



PLANNING COMMISSION AGENDA

Regular Meeting

7:00 P.M. on Tuesday, May 14, 2019

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

1. **CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG**
2. **ADMINISTRATIVE**
 - 2.a. Review of agenda items.
 - 2.b. Declaration of Conflict of Interest.
 - 2.c. Chair Bassam Altwal to report at the City Council meeting of May 21, 2019 (alternate Commissioner William Gall).
3. **PUBLIC COMMENