a density of up to 30 units per acre and that allow ground-floor residential uses under defined circumstances. The City will promote development opportunities in the Town Center, circulate a development handbook that describes the permitting process for mixed-use and residential projects, and offer incentives such as streamlined processing and additional density bonuses

to incentivize such projects. The City will aim to facilitate the development of at least one mixed-use or 100 percent residential project within the planning period.

Responsibility: City Council, Planning Commission, Community Development Department

Time Frame: Amend the Specific Plan by 2024

Funding: General Fund and/or grants

PROGRAM G: INCLUSIONARY HOUSING

Program G1 – Monitoring

On August 16, 2016, the City Council passed and adopted an inclusionary housing ordinance, which provided the details of the Affordable Housing Plan identified in the fifth cycle Housing Element. The ordinance requires that 10 percent of the units for ownership residential projects containing 10 or more units to be created as affordable housing units.

Inclusionary housing requirements provide a solid means of producing affordable units. State law allows inclusionary requirements to be applied to rental units as well. During the planning period, the City will consider modifying the Affordable Housing Plan ordinance to expand application to all residential developments, whether ownership or rental. Also, the City may consider revisiting the Affordable Housing Plan to lower the threshold for providing affordable units to fewer than 10 units.

Recognizing the in-lieu fees often fall far short of the funds required to construct new unit, the City will also consider adjusting the in-lieu fees, as well as considering offering other options for construction of off-site housing, such as purchase of affordability covenants, rehabilitation of substandard existing units, and funding ADU production on other properties.

Responsibility: City Council, Planning Commission, Community Development Department

Time Frame: Investigate expanding requirements to rental housing and lowering the threshold(s) by 2026; implement by 2028 if deemed to be appropriate

Funding: General Fund

PROGRAM H: SPECIAL NEEDS HOUSEHOLDS

Program H1 – Funding Assistance

The City will seek funding under the federal Housing Opportunities for Persons with AIDS, California Child Care Facility Financing Program, and other state and federal programs designated specifically for special needs groups such as seniors, persons with disabilities, and persons at risk for homelessness. The City will aim to work with housing providers on at least one project serving a special needs group during the planning period.

The City will proactively seek out developers who cater to disabled populations to develop a housing project in Clayton.

Responsibility: Community Development Department, City Manager

Time Frame: Seek funding annually

Proactively seek out developers by end of 2025~~Ongoing, 2023-2031~~

Funding: General Fund

PROGRAM H2 – REASONABLE ACCOMMODATION

The City shall provide information on its website and continue to distribute public information brochures on reasonable accommodations for disabled persons and enforcement programs of the California Fair Employment and Housing Council.

The City will establish a procedure for disabled persons or their representatives to request a reasonable accommodation from Zoning Code requirements, building codes, and land use regulations, policies, and procedures to provide disabled persons with an opportunity to use and enjoy housing equal to that of non-disabled persons.

Responsibility: Community Development Department

Time Frame: Website and ~~P~~public information by end of 2023

Update public information annually~~ongoing, 2023-2031~~

Reasonable accommodation procedure by end of 2024

Funding: General Fund

Program H2 – Universal Design

The City will continue to implement its universal design ordinance and continue to distribute its brochure on universal design standards, resources for design, and compliance with City requirements.

The City will explore creating preapproved ADU construction plans with universal design.

Responsibility: Community Development Department

Time Frame: Implement universal design standards as development is proposed

Universal ADU plans by the end of 2025

Funding: General Fund

Program H3 – Expedited Processing

Give priority to development projects that include a component for special needs groups (including the elderly, disabled, large families, the homeless, students, and transitional foster youth) in addition to other lower-income households. Priority will consist of advancing applications for review ahead of development applications not addressing special needs households. Implement priority based on community needs to ensure adequate housing for all residents within special needs groups.

Responsibility: Community Development Department

Time Frame: As development is proposed

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Housing Plan

Funding: Application fees

PROGRAM I: AFFORDABLE HOUSING PRESERVATION

Program I1 – Monitor and Provide Options

The Stranahan subdivision includes five units that have affordability covenants expiring in 2025 and 2026. Seven other units also have affordability convenants, but these extend beyond 2033. As discussed in the Needs Assessment, the City has no financial resources available to preserve these units' affordability. Each unit, if purchased at current market values, would cost about $1.2 million, and potential affordable housing organizations would have to compete to buy the units to maintain their affordability covenants. Such a nonprofit owner would need to subsidize housing costs if a unit were sold or rented to moderate- or lower-income households. To keep these units as affordable units, the City will:

- Notify affordable housing providers regarding the potential availability of the units for sale at least one year prior to the covenants expiring to allow time for such providers to contact and negotiate with homeowners.
- Send letters to property owners of units that are at risk of expiring as affordable units encouraging owners to allow affordable housing providers to purchase the units of the affordability expiration dates.
- ~~Consider a~~Amend~~ing~~ Chapter 17.92 (Inclusionary Housing Requirements) to allow purchase of these units and extending the affordability covenants as a means of satisfying inclusionary housing goals.

Responsibility: Community Development Department

Time Frame: Contact potential nonprofit purchasers in 2024

Send letters to property owners of at-risk units 3 years, 1 year, and 6 months prior to expiration.

Consider amendments to Chapter 17.92 by 2024 and if considered appropriate, amend by 2025

Funding: General Fund

PROGRAM J: FAIR HOUSING

Program J1 – Local Practices

Review the Zoning Ordinance, policies, and practices to ensure compliance with fair housing laws.

Responsibility: Community Development Department

Time Frame: Review by end of 2023; remedies as needed to be completed by 2025

Funding: General Fund

Program J2 – Transparency in Decision-making

Housing Plan

The City will provide information on proposed affordable housing projects to the public through the City's public hearing process in the form of study sessions, public meetings, and when required, public hearings. Early notice and awareness will be provided via print and social media.

Responsibility: Community Development Department

Time Frame: At the time applications are received

Funding: General Fund

Program J3 – Proactive Actions

The City relies upon Contra Costa County agencies and their contractors to provide fair housing services. The County's 2020 Analysis of Impediments to Fair Housing Choice did not report any findings for Clayton regarding fair housing testing, meaning that no instances of housing discrimination, unlawful evictions, discriminatory lending practices, or similar actions are known. Local fair housing issues largely relate to historic patterns of segregation that prevented people of color from buying or renting a home in Clayton and today, housing prices and rents that are prohibitive to lower-income households.

As the AFFH analysis in this element indicates, all of Clayton qualifies as a high resource area; thus, any new housing built in the City will provide residents a quality living environment. In addition, all housing that is constructed in Clayton would affirmatively further fair housing by providing affordable housing in a location where few affordable housing opportunities currently exist. The challenge is attracting affordable housing developers and removing barriers to affordable housing construction.

To address thes factors and work toward improving housing access for all, the City will take the following actions.

- Create a webpage as part of the City's website that provides links to housing resources, including how to address fair housing complaints.
- Continue to refer cases and questions to County agencies and their contractors for enforcement of prohibitions on discrimination in lending practices, in the sale or rental of housing, and violation of other fair housing laws.
- Continue to provide information to help increase awareness of fair housing protections by referral of people to fair housing workshops sponsored by the County.
- Inform landlords of their legal responsibilities regarding fair housing.
- Advertise the availability of fair housing services through flyers at public counters, on the City's website, and at other community locations.
- At least once annually, make a presentation to the City Council about fair housing issues and progress.
- Continue to participate in and implement the Analysis of Impediments to Fair Housing Choice for Contra Costa County.
- Promote public awareness of Federal, State, and local regulations regarding equal access to housing. Provide information to the public on various State and federal housing programs and fair housing law. Maintain referral information on the City's website and at a variety of other locations such as the community center, local social service offices, and at other public locations, including City Hall and the library.

- Implement an accessibility policy that establishes standards and procedures for providing equal access to City services and programs to all residents, including persons with limited proficiency in English, and persons with disabilities.
- Ensure that all development applications are considered, reviewed, and approved without prejudice to the proposed residents, contingent on the development application's compliance
- with all entitlement requirements.

Responsibility: Community Development Department

Time Frame: Implementation annually throughout the planning period

Website and public counter posting of fair housing resources to occur within one year of Housing Element adoption

Accessibility policy by end of 2025

Funding: General Fund

For any proposed housing development that involves the demolition or other removal of existing residential units, Government Code section 65915(c)(3) requires that the City have a replacement policy for any removed units that are subject to a recorded covenant, ordinance, or law that limits occupation of those units to lower- or very low-income households. The City will adopt such a policy to comply with state law.

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Responsibility: Community Development Department

Time Frame: By end of 2023

Funding: General Fund

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PROGRAM LK: RESOURCE CONSERVATION

Program LK1 – Energy Conservation

Continue to provide energy conservation brochures at City Hall, at the Clayton Community Library, and on the City's website.

Responsibility: Community Development Department

Time Frame: Ongoing, 2015–2023

Funding: General Fund

Program LK2 – Stretch Program

Review and consider possible amendments to the General Plan, Zoning Code, and related policy and regulatory documents to improve energy conservation beyond CalGreen standards. Consider establishing an incentivized residential green building program to encourage energy-efficient retrofitting, and the use of renewable energy in residential applications. Some of the incentives the City will consider when drafting this program will be:

- Providing eligible projects with building and plan check fee rebates (when financially feasible)
- Achieving third-party green building certification
- Renewable energy systems
- Green roofs

Responsibility: Community Development Department

Time Frame: Consider establishing a residential green building program by 2025

Funding: General Fund

Program L~~K~~3 – Regional Programs

Continue to participate in home energy and water efficiency improvement financing opportunities available through PACE programs, such as HERO, Figtree, and CaliforniaFirst.

Responsibility: Community Development Department

Time Frame: Ongoing

Funding: General Fund, grants

SUMMARY OF QUANTIFIED OBJECTIVES

Table 2-1 summarizes Clayton's quantified objectives for the 2023-2031 Housing Element planning period.

The City redtags approximately 2 units every three years , meaning that those units are in risk of being torn down due to housing condition.

The City targets conserving up to 2 units annually from demolition.

Table 2-1: 2023-2031 Quantified Objectives

	Income Level					
	Extremely Low	Very Low	Low	Moderate	Above Moderate	Total
Construction Objective	170		97	84	219	570
Rehabilitation Objective	0	1	2	5	0	8
At-Risk Housing Units to Preserve	0	0	0	1	0	1

4. Constraints Analysis

INTRODUCTION

Many factors can encourage or constrain the development, maintenance, and improvement of housing stock. These factors fall into two categories—governmental and non-governmental constraints—and include physical constraints, land availability, development economics, and governmental regulations, all of which impact the cost and amount of housing produced. These constraints may result in housing that is not affordable to low- and moderate-income households or may render residential construction economically infeasible for developers. Constraints to housing production significantly impact households with lower incomes and/or special needs.

This chapter addresses both the governmental and non-governmental constraints that impact the City of Clayton's housing market and production. State law requires that Housing Elements analyze potential and actual governmental and non-governmental constraints to the production, maintenance, and improvement of housing for persons of all income levels and abilities. The constraints analysis must also demonstrate local efforts to remove or mitigate barriers to housing production, particularly for supportive and transitional housing, emergency shelters, and housing for persons with disabilities. Where constraints to housing production related to the City's regulations or land use controls are identified, appropriate programs to remove or mitigate these constraints are included in the Housing Plan.

GOVERNMENT CONSTRAINTS

While local governments have little influence on market factors such as interest rates, their policies and regulations can affect the type, amount, and affordability of residential development. Since governmental actions can constrain development and affordability of housing, State law requires that the Housing Element "address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing" (Government Code Section 65583(c)(3)).

City regulations that affect residential development and housing affordability include policies, standards, and procedures set forth in the Land Use Element of the General Plan, specific plans, and the Zoning Ordinance.

LAND USE CONTROLS

General Plan Land Use Element

The General Plan is the City's principal land use policy document. The City adopted its first General Plan in July 1971. The General Plan was updated in 1985, with periodic amendments following, most recently in 2016. Table 4-1 shows the General Plan land use categories that allow for residential uses, along with density ranges and the types of residential uses allowed. The General Plan provides for single- and multi-

family housing at a range of densities from one to 20 units per gross acre. For the Multifamily High Density designation, the General Plan indicates not a density range but a set density of 20 units per acre. This indicates the possible need for a clarifying language in the General Plan. Because this could be considered a constraint, a housing program calls for amending the General Plan (and Zoning Code) to clarify allowed density ranges.

Table 4-1: General Plan Residential Land Use Categories

Land Use Category	Density Range (units/ gross acre)	Allowed Residential Uses
Rural Estate	Up to 1.0	Single-family detached estates
Single-Family Low Density	1.1 to 3.0	Single-family detached houses
Single-Family Medium Density	3.1 to 5.0	Planned unit developments (PUDs) and single-family subdivisions
Single-Family High Density	5.1 to 7.5	Patio homes, zero lot line homes, and cluster homes in a planned unit development (PUD)
Multi-Family Low Density	7.6 to 10.0	Cluster units such as townhouses, garden units, and other types of PUDs, including single-family detached dwellings
Multi-Family Medium Density	10.1 to 15.0	Multi-family units
Multi-Family High Density	20.0	Two-story (or higher) apartments or condominiums. Development within this density is encouraged to utilize the PUD concept and standards
Institutional	7.6 to 20 units	Various forms of housing for senior citizens

Source: City of Clayton General Plan Land Use Element

Town Center Specific Plan

The Town Center Specific Plan (TCSP) establishes goals and policies for development in the Town Center area. The purpose of the TCSP is to encourage appropriate commercial development while enhancing the area's historic character. The TCSP identifies appropriate land uses in the Town Center and provides design guidelines for new buildings, walkways, parking lots, and landscaping. The regulations allow for housing, with densities of up to 20 units per acre in the Multi-family High Density Residential category. For the Institutional Residential category, the lot coverage is capped at 50 percent, which could constrain development.

Table 4-2: Town Center Specific Plan Regulations

Land Use Category	Regulations
Multi-family Low Density Residential	Dwelling units at a density of 7.6 to 10 units per gross acre. Development intensity can reach 100 percent of individual parcel coverage as long as each unit has access to private outdoor space, use of recreational amenities, and provision of useable open space. Accessory dwelling units are allowed.
Multi-family Medium Density Residential	Dwelling units at a density of 10.1 to 15 units per gross acre

Table 4-2: Town Center Specific Plan Regulations

Land Use Category	Regulations
Multi-family High Density Residential	Dwelling units at a density of 15.1 to 20 units per gross acre. Structural coverage, not including recreational amenities, shall not exceed 65% of the site area.
Institutional Residential	Senior housing at a density of 7.6 to 20 units per gross acre. Development intensity can reach 100 percent structural coverage for individual parcels. Structural coverage shall not exceed 50% of the site area.

Source: Clayton Community Development Department, 2016

Marsh Creek Road Specific Plan

The Marsh Creek Road Specific Plan (MCRSP) refers to an area of 475 acres south and east of Clayton in central Contra Costa County. This area is mostly undeveloped and is located at the edge of existing urban development. Several residential development proposals have been submitted within this area, but it is also viewed as an important natural resource by the local residents. The goal of the MCRSP is to maintain the unique rural character of the study area and designate appropriate sites for residential development. The development will be guided and regulated in a manner to both protect the area's natural amenities and afford recreational opportunities and access to the public. All developments consist of low to medium density residential.

Zoning

The provisions of the Clayton Zoning Ordinance implement the policies and standards set forth in the General Plan. The Zoning Ordinance permits residential development in the following districts:

- Single-family residential districts – The following designations are included in the single-family residential zoning categories: R-10, R-12, R-15, R-20, R40, and R-40-H. The number within each designation identifier references the minimum lot size, in thousands of square feet, for each designation.

- Multi-family residential districts – The following designations are included in the multi-family zoning categories: M-R (low density multifamily residential), M-R-M (multifamily residential, medium density), and M-R-H (multifamily residential, high density). Although there are no parcels currently zoned M-R, M-R-M, or M-R-H, some parcels within the TCSP area have land use designations that are consistent with the development densities of the M-R and M-R-H districts, and the City maintains all of the multi-family residential districts for future use.

- Planned development district – The following designation is used to denote planned development district: PD.

- Commercial districts – The LC (limited commercial) designation is applied to parcels inside of the TCSP area. A few parcels near the northern edge of the City are also zoned LC district. Parcels that are designated or zoned LC district allow some multi-family residential uses under certain circumstances.

The Zoning Ordinance establishes the types of allowed residential uses and the allowed density, as well as residential development standards for each zoning district.

The Clayton Municipal Code, including the Subdivision and Zoning Ordinances, contains language in a number of areas that gives discretion to the Planning Commission and/or City Council to reduce density or increase on-site development requirements. Because this is a constraint to developing housing, a housing program calls for amending the CMC to ensure density is not reduced nor are on-site development standards increased for housing development projects.

The CMC contains additional subdivision limitations, including those that regulate street and right-of-way width and those that are safety-oriented. For example, collector streets must have 60-foot rights-of-way, with 40 feet curb-to-curb. Minor streets may be narrower, and arterials and major arterials must be wider. The minimum width of paved (curb-to-curb) and rights-of-way are similar to other jurisdictions. Cul-de-sacs cannot serve more than 16 lots nor be longer than 700 feet, minor streets cannot be steeper than 12% without City Engineer approval, blocks (with through-streets) may not exceed 1,000 feet, and sidewalks must be four feet wide. The minimum and maximum requirements are similar to other jurisdictions. Therefore, subdivision requirements are not a constraint.

Permitted Residential Uses

Table 4-3 identifies the residential use types permitted by right (P) or permitted subject to the approval of a use permit (UP), as well uses not allowed in residential zoning districts (--).

Table 4-3: Residential Use Permit Requirements

Residential Use Type	R-10	R-12	R-15	R-20	R-40	R-40-H	M-R	M-R-M	M-R-H	LC	TCSP
Single-family dwelling	P	P	P	P	P	P	UP	UP	UP	--	--
Second dwelling unit	P	P	P	P	P	P	P	P	P	--	--
Duplex Residential	--	--	--	--	--	--	P	P	P	--	--
Multi-family residential (triplex, condos, apartments, etc.)	--	--	--	--	--	--	P	P	P	--	--
Residential above commercial	--	--	--	--	--	--	--	--	--	--	P
Residential care home (≤6 persons)	P	P	P	P	P	P	--	--	--	--	--
Residential care homes (>6 persons)	UP	UP	UP	UP	UP	UP	--	--	--	--	--
Manufactured dwelling unit	P	P	P	P	P	P	--	--	--	--	--

Table 4-3: Residential Use Permit Requirements

Residential Use Type	R-10	R-12	R-15	R-20	R-40	R-40-H	M-R	M-R-M	M-R-H	LC	TCSP
Transitional and supportive housing	P	P	P	P	P	P	P	P	P	--	--
Single-room occupancy (SRO)	--	--	--	--	--	--	--	--	--	UP	--

P = permitted (by right)
UP = Use Permit
-- = not permitted
Source: City of Clayton Zoning Ordinance 2014

Accessory Dwelling Units

An accessory dwelling unit (ADU) is an additional self-contained living unit either attached to or detached from the primary residential unit on a single lot. It has cooking, eating, sleeping, and full sanitation facilities. To encourage establishment of ADUs on existing developed lots, state law requires cities and counties to either adopt an ordinance based on standards set out in the state law or allow ADUs as a by-right use subject to development standards that reflect state requirements.

Beginning in 2017, the state legislature adopted a series of ADU laws that establish well-defined standards for the by-right (ministerial) approval of ADU applications. The City last updated its ADU regulations in 2004. Thus, current regulations, set forth in Table 4-4 (and called second units in the Zoning Ordinance), are outdated and do not reflect current State laws, particularly with regards to unit size, approval process, and setbacks. Because this is a constraint to constructing ADUs,~~.~~ ~~The~~the City is ~~in the process of~~ currently drafting new regulations that reflect state law and anticipates adopting the new regulations ~~before the end of 2022~~in early 2023. A program calls for adopting the new regulations by March 2023.

Table 4-4: Second Unit Development Standards

Requirement	Description
Zoning Districts	Per Zoning Code Chapter 17.47 second dwelling units are allowed in all districts that allow single-family dwellings
Setbacks	Same as the principal structure unless located in a PD zone
Height	Attached units shall not exceed the principal structure height; detached units shall not exceed one story or 15 feet, whichever is less.
Parking	1 uncovered space per bedroom
Unit size	Units between 250 and 750 square feet (one bedroom) require ministerial review Units between 751 and 1,000 square feet maximum (up to two bedrooms) requires Planning Commission review
Architectural compatibility	Must incorporate similar or complementary architectural features as the principal and surrounding structures

Source: City of Clayton Zoning Ordinance 2014

Currently, applicants must pay a Planning Permit processing fee of $331 for staff-level administrative review of ADU applications. For ADU applications that require Planning Commission review, Planning Permit fees are based on staff cost with a minimum deposit of $1,000. The requirement for Planning

Commission review can be considered a constraint. The city plans to revise its ADU ordinance by the end of 2022 to remove this constraint and otherwise comply with state law.

The Contra Costa Water District (a special district public agency) charges a fee of approximately $24,125 for ADU's 5/8-inch water hookup (fees vary based on unit size). This connection fee, as well as other factors that include limitations on labor and supplies and increasing costs of construction, may be a constraint to the development of ADUs. Fewer than 10 ADU permit applications have been processed since the 2004 amendment of the Municipal Code.

To facilitate construction of ADUs in Clayton, a housing program calls for the City finalizing a pre-approved accessory dwelling unit (ADU) plan program to encourage the construction of ADUs throughout the City. A program also calls for publicizing information regarding ADUs on the website and at the permit counter.

Residential Care Facilities

Residential care facilities or group homes for persons with disabilities are allowed in the city. Facilities for six or fewer persons are allowed by right in all residential districts pursuant to State Health and Safety Code Section 1566.3. Facilities for seven or more persons are considered a commercial use of property, are allowed with a use permit in accordance with Chapter 17.46 of the Zoning Ordinance, and must meet the following standards:

- The applicant must maintain an operating license from the applicable state and county agencies. The residential care home shall be located within a detached single-family dwelling.
- Sufficient off-street parking spaces shall be provided in addition to the required off-street parking to serve the dwelling.
- Signs are not allowed.
- Each residential care facility shall be located at least 1,000 feet from another such facility.
- The dwelling must comply with the Uniform Building Code and State standards for accessibility by disabled persons.

The separation requirement and additional off-street parking requirement are constraints to constructing residential care facilities for six or fewer persons, and requiring a use permit for facilities for seven or more persons is a constraint. A housing program calls for amending the zoning code to allow residential care facilities or group homes by right, subject to objective standards.

Employee Housing

In 2016, the City amended the Zoning Ordinance to define employee housing as housing defined in California Health and Safety Code Section 17008, as it may be modified. Employee housing for six or fewer persons is allowed by right in all single-family residential zones. A Use Permit is required for all single-family residences in multifamily residential zones, including employee housing. The City has one agricultural zone which allows for limited residential use for the owner, lessor or lessee of the land. Employee housing is not identified as an allowed use in the agricultural zone. This can be considered a constraint. A program calls for amending the zoning code to allow employee housing consisting of no more than 12 units or 36 beds to be permitted in the agricultural zone.

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Manufactured Homes

In 2009, the City amended the Zoning Ordinance to allow manufactured housing on any residential lot subject to the standards applicable to site-built housing in accordance with state law. The Zoning Ordinance now treats manufactured housing as a single-family use type, includes a definition for manufactured housing, and allows manufactured housing on a permanent foundation by right in all single-family residential zones and subject to the same standards as ~~that allow for~~ single-family homes, ~~subject to~~ such as site plan and design review. Manufactured housing is not allowed in multifamily residential zones nor in mixed use zones that allow residential uses. Since manufactured housing may be constructed at a lower price point, leading to greater affordability, this is a constraint. A program calls for amending the zoning code to allow manufactured housing in all zones where residential land uses are allowed, subject to objective development standards.

Emergency Shelters

In compliance with California Senate Bill (SB) 2 (2007), the City amended its Zoning Ordinance in 2013 to define emergency shelters and allow them by right (without discretionary approval) in at least one zoning district. Emergency shelters are now an allowed use in the Public Facility (PF) district, subject to specific development and management standards, including but not limited to:

- Emergency shelters must be located a minimum of 300 feet from residential buildings and schools, and at least 300 feet from other shelters.
- The maximum number of beds in a single shelter is 10.
- Individuals may stay no longer than 180 consecutive days in a consecutive 12-month period.
- Off-street parking must be provided in the ratio of one space for every three beds plus one parking space per staff member per shift.
- The shelter must provide an operational plan to the Community Development Director.

Section 17.36.082 provides a comprehensive list of emergency shelter requirements. Six parcels in Clayton are zoned Public Facilities. The site identified as most viable for an emergency shelter is the north portion of a city-owned 4.73-acre property located at 6125 Clayton Road, which houses the community library. The site is directly served by public transit (a regional bus that connects to the Concord Bay Area Rapid Transit station), as well as services and public amenities. Approximately 1.5 acres of the site are available for development of an emergency shelter. The City has not had inquiries regarding the establishment of an emergency shelter on this property or other sites zoned PF.

In 2019, California Assembly Bill (AB) 101 established the requirement to allow Low Barrier Navigation Centers (LBNC) as a by-right use on properties zoned for mixed use and non-residential zones that permit multi-family uses. As of early 2022, the City had not yet amended the Zoning Code to reflect AB 101. A program has been included to do so.

Transitional and Supportive Housing

SB 2 (2007) requires that all jurisdictions define and allow transitional and supportive housing. Transitional facilities offer short-term housing (at least six-month stay) for persons of certain targeted populations (persons with AIDS, persons with mental or development disabilities, persons with chemical dependency,

etc.) Supportive housing looks to support similar populations with permanent housing that may have on- or off-site services linked to the housing.

The City amended its Zoning Ordinance in 2012 to define supportive housing and transitional housing and allow both as permitted uses in all residential zoning districts, subject only to the permit processing requirements as other similar use types in the same zone (site plan review, design review, etc.). The City requires a Use Permit for transitional housing in one mixed use zone that allows residential uses above commercial (LC - Limited Commercial zone). This can be considered a constraint. A program has been added to amend the zoning ordinance to remove this constraint.

Single-Room Occupancy Units

AB 2634 (2006) requires the quantification and analysis of existing and projected housing needs of extremely low-income households. Housing elements must also identify zoning to encourage and facilitate housing for extremely low-income persons, of which two common types are supportive housing and single-room occupancy units (SRO).

Extremely low-income households typically include persons with special housing needs, including but not limited to persons experiencing homelessness or near-homelessness, persons with substance abuse problems, and persons with mental illness or developmental disabilities.

In 2012, the City amended its Municipal Code to explicitly define SRO housing as a type of residential hotel offering one-room units for long-term occupancy by one or two people. SROs may have kitchen or bath facilities (but not both) in the room. The City allows development of SROs with a use permit in the LC zoning district with a use permit.

Accommodation of Persons with Disabilities

The city has taken significant steps to improve housing accessibility. In 2013, the City adopted a universal design ordinance to ensure that new housing is adaptable and accessible for persons with disabilities. In 2012, the City adopted a reasonable accommodations ordinance (Chapter 15.90 of the Municipal Code) to allow for variations in the application of zoning standards and policies to accommodate persons with disabilities; amended the Zoning Ordinance to define and allow supportive housing facilities as described above; and amended the definition of "family" to remove restrictions on the number of unrelated persons that may be considered a family.

The municipal code allows up to 30 days to process a reasonable accommodations request, which is a reasonable timeframe for a small city with a limited staff and high demands. The Community Development Director may approve reasonable accommodations, subject to a $216 fee for administrative review. If a reasonable accommodations request is part of a project that includes discretionary permits, the Planning Commission must review the request as part of the whole project, and fees are based on cost recovery like the accompanying discretionary permit application. The City's fees align with the time and cost to review an application and is similar to the approach all jurisdictions must do to recover costs to provide services.

The findings to review reasonable accommodations requests align with state fair housing laws. For example, the requested accommodation must be requested by or on the behalf of one or more individuals with a disability protected under the fair housing laws, provide one or more individuals with a disability

an equal opportunity to use and enjoy a dwelling, not impose an undue financial or administrative burden on the City, as defined in the fair housing laws, not result in a fundamental alteration in the nature of the City's Zoning Code, as defined in the fair housing laws, not result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

The City has not received reasonable accommodation applications in last two years. This is not considered a constraint.

In 2008, the City Council approved its Americans with Disabilities Act (ADA) Transition Plan. The plan included an evaluation of barriers for persons with disabilities and included steps to remove such barriers. The plan mandates that the City Community Development and Engineering departments periodically evaluate their procedures for land use permit processing and public participation to ensure that reasonable accommodations are made for individuals with disabilities and all are in compliance with Fair Housing laws. As a result of plan implementation, all City facilities, offices, and meeting rooms have been upgraded to be accessible and compliant with Title 24 Accessibility requirements, and the City has an ongoing program for installation of wheelchair-accessible ramps at street intersections.

The City has two special needs residential facilities that cater to persons with disabilities. In 1992, the City approved the Kirker Court development, which provides 20 units for persons with developmental disabilities. In 1999, the City approved the Diamond Terrace project, which created 86 units for seniors, many of whom have disabilities and require special accommodations in their housing units and other project facilities. The City, through its now defunct Redevelopment Agency, financially participated to support the establishment of both developments.

Additionally, "The Olivia" is a three-story housing project with 81 senior rental units which has been approved by the City and is currently under development. Since the majority of residents with disabilities are those aged 75 years and older, this housing project will likely serve many residents with disabilities. The City also offers reduced parking requirements for residential developments that serve seniors and persons with disabilities. The residential parking requirement for seniors or persons with disabilities is one parking space per dwelling unit, while standard single-family residential units require four parking spaces per unit.

Residential care facilities for seven or more persons requires a use permit in residential zones, and residential care facilities for six or fewer persons is subject to standards that are greater than a single family residence, such as increased parking and distance requirements from similar facilities. These are considered constraints. A program requires amending the zoning code to allow all residential care facilities in all residential zones, subject to objective development standards that are similar to single family residences.

In addition, ~~T~~the City will work to provide housing opportunities for persons and households with disabilities through coordination with housing providers and assistance with funding applications. The City will also continue to offer reasonable accommodations to ensure that City standards and policies do not impede housing opportunities for residents with disabilities. To facilitate construction of ADUs in Clayton, a housing program calls for the City finalizing a pre-approved accessory dwelling unit (ADU) plan program to encourage the construction of ADUs throughout the City. The City has preliminarily designed six total plans, and the City anticipates one or more of the plans being universally designed to accommodate needs

of all residents including those with disabilities. Programs are included in the Housing Plan (Chapter 2) to address reasonable accommodations and universal design.

Density Bonus

The City amended its Zoning Ordinance in 2009 to add specific density bonus provisions to reflect then-current state law. Chapter 17.90 of the Municipal Code establishes a density bonus of up to 35 percent and a variety of incentives/concessions to promote affordable housing. Since 2009, the legislature has significantly amended density bonus law, which applies to Clayton irrespective of Zoning Ordinance provisions. A program has been included in the Housing Plan to ensure that City regulations continue to reflect current state density bonus law as it evolves.

Affordable Housing Plan

Chapter 17.92 (Inclusionary Housing Requirements) of the Zoning Ordinance sets forth requirements for provision of affordable housing within developments of more than 10 units. Per this Chapter, a minimum of 10 percent of the units must be built or created as affordable housing units for very low-, low-, or moderate-income households. In lieu of providing housing on site as part of a development project, a developer may: 1) provide housing off-site, with the percentage of units increasing to 16 percent; 2) pay an in-lieu fee established by City Council resolutions; or 3) dedicate land for construction of the affordable units.

The City has established the specific guidelines for the review and preparation of Affordable Housing Plans. These criteria do not present a constraint to the development of housing but help to ensure construction of housing affordable to households at a wide range of income levels. As described below, the City offers a variety of incentives to developers and will consider others not specifically listed.

The Affordable Housing Plan must be submitted and approved in conjunction with the earliest stage of project entitlement, and in no case later than City approval of the primary land use entitlement and/or a development agreement. The Affordable Housing Plan must include:

- The number of dwelling units that will be developed as affordable to very low-, low-, moderate, and above moderate-income households (the City desires that at least five percent of all project units be affordable to very low-income households and at least five percent of all project units be affordable to low-income households)
- The number of affordable ownership and rental units to be produced. Such split shall be approved by the City Council based on housing needs, market conditions, and other relevant factors.
- Program options within Affordable Housing Plans may include, but are not limited to:
    - Actual production (on-site or off-site) of affordable units (including ownership and rental opportunities in the form of accessory dwelling units, corner units, half-plexes, duplexes, cottages, creative alternative housing products, etc.)
    - Land dedication (on-site and off-site)
    - Payment of in-lieu fees
- The timing for completion of affordable housing obligations.

At the City Council's discretion, land or other contributions provided by developers as specified within Affordable Housing Plans may be utilized to augment City efforts and the efforts of its nonprofit partners

to provide affordable housing opportunities to all income levels throughout the community. The General Plan states that the City will pursue supplemental funding to allow affordability to households earning less than 50 percent of area median income. However, this policy directive has not been pursued.

To ensure the production and preservation of housing affordable to the City's workforce, no productive, reasonable program or incentive option will be excluded from consideration within project-specific Affordable Housing Plans. Incentives may include, but are not limited to:

- Density bonuses
- Fee waivers or deferrals (as reasonably available)
- Expedited processing/priority processing
- Reduced parking standards
- Technical assistance with accessing funding
- Modifications to development standards (on a case-by-case basis)

The size of property, the surrounding land uses, the purchase price of the real property, and current market conditions (i.e., competition) are all factors that may be considered in the preparation of proposed Affordable Housing Plans. Each development project is unique, as are the incentives and specific affordable housing requirements applied. The flexibility of this "menu approach" allows the City and developer to agree to terms that meet the intent of providing affordable housing while ensuring that the proposed development remains feasible.

Development Standards

Table 4-5 summarizes the development standards for residential zoning districts. While the Zoning Ordinance establishes the minimum lot areas for the three zones as shown in the table, Section 17.20.030 (Permitted Uses-Principal) states as allowable uses: "Duplex, triplex, townhouses, apartments and other multifamily structures meeting and not exceeding the density limits set by the applicable General Plan Land Use Designation." However, the M-R-M zone allows up to 24.2 units per acre, creating a zoning/General Plan inconsistency. The M-R-H zone, which has no corresponding General Plan land use designation, allows up to 43.6 units per acre. No properties are zoned M-R-H—although one parcel in the Town Center has a comparable multifamily residential high density land use designation—and the lack of an equivalent General Plan designation means a property owner would need to apply for a General Plan text amendment in conjunction with a rezoning request to implement the M-R-H zone. This is a constraint to development. The Housing Element contains a policy calling for amending the General Plan land use map to designate housing inventory sites for affordable housing as Multifamily High Density.

Chapter 17.78 of the Zoning Ordinance limits lot coverage size establishing the maximum building size and building footprint depending on lot size. This could also be a constraint to the size of structures that can be developed~~ment~~ depending on ~~building and~~ lot size. However, the limits do not constrain development.

The PD zone allows small lot and zero lot line development at densities that correspond to the underlying General Plan land use designation. However, the PD permit approval process requires review by both the Planning Commission and City Council, and the PD expires after 18 months, which imposes time and cost burdens on applicants. The PD permit approval process also requires Planning Commission approval of a development permit, subsequent to the PD approval. This process may be considered a constraint on

development. A housing policy calls for the City to streamline the PD approval process, including allowing for Planning Commission approval.

The setback requirements for all zones reflect the general low-intensity character of Clayton ~~and are not considered constraints on development~~. However, the interior side yard setback for multi-family residences is 15 feet, whereas smaller lot single family residential zones require a 10-foot side yard setback. In the multi-family residential zones, all buildings must be set back 20 feet from each other. This is a constraint on development. A housing program calls for decreasing the interior side yard setback requirements for multi-family residences to 10 feet.

In the M-R zone, the lot coverage limit for a small lot single-family development is 25 percent, which is limiting. The lot coverage requirements in the higher density zones comport with those found in other cities and do not constrain development.

In the M-R zone, 25% of the lot must be landscaped and may not be developed with structures, parking or pavement. In the M-R-M and M-R-H zones, the requirement is 20%. There is no correlating requirement in the single-family residential zones. The open area requirement may constrain development. A housing program calls for amending the zoning code to reduce the landscaping requirement for the multifamily residential zones.

Height limits of 35 feet generally apply to all residential zones, but buildings are limited to 20 in the M-R zone adjacent to a single-family zone. This is inconsistent with the 35-foot limit allowed in an adjacent single-family zone and limits the ability to achieve maximum density in the M-R zone. This is a constraint to development. A housing program calls for amending the zoning code allow a maximum 35-foot allowable building height in height in the M-R zone within 50 feet of an abutting single-family residential district.

Developable acreage used to calculate density may not include sensitive lands, as defined by the Clayton Municipal Code. Sensitive lands include areas within the 100-year floodplain, land or slopes exceeding twenty-six percent (26%), creeks, streams, and associated setback requirements in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan, rock outcroppings, wetlands as defined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan, land containing species of endangered plants that have been identified as a no-take species as defined and determined by the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan, and any other similar features as determined by the Planning Commission. While the municipal code excludes sites designated in the General Plan for multiple family residential development, the code references the previous Housing Element cycle. To address this constraint to development, a program has been added to the Housing Element stating the City will amend the municipal code to exclude all parcels listed as housing opportunity sites in the most recent Housing Element.

No other constraints exist relative to development standards. For example, there are no minimum unit size requirements in Clayton, and the allowed height and floor area ratios (FAR) are on par with similar and nearby jurisdictions. While the City does not have an ordinance regulating short-term rentals (STRs), the City has found STRs are not prevalent in Clayton and there is no evidence that indicates STRs are impacting the availability of housing. With the programs identified above and programs that follow, housing can be expected to achieve the maximum densities allowed.

Table 4-5: Residential Development Standards

District	Min. Lot Area per Dwelling	Setback: Front Yard (min.)[5]	Setback: Rear Yard (min.)	Setback: Side Yard (min./ aggregate)[1]	Height (max.)	Lot Coverage (max.)	Open Space (min.)
R-10	10,000 sf	20 ft	15 ft	10/20 ft	35 ft	None	n/a
R-12	12,600 sf	20 ft	15 ft	10/25 ft	35 ft	None	n/a
R-15	15,000 sf	20 ft	15 ft	10/25 ft	35 ft	None	n/a
R-20	20,000 sf	25 ft	15 ft	15/35 ft	35 ft	None	n/a
R-40	40,000 sf	40 ft	15 ft	20/40 ft	35 ft	None	n/a
R-40-H	40,000 sf	40 ft	15 ft	20/40 ft	35 ft	None	n/a
M-R[4]	6,000 sf (3,000 sf/unit)	20 ft	15 ft	15 ft/20 ft	35 ft, 20 ft[2]	25% or 40%	25%
M-R-M	6,000 sf (1,800 sf/unit)	20 ft	15 ft	15 ft/20 ft	35 ft	50%	20%
M-R-H	9,000 sf (1,000 sf/unit)	20 ft	15 ft	15 ft/20 ft	40 ft, 35 ft[2]	65%	20%
PD	Underlying GP designation	n/a	n/a	n/a	n/a	n/a	20%[3]

Source: City of Clayton Zoning Ordinance 2022
[1]Standards shown are for interior lots. Refer to the Zoning Ordinance for side yard standards for corner lots.
[2]Twenty feet when District abuts (within 50 feet) any single-family residential district.
[3] Affordable housing projects may be allowed to provide less than 20 percent of the project site as open space subject to approval by the Planning Commission.
[4] Lot coverage in M-R zone depends on density, with General Plan requirements set at 25% for Single Family High Density and 40% for Multifamily Low Density.
[5] In high density zone, side setback on corner lot is 20 feet.
sf = Square Feet

Parking

New residential development is required to provide parking as shown in Table 4-6.

Table 4-6: Residential Parking Requirements

Requirement	Description
Single-family	4 per unit (2 must be fully enclosed and 2 may be tandem)
Small lot, single-family (<4,000 sf net lot area, Multifamily General Plan Designation)	2 per unit (1 must be covered and 1 may be tandem), 0.5 guest spaces per unit
Duplex	2 per unit (1 must be covered and 1 may be tandem), 0.5 guest spaces per units
Multiple-family Studio	1 per unit (covered)

Table 4-6: Residential Parking Requirements

Requirement	Description
1-bedroom 2+ bedroom Guest Parking	1.5 per unit (1 must be covered) 2 per unit (1 must be covered) 0.5 per unit
Group residential	1 per sleeping room plus 1 per 100 ft of assembly or common sleeping areas

Source: City of Clayton Zoning Ordinance 2014

The parking requirements for single-family development exceed those typically used in other cities, which generally require two spaces and sometimes more for units with 5+ bedrooms. For multiple-family developments, the requirement for covered spaces adds construction costs and may be considered a constraint on development. A housing program calls for revisiting the parking requirements for single family residential uses to base parking requirements on bedroom county and revising the parking standards for multifamily residential uses to eliminate covered and guest parking.

The parking requirements may be reduced for projects zoned PD (e.g., Oakhurst provides only 1.5 parking spaces for its zero lot line units) with a supporting parking analysis and may be reduced for Affordable Housing Opportunity sites with a supporting parking analysis. Affordable Housing Opportunity Sites are determined to be appropriate for affordable housing development due to their size and proximity to services and amenities. These sites are not required to be developed as affordable housing, but it is strongly preferred, and affordable housing units will be incentivized through increased density, design flexibility, priority processing, and funding application assistance.

Growth Management Program (Measures C & J) In 1988, Contra Costa County voters approved a half-cent sales tax to fund a transportation improvement and growth management program (Measure C). This program addresses congestion problems by funding transportation improvement projects and establishing a process involving all cities in Contra Costa County, including Clayton, to cooperatively manage the impacts of growth. In 2004, over two-thirds of Contra Costa County voters passed Measure J, which extended the previous Measure C for another 25 years to 2034. Similar to Measure C, Measure J aims to assure that future residential business and commercial growth pays for the facilities required to meet the demands resulting from that growth. Compliance with the Measure J Growth Management Program is linked to receipt of Local Street Maintenance and Improvement Funds and Transportation for Livable Community Funds from the Contra Costa Transportation Authority (CCTA), the congestion management agency for Contra Costa County.

The overall goals of the program are to relieve traffic congestion created by past development through road and transit improvements funded by the sales tax increase and to prevent future development decisions from resulting in the deterioration of services. To be eligible for sales tax funds, the Growth Management Program requires that each participating city and town and the County take several actions including:

- Adopting a Growth Management Element of the General Plan to address the impacts of growth
- Committing to managing congestion by adopting and applying traffic service standards to ensure that new development will not significantly worsen traffic on streets, roads, and regional routes

- Reducing dependency on the single-occupancy automobile through use of transportation systems management for each jurisdiction's large employers or an alternative mitigation program for areas that are primarily residential in character
- Ensuring that new development pays its own way through mitigation and fee programs
- Reducing the number and length of automobile commute trips by addressing housing options and job opportunities at the local, regional, and countywide level
- Adopting a Housing Element certified by the California Department of Housing and Community Development

CCTA is responsible for ensuring that these objectives and requirements are met. Periodically, it evaluates whether each city, town, and the County is participating fully, based on a compliance checklist. Each year that a jurisdiction is found to be in compliance with the Growth Management Program, the jurisdiction receives a share of the local sales tax increase that will be used for local street improvements and related activities.

In 1992, Clayton adopted the Growth Management Element of the General Plan pursuant to the requirements of Measure C. This element establishes goals, policies, and standards for traffic service and other public facilities and services. The City adopted an update to the Growth Management Element in 2011 (Resolution No. 13-2011) following approval of Measure J. Consistent with Policy 1d of the Growth Management Element and the Measure J Growth Management Plan, the City requires developers of development projects estimated to generate over 100 peak hour vehicle trips to provide the City with a traffic impact study consistent with the Technical Guidelines published by CCTA. Measure J also requires jurisdictions to demonstrate progress on providing housing opportunities by comparing the number of units approved within the previous five years with the number of units needed to meet the objectives established in the jurisdiction's Housing Element. It further requires each city to periodically certify it has not violated its Urban Limit Line (ULL) boundary and accompanying regulations for orderly growth to be eligible for receipt of Measure J funds.

Measure J eliminates the previous Measure C requirements for local performance standards and Level of Service (LOS) standards for non-regional routes. However, the City of Clayton carried forward into its 2011 Growth Management Element update the LOS standards for non-regional routes, as well as performance standards for fire, police, parks, sanitary, water, and flood control, as each could continue to play a decisive role in assessing the impacts of proposed new development. Measure J also adds the requirement for adoption of a voter-approved ULL.

The adopted Growth Management Element does not restrict the number of new homes that can be built in Clayton. The element intends to use the increased tax revenue for transportation improvements to ensure that development and growth are orderly and not restricted. Measure J requires that the City monitor progress toward meeting Clayton's housing objectives. The City has determined that its Growth Management Element does not constrain the maintenance, improvement, or development of housing for all income levels.

DEVELOPMENT PROCESSING PROCEDURES, STANDARDS, AND FEES

Permit Processing Procedures

Constraints Analysis

Housing development projects proposed in Clayton are subject to one or more of the following review processes or permits: environmental review, zoning, subdivision review, planned development permit, site plan review, use permits, and building permits.

The city does not have an in-house building department; it contracts with the Contra Costa County Building Inspection Division to administer its building permit process. To proceed with a residential development, the developer first obtains the required project specific development entitlement approvals from the City. The developer then submits construction plans to the city for zoning compliance review and applies for sewer and water service.

The City of Concord provides contracted sewer service in Clayton. The Contra Costa Water District, an independent special district public entity, provides water service. Once the developer has obtained entitlement, zoning compliance, and utilities connection approvals, the developer submits plans to the County Building Inspection Division for plan check and a building permit. The County also provides building inspection services and grants certificates of occupancy for the project.

The City created and offers a development handbook that provides applicants with an overview of its development approval process. The handbook is available on the City's website. The guide is intended to minimize uncertainty in the process and reduce the time applicants spend seeking development approval. The Clayton Community Development Department also encourages no-cost pre-application meetings so that city staff can provide assistance and direction to applicants prior to application review. Staff has found that the pre-application meetings reduce the time spent approving development applications.

The City does not have written procedures for the SB 35 Streamlined Ministerial Approval Process. A program calls for creating written procedures.

Permit Processing Time Frames

Table 4-7 shows typical permit processing times. Typical processing times include both discretionary and non-discretionary permit processing times and account for the time required to obtain permits from both Contra Costa County and the city. For example, a "typical" development project such as a new single-family residence or residential addition that does not require environmental review but requires a use permit and/or site plan review from the city and a building permit from Contra Costa County could take 12 weeks to process (eight weeks for the use permit and site plan review, which could be processed concurrently, and four weeks for a building permit).

The city's permit processing procedures include an assessment of the potential environmental impacts of the proposed project. If a project requires environmental review, additional processing and time is required. State law under the California Environmental Quality Act (CEQA) mandates these review procedures. Many environmental regulations have protected the public from significant environmental degradation, prevented development of certain projects on sites not well suited for the development proposed, and given the public opportunity to comment on project impacts. This process does, however, increase the time needed for approval of a project and adds to its cost.

A single-family residential subdivision requires approval of a Tentative Subdivision Map. A multifamily project requires the approval of a Development Plan Permit. Tentative Subdivision Maps require Planning Commission approval, and multifamily projects with a Planned Development ~~Both proposals~~ require

actions by the Planning Commission and the City Council. If the level of environmental review is a negative declaration (ND) or a mitigated negative declaration (MND), then the typical processing time is six to nine months from the time an application is deemed complete. If the level of environmental review is an environmental impact report (EIR), then the typical processing time, from the time the application is deemed complete, is approximately 12 to 16 months.

Table 4-7: Typical Permit Processing Times

Type of Application	Estimated Processing Time* (following formal acceptance)
General Plan Amendment	20-26 weeks
Rezoning	20-26 weeks
Use Permit	6-10 weeks
Variance	6-10 weeks
Planned Development	20-26 weeks
Subdivision (Tentative Map)	20-26 weeks
Subdivision (Final Map)	Varies
Site Plan Review	6-10 weeks
Zoning Review (city staff)	1-2 weeks
Building Permit (County Building Inspection Division)	2-4 weeks

Sources: City of Clayton, Contra Costa County

**These times assume environmental review is not required and that the application is deemed complete.*

Planned Development Districts

A Planned Development (PD) district requires a separate Planned Development Permit. The permit request must meet the requirements set forth in Chapter 17.28 of the Clayton Municipal Code and must be approved by the City Council. An approved PD district provides applicants with flexibility in land use controls, including residential land use controls.

To facilitate multi-family development on PD sites, in 2014 the city amended the PD zoning district standards to allow multi-family developments with a General Plan land use designation of Multi Family High Density (MHD) to be processed with only site plan review (rather than development plan review as was previously required) if applicants choose to adhere to M-R-H zoning district development standards. This change was intended to create a more predictable path for development on sites designated MHD.

The PD district provides developers with the flexibility to accommodate projects on sites that are constrained by various physical factors such as flooding, slopes, restricted access, or cultural resources. The development plan process allows creativity in the application of various standard development requirements including setbacks, height limitations, lot coverage, vehicular access, parking, and architectural design. Since development plans may involve the relaxation of various standards, Planning Commission and City Council review is required. The standards of review are listed in the Zoning Ordinance and focus upon ensuring that a better development would result than would occur with a non-flexible zone and ensuring protection of usable and natural open areas.

Site Plan Review

Site plan review is required for new single-family dwellings, multi-family dwellings, and certain types of residential additions. Typically, the process is initiated by staff meeting with the applicant to review the

project. The applicant submits an application and the processing fee/deposit. Neighboring property owners are notified and a staff report is prepared. The Planning Commission reviews the project at a public hearing to examine compatibility with surrounding residences, solar rights, privacy, safety, and views. The site plan review process takes approximately six to eight weeks. Following site plan approval, the applicant submits construction drawings for an initial zoning conformance review by the Community Development Department staff and then to the County Building Inspection Division.

While the site plan review process includes specific objective design criteria against which residential development proposals are reviewed, the public hearing process adds time and application processing costs that contribute to housing costs. This process may be considered a constraint on housing development to the degree that it adds costs and delays. A program has been included to streamline the site plan review process for housing development.

Design Review

Residential development projects in Clayton are subject to a design review process that is a component of the site plan review process. The City does not require specific findings to be made for reviewing a project's design. In addition, the design review process cannot be used to reduce density or increase development requirements in a way that has the effect of increasing density or in a way that prevents a project from being constructed, consistent with State law. The design review ~~This~~ process ensures that new residential development is compatible with surrounding residences and protects the solar rights, privacy, safety, and views of existing development. The requirements for design review are described in the Town Center Specific Plan, the Marsh Creek Road Specific Plan, the Zoning Ordinance, and the General Plan. These documents are described as follows:

- *Marsh Creek Road Specific Plan*: The Marsh Creek Road Specific Plan contains design and development standards that require designers and builders to retain and enhance the character of the planning area as it develops. The guidelines address site planning, creek corridors, ridgeline and hillside protection, streetscape and landscape architecture, residential architecture, energy and resource conservation, and commercial development.
- *Town Center Specific Plan*: The Town Center Specific Plan contains design guidelines that provide guiding principles rather than strict requirements to ensure flexibility in meeting the intent of the guidelines. The guidelines address several topics such as site design, architectural character, landscape character, preservation of historic buildings, relationship of new to existing development, parking, and signage.
- *General Plan*: The General Plan contains a Community Design Element with objectives, policies, and implementation measures that address overall community design, scenic highways, and design standards for the Town Center.
- *Zoning Ordinance*: The Zoning Ordinance protects solar rights, privacy, safety, and views of existing development through height and setback restrictions.

Amendments to the State Housing Accountability Act, as well as other laws enacted to facilitate housing production, have affirmed the state legislature's intent to ensure jurisdictions use an objective process to review whether a proposed housing development application complies with local standards.

The City's design review process has been formulated to ensure that new residential development preserves basic objective aesthetic principles and does not allow conditions to be placed on the project that would lower the density or make the project financially infeasible. The City has not yet thoroughly assessed whether the standards applied meet the requirements of current State law. A program has been included to establish objective design standards for multifamily residential and qualifying mixed-use developments under State law.~~move this review and any required code amendments forward.~~

ON- AND OFF-SITE IMPROVEMENT REQUIREMENTS

The city requires installation of on- and off-site improvements to ensure adequate provisions are made for safe traffic movement, utility services, and desired community amenities. Improvements typically include streets, curbs, gutters, sidewalks, and utilities, and amenities such as landscaping, fencing, street lighting, open space, and park facilities. Additional improvements can include:

- Road improvements, including construction of sections of roadway, medians, sidewalks, bicycle lanes, and street lighting
- Drainage improvements, including improvement to sections of channels, culverts, swales, stormwater quality treatment basins and pond areas (Contra Costa County Flood Control District requirements)
- Wastewater collection and conveyance facilities (Contra Costa Sanitary District requirements);
- Water system improvements, including pipelines and storage tanks (Contra Costa Water District requirements)
- Public facilities for fire, school, and recreation

The type of improvements required depends upon the improvements that exist prior to development. If, for example, a vacant lot is improved with curbs, gutters, and sidewalks, then the developer is not required to reinstall those improvements. All typical improvements discussed above are required for residential development if they are absent prior to development.

Typically, on- and off-site improvement costs are passed on to the homebuyer or renter as part of the final cost of the home. Clayton does not require on- and off-site improvements beyond what is typically required in other jurisdictions and therefore does not consider these improvements to be a constraint to the development of housing for all income levels.

The Housing Element would accommodate a significantly higher population (2,364 persons) than the estimates contained in CCWD's most current (2020) Urban Water Management Plan (UWMP; 530 persons). The projected population increase estimated in the CCWD UWMP is from 2025 to 2045, whereas the HEU estimates an additional for the same period. Under 5-year drought conditions, the UWMP also projects an undersupply of water, compared to demand, after 2030. The Bay Area is already experiencing that level of drought; therefore, water demand will need to be reduced to accommodate the housing that can be accommodated with the Housing Element, or water supply expansion will likely be needed. While this may be considered a constraint, lack of water supply affects all of the areas CCWD serves, which includes the majority of central and northeastern Contra Costa County. In addition, inadequate water supply is a statewide issue since water in the service area is primarily drawn from the Sacramento-San Joaquin Delta, which originates in the Sierra Nevada mountains and flows through the Sacramento and San Joaquin rivers into the Sacramento Delta. As a result, water supply is not considered a local constraint

to housing production in Clayton. Nonetheless, water conservation measures will be necessary for all projects that increase water demand beyond the water supplies CCWD can accommodate.

The City (under contract to the City of Concord) conveys wastewater via existing infrastructure to the Central Contra Costa Sanitary District (CCCSD) Treatment Plant near Martinez for treatment and discharge to surface waters or reuse as recycled water. The CCCSD Treatment Plant has a treatment capacity of approximately 54 million gallons per day (mgd) and approximately 270 mgd of wet-weather flow. The CCCSD currently collects and treats an average of approximately 34 mgd and up to 230 mgd during extreme storm events. The CCCSD Treatment Plant is projected to treat 41 mgd average daily dryweather flow by 2035.

The Housing Element's estimated population increase (up to 2,364 persons) would generate an additional 236,400 gallons of wastewater per day, or 0.24 mgd per day, based on the CCCSD Waste Master Plan (WMP). This represents 0.4 percent of the estimated 54 mgd dry weather flow capacity of the Treatment Plant. The projected population increase estimated in the CCCSD WMP is similar to the projections in ABAG's 2020 Plan Bay Area. Although the CCCSD WMP projections do not specifically take into account the Housing Element's estimated population increase for 2022-2030, it is unlikely the sewage demands of future development under the Housing Element would exceed the capacity of the CCCSD treatment plant. Therefore, no constraint exists.

CONSTRUCTION AND HOUSING CODES

CODE ENFORCEMENT

The City has a small Code Enforcement team. Code Enforcement staff receives and follows up on complaints from residents and business owners about matters regarding poorly maintained properties, including foreclosed properties; ill-kept landscaping; and boats recreational vehicles illegally parked within public view on private properties. Enforcement practices include verbal contacts, written courtesy notices, and formal notices of violation. These efforts help maintain the quality and appearance of properties in Clayton. Code Enforcement staff coordinates as needed with other local agencies, including representatives from the Contra Costa County Building Department, the Clayton Police Department, the Housing Authority of Contra Costa County, the Contra Costa County Mosquito and Vector Control District, and the Environmental Health Department of Contra Costa County.

Building Code

The City contracts with the Contra Costa County Building Inspection Division to provide building plan check, inspection, and occasional code enforcement services related directly to construction projects or matters of health and safety. Table 4-8 shows the construction and housing codes adopted and administered by Contra Costa County for Clayton. These codes are life and safety provisions that apply to housing throughout California and affect cost of housing equally.

Table 4-8: Construction and Housing Codes

Code Section	Title	Remarks
15.01	Construction Regulations	Applied to all development and thus not an unusual cost
15.02	Uniform Building Code with Amendments, 2013	Applied to all development and thus not an unusual cost
15.03	California Electric Code Amendments, 2013	Applied to all development and thus not an unusual cost
15.04	California Plumbing Code with Amendments, 2013	Applied to all development and thus not an unusual cost
15.05	California Mechanical Code with Amendments, 1997	Applied to all development and thus not an unusual cost
15.06	Uniform Housing Code with Amendments, 1997	Applied to all development and thus not an unusual cost
15.07	Building Security Construction Codes	Applied to all development and thus not an unusual cost
15.08[1]	Sign Provisions	Generally does not apply to housing development
15.09	California Fire Code with Amendments, 2013	Applied to all development and thus not an unusual cost
15.56	Moving Buildings regulations	Applied to all development and thus not an unusual cost
15.58	Flood Damage Prevention practices	Applied to all development and thus not an unusual cost
15.60	Grading Rules	Applied to all development and thus not an unusual cost
15.70[1]	Tree Protection regulations	No major impacts on the cost of housing
15.80	Project Construction & Demolition Debris Recycling regulations	No major impacts on the cost of housing, although cost savings from recycling material may provide a cost savings for construction which would be passed along to tenants
15.90	Reasonable Accommodation	Provide greater flexibility in providing housing for persons with a disability
15.92	Universal Design	No major impacts on the cost of housing and will provide a housing stock that is accessible to disabled persons
Part 11, Title 24	CalGreen Green Building Code, 2013	Will reduce the demand for household energy and therefore decrease the cost of maintaining a household
Title 16	Land Development and Subdivision	Applied to all development involving subdivision of land and

Table 4-8: Construction and Housing Codes

Code Section	Title	Remarks
		creating additional lots or parcels and thus not an unusual cost

Source: City of Clayton, County Building Inspection Division, and County Fire Protection District
Notes: 1. Typically not required for residential developments

DEVELOPMENT FEES

The City collects development fees to help cover the costs of permit processing and environmental review. As shown in Table 4-9, Community Development Department fees are billed at the cost per hour per employee. Fees collected by the City in the review and development process cannot and do not exceed the City's costs for providing these services. Applicants must submit a deposit in the specified amount upon submittal of an application.

Table 4-9: Community Development Department Fee

Item	Fee
Annexation	Staff time billed on a time and materials basis, $5,000 minimum deposit
General Plan amendment	Staff time billed on a time and materials basis, $5,000 minimum deposit
Pre Zoning	Staff time billed on a time and materials basis, $5,000 minimum deposit
Rezoning	Staff time billed on a time and materials basis, $5,000 minimum deposit
Zoning Ordinance amendment	Staff time billed on a time and materials basis, $5,000 minimum deposit
Site Plan Review Permit (initial permit or amendment)	Staff time billed on a time and materials basis, $1,000 minimum deposit
Development Plan	Staff time billed on a time and materials basis, $5,000 minimum deposit
Environmental Impact Report (EIR) Mitigated Negative Declaration (MND) Negative Declaration (ND)	Staff time billed on a time and materials basis, $5,000 minimum deposit Staff time billed on a time and materials basis, $2,500 minimum deposit Staff time billed on a time and materials basis, $1,500 minimum deposit
Use Permit – Residential – Planning Commission Review	Staff time billed on a time and materials basis, $1,000 minimum deposit
Second Dwelling Unit Permit – administrative review	$331
Tree Removal Permit – admin. Review without notice Tree Removal Permit – admin, review with notice Tree Removal Permit – Planning Commission review	$12/ tree (minimum $40) $60/ tree (minimum $132) Staff time billed on a time and materials basis, $500 minimum deposit
Variance (residential)	Staff time billed on a time and materials basis, 1,000 minimum deposit
Appeal – administrative decisions	$65

Table 4-9: Community Development Department Fee

Item	Fee
Appeal – residential Planning Commission decisions	$331
Tentative Subdivision Map application	Staff time billed on a time and materials basis, $2,000 minimum deposit
Parcel Map application	Staff time billed on a time and materials basis, $2,000 minimum deposit
Lot line adjustment	Staff time billed on a time and materials basis, $1,000 minimum deposit
Lot merger	Staff time billed on a time and materials basis, $2,000 minimum deposit
Habitat Conservation Plan	Staff time billed on a time and materials basis, $1,000 minimum deposit

Source: City of Clayton FY 20-21 Master Fee Schedule, per City Council Resolution. No. 56-2020
Note: Fees may be adjusted (some are linked to increases based on the Consumer Price Index).

The City and applicable districts collect development impact fees for the provision of services such as water, sewers, storm drains, schools, and parks and recreation facilities. These fees are generally assessed based on the number of units in a residential development, with the exception of the school district fee collected by the Mount Diablo Unified School District (MDUSD), which determines permit fees based on building square footage. Fees charged for building permits are based on the construction values as prescribed by the Uniform Building Code. Table 4-10 shows a summary of development fees for three scenarios of residential development projects that might occur in the city.

Table 4-10: Clayton Development Fees

MIG									CITY OF CLAYTON, CA
Site Information	Single Family			Multifamily - Large			Multifamily - Small		
	Unit S.F.		3100	Unit S.F.		800	Unit S.F.		800
	# of Units		1	# of Units		100	# of Units		10
	Valuation		$404,798.00	Valuation		$9,637,600.00	Valuation		$963,760.00
Fee Classification	**Multiplier**	**Per**	**Cost**	**Multiplier**	**Per**	**Cost**	**Multiplier**	**Per**	**Cost**
Entitlement Fees									
Site Plan Review Permit	$1,000.00	Dep	$1,000.00	$1,000.00	Dep	$1,000.00	$1,000.00	Dep	$1,000.00
Development Plan	$5,000.00	Dep	$5,000.00	$5,000.00	Dep	$5,000.00	$5,000.00	Dep	$5,000.00
Residential Use Permit			N/A	$1,000.00	Dep	$1,000.00	$1,000.00	Dep	$1,000.00
TOTAL ENTITLEMENT FEES			**$6,000.00**			**$6,000.00**			**$6,000.00**
Building Fees									
Construction and Demolition Recycling	$172.00	Set	$172.00	$346.00	Set	$346.00	$346.00	Set	$346.00
Management Plan Deposit	$1.00	SF	$3,100.00	$1.00	SF	$80,000.00	$1.00	SF	$80,000.00
TOTAL BUILDING FEES			**$3,272.00**			**$80,346.00**			**$80,346.00**
Impact Fees									
School District Fee	$4.08	SF	$10,608.00	$4.08	SF	$326,400.00	$4.08	SF	$32,640.00
Childcare Facilities	$205.00	Unit	$205.00	$205.00	Unit	$20,500.00	$205.00	Unit	$2,050.00
Offsite Arterial Street Improvements	$1,456.00	Unit	$1,456.00	$1,019.00	Unit	$101,900.00	$1,019.00	Unit	$10,190.00
Fire Development Protection	$300.00	Unit	$300.00	$200.00	Unit	$20,000.00	$200.00	Unit	$2,000.00
Community Facilities Development	$450.00	Unit	$450.00	$125.00	Unit	$12,500.00	$125.00	Unit	$1,250.00
Parkland Dedication	$2,569.00	Unit	$2,569.00	$1,666.00	Unit	$166,600.00	$1,666.00	Unit	$16,660.00
SWPPP	$5,000.00	Dep	$5,000.00	$5,000.00	Dep	$5,000.00	$5,000.00	Dep	$5,000.00
TOTAL IMPACT FEES			**$20,588.00**			**$652,900.00**			**$69,790.00**
TOTAL PROJECT FEES			**$29,860.00**			**$739,246.00**			**$156,136.00**

As presented in Table 4-10, a developer can expect to pay roughly $20,558 in impact fees for the construction of a 3,100-square-foot single-family home and $69,790 for a small multi-family development of ten 800-square-foot units. Note that totals do not include planning fees, which vary based on the level of review needed and actual time needed to process an application.

In 2022, the Contra Costa County Consortium undertook a fee study as part of a regional effort to assist cities with preparation of their housing elements. Table 4-11 shows the typical fees charged by city for an approximate 3,100-square-foot single-family home, a 100-unit apartment complex, and a 10-unit apartment complex.

Table 4-11: Development Fees in Contra Costa County Cities

Jurisdiction	Single-Family Residential	Multi-family Residential - 100 Units	Multi-family Residential - 10 Units
Antioch	$22,146.24	$813,910.78	$103,950.44
Danville	$62,489.24	$3,336,919.50	$347,075.68
Lafayette	$68,946.25	$3,132,049.61	$370,969.49
Hercules	$64,064.99	$2,967,385.44	$316,813.89
Clayton	$39,160.00	$1,669,246.00	$249,136.00
Pinole	$56,665.77	$2,277,370.79	$216,977.21
Brentwood	$113,158.84	$4,766,295.73	$494,143.76
Concord	$47,248.07	$1,765,845.76	$237,264.81
El Cerrito	$57,356.24	$2,927,768.15	$440,729.35
Moraga	$85,109.56	$4,101,720.20	$434,941.60
Martinez	$58,701.86	$2,468,768.76	$271,214.92
Oakley	$70,088.22	$3,572,169.38	$328,874.26
Orinda	$64,627.76	$3,347,953.50	$376,137.59
Pittsburg	$60,830.46	$3,198,202.86	$331,402.52
Pleasant Hill	$30,927.67	$1,670,408.38	$177,477.61

Table 4-11: Development Fees in Contra Costa County Cities

Jurisdiction	Single-Family Residential	Multi-family Residential - 100 Units	Multi-family Residential - 10 Units
Richmond	$45,694.42	$2,301,117.22	$238,344.58
San Pablo	$29,498.69	$674,051.76	$82,452.38
San Ramon	$100,495.59	$3,318,772.28	$340,120.27
Walnut Creek	$31,004.88	$1,507,627.70	$168,649.32

Source: MIG, Inc.

As Table 4-11 shows, development fees in Clayton are generally lower than typical fees charged by other cities in the County, lower than nearby Pittburg and Concord, for example. ~~with o~~Only Antioch, San Pablo, and Walnut Creek, for example, have~~ing~~ lower fees for single-family homes. A large portion of the total fees associated with residential development in the city is for water connections, which are provided by the Contra Costa Water District (special district) for jurisdictions located in Contra Costa County. The city also relies on the County's Building Inspection Division for building permit, plan review, and inspection services. The pre-application meetings and application referral process can assist with expediting the permit review period at the County level.

NON-GOVERNMENTAL CONSTRAINTS

The availability and cost of housing are significantly influenced by market factors in the Bay Area over which local government has little or no control. State law requires that the Housing Element provide a general assessment of these constraints. This assessment can serve as the basis for actions which local governments might take to offset the effects of such constraints. The primary market constraints to the development of new housing are the costs of constructing and purchasing new housing. These costs can be broken down into three categories: land, construction, and financing. For the most part, housing cost components in Clayton are comparable to those in other parts of the Bay Area. During the COVID-19 pandemic, supply chain issues resulted in regional and statewide increases in materials costs.

LAND COSTS

Costs associated with the acquisition of land include the market price of raw land and the cost of holding land throughout the development process. These costs can account for as much as half of the final sales prices of new homes in very small developments or in areas where land is scarce. Among the variables affecting the cost of land are location, amenities, the availability of public services, and financing arrangements between the buyer and seller.

Land costs vary significantly in accordance with a variety of factors, including proximity of urban services. Due to low inventories of vacant lands and land for sale in Clayton, it is difficult to estimate the local cost

per acre of land. The inventory of vacant land parcels in the neighboring city of Concord includes properties near Clayton. Undeveloped land zoned for residential development on these properties is listed from $600,000 per acre to as high as $4 million per acre. The high cost of land constrains developers' ability to develop affordable housing. The city has no control to lower the cost of land in the private market. Below are current land vacancies and costs in Clayton and Concord.

Table 4-12: Vacant Land Costs

Address	Cost	Acres
8925 Marsh Creek Rd, Clayton, CA 94517	$1,300,00	47.23
1595 Lower Trail Rd, Clayton, CA 94517	$275,000	1.03
1975 Holly Dr, Concord CA 94521	$295,000	0.5

Source: Zillow.com, April 2022

CONSTRUCTION COSTS

Factors that affect the cost of building a house include the type of construction, materials, site conditions, finishing details, amenities, and structural configuration. According to data from the California Construction Cost Index, hard construction costs in California grew by 44 percent between 2014 and 2018, or an additional $80 per square foot[1]. During the COVID-19, beginning in 2020, supply chain constraints contributed to a significant rise in materials costs and delays in delivery. Construction costs are estimated to account for upwards of 60 percent of the production cost of a new home, especially for multi-unit residential buildings, which can require the use of more expensive materials, like steel, and in more urban environments, need additional amenities such as parking structures[2]. Variations in the quality of materials, type of amenities, labor costs, and the quality of building materials could result in higher or lower construction costs for a new home.

According to data provided by the 21 Elements consortium in San Mateo County, hard construction costs for a single-family home in the Bay Area range from $250 to $525 per square foot, depending upon, for example, the quality of interior finishes. For multi-family housing, per-square-foot costs can be as high as $520. Pre-fabricated factory-built housing, with variation on the quality of materials and amenities, may also affect the final construction cost per square foot of a housing project. In contrast, the national square footage construction costs for 2021 from the International Code Council (ICC) for residential developments shown in Table 4-13 are substantially below Bay Area costs.

[1] Hayley Raetz, Teddy Forscher, Elizabeth Kneebone and Carolina Reid, The Hard Costs of Construction: Recent Trends in Labor and Materials Costs for Apartment Buildings in
California, The Terner Center for Housing Innovation, University of California Berkeley, March 2020, p.8,

http://ternercenter.berkeley.edu/uploads/Hard_Construction_Costs_March_2020.pdf

[2] Ibid., Raetz et al, p.4.

Table 4.13: Construction Cost by Building Type – National Data

Building Type	Square Foot Construction Cost Range
R-2 Residential, multiple family	$136.73 – $203.34
R-3 Residential, one-and two-family	$148.33 - $189.34

Source: International Code Council, Building Valuation Data, August 2021

According to the ICC data, the range of costs per square footage for one- and two-family homes is higher than that of multiple family homes, making multi-family housing more affordable to develop on a cost per square foot basis.

If labor or material costs increased substantially, the cost of construction in Clayton could rise to a level that impacts the price of new construction and rehabilitation. Therefore, increased construction costs have the potential to constrain new housing construction and rehabilitation of existing housing.

LABOR COST

The California Labor Code applies prevailing wage rates to public works projects exceeding $1,000 in value. Public works projects include construction, alteration, installation, demolition, or repair work performed under contract and paid for in whole or in part out of public funds. Furthermore, if federal funds are involved, Davis-Bacon wages often apply. While the cost differential in prevailing and standard wages varies based on the skill level of the occupation, prevailing wages tend to add to the overall cost of development. In the case of affordable housing projects, prevailing wage requirements could effectively reduce the number of affordable units that can be achieved with public subsidies.

AVAILABILITY OF FINANCING

Financing new residential development can be a significant cost; however, residential financing for both single-family and multiple family housing is generally available. Developers of single-family projects often secure loans for land acquisition, installation of improvements, and construction. According to the US Bank, land acquisition and development loan rates are typically the prime rate plus 0.5 to 2.0 percent, which is between 3.99 to 5.4 percent as of May 2022. Mortgage rates were low for previous years but are now increasing. Apartment loan rates are generally a bit lower. Developers of affordable housing face significant challenges in securing financing. Due to the limited possible return from rents or sales prices of affordable units, many private lenders are unable to finance affordable projects due to the rate of return. Thus, affordable developers must rely on community lending divisions, nonprofit institutions, grants and special loans, and local assistance.

GOVERNMENT CODE 65583(A)(6) DEVELOPMENT ANALYSIS

Government Code section 65583(a)(6) requires an analysis of requests from developers to build housing at densities below those anticipated in site inventory and the length of time between receiving approval for housing development and submittal of an application for building permit. The analysis must also look at local efforts to remove nongovernmental constraints that create a gap in the jurisdiction's ability to meet RHNA by income category.

Constraints Analysis

Densities Below Zoning Maximums

Clayton largely is zoned for single-family development at densities of no greater than four units per acre. For properties with higher allowed densities, many are zoned PD (Planned Development) to allow for flexibility in development standards given site constraints. On PD-zoned properties, the General Plan land use policy map dictates the maximum allowed density. Given the preponderance of single-family zoned properties and the required low densities, developers elect to build at the upper end. However, given geologic and slope conditions on specific properties, yields can fall below the maximum allowed. For example, the Oak Creek Canyon subdivision proposes six units on nine acres of land. The Diablo Meadows subdivision proposes 18 single-family lots (and three ADUs, which are not included in density calculations) on an 8.68-acre site, at a density of 2.1 units per acre overall, with units clustered into a smaller area to allow for 4.36 acres to be preserved as open space.

For multi-family-zoned properties, only one application has occurred in recent years, for the Olivia on March Creek project. The Olivia is a senior housing development that utilized state density bonus law provisions to yield 27 units per acre, higher than the allowed density of 20 units per acre.

Elapsed Time to Receive Building Permits

In Clayton, the time that passes between a developer receiving entitlements and building permits can be lengthy given the biologic and challenging geologic conditions in the city. Detailed studies and plans are required to address slope and soils stability concerns. Detailed mitigations studies may also be required to show how sensitive habitat areas will be protected. The time may be as long as two years, depending upon specific site conditions. These time periods are typical for a site that requires particular consideration of public safety and natural resource issues.

Regarding the Olivia project cited above, after receiving entitlements, the developer opted to “shop” the project to other parties rather than move diligently through the building permit process. This delay was not related to any city actions.

LOCAL EFFORTS TO REMOVE NONGOVERNMENTAL CONSTRAINTS

Housing Element law requires analysis of local efforts to remove nongovernmental constraints that impact the City’s ability to meet its RHNA by income category. The primary nongovernmental constraint is the overall cost of affordable housing development (high land and development costs) in most parts of the State. In general, constructing affordable housing, especially for low- and very low-income households, is not profitable for housing developers. Therefore, deed-restricted affordable units require subsidy beyond available density or financial incentives. This places the construction burden on nonprofits and similar grant-funded housing developers and may result in affordable projects that are not always dispersed throughout the region but are concentrated in limited areas with lower development costs. While the City can offer developer incentives such as expedited permit processing or fee deferrals—or partner with a developer on City-owned properties—it cannot afford to fully mitigate the high cost of development for affordable housing developments.

Previously, Clayton had provided assistance through the Redevelopment Agency Set-Aside fund as a means to subsidize the construction of housing for very low-, low-, and moderate-income households. However, pursuant to changes in State law, the Redevelopment Agency was dissolved in 2012, reducing

the City's ability to provide direct financial support. The city does have measures to help incentivize affordable housing development, including:

- Density bonuses
- Fee waivers or deferrals (as reasonably available)
- Expedited processing/priority processing
- Technical assistance with accessing funding
- Modifications to development standards through the Planned Development Permit process

ENVIRONMENTAL CONSIDERATIONS

The City of Clayton has several environmental considerations that affect where development can occur. The City is in both a landslide zone and liquefaction zone due to proximity to fault lines. The City's General Plan Safety element discusses policies to inform development and help mitigate environmental risks to residents. The city has also adopted a Local Hazard Mitigation Plan to address environmental hazards.

Geologic Hazards

Undeveloped land in Clayton has certain geologic hazards that must be considered when looking to build. These hazards include slopes with unstable soil, expansive soil, high erosion potential, evidence of springs, mudflow potential, and landslide and rockslide potential.

Due to the combination of geologic hazards affecting that portion of Clayton east of Clayton Road, the City has established the Geologic Hazard Abatement District (GHAD), for which the City Council serves as the Board of Directors. The GHAD is funded by assessments on property owners within the district. GHAD monitors conditions in the area, noting such conditions as buckling of sidewalks and road sections due to earth movement. Wells in the areas have been installed to dewater and stabilize slopes. These conditions significantly constrain development. However, none of the proposed housing sites are located within the district, and as such, no constraint associated with the GHAD exists.

Development within Clayton must undergo geotechnical studies and building design to reflect and address the project site's location and underlying soil conditions. This requirement is universal throughout Clayton, as required by goals and policies of the Safety Element of the current General Plan and the City's Municipal Code (CMC).

The Safety Element acknowledges potential geotechnical risks and requires structures to provide adequate level of safety and mitigation for the community, including to address potential seismic effects, liquefaction and subsidence, and avoid soil erosion and instability. The City requires fault setbacks and reinforcing structural externalities that may be susceptible to ground shaking, identification of areas susceptible to ground shaking as well as liquefication, constraints mapping, avoidance of local soil erosion, development restrictions of land with a slope of 26 percent or greater, and evaluations of any development expansion on instable and/or 15 percent slopes.

The California Building Code (CBC) also has guidelines on building design and construction based on seismic constraints and expected ground shaking throughout California. The City's Municipal Code (CMC) (which includes the CBC), the California Residential Code, and the California Existing Building Code. Chapter 15.60 of Title 15 of the CMC, Grading Rules and Regulations, has guidelines for soil and geology engineering reports for new developments in the City. Development projects are subject to slope

guidelines and seismic design constraints in accordance with the state's building codes, if applicable. Chapters 15.58, 15.60, and 15.70 of the CMC establish measures and requirements to address flood hazards and prevent soil erosion, including requirements associated with grading/filling, tree removal, and slope stability.

The implementation of General Plan objectives and policies, the CBC, and guidelines for development on slopes and fault-lines in the CMC requires additional costs for study, design, and construction of housing. While this is a constraint to housing development, the requirements are universally applied to all development sites in Clayton, similar to other jurisdictions in the area with similar soil conditions. Further, the requirements are needed to ensure potential impacts related to geologic and seismic constraints on future development within the Planning Area associated with the Housing Element would be less than significant for purposes of- a development's environmental impact analysis~~CEQA~~.

Therefore, this constraint cannot be overcome or avoided to accommodate housing and development in Clayton.

Seismic Hazards

Seismic activity must be considered for all cities in the Bay area. However, Clayton is less at risk that other cities in the area. The most critical faults locally, according to Woodward and Lundgren, are the San Andreas, Calaveras and Hayward faults, due to their recent activity and energy potential. Nevertheless, the Antioch and Concord faults recently have produced damaging earthquakes, the latter with a 5.4 magnitude in 1955. Prominent faults of undetermined status include the Pinole, Bollinger, Las Trampas, Frankling, South Hampton, Clayton Marsh Creek, Midland, and Mt. Diablo Faults (see Exhibit VII-2 in the Safety Element). These faults have shown inconclusive signs of activity or are associated with geologic processes and features that could result in earthquakes.

Some areas of the Clayton Valley contain alluvial soils that could amplify ground shaking in the event the Concord fault shifts. The entire area is considered seismically active, and the development plans should reflect this risk factor. Soil types, topography and bedrock may serve to heighten risk or dampen it. The presence of contained water bodies within these seismically active areas raises seiches as potential hazards, which should also be addressed in development plans. The fault is not classified as active; however, there is preliminary evidence that the fault may have displaced recent landslide materials. For this reason, the fault should be treated as active unless evidence proves otherwise.

Seismic hazards can be considered a constraint for all development in Clayton, including the housing opportunity sites, because structures require additional design and reinforcement to protect from ground shaking. This constraint is similar to other jurisdictions in the area.

Flooding Hazards

The principal stream running through Clayton is Mt. Diablo Creek. It originates on the steep north slopes of the 3,849-foot-tall Mt. Diablo. Mt. Diablo Creek drains a watershed of approximately 30 square miles. It flows northerly and westerly through the cities of Clayton and Concord, the Concord Naval Weapons Station and eventually empties into Suisun Bay. In the City of Clayton, Mt. Diablo Creek is joined by Donner and Mitchell creeks, both of which originate on the slopes of Mt. Diablo and by Peacock Creek, which flows from the Keller Ridge. Flooding has occurred from Mt. Diablo Creek in the Town Center area of

Clayton and in the flood plain between Clayton Road and Kirker Pass Road. The major floods affecting this area occurred in 1938, 1952, 1955 and 1963. The 1955 and 1963 floods both were estimated as 25-year floods. Despite these occurrences, Mt. Diablo Creek is not considered a creek with a high flood history. Part of the reason for this is due to the long floodplain between Mt. Diablo slopes and the city limits that serves to slow down velocity and delay peak flows.

However, continued watershed development increases the risk of flood event, which is a serious consideration for future development. Mt. Diablo Creek, within its confined limits, is already incapable of providing adequate flood protection. Even if land development within the watershed came to a complete halt, the statistical probability of serious flooding would be considerable. The limitation of land development, the utilization of flood plains, and the construction of engineered improvements are the most useful methods for controlling floods. No serious problems have occurred to date, but unless some type of flood control project is undertaken, the limited capacity of Mt. Diablo Creek could cause serious flooding problems.

The housing opportunity sites are all outside of the floodway areas and do not have any additional flood event risks. While flooding must be addressed as future development of watersheds continue, flooding is not an immediate constraint to the housing opportunity sites.

Biological Resources

Applicants in Clayton must prepare project-level biological surveys for all development, including but not limited to housing, and design projects to ensure compliance with the locally adopted Habitat Conservation Plan. While the HCP requires stream setbacks, avoidance of biological features, and/or off-site mitigation and payment of an HCP fee, this requirement applies to all development in Clayton, not just the housing opportunity sites, and is similar to development projects in neighboring jurisdictions, such as Concord. Compliance with State and Federal requirements associated with biological resources may constrain housing through increasing the cost to construct housing; however, the constraint is unavoidable.

Fire Hazards

Sites L and M are near high fire hazard severity zones; however, the remaining housing inventory sites are not located in or near high fire hazard severity zones. New housing may be subject to significant wildfire risks, especially if the housing is located in areas with inadequate evacuation routes. The Draft Environmental Impact Report prepared for the Housing Element contains a mitigation measure (HAZ1) to help reduce potential impacts to less than significant levels for the purposes of CEQA. The associated mitigation requires the City to undertake efforts related to either update its Local Hazard Mitigation Plan (LHMP) or work with Contra Costa County to update its Emergency Operations Plan (EOP). These City-driven actions would address State law requirements related to evacuation planning and coordination and would not result in increased costs associated with constructing housing. Therefore, no constraint exists associated with fire hazards.

Constraints Conclusion

There are no other constraints that have been identified that would limit the construction of housing on the identified housing opportunity sites. For example, the sites are all within the incorporated area of

Clayton, which means no annexation would be required and utilities and public services would be readily available. The sites are not subject to Williamson Act contracts, and none of the sites are agricultural lands, important farmland or timberland areas. None of the sites contain historic resources, and the sites do not contain visual resources that are identified in the General Plan. The Draft Environmental Impact Report prepared for the Housing Element contains mitigation measures that address cultural resources.

Clayton's local regulations largely mirror State laws and other similar jurisdictions' requirements for new development. For example, Clayton has water efficient landscaping requirements that are consistent with State law, and air quality permit requirements are consistent with the Bay Area Air Quality Management District (BAAQMD) requirements. Clayton's Municipal Code (CMC) does contain more stringent requirements for some elements of new development than some jurisdictions. These include requiring 65% of construction waste to be diverted from landfills and made available for recycling, reuse, or salvage, as required by the City's Green Building Standards Code. However, this requirement is similar to other jurisdictions in Contra Costa County.

5. Housing Resources

As described in the Introduction chapter, Clayton's character is defined by its low-intensity development patterns and connections to the surrounding natural environment. Of the available vacant land, unstable geologic conditions constrain development of new housing. Infill development approaches will be used to accommodate the RHNA of 570 units, and in particular, the higher-density housing most able to provide affordable rents and mortgages. This Housing Element identifies new initiatives for Clayton. Notably, the inventory of housing sites described below includes properties to be rezoned ~~(in tandem~~immediately following ~~with~~ Housing Element adoption~~)~~ to accommodate development densities of up to 40 units per acre on select sites. Within the Town Center, creative mixed-use projects will bring additional residents into Clayton's downtown, thereby providing new patrons for the local businesses and offering more affordable housing options in the form of townhomes, live/work units, and small apartments.

Encouraging and supporting development of affordable housing choices requires assistance in the form of subsidies and incentives from federal, State, County, and local City resources. This chapter introduces several resources that will be available to provide the incentives and support.

AVAILABILITY OF SITES FOR HOUSING

A critical component of the Housing Element is the identification of sites for future housing development and the evaluation of these sites' ability to accommodate the RHNA. In Clayton, additional residential growth will occur on residential and mixed-use properties with redevelopment potential, primarily along major corridors and in the Town Center. Also, two large sites not identified in prior housing element cycles—a portion of a vacant property known as Seeno Hill and the overflow parking lot for the Oakhurst Country Club—are identified as locations for housing at up to 20 and 30 units per acre, respectively. The following discussion analyzes residential growth potential and describes how collectively these sites provide capacity for more than 570 new homes for households of all income levels.

REGIONAL HOUSING NEEDS ALLOCATION (RHNA)

California law requires each city and county to zone properties in a manner that ensures the city or county can accommodate its fair share of regional housing needs over the course of the housing element planning period. The law states that the housing element must identify adequate sites for housing, including rental housing, factory-built housing, mobile homes, and emergency shelters, and must make adequate provision for the existing and projected needs of all economic segments of the community (California Government Code Section 65583).

The California Department of Housing and Community Development (HCD) is responsible for determining the regional housing needs assessment at a statewide level. From that statewide number, HCD assigns a portion to each region and its corresponding council of government (COG), a regional planning body. Clayton is part of the Bay Area region, where the COG is the Association of Bay Area Governments (ABAG).

Housing Resources

HCD determined that the projected housing need for the ABAG region is 441,176 new housing units for the eight-year period of June 30, 2022, through December 15, 2030.[1] ABAG then allocates a portion of the regional housing need to each city and county in the Bay Area region. This assignment of projected housing need to each local jurisdiction in the region is known as the regional housing need allocation, or RHNA.

The RHNA is divided into four income categories: very low, low, moderate, and above moderate. Clayton's RHNA for the projection period is 570 housing units, with the units distributed among the four income categories as shown in Table 5-1. As illustrated in this chapter, with existing resources and the rezoning of properties occurring in conjunction with Housing Element adoption, Clayton has sufficient capacity to meet its 2023-2031 RHNA obligation.

Table 5-1: Clayton 2023-2031 RHNA

Income Group	% of County Median Income	RHNA (Housing Units)	Percentage of Units
Extremely Low/Very Low	0-50%	170	30%
Low	51-80%	97	17%
Moderate	81-120%	84	15%
Above Moderate	120% +	219	38%
Total		**570**	**100%**

Note: Pursuant to AB 2634, local jurisdictions are also required to project the housing needs of extremely low-income households (0-30% AMI). In estimating the number of extremely low-income households, a jurisdiction can use 50% of the very low-income allocation; as such, the City's very low-income RHNA of 170 units can be split into 85 extremely low-income and 85 very low-income units.

PROGRESS TOWARDS THE RHNA

The "projection period" is the period for which the RHNA is calculated (Government Code Section 65588(f)(2)). Projects that have been approved or permitted or have received a certificate of occupancy since the beginning of the RHNA projected period may be credited toward meeting the RHNA allocation based on the affordability and unit count of the development.

Despite little to no vacant unconstrained land and the predominantly single-family home character of Clayton, the City recently approved entitlements for the largest multi-family housing development in Clayton's history, The Olivia on Marsh Creek. The Olivia project, with 81 units, inclusive of seven deed-restricted units for very low-income households, will provide housing for seniors in ~~more affordable,~~ one- and two-bedroom units. By design, these units provide housing options for seniors that are more affordable than larger single-family homes in Clayton. This development highlights the City's ability to accommodate new multi-family housing that will move Clayton toward achieving its RHNA.

Approved and proposed residential development projects credited toward the RHNA include single-family subdivisions with accessory dwelling units (ADUs) for low-income renter households. The Diablo

[1] The RHNA projection period varies slightly from the Housing Element planning period, which refers to the date the Housing Element is due to be adopted and the duration of the eight-year term. The Housing Element planning period for the sixth cycle in the ABAG region is January 31, 2023 through January 31, 2031.

Housing Resources

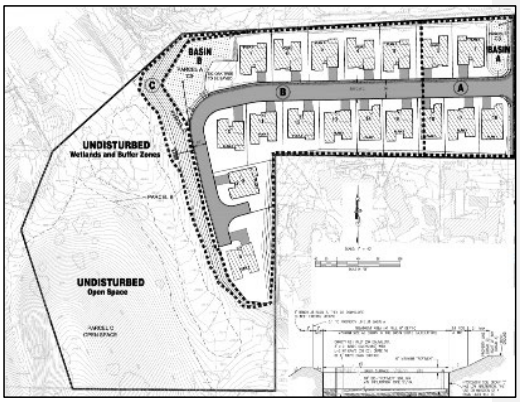
Meadows and Oak Creek Canyon projects together will provide 28 new homes, including four ADUs that the projects' developers will build to comply with the City's inclusionary housing ordinance (Municipal Code Chapter 17.92). These ADUs will be deed restricted as affordable housing. Combined, these three approved projects account for 109 units, including 11 deed-restricted affordable units (Table 5-2).

Table 5-2: Approved Projects

Project	Project Status	Extremely/ Very Low-Income (0-50% AMI)	Low-Income (50-80% AMI)	Moderate-Income (80-120% AMI)	Above Moderate-Income (+120%)	Total
Diablo Meadows	Approved	2	~~3~~1	~~1~~2	~~17~~16	21
Oak Creek Canyon	Approved		1		6	7
The Olivia	Approved	7			74	81
Approved Projects Total		***~~7~~9***	***~~4~~2***	***2***	***~~98~~96***	***109***

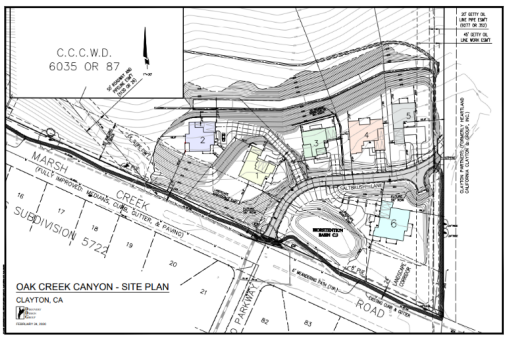
Diablo Meadows

The Diablo Meadows project consists of subdivision of an 8.68-acre site for 18 single-family residential units and three ADUs. The lots are clustered along the east side of the property to protect open spaces and provide for stormwater retention. Approximately 4.36 acres of the site will be preserved as open space (not included in the allowable density calculation). The three ADUs will be deed-restrict affordable units to meet the City's inclusionary housing requirements.



Oak Creek Canyon

Oak Creek Canyon consists of a six-lot subdivision for six single-family homes and one ADU on a vacant eight-acre (5.5 developable acres) site along Marsh Creek Road, a key travel route in Clayton. Development on the property is constrained by steep slopes and a large detention basin. The ADU will be deed restricted as affordable housing.



The Olivia on Marsh Creek

The Olivia on Marsh Creek housing project approved by the City Council will create three, three-story buildings containing 81 rental units for seniors. The site is located within the Town Center, at 6170 High Street and 6450 and 6490 Marsh Creek Road. Seven of the units will be deed-restricted affordable units.

SITES INVENTORY

The sites inventory includes a projection for ADUs based on recent ~~past~~ trends, anticipated development on vacant sites either zoned for residential development or planned to be rezoned, sites owned by religious institutions that have indicated a desire to build multi-family housing on portions of their properties, City-owned properties, and sites currently occupied by low-density residential uses or parking lots that will be zoned to encourage their redevelopment during the Housing Element cycle.

Accessory Dwelling Unit (ADU) Projections

Since 2017, the State Legislature has passed a series of new laws that significantly increase the potential for development of new ADUs and Junior ADUs (JADUs) by removing development barriers, allowing ADUs to be approved through ministerial permits, and requiring jurisdictions to include programs in their housing elements that incentivize ADU development. Between 2018 (the effective date of the first significant ADU laws) and 2021, property owner interest in constructing ADUs was limited in Clayton. However, beginning in late 2021, interest began to rise. To meet the requirements of the City's Inclusionary Housing Ordinance, recent subdivision developers have proposed including ADUs as part of their projects (see discussion above). Between 2018 and 2021, Clayton permitted a total of seven ADUs, averaging about two ADUs per year. Between January and October 2022, the City approved three ADUs, exclusive of the units provided as part of the Diablo Meadows and Oak Creek Canyon projects described above.

Given the preponderance of single-family homes in the community, the capacity for additional ADUs is substantial—provided homeowners have interest, the process to acquire necessary permits has few barriers, and the costs for planning and building an ADU can be controlled. Several factors point toward a potential increase in ADU production: 1) new legislation that creates new incentives and streamlined processes to build ADUs; 2) the pent-up demand for affordable housing in Clayton and the Bay Area region at large; and 3) the City's planned program to provide six off-the-shelf, pre-approved ADU construction plans, including small studio, one- and two-bedroom units targeted as affordable housing, that will reduce costs to homeowners and streamline approval processes.

While it is impossible to predict with any certainty the number of ADUs that will be developed within the planning period, the City has estimated a rate ~~level~~ of ADU development that will increase above recent past trends based on approved ~~previous~~ permits, property owner interest in using of ADUs to meet the City's inclusionary housing requirements, and work the City will complete in 2023 to make pre-approved ADU plans available to property owners~~ and approved projects~~. ~~To provide a conservative approach,~~ Based on these facts, the City assumes:

- An average of three~~four~~ ADUs per year will be constructed throughout the planning period. This reflects a ~~slightly~~ higher average number of building permits issued for ADUs between 2018 and 2021. As stated above, t~~T~~his estimate accounts for the factors pointing toward a potential increase in ADU production: increased interest from property owners, developers providing ADUs in conjunction with subdivision applications, and standard ADU construction plans that the City will make available beginning early 2023~~late 2022.~~
- A total of 24~~32~~ ADUs are predicted to be constructed during the planning period.

Table 5-3: ADU Projections to Meet the RHNA

Project	Extremely/ Very Low-Income (0-50% AMI)	Low-Income (50-80% AMI)	Moderate-Income (80-120% AMI)	Above Moderate-Income (+120%)	Total
Projected ADU Construction	7~~10~~	7~~10~~	7~~10~~	3~~2~~	24~~32~~

As of 2022, 3,696 parcels in Clayton were developed with a single-family home, indicating untapped potential for additional units in the form of ADUs. During this Housing Element cycle, the City will monitor ADU production and may revise the estimates based on proven trends.

The affordability assumptions for the ADUs are based on the ABAG Housing Technical Assistance Team ADU affordability analysis for the sixth -cycle RHNA, which has been approved by HCD[2].

Senate Bill (SB) 9

In September 2021, Governor Newsom signed Senate Bill (SB) 9 into law, with an effective date of January 1, 2022. SB 9 mandates ministerial approval of duplexes on lots zoned for a single-family residence and requires ministerial approval of subdivisions of a single-family lot into two lots, referred to as urban lot splits. The provisions of SB 9 create the possibility that four units could be developed on each single-family parcel in the Clayton. While SB 9 may facilitate new development in Clayton, the City has elected not to assume such contributions toward the RHNA. However, the City will monitor requests for and completion of so-called SB 9 units over the planning period to determine whether such projects help fulfill RHNA requirements, particularly for new affordable units.

[2] ABAG estimates an affordability breakdown of ADUs in the Bay Area as follows: 30% extremely low- and very low-income, 30% low-income, 30% moderate-income, and 10% above moderate-income. *ABAG Housing Technical Assistance Team: Affordability of Accessory Dwelling Units: A report and recommendations for RHNA 6, September 8, 2021.*

Assumptions Regarding Build-out Potential

In the following analysis for both vacant and underutilized properties (except on properties with active development applications), the City has assumed that the parcels will yield 80 percent of the maximum allowable development capacity. Because Clayton is a small community with few active applications, using examples solely from Clayton does not represent a sufficient sample size. Also, the two approved lower-density projects are being built on physically constrained properties. Thus, the 80 percent assumption is based on the following examples of active projects in nearby Contra Costa County jurisdictions with densities proximate to those in Clayton.

Table 5-4: Examples of Projects with Build-out at 80% or Higher of Maximum Densities

Community/Project	Acres	Total Units (exclusive of ADUs)	Percent of Allowable Density	Units/Ac
City of Clayton				
Diablo Meadows	4.3 developable	18	78%	3.9
Oak Creek Canyon	5.5 developable	6	67%[1]	1.1
The Olivia	3.0	81	135%	27
Town of Danville				
Abigail Place	2.97	19	83%	6.4
Alexon Riverwalk	3.7	144	124%	40
City of Walnut Creek				
1556 Mt Diablo Rd	0.76	30	79%	39
1835 Weaver Ln	1.9	7	84%	3.7
1394 Walden Rd	0.43	6	93%	13.9
City of Lafayette				
Valley View Apartments	not reported	42	99%	35
Samantha Townhomes	not reported	12	83%	29
Lenox Lafayette Circle	not reported	12	90%	32

Note: 1) Lower density due to presence of detention basin.

Sources: Town of Danville Draft Housing Element 2023-2031; City of Walnut Creek Draft Housing Element 2023- 2031; City of Lafayette Draft Housing Element 2023-2031

Vacant and Underutilized Residential Properties

The 109 approved units, together with the projection of 24~~32~~ ADUs, result in a credit of 133~~141~~ units toward the RHNA of 570 units. Thus, the City must show that the land inventory (sites with appropriate General Plan designations and/or zoning) is adequate to accommodate the remaining RHNA of 437~~429~~ units.

Housing Resources

Figure 5-1 shows the sites available to accommodate the remaining RHNA. These include, as indicated above, vacant properties and developed properties with redevelopment potential. Not all sites have the appropriate General Plan designation or zoning to support the level of development required to achieve the RHNA at all income levels. Thus, the following analysis and discussion include identification of required amendments needed.

State housing law requires that the City provide substantial evidence to support the reasons for including nonvacant sites in the sites inventory. In Clayton, the City has used one or more of the following to provide the substantial evidence:

1) The property owner has indicated an interest in redeveloping the site.
2) The site is owned by the City of Clayton.
3) The site has a low building-to-land value (B/LV) ratio, thus indicating untapped value that can be achieved via site redevelopment.
4) The site exhibits characteristics to similar properties that have been redeveloped.
5) A prior development application had been filed for the site and lapsed.

Tables 5-6 through 5-9 below identify the type of evidence used to justify including each nonvacant site.

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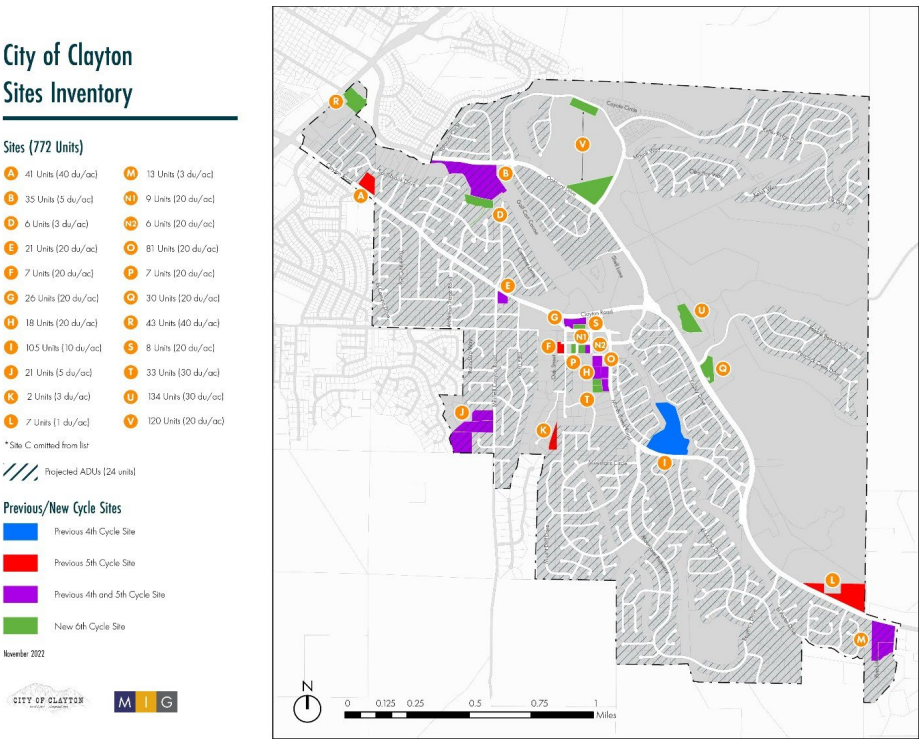
Figure 5-1: Housing Sites Inventory



Housing Resources

Vacant, uncommitted land on sites with a General Plan designation and zoning that allow only residential uses total 14.49 acres, which include site B, and one parcel of site T, and Site V. A previous application for development of site B, which would have produced 32 single-family units, was suspended by the developer. A newer iteration of the development application has been recently submitted to the City and includes the previously proposed 32 single-family units plus three ADUs. Although land use policy allows for higher-intensity development, the potential yield for this site as shown in Table 5-54 reflects the currently pending application. All units For site B, 32 units have been assigned to the Above Moderate RHNA income category, and the three ADUs (provided to comply with the inclusionary housing ordinance) have been assigned to lower-income categories and will be deed restricted. Additionally

Regarding Site T, the property owner for The Olivia at Marsh Creek project, which is adjacent to has expressed interest in developing the adjacent vacant property (site T), has expressed interest in developing this vacant property in conjunction which he owns together with an abutting developed parcel he also owns (addressed in Table 5-6). The vacant parcel has a density assumption of 30 units per acre and an 80 percent realistic development capacity. The Low Income RHNA category has been assigned since the density is higher than the default density of 20 units per acre.

Site V consists of two areas on a property known locally as Seeno Hill. As part of the Housing Element process, the property owner has come forward with interest to process a General Plan amendment and zone change to allow development consistent with the Multifamily High Density designation (20 units per acre). A buildout assumption of 80 percent has been applied, yielding 120 total units. Twenty units have been assigned to the Low Income RHNA category and 100 to Moderate.

Table 5-54: Vacant Residential Land Inventory

Site	General Plan Designation	Zoning	Maximum Density	Assumed Density	Vacant Acres	Potential Dwelling Units	Affordability
B	Single Family Medium Density (MD)	PD	5 du/ac	2.3 du/ac	13.91	35	Above Moderate
T	Multifamily High Density (MHD)	PD	30 du/ac	24 du/ac	0.58	13	Low Income
V	Rural Estate (RD)	Agricultural (A) – Proposed Multifamily High Density			7.5	120	Above Moderate, Moderate, Low Income, and Very Low Income
Total					***21.9914.49***	***16848***	

Five underutilized (nonvacant) residential lots (only residential uses allowed per zoning regulations) totaling 12.65 acres were identified: (sites E, H, K, M, and a portion of T). Collectively, these sites have the capacity for 107 units (see Table 5-65). Given the scarcity of unconstrained developable land in Clayton and the continuing demand for housing in the Bay Area, larger multifamily developments such as The Olivia at Marsh Creek have demonstrated that redevelopment of underutilized residential properties is economically viable. The Olivia at Marsh Creek used two underutilized residential lots, in addition to a vacant residential lot. For these underutilized properties, as well as those within the Town Center Specific Plan, the capacity analysis assumes that each site will yield 80 percent of its maximum capacity. This

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assumption accounts for any necessary on-site improvements and the unique physical site characteristics that may not allow the maximum density to be achieved. For those properties that have a default density of 20 units per acre or higher[3], the units have been assigned to lower-income categories.

Table 5-65: Underutilized Residential Land Inventory

Site	General Plan Designation	Zoning	Maximum Density	Assumed Density	Underutilized Acres	Potential Dwelling Units	Affordability	Substantial Evidence
E	Multifamily High Density (MHD)	PD	230 du/ac	1624 du/ac	1.08	1625	Very Low and Low Income	B/LV of 0.254
H	Multifamily High Density (MHD)	PD	20 du/ac	16 du/ac	1.16	18	Very Low Income	B/LV of 0.559
K	Single Family Density (LD)	PD	3 du/ac	3 du/ac	1.47	42	Above Moderate Income	None required due to income category; prior development application filed
M	Single Family Density (LD)	PD	5 du/ac	34 du/ac	8.07	1731	Above Moderate Income	None required due to income category
T	Multifamily High Density (MHD)	PD	30 du/ac	24 du/ac	0.87	20	Low Income	Property owner has expressed interest (owner developed the adjacent The Olivia)
Total					***12.65***	***7398***		

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Vacant and Underutilized Town Center Properties

The Town Center Specific Plan provides policies and regulations that include the distribution of land uses; location and size of streets, walks, and other infrastructure; standards for development; and methods of financing public improvements. While the primary intent of the plan was to promote commercial development in the Town Center, subsequent economic analysis of the Specific Plan area indicated that a lack of Town Center residences and resident customer base is one of the factors that makes attracting that commercial development challenging. With its central location and proximity to retail and transit

[3] The default density allowed by State law for assuming production of affordable housing is 20 units per acre for a city the size of Clayton.

stops along Clayton Road, the Town Center is ~~one of the more viable~~a key locations~~sites~~ for higher-density residential development.

Vacant, uncommitted land in the Town Center was identified~~, totaling 2.6 acres on~~ on three~~four~~ parcels: site G~~-~~, ~~and the eastern portions of~~ site~~s~~ F, and site N2 (see Table 5-7~~6~~). These sites have been assigned to the Very Low and Low Income RHNA categori~~y~~es based on the proposed maximum density of 20 units per acre.

Table 5-7~~6~~: Vacant Town Center Land Inventory

Site	General Plan Designation	Zoning	Maximum Density	Assumed Density	Vacant Acres	Potential Dwelling Units	Affordability	Substantial Evidence
F	Town Center (TC)	PD	20 du/ac	16 du/ac	0.79~~51~~	7	Low Income	City-owned lots that can be consolidated
G	Town Center (TC)	PD	20 du/ac	16 du/ac	1.66	26	Very Low Income	City-owned lot
N2	Town Center (TC)	PD	20 du/ac	16 du/ac	0.43	6	Very Low Income	Vacant – Characteristics similar to The Olivia site
Total					***2.88~~60~~***	***39***		

In addition to these vacant sites, three~~five~~ underutilized (nonvacant) residential lots within the Town Center area ~~totaling 1.67 acres~~ were identified. ~~These sites (s~~Sites P, ~~and~~ S, and ~~the western portion of sites~~ N1) have capacity for 24 units (see Table 5-8~~7~~). Along with underutilized residential lands, these underutilized Town Center sites will also be key in advancing Clayton's RHNA due to the built-out nature of Clayton.

Table 5-8~~7~~: Underutilized Town Center Land Inventory

Site	General Plan Designation	Zoning	Maximum Density	Assumed Density	Underutilized Acres	Potential Dwelling Units	Affordability	Substantial Evidence
N1	Town Center (TC)	PD	20 du/ac	16 du/ac	0.63	9	Very Low Income	B/LV of 0.168
P	Town Center (TC)	PD	20 du/ac	16 du/ac	0.46	7	Very Low Income	City-owned lot
S	Town Center (TC)	L-C	20 du/ac	16 du/ac	0.58	8	Low Income	Property owner has expressed interest
Total					***1.67***	***24***		

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Underutilized Non-Residential Properties

In the inventory, six underutilized properties zoned for non-residential use have been included: total 24.98 acres on six parcels (sites A, D, I, Q, R, and U, combined which and the western portion of site F) and have capacity for 414 359 units. These properties will require rezoning. Two three of these sites—A and R— are occupied by churches and have (General Plan land use designations of ID-Institutional Density and, KC-Kirker Corridor, and TC-Town Center). The two congregations have expressed interest in developing a portion of their properties for affordable housing. .

Site D is a City-owned lot that includes a little-used trail along its northern boundary. The lot abuts single-family neighborhoods on three sides and on the north, Site B, which is planned for a low-density subdivision.

Site I is privately owned. The property owners have contacted the City to discuss options for developing their property.

Sites Q and U are properties within the Oakhurst Country Club, under the ownership of Empire Acres, LLC. On site Q, an overflow parking lot for the country club, the owner has presented preliminary plans to the City for a potential multifamily housing development. The owner has also expressed interest in redesigning a portion of the golf course and developing housing on the 5.6-acre driving range.

While the golf course property has a land use designation of Private Open Space, it is noteworthy that Thethe approved Oak Creek Canyon project is being developed on a site that was in part had designated with a private open space land use designation. This, highlightsing the fact that a General Plan designation and/or zone is not a hinderance to residential development. Critically, in conjunction withImmediately following adoption of this Housing Element, the City will adopt General Plan and zoning map amendmentshas put the land use regulations in place to allow residential development on these sites.

Table 5-98: Underutilized Non-Residential Land Inventory

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Site	General Plan Designation	Zoning	Maximum Density	Assumed Density	Underutilized Acres	Potential Dwelling Units	Affordability	Substantial Evidence
A	Institutional Density (ID)	PD	40 du/ac	32 du/ac	2.38	41	Very Low Income	Property owner (church) has expressed interest
D	Public Park/Open space/Open Space and Recreational (PU)	PD	3 du/ac	2.4 du/ac	2.86	6	Above Moderate Income	None required due income category; City-owned lot
F	Public Park/Open space/Open Space and	PF	20 du/ac	16 du/ac	.28	4	Low Income	

Table 5-~~9~~8: Underutilized Non-Residential Land Inventory

Site	General Plan Designation	Zoning	Maximum Density	Assumed Density	Underutilized Acres	Potential Dwelling Units	Affordability	Substantial Evidence
	~~Recreational (PU)~~							
I	Public Park/Open space/Open Space and Recreational (PU)	A	10 du/ac	8 du/ac	13.23	105	Moderate Income, Above Moderate Income	Property owner has expressed interest
Q	Private Open Space (PR)	PD	~~40~~ 20du/ac	~~32~~ 12 du/ac	2.55	~~81~~30	Low Income, Moderate Income	Property owner (Oakhurst Country Club) has expressed interest
R	Kirker Corridor (KD)	PD	40 du/ac	32 du/ac	3.68 (0.75ac parking lot to be developed)	43	Very Low Income, Low Income	Property owner (church) has expressed interest
U	Private Open Space (PR)	PD	30 du/ac	24 du/ac	5.6	134	Very Low Income, Above Moderate Income	Property owner interest (Oakhurst Country Club)
Total					~~24.98~~30.3	~~414~~~~312~~359		

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The Housing Element sites inventory surveyed recently approved projects and coordinated with property owners to develop and corroborate estimates related to potential development by General Plan designation and zoning. Most recent projects have achieved densities very near actual maximum densities, and property owners of underutilized or vacant sites have expressed willingness to allow their properties to be rezoned for higher density. This helped provide a more realistic and conservative understanding of the potential development capacity.

SITE SUITABILITY, REALISTIC CAPACITY, AND RE-USE OF SITES (ASSEMBLY BILL [AB] 1397)

Consistent with Housing Element law (Assembly Bill 1397, codified in California Government Code Sections 65580, 65583 and 65583.2) related to the suitability of small and large sites, the lower-income sites inventory presented in this chapter is limited to sites of 0.5 to 10 acres in size, as HCD has indicated these size parameters best accommodate lower-income housing. In this inventory, several sites include multiple parcels that are less than 0.5 acre in size; however, when consolidated with adjacent parcels, most achieve more than 0.5 acres. Small sites (less than 0.5 acre) are credited toward the above

moderate-income categories to account for a potential variety of types, sizes, and amenity levels in future higher-density development projects.

AB 1397 also adds specific criteria for assessment of the realistic availability of non-vacant sites during the planning period. If non-vacant sites accommodate half or more of the lower-income need, the Housing Element must present "substantial evidence" that the existing use does not constitute an impediment for additional residential use on the site. Due to the built-out nature of Clayton, most unconstrained properties ~~sites~~ have existing uses. Non-vacant sites included in the inventory have been chosen due to their location, existing uses, and potential for intensification. To ensure that appropriate sites have been chosen, properties that show recent investments or updates or that contain uses of local importance are not included, and clear criteria were used to evaluate all sites within Clayton, as described above.

Government Code Section 65583.2(c) also requires that specific parameters be placed on sites that were used in previous planning cycles but that were not developed and are now used in the current Housing Element to meet the lower income RHNA. I~~i~~f the City identifies any portion of its low-income housing allocation as being met on these sites, the sites must meet the required default densities (zoned to allow 20 units per acre) and must allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower-income households. "By right" means that no review is required under the California Environmental Quality Act (CEQA), unless a subdivision is required, and the project can only be reviewed using objective design standards. A program is included in this Housing Element to ensure these provisions are included in the Zoning Code.

No Net Loss Provision

A jurisdiction must ensure that its Housing Element inventory can accommodate the RHNA by income level throughout the planning period (Government Code Section 65863). If a jurisdiction approves a housing project at a lower density or with fewer units by income category than identified in the Housing Element, it must determine whether there is sufficient capacity to meet remaining unmet need. If not, the city must "identify and make available" additional adequate sites to accommodate the jurisdiction's share of housing need by income level within 180 days of approving the reduced-density project. Clayton has identified a surplus of sites to address the no-net loss provision, and Program C is included in the Housing Element to set up a process for maintaining compliance.

Comparison of Sites Inventory and RHNA

Combined, the vacant and underutilized opportunity sites identified have the potential to accommodate ~~764~~ 687 residential units. As Table 5-10~~9~~ indicates, these sites and the densities allowed/assumed, together with the pipeline projects and ADU potential, will provide opportunities to achieve remaining RHNA goals for all income categories, as well as provide a potential surplus or buffer of ~~194~~ 226 units, which helps support no-net-loss provisions consistent with State law. Tables 5-11~~0~~, 5-12~~1~~, and– 5-13~~2~~ at the end of this chapter provide additional site-specific detail for each vacant and underutilized site identified in the inventory.

The opportunity areas identified involve sites that can realistically be redeveloped with residential units during the planning period. These areas are considered highly likely to experience redevelopment for two key reasons: 1) the high demand for more affordable housing throughout Contra Costa County; and 2) the availability of underutilized land in well-resourced areas, with the potential for high-density residential

development. The sites chosen are significantly underutilized given their size and location and recent development trends. Interest is especially high in areas identified in this Housing Element, including within the Town Center.

Table 5-10~~9~~: Comparison of Credits, Sites, and RHNA

General Plan Designation	Extremely/ Very Low-Income (0-50% AMI)	Low-Income (50-80% AMI)	Moderate-Income (80-120% AMI)	Above Moderate-Income (+120%)	Total
RHNA	170	97	84	219	570
RHNA Credits					
Approved Projects	9	2	2	96	109
Sites Inventory (Number of Units)					
Projected ADU Construction	~~10~~7	~~10~~7	~~10~~7	~~2~~3	~~32~~24
Residential Sites – Vacant	12~~20~~	24~~59~~	50~~0~~	82~~67~~	~~146~~168
Residential Sites - Underutilized	8	46	0	19	73
Town Center Sites	56~~48~~	7~~15~~	0~~0~~	0~~0~~	~~63~~63
Non-Residential Sites	99~~111~~	35~~57~~	58~~94~~	~~82~~167~~152~~	~~414~~~~274~~359
Subtotal Sites Inventory	*182~~189~~*	*119~~141~~*	*115~~104~~*	*~~186~~~~221~~271*	*~~655~~~~602~~687*
Total Credits and Inventory	**~~198~~191**	**121~~143~~**	**117~~106~~**	**~~282~~~~317~~367**	**~~764~~~~711~~796**
Surplus RHNA Units	**~~28~~21**	**~~46~~24**	**~~22~~33**	**~~98~~~~63~~148**	**~~194~~~~141~~226**

CONSISTENCY WITH AFFIRMATIVELY FURTHERING FAIR HOUSING (AFFH)

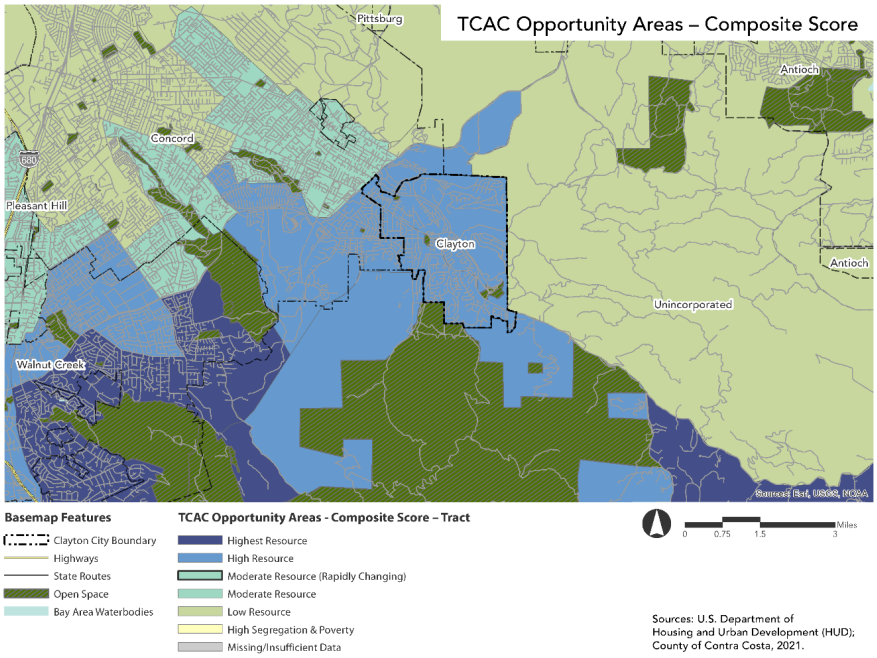
State law requires that housing elements due on or after January 1, 2021, include an assessment of fair housing that considers the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs (Government Code Section 65583(c)(10)). Affirmatively furthering fair housing means taking meaningful actions that address significant disparities in housing needs and access to opportunity. For purposes of the Housing Element sites inventory, this means that sites identified to accommodate the lower-income need are not concentrated in low-resourced areas (for example, with a lack of access to high performing schools, proximity to jobs, location disproportionately exposed to pollution or other health impacts) or areas of segregation and concentrations of poverty.

HCD and the California Tax Credit Allocation Committee (TCAC) coordinated efforts to produce opportunity maps that identify areas in every region of the State whose characteristics have been shown

by research to support positive economic, educational, and health outcomes for low-income families. Figure 5-2 shows that TCAC opportunity areas in Clayton are all categorized as high resource.

The distribution of identified sites improves fair housing and equal opportunity conditions in Clayton because sites are all distributed in high resources areas of Clayton. This is positive, considering that these represent locations where new higher-density housing can be provided and residents will have access to good schools, City facilities, and commercial areas. Additional opportunities for more affordable housing are presented through the City's efforts to encourage accessory dwelling units in high resource areas. A thorough AFFH analysis is included in Chapter 7 of this Housing Element.

Figure 5-2: TCAC Opportunity Areas – Composite Score – Clayton (2021)



INFRASTRUCTURE CAPACITY

All residential sites identified in the inventory are located within urbanized areas, where infrastructure and public services are readily available for connections. Most public services and facilities are available to adequately serve all potential housing sites. Any missing public improvements (e.g., curbs, gutters, sidewalks, etc.) along property frontages would also be constructed at that time. Water, sewer, and dry utility services are available for all the sites included in the inventory.

ADMINISTRATIVE AND FINANCIAL RESOURCES

One of the major factors to consider in formulating programs to incentivize housing production is whether sufficient resources exist. Specifically, it is important to examine the availability and adequacy of the financial and institutional resources to support such programs, especially programs aimed at producing affordable housing. The following discussion provides an overview of financial and administrative resources available for preserving and creating new housing.

FINANCIAL RESOURCES

Most projects that are exclusively affordable housing (especially for extremely low- and very low-income households) cannot be developed without financing and other subsidies required to write down the cost of land or other development incentives necessary to reduce construction costs. Funding sources include U.S. Department of Housing and Urban Development (HUD) funds, tax credits, and other loans and grants.

Federal Resources

CDBG: Through the Community Development Block Grant (CDBG) program, HUD provides funds to local governments for a wide range of community development activities. These funds can be used for the acquisition of land for affordable housing units, rehabilitation through a nonprofit organization for housing, development of infrastructure and facilities, and public service activities. Due to its size, Clayton does not qualify as an entitlement jurisdiction and thus only receives CDBG funding through the Contra Costa County Department of Conservation and Development.

HOME: Another source of HUD funds is available under the HOME Investment Partnerships Program (HOME). These funds can be used to assist tenants or homeowners through acquisition, construction, reconstruction, or the rehabilitation of affordable housing. A federal priority for use of these funds is preservation of the at-risk housing stock. Due to its size, Clayton does not qualify as an entitlement jurisdiction and thus receives HOME funding through the Contra Costa County Department of Conservation and Development.

Housing Choice Voucher Program: The Housing Authority of the County of Contra Costa administers the HUD Section 8 Housing Choice Voucher Program for Clayton residents. The program provides rental subsidies to low-income families who spend more than 30 percent of their gross income on housing costs. The program pays the difference between 30 percent of the recipients' monthly income and the federally approved payment standard. The voucher allows a tenant to choose housing that may cost more than the payment standard, but the tenant must pay the extra cost.

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State Resources

Low Income Housing Tax Credits (LIHTC): Created by the 1986 Tax Reform Act, the LIHTC program has been used in combination with City and other resources to encourage the construction and rehabilitation of rental housing for lower-income households. The program allows investors an annual tax credit over a 10-year period, provided that the housing meets the following minimum low-income occupancy requirements: 20 percent of the units must be affordable to households at 50 percent of area median income (AMI) or 40 percent of the units must be affordable to those at 60 percent of AMI. The total credit

over the 10-year period has a present value equal to 70 percent of the qualified construction and rehabilitation expenditure. The tax credit is typically sold to large investors.

Additional State housing resources include:

- Affordable Housing and Sustainable Communities (AHSC)
- CalHFA Single and Multi-Family Program
- CalHome Program
- Homekey
- Housing-Related Parks Grant
- Infill Infrastructure Grant (IIG)
- Local Housing Trust Fund (LHTF)
- Multifamily Housing Program (MHP)
- No Place Like Home
- Permanent Local Housing Allocation (PLHA)

Local Resources

Clayton has no City-funded housing programs due to its small size and limited financial resources.

ADMINISTRATIVE RESOURCES

With a population of just over 12,000 residents and a small tax base, Clayton operates on a lean budget and has limited staff to oversee City operations. The Community Development Department consists of a director to oversee all housing-related efforts, who works in close coordination with one part-time planner and the City Manager. The City values its small-town qualities, and staff is readily available to meet with property owners and developers to explain development processes and shepherd housing development applications through staff review and public hearings. For projects subject to the City's Inclusionary Housing Ordinance, staff can assist developers to craft a strategy to comply.

As of 2022, the City is putting place a program to facilitate ADU production, with six pre-approved construction plans available to residents who wish to build an ADU on their property.

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Table 5-1~~12~~0: Residential Vacant and Underutilized Sites

Site Name	Parcels Number (APN)	General Plan Designation	Zoning	Allowable Density (du/ac)	Assumed Density (du/ac)	Acres	Potential Lot Consolidation	Current Use	Common Ownership	Realistic Capacity	Infrastructure Capacity	On-site Constraints	Subject to AB 1397 and Substantial Evidence	Affordability Level			
														EL VL	L	M	AM
Vacant																	
B – Silver Oaks	118020029	MD	PD	5	2.3	13.91	No	Vacant	A	35	Yes	No	No. Application pending–	2	1		32
T – 6530/6500 Marsh Creek	119021019	MHD	PD	30	24	.58	Yes (see Underutilized Residential Sites)	Vacant	A	13	Yes	No	–No. Property owner has expressed interest		13		
V – Seeno Hill	118370040	RD	A	0	16	7.5	No need	Vacant	A	120	To be made available	Yes	Yes – Property owner interest	10	10	50	50
Underutilized																	
E – Old Firehouse	120015011	MHD	PD	30	24	1.08	No	Residential	A	25	Yes	No	Yes–	8	~~25~~8		
H – 6470 Marsh Creek Road	119021054	MHD	PD	20	16	1.16	No	Single Family	A	18	Yes	No	–No	~~18~~	18		
K – Douglas Road Triangle	119560012	LD	PD	3	3	1.47	No	Single Family	A	4	Yes	No	No. Site has conditions similar to the approved The Olivia project–				42
M – Marsh Creek Property	78020006	LD	PD	5	4	5.86	Yes	Single Family	A	23	Yes	No	No–				1~~2~~3
	78020007	LD	PD	5	4	2.21		Single Family	B	8	Yes	No	No–				4~~8~~
T – 6530/6500 Marsh Creek	119021019	MHD	PD	30	24	.87	Yes (see Vacant Residential Sites)	Single Family	A	20	Yes	No	No. Property owner has expressed interest–		20		

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Table 5-12~~1~~: Town Center Vacant and Underutilized Sites

Site Name	Parcels Number (APN)	General Plan Designation	Zoning	Allowable Density (du/ac)	Assumed Density (du/ac)	Acres	Potential Lot Consolidation	Current Use	Common Ownership	Realistic Capacity	Infrastructure Capacity	On-site Constraints	Subject to AB 1397 and Substantial Evidence	Affordability Level			
														EL VL	L	M	AM
Vacant																	
G- Downtown Site	118560010	TC	PD	20	16	1.66	No	Vacant	A	26	Yes	No	Yes~~–~~ City-owned site	26			
N – Center + Diablo Street	119017003	TC	PD	20	16	0.43	Yes (see Underutilized Town Center Sites)	Vacant	A	6	Yes	No	Yes~~–~~ Low B/LV	6			
Underutilized																	
F – Creekside Terrace	119050009	TC	PD	20	16	0.22	Yes (see Table 5-12, Non-Residential Underutilized Sites)	Parks/Recreation	A	3	Yes	No	Yes. City-owned site~~–~~		3		
	119050034	TC	PD	20	16	0.29		Parks/Recreation		4	Yes	No	Yes~~.–~~ City-owned site		4		
N – Center + Diablo	119017004	TC	PD	20	16	0.63	Yes (see Vacant Town Center Sites)	Single Family	B	9	Yes	No	Yes - Low B/LV	9			
P – City Parking Lot	119016009	TC	PD	20	16	0.46	No	Civic Facility	A	7	Yes	No	~~–~~No. City-owned site	7			
S – Clayton Community Church	119011003	TC	L-C	20	16	0.58	No	Office	A	8	Yes	No	--	8	~~8~~		

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Table 5-132: Non-Residential Underutilized Sites

Site Name	Parcels Number (APN)	General Plan Designation	Zoning	Allowable Density (du/ac)	Assumed Density (du/ac)	Acres	Potential Lot Consolidation	Current Use	Common Ownership	Realistic Capacity	Infrastructure Capacity	On-site Constraints	Subject to AB 1397 and Substantial Evidence	Affordability Level			
														EL VL	L	M	AM
A – St. John's Parish	118101025	ID	PD	40	32	2.38	No	Civic Facility	A	41	Yes	No	Yes.– Property owner has expressed interest in lower-income housing	41			
D – City Flag Lot	118230002	PU	PD	3	3	2.86	No	Civic Facility	A	8	Yes	No	--				86
~~F – Creekside Terrace~~	~~119050008~~	~~PU~~	~~PF~~	~~20~~	~~16~~	~~0.28~~	~~Yes (see Table 5-11, Town Center Underutilized Sites)~~	~~Parks/Recreation~~	~~A~~	~~4~~	~~Yes~~	~~No~~	~~--~~				~~4~~
I – Easley Ranch	119080009	PU	A	10	10	13.23	No	Single Family	A	132	Yes	No	–No. Property owner has expressed interest in developing site		10	~~664~~ 3	~~665~~ 2
Q – Golf Course Overflow Lot	118370073	PR	PD	40	32	2.55	No	Private Parking Lot	A	81	Yes	No	No. Property owner has expressed interest in developing site–		~~40~~	~~4~~15	15
R – Presbyterian Church	118031054	KC	PD	40	32	3.68	No	Civic Facility	A	43	Yes	No	No. Property owner has expressed interest in developing lower-income housing–	30	13		
U – Golf Course Driving Range	N/A	PR	PD	30	24	5.6	No	Golf Course	A	134	Yes	No	No. Property owner has expressed interest in	~~402~~ 8	12		~~94~~

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													developing site				
													Subtotal All	175	112	108	268
														663			
													ADU	24			
													Credit Sites	109			
													Total	796			

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Attachment D

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

October 12, 2022

Dana Ayers, Director
Community Development Department
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Dear Dana Ayers:

RE: City of Clayton's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of Clayton's (City) draft housing element received for review on July 14, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by a conversation on October 7, 2022 with you and your consultants Reina Schwartz and Laura Stetson. In addition, HCD considered comments from East Bay For Everyone, East Bay YIMBY, Greenbelt Alliance, YIMBY Law, South Bay YIMBY pursuant to Government Code section 65585, subdivision (c).

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code). The enclosed Appendix describes the revisions needed to comply with State Housing Element Law.

For your information, pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), if a local government fails to adopt a compliant housing element within 120 days of the statutory deadline (January 31, 2023), then any rezoning to accommodate the regional housing needs allocation, including for lower-income households, shall be completed no later than one year from the statutory deadline. Otherwise, the local government's housing element will no longer comply with State Housing Element Law, and HCD may revoke its finding of substantial compliance pursuant to Government Code section 65585, subdivision (i). Please be aware, if the City fails to adopt a compliant housing element within one year from the statutory deadline, the element cannot be found in substantial compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c)(1)(A) and Government Code section 65583.2, subdivision (c) are completed.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: https://www.opr.ca.gov/planning/general-plan/guidelines.html.

We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jamillah Williams, of our staff, at Jamillah.Williams@hcd.ca.gov.

Sincerely,

Paul McDougall
Senior Program Manager

Enclosure

APPENDIX
CITY OF CLAYTON

The following changes are necessary to bring the City's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on HCD's website at https://www.hcd.ca.gov/hcd-memos. Among other resources, the housing element section contains HCD's latest technical assistance tool, *Building Blocks for Effective Housing Elements (Building Blocks),* available at https://www.hcd.ca.gov/building-blocks and includes the Government Code addressing State Housing Element Law and other resources.

A. Housing Needs, Resources, and Constraints

1. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2…shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

   Enforcement: While the element includes analysis of fair housing complaints, it must describe the City's compliance with existing fair housing laws and regulations. For additional information, please see pages 28-30 on HCD's AFFH Guidance Memo at https://www.hcd.ca.gov/community-development/affh/index.shtml.

   Regional Analysis: While the element analyzed components of the fair housing assessment and compared the City to neighboring and similar communities (i.e., Walnut Creek, Concord, Pleasant Hill), the element must analyze the City compared to the broader region and with nearby communities such as Unincorporated Contra Costa County (Bay Point), Antioch, and Pittsburg, and evaluate the disparities and differences in income, race, disparities in access to opportunity and other relevant components from the assessment of fair housing. Additionally, the element should supplement this analysis with local data and knowledge and other relevant factors (noted in the findin[1] below). Based on a complete analysis, the element must formulate meaningful a[illegible]ns and programs in response to the analysis.

   Racially Concentrated Areas of Affluence (RCAA): The element includes some general analysis about whether parts of the City are considered an RCAA. However, HCD's fair housing data viewer indicates that the entire City is considered an RCAA. The analysis should include updated data regarding the City's RCAA designations and as noted above this should be analyzed relative to the broader region, county, and neighboring communities including the City's eastern neighbors. For more information, please visit: https://affh-data-resources-cahcd.hub.arcgis.com.

   Disparities in Access to Opportunity: While the element identifies and describes local and regional patterns and trends in disparities in access to opportunity for education, transit, economic, and environmental quality, it also must analyze disparities in access to opportunities for persons with disabilities. A complete analysis should include the

Summary of Comments on conClaytonDraftOut101222_MIGannotated_v2.pdf

Page: 3

Number: 1 Author: sbrekkeread Subject: Sticky Note Date: 11/17/2022 1:58:21 PM

Added action re webpage on p. 2-16

locally and regional disparities of the educational, environmental, and economic scores through local, federal, and/or state data and conclude with a summary of issues.

Identified Sites and Affirmatively Furthering Fair Housing (AFFH): The element must include an analysis demonstrating whether sites identified to accommodate the regional housing need allocation (RHNA) are distributed throughout the community in a manner that AFFH. In the analysis, the element concludes that the distribution of sites improves fair housing conditions because of identification of sites in high-resource areas. However, the element should discuss the location and magnitude of impact to evaluate AFFH. A full analysis should address the income categories of identified sites with respect to location, the number of sites and units by all income groups and how that effects the existing patterns for all components of the assessment of fair housing (e.g., segregation and integration, disparities in access to opportunity). The element should also discuss any isolation of the RHNA by income group and whether the distribution of sites improves or exacerbates conditions. If sites exacerbate conditions, the element should identify further program actions that will be taken to mitigate this (e.g., anti-displacement strategies).

Local Data and Knowledge and Other Relevant Factors: As noted in the prior finding, the element must supplement the analysis and complement state and federal data with local data and knowledge to capture emerging trends and issues, including utilizing knowledge from local and regional advocates, public comments, and service providers. Additionally, the element should analyze historical land use, zoning, governmental and nongovernmental spending including transportation investments, demographic trends, historical patterns of segregation, or other information that may have impeded housing choices and mobility.

Contributing Factors to Fair Housing Issues: The element includes contributing factors to fair housing issues but should re-evaluate and prioritize these factors based on a complete analysis to better respond to the fair housing issues.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies program(s) to encourage and promote affordable housing; however, most of these programs do not appear to facilitate any meaningful change nor address AFFH requirements. Furthermore, the element must include quantifiable metrics and milestones for evaluating progress on programs, actions, and fair housing results. Programs must generally address enhancing housing mobility, increasing housing opportunities in high resourced areas, place-based strategies for community revitalization, and addressing displacement risks. Programs also need to be based on identified contributing factors, be significant and meaningful. The element must add, and revise programs based on a complete analysis and listing and prioritization of contributing factors to fair housing issues.

For your information, while the element still needs to include a complete analysis, based on the current information, relative to the City's eastern neighbors and the broader County and region, the City is considered a higher resourced, higher-income, and racially homogenous (majority white population) community. As such, the element

should focus on strong programs and actions that enhance housing mobility and encourage development of more housing choices and affordable housing in an inclusive manner.

2. *An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality's housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

   Progress in Meeting the RHNA: The element identified 109 units that have been approved, entitled or under construction for lower and moderate-income households. Specifically, the element includes "The Olivia Project" to accommodate seven lower-income RHNA units. However, the element must demonstrate the affordability of this project through actual or anticipated rents or sales prices or other mechanism ensuring affordability such as inclusionary requirements or deed restrictions.

   Availability of Zoning: HCD understands that zoning for multifamily parcels (M-R-M and M-R-H) is inconsistent or does not have a corresponding General Plan land use designation. The City acknowledges that these inconsistencies require projects to apply for a general plan text amendment and a rezone request to implement the appropriate zoning and densities. While the element includes a program to address this inconsistency, for your information, for sites expected to accommodate the City's lower-income RHNA, if zoning is not in place by the beginning of the planning period (January 31, 2023), the element must include a program committing to adopting zoning changes and comply with requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i).

   Realistic Capacity: While the element provides assumptions of buildout for sites included in the inventory, it must also provide support for these assumptions. For example, the element should demonstrate what specific trends, factors, and other evidence led to the assumptions. The estimate of the number of units for each site must be adjusted as necessary, based on the land use controls and site improvements, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction. For example, the City surveyed recently approved projects as a part of its methodology, but the element should identify and describe each of those projects to support residential capacity assumptions. For additional information, see the Building Blocks at https://www.hcd.ca.gov/analysis-of-sites-and-zoning.

   Additionally, the inventory lists a number of sites in nonresidential zones. For sites with zoning that allows 100 percent nonresidential uses (e.g., commercial and mixed-use zones), the calculation of residential capacity must account for the likelihood of 100 percent nonresidential uses. The analysis should be based on factors such as development trends including nonresidential, performance standards requiring residential uses or other relevant factors such as enhanced policies and programs. For example, the element could analyze all development activity in these nonresidential zones, how often residential development occurs and adjust residential capacity calculations, policies, and programs accordingly.

Page: 5

Number: 1 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:14:02 PM -07'00'

We stated they are deed restricted.

Author: lstetson Subject: Sticky Note Date: 10/28/2022 4:02:51 PM -07'00'

Done.

Number: 2 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:14:49 PM -07'00'

This is an FYI comment of which we are aware.

Author: lstetson Subject: Sticky Note Date: 10/28/2022 4:12:49 PM -07'00'

Added language to Program D-1. Program D-2 already addresses GC 65583.2, h, i.

Number: 3 Author: lstetson Subject: Sticky Note Date: 10/29/2022 1:32:06 PM -07'00'

Table 5-4 has been added to show other CCC communities.

Nonvacant Sites: The element must demonstrate the potential for redevelopment on nonvacant sites. To address this requirement, the element notes some general criteria utilized for some but not all the identified nonvacant sites. For example, for some sites, the element notes where there is owner/developer interest. Additionally, the element includes a statement that sites have been chosen due to their location, existing uses, and potential for intensification. This statement should be supported by analysis. First, the element must clearly state the methodology used for identifying nonvacant sites, including describing all criteria. Second, to facilitate an analysis of redevelopment potential, the element should reflect the criteria in the actual sites inventory. For example, the element can list the various criteria utilized on a site-by-site basis. Third, the element must support the validity of the criteria, utilize other criteria, or remove sites if appropriate. For example, the element can discuss previous sites that shared similar characteristics to the methodology and were redeveloped in multifamily housing.

Further, the element must analyze the extent that existing uses may impede additional residential development. The element also indicates that some sites are partially vacant including Sites T, N, and F. For your information, if a site has an existing use, it is considered nonvacant. This information must be reconciled in the element and sites inventory. To analyze the extent the existing use may impede additional residential development, the element can summarize past experiences converting existing uses to higher density residential development, include current market demand for the existing use, provide analysis of existing leases or contracts that would perpetuate the existing use or prevent additional residential development and include current information on development trends and market conditions in the City and relate those trends to the sites identified.

In addition, based on the sites inventory, the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households. For your information, the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period. (Gov. Code, § 65583.2, subd. (g)(2).) Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the RHNA.

Finally, if the element utilizes sites with existing residential uses. Absent a replacement housing policy, these sites are not adequate sites to accommodate lower-income households. The replacement housing policy must meet the requirements set forth in Government Code section 65915, subdivision (c) (3).

Small Sites: Sites smaller than a half-acre in size are deemed inadequate to accommodate housing for lower-income housing unless it is demonstrated that sites of equivalent size and affordability were successfully developed during the prior planning period or unless the element describes other evidence demonstrating the suitability of these sites. The element is assuming lot consolidation for several smaller sites to accommodate a range of income levels including lower-income households. While the element mentions lot consolidation to facilitate development on these sites, it must

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Number: 1 Author: lstetson Subject: Sticky Note Date: 10/29/2022 2:35:57 PM -07'00'

We have added clear correlations in the tables.

Number: 2 Author: lstetson Subject: Sticky Note Date: 10/29/2022 2:36:40 PM -07'00'

Number: 3 Author: lstetson Subject: Sticky Note Date: 10/29/2022 1:48:34 PM -07'00'

New Program K added for Replacement Housing Policy

include an analysis to support this assumption. For example, the element must describe circumstances or criteria used to identify suites suitable for lot consolidation such as common ownership; the City's role or track record in facilitating small-lot consolidation; policies or incentives offered or proposed to encourage and facilitate lot consolidation; specific examples of projects that were built for lower-income households on similarly sized sites, densities and affordability and relate those examples back to the sites inventory. Based on a complete analysis, the City should consider adding or revising programs to include incentives for facilitating development on small sites.

Previously Identified Nonvacant and Vacant Sites: Nonvacant sites identified in the prior planning period or vacant sites identified in two or more consecutive planning periods are inadequate to accommodate housing for lower-income households unless the element includes a program that requires rezoning within one or three years (whichever is applicable) of the beginning of the planning period to allow residential use at appropriate densities by right for housing developments in which at least 20 percent of the units are affordable to lower-income households. (Gov. Code, § 65583.2, subd. (c).) While the element cites the government code related to sites identified in the previous planning period, it must clearly indicate which sites were identified in previous planning periods and include a program as appropriate. 1

Zoning for Lower-Income Households: Pursuant to Section 65583.2(c)(3)(A) and (B), the element must identify sites with zoning and densities appropriate to accommodate the development of housing for lower-income households based on factors such as market demand, financial feasibility and development experience within zones. For communities with densities that meet specific standards (at least 20 units per acre for Clayton), this analysis is not required (Section 65583.2(c)(3)(B)). The element identifies Site B (Silver Oaks) in the inventory to accommodate a portion of the City's lower-income RNHA; however the allowable density is five units per acre. A density of five units per acre will not be found appropriate to accommodate housing for lower-income households. The element must either remove the site from accommodating the lower-income RHNA or add a program to rezone the site at appropriate densities. 2

Accessory Dwelling Units (ADU): The element is projecting 32 ADUs for an average of 4 ADUs per year over the eight-year planning period to accommodate a portion of its RHNA. The projections are based off ADU building permit trends. Specifically, the element states that the City permitted 7 ADUs over the last four years averaging roughly 2 ADUs per year. However, HCD's records indicate that the City did not report ADU data for 2018 and 2019 and reported 3 ADUs in 2020 and 2 in 2021, averaging no more than 2 ADUs per year. First, to utilize past ADU permit data, the City must submit Annual Progress Reports for 2018 and 2019. Second, the City's past performance on permitting ADUs do not support a two-fold increase. The element must reconcile these figures and adjust assumptions based on a realistic estimate of the potential for ADUs and include strong policies that commit to incentivizing ADUs. Depending on the analysis, the element must commit to monitor ADU production and affordability throughout the course of the planning period and implement additional actions if not meeting target numbers anticipated in the housing element. If necessary, additional actions, should be taken in a timely manner (e.g., within six months). The degree of additional actions should be in stride with the degree of the gap in production and 3

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Number: 1 Author: lstetson Subject: Sticky Note Date: 11/17/2022 1:59:12 PM

The sites map shows sites under these criteria.

Number: 2 Author: lstetson Subject: Sticky Note Date: 11/17/2022 2:00:33 PM

We explained this in the call with HCD. THe text has been augmented to make it abundantly clear that some are inclusionary units.

Number: 3 Author: lstetson Subject: Sticky Note Date: 11/17/2022 4:03:29 PM

Described how they are being used to meet inclusionary requirements. Used 2022 ADU data to bolster the argument. Try to stay at 32 total over 8 years.

affordability. For example, if actual production and affordability of ADUs is far from anticipated trends, then rezoning or something similar would be an appropriate action. If actual production and affordability is near anticipated trends, then measures like outreach and marketing might be more appropriate.

Environmental Constraints: While the element generally describes environmental conditions that exist in the City (e.g., stormwater, earthquakes, flood), it must relate those conditions to the identified sites including any other known conditions or other environmental constraints that could impact housing development on identified sites during the planning period.

Availability of Infrastructure: While the element describes water and sewer infrastructure, it must also demonstrate sufficient existing or planned total water and sewer capacity to accommodate the RHNA.

Zoning for a Variety of Housing Types:

- Multifamily Zoning: While the element analyzed most zones discussing allowable uses and development standards, it is relying entirely on sites zoned "PD" yet provides no discussion or analysis of the zoning. The element must discuss and analyze the PD zoning including listing allowable uses (p. 4-4) and applicable development standards and processes.
- Emergency Shelters: The element must describe compliance with Government Code section 65583, subdivision a)(4)(A) or include a program to comply with this requirement. For your information, pursuant to Government Code section 65583, subdivision a)(4)(A), parking requirements should be limited to allowing sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone.
- Permanent Supportive Housing: Supportive housing shall be a use by-right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The element must demonstrate compliance with these requirements and include programs as appropriate.
- Employee Housing: In addition, the element must demonstrate zoning is consistent with the Employee Housing Act (Health and Safety Code, § 17000 et seq.), specifically, sections 17021.5 and 17021.6. Section 17021.5 requires employee housing for six or fewer employees to be treated as a single-family structure and permitted in the same manner as other dwellings of the same type in the same zone. Section 17021.6 requires employee housing consisting of no more than 12 units or 36 beds to be permitted in the same manner as other agricultural uses in the same zone. The element must either demonstrate consistency with these requirements or include programs to amend zoning as appropriate. For additional information and sample analysis, see the Building Blocks at https://www.hcd.ca.gov/farmworkers.
- Manufactured Housing: The element describes site plan review and design review requirements for mobile homes. According to state law, manufactured homes on a permanent foundation are to be allowed the in the same as single-

Page: 8

Number: 1 Author: lstetson Subject: Sticky Note Date: 11/3/2022 7:36:01 AM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 7:43:29 AM -07'00'
added language from EIR to constraints analysis (pp. 4-28-4-31)
+
added program to amend CMC Section 17.22.060 to exclude housing opportunity sites in most recent HE when calculating density on sensitive lands (p. 2-11)

Number: 2 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:20:43 PM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 5:15:25 PM -07'00'
Language added to constraints (p. 4-18/19)

Number: 3 Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 7:50:38 AM -07'00'
added analysis to constraints (pp. 4-10/11) + added to ZTA program (2-10/11)

Number: 4 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:21:07 PM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 8:01:50 AM -07'00'
added discussion in constraints (pp. 4-10/11) + added to ZTA program (pp. 2-10/11)

Number: 5 Author: lstetson Subject: Sticky Note Date: 10/25/2022 10:51:56 AM -07'00'
Address through ZC amendments

LC zone - Can't have use permit

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 7:52:13 AM -07'00'
added to ZTA program to make by right (p. 2-11) + added conclusion to constraints (p. 4-7)

Number: 6 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:22:18 PM -07'00'
Expand ZCA program

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 7:53:41 AM -07'00'
added new section to constraints (p. 4-6) + added to ZTA program (p. 2-11)

Number: 7 Author: lstetson Subject: Sticky Note Date: 10/25/2022 10:54:22 AM -07'00'
17.36.078

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 7:54:26 AM -07'00'
clarified in constraints (p. 4-6)

family homes. The element must demonstrate compliance with this requirement or add or modify programs.

3. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

   Land Use Controls: The element must identify and analyze all relevant land use controls impacts as potential constraints on a variety of housing types. The analysis should evaluate land use controls independently and cumulatively with other land use controls, the analysis should specifically address minimum unit sizes (e.g., 1,000-1800 square feet), lot coverage requirements and height limits. The analysis should address any impacts on cost, supply, housing choice, affordability, timing, approval certainty and ability to achieve maximum densities and include programs to address identified constraints. Based on a complete analysis, the element should include programs to address or remove the identified constraints. 1

   Local Permit and Processing Procedures: While the element included some discussion of permitting procedures and requirements, it must specifically analyze the use permit and site plan permit requirements. First, the element states that multifamily is allowed by-right; however the element also indicates that multifamily is subject to a development plan permit and site plan review which requires notification requirements to neighbors, public hearings, City Council and Planning Commission review and examining compatibility with surrounding uses – essentially a conditional use or exception process. For your information, subjecting multifamily housing to an exception process is considered a constraint. The analysis must evaluate the processing and permit procedures' impacts as potential constraints on housing supply (number of units), costs, timing, feasibility and approval certainty. For example, the analysis should consider level of review and actual approval findings. Secondly, the element listed several other permits but should evaluate those processes including the development plan permit, site plan review, and use permit. Lastly, the City requires a use permit for housing for 2 persons with disabilities (e.g., residential care facilities of seven or more). As referenced below, these procedures must be analyzed as potential constraints.

   The element also indicates that an affordable housing plan is required to implement the City's inclusionary requirement. It further states that the affordable housing plan including unit mixes and other requirements are subject to City Council discretion. The element must analyze this requirement for any potential constraints on housing supply, cost, feasibility and affordability.

   Design Review: The element references a number of specific plans that contain design review standards respective to each Specific Plan Area (SPA). The element must describe and analyze the design review guidelines and process, including approval procedures and decision-making criteria for each SPA, for their impact as potential 3

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Number: 1 Author: lstetson Subject: Sticky Note Date: 11/17/2022 4:05:17 PM

This comment is generic. Developers are able to achieve densities allowed.

Are FARs and heights constraints? No.

Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 1:38:36 PM

added language to page 4-11
+ added to constraints re manufactured housing (constraint) on pp. 4-6/7 + added to ZTA program on p. 2-11

Number: 2 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:23:43 PM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 7:58:32 AM -07'00'

Added discussion/analysis to constraints (p. 4-6) + added to ZTA program (p. 2-11)

Number: 3 Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 1:47:49 PM

added language to pp. 4-18/19

constraints on housing supply and affordability. For example, the analysis could describe required findings and discuss whether objective standards and guidelines improve development certainty and mitigate cost impacts. The element must demonstrate this process is not a constraint or it must include a program to address this permitting requirement, as appropriate. In addition, the Housing Crisis Act of 2019 (SB 330, 2019) was signed by Governor Newsom on October 9, 2019 and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, § 66300), under specified conditions, suspends the use of subjective design standards.

The element should evaluate its design review process for consistency with these requirements and include actions as appropriate. For additional information and sample analysis, see the Building Blocks at https://www.hcd.ca.gov/processing-permitting-procedures.

Fees and Exactions: The element indicates that the City imposes either the same fee costs for both multifamily and single-family housing or for certain fees, multifamily fees are more expensive than fees for single family developments. The element should closely evaluate these fees, including disproportionate impacts on housing types such as multifamily and include programs that specifically address and mitigate this constraint. For additional information and a sample analysis and tables, see the Building Blocks at http://www.hcd.ca.gov/community-development/building-blocks/constraints/fees-and-exactions.shtml.

Zoning and Fees Transparency: While the element states that the City offers a development handbook to applicants that provides an overview of its development approval process, it must clarify compliance with new transparency requirements for posting all zoning, development standards and fees on the City's website and add a program to address these requirements, if necessary.

SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and add a program to establish written procedures, if necessary.

Local Ordinances: The element must specifically identify and analyze locally adopted ordinances such as inclusionary ordinances or short-term rental ordinances that directly impact the cost and supply of residential development.

On/Off-Site Improvements: While the element lists the types of improvements required for development, it must identify actual subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability. For additional information and a sample analysis, see the Building Blocks at https://www.hcd.ca.gov/codes-and-enforcement-of-onsite-offsite-improvement-standards.

Page: 10

Number: 1 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:37:57 AM -07'00'

Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:38:21 AM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 5:40:15 PM -07'00'
added to constraints (p. 4-15) + added language to existing program (p. 2-11)

Number: 2 Author: lstetson Subject: Sticky Note Date: 10/25/2022 11:13:43 AM -07'00'
City has no STR.

Author: sbrekkeread Subject: Sticky Note Date: 11/3/2022 5:33:47 PM -07'00'
Added language to constraints (p. 4-11)

Number: 3 Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 8:50:48 AM
added discussion to p. 4-4 - no constraints; similar to other jurisdictions

Constraints on Housing for Persons with Disabilities –

- *Residential Care Facilities of Seven or More*: The element indicates that this use is permitted as a commercial use, allowed only with a use permit, requires that these uses are 1,000 feet apart from each other, and must provide parking spaces beyond the required spaces of a typical single-family home. For your information, zoning should simply implement a barrier-free definition of family instead of subjecting, potentially persons with disabilities, to special regulations such as the number of persons, parking requirements, population types and licenses. These housing types should not be excluded from residential zones, most notably low-density zones, which can constrain the availability of housing choices for persons with disabilities. Requiring these housing types to obtain a special use or conditional use permit (CUP) could potentially subject housing for persons with disabilities to higher discretionary standards where an applicant must demonstrate compatibility with the neighborhood, unlike other residential uses. The element must analyze these standards as potential constraints for housing persons with disabilities and include a program to mitigate or remove constraints. In addition, the element must address how the City permits and allows unlicensed group homes of seven or more.
- *Definition of Family*: The element stated that the City revised its definition of family; however, the element must specifically describe and evaluate the actual definition for impacts on housing for persons with disabilities.
- *Reasonable Accommodation*: While the element stated that the City does utilize a reasonable accommodation process, it must include a discussion and analysis of the timing, process, fees, and approval findings for a reasonable accommodation for any potential constraints on persons with disabilities. Based on a complete analysis, the element may need to include a program to mitigate or remove constraints.

4. *Analyze existing assisted housing developments that are eligible to change to nonlow-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of use restrictions. (Gov. Code, § 65583, subd. (a)(9) through 65583(a)(9)(D).)*

   The element must identify public and private nonprofit corporations (qualified entities) known to have the legal and managerial capacity to acquire and manage at-risk units. For a list of qualified entities, please visit: https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing.

5. *Analyze any special housing needs such as elderly; persons with disabilities, including a developmental disability; large families; farmworkers; families with female heads of households; and families and persons in need of emergency shelter. (Gov. Code, § 65583, subd. (a)(7).)*

   Special Needs Households: While the element includes data and a general discussion of housing challenges faced by special needs households, it still must provide an analysis of the existing needs and resources for each special needs group including

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Number: 1 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:24:57 PM -07'00'

Every city is getting this comment.

Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 2:04:30 PM

added language (p. 4-6, 9) to constraints + added to ZTA program (p. 2-11)

Number: 2 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:39:04 AM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/9/2022 5:24:34 PM

added verbiage to p. 4-8/9 re time, fees, findings

Number: 3 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:40:06 AM -07'00'

City can send information to homeowners about organizations they can sell to, if they wish, to maintain affordability status.

Author: sbrekkeread Subject: Sticky Note Date: 11/9/2022 5:25:24 PM

added program + timing to p. 2-14/15

seniors, farmworkers, persons with disabilities, and female-headed households. For example, the element should discuss the existing resources to meet housing needs (availability of shelter beds, number of large units, number of deed restricted units, etc.), an assessment of any gaps in resources, and proposed policies, programs, and funding to help address those gaps.

B. Housing Programs

1. *Include a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the Housing Element... (Gov. Code, § 65583, subd. (c).)*

   To have beneficial impacts and meet the goals and objectives of the housing element, programs must have specific commitment and discrete timelines (e.g., at least annually or by a specified date). Programs must be revised to address these requirements. Examples include Programs A-1 Code Enforcement, B-1 Accessory Dwelling Units, B-2 Town Center Mixed-Use, B-3 Affordable Housing Development, E-1 Mortgage Programs, H-1 Funding Assistance, and H-2 Reasonable Accommodation, and J-3 Proactive Actions. For additional information, see the Building Blocks at https://www.hcd.ca.gov/program-overview-and-quantified-objectives.

2. *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Government Code section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. (*Gov. Code, § *65583, subd. (c)(1).)*

   As noted in Finding A2, the element does not include a complete site analysis; therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types. In addition, the element should be revised as follows:

   Shortfall of Sites: If the element does not identify adequate sites, including available zoning and development standards, to accommodate the RHNA for lower-income households, it must include a program(s) to specifically commit to rezoning sites pursuant to Government Code section, 65583.2, subdivisions (h) and (i). While the

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Number: 1 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:40:59 AM -07'00'

Number: 2 Author: lstetson Subject: Sticky Note Date: 10/20/2022 12:26:37 PM -07'00'

Several of these are legitimately "ongoing", but HCD wants dates certain.

Author: sbrekkeread Subject: Sticky Note Date: 11/9/2022 6:02:39 PM

added specific timeframes

Number: 3 Author: lstetson Subject: Sticky Note Date: 11/17/2022 4:06:50 PM

Strengthened language regarding planned rezoning and City's commitment to do it immediately following HE adoption (and within the one year dictated by statute).

Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 2:22:43 PM

Laura updated - p. 2-10

Number: 4 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:43:24 AM -07'00'

Beef up program language.

Author: sbrekkeread Subject: Sticky Note Date: 11/9/2022 5:27:37 PM

added to p. 2-10 immediately following the adoption of the housing element, the City will move forward on the GPAs and ZTAs

element includes a rezoning program, it does not appear to meet these requirements. For example, the program should:

- Identifying acreage, allowable densities, and anticipated units.
- permit owner-occupied and rental multifamily uses by-right for developments in which 20 percent or more of the units are affordable to lower-income households. By-right means local government review must not require a CUP, planned unit development permit, or other discretionary review or approval.
- accommodate a minimum of 16 units per site;
- require a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only or on sites zoned for mixed uses that accommodate all of the very low and low-income housing need, if those sites:
    - allow 100 percent residential use, and
    - require residential use occupy 50 percent of the total floor area of a mixed-use project.

For additional information, see the Building Blocks' at https://www.hcd.ca.gov/identify-adequate-sites.

City-Owned Sites: The element identified City-Owned sites to accommodate a portion of the RHNA. The element should include a program with numerical objectives that ensures compliance with the Surplus Land Act, provides incentives and actions along with a schedule of actions to facilitate development. Actions should include outreach with developers, issuing requests for proposals, incentives, fee waivers, priority processing, financial assistance, completing entitlements and issuing building permits.

3. *Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)*

   As noted in Finding A3, the element requires a complete analysis of potential governmental and nongovernmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

4. *Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)*

   Program to AFFH: While the element includes Programs J-1, J-2, and J-3 to address fair housing issues in Clayton, these programs do not address priorities discussed in the AFFH section and do not appear intended toward a significant beneficial impact during the planning period. For your information pursuant to Government Code section

Page: 13

Number: 1 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:46:33 AM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/9/2022 6:41:05 PM
added text to 2-8/9

Author: sbrekkeread Subject: Sticky Note Date: 11/9/2022 5:29:38 PM
added on p. 2-8 at such time that the City declares land surplus, City will proactively seek an affordable housing developer

Number: 2 Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 2:56:39 PM
done

Number: 3 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:46:53 AM -07'00'

Author: sbrekkeread Subject: Sticky Note Date: 11/9/2022 5:48:09 PM
added program to seek out developers who cater to disabled population - p. 2-13
added exploring universal design for ADU preapproved plans - p. 2-14

Author: sbrekkeread Subject: Sticky Note Date: 11/10/2022 12:26:57 PM
Dana - we may beef up language after Sasha completes added AFFH language; in the meantime, added sentence to Fair Housing section, p 2-16 (all housing in Clayton affirmatively furthers fair housing)

8899.50 “Affirmatively furthering fair housing” means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, AFFH means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all public agency’s activities and programs relating to housing and community development.

5. *The housing program shall preserve for low-income household the assisted housing developments identified pursuant to paragraph (9) of subdivision (a)... (Gov. Code, § 65583, subd. (c)(6).)*

   As noted in Finding A4, the element identifies five units at-risk of converting to market-rate uses in the planning period. While Program I-1 (Monitor and Provide Options) will monitor units, the program must also go beyond “considering” amending Chapter 17.92 and extending affordability covenants” and specifically commit to these actions. The element must include a program that addresses preserving at-risk units and specifying actions to monitor at-risk units, including contacting property owners within at least one year of the affordability expiration dates on projects. The program for preserving at-risk units should include noticing requirements within 3 years and 12 and 6 months of the affordability expiration dates, in addition to coordinating with qualified entities such as nonprofit organizations and establish specific time parameters around such actions.

6. *Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent... (Gov. Code, § 65583, subd. (c)(7).)*

   The element indicated that planning commission review for larger ADUs can be a constraint for the overall development of these units. As such the element stated that it will remove this constraint; however it did not include a program committing to remove this requirement. The element should be revised with an action to remove planning commission review of large ADU types.

   Additionally, while Program D-1 (General Plan Amendments) commits to amending the ADU ordinance to comply with state law, the element is required to include a program that actively incentivizes or promotes ADU development for very low-, low-, and moderate-income households. This can take the form of flexible zoning requirements, development standards, or processing and fee incentives that facilitate the creation of ADUs, such as reduced parking requirements, fee waivers and more. Other strategies could include developing information packets to market ADU construction, targeted advertising of ADU development opportunities or establishing an ADU specialist within the planning department.

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Number: 1 Author: lstetson Subject: Sticky Note Date: 10/27/2022 8:47:16 AM -07'00'

Okay.

Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 6:26:14 PM

added to pp.2-14/15

Number: 2 Author: lstetson Subject: Sticky Note Date: 11/17/2022 4:08:06 PM

Included program that ADU ordinance revision will remove requirement for PC review. New ord will include pre-approved plans and brochure.

Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 5:18:12 PM

added language on p. 4-6 + added timing to amendments by March 2023 on p. 2-9

C. Quantified Objectives

Establish the number of housing units, by income level, that can be constructed, rehabilitated, and conserved over a five-year time frame. (Gov. Code, § 65583, subd. (b)(1 & 2).)

While the element includes quantified objectives for new construction, rehabilitation, and conservation by income group, it could consider quantified objectives for conservation (beyond at-risk preservation). For your information, the quantified objectives do not represent a ceiling, but rather set a target goal for the City to achieve, based on needs, resources, and constraints.

D. Public Participation

Local governments shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the Housing Element, and the element shall describe this effort. (Gov. Code, § 65583, subd.(c)(9).)

While the element includes a general summary of the public participation process, it should also demonstrate diligent efforts were made to involve all economic segments of the community in the development of the housing element. The element could describe the efforts to circulate the housing element among low- and moderate-income households and organizations that represent them and to involve such groups and persons in the element throughout the process. The element should be revised to discuss outreach to lower-income and special needs groups during the public participation efforts, solicitation efforts for survey responses, participation in community workshops, and if translation services were provided. In addition, the element should also summarize the public comments and describe how they were considered and incorporated into the element.

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Number: 1 Author: lstetson Subject: Sticky Note Date: 10/25/2022 11:32:33 AM -07'00'

Red-tagged units: only about 2 every three years. So, conserve up to 2 annually.

Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 6:30:02 PM

done; added to p.2-18

Number: 2 Author: lstetson Subject: Sticky Note Date: 11/7/2022 5:23:50 PM

City has engaged with local churches, who do have outreach connections to under-represented communities. Also outreach to affordable housing developers.

Author: sbrekkeread Subject: Sticky Note Date: 11/7/2022 6:34:27 PM

summary + cross-referenced Public Participation chapter + added to the introduction

October 18, 2022
Dana Ayers (via email - DanaA@claytonca.gov)
Community Development Director
City of Clayton
6000 Heritage Trail

RE: Draft Housing Element Determination

Ms. Ayers,

East Bay for Everyone and the undersigned organizations write to provide comments on the City of Clayton's progress towards a compliant 6th Cycle Housing Element.

In light of HCD's recent request for revisions to the draft submitted July 14, 2022 we encourage you to reread the letters we sent on January 4th, 2022 and May 9th, 2022 (linked below) which highlighted many of the same issues that HCD cited in their review, specifically:

- Many sites on Clayton's draft inventory were also present in the 4th and 5th Cycle Housing Element Inventories, and therefore must be re-zoned for by-right approval as required by AB1397. From HCD, the city "must clearly indicate which sites were identified in previous planning periods and include a program as appropriate"
- Many sites are non-vacant and seem unlikely to be developed within the planning period. From HCD "the housing element must demonstrate existing uses are not an impediment to additional residential development and will likely discontinue in the planning period"

Clayton, like all cities in the Association of Bay Area Governments, is legally required to adopt a compliant Housing Element by January 31, 2023. We are concerned that Clayton is not on track to achieve this goal. There are many consequences of failing to adopt a compliant Housing Element on time. We would like to bring to your attention one such consequence, the Builder's Remedy. Pursuant to Gov't Code § 65589.5(d), if a jurisdiction does not have an adopted, compliant Housing Element, any developer can propose housing projects at any height or density on any parcel in the city so long as they contain 20% low income units, and the

jurisdiction cannot reject it unless there is a specific health or safety issue. If Clayton does not have an adopted, compliant Housing Element by Jan. 31, 2023, then on Feb. 1, 2023, developers can begin proposing Builder's Remedy projects.

In southern California, we are already seeing Builder's Remedy projects. In Redondo Beach, a developer has proposed a 2300-home project. Santa Monica has received fourteen Builder's Remedy project applications, including a 15-story 2000-unit building. HCD has recently written a memo saying that cities must approve these projects.

As we are seeing with Santa Monica, a jurisdiction cannot protect itself from already-filed applications by later coming into compliance. Santa Monica is now in compliance. Nonetheless, its 15-story building application cannot be rejected on the grounds of Santa Monica's eight story height limit; the developer applied for the project in the window where Santa Monica was out of compliance, and the application is now vested with the zoning standards applicable at the time of application.

We would like Clayton to retain control, by adopting and submitting a compliant Housing Element by the January 31, 2023 deadline.

We look forward to continuing to engage with the City of Clayton as it develops its plan to accommodate growth and inclusive development. If you are conducting meetings with community organizations to discuss the Housing Element this fall, we would love to take part.

Sincerely,
Maxwell Davis
East Bay for Everyone

Victor Flores
Greenbelt Alliance

Zac Bowling
East Bay YIMBY

Rafa Sonnefeld
YIMBY Law

cc: HousingElements@hcd.ca.gov

Link to January 4, 2022 letter:
https://eastbayforeveryone.org/wp-content/uploads/2022/04/2022-01-04-clayton-site-inventory-letter.pdf
Link to May 9, 2022 letter:
https://eastbayforeveryone.org/wp-content/uploads/2022/10/2022-05-09-clayton-eir.pdf

From:	David Dolter
To:	Dana Ayers
Cc:	Grant Alvernaz
Subject:	PEACOCK/OAKHURST - HUE & INCLUSION OF OAKHURST DRIVING RANGE PARCELS THEREIN
Date:	Thursday, September 15, 2022 9:43:09 AM
Importance:	High

Greetings… we'd like to reiterate or request that the city include the 4 parcels that comprise the driving range into the Housing Element Update as well as the other parcels we previously identified.

Happy to discuss further when we meet again.

Thanks and best regards…

David Dolter, Principal
REAL ESTATE DEVELOPMENT SOLUTIONS
925/766-6160

GREENBELT ALLIANCE

Clayton City Hall
6000 Heritage Trail
Clayton, CA 94517

Dear Mayor Peter Cloven, Vice Mayor Holly Tillman and City Council,

Thank you so much for the opportunity to review the Clayton Housing Element. There are many opportunities in this document to address the housing needs of Clayton and make a dent in the regional housing crisis while simultaneously combating climate change. Greenbelt Alliance and partner organizations have been working with cities around the region to provide input on Housing Element drafts in advance of the HCD reviewers. We have a few comments and specific goals and policy recommendations we would like to share with you as we also believe these are issues that HCD will also flag, so the earlier you can address them, the more seamless your process will be.

Comments

- **Nimby opposition should be listed as a constraint.** We reviewed the public survey comments, have attended city council meetings and understand that there is some pushback from community members who do not want more housing. HCD will likely require that NIMBY opposition is listed as a constraint. Clayton should implement a robust program regarding education of the benefits of new housing and the need for housing.
- **Constraints need mitigation efforts.** All constraints should list ways to mitigate said constraints.

Site Selection Comments

- **Housing on church land** - While we support the concept of housing on church land, we were concerned to see three church sites zoned for housing with no indication that these churches were planning on closing or relocating in the near future. G-downtown site adjacent the South Clayton community church seems like a great site but we are concerned about the likelihood of the South Clayton community church, Saint Johns Parish and Clayton Valley presbetarian church sites.
- **Building on park land -** It appears that a large portion of the housing units will be in the Easley Estates park. We think it is both unlikely that this would be built due to neighborhood concerns and think it is important to preserve valuable park land. We would like to encourage you to increase the density on additional lots in order to preserve or offset this site.

Thank you so much for considering these recommendations. We look forward to continuing to work with you to make the housing element as sustainable and resilient as possible. For additional policies please review the Housing section of the Resilience Playbook.

Regards,

Zoe Siegel, Director of Climate Resilience, Greenbelt Alliance
Victor Flores, Resilience Manager, Greenbelt Alliance

August 04, 2022

Dear Clayton City Council:

We are writing on behalf of **South Bay YIMBY** regarding Clayton's 6th Cycle Housing Element Update. As a regional pro-housing advocacy group, South Bay YIMBY works to ensure cities adopt housing elements that are fair, realistic, and lawful.

Per §8899.50(a)(1) of state code, Clayton's housing element must affirmatively further fair housing, which entails 'taking meaningful actions... that overcome patterns of segregation.'

The City of Clayton is uniquely positioned to affirmatively further fair housing, as Clayton is a wealthy, exclusionary city that researchers with the Othering and Belonging Institute at UC Berkeley identify as highly segregated from the rest of the Bay Area. This socioeconomic segregation is caused by the exclusionary cost of housing in your community, where an average home, as of April 30th, costs $1,470,000, which is only affordable to someone earning a salary of $258,000, meaning **only the richest 4% of households can afford to settle down in your community**. It is thus no coincidence that your city is 75% whiter than the rest of the Bay, as well as 68% less black than the rest of the Bay Area.

In a 2021 report entitled 'Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market,' economic advisors for the White House outline how exclusionary zoning, like yours, causes segregation. Your exclusionary zoning pushes low income children to live in less resourced areas, which begets worse life outcomes from health to income. The research is clear: exclusionary zoning violates your duty to further fair housing.

To take meaningful actions that overcome patterns of segregation, we recommend you:

1. **End apartment bans in high opportunity areas.** This will give middle and working class families the opportunity to share in the resources your rich neighborhoods enjoy. As of 2020, **your city banned apartments in over 95.4% of high opportunity residential areas**.

2. **Accommodate 1540 low income homes in your site inventory.** While substantially larger than the floor of 267 low income homes required by RHNA, 1540 is the number of homes required to bring the proportion of low income families in your city in line with the rest of the Bay Area. While this number is large enough to be politically challenging, it will always be politically challenging to overcome segregation, as AFFH requires.

Thank you,

Salim Damerdji, South Bay YIMBY
Keith Diggs, YIMBY Law
Jeremy Levine, Legislative and Political Director for Contra Costa Young Democrats

Real Estate Development Solutions

Project Management
Development Entitlements
Brokerage

June 18, 2022

Dana Ayers
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton CA 94517

Dear Ms. Ayers:

I represent the property owner, Empire Acres LLC ("Empire"), of the so-called "park and ride lot" (APN 118-370-073 – 2.546 acres). Empire also owns four parcels that comprise the driving range at Oakhurst Country Club: APN's 118-370-017 – 4.99 acres; 118-370-086 – 5.898 acres; 118-370-087 – 13.82 acres; 118-370-088 – 39.1 acres. Empire also owns the golf course maintenance parcel (APN 118-370-048 – 16.67 acres). Empire (and affiliated entities) owns and operates Oakhurst Country Club.

Regarding the "park and ride lot", we are preparing a for-sale townhouse development application and will submit it following completion of our internal site plan preparation process.

Regarding the driving range and maintenance parcels, we hereby confirm our approval of including these parcels for residential use in your current housing element update process. We believe, based on technological advances in golf course maintenance, operations, and the player experience, that these parcels and adjacent areas can be reconfigured to provide both housing opportunities and the golf experience the region has enjoyed for many years.

Be mindful that city density designations on any of these parcels do not necessarily dictate ultimate development proposals. Rather, then-current market conditions including buyer (or renter) requirements, mortgage interest rates, indeed, the overall economy, will guide future submittals.

Thank you for your consideration and feel free to contact me if there are any questions.

Sincerely,

David Dolter
REAL ESTATE DEVELOPMENT SOLUTIONS

cc: Grant Alvernaz

1824 Barsac Court
Brentwood CA 94513
DRE#00827562
ddolter@comcast.net
925/766-6160

TO: Planning Commission, Community Development Department, City of Clayton

FROM: The Bishop's Committee
St. John's Episcopal Church in Clayton, California

RE: Housing Element Comment

DATE: June 15, 2022

We write to provide public comment on the City of Clayton's Draft Housing Element (HE), on behalf of St. John's Episcopal Church in Clayton, California (St. John's Church). St. John's Church is a worship community within the Diocese of California, an ecclesiastical territory of the Episcopal Church in the United States of America (ECUSA).

The HE solicits community participation to guide its development, including extensive stakeholder interviews and community workshops (HE, pp. 8-1, 8-2[1]). The HE correctly sets forth the considerable challenges in developing housing policies and goals in Clayton, including issues with affordability and the geological character of the area (pp. 2-1, 2-2). St. John's Church is proud to be a "religious institution[ ] that ha[s] expressed interest in developing housing on portions of [its] property." (p. 2-3.)

In early 2022, St. John's Church fully merged its worship community with that of St. Michael and All Angels Episcopal Church in Concord, thereby allowing the St. John's Church land to be developed further. St. John's Church is currently working with a consulting firm to consider the best manner and means to develop the church property to effectuate its missional goals of good community stewardship. The leading idea is for the church property to be developed for housing purposes, although it is too early to state definitively whether the housing would be exclusively or partially devoted to lower income households, seniors, or the like.

The HE proposes several legislative and other policy goals to more easily facilitate the development of housing in Clayton during the 2023–2031 cycle. Of particular note to St. John's Church are the following proposals:

1. Pass a General Plan Land Use Element amendment "to allow for residential development within a density range of 10.1 to 30 units per acre, and at a minimum density of 20 units per acre where religious assembly uses already exist." (p. 2-9)

2. "Establish a Religious Institutional Overlay zone or similar mechanism to allow residential development on properties with an established religious use at a minimum density of 20 units per acre." (p. 2-10)

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[1] All subsequent undesignated page citations are to the HE.

3. "Establish a zoning overlay or other mechanism to allow affordable housing developments at a maximum density of 40 units per acre on properties occupied by a religious institution." (p. 2-10)

St. John's Church supports the above proposals, as well as any other and further proposals from the City that would allow the St. John's Church site to be more efficiently developed for multi-dwelling residential purposes. Furthermore, St. John's Church asks that the City keep it involved in the ongoing dialogue regarding the HE and the availability of housing in Clayton.

Sincerely,

Jim McDougald
Senior Warden
St. John's Episcopal Church, Clayton, California

Cc: Audrey Miskelley, Interim Vicar

From: William P. Jordan
To: Dana Ayers; Janet Calderon
Subject: Housing Element Item on Agenda
Date: Tuesday, May 24, 2022 4:59:21 PM

Please consider adding 6530 and 6500 Marsh Creek Rd. to have 30 units as you have done to 6470 Marsh Creek Rd.

Also, the commission should know construction documents for all three building permits are finished and Dana has received architectural and landscape last week for her review.

Once approved, we'll submit to county.

Btw, its dicey down at the county building department for permits and we are hopeful to get them by deadline.

Time is of the essence for our submittals.

Sent from my iPhone

From: T Cianfrano
To: Housing Element
Subject: New Housing Element requirements
Date: Friday, May 20, 2022 9:00:00 AM

Much as been said about the impact of adding 560 units in this round of the housing element. For the most part, the impacts have focused on traffic, air quality, fire escape routes, etc . No one has addressed the impact on the water supply to support this and other proposed growth. The only factor considered is the need for “affordable” housing. These homes can be built much faster than infrastructure components.

All indications is that the drought will continue and in fact, worsen due to climate change. What is being done to address “ALL” impacts?

Sent from Mail for Windows

May 9, 2022
Dana Ayers (via email - DanaA@claytonca.gov)
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

To Whom It May Concern,
East Bay for Everyone and the undersigned organizations write to provide comments on the City of Clayton's progress towards a draft 6th Cycle Housing Element and following up on our January 4th letter(linked below).

The previous letter described site-specific feedback and concerns. **We have not yet received a response to that letter** and the city has proceeded with the EIR with the same site list. We write to inform the city that we do not think the city is on track to have a compliant housing element and offer the additional guidance:

Gather input from developers:
Local housing developers should act as a resource to offer guidance on the barriers to development in Clayton especially given a history of long delayed developments like The Olivia on Marsh Creek, a site which was included in the 4th and 5th Housing Element cycle, was rezoned in 2011 and is still not developed over 10 years later.

Buffer on sites:
From HCD's Housing Element Sites Inventory Guidebook "it is recommended the jurisdiction create a buffer in the housing element inventory of **at least 15 to 30 percent more capacity than required**"(emphasis added).

Given that Clayton **has built zero Low Income sites** in the last 7 years, a buffer of 20% is illogical and will likely lead to the same poor results as before. Clayton should be planning for 2 to 3 times the RHNA allocation in order to have any chance of meeting this requirement.

Lot Coverage, Height, Parking etc
From HCD's Housing Element Sites Inventory Guidebook:

“When establishing realistic unit capacity calculations, the jurisdiction must consider the cumulative impact of standards such as maximum lot coverage, height, open space, parking, on-site improvements such as sidewalks or easements, and floor area ratios”

Given Clayton’s low rate of development, **the city must reduce these barriers**, removing height limits, lot coverage requirements, parking minimums and other obvious restrictions on development.

Infill housing for Environmental Benefits
By building more homes in already established urban areas, Clayton can avoid paving over trees and habitats that serve as heat sinks and carbon banks, all of which provide high-value climate benefits. It is critical to support growth in safe infill locations and streamline the permitting process when appropriate, while still allowing for a public process, requiring environmental review, and rewarding jurisdictions that meet housing goals. To support this, please refer to Greenbelt Alliance’s Resilience Playbook.

Evidence of Site Suitability:
HCD’s Housing Element Sites Inventory Guidebook states “[t]o demonstrate the feasibility of development … the analysis must include … Evidence that the site is adequate to accommodate lower income housing. Evidence could include developer interest, potential for lot consolidation, densities that allow sufficient capacity for a typical affordable housing project, and other information that can demonstrate to HCD the feasibility of the site for development.”

Clayton has not provided sufficient evidence that the sites on this inventory are suitable. See previous letter for site-specific feedback explaining why sites are not feasible.

Sincerely,
Maxwell Davis
East Bay for Everyone

Zoe Siegal
Greenbelt Alliance

Zac Bowling
East Bay YIMBY

Rafa Sonnefeld
YIMBY Law

cc: HousingElements@hcd.ca.gov

Link to Jan 4, 2022 letter:
https://eastbayforeveryone.org/wp-content/uploads/2022/04/2022-01-04-clayton-site-inventory-letter.pdf

From:	Contra Costa County Climate Leaders (4CL)
To:	Letecia "Holly" Tillman; Letecia "Holly" Tillman; Carl "CW" Wolfe; Carl "CW" Wolfe; Jim Diaz; Jeff Wan; Jeff Wan; Peter Cloven; Peter Cloven; Reina Schwartz; Janet Calderon; Housing Element
Cc:	zsiegel@greenbelt.org; "Karen Rosenberg"; "Tyler Snortum-Phelps"; info@cccclimateleaders.org
Subject:	General Plan and Housing City of Clayton
Date:	Thursday, January 6, 2022 9:21:05 AM

Letecia "Holly" Tillman Council Member htillman@ci.clayton.ca.us ; hollyt@claytonca.gov

Carl Wolfe Mayor cwolfe@ci.clayton.ca.us; cw@claytonca.gov

Jim Diaz Council Member jdiaz@ci.clayton.ca.us

Jeff Wan Council Member jwan@ci.clayton.ca.us ; jeff.wan@claytonca.gov

Peter Cloven Vice Mayor pcloven@ci.clayton.ca.us ; peterc@claytonca.gov

Reina Schwartz Interim City Mgr. rschwartz@ci.clayton.ca.us

Janet Calderon City Clerk jcalderon@ci.clayton.ca.us

HousingElement@claytonca.gov

Honorable Mayor and Councilmembers,

Thank you for the public hearing this week on the update of the City of Clayton's General Plan, Housing Element.

Per my public comments Contra Cosa Count Climate Leaders (4CL) requests:

PUBLIC INPUT: Despite the council mentioning the need for public input and for folks to take the survey. It seems that the survey has been shut down for public input. We agree that the survey should be republished and continue--- and that a more robust effort to get input should be made. We apreciated the councilmember's comment that it should be made clear that this is a plan in place for the next decade, and that it is important to express to your residents-- the urgency of their input needed for this important planning process.

SUSTAINABLE AND ADDRESS THE CLIMATE CRISIS. We agree with councilmembers comments that it was wise to more directly encourage Energy Efficiency in one of the stated goals; however, the other goals are quite broad and don't really provide much direction to the Planning Commission. We ask that as elected officials, you direc the planning commission to incorporate mitigation for the climate crisis in their planning.

As noted, other than transportation (which contributes the greatest portion of Greenhouse gas emissions), it is the build environment where your city can have the most impact, Please ensure your housing element provides options to build more infill housing in existing urban areas and include climate and energy mitigations to reduce greenhouse gas (GHG) emissions

TRACK AND MONITOR. Further, as requested, please ensure that you consider real Measirable goals in your housing element. And ensure they are reviewed at east annually to monitor and reduce the carbon footprint of any new proposed housing.

As noted, low energy and low cost housing will pass on those cost saving to the residents of these affordable homes; providing Clayton with a win win solution that addresses housing and the climate crisis.

Please keep us on the email outreach list for General Plan updates.
info@cccclimateleaders.org

Please consider these Best practices that other local governments are providing in their General Plan Updates.

https://www.cccclimateleaders.org/workshops/general-plan-updating/

And we look forward to working with you!

Lynda Deschambault
Environmental Scientist and Educator
Former USEPA
Former Mayor Moraga, CA
Executive Director, www.cccclimateleaders.org

---------- Forwarded message ---------
From: **Zoom** <no-reply@zoom.us>
Date: Tue, Jan 4, 2022, 11:02 PM
Subject: Virtual Clayton City Council Meeting Confirmation

To: <info@cccclimateleaders.org>

January 4, 2022

Dana Ayers (via email - DanaA@claytonca.gov)
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

To Whom It May Concern,

East Bay for Everyone and the undersigned organizations write to provide comments on the City of Clayton's 6th Cycle Housing Element efforts for the January 4, 2022 City Council meeting.

As a preliminary matter we note that AB1397 requires recycled and nonvacant sites in a previous housing element to be rezoned for by-right development of 20% low-income projects. If the proposed site is vacant and recycled from the previous two cycles, it must also be rezoned for by-right approval.

Of the sites identified in the Preliminary 6th Cycle Sites (Attachment 3 of the staff report) compiled by the City of Clayton and MIG, approximately 70% are recycled from the 4th and/or 5th cycle housing elements.

The following preliminary sites are vacant and have been part of the City of Clayton's Housing Element for the 4th and 5th cycle housing elements:

- Site E - proposed 20 dwelling units/acre (DUA) and is vacant.
- Site G - proposed 20 DUA and is vacant.
- Site N - proposed 20 DUA and is vacant.

These sites should be re-zoned for by-right approval as required by AB1397.

In addition the following sites are non-vacant and have been previously part of 4th or 5th cycle housing elements:

- Site F - proposed 20 DUA, previously part of the 5th cycle and contains three existing residential uses.
- Site H - proposed 20 DUA, previously part of 4th and 5th cycles and contains existing residential uses.
- Site I - proposed 10 DUA on 13 acres, previously part of the 4th cycle and contains two existing residential uses.
    - The density of this site should be increased to 20 DUA or more in order to maximize the likelihood of development given the existing high value residential uses.
- Site J - proposed 5 DUA and previously part of the 4th cycle and 5th cycles. Two of the parcels are vacant greenfield locations. The northern third parcel contains three large existing residential uses.
    - It is unlikely that these residential uses will be redeveloped at a density of 5 DUA.
    - Furthermore the southern two parcels are 1000 feet from an active quarry.
    - <u>This site should be removed from consideration.</u>
- Site M - proposed 20 DUA and previously part of the 4th cycle and 5th cycles. This site contains existing residential and agricultural uses.
- Site O - proposed 20 DUA, previously part of 4th and 5th cycles and contains existing residential uses.

The above-mentioned sites should be rezoned to allow for by-right development for projects that include 20% low-income units as required by AB1397, excluding Site J which should be removed entirely from sites.

In addition we offer the following comments:

- Site K - proposed 3 DUA, previously part of the 5th cycle. This site is on a steep hillside between existing residential uses. There are significant difficulties in developing this site and <u>it should be removed from consideration</u>.
- Sites P, Q, and R are welcome additions to the site inventory. Please provide a copy of a letter from the property owners stating they are open to developing the site at the prescribed density. We encourage the City of Clayton to partner with East Bay Housing Organizations to highlight these opportunities for development.
- Sites A and S - proposed 20 DUA, These sites are existing churches(Saint John's Episcopal Parish and Clayton Community Church). Please provide a copy of a letter from the property owners stating they are open to developing the site at the prescribed density. The church-owned properties will likely require collaboration with non-profit

housing organizations. We encourage the City of Clayton to partner with East Bay Housing Organizations to highlight these opportunities for development.

- We encourage the City of Clayton to remember that Mullin Densities of 20 DUA are merely a floor rather than a ceiling. Therefore, any reduction in units below the RHNA shortfall due to removal of potential sites should be re-allocated to redeveloped or new sites above the 20 DUA threshold of Mullin Densities.
- In looking for replacement sites, we encourage Clayton to consider adding additional density on sites within walking distance of downtown, with little or no parking minimum. These locations would be perfect for seniors looking to downsize or car-light families.

We look forward to continuing to engage with the City of Clayton as it develops its plan to accommodate growth and inclusive development. If you are conducting meetings with community organizations to discuss the Housing Element this spring, we would love to take part.

Sincerely,

Maxwell Davis
East Bay for Everyone

Zoe Siegal
Greenbelt Alliance

Zac Bowling
East Bay YIMBY

Rafa Sonnefeld
YIMBY Law

cc: HousingElements@hcd.ca.gov

From:	Karen Rosenberg
To:	Housing Element; Peter Cloven; Letecia "Holly" Tillman; Jim Diaz; Jeff Wan; Carl "CW" Wolfe
Subject:	Housing Element Policy Recommendations for Climate Resilience
Date:	Monday, January 3, 2022 3:17:38 PM
Attachments:	Clayton Housing Element Policy Recommendation Letter (1).pdf

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Hello,

Prior to tomorrow's City Council Study Session we would like to share the following letter which outlines our vision for a climate resilient and equitable Clayton.

This is a once in a decade moment for Clayton to make pivotal progress on climate change by modernizing local policies to build more housing in the right places and protect open spaces. The challenge of building enough housing to bridge the gap also brings opportunity for Clayton to incorporate climate policies into their Housing Element by building the right kind of housing in the right places while protecting our valuable open spaces and irreplaceable farmland.

To achieve the growth our region needs while protecting open spaces, biodiversity, and current and future residents, Greenbelt Alliance and our partners have developed three main strategies for Clayton to base their policies and actions around: increasing density within existing communities in non-high fire severity zones and away from flood zones, ensuring fair and inclusive zoning policies that make housing accessible to everyone, and requiring nature-based solutions for climate resilience in future developments.

To further support our vision for Clayton, Greenbelt Alliance and other partnering organizations have crafted a go-to guide for accelerating equitable adaptation to the climate crisis; The Resilience Playbook. The Playbook brings together curated strategies, recommendations, and tools to support local decision makers and community leaders wherever they are in their journey.

We look forward to participating in the Housing Element process.

Regards,

Karen Rosenberg

--

Karen Rosenberg
Resilience Fellow
Greenbelt Alliance
312 Sutter Street, Suite 402 | San Francisco, CA 94108

We're adapting to a changing climate. Get our new Strategic Plan to find out how.

January 3, 2022

RE: Housing Policy Recommendations for Climate Resilience

Dear Mayor Peter Cloven, Vice Mayor Holly Tillman and City Council,

The undersigned organizations and individuals are excited to participate in Clayton's Housing Element process. We write to offer guidance to Clayton in meeting its Regional Housing Needs Allocation (RHNA) goals during the upcoming Housing Element cycle that we believe will make room for more families to enjoy everything Clayton has to offer while ensuring that it is deemed compliant. **This is a once in a decade moment for Clayton to make pivotal progress on climate change by modernizing local policies to build more housing in the right places and protect open spaces.** The challenge of building enough housing to bridge the gap also brings opportunity for Clayton to incorporate climate policies into their Housing Element by building the right kind of housing in the right places while protecting our valuable open spaces and irreplaceable farmland.

The Housing Element is an excellent opportunity for Clayton to mitigate climate change and negative environmental impacts in Clayton. In California, about 40% of climate pollution comes from transportation, the bulk of that from gasoline- and diesel-burning vehicles on our roads. Building more of the right housing in the right places can mitigate climate impacts <u>and</u> reduce housing costs and inequities. But in order to do this we need to change the way we build: as we encourage and engage in equitable, fire-safe infill development, it is imperative that we think about how we can really maximize the benefits that we're getting from our land. We need to build more infill housing in existing urban areas and that infill housing — and all housing — needs to include a healthy amount of green infrastructure like bioswales, carbon sequestering trees that provide canopy cover and can mitigate the urban heat island effect, native plants that can provide habitat, and other nature-based solutions to climate risks.

We believe that by adjusting zoning and development standards strategically, Clayton can exercise maximum control over its future while also reducing greenhouse gas (GHG) emissions and addressing our climate, housing, and equity crises. By considering the feasibility of proposed housing sites, Clayton can ensure the Department of Housing and Community Development (HCD) deems the new housing element legally compliant and accepts Clayton's housing element.

As Clayton begins their update process, we would like to offer three priorities to base Clayton's policies and actions around.

1. **Increase density within existing communities in non-high fire severity zones and away from flood zones**. We must build more housing in existing communities to create healthy, resilient, and affordable housing and protect our open spaces to provide climate benefits. Concentrating growth in places with low or even moderate wildfire hazard risk and outside of anticipated flood zones is necessary to address the need for building more homes while avoiding unnecessary pressure for sprawl and unsustainable shoreline development.
    a. Clayton has many commercial sites that could be strengthened through the addition of mixed-income or affordable housing. Large parking lots and setbacks of legacy office development represent opportunities to create mixed-uses that lower greenhouse gas emissions, create vitality and increase walkability.
    b. Increase heights and remove restrictions on density in non-fire or flood severity areas where existing or new high-capacity transit is planned to encourage housing and the creation of mixed-use corridors.
2. **Ensure fair and inclusive zoning policies that make housing accessible to everyone**. The compounding crises of climate change and housing affordability disproportionately impact low-income and communities of color. In order to address our housing, climate, and equity crises, we need to change the stigma around multifamily home structures. Furthermore, current housing policies have resulted in people being unable to afford to live where they work, creating long unsustainable commutes—both for the environment and for our social fabric. Cities need to actively plan for diverse housing options that are accessible to people of all backgrounds and income levels using the principles of Fair Housing.
    a. **Affordable Housing** - Sites to meet Clayton's low and very low-income RHNA should focus on feasibility. This means identifying good locations near transit, schools and jobs. Such sites will ensure that affordable housing developers seeking will be competitive in applying for funding. Pleasanton also should try to align such the densities of these opportunity sites with affordable housing finance mechanisms. Typical Low-Income Housing Tax Credit affordable housing developments contain between 40 and 75 units. The density yields of sites should reflect this rather than simply reverting to the statutory minimum density of 30 dwelling units per acre for low-income and very low-income housing under RHNA (the so-called Mullin Densities) regardless of the size of the site.
    b. **Missing Middle** – Clayton should also focus on creating opportunities for "missing middle" housing like townhouses and duplexes. In Clayton, **90.4%** of housing is owner occupied, the majority of which is single-family homes. Multifamily housing provides housing opportunities for families who cannot afford to buy or rent single-family homes in Clayton.
3. **Require nature-based solutions for climate resilience in future developments.** To ensure that Clayton's current and future homes are resilient to climate risks like wildfire and flooding, Clayton must be better equipped to help communities struck by natural disasters rebuild and respond rapidly and inclusively. Clayton should require developers to integrate green infrastructure into development and the public right-of-way adjacent to developments at a level that exceeds water quality mandates and ensures that the community has an opportunity to provide input. New infill development has the opportunity to rejuvenate parts

of Clayton that currently contribute negatively to GHG emissions, urban heat islands and pose fire and flood risks.

a. Implement nature-based adaptation - or consider relocating - critical public assets threatened by sea-level rise or rising groundwater.
b. Require and incentivize green infrastructure in future developments and when possible, use green infrastructure as a preferred alternative.
c. Consider permit streamlining for new housing that exceeds current green infrastructure requirements.
d. Reduce mandatory parking minimums to encourage environmentally friendly transit modes like walking, cycling, taking public transit, and purchasing fewer cars.

To support our vision for Clayton, Greenbelt Alliance and other partnering organizations have crafted a go-to guide for accelerating equitable adaptation to the climate crisis; The Resilience Playbook. The Playbook brings together curated strategies, recommendations, and tools to support local decision makers and community leaders wherever they are in their journey.

We look forward to continuing to engage with Clayton and the community on how this vital work can move forward in the new year.

Sincerely,

Zoe Siegel
Director of Climate Resilience, Greenbelt Alliance

Karen Rosenberg
Resilience Fellow, Greenbelt Alliance

Derek Sagehorn
Housing Element Coordinator, East Bay for Everyone

Laura deTar
Executive Director, Fresh Approach

Tina Neuhasel
President and CEO, Sustainable Contra Costa

Lynda Deschambault
Executive Director, Contra Costa Climate Leaders

Alexi Lindeman
Chair, Sustainable Leaders In Action

Peri Lindeman
Youth Environmentalist, Antioch

Abigail Stofer
Youth Environmentalist, Walnut Creek

Stella Lin
Youth Environmentalist, San Ramon

Olivia Johnson
Youth Environmentalist, Brentwood

Ian Cohen
Youth Environmentalist, Brentwood

Selam Asfaw
Youth Environmentalist, Brentwood

Diana Salazar
Youth Environmentalist, Brentwood

Gabriel Vitan
Youth Environmentalist, Brentwood

Xaylee Minchey
Youth Environmentalist, Brentwood

Rachel Kimball,
Youth Environmentalist, Antioch

Kyle Suen
Youth Environmentalist, Walnut Creek

Community Development Department
Interoffice Memorandum

Date: **May 10, 2022**

To: **Reina Schwartz, City Manager**

From: **Dana Ayers, AICP, Community Development Director**

RE: **Results of the Clayton Housing Balancing Act Community Engagement**

Background

Between February 25 and April 3, 2022, as part of its public outreach related to the Housing Element Update, the City of Clayton offered an opportunity for its residents and other interested parties to participate in the Housing Balancing Act, a virtual simulation within which participants were given 15 vacant or underutilized sites in Clayton and asked what density of housing they preferred to see on each site. Starting with a "default" density of either 2 or 3 units per acre on each site, participants could change density in increments of 1 unit per acre to as low as 0 units per acre if they did not want to see housing on a site, up to as many as 30 units per acre. A "housing plan" could be successfully submitted once a participant was able to identify at least 570 housing units in their simulation. This memorandum summarizes the results of the Balancing Act engagement tool for the City of Clayton.

Outreach and Participation

Clayton's Balancing Act simulation was activated on February 25, 2022. To announce the availability of the simulation that day, City staff posted flyers on three community posting boards located at City Hall, the Clayton Library, and in the Town Center; paper copies of the flyers were also placed in the lobby of the library for visitors to take. Virtual announcements included emails to persons and organizations who had expressed interest in the Housing Element Update process, and postings on Next Door and on the City's homepage at www.claytonca.gov. Subsequently, on February 27, the City's Mayor and Vice-Mayor facilitated a volunteer effort to place doorhangers on each residence in the City.

All printed and virtual announcements included a QR code linked directly to the Housing Element page, as well as directions for how to access the City's Housing Element webpage without use of the QR code. A link to the

simulation and a brief video introductory message from the Mayor were embedded at the top of the Housing Element webpage.

Prior to formal activation of the simulation, City staff also provided a demonstration of Balancing Act at the regular Planning Commission meeting of February 22, 2022. The minutes of that meeting, including comments provided by Planning Commissioners, are attached as Appendix B to this memorandum.

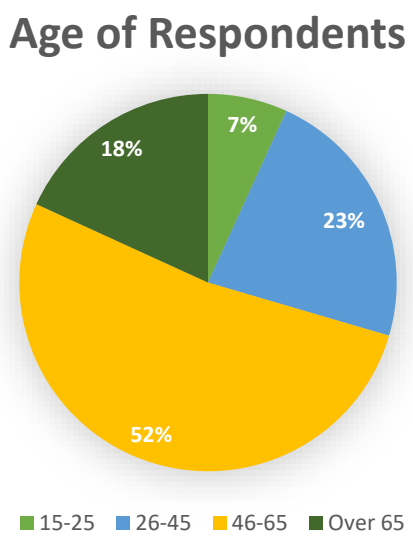
The simulation remained open for public participation for a total of 38 days. During that time, the simulation was accessed 382 times, and each participant spent an average of 16 minutes and 17 seconds engaged in the program. By closing of the simulation on the morning of April 4, 2022, a total of 44 housing plans had been submitted by participants.

Simulation: Characteristics of Respondents

The simulation began with a brief introduction to what the Housing Element is, what the Regional Housing Needs Allocation (RHNA) is, and why the Housing Element is being updated in compliance with State law. A second introductory window provided text and image instructions for how to engage with the simulation. Before users could start to create a housing plan, they were asked three questions about their age, whether they were a Clayton resident, and if a resident, the general location of where they lived.

Age of Respondents

Of the 44 participants who successfully created a housing plan, the majority (over 50 percent) were between the ages of 46 and 65. At just under one quarter of respondents, the next highest age group of participants were those between the ages of 26 and 45.

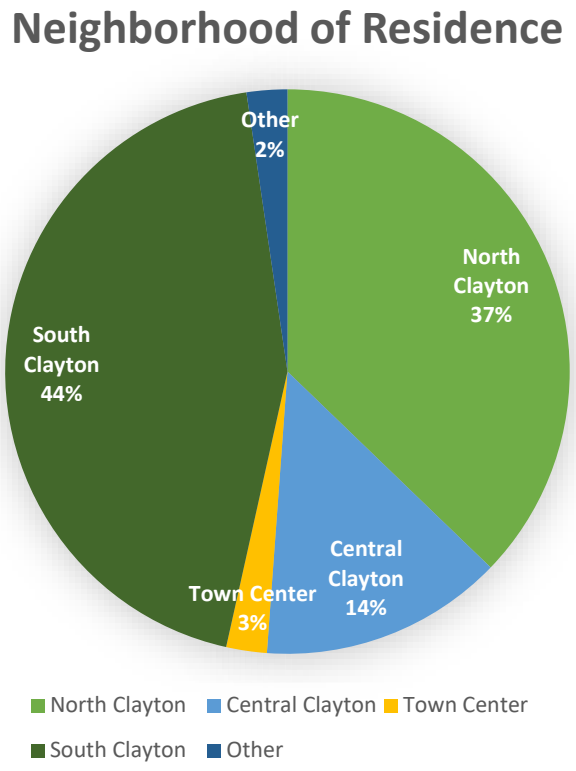


Age	Number of Respondents
15-25	3
26-45	10
46-65	23
Over 65	8
TOTAL	**44**

Residence of Respondents

The majority of respondents, 41 of the 44 who submitted housing plans, were residents of Clayton. The neighborhoods most represented by respondents were in the southern neighborhoods in Clayton, and more specifically in the Dana Hills/Dana Ridge and Regency Woods/Regency Meadows developments. Neighborhoods in the north Clayton area were the second most represented group with approximately 37 percent of respondents.

Neighborhood of Residence	Number of Respondents
North Clayton	**16**
Jeffry Ranch	*2*
North Clayton	*3**
North Valley/North Valley Park	*3*
Oakhurst	*6*
Windmill Canyon	*2*
Central Clayton	**6**
Central Clayton	*1*
Mitchell Canyon	*1*
Stranahan	*1*
Upper Easley Estates	*2*
Town Center	**1**
Town Center	*1*
South Clayton	**19**
Dana Hills/Dana Ridge	*11*
Regency (Meadows, Woods)	*8*
Other	**1**
Diablo Valley	*1*
TOTAL	**42***



**One respondent indicated that they did not live in Clayton but input a residence location of "north clayton."*

Simulation: Summary of Housing Plans

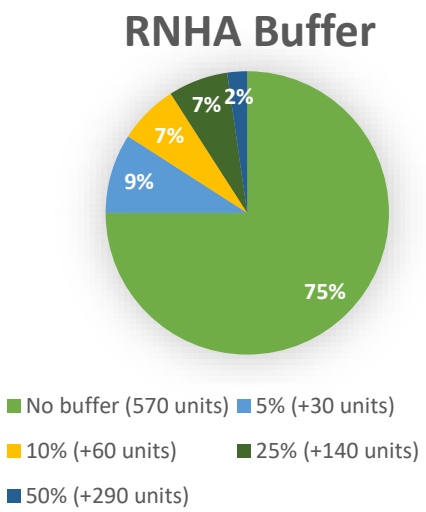
After answering the questions about their age and residence, participants were asked to specify whether they wanted to establish a buffer to the RHNA for their housing plan. Narrative in the simulation explained that the RHNA allocation of 570 new housing units in Clayton was the minimum number of units that the participant would need to include in their housing plan to successfully submit their plan. The narrative further explained that a buffer to the RHNA would help to ensure that the RHNA could still be achieved should a site be built out with fewer units than was envisioned in the housing plan; however, establishing a buffer was optional and was not necessary for successful submission of any housing plan in the simulation.

Default options of 5 percent, 10 percent, 25 percent and 50 percent over the RHNA were provided in the simulations. Participants could choose one of these options, or "No buffer" if they did not want to specify locations for more than 570 units of new housing.

As summarized in the table and chart, below, the majority of respondents (75 percent) opted for no buffer to the RHNA. Four respondents selected the 5 percent buffer for their housing plans,

and three residents each opted for the 10 percent and 25 percent buffers. One respondent selected the 50 percent buffer. One respondent who opted for a 25 percent buffer provided a comment suggesting an alternative buffer of 33 percent.

RHNA Buffer	Number of Respondents
No buffer (570 units)	33
5% buffer (+30 units)	4
10% buffer (+60 units)	3
25% buffer (+140 units)	3
50% buffer (+290 units)	1
TOTAL	**44**



Once the participant made a selection with respect to the RHNA buffer, they could interact with the options for decreasing or increasing densities for each of the potential housing sites. The sites were provided on an expandable list and on a map within the simulation. Participants could click on each site name, and the simulation would zoom in to that site on the map, or they could click directly on the site on the map to open the interaction opportunity for that site. To orient the participant, links within each site's interaction point provided a brief description of existing development, or lack thereof, on each site, as well as a link to a picture of each site.

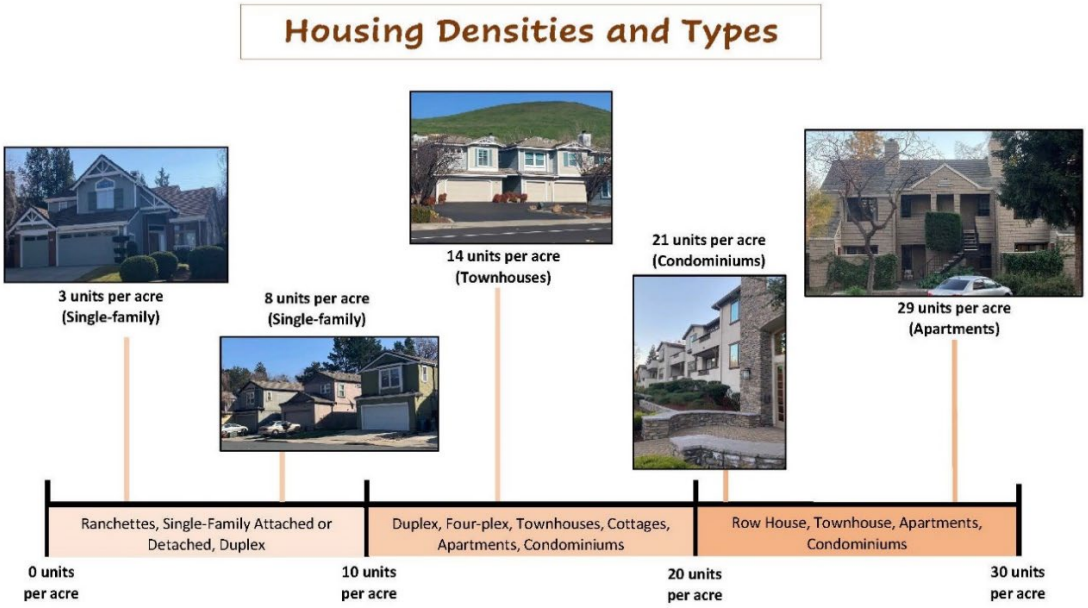
The simulation identified 18 vacant or underutilized sites in the City, as listed below. The sites in the simulation were based on the "City of Clayton Preliminary 6th Cycle Sites" map presented during the January 4, 2022, City Council study session on the Housing Element Update (see Appendix C). Each site in the simulation was identified by a name and a number preceded by a letter. The letter designation in each site identifier indicated whether the site has already been approved for housing development (A), or it indicated the location of the site in the Town Center (TC) or the northern (N), central (C) or southern (S) general area of Clayton. Because the three sites with an A designation have already been approved for development, participants were not given the option to change density on those sites. However, because they are entitled, all 109 of the approved units among the three sites were included by default in each housing plan.

- A1 | Diablo Meadows (8.6 acres) – *21 units approved, permits pending*
- A2 | The Olivia at Marsh Creek (3.01 acres) – *81 units approved*
- A3 | Oak Creek Canyon (8.87 acres) – *7 units approved*

- N1 | Clayton Valley Presbyterian Church (3.67 acres)
- N2 | St John's Parish (2.36 acres)
- N3 | Silver Oak Estates (12.9 acres)
- N4 | Lydia Lane (2.8 acres)
- C1 | Clayton and Mitchell Canyon Roads (1.0 acre)
- C2 | Douglas Road (1.47 acres)

- C3 | Easley Ranch (13.52 acres)
- C4 | Oakhurst Country Club Overflow Parking Lot (2.55 acres)
- TC1 | City-owned Downtown Site (1.66 acres)
- TC2 | 6055 Main Street (0.55 acre)
- TC3 | Oak and Center Streets (0.47 acre)
- TC4 | Center Street Parking Lot (0.46 acre)
- TC5 | 6070 Center Street (1.0 acre)
- TC6 | 6470 Marsh Creek Road (1.16 acres)
- S1 | Pine Lane and Marsh Creek Road (8.54 acres)

To assist each participant in understanding those development types with which a particular density range corresponds, the simulation included text and a graphic with typical residential development types for 3, 8, 14, 21 and 29 units per acre. All images provided in the graphic were of developments in central Contra Costa County, and the 3, 8 and 14 unit per acre images provided were of developments located within Clayton.



As noted above, each site was assigned a default density of 2 or 3 units per acre, and participants could increase or decrease density by increments of 1 to as low as 0 units per acre or as high as 30 units per acre. The maximum density of 30 units per acre in the simulation was selected by staff because it was above the current General Plan maximum density of 20 units per acre but would facilitate housing of a similar development pattern (low-rise apartments, condominiums) to that already determined in existing land use policies to be compatible with Clayton's community character.

The following table compiles the data in the 44 housing plans submitted through the simulation. For each of the sites, the simulation auto-calculated the total number of units based on the area within the selected site, multiplied by the user's selected density. The highest number of units, the lowest number of units, and median, mean and mode for unit count for each site is summarized below. Density is also provided in the table inside of brackets in **boldface** type.

For a summary of comments provided for each site, see Appendix A.

Housing Plan Data Summary

	Site N1 Clayton Valley Presbyterian	Site N2 St. Johns Parish	Site N3 Silver Oak Estates	Site N4 Lydia Lane	Site C1 Clayton and Mitchell Cyn Rds	Site C2 Douglas Road	Site C3 Easley Ranch	Site C4 Oakhurst Overflow Lot	Site TC1 City-owned Downtown	Site TC2 6055 Main Street	Site TC3 Oak and Center Sts	Site TC4 Center St Parking Lot	Site TC5 6070 Main Steet	Site TC6 6470 Marsh Creek Road	Site S1 Pine Lane @ Marsh Ck
Lowest	11 **[3]**	2 **[1]**	39 **[3]**	3 **[1]**	0 **[0]**	0 **[0]**	14 **[1]**	3 **[1]**	2 **[1]**	0 **[0]**	0 **[0]**	0 **[0]**	0 **[0]**	0 **[0]**	9 **[1]**
Highest	110 **[30]**	70 **[30]**	390 **[30]**	80 **[29]**	30 **[30]**	45 **[30]**	410 **[30]**	80 **[30]**	50 **[30]**	15 **[30]**	15 **[30]**	15 **[30]**	30 **[30]**	30 **[30]**	260 **[30]**
Median	77 **[21]**	29 **[12]**	104 **[8]**	11 **[4]**	9 **[9]**	7 **[5]**	109 **[8]**	35 **[10]**	7 **[4]**	2 **[4]**	2 **[4]**	1 **[2]**	6 **[6]**	4 **[3]**	95 **[11]**
Mean	72 **[20]**	36 **[15]**	125 **[10]**	20 **[7]**	11 **[11]**	11 **[7]**	144 **[11]**	34 **[13]**	13 **[8]**	4 **[8]**	3 **[6]**	3 **[6]**	9 **[9]**	8 **[7]**	111 **[13]**
Mode	110 **[30]**	70 **[30]**	39 **[3]**	8 **[3]**	3 **[3]**	3 **[2]**	41 **[3]**	80 **[30]**	5 **[3]**	1 **[3]**	1 **[2]**	1 **[3]**	3 **[3]**	4 **[3]**	87 **[10]**

*Note: Total units are provided in regular font. Densities that correspond with those unit counts are shown in **[boldface]** type.*

Conclusions

Generally, respondents specified preferences for higher densities on the sites in Northern Clayton, and particularly on Site N1 (Clayton Valley Presbyterian) and Site N2 (St. John's Parish), where the most common densities selected were 30 units per acre. Respondents commented that these sites were already close to services, transit and shopping, and suggested that the sites' proximity to each other could further result in shared community resources for the sites' residents. Some respondents also added comments suggesting increasing density above 30 units per acre on these sites, a comment that was also reflected in the minutes of the Planning Commission meeting at which Balancing Act was demonstrated. In Central Clayton, Site C4 (Oakhurst Overflow Parking Lot) also had some of the highest densities among sites in the simulation, with the most common density at 30 units per acre and an average of 13 units per acre. In Southern Clayton, where the only unlocked site was Site S1 (Pine Lane and Marsh Creek Road), respondents generally selected medium densities for the site, with average, median and most frequently selected densities in the range of 10 to 13 units per acre. Other sites, including sites in the Town Center, tended to have lower densities selected, and in some cases, no development. It is noted, however, that for some Town Center sites, some respondents commented that they preferred to see commercial development on those properties but would consider residential development on upper floors above commercial spaces or adjacent to Clayton Road.

Based on the feedback received from the Balancing Act, decision-makers could consider increasing density from 20 units per acre to 35 or 40 units per acre on Site N1 (Clayton Valley Presbyterian) and Site N2 (St. John's Parish). The increase in density would allow more housing units (up to as many as 240 units) to be met between those two sites. The potentially higher number of residents would benefit from their proximity to shopping and existing transit, as noted by simulation respondents. These densities would also accommodate the City's low-income RHNA, simply by nature of the fact that they would be at least 20 units per acre. For purposes of estimating development potential in the Housing Element, staff would project about 30 units per acre (approximately 180 units), based on the observation that residential developments in the City are not always built out at the maximum densities allowed by the General Plan and zoning regulations. Decision-makers could also consider shifting the density ranges for other residential districts (single-family and multi-family) upward so as to establish somewhat higher minimum and maximum densities across all residential land use categories.

For the remainder of the RHNA, medium to medium-high density development in the range of 10 to 20 units per acre on Site C4 (Oakhurst Overflow Parking Lot) and Site S1 (Pine Lane and Marsh Creek Road) would be consistent with feedback received in the simulation. Other sites identified in the simulation could be considered for medium density residential, particularly in the Town Center, provided that units are developed above or behind commercial uses. Outside of the Town Center, densities could be kept on the lower end (around 5 to 10 units per acre), recognizing that, as commentors noted: 1) additional units on existing single-family lots could be built as accessory dwellings or urban lot splits; and 2) residential developments could have a mixture of densities and development types (such as single-family with townhouses). However, given the historically slow rate of construction of accessory units (average of one per year for the past five years) and an unknown number of urban lot splits due to the novelty of that

legislation, staff would caution against overestimating how much of the RHNA could be met by those residential unit types.

Data from the simulation also showed that the majority of participants opted not to include a buffer to the RHNA for their housing plans. This is an option that the City could choose to take for the Housing Element. However, as noted above, if a housing opportunity site identified in the Housing Element is subsequently rezoned to a lower density during the eight-year housing cycle, or if it is otherwise developed with fewer units than was envisioned in the certified Housing Element, the City would have to undergo a process to show the State that the City could still achieve its RHNA with other sites previously- or newly-identified in the Housing Element[1]. Without a buffer, this process could include time and General Fund expenditures related to Housing Element, General Plan Land Use Element and/or Zoning Ordinance amendments and corresponding environmental impact analysis. Even should preliminary projections of unit count under the Housing Element suggest that a specific buffer may not be necessary (i.e., recommended densities would accommodate more than 570 units across the multiple opportunity sites), staff would still further recommend that the Housing Element and the accompanying General Plan Land Use and Zoning Ordinance amendments specify minimum densities for residential development, and that they include policy language requiring compliance with minimum densities and maximum lot sizes. Requiring developments to comply with both minimum *and* maximum densities would help to ensure that actual development is consistent with the RHNA projections in the Housing Element and reduce or avoid the need for time and expense of future amendments to the City's land use policy documents.

Attachments

Appendix A: Summary of Comments from Clayton Housing Balancing Act

Appendix B: Minutes of February 22, 2022, Planning Commission Meeting (Balancing Act Demonstration)

Appendix C: "City of Clayton Preliminary 6th Cycle Sites," December 2021

[1] State housing element law (Government Code Section 65580 *et seq.*) subjects all cities' and counties' housing elements to review and certification by the State Department of Housing and Community Development (HCD). Local jurisdictions must obtain and maintain certification of their housing elements by HCD in order to be eligible for certain State and local funding sources, such as State grants administered through the Metropolitan Transportation Commission/Association of Bay Area Governments, and Contra Costa County Measure J Return to Source funds.

Appendix A: Summary of Comments from Clayton Housing Balancing Act

(Note: Other than commentors' names, personal identification information has been removed from the comments listed and attached here.)

RHNA Buffer

recommend 33% buffer

thank you for asking for input. Clayton has shown it supports various housing types with our single family, duplex, triplex, fourplex and condos which already exist. Additional housing in central Clayton will help our businesses which support all our beloved cultural activities. this topic may generate a ton of controversy, stay strong! Clayton can do it. Carmel W.

Site N1 | Clayton Valley Presbyterian (3.67 acres)

Could go to higher density, but stay at 17 to provide space for room for community rooms (i.e., this could be an area for HDR w/community services).

Condos similar to what is already next to the church

This is where AB 1851 comes into play-parking lot can be used for additional housing, additional height limits can be zoned for apartments near transit and jobs: 60 units per acre

Site N2 | St. John's Parish (2.36 acres)

Again, AB 1851 will allow more housing in parking area.

Black Diamond type duets on .125 acre lots

Go full HDR and take advantage of nearby community services at N1.

Site N3 | Silver Oak Estates (12.9 acres)

104 SF detached with 25% having JADUs (so for RHNA purpose only, 130 DUs).

Site N4 | Lydia Lane (2.8 acres)

May be constrained by creek. 11 SF detached with 25% having JADUs (for RHNA purpose only, 14 DUs total).

Site C1 | Clayton and Mitchell Canyon Roads (1.0 acre)

Zero in downtown

Traffic would be unbearable with the Mt. Diablo Elementary right next door-increasing density would increase safety hazards for parents/children

Chaparral Springs type townhomes, with garage parking.

Ever since this former fire station was allowed to be a residence, it has been a messy, overgrown and blighted entry to our city, and that should change as quickly as possible. I seem to recall the site needed remediation, but it is a correct location for some higher density housing.

1/3 acre lots are huge! You could do single family at .2, but row townhomes or duets would be fine here.

Site C2 | Douglas Road (1.47 acres)

Zero in downtown

See above. We shouldn't be building detached single family units on 1/3 acre lots or larger.

Dependent on topography

Smaller homes, Ranchettes, Duplexes.

Site C3 | Easley Ranch (13.52 acres)

Zero in downtown

Keep at suggested units due to possible restrictions placed on developing acreage by the creek.

Use this OR S1 for new lighted sports facility for soccer and baseball. What we have now is outdated and borderline unusable. It is unbelievable that with all this money in our area that our facilities meant for children to get outside and play are as run down as they are. Partner with MDSA soccer and CVLL baseball and require them to maintain fields year round. This would also allow MDSA and CVLL to have their own fields and not have to play roulette with other surrounding sports clubs.

Mixed Ranchettes, and Town homes. Keep the path to keep a green space within the complex. Bus stops at entrance to complex. Create 2 entrances on Marsh Creek. May require widening of Marsh Creek to create turn-in lanes so traffic can flow for other residents and parents of middle school children.

Average of 15 DU/acre but site is large enough to have 2 or 3 density ranges to accommodate SF detached (25% having JADUs) and higher density DUs (duets, condos, etc.)

41 units would be nearly 1/3 acre each! Too low density. Duplexes and four plexes or attached row houses. Approximately .12 acres each.

Site C4 | Oakhurst Country Club Overflow Parking Lot (2.55 acres)

Townhouses or condominiums similar to those in Oakhurst

This site should be a transit mobility hub/park and ride with retail & services and housing over.

21 SF detached (25% with JADUs for a total of 26 DUs for RHNA purpose only).

Great location for rental units. Right on bus line. Numbers I've proposed include procuring some of the adjacent land on Clayton Road that is currently open space. Also close to Middle School.

Site TC1 | City-owned Downtown Site (1.66 acres)

Zero in downtown

Better use as commercial property. Should be zero unless apartments above commercial.

This property was supposed to be included in Charrette sessions with the citizens of Clayton-this should be a recreational area as an extension of Grove Park-not housing

Commercial 1st floor, 2nd (& 3rd ?) floor residential

I would prefer that this land be zoned exclusively as commercial. That said, it could be high density on Clayton Road and charming mixed use development with housing over retail shops Main Street.

Mixed use! Commercial below, housing on top.

Site TC2 | 6055 Main Street (0.55 acre)

Zero in downtown

Better use as commercial property

Commercial 1st floor, 2nd (& 3rd ?) floor residential

Would prefer that tis land be zoned exclusively as commercial. Create mixed use housing over retail.

TC1 and TC2 must be considered together. I have no sentiment for the historic site, and feel this is downtown Clayton's best place to do some sort of combined retail and residential, like around Pleasant Hill BART's transportation village. Specifically, I think this area should have some high-density residential above restaurants with recreation, like Chicken "N Pickle (NOT KIDDING!). See chickennpickle.com! Pickleball courts within a restaurant setting. I think we can agree that food does pretty well in town.

Mixed use! Commercial below, housing on top.

Site TC3 | Oak and Center Streets (0.47 acre)

Zero in downtown

Commercial 1st floor, 2nd (& 3rd ?) floor residential

Make TC3, 4, 5, 6 and the adjacent area that goes to High Street as a 4 unit per building town home development. Lafayette has done this on Mt. Diablo Blvd.

Site TC4 | Center Street Parking Lot (0.46 acre)

Zero in downtown

Commercial 1st floor, 2nd (& 3rd ?) floor residential

Make TC3, 4, 5, 6 and the adjacent area that goes to High Street as a 4 unit per building town home development. Lafayette has done this on Mt. Diablo Blvd.

Mixed use! Commercial below, housing on top.

Site TC5 | 6070 Center Street (1.0 acre)

Zero in downtown

Row houses like Mitchell Creek place.

Commercial 1st floor, 2nd (& 3rd ?) floor residential

Make TC3, 4, 5, 6 and the adjacent area that goes to High Street as a 4 unit per building town home development. Lafayette has done this on Mt. Diablo Blvd.

Mixed use! Commercial below, housing on top.

Site TC6 | 6470 Marsh Creek Road (1.16 acres)

Zero in downtown

Single family homes

Make TC3, 4, 5, 6 and the adjacent area that goes to High Street as a 4 unit per building town home development. Lafayette has done this on Mt. Diablo Blvd.

Site S1 | Pine Lane and Marsh Creek Road (8.54 acres)

Use this OR C3 for new lighted sports facility for soccer and baseball. What we have now is outdated and borderline unusable. It is unbelievable that with all this money in our area that our facilities meant for children to get outside and play are as run down as they are. Partner with MDSA soccer and CVLL baseball and require them to maintain fields year round. This would also allow MDSA and CVLL to have their own fields and not have to play roulette with other surrounding sports clubs.

8 SF detached (with 25% having JADUs for a total of 10 DUs for RHNA purpose only).

Making these ranchettes or duplexes won't change the character of the neighborhood.

Please note that I did not have the time or patience to carefully review all the sites and make useful suggestions for each one. I believe the number of units is too large. I did certainly want to make my points about the old fire station location and the pickleball concept right downtown. Bocce and pickleball are going to be longterm attractions.

From: Doug Chen
To: Dana Ayers
Cc: Doug Chen
Subject: RE: Clayton Housing Simulation Now Available Online!
Date: Saturday, February 26, 2022 10:46:31 AM

Dana: This is a great tool. Thank you for the invite. I just submitted my input. You will see that I have higher densities in North Clayton near arterials, and also at Town Center. Where I have lower densities (to retain SF detached), I have 25% of SF units with JADUs (attached ADUs that are 500sf or less). The simulation does not add JADUs, but I have many JADUs that count as DUs for RHNA, but not as DUs for utility services including fees (because the JADUs are contained entirely within the primary dwelling units).
I checked 25% buffer, but I think 33% is better.
I have 743 DUs, but because the simulation does not add JADUs, the true number (for RHNA purpose) is higher. I did not keep a count of the JADUs as I was going through each site, and I don't think there is a way for my to go back after I have submitted.
RHNA has 570 DUs for Clayton. What is the breakdown for the inclusionary categories?
I see a City-owned parcel. Is there a plan for that parcel?
I am really glad that there is stability at the Community Director level and look forward to process more housing applications in Clayton.
Thanks,
Doug

Doug Chen, RCE, LS
Discovery Builders
4021 Port Chicago Hwy
Concord CA 94520
925.250.2658, dchen@discoverybuilders.com

From: Dana Ayers <danaa@claytonca.gov>
Sent: Friday, February 25, 2022 5:20 PM
To: Dana Ayers <danaa@claytonca.gov>
Subject: Clayton Housing Simulation Now Available Online!

The City of Clayton is pleased to announce a new opportunity for community engagement in the Housing Element Update for the 2023 through 2031 housing cycle!

Where would *you* put new housing in Clayton? Can you create a housing plan?

Every eight years, California cities update their housing plans and identify locations where their share of housing growth could be built.
Clayton must identify and zone enough land to accommodate at least 570 new residences, our share of the projected statewide housing need.

The City of Clayton invites you to participate in an online simulation that challenges participants to create a plan for where the City's allocation of new housing units could be built.
We've identified potential sites, you select the densities that you think would create the best housing plan.

The simulation can be accessed through a desktop computer or mobile device and will remain open for submissions through April 3, 2022.

Check out the simulation online on the [Housing Element webpage](), or using the camera on your mobile device, scan the QR code in the attached announcement. And please share this announcement with your friends, colleagues and neighbors in the community!

Dana Ayers, AICP
Community Development Director
City of Clayton
6000 Heritage Trail

On 03/02/2022 1:08 PM DENISE PURSCHE <denise.pursche@comcast.net> wrote:

Mayor, City Council, and Planning Commissioners,

PLEASE PROVIDE THIS COMMENT AS PART OF THE PUBLIC RECORD AS RECORDED IN YOUR MEETING MINUTES under the words..."traitors one and all".

What one hand giveth, the other hand taketh away? I ask, is this your little cat game and your little mouse trap? One hand gives "hush money" that the city doesn't have but the other hand ask the citizens to give more taxation...oh pretty please, you say!

You must actually think we are the biggest stupid idiot citizens ever, right?

I don't even know why I bother to inquire about anything given the buckyball/malarkey in this attached document which reads like another cat and mouse trap. Let me ask, are you a servant of the people? The servants who defend our rights? Because you sure don't act like it nor do you seem to understand your role. Let me explain first by saying I am not your "customer". You provide to me no service and I ask for none of your "services" or your "servitude" you perceive as your role as lord and master over the masses. However, there is one exception that the masses expect from the public servant and that is the duty of an elected/appointed official **"to defend the constitution against all enemies foreign and domestic".** This is your **only** duty and it is your oath you signed on the dotted line.

In fact, it is only this duty that is required from the people that "elected" you. That means we don't need your "best intentions" or "voting your conscience" or the "gift of hush money" or "even your cat and mouse game of stack and pack, balancing act". God forbid save us from that! I'll say it again.....your duty is "TO DEFEND THE CONSTITUTION AGAINST ALL ENEMIES FOREIGN AND DOMESTIC." Taxation and cat games of where to place more stack and pack is not defending the constitution or the people of this good city, or defending their rights.

It's such a simple job but imagine a game where you are asking for feedback yet again on the same issue over and over and over again to no avail. Is it inane to keep asking the same question of where to build 570 or 840 or what ever the number may be housing units as if you've already compromised and leveraged yourself in the "game" of who will play cat and mouse...gotcha?

Or to take with one hand and give with the other? Ask for the tax increases that you require like a king because after all you are in the red?And then the real kicker give out $10,000 money like you're floating in cash,. Robin Hood? I know the city is in the red soon and I am not frankly surprised by it. But you seem to be surprised. You know when you shut down businesses and then slap the citizens with your taxation isn't that bad OPTICS? They say perception is everything and I'd say you have a PR problem and no consultant "crafting just the right message" is going help you with that perception problem. You think you give with one hand and take with another and no one will be the wiser to the trap you lay for your citizens?

Hush money? One world agenda? Economic reset? If only your constituents knew of your plans you have for them. We are talking about relocation of every citizen in this city to a major city center via the usual Marxist agenda ways...which you all seem to be down with...as in shut down your water supply, cut off your electricity, and create a food supply issue along with shut down business, enforce the mask mandates, as well as enforcement of the vaxxed mandates with your chipped vax pass on your hand and your 5G surveillance. I'm sure you will support all of this and more. Leveraged? Compromised? Yes, I'd say that is it.

You do know that this is all the "motivation any citizen need" to adhere to the agenda and you as the enforcer class. That and your leveraged self with all the pictures and the audio to support your transgressions. I'm sure they've been taken even without your knowledge. All you need is a citizenry that doesn't understand the rules of engagement and the game you are playing with their livelihoods. And of course there is the end goal of 5G surveillance and removal of our bill of rights almost complete at this point from one created emergency to the next emergency and the role you play in the enforcement mechanism. You play the unconstitutional role and none are any wiser than you to the depths you have sunk. Traitors one and all.

You want to find the 'black ink' then let the people of this city do what they need to do (that is if it's not too late because most of those businesses are not going to make it. That's the plan actually btw as no one will work instead receiving a subsistent stipends from the government largess. And btw way if you don't know that this is plan then you are doubly derelict of your duty and lack knowledge is no excuse under the laws of this nation. Though I guess you think your pittance of $10k is enough to tide them over and your right to give it away and buy their vote for the upcoming November election?

Instead of restricting them and threatening them and imposing your imperial kingdom mentality, what if you choose to defend the Constitution and the Bill of Rights? A novel approach you say? No! Instead you shafted your constituents by closing their doors. And, for what? The answer is no reason but your cowardice! Course even if you get $400 of increase taxes from each of the cash strapped property owners/citizens of this city with higher taxes and the **"consultants to craft just the right message",** higher inflation will eat up any additional money, you fools. It will NEVER be enough because you killed the goose that laid the golden egg (e.g., free enterprise, the right to our labor, our business, our property and our body) with your illegal and unlawful and unconstitutional edicts from on high. If that doesn't spell bought and paid...I don't know what to say other than you have an optics problem and it doesn't bode well for any of you.

Remember 3 weeks to flatten the curve is now almost two years to kill the golden goose and you played your part in the cat game and mouse trap. What will happen in the next pandemic or emergency? The end result is that your actions brought about the place where this city is in and it's dire need to extrapolate even more cash from the pockets of its citizens. We know the trap you've laid and the part you played. And frankly the people of this good city will not soon forget it.

What about them surety bonds? Hm? I'm sure we the citizens could make a claim due to your incompetence and cowardice actions and your unlawful and failed policies to defend their rights as is your duty. Surety bonds and claims against your traitorous policies would do wise as a first move to remove you from your position. Maybe that might also help to make up the red ink you so wish to change in the wake of even more illegal actions on your part and the stealth fleecing of your citizens pockets via more taxation and the stack and pack sustainable world of slavery you are creating.

Let me give you a quote and I really want to know who this is quoting. Which one of you who sit on this city council/planning commission came up with this little ditty: "In late, February, the city will introduce the online simulation game "Balancing Act" (aka...cat and mouse) to engage the community housing discussion (like Pepé Le Pew?) in preliminary mapped areas of Clayton. The game allows the player to change densities on parcels (e.g., 3 to 30 units per acre) and identify other potential areas for consideration."

I for one will never play your sad little game of how to trap the mice. No cat and mouse game for me. No stack and pack buildings. No to any more units in this tiny city. No the earth is not the new God. No to the agenda. PS No to your bond measure too. If you want to know what is necessary to get out of the "RED INK" then look no further than your own illegitimate actions as a city council/planning commissioner to shut down the American people of this city with your madness from on high and your cowardice to make local control decisions in our city best interest that "defend the constitution and the bill of rights".

Instead of defending the people and following your oath you choose to follow the sustainable development leader of high kings and kingdoms by authorizing arrest and closing the doors of businesses by threat of the police force and fines. You are bought and paid and leveraged against us. The people of this city will not forget your lack of courage and your lack of common sense. Traitors one and all!

Regards,
Denise Pursche
(925) 693-0899

Are the Sustainable Development Goals legally binding?

> **No! The Sustainable Development Goals (SDGs) are not legally binding.**
> https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf

From:	Pamela Wiesendanger
To:	Housing Element; Dana Ayers
Cc:	ptw306@comcast.net
Subject:	Clayton Housing Element Response
Date:	Saturday, April 2, 2022 11:21:28 AM

Good Morning,

As Clayton residents for the last 21 years, we would like to give our feedback for the Clayton Housing Element issue. We started the Clayton Housing Element simulation, but did not find a way to comment in general or suggest an area outside of the identified areas for the 570 units. Please factor in to the decision making our comments here instead:

- Do not change the Town Center zoning to include high density/multi-unit housing.
- Build only if Clayton is truly required by law.
- If required by law to build the additional housing, build only on the outskirts of town. And:

  Continue to include public input.

  Factor in the effects on infrastructure such as water, power, roads.

  Insure the city budget and services, like police and maintenance, can support the increased population and keep crime and traffic issues down.

Thank you,
Pamela & Brian Wiesendanger

From: Leonard Miglio
To: Dana Ayers
Subject: Re: Clayton Housing Simulation Now Available Online!
Date: Monday, April 4, 2022 6:32:21 AM

Good Morning Dana, I do not believe that Clayton can add over 550 homes to our community. The infrastructure does not exist and there are no benefits to Clayton residence and only benefits developers. I understand the State Leaders want to increase density and remove the single-family home with private backyards. I understand small communities are being blackmailed into cooperation. An environmental review will show that it takes us 20 minutes to get to highway 4 and I can get to Fairfield in 20 minutes when I am on 4. My nephew has moved to Green Valley because he can get to downtown walnut creek faster than getting on YVR. I would recommend everyone drive at 7:30 am down either YVR or Clayton Rd and see the school traffic and commute traffic. I had to leave at 7:15 to take my mom to an 8:00 appointment at Shadelands. Quality Of Life is the issue.
Thanks

From: Dana Ayers <danaa@claytonca.gov>
Sent: Thursday, March 31, 2022 5:07 PM
To: Dana Ayers <danaa@claytonca.gov>
Subject: FW: Clayton Housing Simulation Now Available Online!

Reminder-- the Balancing Act housing simulation will remain open and housing plans can be submitted through April 3!

From: Dana Ayers <danaa@claytonca.gov>
Sent: Friday, February 25, 2022 5:20 PM
To: Dana Ayers <danaa@claytonca.gov>
Subject: Clayton Housing Simulation Now Available Online!

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challenges participants to create a plan for where the City's allocation of new housing units could be built.
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Dana Ayers, AICP
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517
Tel: 925-673-7343
Fax: 925-672-4917

Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, February 22, 2022

1. CALL TO ORDER

Chair Denslow called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Vice Chair Miller led the Pledge of Allegiance.

3. ROLL CALL

Present: Chair Terri Denslow
Vice Chair Ed Miller
Commissioner Justin Cesarin
Commissioner Frank Gavidia
Commissioner Amy Hines-Shaikh

4. PRESENTATIONS AND ANNOUNCEMENTS

There were no presentations or announcements.

5. ACCEPTANCE OF THE AGENDA

There were no changes to the Agenda as submitted.

6. PUBLIC COMMENT

There were no public comments.

7. CONSENT CALENDAR

A. Minutes of Planning Commission Meeting of December 14, 2021.

Commissioner Cesarin moved to approve the minutes as submitted. Commissioner Hines-Shaikh seconded the motion. The motion passed 5-0.

8. STUDY SESSION

A. Status Report on the General Plan Housing Element Update for the 6th Cycle.

This is an informational session at which staff will provide an overview on the process to date with respect to the Update of the General Plan Housing Element for the 6th Cycle (2023-2031). In addition to reviewing the background and components of the Housing Element, staff will provide an explanation of next steps in the Housing Element Update, including the process for conducting required review of the Housing Element Update in accordance with the California Environmental Quality Act, and a demonstration of the next public engagement opportunity consisting of a housing planning simulation that will be posted to the City website at the end of February 2022.

Community Development Director Dana Ayers presented an overview of the State statutes pertaining to the Housing Element and California Environmental Quality Act (CEQA).

Commissioner Hines-Shaikh requested clarification on ministerial approvals and for examples of projects that could be considered ministerial. Director Ayers explained that projects that must meet prescribed standards without any discretion were considered ministerial. She gave building permits, small grading permits, and residential lot splits under Senate Bill (SB) 9 as examples of ministerial actions. She further explained that, with regard to the Housing Element and how CEQA applies to it, the entirety of the Housing Element and its selected sites and densities would need to be considered in the environmental analysis. While certain sites might qualify for ministerial approval, it was important not to isolate those sites as outside the scope of the Housing Element project and its Environmental Impact Report (EIR) analysis. However, she noted that future applications for residential development on sites identified in an adopted Housing Element could be considered not subject to CEQA if they qualified for a specific exemption or, if subject to CEQA, could build on the broader environmental analysis provided in the Housing Element EIR.

Commissioner Hines-Shaikh also asked about the State Housing and Community Development Department's (HCD) inclusion of Extremely Low-Income as an income category for housing allocation, and whether the City's allocation for affordable housing had been modified to include an assignment for Extremely Low-Income households. Director Ayers advised that in the current cycle, Extremely Low-Income units were included within the Very Low-Income category allocation. She was unaware of any new category being created with a new housing allocation specific to the Extremely Low-Income category but would further research the question.

Vice-Chair Miller inquired about the relationship between density and income level for the Regional Housing Needs Allocation (RHNA). Director Ayers explained that density could be an indicator for affordability level and, more specifically, that units designated for sites zoned with a density of 20 or more units per acre in Clayton could be counted toward the City's Low-Income allocation.

Chair Denslow inquired about the mechanisms available to ensure that a certain number of units are built as Low-Income units. Director Ayers suggested that a site could have an overlay zoning district with affordability requirements or, if the site was controlled by the City, the City could specify terms of affordability in the disposition of the site to a private developer.

Chair Denslow then requested clarification on when exemptions from CEQA could be applied, and how the Initial Study Checklist in CEQA Guidelines Appendix G relates to CEQA-exempt projects. Director Ayers advised that review of a project for a CEQA exemption may not require completion of the Initial Study Checklist but still required at minimum a cursory review of the project against the resource areas in the Checklist. She explained that exemption classes included a caveat that the project had no other impacts. She gave a hypothetical example of a project that was under 5 acres in size and located on an infill site—a project, which at first review might fit within a CEQA exemption class. In that hypothetical example, however, if that project was going to demolish an identified historic resource, it would have a potentially significant impact on historic resources and would not qualify as exempt from CEQA.

Chair Denslow then asked how the EIR process could commence while the Housing Element and its housing site inventory were still being prepared. She confirmed with staff that the commencement of the EIR should not be an indication to the public that the scope of the Housing Element was set and that no further public comment would be invited. Director Ayers further clarified that "the project" that would be described in the Notice of EIR Preparation and analyzed in the EIR assumed high densities of development across most of the specified sites in the preliminary inventory but that, as the analysis in the EIR was prepared and through the public input process of the Housing Element, alternatives would be developed and their environmental impacts would be compared against the project. At the end of the EIR process, the City Council would decide whether to approve "the project" or one of the alternatives as the updated Housing Element.

Chair Denslow confirmed with staff that the progress on the Housing Element Update was aligned with the schedule in the consultant's proposal approved by the City Council at their May 18, 2021 meeting.

Chair Denslow invited any member of the public in attendance to ask questions of staff. Alice Bristol asked if all of the housing in the project was proposed to occur on one site. Director Ayers advised that the Housing Element would include potential housing units on multiple sites, and Chair Denslow further clarified that the "project area" for the Housing Element was the entire City rather than one discreet location within it.

Director Ayers then shared with the Planning Commission a demonstration of Balancing Act, a public engagement and housing planning simulation tool that staff planned to make available to the public within the week.

Commissioner Gavidia asked why the simulation set a maximum density of 30 units per acre instead of 50 or 100 units per acre. Director Ayers responded that 30 units per acre was closer to the adopted General Plan, which had a maximum density of 20 units per acre, rather than 50 or 100 units, and that in setting the density in the simulation, staff chose a density that staff believed was more in line with community preferences. Commissioner Gavidia confirmed with staff that any density above 20 units per acre would require a General Plan amendment, which was what the Housing Element Update was but that, with that amendment, the Council could set a higher maximum density. He did not think that the problem could be solved with a limitation on density. Director Ayers stated that the 30 unit per acre maximum in the simulation was not intended as a recommendation on a maximum, but the simulation would give decision-makers and staff an idea of where in the City people were comfortable with higher densities versus lower densities of housing. The Planning Commission and City Council could choose to set a maximum density in excess of 30 units per acre when they took action on the Housing Element Update.

Commissioner Hines-Shaikh confirmed with staff that it was not possible to add a site to the simulation that was not already there, but that participants could submit comments inside the simulation making suggestions about other sites that could be included in the inventory.

Commissioner Cesarin asked how the simulation would be weighted in the preparation of the Housing Element Update. He also said he understood Commissioner Gavidia's comment about maximum density in the simulation, but that it made sense to him why staff chose a maximum density that was based on adopted policy in the General Plan, and he understood the intent of the simulation to indicate preferences for higher or lower densities. He confirmed with staff that the results of the multiple plan submissions would be summarized in a spreadsheet of data about each site.

Vice Chair Miller confirmed with staff that the data from the simulation could be represented graphically in addition to a spreadsheet. He also confirmed with staff that the General Plan land use designations and zoning classifications could establish minimum densities for sites. He thought that minimum density was a good idea and could temper the City's RHNA buffer somewhat if it is known that a certain minimum number of units would be built on a site. Vice Chair Miller also confirmed with staff the State statute with respect to sites that have been in two housing cycles but remain unbuilt, that they must be zoned in such a way that at least 20 percent of the units are affordable to Low-Income households, which could be achieved by zoning the site for a minimum 20 units per acre. He suggested that smaller developments like accessory dwelling units and urban lot splits could help to contribute to the RHNA. He felt it worth repeating a comment made by staff at the January 4, 2022 City Council meeting that, for those types of projects, historical data is valuable in predicting justifiable future trends for that type of development during the next housing cycle. If the City over-predicted development of that type toward meeting its RHNA, the City could risk losing land use authority later because of a lack of progress toward meeting its projected housing targets. He thought there would be future opportunities to think outside of the box on how to approach the RHNA with smaller residential developments.

Commissioner Gavidia asked if people could identify sites other than the ones included in the simulation. Director Ayers responded that the simulation was limited to a prescribed list of sites that were designed into the program, but that discussion of the Housing Element was ongoing, and people could submit letters or emails to staff identifying other potential housing opportunity sites. He asked what tools or incentives the City could offer developers to build housing, suggesting that a variance or tax incentive was not going to be enough to motivate a housing developer. He reiterated that the problem has been going on for a long time.

Chair Denslow asked Commissioner Gavidia to clarify what he meant about "solving the problem," and whether he was referencing an insufficiency in housing or not meeting RHNA numbers. Commissioner Gavidia responded that he was referencing solving the problem for the City of Clayton. Housing Elements must be updated every 8 years but that, in the 20 years he has lived in Clayton, not much housing has been built. He expressed concern that the situation would continue to be a problem for the City and questioned how the City would incentivize a developer to build housing since rezoning land has not been enough.

Chair Denslow confirmed with staff housing projections are updated with each 8-year housing cycle and that, even if units are built, a new allocation for housing will be assigned to the City for the next cycle. She said she was still unclear on the problem to which Commissioner Gavidia was referring.

Commissioner Gavidia suggested rezoning land for a large buffer over the RHNA of 570, up to 1,000 or 2,000 units possibly, so that the problem goes away for a little while and does not come back to haunt the City. He suggested creative solutions, and he anticipated further upzoning of sites would be necessary. He suggested that if people knew the maximum density allowable, then they could then share where they would want the housing, and then the City could try to find a way to get the units built. He would like people to have the opportunity to identify other sites beyond the ones identified in the simulation, and he preferred a very larger buffer to the RHNA so that, at least for the next 15 to 20 years, there would not be a problem.

Chair Denslow confirmed with staff that drastic changes in upzoning of sites could be perceived by HCD staff as unrealistic and put at risk HCD's certification of the Housing Element. Director Ayers referred to State statute specifying that an agency must commit to implementing its Housing Element and that, if land values in Clayton have not supported 100 units per acre in the recent past, HCD could find such a dramatic upzoning to be questionable. Chair Denslow asked how many times a draft Housing Element could be resubmitted for review to HCD before the January 2023 deadline to approve the Housing Element. Director Ayers stated that her memory was not clear on the statute, but that she believed agencies had to complete their processes within 1 to 3 years of the deadline.

Vice Chair Miller questioned whether higher density directly corresponded to an increase in developer profit. Commissioner Gavidia said that it did, and that larger companies could borrow money at cheaper rates than smaller developers. He reiterated that he would like the land use scenarios in the Housing Element to include very high densities and greater building heights. If the City was going to solve the problem, it had to be realistic.

Chair Denslow confirmed with staff that the solution to the housing problem would not be a one-time and indefinite fix, but rather that new housing unit allocations would be assigned to each jurisdiction at the start of every 8-year housing cycle, regardless of how many units of the preceding cycle's allocation were built. She also clarified with staff that the simulation would not produce a single or best housing plan from among the submissions, but that the multiple results of the submissions would give decision-makers an idea of where in the City participants felt more comfortable with higher density developments. Decision-makers would then review the results of the simulation, along with written comments outside of the simulation, to evaluate more refinements of the housing plans to include meeting income level allocations that were not as easily accommodated in the simulation. However, because State law recognized densities of 20 or more units per acre as being affordable to Low-Income households, where responses

indicated a level of comfort with higher densities on a site, the Commission could consider possibly including the units planned on that site toward the City's Low-Income unit allocation.

Commissioner Cesarin said he understood the simulation was not intended to direct the Housing Element but was intended to give staff an idea of what the City was feeling with respect to housing. He said that putting much higher numbers into the simulation than were in the adopted General Plan did not make sense to him, but he recognized staff could make a future recommendation to increase density in an area where staff received community input in support of that. He inquired about whether the City had done an analysis of what barriers, such as utility connection costs, were discouraging property owners from constructing accessory dwelling unit (ADUs).

Commissioner Hines-Shaikh stated that the State was setting aside a large budget allocation, sponsored by Assembly Member Phil Ting, to incentivize ADU construction. She emphasized the importance of letting people know about the availability of these funds. She suggested pursuing community input on whether residents in the community would be interested in building an ADU and whether cost was the barrier for them. Director Ayers added that the City had been awarded grant funds in 2020 to develop a pre-approved ADU program that could result in reduced architectural design and plan check costs for people interested in building an ADU.

9. ACTION ITEMS

None.

10. COMMUNICATIONS

Vice Chair Miller encouraged people to submit written comments on the Housing Element.

Chair Denslow thanked staff for answering the various questions from the Commissioners, and she encouraged interested parties to review the Housing Element webpage on the City website and to reach out to staff with any questions throughout the Housing Element process.

Director Ayers advised that City Hall was re-opened to the public and that staff anticipated in-person Planning Commission meetings to resume in April. She reported that meetings would have a hybrid format where people could attend in person or could continue to participate remotely using the Zoom web conferencing platform. She advised that meeting guidelines for Hoyer Hall would be the same as they were for City Hall, wherein unvaccinated individuals would be required to wear a mask and unvaccinated individuals had the option to wear a mask.

Chair Denslow referenced the last City Council meeting at which the Mayor announced a request for volunteers to hand out flyers pertaining to the Housing Element and Clayton Cares program. Director Ayers advised that the Mayor intended to post details of the volunteer opportunity on his social media site and suggested interested individuals check there.

11. ADJOURNMENT

The meeting was adjourned at 9:28 p.m. to the next regular meeting of the Planning Commission on March 8, 2022.

Respectfully submitted:

D. Ayers

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Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:

_____

Terri Denslow, Chair

Appendix C

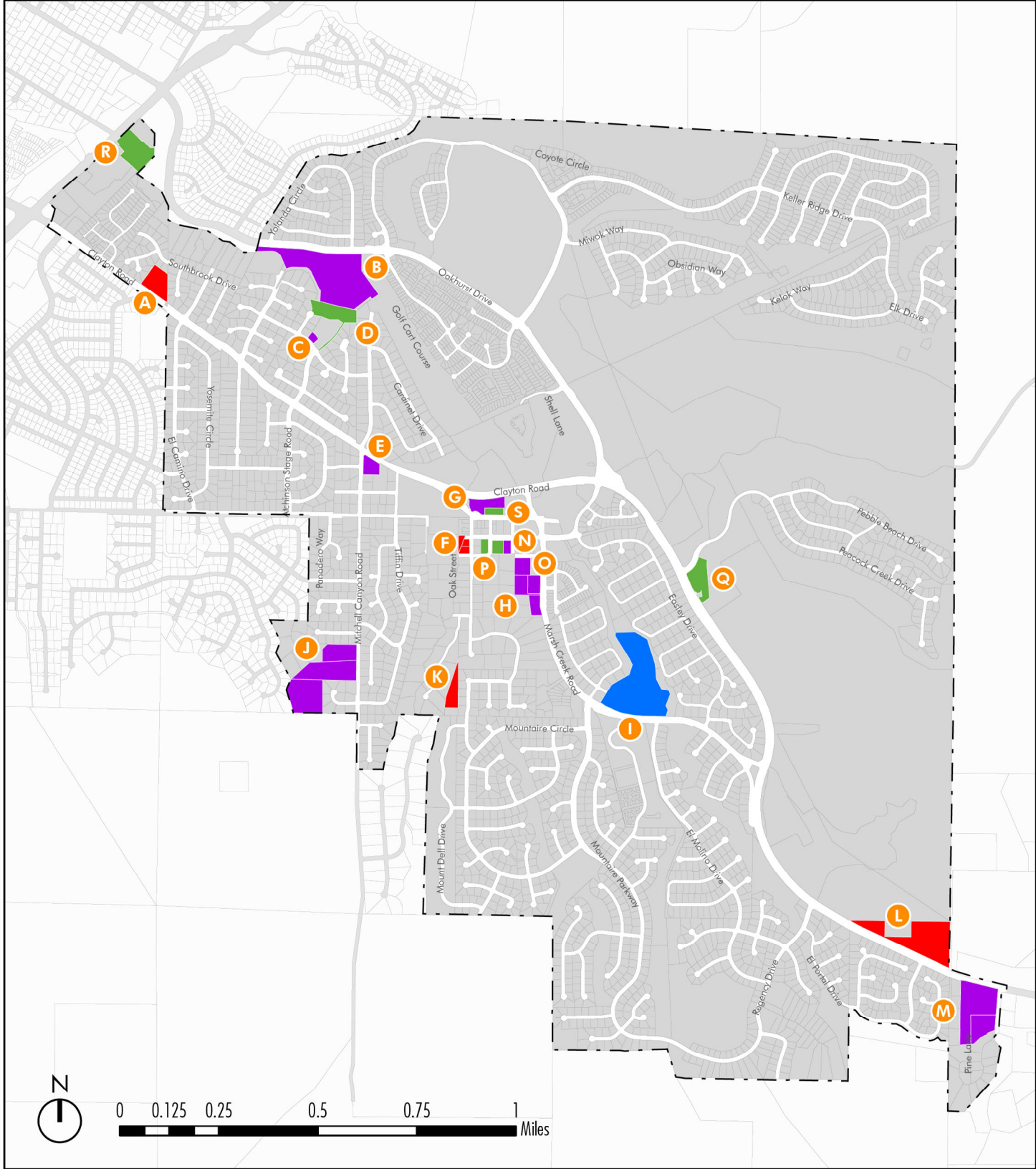
City of Clayton Preliminary 6th Cycle Sites

Preliminary 6th Cycle Sites (685 Units)

- A 26 Units (20 du/ac)
- B 35 Units (5 du/ac)
- C 1 Unit (3 du/ac)
- D 8 Units (3 du/ac)
- E 21 Units (20 du/ac)
- F 14 Units (20 du/ac)
- G 33 Units (20 du/ac)
- H 23 Units (20 du/ac)
- I 132 Units (10 du/ac)
- J 21 Units (5 du/ac)
- K 4 Units (3 du/ac)
- L 7 Units (1 du/ac)
- M 161 Units (20 du/ac)
- N 20 Units (20 du/ac)
- O 81 Units (20 du/ac)
- P 9 Units (20 du/ac)
- Q 51 Units (20 du/ac)
- R 27 Units (20 du/ac)
- S 11 Units (20 du/ac)

Previous/New Cycle Sites

- Previous 4th Cycle Site
- Previous 5th Cycle Site
- Previous 4th and 5th Cycle Site
- New 6th Cycle Site



December 2021

CITY OF CLAYTON

MIG

Housing Element Map-Based Survey Summary

INTRODUCTION

In 2021, the City of Clayton began updating its Housing Element, a mandatory element of the General Plan, to identify goals and policies that will guide long term decision making around housing throughout the City. As part of the planning process, the City conducted an online survey, inviting community members to provide input on preferred uses for a vacant site in Downtown, as well as citywide housing issues and challenges, and possible strategies for the Housing Element update. The input received will help plan for the future, set priorities and create policies for growth in the community over the next eight years. This document summarizes the questionnaire methodology and key findings.

METHODOLOGY AND OUTREACH

The online questionnaire was available from November 3 to December 13, 2021. It included several questions focused on housing issues and challenges, possible strategies and solutions for the City, locations for new housing, the community vision and goals, and optional questions to gather demographic information.

The questionnaire was available in English and was accessible online. The City of Clayton promoted the questionnaire through its website and social media channels, at public meetings and facilities, and through the Concord Clayton Pioneer. City Council Members, Planning Commissioners and community groups were encouraged to share the link on their social media channels and with their email lists as well as colleagues, friends and neighbors.

While survey results should not be interpreted as statistically representative, the results help to identify common and shared themes, concerns and priorities. This document summarizes the survey results and key findings. Appendices provide documentation of the survey questions, responses, and additional comments received.

The survey was accessed over 450 times online, demonstrating a wide reach and successful publication. Fewer people finished the survey or answered every question. All questions were optional. The number of respondents for each question is included below.

KEY FINDINGS

The City of Clayton Housing Element update survey provided insights into community priorities and needs. The following are notable results and themes from the questionnaire results.

- Over half (56%) of respondents said they were in favor of the potential growth increase in housing units in Clayton. Most of those in support of more housing also indicated concerns about possible impacts of growth.

Survey Summary

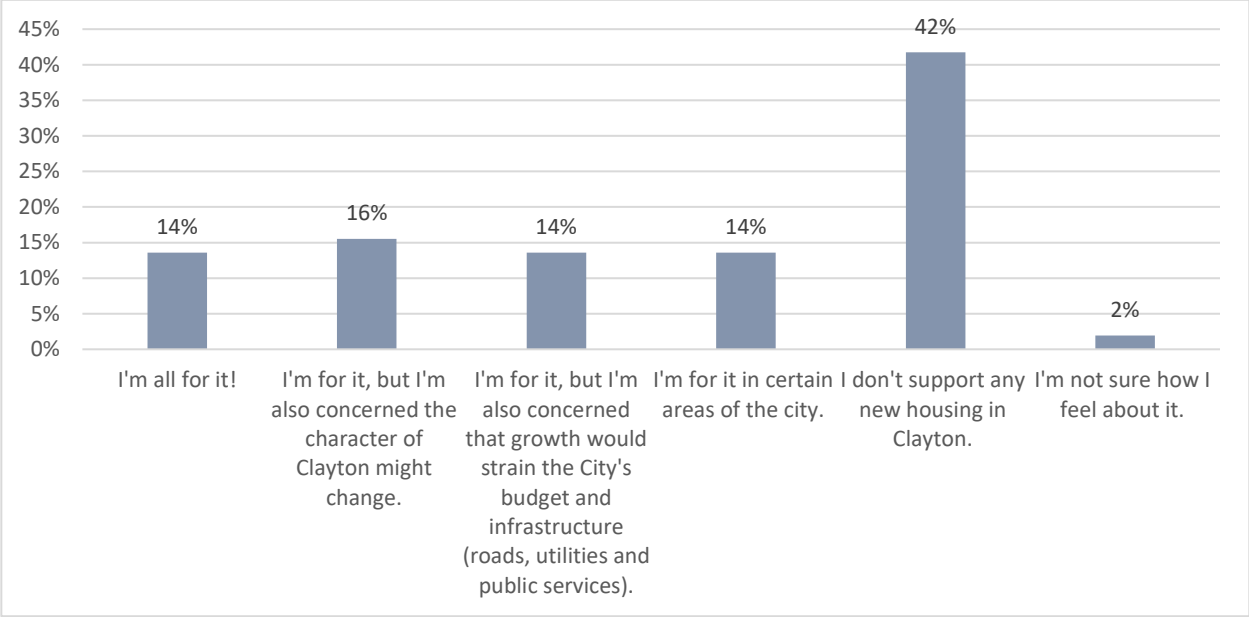
- When asked to rank the importance of housing issues and challenges in the City, respondents listed traffic and congestion (69%), preserving community character (67%), limited infrastructure (65%), and overcrowding (64%) as the top issues with a 10 out of 10 ranking.
- A lack of diverse housing options (34%) and housing supply (30%) were the least important housing issues with several participants ranking these issues 1 out of 10.
- When asked to rank the strategies or solutions that are appropriate for Clayton, participants indicated that supporting homeowners who want to build ADUs or in-law units on single-family lots (38%) and encouraging the rehabilitation of existing housing in older neighborhoods (21%) were the top options with a 10 out of 10 ranking.
- Providing shelters and transitional housing for homeless families and individuals, along with services that help move people into permanent housing (48%) and targeting efforts to address long-term inequities in the housing market (42%) were the least important strategies with several respondents ranking these issues 1 out of 10.
- A quarter of respondents indicated that new housing should blend in with the character of surrounding neighborhoods (25%) and nearly a quarter of respondents said that new housing should be located where it will have the least impact on traffic in Clayton (22%).

FULL SURVEY RESPONSES

INTRODUCTORY QUESTIONS

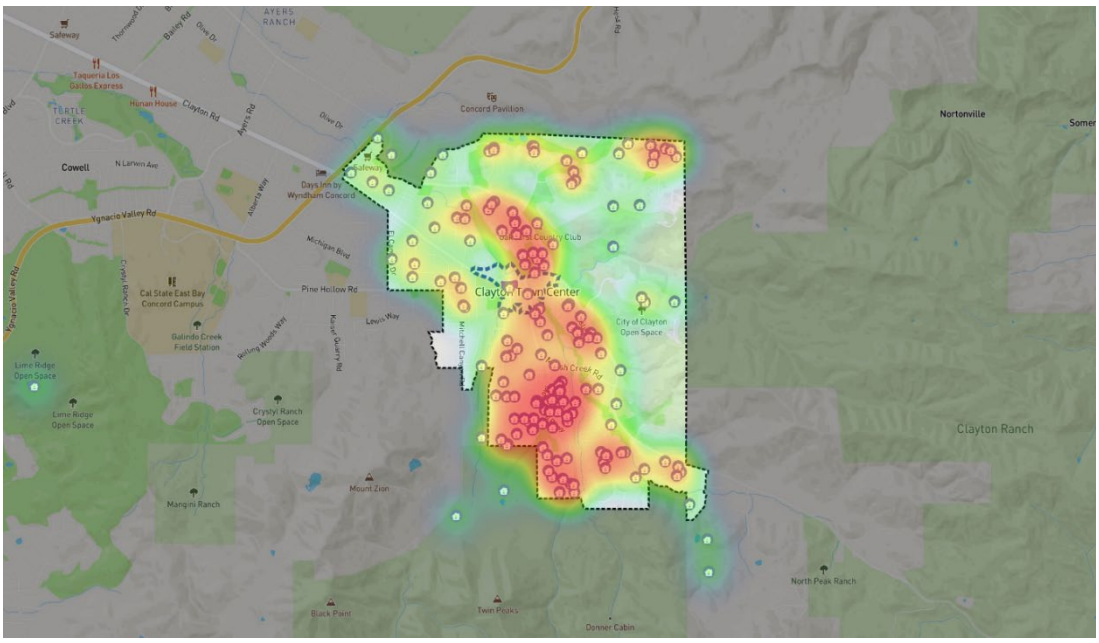
When asked about new housing growth over half (58%) of respondents said they were in favor of the potential growth increase in housing units in Clayton, while 42% indicated they did not want to see any new housing. Many of those supporting growth indicated concerns, including impacts to community character and increased strain on city infrastructure and budgets, while others supported growth in certain areas of the city.

Figure 1: "What do you think about the potential growth increase in housing units in Clayton?"



The first map-based questions asked participants to indicate where they live. This question allows the project team to assess the geographic reach of the questionnaire. Figure 2 below is a "heat map" showing the distribution of respondents. The areas of more intense color (orange and red) indicate a higher concentration of respondents.

Figure 2: "Where do you live?"



LOCATIONS FOR NEW HOUSING

The next two questions asked survey respondents to indicate what general areas and what sites they think would be appropriate for new housing. These are represented by polygons (Figure 3) that people drew, as well as a heat map (Figure 4) that shows specific locations or sites indicated by map pins.

Figure 3: Areas for New Housing

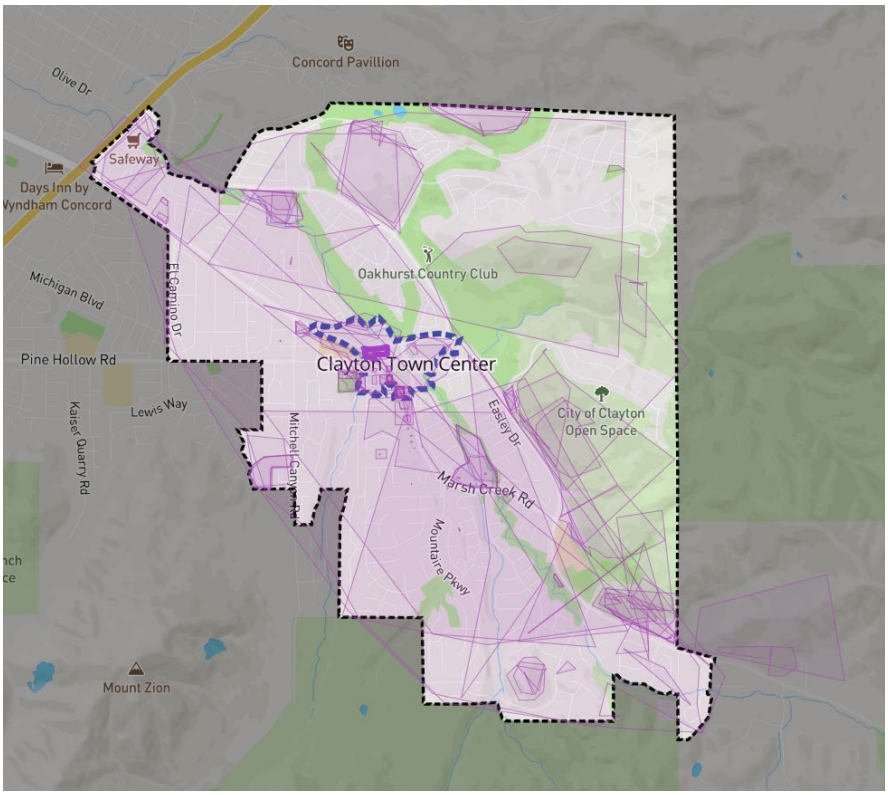
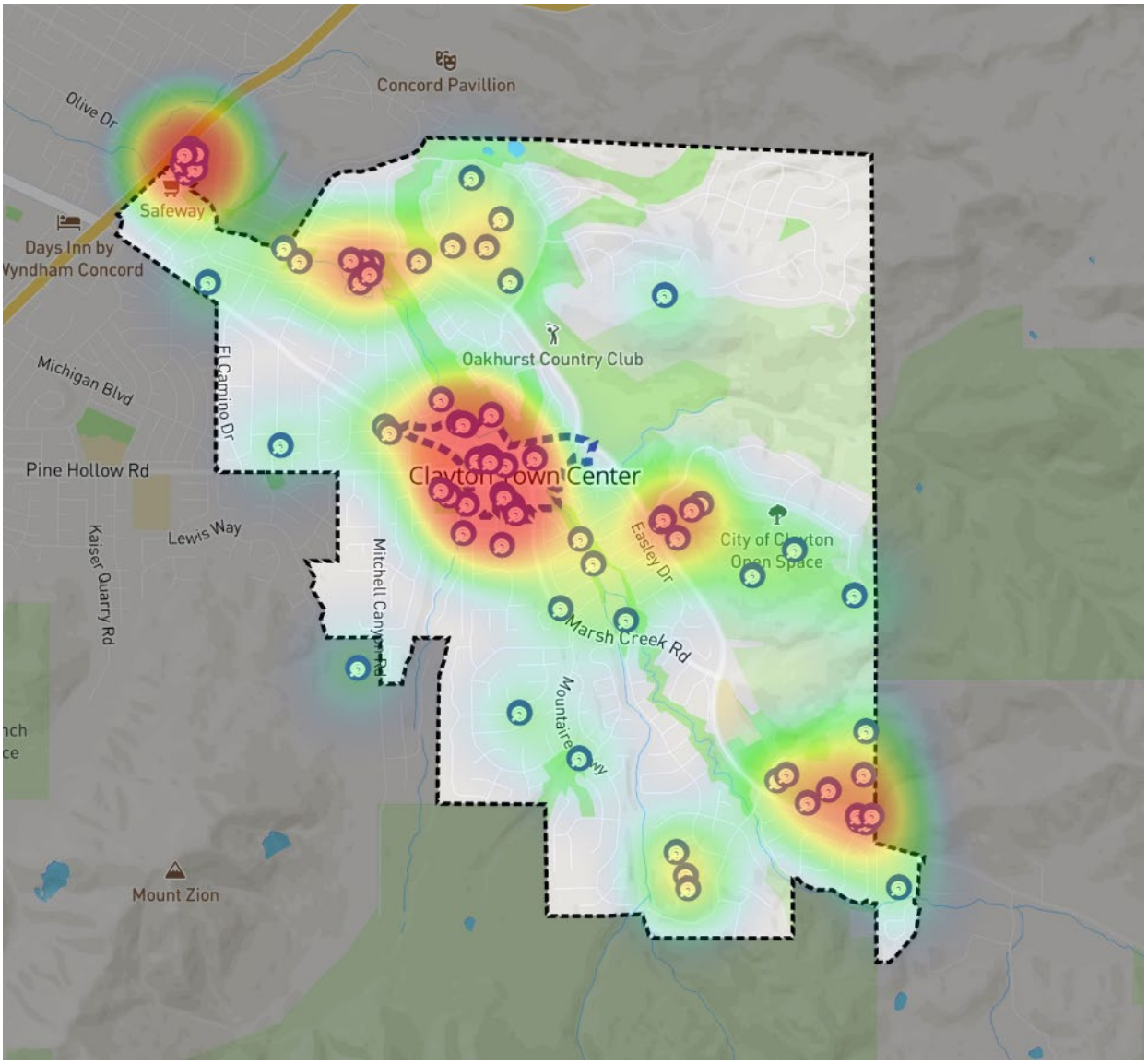


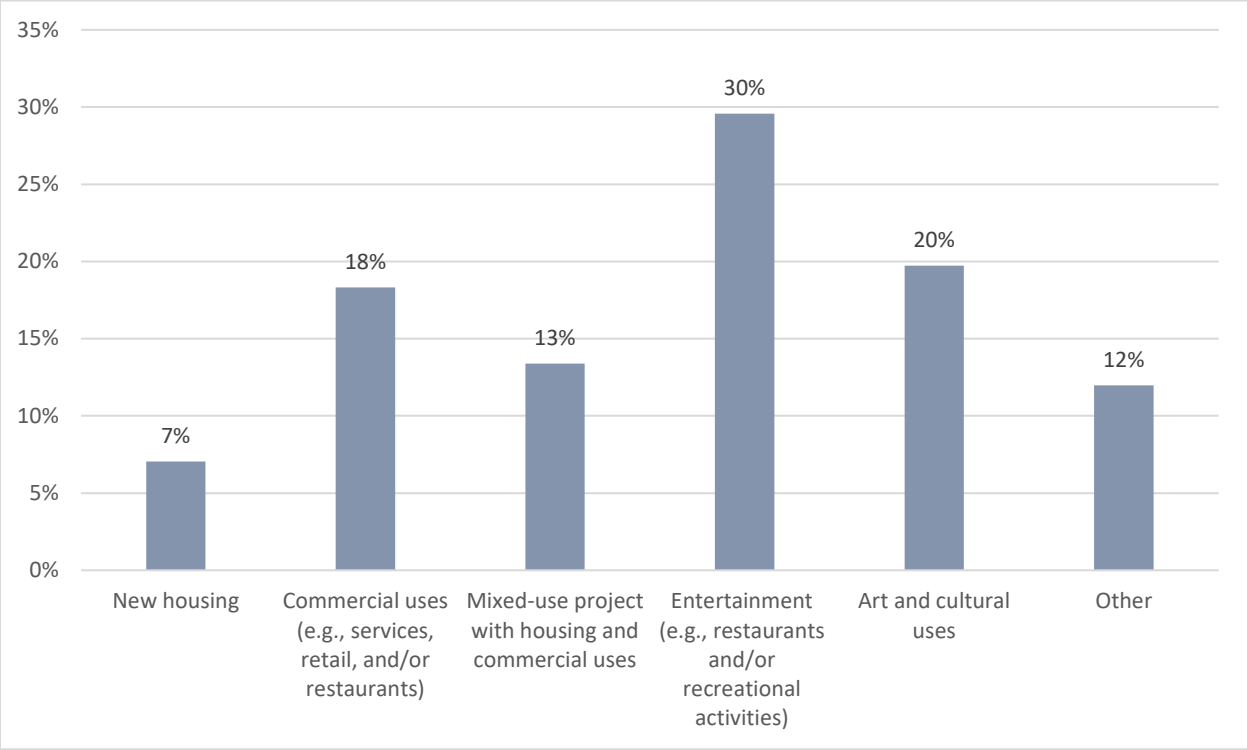
Figure 4: Sites for New Housing



DOWNTOWN SITE

Survey participants were asked to indicate their preferred uses for the vacant City-owned Downtown site. They were able to select from a list of potential land uses and/or submit a photo that illustrated their ideas. Those who answered this question were most supportive of entertainment and commercial uses, specifically mixed-use projects with retail, mixed-use projects with dining, retail uses, and a grocery store.

Figure 5: What would you like to see at the Downtown Site?



Follow-up questions asked about support for specific housing types, commercial uses, and mixed-use projects using photos to illustrate the type of use shown. Of the housing products shown, duplexes and townhomes received the most support (indicated by scores of 8 and above), but each type also received a similar number of "do not support" responses (scores of 3 or below). A score of 5 indicated a neutral position. Results are shown in Figures 6-14 below.

Figure 6: Support for New Duplexes

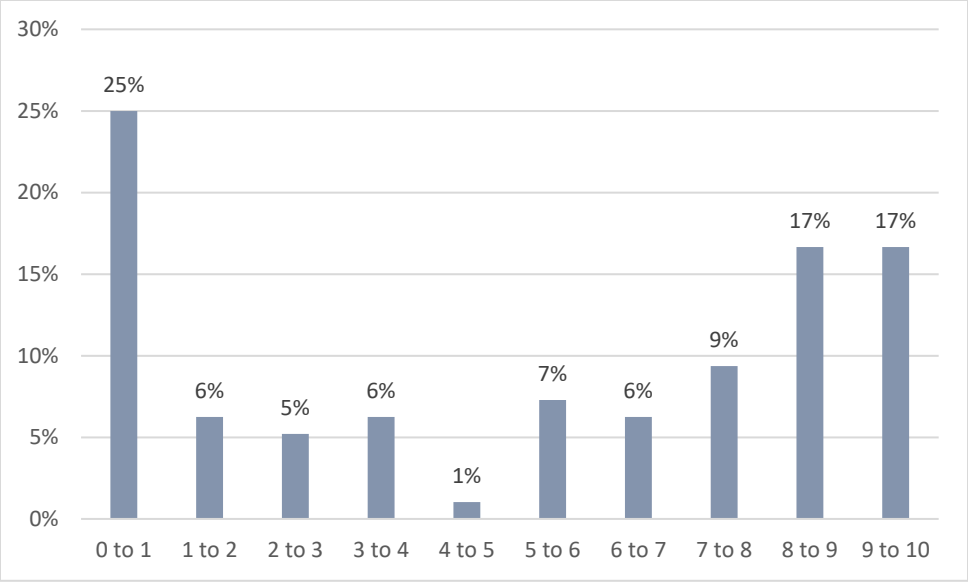


Figure 7: Support for New Townhomes

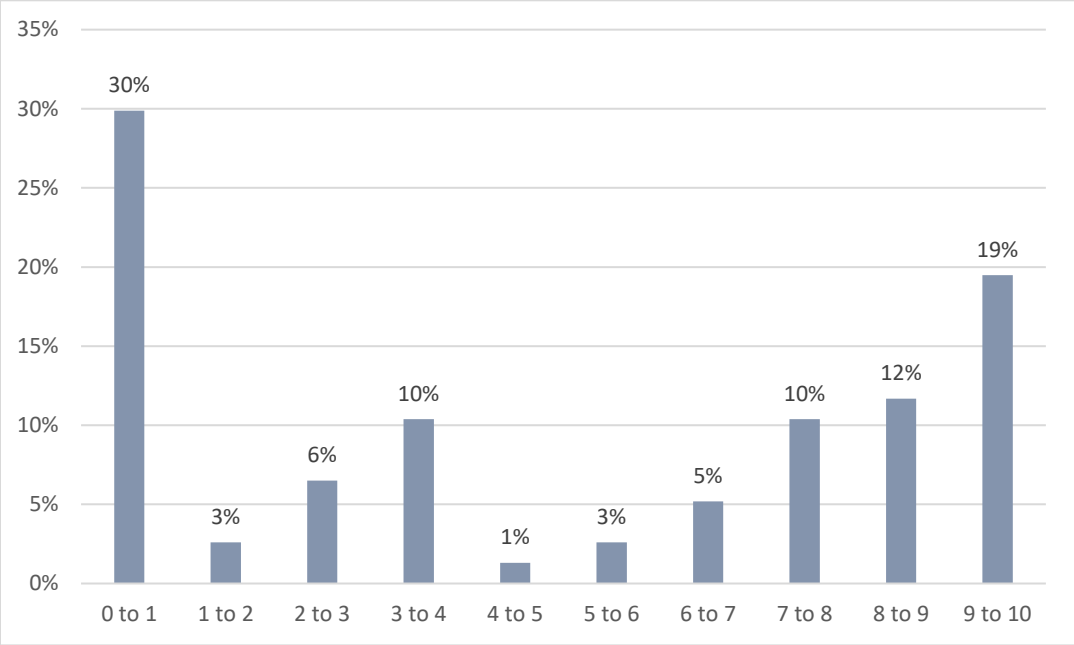


Figure 8 Support for New Apartments or Condominiums

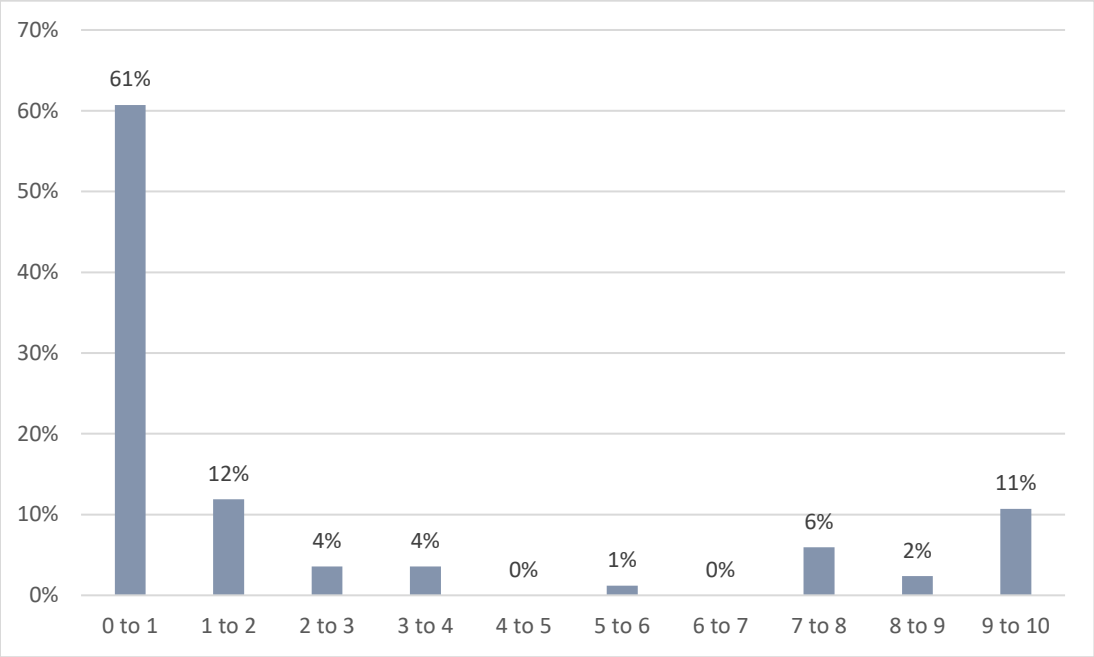


Figure 9: Support for Mixed-Use Housing with Retail

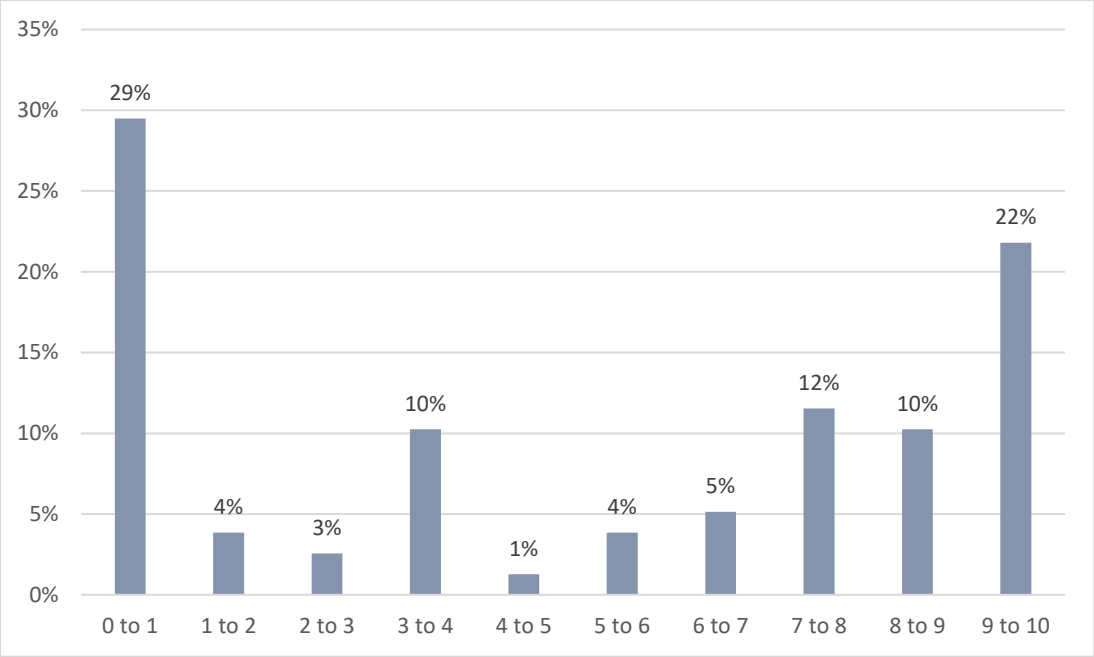


Figure 10: Support for Mixed-use Housing with Dining

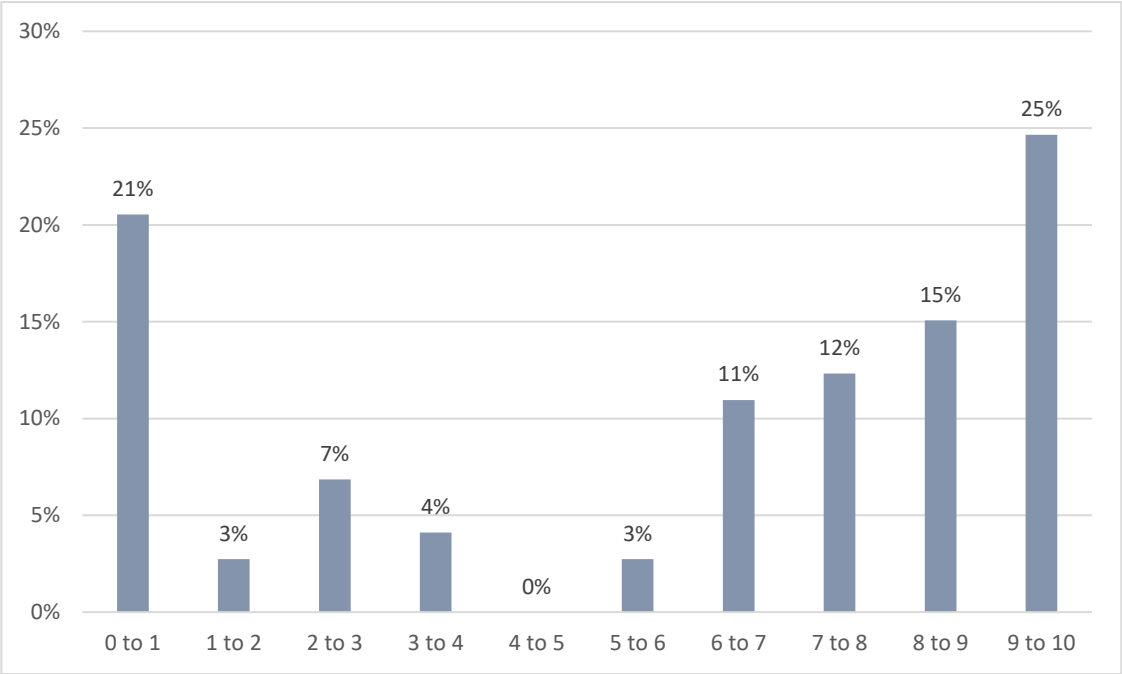


Figure 11: Support for New Retail

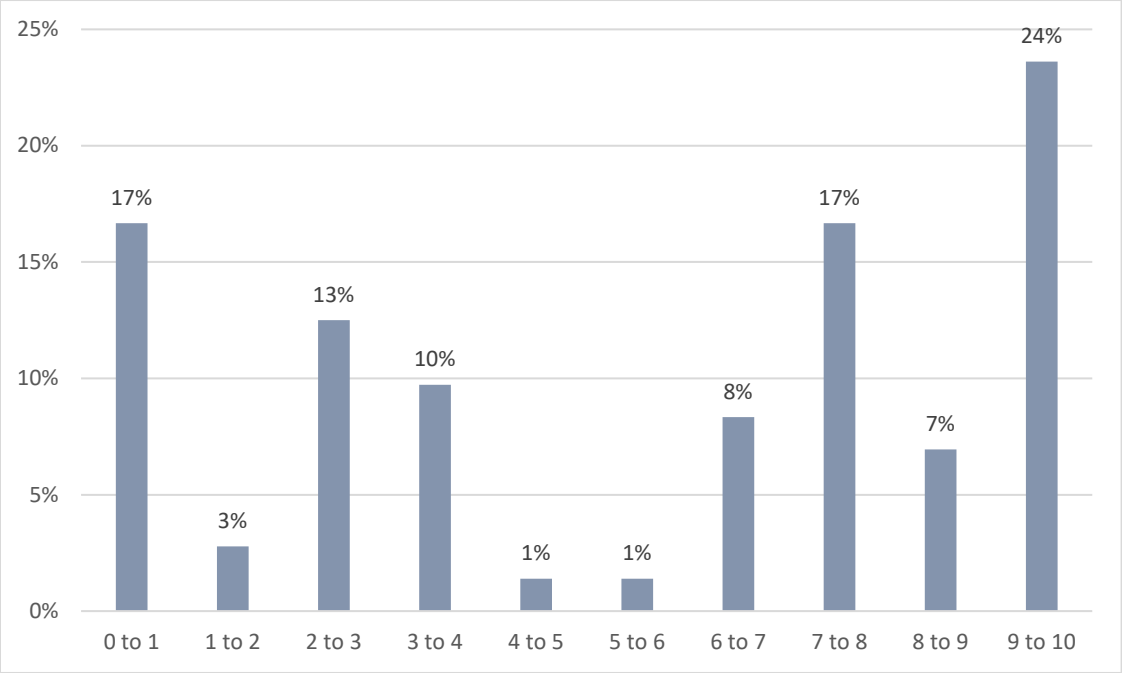


Figure 12: Support for new Commercial (Office) Spaces

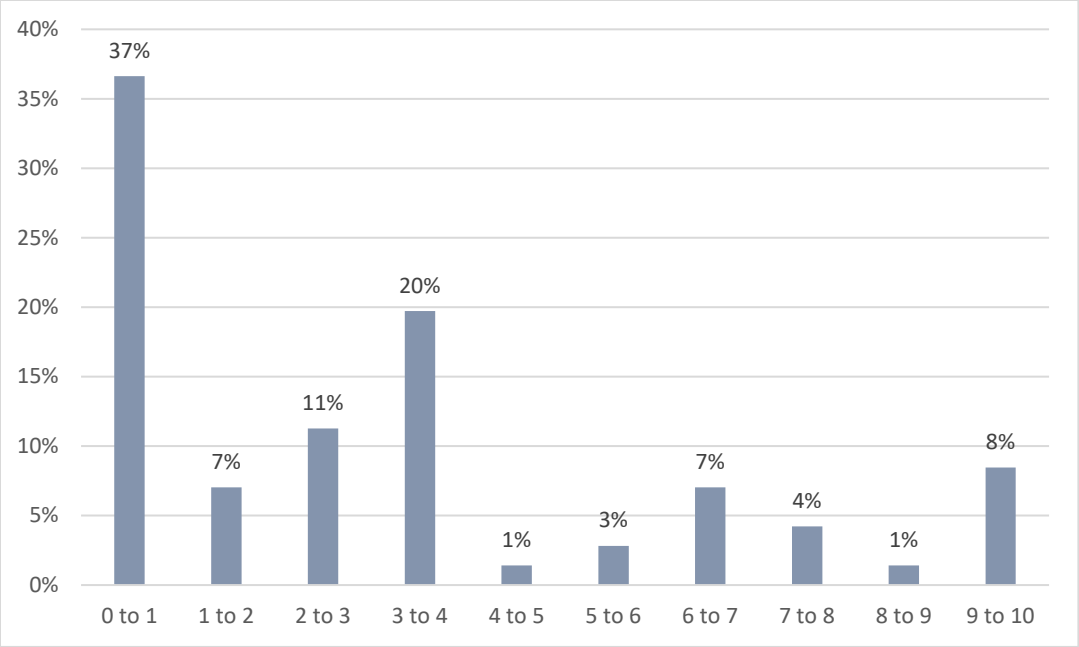


Figure 13: Support for New Grocery Store

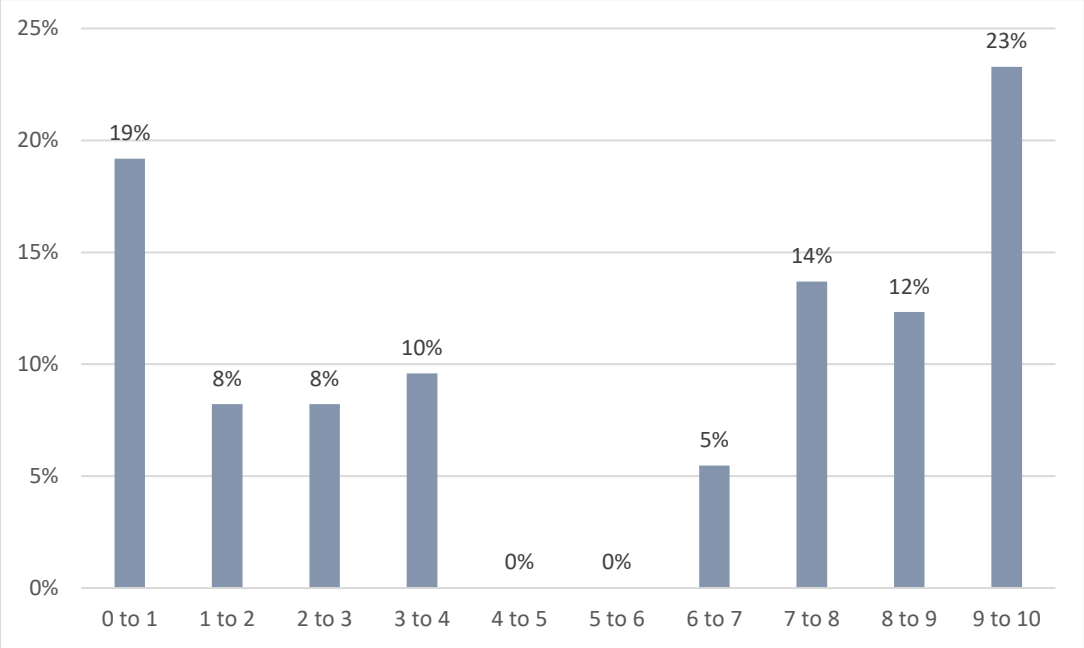
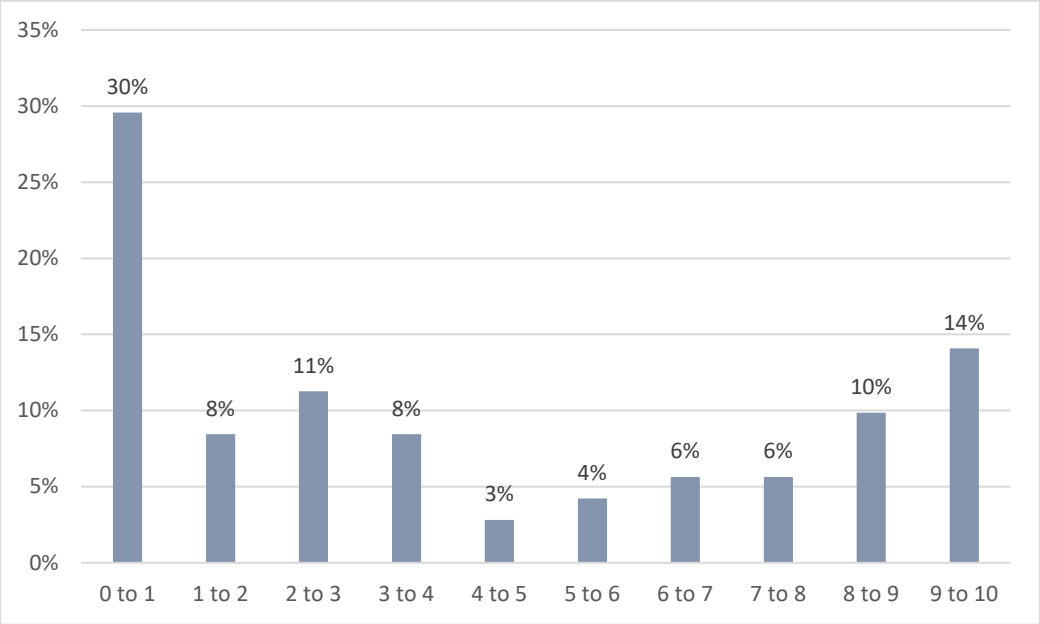


Figure 14: Support for New Entertainment/Arts Center



COMMUNITY VISION AND GOALS

Respondents were asked to indicate the importance of housing issues and challenges in Clayton using sliders ranging from 0 (not at all important) to 10 (very important). If the issue/challenge was neither important nor unimportant to a respondent, the slider would be left at 5. Figures 15 through Figure 24 below illustrate respondent's rankings for each issue

Figure 15: Housing Supply

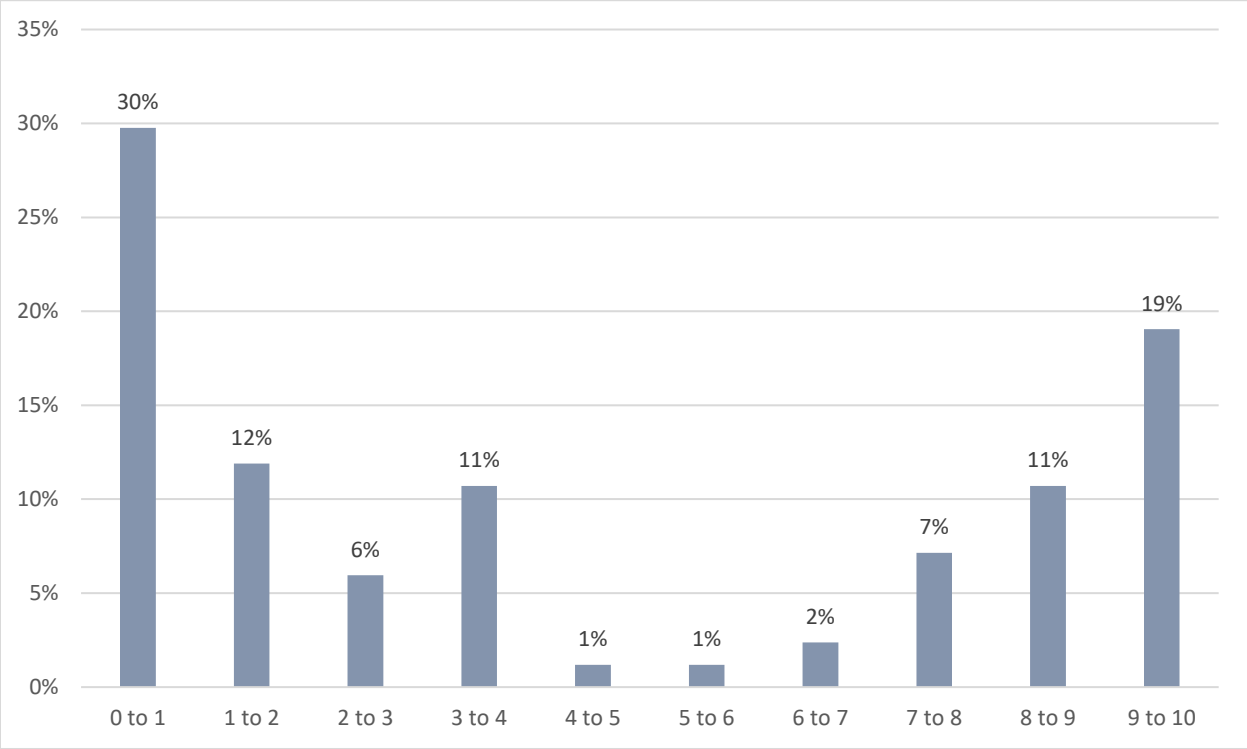


Figure 16: Housing Affordability

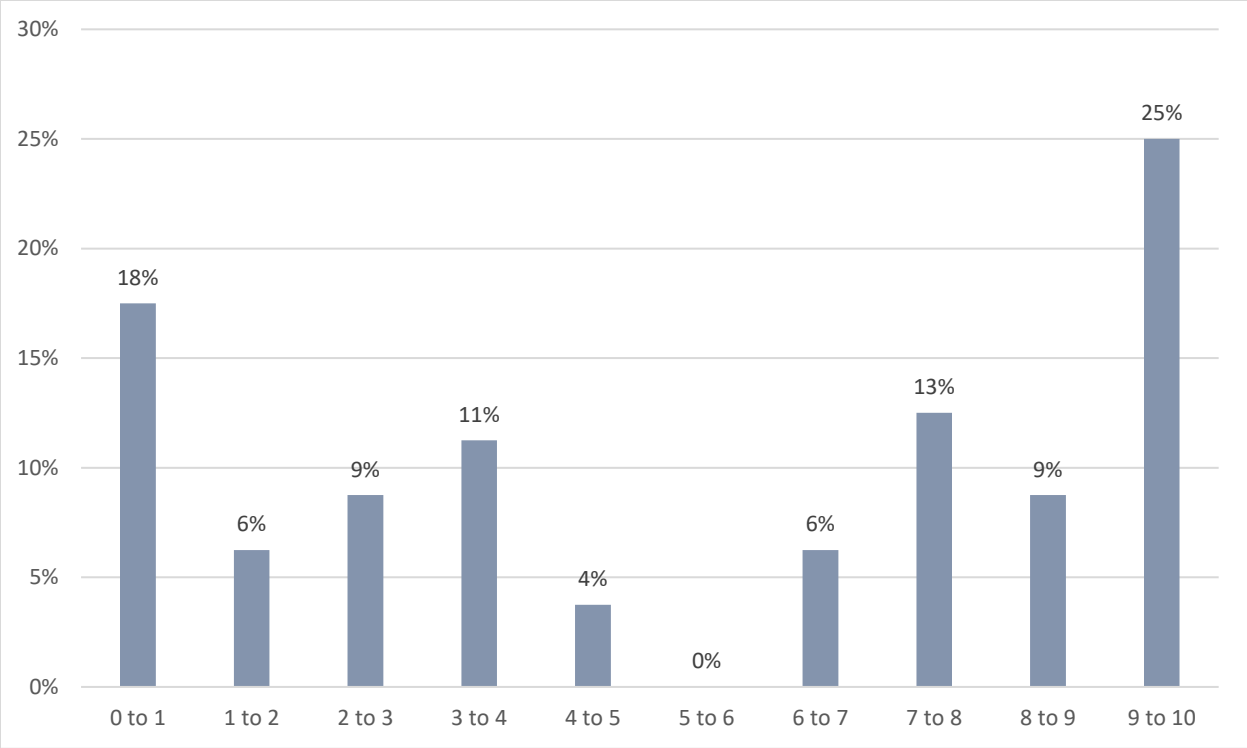


Figure 17: Overcrowding

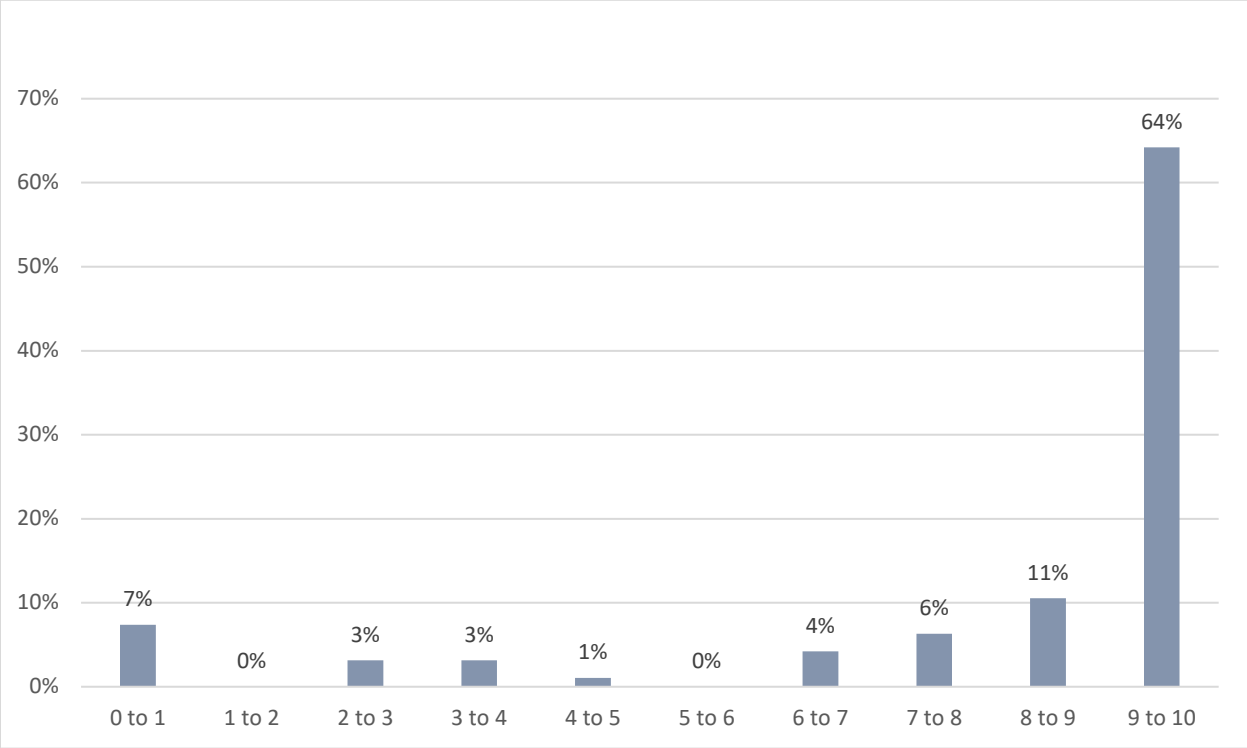


Figure 18: A Lack of Diverse Housing Options

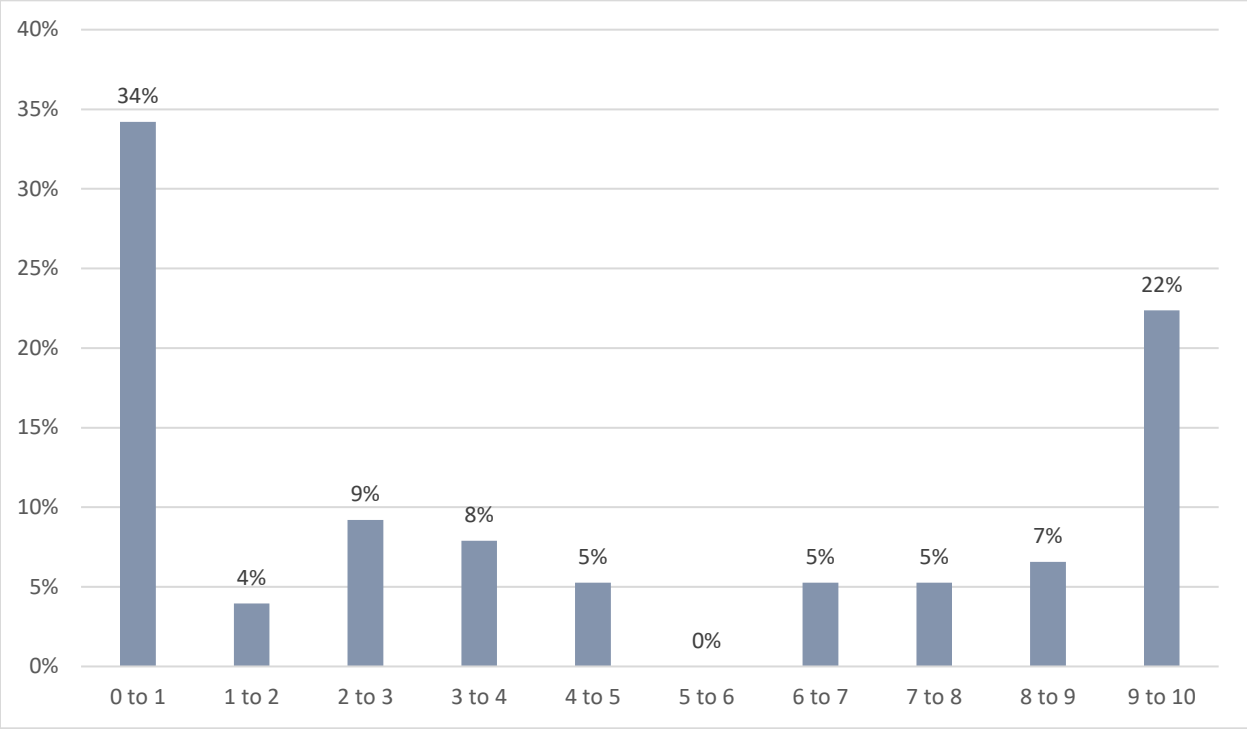


Figure 19: Fair Housing Issues (e.g., discrimination, inadequate accommodations for people with disabilities, etc.)

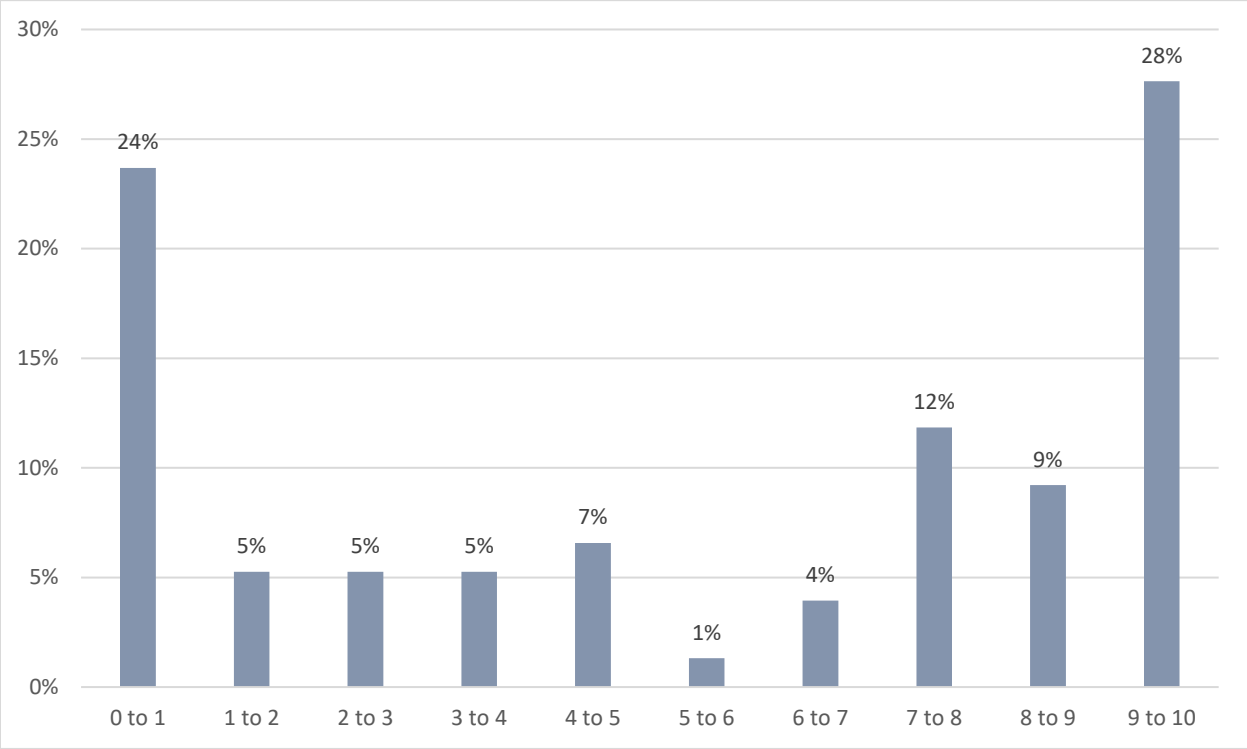


Figure 20: Limited Infrastructure (water, sewer)

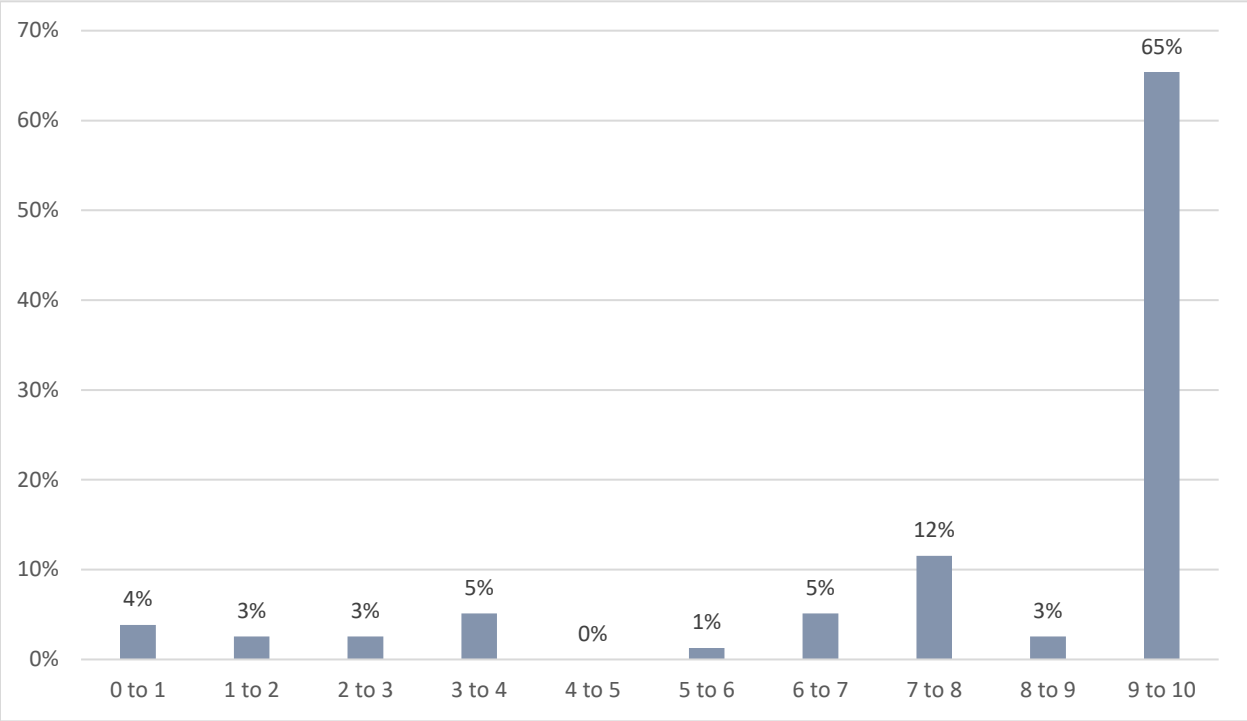


Figure 21: Wildfire Risk

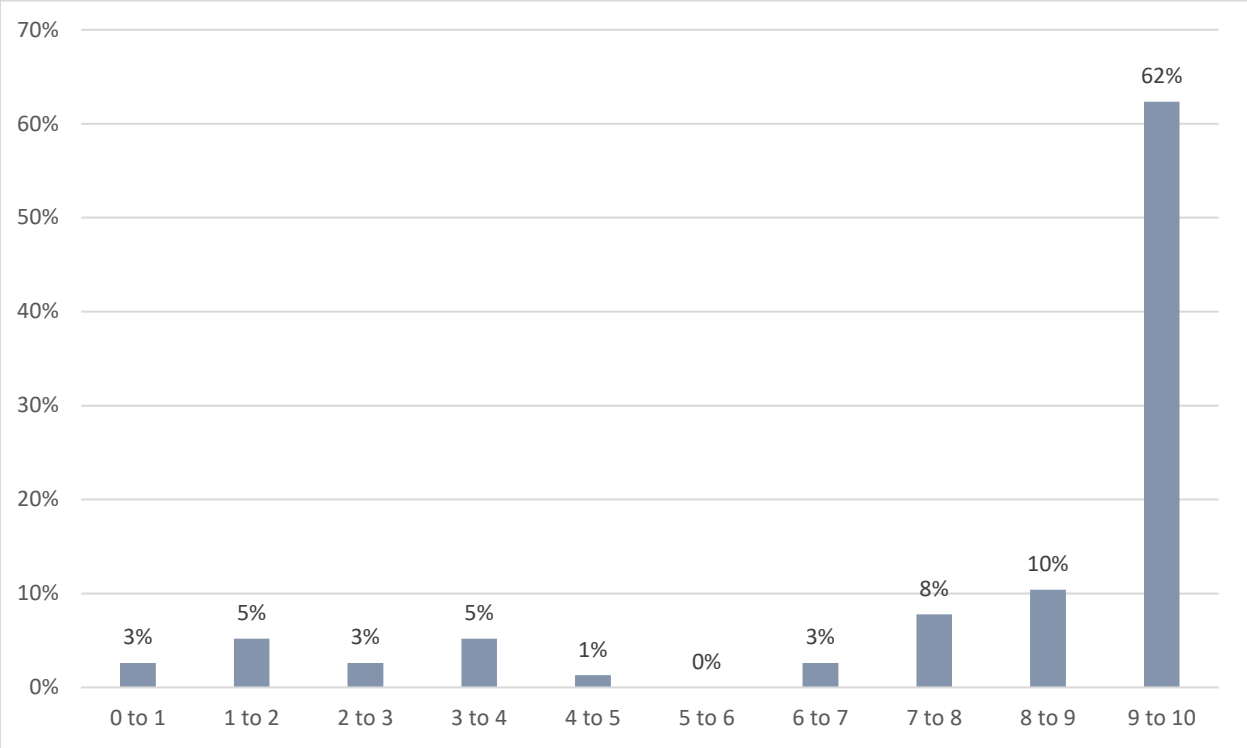


Figure 22: Traffic and Congestion

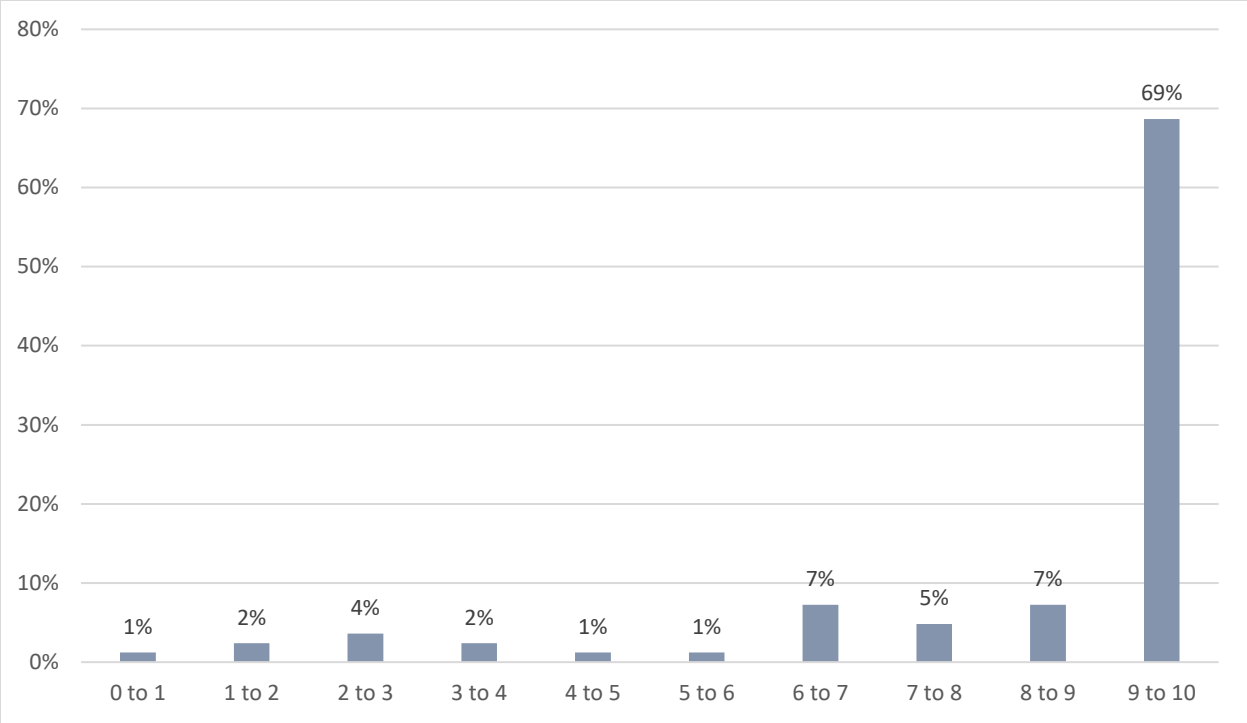


Figure 23: Protecting Environmentally Sensitive Areas

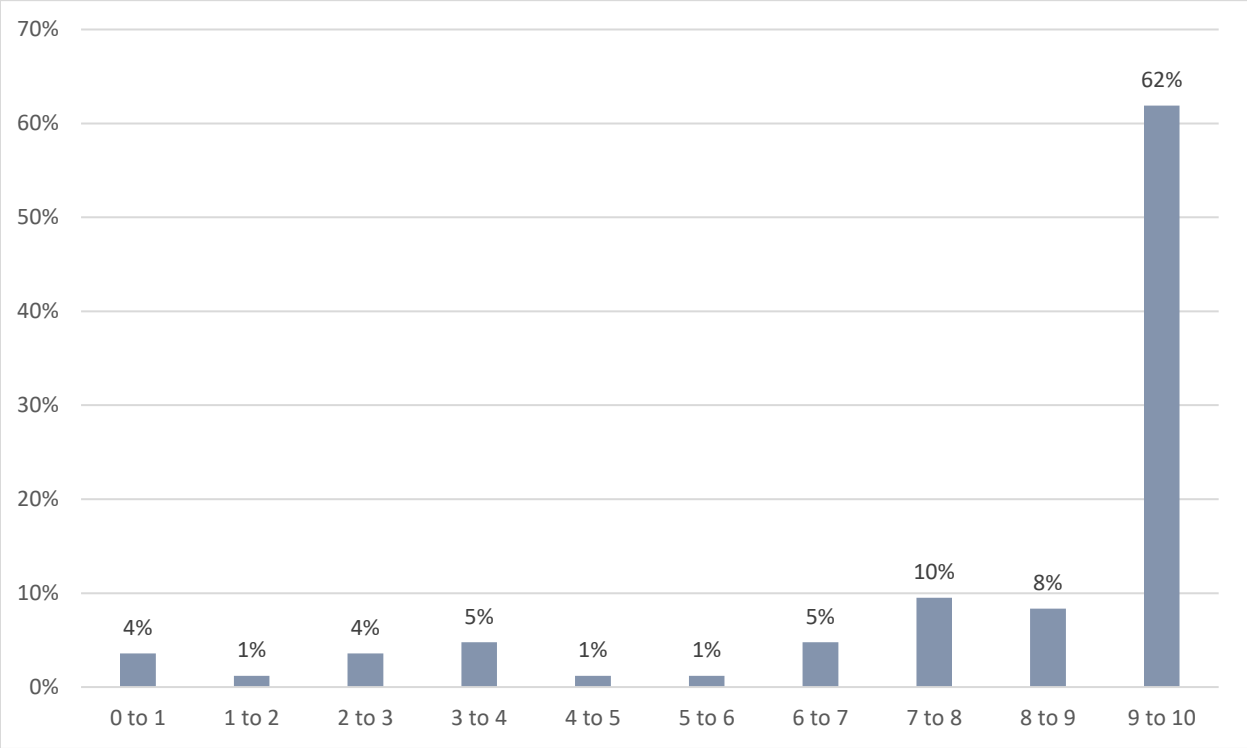
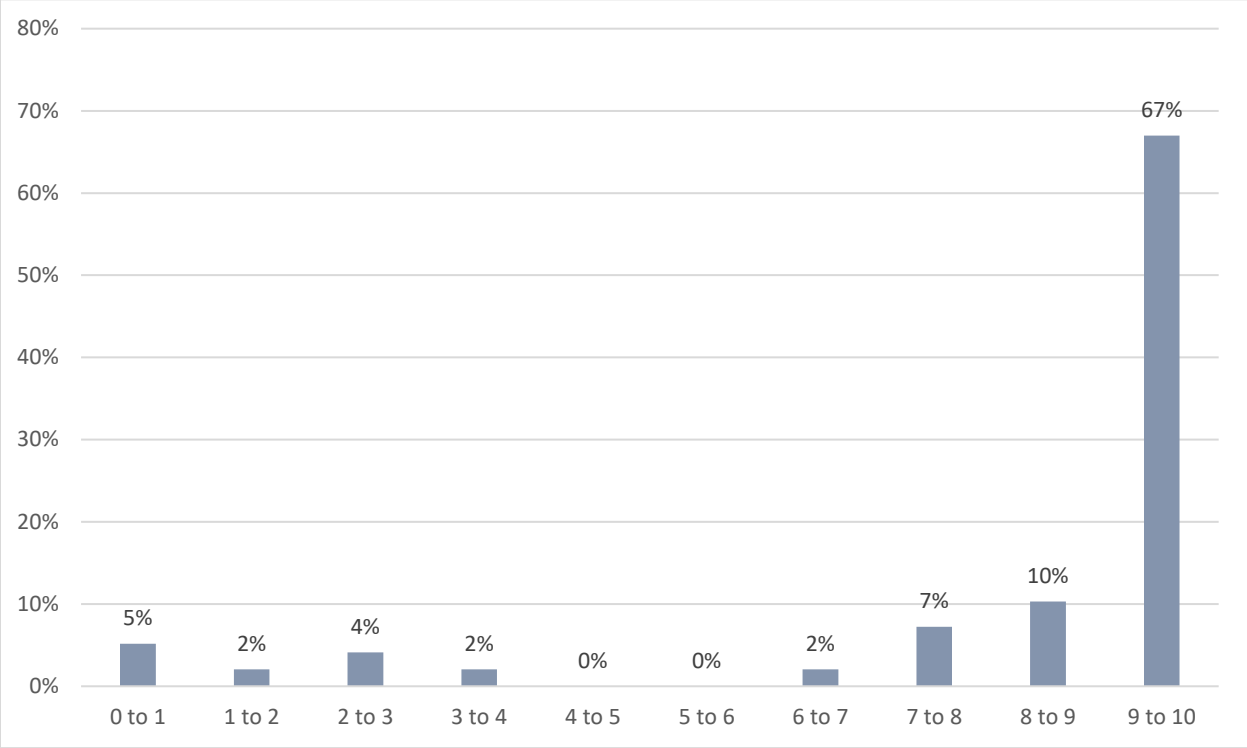


Figure 24: Preserving Community Character



STRATEGIES AND SOLUTIONS FOR CLAYTON

Respondents were asked to indicate their level of support for various strategies and solutions appropriate for Clayton. If a respondent was neither supportive nor opposed to a strategy/solution the slider would be left at 5. Figure 25 through Figure 36 below illustrate respondent's support for each strategy or solution.

Figure 25: Develop a diverse range of housing options

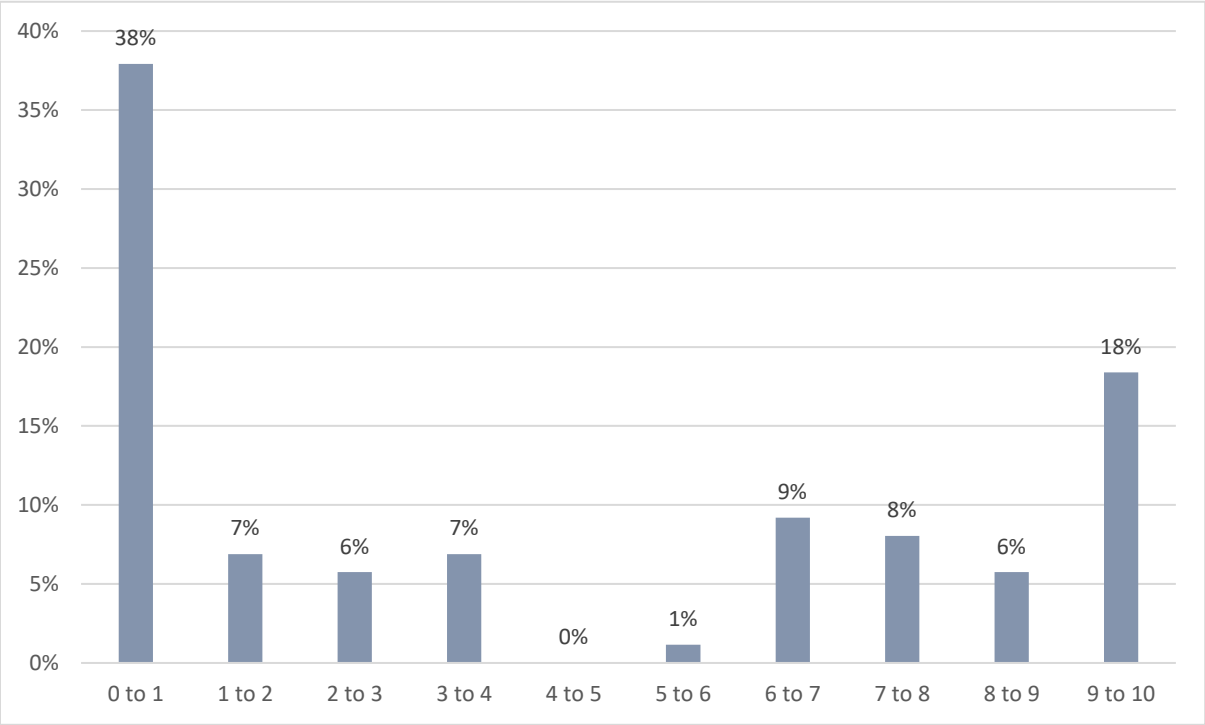


Figure 26: Ensure that children who grow up in Clayton can afford to live in Clayton on their own

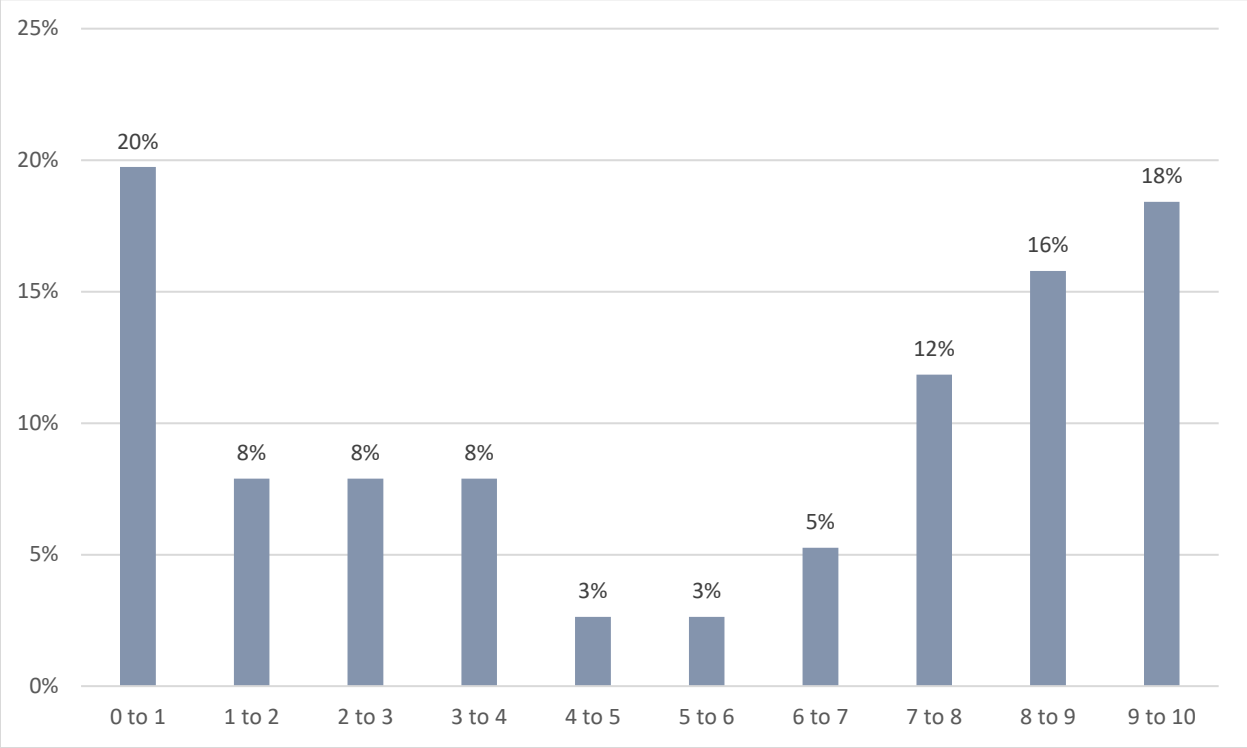


Figure 27: Provide opportunities for people who work in Clayton to live in Clayton

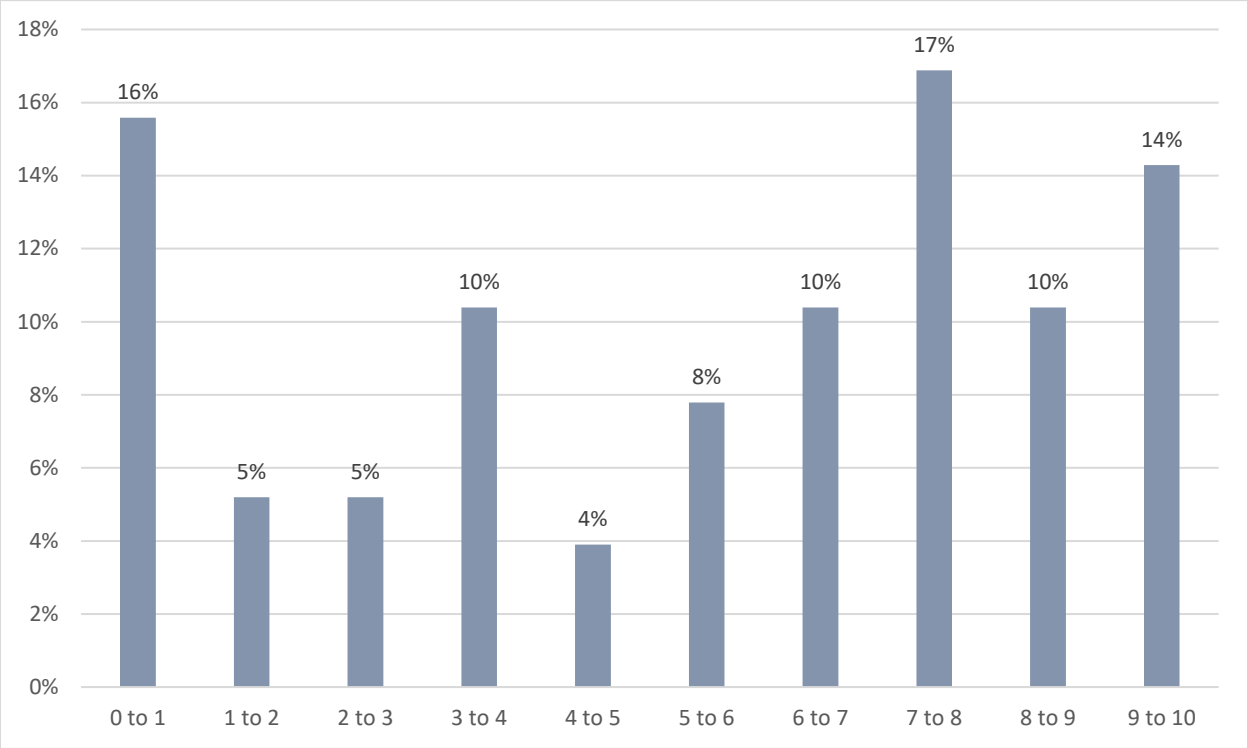


Figure 28: Provide more options for older residents to downsize and stay in the community

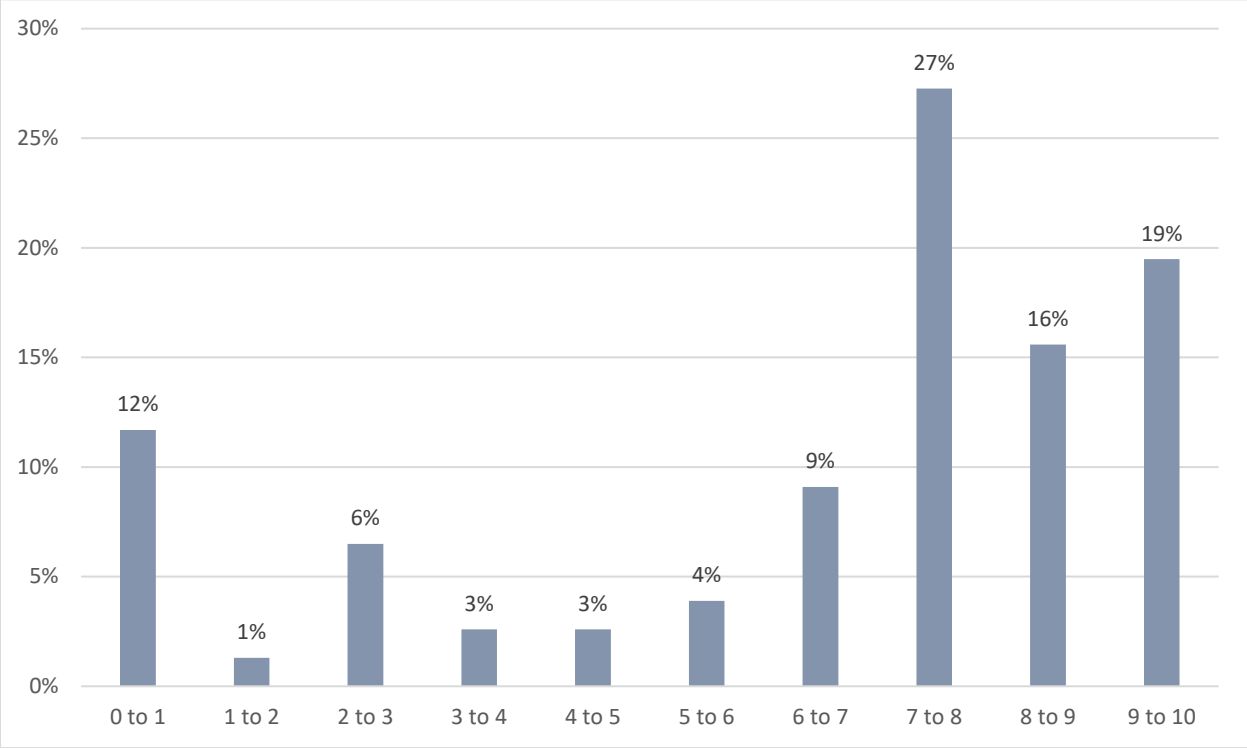


Figure 29: Support local businesses by concentrating new housing and residents around commercial

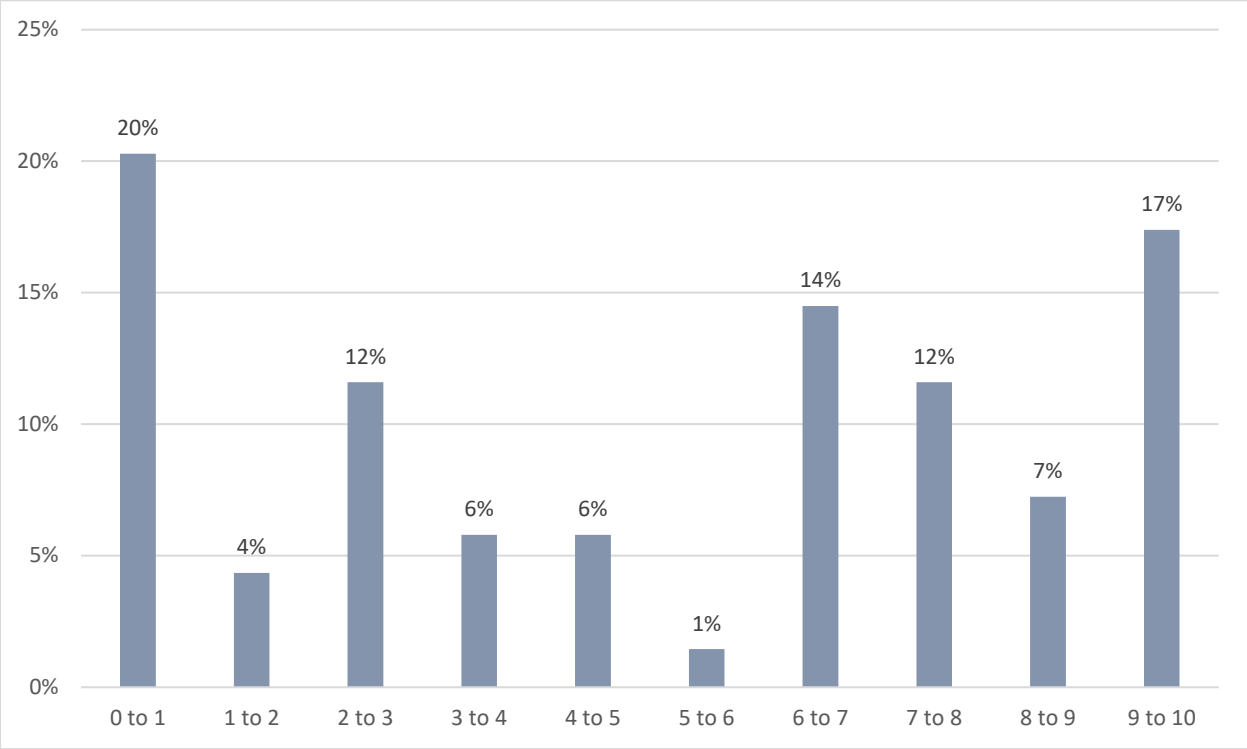


Figure 30: Streamline the process for new housing construction

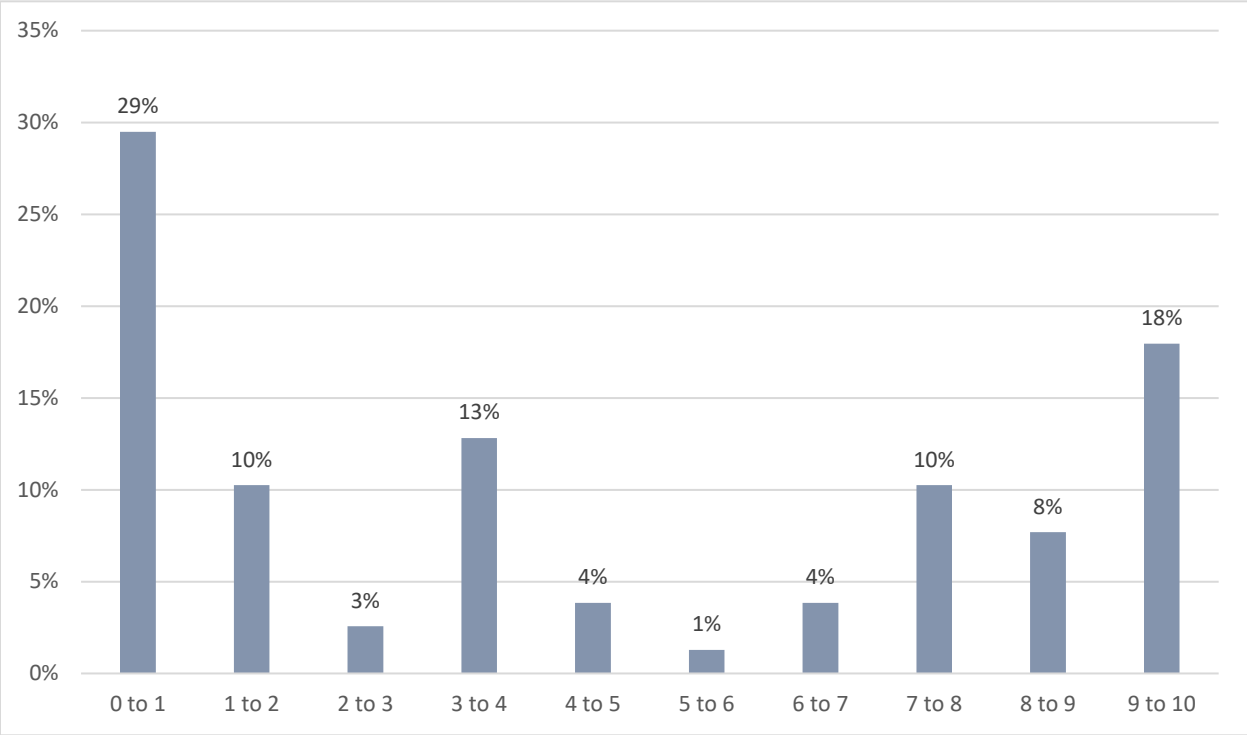


Figure 31: Support homeowners who want to build Accessory Dwelling Units or in-law units on single-family lots

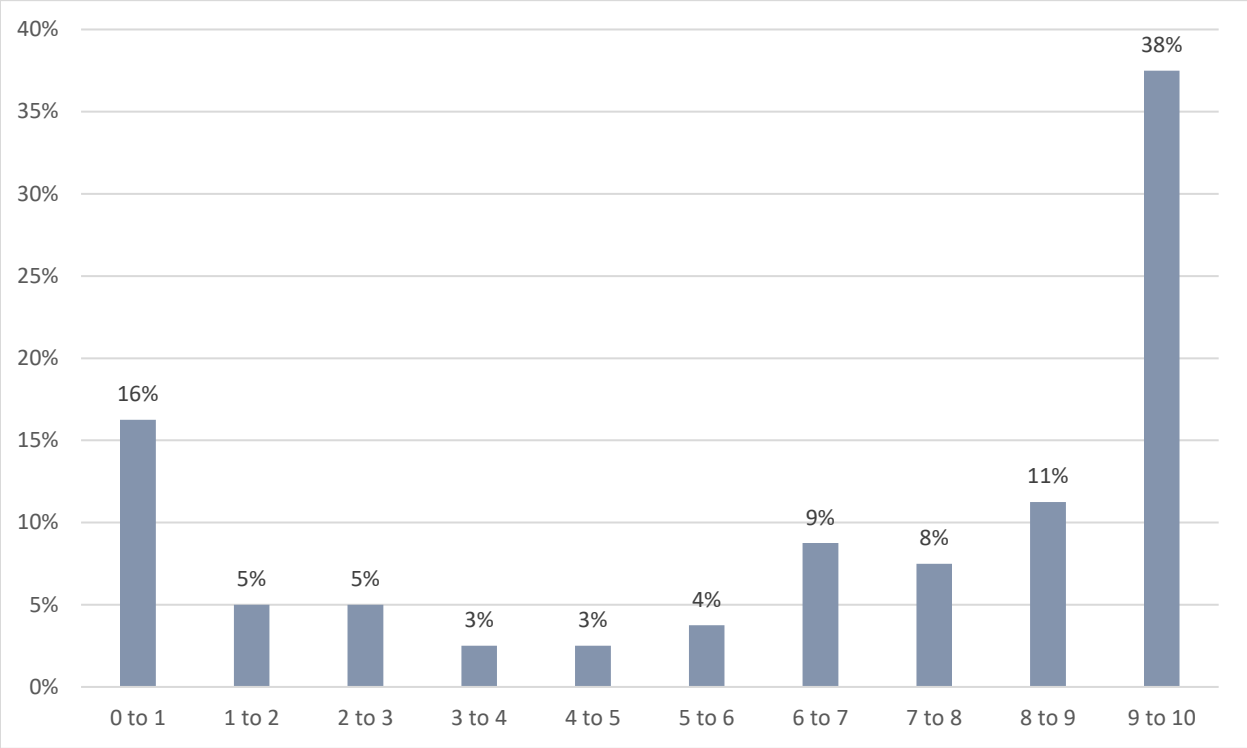


Figure 32: Establish housing for seniors, large families, veterans, and/or persons with disabilities

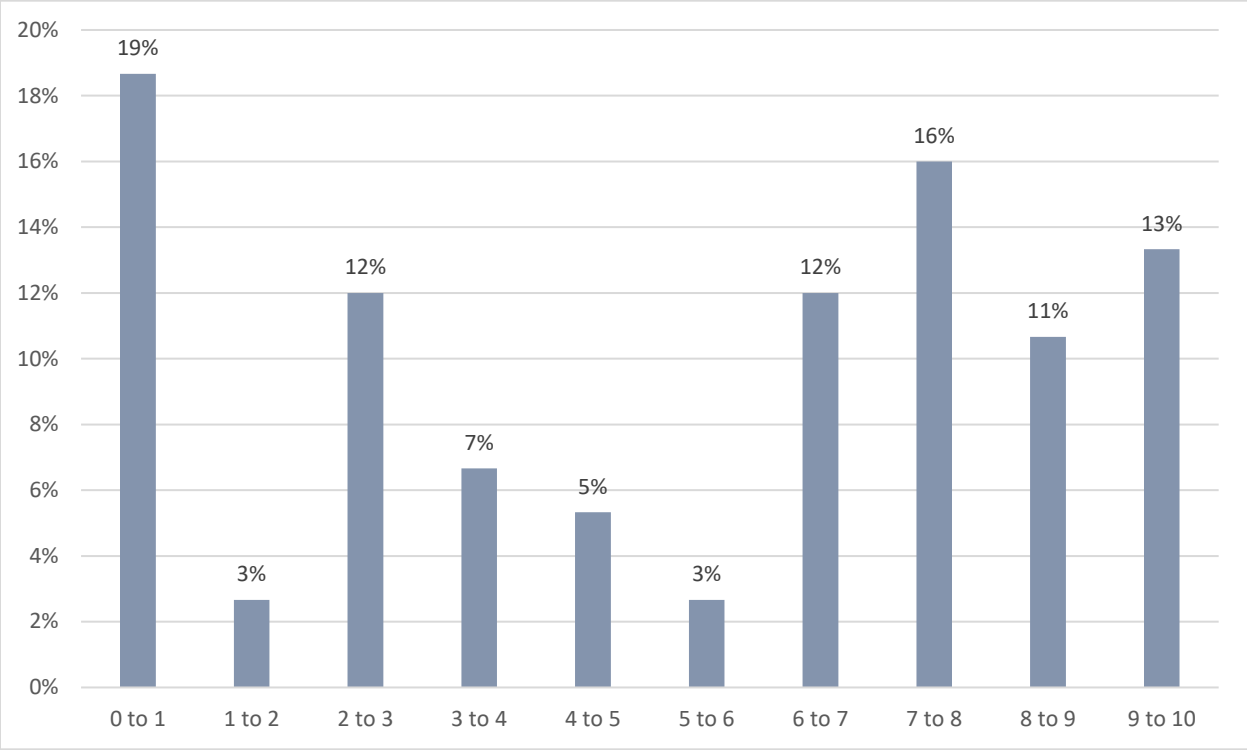


Figure 33: "Provide shelters and transitional housing for homeless families and individuals, along with services that help move people into permanent housing"

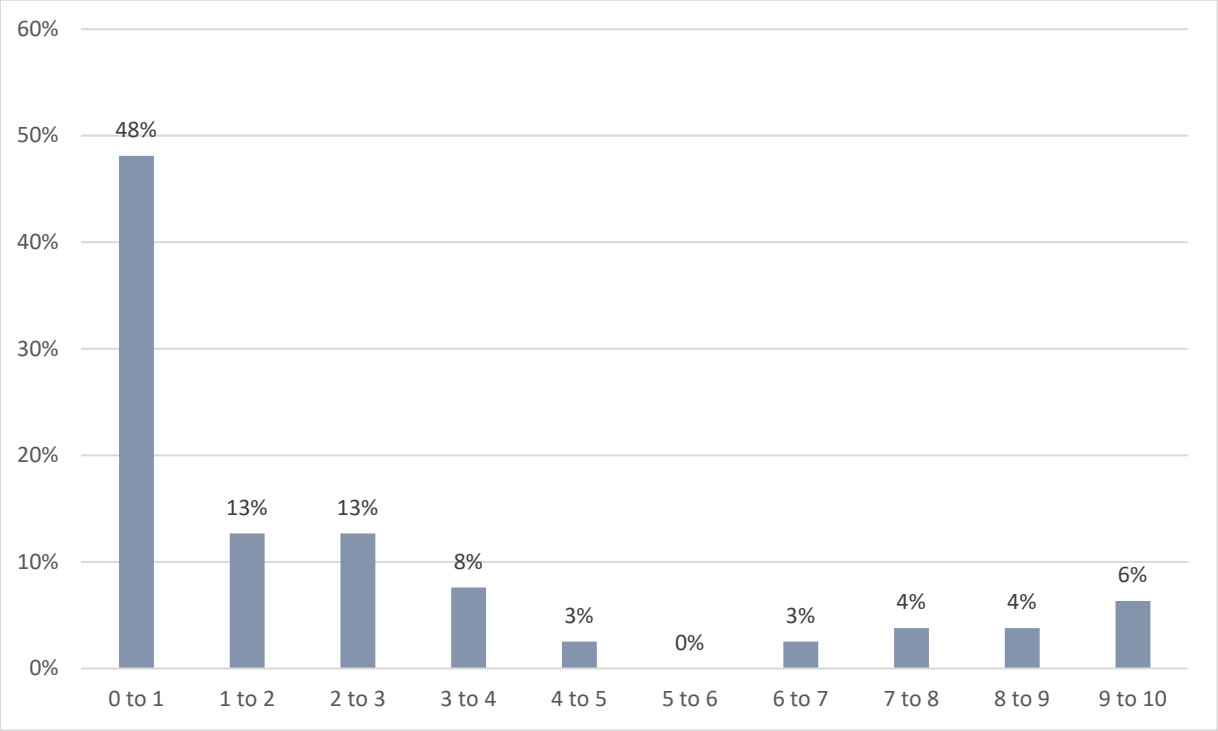


Figure 34: Encourage the rehabilitation of existing housing in older neighborhoods

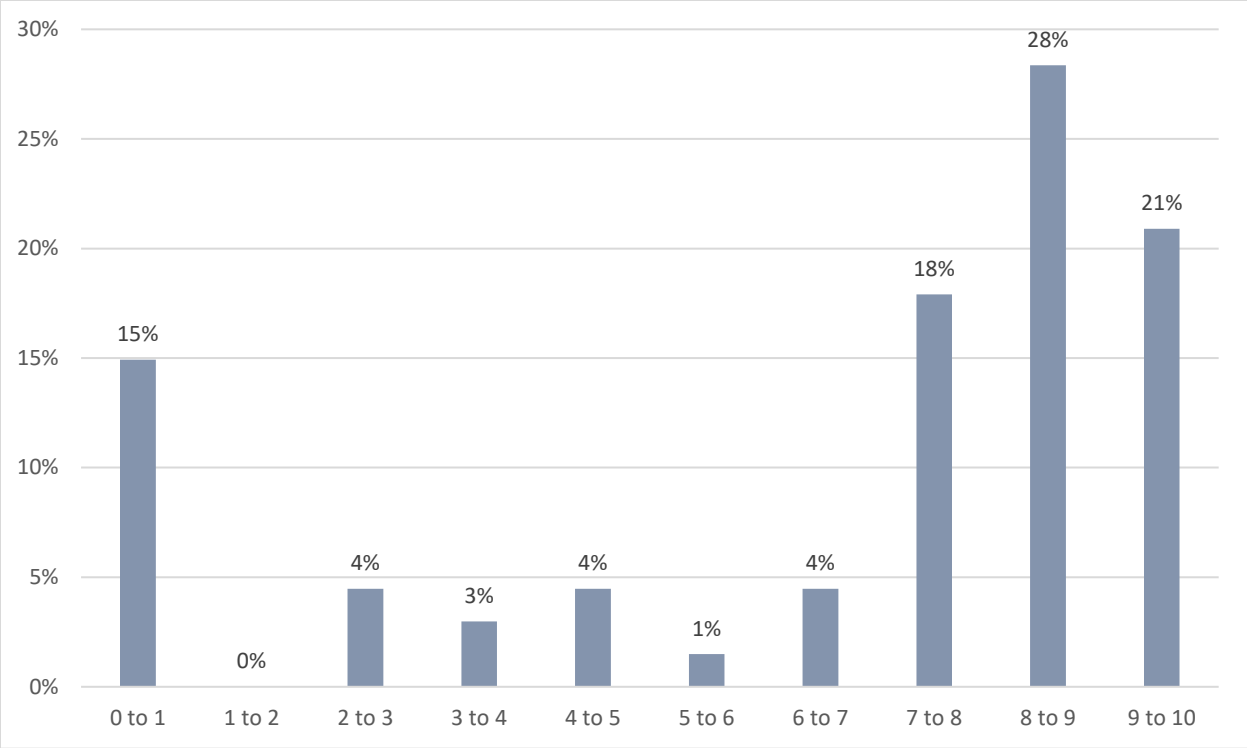


Figure 35: Support programs to help homeowners at risk of mortgage default to keep their homes

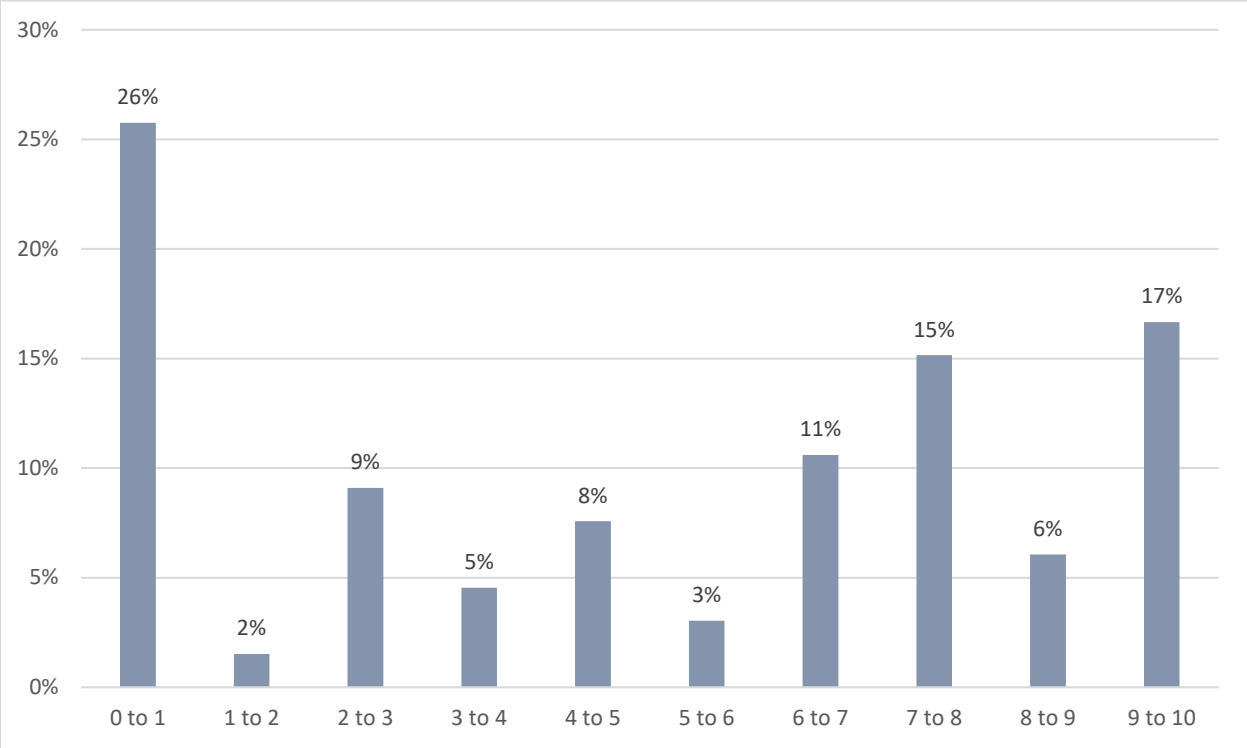
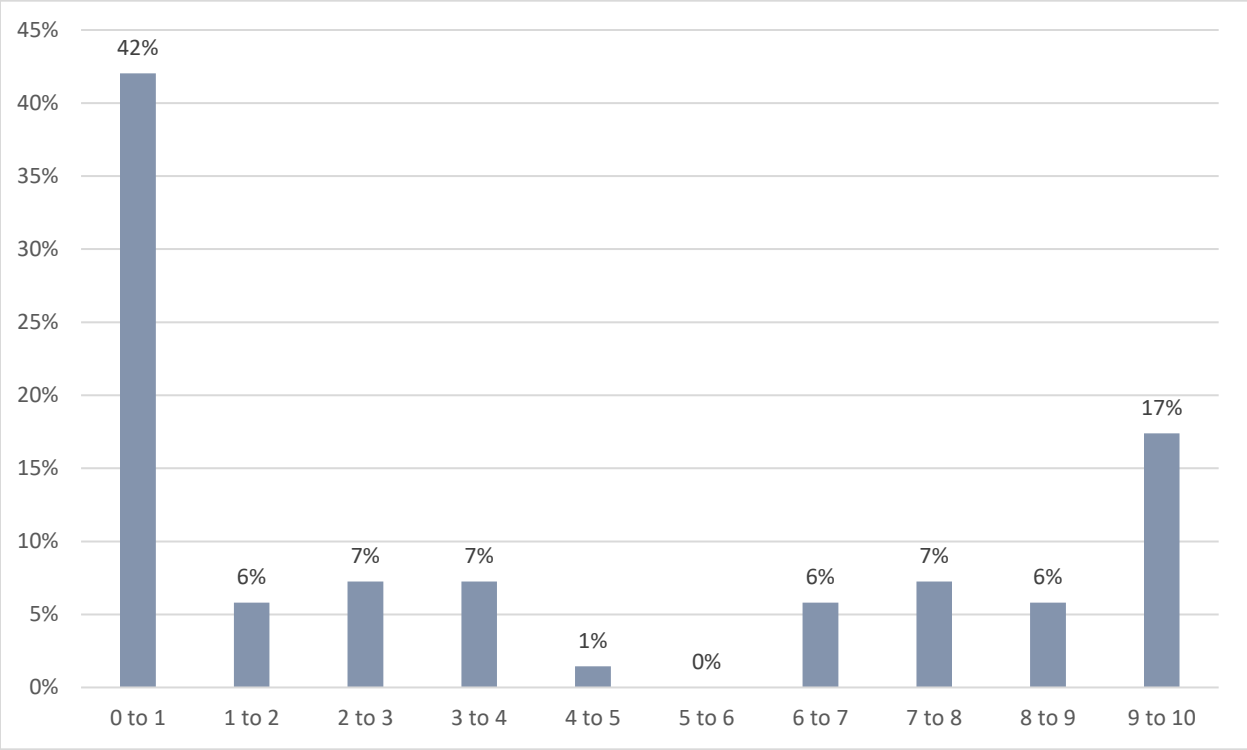


Figure 36: Target efforts to address long-term inequities in the housing market, including discrimination in renting



TRADEOFFS

In selecting housing strategies, the Housing Element will need to identify priorities and make tradeoffs. Respondents were given $100 to spend on seven housing strategies and were asked to identify preferred strategies by spending the $100 in $10 increments across the options. Respondents could choose to spend the $100 in any way they wanted. Figure 37 below illustrates the percentage of funds allocated to each strategy across all responses.

Figure 37: Preferred Strategies (n=94)

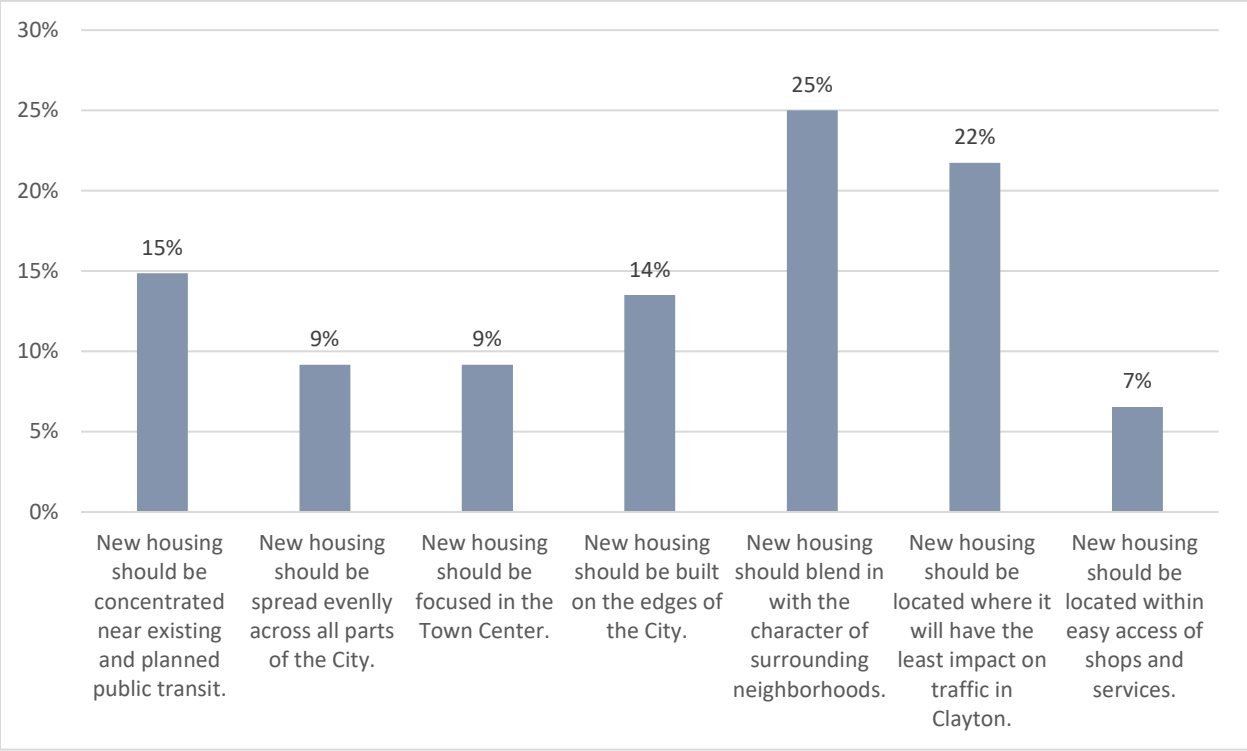


Table 1: Preferred Strategies

Strategy	Amount Spent ($)	Percentage
New housing should be concentrated near existing and planned public transit.	$1410	15%
New housing should be spread evenly across all parts of the City.	$870	9%
New housing should be focused in the Town Center.	$870	9%
New housing should be built on the edges of the City.	$1280	14%
New housing should blend in with the character of surrounding neighborhoods.	$2370	25%
New housing should be located where it will have the least impact on traffic in Clayton.	$2060	22%
New housing should be located within easy access of shops and services.	$620	7%

AGENDA REPORT

To: **Honorable Chair and Planning Commissioners**

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

Date: **November 22, 2022**

Subject: **Agenda Item 9.A**
Request for Extension of Land Use Approvals for the Clayton Community Church Project Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP- 38-16).

SUMMARY

This is a public hearing to consider a request by the Clayton Community Church (Applicant) for a one-year extension to exercise the development approvals granted by the Clayton Planning Commission on April 27, 2021 for the Clayton Community Church Project (Project). The Project encompasses removal of existing trees, installation of new landscaping and surface parking facilities, and construction of a new, approximately 13,998 square foot Church building for religious assembly purposes on 4.4 acres located at 1027 Pine Hollow Court, Clayton (Assessor's Parcel Number 119-050-036).

RECOMMENDATION

Staff recommends that the Planning Commission open the public hearing and accept testimony, close the public hearing, and adopt the attached Resolution approving a one-year extension of the development permit approvals for the Clayton Community Church Project to April 27, 2024.

PROJECT INFORMATION

Applicant/Property Owner:	Clayton Community Church 6055 Main Street Clayton, CA 94517
Location:	1027 Pine Hollow Court Assessor's Parcel Number 119-050-036
General Plan Designation:	RD – Rural Estate (0.0 – 1.0 units per acre)

Zoning Classification:	R-40-H (Single Family Residential, minimum lot area 40,000 square feet with horses allowed)
Environmental Review:	On April 27, 2021, the Planning Commission adopted the Clayton Community Church Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program in accordance with the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq.*) and section 15074 of the State CEQA Guidelines (California Code of Regulations section 15000 *et seq.)*
Public Notice:	On November 9, 2022, notice of the public hearing to consider the extension of approval of the Project was posted at the notice boards at Clayton City Hall, Clayton Community Library, and Ohm's posting board in the Town Center; was electronically mailed to the Applicant and to interested parties who had requested such notice; and was mailed via first class mail to owners of property within 300 feet of the Project site.

BACKGROUND

On April 27, 2021, the Planning Commission adopted Resolution No. 03-2021 approving the Clayton Community Church Project (Project). The Project consists of construction of a new building housing administrative offices, a sanctuary, and community rooms for the Clayton Community Church. The property on which the Project would be built is located at 1027 Pine Hollow Court, is approximately 4.4 acres and is currently developed with an approximately 1,300 square foot existing single-family residence (proposed to remain). The existing residence is located on the southern side of the property, away from the western and northwestern areas of the parcel where the church building and associated improvements are approved to be constructed.

The conditionally-approved Use Permit application allows for a religious land use such as a church, synagogue, temple, or other place of worship, pursuant to Clayton Municipal Code subsection 17.60.030.A.3. The Site Plan Review Permit conditionally approves the new church building's architecture and associated site improvements including landscaping, parking, lighting, and fencing. The conditionally-approved Tree Removal Permit allows for removal of 48 existing trees on the property and a replacement planting plan consisting of 52 new trees.

At its meeting of April 27, 2021, prior to adopting Resolution No. 03-2021, the Planning Commission also adopted Resolution No. 02-2021 adopting the IS/MND and approving a Mitigation Monitoring and Reporting Program, prepared in accordance CEQA, for the Project.

EXTENSION REQUEST

Section 17.64.030 of Clayton Municipal Code allows permittees and development applicants to request extensions of the approvals of development entitlements, and reads as follows: "Upon showing of good cause therefore, the Planning Commission may extend the period of a permit in which it is to be exercised, used or established, for a maximum of twelve (12) months at a time or as otherwise specified on the permit."

In adopting Resolution No. 03-2021 approving the land use entitlements for the Project, the Planning Commission adopted the following Project-specific Condition of Approval (COA) 7 with respect to the granting of extensions of permit approvals:

> "This approval expires two years from the date of approval (expires April 27, 2023), unless a building permit has been issued on or prior to that date and construction has commenced and been diligently pursued, or unless an extension of this approval has been approved by the Planning Commission. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one-year extension shall be granted."

On September 24, 2022, in accordance with the provisions of COA 7 of Planning Commission Resolution No. 03-2021, Pastor Shawn Robinson, representative for the Clayton Community Church, filed a timely request for a one-year extension of the development entitlements granted for the Project. The extension request was filed as a result of the issues indicated by Pastor Shawn Robinson in a September 24, 2022 email to City staff (an excerpt of which is provided below).

> "Many factors that have played into this request—most importantly since our approval, our estimated building costs have almost doubled due to Covid industry cost escalation and labor supply chain complications. The pandemic is still having an impact on the construction industry. After receiving the City's approval, Clayton Community Church moved forward in 2021 with developing the project by hiring a design consultant who specializes in churches, bringing a full team of engineering consultants on board, and working with a contractor to explore how a phased approach may be more feasible. At the beginning of 2022 when the construction costs were still coming in over budget, an opportunity for an alternate property site came along. We have had conversations about purchasing this alternate property for months but all of this will take more time. Clayton Community Church has been making continuous efforts to move this building project forward. If the owners of the alternate property do not accept our offer this fall, we fully intend to move forward with building on our property at 1027 Pine Hollow Court."

Under Section 17.64.080 of the Clayton Municipal Code, the Planning Commission shall make its findings and render its decision on the extension in writing. The Planning Commission's decision may require additional terms, limitations, conditions of approval, and/or a specified probationary period for the correction or implementation of new requirements, a future review at a time specified, or a combination of these, or revocation.

ANALYSIS

Staff believes the Applicant has shown good cause and recommends approval of the Applicant's request for extension of the development entitlements for the Project. The COVID-19 pandemic has affected businesses, construction costs and supply chains in various ways, including reduced availability of construction materials and contractors. The California Department of General Services' California Construction Cost Index (CCCI) reflects the notable increases in construction costs suggested by the Applicant, with the percentage change in the CCCI in 2021 calculated at 13.4 percent compared to 1.3 to 4.4 percent for the prior five years between 2016 and 2020.[1] Staff believes it is reasonable, therefore, that the Applicant's initially estimated construction costs for the Project would have been much lower than current estimates, and that additional time and planning would be necessary to re-evaluate approaches to the Project's financing.

The Applicant requests no amendments that would trigger new discretionary review or revision of the land use entitlements previously granted by the City. With the one-year extension, all Conditions of Approval adopted by the Planning Commission with Resolution No. 03-2021 would continue to be applicable to the Project, and no new determination with respect to CEQA would be needed. Should the Planning Commission approve the extension with additional conditions, any such condition should be reasonably required and limited to address a change that has occurred since the original approval of the Project.

PUBLIC COMMENTS

As of the writing of this agenda report, City staff has not received any comments on the extension request.

ATTACHMENTS

A. Proposed Resolution
B. Applicant's Extension Request
C. Notice of Planning Commission Decision
D. Approved Project Plans, dated April 7, 2021 (online at https://claytonca.gov/community-development/planning/development-activity/current-projects-clayton-community-church/)
E. Vicinity Map

[1] https://www.dgs.ca.gov/RESD/Resources/Page-Content/Real-Estate-Services-Division-Resources-List-Folder/DGS-California-Construction-Cost-Index-CCCI

CITY OF CLAYTON
PLANNING COMMISSION
PROPOSED
RESOLUTION NO. XX-2022

A RESOLUTION OF THE CLAYTON PLANNING COMMISSION APPROVING A ONE-YEAR EXTENSION OF THE APPROVALS OF A USE PERMIT (UP-05-16), SITE PLAN REVIEW PERMIT (SPR-06-16), AND TREE REMOVAL PERMIT (TRP-38-16) FOR THE CLAYTON COMMUNITY CHURCH PROJECT

WHEREAS, the City received an application from Clayton Community Church ("Applicant") requesting review and approval of requests for a Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), Tree Removal Permit (TRP-38-16), and related Environmental Review (ENV-03-16) for development of a new 13,998 square foot church building ("Project") located on a 4.4-acre parcel at 1027 Pine Hollow Court, Assessor's Parcel No. 119-050-036; and

WHEREAS, the City prepared an Initial Study/Mitigated Negative Declaration ("IS/MND") and Mitigation Monitoring and Reporting Program ("MMRP") to evaluate the potential environmental impacts of the Project, in accordance with the California Environmental Quality Act ("CEQA," Public Resources Code section 21000 *et seq.*) and section 15063 of the State CEQA Guidelines (California Code of Regulations section 15000 *et seq.*); and

WHEREAS, at its regular meeting of April 27, 2021, the Clayton Planning Commission held a duly noticed public hearing on the Project and the analysis of the Project's potential environmental impacts, and received and considered testimony and evidence, both oral and documentary; and

WHEREAS, following close of the April 27, 2021 public hearing, the Planning Commission adopted Resolution No. 02-2021 adopting the Clayton Community Church IS/MND and approving the MMRP for the Project, as well as, Resolution No. 03-2021 approving the Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16) requests for the Project; and

WHEREAS, Condition of Approval 7 of Planning Commission Resolution No. 03-2021 set the expiration date for the approvals of Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16) to be April 27, 2023, two years after the Planning Commission's conditional approval of the Project entitlements; and

WHEREAS, pursuant to section 17.64.030 of the Clayton Municipal Code and Condition of Approval 7 of Resolution No. 03-2021, upon timely request from the Applicant and the Applicant's showing of good cause, the Planning Commission may grant a one-time, one-year extension of the Project entitlements; and

WHEREAS, on September 24, 2022, in accordance with section 17.64.030 of the Clayton Municipal Code and the provisions of Condition of Approval 7 of Planning Commission Resolution No. 03-2021, Pastor Shawn Robinson, representative of the Applicant, filed a timely request for a one-year extension of the Project entitlements, inclusive of Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16); and

WHEREAS, on November 9, 2022, a notice of the public hearing to consider the request for one-time, one-year extension of the Project entitlements was posted at the notice boards at Clayton City Hall, Clayton Community Library, and at the Ohm's posting in the Town Center, was electronically mailed to the Applicant and to interested parties who had requested such notice; and was mailed via first class mail to owners of property within 300 feet of the Project site; and

WHEREAS, on November 22, 2022, the Clayton Planning Commission held a duly-noticed public hearing on the request for extensions of the Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16) for the Clayton Community Church Project, and received and considered testimony and evidence, both oral and documentary.

NOW, THEREFORE, the Planning Commission hereby determines the foregoing recitals to be true and correct and makes the following findings:

A. Applicant has shown good cause for extension of the development entitlements previously approved for the Project. The COVID-19 pandemic has affected businesses, construction costs and supply chains in various ways, including reduced availability of construction materials and contractors. The California Department of General Services' California Construction Cost Index (CCCI) reflects the notable increases in construction costs suggested by the Applicant in their request for extension of entitlements, with the percentage change in the CCCI in 2021 calculated at 13.4 percent compared to 1.3 to 4.4 percent for the prior five years between 2016 and 2020. It is reasonable, therefore, that the Applicant's initially estimated construction costs for the Project would have been much lower than current estimates, and that additional time and planning would be necessary to re-evaluate approaches to the Project's financing.

B. Nothing in the Applicant's request for extension of current entitlements for the Project triggers new discretionary review or revision of the land use entitlements previously granted by the City, as no changes are proposed to be made to the Project as originally-approved. With the one-year extension, all conditions of approval adopted by the Planning Commission with Resolution No. 03-2021 will continue to be applicable to the Project.

C. Prior to approving the Project, the Planning Commission adopted Resolution No. 02-2021 adopting an IS/MND, approving an MMRP, and making findings pursuant to CEQA, including a finding that, based on evidence in the record, the Project would not have a significant effect on the environment with the incorporation of the mitigation measures identified in the MMRP. No additional findings are necessary for CEQA compliance for the current request for extension of entitlements of the approved Project. The impacts of approving the extension of time—separate and apart from any development—would be limited to the impacts of signing a piece of paper. Signing a piece of paper, if separated from the underlying development it allows, cannot qualify as a project subject to CEQA because it would not result in either a direct or reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines, section 15060, subd. (c)(1)-(3), and section 15378, subd. (a).)

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby approves the request for a one-year extension, to April 27, 2024, of the term of the approvals of the Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16) and Tree Removal Permit (TRP-38-16) for development of the Clayton Community Church Project at 1027 Pine Hollow Court, Clayton. The record of proceedings for this matter is located at the City of Clayton, City Hall, 6000 Heritage Trail, Clayton, CA 94517. The custodian of records is the City Clerk.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 22nd day of November, 2022.

AYES:

NOES:

ABSTAINED:

ABSENT:

APPROVED:	ATTEST:
_____	_____
Dan Richardson Chair	Dana Ayers Community Development Director

From: srobinson@claytoncc.com
To: Dana Ayers
Cc: "Amy Felix"; "Carla Bernal"; "Brannan Gary"; "Justin Kenyon"; "Bruce Millar"; "Gerald Ealy"; "Grace Babayan"; "Jenn Woods"; "Karen Louchis"; "Lori Radcliffe"; "Melody Benway"; "Nick Minorsky"; "Ron Musch"; "Sandy Codington"; "Steve Stafford"; "catie davis"; "Jamie Davis"; "Mick Wakefield"; rachael.porter@claytoncc.com; "Shermane Verduzco"
Subject: RE: Entitlement Extension request (027PHC)
Date: Saturday, September 24, 2022 10:27:09 AM

Dear Dana:
I am writing to you today to formally request a one year entitlement extension to begin development on our property at 1027 Pine Hollow Circle in Clayton. As you may recall our project was approved by the City Planning Commission on April 28th, 2021. The extension would allow us to have our plans approved no later than April 28th, 2024.

Chapter 17.64.030 in the Clayton Municipal Code allows for a twelve month extension when good cause is demonstrated. There are many factors that have played into this request—most importantly since our approval, our estimated building costs have almost doubled due to covid industry cost escalation and labor supply chain complications. The pandemic is still having an impact on the construction industry. After receiving the City's approval Clayton Community Church moved forward in 2021 with developing the project by hiring a design consultant who specializes in churches, bringing a full team of engineering consultants board, and working with a contractor to explore how a phased approach may be more feasible. At the beginning of 2022 when the construction costs were still coming in over budget, an opportunity for an alternate property site came along. We have had conversations about purchasing this alternate property for months but all of this will take more time.Clayton Community Church has been making continuous efforts to move this building project forward.

If the owners of the alternate property do not accept our offer this fall, we fully intent to move forward with building on our property at 1027 Pine Hollow Court. Our team has already strategized how to reduce the costs with a smaller building. However before spending the additional funds to develop specific building plans, we want to make sure we will be able to

finish what we have begun.

Although there's still over six months left in our current entitlement, we want to be proactive. We reached out to the city, had a meeting to discuss, and are following up with this letter.

I hope you will give careful consideration to our request. We love Clayton and want to lay permanent roots in our community that will benefit others for years to come.

Please feel free to contact me if you have any further questions.

Sincerely—

Dr. Shawn Robinson
Senior Pastor
Clayton Community Church
(cell—925-323-9493)

CITY OF CLAYTON
Founded 1857 . . . Incorporated 1964

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

Notice of Planning Commission Decision

DATE: **April 28, 2021**

TO: **Clayton City Clerk**

RE: **The Clayton Community Church Project Initial Study/Mitigated Negative Declaration (Environmental Review ENV-03-16), Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16)**

This memorandum constitutes a Notice of Decision of the Clayton Planning Commission and has been prepared in accordance with the procedure in Section 17.68.010 of Clayton Municipal Code.

Project

The applicant, the Clayton Community Church, requested a public hearing before the Clayton Planning Commission for their consideration of adoption of the Clayton Community Church Project Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Environmental Review ENV-03-16) and approval of a Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16) for a proposed new church located at 1027 Pine Hollow Court (Assessor's Parcel No. 119-050-036) in Clayton. The subject property is approximately 4.4 acres in area and is currently developed with an approximately 1,300 square-foot detached single-family residence (proposed to remain). The Use Permit is required for a religious land use such as a church, synagogue, temple, or other place of worship, pursuant to Clayton Municipal Code §17.60.030(A)(3). The Site Plan Review Permit involves consideration of the proposed new building's architecture and associated site improvements including landscaping, parking, lighting, and fencing. The Tree Removal Permit is for the proposed removal of 48 total trees on the subject property in order to accommodate the construction of the proposed new building and other improvements and due to the poor health and condition for some of the existing trees. A tree replacement plan is provided and includes 52 proposed new trees to be planted.

Decision

At a public hearing held at the April 27, 2021 regular meeting of the Clayton Planning Commission, the Planning Commission took the following actions related to the Project:

- By vote of 5-0, adopted Clayton Planning Commission Resolution No. 02-2021 adopting the Clayton Community Church Project Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-03-16); and

- By vote of 5-0, adopted Clayton Planning Commission Resolution No. 03-2021 approving the Clayton Community Church Project Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16).

These actions of the Planning Commission are final unless appealed to the City Council, with payment of the appropriate appeal fee, within ten (10) days from the date of this Notice of Decision in accordance with Chapter 17.68 Decisions and Appeals of the Clayton Municipal Code. The date of this Notice of Decision is April 28, 2021. The conclusion of the appeal period is 5:00 p.m. on Friday, May 7, 2021. An appeal form is available at the Community Development Department, 6000 Heritage Trail, Clayton, or online at:
https://ci.clayton.ca.us/fc/onlineforms/cddforms/Appeal_PC_Decision.pdf

D.Ayers

Dana Ayers
Interim Director,
Community Development Department and
Interim Secretary, Clayton Planning Commission

April 28, 2021
Date

Attachments
Clayton Planning Commission Resolution No. 02-2021
Clayton Planning Commission Resolution No. 03-2021

Instructions to Applicant: Please sign and return one copy of this Notice of Decision to the Community Development Department, 6000 Heritage Trail, Clayton, California, 94517; and retain the other copy for your files. If you have any questions, please call 925-673-7300.

I (We) agree to comply with the Mitigation Measures as listed in the Clayton Community Church Project Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program as well as the Conditions of Approval for Clayton Community Church Project Use Permit, Site Plan Review, and Tree Removal Permit.

Dr. Shawn A Robinson, this 30TH day of April, 2021
Applicant's Signature

CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 02-2021

A RESOLUTION OF THE CLAYTON PLANNING COMMISSION ADOPTING THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR THE CLAYTON COMMUNITY CHURCH PROJECT (ENV-03-16)

WHEREAS, the City received an application from Clayton Community Church requesting review and adoption of an Initial Study/Mitigated Negative Declaration (ENV-03-16), and review and approval of a Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16) for construction of a new 13,998 square-foot church building on a 4.42-acre site ("Project") located at 1027 Pine Hollow Court, Assessor's Parcel No. 119-050-036-1; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA," Public Resources Code §21000 *et seq.*) and the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 *et seq.*), the City is the lead agency for the Project; and

WHEREAS, the City prepared an Initial Study/Mitigated Negative Declaration ("IS/MND") to evaluate the potential environmental impacts of the Project, in accordance with Section 15063 of the State CEQA Guidelines; and

WHEREAS, based on the information contained in the IS/MND, which concluded that the Project could have potentially significant impacts but that those impacts could be reduced to less than significant levels with implementation of certain mitigation measures, the City prepared a Mitigation Monitoring and Reporting Program (MMRP) pursuant to Public Resources Code section 21081.6 and State CEQA Guidelines section 15074(d); and

WHEREAS, availability of a draft IS/MND was duly noticed and circulated for an extended review period, with the public review comment period commencing on February 12, 2021, and ending on April 27, 2021; and

WHEREAS, the Clayton Planning Commission has reviewed the IS/MND for the Project and the comments received thereon during the public review comment period; and

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

WHEREAS, on April 27, 2021, the Clayton Planning Commission held a duly-noticed public hearing on the IS/MND and MMRP and received and considered testimony and evidence, both oral and documentary; and

WHEREAS, the custodian of the Final IS/MND and record of the Project is the Community Development Department located at Clayton City Hall, 6000 Heritage Trail, Clayton, California, and the Final IS/MND is available for public review at City Hall in the Community Development Department, and the MMRP is attached as Exhibit A to this Resolution.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The foregoing recitals are true and correct and are incorporated herein as substantive findings of this Resolution.

2. The Clayton Planning Commission has reviewed and considered the information contained in the IS/MND, the MMRP, the administrative record, and all other written and oral evidence presented to the Planning Commission for the Project.

3. The Clayton Planning Commission hereby finds, on the basis of the whole record before it (including the IS/MND, MMRP, and all comments received) that:

   a. The City of Clayton exercised overall control and direction over the CEQA review for the Project, including the preparation of the Final IS/MND and MMRP, and independently reviewed and considered the Final IS/MND and MMRP, as well as all comments and other information submitted to the City of Clayton in connection with the Project and the IS/MND; and

   b. The IS/MND contains a complete and accurate reporting of the environmental impacts associated with the Project, and the IS/MND has been completed in compliance with CEQA and the State CEQA Guidelines; and

   c. The evidence in the administrative record, including, without limitation, the analysis set forth in the IS/MND and its supporting technical studies, demonstrate that, with the incorporation of the identified mitigation set forth in the MMRP, the Project will not have any potentially significant environmental impacts; and

   d. There is no substantial evidence in the administrative record supporting a fair argument that the Project may have a significant effect on the environment with the incorporation of the mitigation measures identified in the MMRP; and

   e. The Final IS/MND and MMRP reflect the City's independent judgment and analysis and contain a complete, objective, and accurate reporting of the environmental impacts associated with the Project.

4. The Clayton Planning Commission hereby adopts the Clayton Community Church Initial Environmental Study/Mitigated Negative Declaration and approves the Mitigation Monitoring and Reporting Program attached as Exhibit A to this Resolution.

5. The documents and materials that constitute the record of proceedings on which these findings are based are located at Clayton City Hall, at 6000 Heritage Trail, Clayton, CA 94517.

(Remainder of page intentionally left blank.)

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 27th day of April, 2021.

AYES: Chair A.J. Chippero, Vice Chair Terri Denslow, Commissioner Bassam Altwal, Commissioner Frank Gavidia, and Commissioner Ed Miller

NOES: None

ABSTAINED: None

ABSENT: None

APPROVED:

A.J. Chippero
Chair

ATTEST:

Dana Ayers
Interim Community Development Director

Planning Commission Resolution No. 02-2021
Exhibit A

Clayton Community Church Project
Mitigation Monitoring and Reporting Program

April 2021

The California Environmental Quality Act (CEQA) and the CEQA Guidelines require Lead Agencies to adopt a program for monitoring the mitigation measures required to avoid the significant environmental impacts of a project. The Mitigation Monitoring and Reporting Program (MMRP) ensures that mitigation measures imposed by the City are completed at the appropriate time in the development process.

The mitigation measures identified in the Initial Study/Mitigated Negative Declaration (IS/MND) for the Clayton Community Church Project (proposed project) are listed in the MMRP along with the party responsible for monitoring implementation of the mitigation measure, the milestones for implementation and monitoring, and a sign-off that the mitigation measure has been implemented.

MITIGATION MONITORING AND REPORTING PROGRAM CLAYTON COMMUNITY CHURCH PROJECT			
Mitigation Measure	**Monitoring Agency**	**Implementation Schedule**	**Compliance Verification (Date / Initials)**
Air Quality			
Mitigation Measure 1. *Prior to the initiation of ground disturbance, the project applicant shall ensure that all heavy-duty off-road diesel-powered equipment to be used in the construction of the project (including owned, leased, and subcontractor equipment) shall be CARB Tier 4 Interim or cleaner.* *In addition, all off-road equipment working at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to five minutes or less in accordance with the Off-Road Diesel Fueled Fleet Regulation as required by CARB. Portable equipment over 50 horsepower must have either a valid District Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.* *The aforementioned requirements shall be noted on improvement plans and submitted for review and approval by the Community Development Director for the City of Clayton.*	City of Clayton Community Development Department	Mitigation requirements shall be shown on improvement plans	
Biological Resources			
Mitigation Measure 2. *Special-status plant surveys shall be conducted in accordance with CNPS and CDFW protocols throughout the project site within two years prior to the commencement of construction. The CNPS and CDFW protocols require that the surveys be conducted at the time of year that the target species are most identifiable; this often requires multiple survey visits to capture the identifiable period of all target species. If special-status plant species are not found, further mitigation would not be required. If special-status plants are found and will be impacted, mitigation for those impacts shall be determined in coordination with CDFW. If the plant found is a perennial, then mitigation could consist of digging up the plant and transplanting it to a suitable nearby avoided area prior to construction. If the plant found is an annual, then mitigation could consist of collecting seed-bearing soil and spreading it in a suitable nearby avoided area prior to construction.* *A report summarizing the survey shall be provided to the City of Clayton within 14 days of the completed survey. If special-status plant species are not found,*	City of Clayton Community Development Department CDFW (If special-status plants are found and will be impacted)	Prior to the commencement of construction	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
further mitigation is not required.			
Mitigation Measure 3. *Within 14 days prior to construction activities, a qualified biologist shall conduct a take avoidance survey for active bumble bee colony nesting sites. In order to maximize detection of active bee colonies, the take avoidance survey shall be conducted during the spring, summer, or fall during appropriate weather (not during cool overcast, rainy, or windy days). The biologist shall walk the entire area proposed for grading and inspect all rodent burrows for bumble bee activity. If any bumble bees are detected during the survey, the species shall be identified. Active colonies of crotch bumble bee or western bumble bee shall be avoided and work shall not occur within 50 feet of the colony. If the colony is in a location proposed for development, consultation for the CDFW shall be necessary and an Incidental Take Permit from the CDFW may be required prior to disturbance.* *A report summarizing the survey shall be provided to the City of Clayton within 14 days of the completed survey. If crotch bumble bee or western bumble bee nests are not found, further mitigation is not required.*	City of Clayton Community Development Department CDFW (If colony is found and will be impacted)	Within 14 days prior to construction activities	
Mitigation Measure 4. *A targeted take avoidance burrowing owl nest survey shall be conducted within all accessible areas within 250 feet of the proposed construction area within 14 days prior to construction activities utilizing 60-foot transects, as outlined in the 2020 California Department of Fish and Game Staff Report on Burrowing Owl Mitigation. If an active burrowing owl nest burrow (i.e., occupied by more than one adult owl, and/or juvenile owls are observed) is found within 250 feet of a construction area, construction shall cease within 250 feet of the nest burrow until a qualified biologist determines that the young have fledged or it is determined that the nesting attempt has failed. If the applicant desires to work within 250 feet of the nest burrow, the applicant shall consult with CDFW to determine if the nest buffer can be reduced. During the non-breeding season (late September through the end of January), the applicant may choose to conduct a survey for burrows or debris that represent suitable nesting habitat for burrowing owls within areas of proposed ground disturbance, exclude any burrowing owls observed, and collapse any burrows or remove the debris in accordance with the methodology outlined by the CDFW.*	City of Clayton Community Development Department CDFW (If active nest burrow is found and applicant desires to work within 250 feet of burrow)	Within 14 days prior to construction activities	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
A report summarizing the survey shall be provided to the City of Clayton within 14 days of the completed survey. If western burrowing owl nests are not found, further mitigation is not required.			
Mitigation Measure 5(a). *A preconstruction nesting bird survey shall be conducted by a qualified biologist on the project site and within a 500-foot radius of proposed construction areas, where access is available, no more than 14 days prior to the initiation of construction. If there is a break in construction activity of more than two weeks, subsequent surveys shall be conducted.* *If active raptor nests are found, construction activities shall not take place within 500 feet of the nest until the young have fledged. If active songbird nests are found, a 100-foot no disturbance buffer shall be established. The no-disturbance buffers may be reduced if a smaller buffer is proposed by the project biologist, and approved by the City, after taking into consideration the natural history of the species of bird nesting, the proposed activity level adjacent to the nest, habituation to existing or ongoing activity, and nest concealment (if there are visual or acoustic barriers between the proposed activity and the nest). A qualified biologist shall visit the nest as needed to determine when the young have fledged the nest and are independent of the site, or the nest can be left undisturbed until the end of the nesting season.* *A report summarizing the survey shall be provided to the City of Clayton within 14 days of the completed survey. If raptor or songbird nests or nests of birds protected by the MBTA are not found, further mitigation is not required.*	City of Clayton Community Development Department	No more than 14 days prior to the initiation of construction	
Mitigation Measure 5(b). *Should construction activities cause a nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest as a result of construction activities, then the exclusionary buffer shall be increased such that activities are far enough from the nest to stop the agitated behavior. The exclusionary buffer shall remain in place until the chicks have fledged or as otherwise determined by a qualified biologist. Construction activities may only resume within the buffer zone after a follow-up survey by the Project Biologist has been conducted and a report has been prepared and submitted to the City, indicating that the nest (or nests) are no longer active and that new nests have not been identified.*	City of Clayton Community Development Department	During construction activities, if such activities cause a nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
Mitigation Measure 6. *A qualified biologist shall conduct a bat habitat assessment of all potential roosting habitat features within the proposed development footprint. The habitat assessment shall identify all potentially suitable roosting habitat and may be conducted up to one year prior to the start of construction. A report summarizing the survey shall be provided to the City of Clayton within 14 days of the completed survey. If roosting bats are not found, further mitigation is not required.* *If potential roosting habitat is identified within the areas proposed for development, the biologist shall survey the potential roosting habitat. Ideally, this survey should be conducted during the active season (generally April through October or from January through March on days with temperatures in excess of 50 degrees Fahrenheit) to determine the presence of roosting bats. The surveys are recommended to be conducted using methods that are considered acceptable by the CDFW and bat experts. Methods may include evening emergence surveys, acoustic surveys, inspecting potential roosting habitat with fiberoptic cameras, or a combination thereof.* *If roosting bats are identified within any of the trees or buildings planned for removal, or if presence is assumed, then the qualified bat biologist shall specify appropriate exclusion methods according to where the roosting bats are located and what season the exclusion must occur. These exclusion methods may include two-step tree removal or building exclusion as detailed below.* *In general, the trees/buildings shall be removed outside of pup season only on days with temperatures in excess of 50 degrees Fahrenheit. Pup season is generally during the months of May through August. Two-step tree removal involves removal of all branches of the tree that do not provide roosting habitat on the first day, and then the next day cutting down the remaining portion of the tree. Building exclusion methods may include such techniques as installation of passive one-way doors, or the installation of netting when the bats are not present to prevent their reoccupation. Once the bats have been excluded, tree removal may occur. Removal of trees/buildings where roosting habitat is not identified during the survey is recommended to be conducted from January*	City of Clayton Community Development Department	Within one year prior to the start of construction	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
through March on days with temperatures in excess of 50 degrees Fahrenheit to avoid potential impacts to foliage-roosting bat species.			
Mitigation Measure 7. *The following tree protection measures shall be implemented pursuant to the recommendations listed in the Arborist Report, to the extent feasible:* • *The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the existing trees to be retained, as identified in the Arborist Report; and* • *The project applicant shall include all recommendations provided in the Updated Arborist Report by Trees, Bugs, Dirt Landscape Consulting and Training within the Tree Protection Plan. The Tree Protection Plan shall meet the standards provided in Section 15.70.45 of the Municipal Code, and shall include, but not necessarily be limited to, the establishment of TPZs and protective fencing around trees to be preserved; temporary irrigation systems to be provided for each tree; the installation and maintenance of at least two inches of wood chip mulch within the protected soils within each TPZ; air spade trenching; root pruning and clearance pruning; and the prohibition of oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials within the dripline of trees to be preserved.*	City of Clayton Community Development Department	In conjunction with submittal of improvement plans	
Mitigation Measure 8. *A tree replacement plan for the removal of 58 inches of cumulative trunk diameter of protected tree species shall be prepared in accordance with Municipal Code Section 15.070.040 A1. or A.2., or, subject to determination by the Community Development Director or Planning Commission, the applicant must pay an in-lieu fee to the City for the purchase and installation of trees of equivalent value.*	City of Clayton Community Development Department	Prior to the issuance of a grading permit	
Cultural Resources			
Mitigation Measure 9. *Prior to the issuance of a grading permit, the grading plan shall include a requirement (via notation) indicating that if cultural resources, tribal cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall*	City of Clayton Community Development Department	Prior to the issuance of a grading permit	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken.			
Mitigation Measure 10. *Pursuant to State Health and Safety Code §7050.5(c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. Additional work is not to take place in the immediate vicinity of the find, which shall be identified by the qualified archaeologist at the applicant's expense, until the preceding actions have been implemented.*	City of Clayton Community Development Department Contra Costa County Coroner NAHC, if remains are determined to be Native American	During ground disturbing activities	
Geology and Soils			
Mitigation Measure 11. *Prior to approval of the improvement plans for the project, all recommendations from the Geotechnical Investigation prepared by Cornerstone Earth Group (2019) and the Geotechnical Response to Comments prepared by Cornerstone Earth Group (2020) shall be incorporated into the improvement plans to the satisfaction of the City Engineer.* *In addition, the applicant shall retain a California Registered Geotechnical Engineer to review the geotechnical aspects of the project's structural, civil, and landscape plans and specifications, allowing sufficient time to provide the design team with any comments prior to issuing plans for construction. The geotechnical engineer shall perform field observations during earthwork and foundation construction to confirm project compliance with project plans, project specifications, and the recommendations provided in Cornerstone's Geotechnical Investigation and Geotechnical Peer Review Response Memo. The on-site geotechnical engineer shall have the authority to provide supplemental*	City Engineer	Measures shall be incorporated into improvement plans prior to approval; Measures shall be implemented during earthwork and foundation construction	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
recommendations as necessary based on site conditions. Compliance with the recommendations of the Geotechnical Engineer shall be provided to the City Engineer.			
Mitigation Measure 12. *Prior to the issuance of a grading permit, the project applicant shall prepare to the satisfaction of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions should include, but are not limited to:* • *Hydro-seeding;* • *Placement of erosion control measures within drainage ways and ahead of drop inlets;* • *The temporary lining (during construction activities) of drop inlets with "filter fabric";* • *The placement of straw wattles along slope contours;* • *Use of a designated equipment and vehicle "wash-out" location;* • *Use of siltation fences;* • *Use of on-site rock/gravel road at construction access points; and* • *Use of sediment basins and dust palliatives.*	City Engineer	Prior to the issuance of a grading permit	
Hazards and Hazardous Materials			
Mitigation Measure 13. *Prior to initiation of any ground disturbance activities, the applicant shall hire a licensed well contractor to obtain a well abandonment permit from Contra Costa Health Services and properly abandon the on-site well to the satisfaction of the Contra Costa Health Services Department. Proof of abandonment shall be provided to the City of Clayton Community Development Department and City Engineer.*	City of Clayton Community Development Department City Engineer Contra Costa Health Services Department	Prior to initiation of any ground disturbance activities	
Mitigation Measure 14. *Prior to issuance of a demolition permit for any on-site structures, the Developer shall consult with certified Asbestos and/or Lead Risk Assessors to complete and submit for review to the City of Clayton Community*	City of Clayton Community Development	Prior to issuance of a demolition permit	

MITIGATION MONITORING AND REPORTING PROGRAM CLAYTON COMMUNITY CHURCH PROJECT			
Mitigation Measure	**Monitoring Agency**	**Implementation Schedule**	**Compliance Verification (Date / Initials)**
Development Director an asbestos and lead survey. If ACMs or lead-containing materials are not discovered during the survey, further mitigation related to ACMs or lead containing materials will not be required. If ACMs and/or lead-containing materials are discovered by the survey, the project applicant shall prepare a work plan to demonstrate how the on-site ACMs and/or lead-containing materials shall be removed in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and disposed of in accordance with all California Environmental Protection Agency regulations, prior to the demolition and/or removal of the on-site structures. The applicant shall submit the work plan to the City for review and approval.	Department		
Noise			
Mitigation Measure 15. *To the maximum extent practical, the following measures should be incorporated into the project construction plans:* • *Pursuant to Section 15.01.101 of the Clayton Municipal Code, all grading and excavation, construction, demolition, renovation, and other works of improvement shall occur only between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday.* • *The project shall utilize temporary construction noise control measures, including the use of temporary noise barriers, or other appropriate measures as mitigation for noise generated during construction of projects.* • *All noise-producing project equipment and vehicles using internal-combustion engines shall be equipped with manufacturers-recommended mufflers and be maintained in good working condition.* • *All mobile or fixed noise-producing equipment used on the project site that are regulated for noise output by a federal, state, or local agency shall comply with such regulations while in the course of project activity.* • *Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment, where feasible.* • *Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors.* • *Project area and site access road speed limits shall be established and*	City Engineer	Prior to the issuance of a grading permit	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
enforced during the construction period. • *Nearby residences shall be notified of construction schedules so that arrangements can be made, if desired, to limit their exposure to short-term increases in ambient noise levels.* *The requirements above shall be included, via notation, on the final grading plan submitted for review and approval by the Community Development Director prior to grading permit issuance.*			
Tribal Cultural Resources			
Mitigation Measure 16. *Implement Mitigation Measure 9 and Mitigation Measure 10 within Section 5, Cultural Resources, of this IS/MND.*	City of Clayton Community Development Department Contra Costa County Coroner NAHC, if remains are determined to be Native American	Prior to the issuance of a grading permit and during any ground disturbing activities	

CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 03-2021

A RESOLUTION OF THE CLAYTON PLANNING COMMISSION APPROVING A USE PERMIT (UP-05-16), SITE PLAN REVIEW PERMIT (SPR-06-16), AND TREE REMOVAL PERMIT (TRP-38-16) FOR THE CLAYTON COMMUNITY CHURCH PROJECT

WHEREAS, the City received an application from Clayton Community Church requesting review and approval of a Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), Tree Removal Permit (TRP-38-16), and related Environmental Review (ENV-03-16) for development of a new 13,998 square foot church building ("Project") located on a 4.4-acre parcel at 1027 Pine Hollow Court, (Assessor's Parcel No.: 119-050-036-1); and

WHEREAS, the City prepared an Initial Study/Mitigated Negative Declaration ("IS/MND") and Mitigation Monitoring and Reporting Program ("MMRP") to evaluate the potential environmental impacts of the Project, in accordance with Section 15063 of Title 14 of the California Code of Regulations, the California Environmental Quality Act ("CEQA") Guidelines; and

WHEREAS, the Clayton Planning Commission adopted Resolution No. 02-2021 approving and adopting the Clayton Community Church Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program at the Planning Commission meeting of April 27, 2021; and

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

WHEREAS, on April 27, 2021 the Clayton Planning Commission held a duly-noticed public hearing on the Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16), and received and considered testimony and evidence, both oral and documentary.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission does determine the foregoing recitals are true and correct and makes the following findings for approval of the Use Permit application:

A. That the use shall be in conformity with the General Plan and any applicable specific plan;

The proposed church conforms to the Clayton General Plan because the Land Use Element specifies that churches and places of worship are allowed in areas residential land use designation (the subject property's General Plan land use designation is Estate Residential) provided they meet the requirements of the underlying zoning district and applicable General Plan Policies. The City's zoning code allows a church in a residential zoning district through the approval of a Use Permit. In addition, the proposed building and landscape design conform to the policies of the Community Design Element that emphasize maintaining Clayton's rural neighborhood character in several important respects. Specifically, the project incorporates generous building setbacks to maintain

ample open space. The building is set back 117 feet from the front property line. The low profile of the building and its small scale relative to the size of the property (13,998 square feet of floor area on a 4.4-acre parcel, or a floor area ratio [FAR] of 0.07) represent a very low-density form of development that is compatible with the rural character of the area. In addition, abundant landscaping including 52 new trees to be planted, would help the development to blend into the rural environment and provide screening between the new building and surrounding properties. The anticipated traffic levels associated with the project, as analyzed and documented in the traffic study by TJKM, are within the acceptable thresholds defined in the Circulation Element.

The proposed project is not located within a specific plan area.

B. That the use shall be in conformity with City-adopted standards.

The proposed project conforms to all applicable City standards, including development regulations and standards in the zoning code. The required building setbacks, building height, number and dimensions of auto parking spaces, number of bicycle parking spaces, landscaping requirements, planting of new trees, and height of parking lot lighting fixtures are all in compliance with the City's zoning code. For elements of the project where the zoning code allows flexibility in the requirements, such as the parking lot landscaping standards and maximum illumination level for parking lot lighting, some relaxation of standards is appropriate due to innovative landscape designs, operational characteristics, considerations for the safety of attendees at evening events, and physical site constraints including steep slope on over one-third of the project site.

C. That the use shall not negatively affect the general safety (e.g., seismic, landslide, flooding, fire, traffic) of the City or surrounding area.

The applicant has incorporated design measures into the project that respond to the site conditions and potential hazards related to seismic, landslide and flooding. The project would adhere to the seismic design provisions of the California Building Code. The deck on the eastern side of the building, where the property begins to slope down toward Mitchell Creek, would be supported by drilled, cast-in-place friction piers to maximize building safety and reduce the risk of property damage in the event of a landslide. The on-site stormwater management system is designed to detain and treat stormwater on the subject property and then slowly release it to the existing vegetated slope on the eastern portion of the site, which would reduce the risk of erosion or flooding due to construction of the building and surrounding impervious surface areas such as parking lot and paved walkways. California Building Code requirements related to fire safety for new development in the wildland-urban interface, such as automatic fire sprinklers and a fire alarm system, would be incorporated into the project to reduce fire hazard. Traffic associated with the proposed church would mainly occur during the evenings and weekends, i.e., during off-peak vehicle travel times, and thus, traffic generated by the project would remain within acceptable levels of service as defined in the Clayton General Plan Circulation Element.

D. That the use shall not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City.

The proposed church would not create negative impacts related to public health and welfare. A church is not a land use type that is typically associated with detrimental impacts

such as noise, pollution, crime, litter, or other public nuisances. Rather, the church would provide positive activities and programming for adults, children, and youth, and would serve as a gathering place for members of the community.

E. That the permit will be in accord with the purpose of Use Permits as stated herein.

Section 17.60.020(C) of the Clayton Zoning Code states that the purpose of a Use Permit is to "identify those types or aspects of development which may not be…compatible with development permitted as a matter of right….and to impose such conditions and restrictions, as necessary, to promote compatibility." Factors considered in the review of plans and supporting application materials for the proposed church include the project's compatibility with the surrounding area, including residential uses to the south and west, the elementary school to the north, and commercial uses to the east, as well as traffic, parking, exterior lighting, and building scale and design.

The proposed church, while larger in scale than residences in the surrounding area, is comparable in size and scale with the adjacent elementary school and the commercial uses to the east on the other side of Mitchell Creek. The building height of less than 30 feet, large lot size, generous building setbacks, fencing, and ample landscaping would serve to help the proposed church blend into the existing rural neighborhood setting and would maintain privacy for nearby residences. Traffic associated with the proposed church would mainly occur on Sundays during the day and on weekday evenings, such that it would not coincide or overlap with traffic associated with the adjacent elementary school. The proposed church would have 157 parking spaces plus three tandem stalls, which is sufficient to accommodate the number of vehicles for attendees at weekly Sunday services and other ongoing church activities. The Mount Diablo Unified School District has indicated its willingness to enter into a shared parking agreement that would allow church visitors to use parking lot of the adjacent elementary school for overflow parking during non-school hours, which would accommodate additional vehicles during special church events, including Easter Sunday and Christmas Eve worship services. Exterior lighting in the parking lot has light sources limited to 10 feet in height and bulbs pointed downward to avoid light spillage onto other nearby properties and to maintain a dark night sky to the maximum extent possible. The design of the building is unpretentious and incorporates natural materials such as wood and stone, enhancing compatibility with the rustic character of the surrounding area. The landscape design features native Valley Oak trees along the street frontage of the property, helping the new development to blend into the existing semi-rural community.

Based on these factors, the Planning Commission affirms that approval of a Use Permit for the proposed church is consistent with the purpose of such permits as intended in the Zoning Code.

NOW THEREFORE BE IT FURTHER RESOLVED, the Planning Commission hereby makes the following required findings for approval of a Site Plan Review Permit:

A. That the project conforms with the General Plan and any applicable Specific Plan.

The project conforms with the Clayton General Plan, as noted above in Finding A for the Use Permit application. The project site is not located within a specific plan area.

B. Conforms with any applicable City adopted architectural and/or design standards.

There are no specific adopted architectural or design standards for the project area. The proposed church meets the general intent and requirements of design review that apply to a project subject to a Site Plan Review Permit, i.e., the project is complementary with the adjacent existing structures in terms of materials, colors, size, and bulk, as described above in Findings A and E for the Use Permit application.

C. Preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.

The project preserves community safety related to seismic, landslide, flooding, fire and traffic as discussed above in Finding C for the Use Permit application.

D. Maintains solar rights of adjacent properties.

The proposed building is less than 30 feet in height and is set back from all property lines by distances ranging from 87 feet 2 inches (north property line) to 255 feet 4 inches (south property line); thus, it would not create shadows nor impact solar access on adjacent properties.

E. Reasonably maintains the privacy of adjacent property owners and/or occupants.

The project design includes new trees to be planted along the western and northern property lines, which would help maintain privacy for residential properties to the west across Pine Hollow Court and for the elementary school to the north. Existing trees along the southern property line would remain. The proposed building is more than 200 feet from the nearest buildings to the south and east, and thus would not create privacy concerns for these properties.

F. Reasonably maintains the existing views of adjacent property owners and/or occupants.

The proposed maximum building height is 29 feet 8 inches, and the building is located over 200 feet from the nearest residence (to the west across Pine Hollow Court). The second-story element of the building is relatively small (2,857 square feet, or about 20 percent of the total floor area of the building). Although the building's upper story would create a partial obstruction of the views of the ridgeline and hills to the east, as seen from Pine Hollow Court and the properties directly to the west, these view impacts would be minor. Overall, the project would maintain existing views from surrounding properties to a reasonable extent.

G. Is complementary, although not identical, with adjacent existing structures in terms of materials, colors, size, and bulk.

The project design is complementary with existing structures in the surrounding area, as described above in Findings A and E for the Use Permit application.

H. Is in accordance with the design standards for manufactured homes per Section 17.36.078.

Not applicable – the project does not include manufactured homes.

NOW THEREFORE BE IT FURTHER RESOLVED, the Planning Commission hereby makes the following required findings for approval of a Tree Removal Permit:

Clayton Municipal Code (CMC) Section 15.70.035 states a tree removal permit shall not cause or increase erosion in the vicinity of the tree and shall meet at least one of the following standards:

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.

This standard applies to 31 of the 48 trees proposed for removal. The poor condition and health of these trees was verified by a certified arborist and documented in the arborist report submitted by the applicant. In addition, a brush fire on project site in July 2020 caused damage to many of the trees that were already in poor health.

B. The tree is causing damage or posing a danger to an existing structure, improvement, or other tree.

Not applicable to this project. Trees proposed to be removed for the project are not proposed to be removed to eliminate or remove the threat of a hazard.

C. The tree needs to be removed to allow construction of an improvement that is related to a development application.

This standard applies to 35 of the trees proposed for removal (note: some trees are both in poor/weakened condition and need to be removed to allow construction of the building and improvements). The 35 trees that would be removed to accommodate the project are located within the development footprint, i.e., the footprint of the building, parking lot, walkways, stormwater management facilities, and/or other required infrastructure and improvements.

D. The tree is obstructing or damaging utility service.

Not applicable to this project. Trees proposed to be removed for the project are not proposed to be removed to eliminate obstruction of a 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.

There are seven trees on the project site that must be replaced pursuant to the City's Tree Protection Ordinance because they are protected trees in good health that are proposed for removal to accommodate development. Section 15.70.040 of the Clayton Municipal Code requires that the applicant plant new replacement trees having a

cumulative trunk diameter of at least 50 percent of that of the trees to be removed. The cumulative trunk diameter of the seven healthy trees to be removed is 116 inches. The applicant has submitted a planting plan that includes 52 new trees, with a cumulative trunk diameter of 1,338 inches.

NOW THEREFORE BE IT FURTHER RESOLVED, The Clayton Planning Commission does hereby approve the Use Permit (UP-05-16), Site Plan Review Permit (SPR-06-16), and Tree Removal Permit (TRP-38-16) for Clayton Community Church, a new 13,998 square foot church building located on a 4.4-acre parcel at 1027 Pine Hollow Court (APN: 119-050-036-1), subject to the following conditions:

GENERAL CONDITIONS

1. The project shall comply with the Clayton Municipal Code. All construction shall conform to City of Clayton regulations and standards.

2. The developer shall comply with all applicable State and County codes, regulations, and standards as well as pay all associated fees and charges.

3. The developer shall obtain the necessary building permits from the Contra Costa County Building Inspection Department. All construction shall conform to the California Building Code.

4. The developer shall comply with all mitigation measures listed in the CEQA environmental documents, including all Mitigation Measures prepared for this project. The Community Development Director shall interpret the mitigation measures and furnish the developer with specific improvements to be installed or procedures to follow.

5. The project shall be implemented as indicated on the application form and accompanying materials provided to the City and in compliance with the Clayton Municipal Code, or as amended by the Planning Commission.

6. No building permit will be issued unless the plan conforms to the project description and materials as approved by the Planning Commission and the standards of the City.

7. This approval expires two years from the date of approval (expires April 27, 2023), unless a building permit has been issued on or prior to that date and construction has commenced and been diligently pursued, or unless an extension of this approval has been approved by the Planning Commission. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one-year extension shall be granted.

8. No permits or approvals, whether discretionary or mandatory, shall be considered if the developer is not current on fees, reimbursement payments, and any other payments that are due.

9. This approval supersedes previous approvals, if any, that have been granted for this site.

10. The general contractor shall install and maintain the erosion and sedimentation control devices around the work premises per the most current NPDES Municipal Regional Permit (MRP). Current MRP is 2.0 and upcoming permit will be MRP-3.0.

11. All required easements or rights-of-way shall be obtained by the developer at no cost to the City of Clayton. Advance permission shall be obtained from any property owners or easement holders for any work done within such property or easements.

12. Prior to issuance of the certificate of occupancy for building associated with this approval, the public improvement for the property including streets, sewers, storm drains, street lights, and traffic signs required for access to the site shall be completed to the sole satisfaction of the City Engineer or City Traffic Engineer.

13. City staff shall inspect the site for compliance with conditions of approval and approved plans prior to issuance of a certificate of occupancy.

14. The developer shall obtain an encroachment permit for all work to be done within the public right-of-way or easement, and peak commute-hour traffic shall not be impeded by construction-related activity. All on-site improvements not covered by the building permit including walkways, driveways, paving, sewers, drainage, curbs, and gutters must be constructed in accordance with approved plans and/or standards and a Site Development Permit approved by the City Engineer.

15. All existing easements shall be identified on the site plan and all plans that encroach into existing easements shall be submitted to the easement holder for review and approval, and advance written permission shall be obtained from any property owner or easement holder for any work done within such property or easement.

16. Building permits for retaining walls shall be obtained as follows:
    a. For major walls over 3 feet in height to be constructed during the mass-grading phase, obtain a building permit prior to issuance of the grading permit.
    b. For all other walls, obtain a building permit prior to issuance of permits for structures on the respective lot in accordance with the applicable California Building Code Standards.

PLANNING CONDITIONS

17. The project is subject to development impact fees. The developer shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Wildlife.

18. Any major changes to the project shall require Planning Commission review and approval. Any minor changes to the project shall be subject to City staff review and approval.

19. No permits or approvals, whether discretionary or mandatory, shall be considered if the developer is not current on fees, reimbursement payments, and other fees that are due.

20. Prior to the commencement of grading, demolition, or construction activities, the developer shall submit a recycling plan for construction materials to the City for review and approval. The plan shall include that all materials that would not be acceptable for disposal in the sanitary landfill be recycled/reused. Documentation of the material type, amount, where

taken, and receipts for verification and certification statements shall be included in the plan. The developer shall submit deposits to the City to ensure good faith efforts of construction and demolition recycling. A deposit of $14,000 shall be submitted prior to issuance of the building permit demolition permit. Appropriate documentation regarding recycling shall be provided to the City. All staff costs related to the review, monitoring, and enforcement of this condition shall be charged to the deposit account.

21. Prior to issuance of demolition permits for on-site structures, the developer shall show compliance with the NPDES Municipal Regional Permit (MRP 2.0) issued by the San Francisco Regional Water Quality Control Board regarding Mercury control and disposal. Building and site assessment shall be conducted to determine if any Mercury-containing devices (e.g., thermostats, etc.) or sources exist. If the assessment identifies any Mercury-containing devices or equipment, the devices or equipment shall be properly removed and disposed of at an acceptable recycling facility or landfill, so that demolition activities do not result in Mercury being scattered on site or entering storm drains. Where applicable, documentation of site assessment and proper disposal shall be provided to the Community Development Department prior to the issuance of any new construction permit.

22. Prior to the issuance of demolition permits, the developer shall show compliance with the NPDES Municipal Regional Permit (MRP 2.0) issued by the San Francisco Regional Water Quality Control Board regarding polychlorinated biphenyl (PCB) control and disposal. The developer shall ensure proper management of potential PCB-containing materials and wastes during building demolition and disposing of PCB properly, so that demolition activities do not result in PCB entering storm drains. Prior to issuance of demolition permits, the developer shall submit to the Community Development Department an analysis of the existing structures having PCB concentrations below 50 parts per million (ppm), or provide written documentation and evidence as to the type and style of all structures to be demolished that are single-family residential and/or wood frame structures. If the developer is unable to obtain compliance by either of these measures, the developer shall abate any PCB at or above 50 parts per billion (ppb) in accordance with an approved disposal plan to be submitted to the Community Development Department prior to issuance of demolition permits.

23. At least thirty (30) days prior to any demolition or groundbreaking activities, the developer shall retain an exterminator who shall evaluate the site and make recommendations for the control and/or eradication of any on-site rodents. The exterminator's recommendations shall be subject to the review and approval of the Community Development Director. The developer shall comply with the approved exterminator's recommendations prior to initiation of any demolition or groundbreaking activities.

24. The developer agrees developer 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 attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions. In addition, if there is any referendum or other election action to contest or overturn these approvals, the developer shall either withdraw the application or pay all City costs for such an election.

NOISE CONTROL, DUST AND CONDITIONS FOR CONSTRUCTION ACTIVITY

25. All construction and other work shall occur 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).

26. An encroachment permit is required for all work in the public right-of-way. Restoration of existing improvements (curb, gutter, sidewalk, street section, etc.) shall be to the City of Clayton standards and as approved by the City Engineer.

27. The project shall be in compliance with and supply all the necessary documentation to comply with the City of Clayton Construction and Demolition Debris Recycling Program.

28. Driveway access to neighboring properties shall be maintained at all times during construction.

29. Standard dust control methods shall be used to stabilize the dust generated by construction activities in accordance with the Bay Area Air Quality Management District standards.

30. The site shall be fenced with locked gates by 7:00 p.m. The gates shall remain locked until 7:00 a.m. Contractors shall not arrive at the site prior to the opening of the gates. The name and contact information shall be placed at locations on the site for neighbors to contact in the circumstance there is a concern that needs to be addressed to the satisfaction of the City Engineer.

31. All construction equipment utilizing combustion engines shall be equipped with "critical" grade (rather than "stock" grade) noise mufflers or silencers that are in good condition. Back up "beepers" shall be tuned to insure lowest possible noise levels while also serving the safety purpose of the backup sound indicator.

32. Stationary noise sources shall be located at least 300 feet away from any occupied residential or business dwellings unless noise-reducing engine housing enclosures or other appropriate noise screens are provided.

33. Speeds of construction equipment shall be limited to 10 miles per hour (mph). This includes equipment traveling on local streets to and from the site.

34. Access shall be maintained to all driveways at all times.

35. There shall be no parking of construction equipment or construction worker's cars on residential or business streets at any time. A staging area shall be secured prior to issuance of a grading or building permit as determined necessary by the City Engineer.

36. Truck routes for the import or export of cut/fill material shall be identified and approved by the City Engineer prior to the issuance of any permits. Developer shall be responsible for the repair of any damage to City streets (private and public) caused by the contractor's or subcontractor's vehicles.

37. Prior to construction, developer shall ensure that the contractor shall contact City inspector for a pre-construction meeting. Haul route shall be submitted for review and approval by the City Engineer.

38. All construction activities must be designed to minimize potential spills from equipment and to provide a planned response in the event an accidental spill occurs. The developer shall maintain spill equipment on site; there shall be a designated area if refueling takes place on site. Developer shall insure all construction personnel are trained in proper material handling, cleanup and disposal procedures.

39. Prior to any demolition activities, the developer shall obtain a demolition permit. All demolition activities be performed in accordance with the Bay Area Air Quality Management District Regulation 11 Hazardous Pollutants, Rule 2 Asbestos Demolition, Renovation, and Manufacturing. The purpose of this Rule is to control emissions of asbestos to the atmosphere during demolition, renovation, milling and manufacturing and establish appropriate waste disposal procedures. These requirements specify the appropriate methods for survey, demolition/removal, and disposal of asbestos materials to control emissions and prevent hazardous conditions. Specifications developed for the demolition activities shall include the proper packaging, manifesting and transport of demolition wastes by trained workers to a permitted facility for disposal in accordance with local, State, and Federal requirements.

40. Prior to demolition or renovation activities that may disturb suspected lead-based paint (LBP), actual material samples shall be collected or an XRF survey performed in order to determine if LBP is present. It should be noted that construction activities that disturb materials or paints containing any amount of lead are subject to certain requirements of the Occupational Safety and Health Administration (OSHA) lead standard contained in 29 CFR 1910.1025 and 1926.62. If lead-based paint is identified, the paint shall be removed by a qualified lead abatement contractor. Specifications developed for the demolition activities shall include the proper packaging, manifesting, and transport of demolition wastes by trained workers to a permitted facility for disposal in accordance with local, State, and Federal requirements.

PROPERTY MAINTENANCE

41. A parking lot sweeping program shall be implemented that, at a minimum, provides for sweeping immediately prior to the storm season and prior to each storm event.

42. The site shall be kept clean of all debris (litter, boxes, junk, garbage, etc.) at all times.

43. Any undeveloped areas on-site shall be maintained in an attractive manner that ensures fire safety and prevents any runoff onto the adjacent sidewalks.

44. All landscaping and vegetation on the site shall be properly maintained and managed to minimize the risk of wildfire due to overgrowth of vegetation. The developer shall comply with the weed abatement requirements of the Contra Costa County Fire Protection District.

AGENCY REQUIREMENTS

45. Applicable requirements of other agencies including, but not limited to the Contra Costa County Fire District, the Contra Costa Water District, City of Concord (Sanitation), and the East Contra Costa County Habitat Conservancy shall be met.

CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT (CCCFPD) CONDITIONS

46. Access roadways of less than 28-feet unobstructed width shall have signs posted or curbs painted red with the words NO PARKING- FIRE LANE clearly marked.

47. Access roadways of 28 feet or greater, but less than 36-feet unobstructed width shall have NO PARKING- FIRE LANE signs posted, allowing for parking on one side only or curbs painted red with the words NO PARKING - FIRE LANE clearly marked.

48. New buildings shall have approved radio coverage for emergency responders. An emergency responder radio coverage system shall be installed when the conditions of CFC 510.4.1 are not met. Testing shall be conducted and the results submitted to the Fire District prior to the building final.

49. The developer shall provide an adequate and reliable water supply for fire protection as set forth in the California Fire Code.

50. The developer shall provide 2 hydrants of the East Bay type in compliance with Chapter 5 and Appendix D of the California Fire Code.

51. Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site.
Note: A temporary aggregate base or asphalt grindings roadway is not considered an all-weather surface for emergency apparatus access. The first lift of asphalt concrete paving shall be installed as the minimum roadway material and must be engineered to support the designated gross vehicle weight of 22 / 37 tons.

52. The building as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2019 edition of NFPA 13.

53. The owner shall cut down and remove all weeds, grass, vines, or other growth that is capable of being ignited and endangering property.

54. The developer shall submit a minimum of two (2) complete sets of plans and specifications of the subject project, including plans for any of the following required deferred submittals, to the Fire District for review and approval prior to construction to ensure compliance with minimum requirements related to fire and life safety. Plan review and inspection fees shall be submitted at the time of plan review submittal.
    - Building construction plans
    - Private underground fire service water mains
    - Fire sprinklers
    - Fire alarm
    - Commercial kitchen hood extinguishing systems
    - Emergency Responder Radio Coverage System (ERRCS)

FEES

55. The developer shall pay all fees required by the City Council and other applicable agencies.

56. The developer shall pay all required fees at the time of building permit issuance.

GRADING

57. All grading shall be required grading and drainage plan prepared by a registered Civil Engineer, a soils report prepared by a registered Geotechnical Engineer and a Grading Permit approved by the City Engineer. The grading plans and soils report shall require review by the City's geotechnical consultant with all costs to be borne by the developer.

58. All recommendations made in the Soil Engineer's report (unless amended through the City's review) and all recommendations made by the City's geotechnical consultant shall be incorporated into the design and construction of the project.

59. Contour grading techniques with spot elevations shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading.

60. Tops of cuts or toes of fills adjacent to existing public rights-of-way or easements shall be set back 2 feet minimum from said rights-of-way and easements.

61. Erosion control measures shall be implemented by the developer in accordance with plans approved by the City Engineer for all grading work not completed before October 1. At the time of approval of the improvement and/or grading plans, the developer shall file with the City Engineer an approved Erosion Control Plan prepared by a registered Civil Engineer.

62. All graded slopes in excess of 5 feet in height shall be hydroseeded no later than September 15 and irrigated (if necessary) to ensure establishment of vegetation prior to the onset of the rainy season.

63. The developer's engineer shall certify the actual pad elevation for the lot in accordance with City standards prior to issuance of Building Permit.

64. Any grading on adjacent properties will require written approval of those property owners affected.

65. If cultural resources are discovered during subsurface excavations, the Contractor shall cease construction and a qualified archeologist shall be contacted to make recommendations for mitigation.

66. All elevations shown on the grading and improvement plans shall be on the USGS 1929 sea level datum or NAVD 88 with conversion information, or as approved by the City Engineer.

UTILITIES

67. The developer agrees to underground existing and proposed utilities (e.g., transformers and PMH boxes) except existing PG&E towers, if any, or as approved by the City Engineer.

68. Trash enclosures shall drain to sanitary sewer and shall incorporate methods to contain runoff at the front-gate and pedestrian access point to prevent storm water from entering the enclosure.

69. The sewer collection system shall be constructed to function as a gravity system. Sanitary sewer collection system shall be constructed to the standards of the City of Concord and Central Contra Costa Sanitary District. Inspections of sanitary sewer collection system shall be performed by City of Concord under contract to City of Clayton.

70. Water system facilities shall be designed to meet the requirements of Contra Costa Water District and the fire flow requirements of the Contra Costa County Fire Protection District. All requirements of the responsible agency shall be guaranteed prior to approval of the improvement plans. Any required offsite easements shall be obtained by the developer at his/her own expense.

71. A reduced pressure backflow preventer assembly shall be installed on all water meter services.

72. Double detector check fire line backflow assemblies shall be enclosed within an easement granted to Contra Costa Water District, as needed, and at no cost to the City or the District.

73. The developer shall provide adequate water pressure and volume to serve this development, as approved by the City Engineer. This will include a minimum residual pressure of 20 psi with all losses included at the highest point of water service and a minimum static pressure of 50 psi.

74. The developer shall provide an adequate and reliable water supply for fire protection as set forth in the Uniform Fire Code.

75. All onsite utilities shall be privately maintained and connected to public facilities in accordance with City and applicable agency standards, as approved by the City Engineer.

76. All sanitary sewer system connections and improvements shall be submitted for reviewed and approved by the City Engineer and review and comment by the City of Concord (Sanitation).

77. The developer shall be responsible for installation of all utilities and modifications thereto that are necessary to serve the project, including but not limited to water lines and laterals, backflow prevention devices, sanitary sewer system connections, appropriately-sized water line(s) to provide potable water and fire protection, as determined by the City Engineer. Installation of all utilities and modifications thereto shall be completed prior to issuance of a certificate of occupancy for the building.

78. Relocation of public facilities must be performed by CCWD forces.

DRAINAGE AND WATER QUALITY

79. For projects disturbing one (1) acre or more, the developer shall comply with the State Construction General Permit requirements. The developer shall be responsible for preparing the SWPPP, submit all required documents, and obtaining coverage by filing a Notice of Intent (NOI) with State Water Resource Control Board (SWRQB).

80. A copy of the SWPPP and the Notice of Intent (WDID) shall be submitted to the City prior to issuing permits for construction. The SWPPP and the WDID shall be kept at the job site during construction. The WDID number shall be included onto the cover sheet of the Grading Plans for the project.

81. Prior to approval of the grading plans, the developer shall submit a drainage study to the City for review and approval, and to the Contra Costa County Flood Control and Water Conservation District (FC District) for review and comment. The developer shall be responsible to pay directly for the agency's review.

82. Developer shall comply with the requirements of Provision C.3 of the Municipal Regional Permit (MRP) of the State Regional Water Resources Control Board NPDES Permit as applicable to this project.

83. The developer shall submit to the City Engineer a comprehensive Stormwater Control Plan, construction plans, details, and calculations in accordance with the current Contra Costa Clean Water Program (CCCWP) C.3 Guidebook (7th Edition), prior to issuance of a certificate of occupancy for the project. Required offsite improvements and street(s) frontage improvement work shall be considered and included as a part of this project for compliance with C.3 requirements The Stormwater Control Plan watershed drainage map shall include all impervious surface locations (i.e. streets, buildings, parking lots, walkways, etc.) to be used in the calculations for sizing C.3 facilities.

84. CCWP C.3 online calculator shall be used in determining the size of the required C.3 facilities. Submit a printout and attach a copy in the Stormwater Control Plan.

85. Bio-retention basin side slopes shall not be steeper than 3H:1V.

86. Using C.3 bio-retention basin(s) as a detention basin(s) for the mitigation of increased peak flows shall be subject to the City Engineer's approval. If approved by the City Engineer, developer shall submit hydrology and hydraulic study, calculations, and details to demonstrate compliance with the C.3 requirements as well as flood control requirements. Detention basin(s) design parameters and the calculations shall also be in accordance with Contra Costa County Flood Control guidelines.

87. Prior to City Approval of the plans and issuance of permits, the developer shall submit a signed operation and maintenance agreement. The agreement shall be the City's standard form and subject to the review and approval by the City.

88. Stormwater control facilities (C.3 facilities) shall be maintained and operated by the developer/property owner, in perpetuity, in accordance with the Operation and Maintenance Plan. The developer/property owner shall provide periodic and annual inspection reports. The developer is advised this project is subject in perpetuity to the

required (annual) Operations and Maintenance inspections by the City for the C.3 facilities at the costs established and updated annually in the City Fees and Charges Schedule.

89. All storm water flows shall be collected onsite and discharged into an approved public storm drain system. No onsite drainage is allowed to flow over the sidewalk.

90. A structure shall be installed at all pipe intersections, change of direction, or change in slope as approved by the City Engineer.

STREET IMPROVEMENTS

91. Sidewalks, curb, gutter, sidewalk and street pavement shall be constructed and/or replaced (if cracked, broken or damaged) in the public right-of-way along the entire project frontage as required by the City Engineer and at no cost to the City. Driveway aprons shall be removed and/or replaced with new curb, gutter and sidewalk to match the proposed development. Existing street pavement section shall be removed and replaced along the frontage of the property to the centerline of the street if the section is cracked or damaged in any way (regardless if it is damaged by project construction or not), or other roadway preservation methods as approved by the City Engineer. All required public easements or rights-of-way shall be offered to the City. All improvements shall be designed and constructed to the satisfaction of the City Engineer.

92. All streets shall be paved and improved after utilities are installed in accordance with the City of Clayton Standard Drawings and Design Guidelines and the approved plans.

LANDSCAPING

93. Sight distance triangles shall be maintained per Chapter 12.08 of the CMC, Site Obstructions at Intersections, or as approved by the City Engineer. Landscaping and signage shall not create a sight distance problem.

94. Three sets of final landscaping and irrigation plans for the entire site shall be submitted to with the grading and improvement plans for review and approval by the staffs of the Community Development Department, Engineering Department, and the Maintenance Department. All landscaping and irrigation shall be installed in accordance with approved plans prior to the issuance of certificates of occupancy for this building.

95. Landscaping for the project shall be designed to comply with the applicable requirements of City of Clayton Municipal Code and the State Model Water Efficient Landscape Ordinance (MWELO). Prior to issuance of a building permit, the developer shall demonstrate compliance with the applicable requirements of the MWELO in the landscape and irrigation plans submitted to the City.

96. Installation of all irrigation and landscaping shall be performed by a licensed contractor. Open trench inspection of the irrigation installation in areas to be maintained by the City is subject to approval of the Maintenance Department. Prior to the final inspection by the Maintenance Department, the installation shall be approved by the landscape architect.

97. All trees shall be planted at least 10 feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed

with support staking. All nursery stakes must be removed from trees. All trees planted within 8 feet of a sidewalk or driveway shall be installed with root guards.

98. Landscape shall show immediate results. Landscaped areas shall be watered, weeded, pruned, fertilized, sprayed, and/or otherwise maintained as necessary. Plant materials shall be replaced as needed to maintain the landscaping in accordance with the approved plans. Plant material selection shall avoid plant species that are known to be susceptible to disease (e.g., Platanus Blood Good) or drop fruit on hard surfaces and walkways causing a maintenance or safety concern.

PROJECT-SPECIFIC CONDITIONS

99. The parking lot light fixtures shall be dimmed to half the full illumination level, or half of the fixtures shall be turned off, by 10:00 p.m. each night or within 30 minutes after the end of scheduled evening activities at the church, whichever is later, to maintain a dark night sky.

100. Prior to scheduling or holding any outdoor events or activities, such as weddings or memorial services, at the project site, Clayton Community Church shall obtain approval of a Temporary Use Permit from the City Manager pursuant to Clayton Municipal Code Chapter 17.70.

101. The developer shall remove and eradicate any ground squirrel colonies found to exist on the project site prior to undertaking grading or construction activities.

102. The developer shall comply with all environmental mitigation measures identified in the *Clayton Community Church Project Initial Study/Mitigated Negative Declaration, ENV-03-16* (April 2021), and listed in Exhibit A to this resolution.

TREE PROTECTION CONDITIONS

103. The developer shall comply with all recommendations related to tree protection during grading and construction as outlined in the arborist report by Trees, Bugs, Dirt Landscape Consulting dated December 15, 2020.

104. The following construction policies and guidelines for tree preservation and protection put forth by the City of Clayton shall be followed during project implementation:
    a. The developer shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all on- and off-site trees subject to City of Clayton Municipal Code Section 15.70.020.
    b. 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.
    c. 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.
    d. 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.

105. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees or shall be required to pay an in-lieu fee equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.

106. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

EXPIRATION CONDITIONS

107. The Tree Removal Permit (TRP-38-16) shall expire simultaneously with the expiration of the Site Plan Review Permit (SRP-06-16), pursuant to the permit expiration provisions listed in Chapter 17.64 of the Clayton Municipal Code.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 27th day of April, 2021.

AYES:	Chair A.J. Chippero, Vice Chair Terri Denslow, Commissioner Bassam Altwal, Commissioner Frank Gavidia, and Commissioner Ed Miller
NOES:	None
ABSTAINED:	None
ABSENT:	None

APPROVED:

A.J. Chippero
Chair

ATTEST:

Dana Ayers
Interim Community Development Director

Resolution No. 03-2021
Exhibit A
Environmental Mitigation Measures

Clayton Community Church, UP-05-16, SPR-06-16 and TRP-38-16

Mitigation Measure 1.
Prior to the initiation of ground disturbance, the project developer shall ensure that all heavy-duty off-road diesel-powered equipment to be used in the construction of the project (including owned, leased, and subcontractor equipment) shall be California Air Resources Board (CARB) Tier 4 Interim or cleaner.

In addition, all off-road equipment working at the construction site must be maintained in proper working condition according to manufacturer's specifications. Idling shall be limited to five minutes or less in accordance with the Off-Road Diesel Fueled Fleet Regulation as required by CARB. Portable equipment over 50 horsepower must have either a valid District Permit to Operate (PTO) or a valid statewide Portable Equipment Registration Program (PERP) placard and sticker issued by CARB.

The aforementioned requirements shall be noted on improvement plans and submitted for review and approval by the Community Development Director for the City of Clayton, prior to issuance of a building permit for the project.

Mitigation Measure 2
Special-status plant surveys shall be conducted by a qualified biologist hired by the developer. Surveys shall be conducted in accordance with California Native Plant Society (CNPS) and California Department of Fish and Wildlife (CDFW) protocols throughout the project site within two years prior to the commencement of construction. The CNPS and CDFW protocols require that the surveys be conducted at the time of year that the target species are most identifiable; this often requires multiple survey visits to capture the identifiable period of all target species. If special-status plant species are not found, further mitigation would not be required. If special-status plants are found and will be impacted, mitigation for those impacts shall be determined in coordination with CDFW. If the plant found is a perennial, then mitigation could consist of digging up the plant and transplanting it to a suitable nearby avoided area prior to construction. If the plant found is an annual, then mitigation could consist of collecting seed-bearing soil and spreading it in a suitable nearby avoided area prior to construction.

The developer shall provide the biologist's report summarizing the survey to the City of Clayton within 14 days of the completed survey. If special-status plant species are not found, further mitigation is not required.

Mitigation Measure 3
Within 14 days prior to construction activities, a qualified biologist hired by the developer shall conduct a take avoidance survey for active bumble bee colony nesting sites. In order to maximize detection of active bee colonies, the take avoidance survey shall be conducted during the spring, summer, or fall during appropriate weather (not during cool overcast, rainy, or windy days). The biologist shall walk the entire area proposed for grading and inspect all rodent burrows for bumble bee activity. If any bumble bees are detected during the survey, the species shall be identified. Active colonies of crotch bumble bee or western bumble bee shall be avoided and work shall not occur within 50 feet of the colony. If the colony is in a location proposed for development, consultation for the CDFW shall be necessary and an Incidental Take Permit from the CDFW may be required prior to disturbance.

The developer shall provide the biologist's summarizing the survey to the City of Clayton within 14 days of the completed survey. If crotch bumble bee or western bumble bee nests are not found, further mitigation is not required.

Mitigation Measure 4.
A targeted take avoidance burrowing owl nest survey shall be conducted by a qualified biologist hired by the developer, within all accessible areas within 250 feet of the proposed construction area, within 14 days prior to construction activities utilizing 60-foot transects, as outlined in the 2020 California Department of Fish and Game Staff Report on Burrowing Owl Mitigation. If an active burrowing owl nest burrow (i.e., occupied by more than one adult owl, and/or juvenile owls are observed) is found within 250 feet of a construction area, construction shall cease within 250 feet of the nest burrow until a qualified biologist determines that the young have fledged or it is determined that the nesting attempt has failed. If the developer desires to work within 250 feet of the nest burrow, the developer shall consult with CDFW to determine if the nest buffer can be reduced. During the non-breeding season (late September through the end of January), the developer may choose to conduct a survey for burrows or debris that represent suitable nesting habitat for burrowing owls within areas of proposed ground disturbance, exclude any burrowing owls observed, and collapse any burrows or remove the debris in accordance with the methodology outlined by the CDFW.

The developer shall provide the biologist's report summarizing the survey shall be provided to the City of Clayton within 14 days of the completed survey. If western burrowing owl nests are not found, further mitigation is not required.

Mitigation Measure 5(a).
A preconstruction nesting bird survey shall be conducted by a qualified biologist hired by the developer, on the project site and within a 500-foot radius of proposed construction areas, where access is available, no more than 14 days prior to the initiation of construction. If there is a break in construction activity of more than two weeks, subsequent surveys shall be conducted.

If active raptor nests are found, construction activities shall not take place within 500 feet of the nest until the young have fledged. If active songbird nests are found, a 100-foot no disturbance buffer shall be established. The no-disturbance buffers may be reduced if a smaller buffer is proposed by the project biologist, and approved by the City, after taking into consideration the natural history of the species of bird nesting, the proposed activity level adjacent to the nest, habituation to existing or ongoing activity, and nest concealment (if there are visual or acoustic barriers between the proposed activity and the nest). A qualified biologist shall visit the nest as needed to determine when the young have fledged the nest and are independent of the site, or the nest can be left undisturbed until the end of the nesting season.

The developer shall provide the biologist's report summarizing the survey to the City of Clayton within 14 days of the completed survey. If raptor or songbird nests or nests of birds protected by the MBTA are not found, further mitigation is not required.

Mitigation Measure 5(b).
Should construction activities cause a nesting bird to vocalize, make defensive flights at intruders, get up from a brooding position, or fly off the nest as a result of construction activities, then the exclusionary buffer shall be increased such that activities are far enough from the nest to stop the agitated behavior. The exclusionary buffer shall remain in place until the chicks have fledged or as otherwise determined by a qualified biologist. Construction activities may only resume within the buffer zone after a follow-up survey by the Project Biologist has been conducted and a report

has been prepared and submitted to the City, indicating that the nest (or nests) are no longer active and that new nests have not been identified.

Mitigation Measure 6.
A qualified biologist shall conduct a bat habitat assessment of all potential roosting habitat features within the proposed development footprint. The habitat assessment shall identify all potentially suitable roosting habitat and may be conducted up to one year prior to the start of construction. The developer shall provide the biologist's report summarizing the survey to the City of Clayton within 14 days of the completed survey. If roosting bats are not found, further mitigation is not required.

If potential roosting habitat is identified within the areas proposed for development, the biologist shall survey the potential roosting habitat. Ideally, this survey should be conducted during the active season (generally April through October or from January through March on days with temperatures in excess of 50 degrees Fahrenheit) to determine the presence of roosting bats. The surveys are recommended to be conducted using methods that are considered acceptable by the CDFW and bat experts. Methods may include evening emergence surveys, acoustic surveys, inspecting potential roosting habitat with fiberoptic cameras, or a combination thereof.

If roosting bats are identified within any of the trees or buildings planned for removal, or if presence is assumed, then the qualified bat biologist shall specify appropriate exclusion methods according to where the roosting bats are located and what season the exclusion must occur. These exclusion methods may include two-step tree removal or building exclusion as detailed below.

In general, the trees/buildings shall be removed outside of pup season only on days with temperatures in excess of 50 degrees Fahrenheit. Pup season is generally during the months of May through August. Two-step tree removal involves removal of all branches of the tree that do not provide roosting habitat on the first day, and then the next day cutting down the remaining portion of the tree. Building exclusion methods may include such techniques as installation of passive one-way doors, or the installation of netting when the bats are not present to prevent their reoccupation. Once the bats have been excluded, tree removal may occur. Removal of trees/buildings where roosting habitat is not identified during the survey is recommended to be conducted from January through March on days with temperatures in excess of 50 degrees Fahrenheit to avoid potential impacts to foliage-roosting bat species.

Mitigation Measure 7.
The developer shall implement the following tree protection measures pursuant to the recommendations listed in the Arborist Report, to the extent feasible:

- The developer shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the existing trees to be retained, as identified in the Arborist Report; and
- The project developer shall include all recommendations provided in the Updated Arborist Report by Trees, Bugs, Dirt Landscape Consulting and Training within the Tree Protection Plan. The Tree Protection Plan shall meet the standards provided in Section 15.70.45 of the Municipal Code, and shall include, but not necessarily be limited to, the establishment of TPZs and protective fencing around trees to be preserved; temporary irrigation systems to be provided for each tree; the installation and maintenance of at least two inches of wood chip mulch within the protected soils within each TPZ; air spade trenching; root pruning and clearance pruning; and the prohibition of oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials within the dripline of trees to be preserved.

Mitigation Measure 8.
A tree replacement plan for the removal of 58 inches of cumulative trunk diameter of protected tree species shall be prepared by the developer or the developer's designee, in accordance with Municipal Code Section 15.70.040 A1. or A.2., or, subject to determination by the Community Development Director or Planning Commission, the developer must pay an in-lieu fee to the City for the purchase and installation of trees of equivalent value.

Mitigation Measure 9.
Prior to the issuance of a grading permit, the developer shall ensure that the grading plan includes a requirement (via notation) indicating that if cultural resources, tribal cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project developer, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken.

Mitigation Measure 10.
Pursuant to State Health and Safety Code §7050.5(c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. Additional work is not to take place in the immediate vicinity of the find, which shall be identified by the qualified archaeologist at the developer's expense, until the preceding actions have been implemented.

Mitigation Measure 11.
Prior to approval of the improvement plans for the project, all recommendations from the Geotechnical Investigation prepared by Cornerstone Earth Group (2019) and the Geotechnical Response to Comments prepared by Cornerstone Earth Group (2020) shall be incorporated into the improvement plans to the satisfaction of the City Engineer.

In addition, the developer shall retain a California Registered Geotechnical Engineer to review the geotechnical aspects of the project's structural, civil, and landscape plans and specifications, allowing sufficient time to provide the design team with any comments prior to issuing plans for construction. The geotechnical engineer shall perform field observations during earthwork and foundation construction to confirm project compliance with project plans, project specifications, and the recommendations provided in Cornerstone's Geotechnical Investigation and Geotechnical Peer Review Response Memo. The on-site geotechnical engineer shall have the authority to provide supplemental recommendations as necessary based on site conditions. Compliance with the recommendations of the Geotechnical Engineer shall be provided to the City Engineer.

Mitigation Measure 12.
Prior to the issuance of a grading permit, the project developer shall prepare to the satisfaction of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions should include, but are not limited to:

- Hydro-seeding;
- Placement of erosion control measures within drainage ways and ahead of drop inlets;
- The temporary lining (during construction activities) of drop inlets with "filter fabric";
- The placement of straw wattles along slope contours;
- Use of a designated equipment and vehicle "wash-out" location;
- Use of siltation fences;
- Use of on-site rock/gravel road at construction access points; and
- Use of sediment basins and dust palliatives.

Mitigation Measure 13.
Prior to initiation of any ground disturbance activities, the developer shall hire a licensed well contractor to obtain a well abandonment permit from Contra Costa Health Services and properly abandon the on-site well to the satisfaction of the Contra Costa Health Services Department. Proof of abandonment shall be provided to the City of Clayton Community Development Department and City Engineer.

Mitigation Measure 14.
Prior to issuance of a demolition permit for any on-site structures, the developer shall consult with certified Asbestos and/or Lead Risk Assessors to complete and submit for review to the City of Clayton Community Development Director an asbestos and lead survey. If asbestos-containing materials (ACMs) or lead-containing materials are not discovered during the survey, further mitigation related to ACMs or lead containing materials will not be required. If ACMs and/or lead-containing materials are discovered by the survey, the project developer shall prepare a work plan to demonstrate how the on-site ACMs and/or lead-containing materials shall be removed in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and disposed of in accordance with all California Environmental Protection Agency regulations, prior to the demolition and/or removal of the on-site structures. The developer shall submit the work plan to the City for review and approval.

Mitigation Measure 15.
To the maximum extent practical, the following measures shall be incorporated into the project construction plans:

- Pursuant to Section 15.01.101 of the Clayton Municipal Code, all grading and excavation, construction, demolition, renovation, and other works of improvement shall occur only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday.
- The project shall utilize temporary construction noise control measures, including the use of temporary noise barriers, or other appropriate measures as mitigation for noise generated during construction of projects.
- All noise-producing project equipment and vehicles using internal-combustion engines shall be equipped with manufacturers-recommended mufflers and be maintained in good working condition.
- All mobile or fixed noise-producing equipment used on the project site that are regulated for noise output by a federal, state, or local agency shall comply with such regulations while in the course of project activity.
- Electrically powered equipment shall be used instead of pneumatic or internal-combustion-powered equipment, where feasible.
- Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from noise-sensitive receptors.
- Project area and site access road speed limits shall be established and enforced during the construction period.

- Nearby residences shall be notified of construction schedules so that arrangements can be made, if desired, to limit their exposure to short-term increases in ambient noise levels.

The requirements above shall be included, via notation, on the final grading plan submitted for review and approval by the Community Development Director prior to grading permit issuance.

VICINITY MAP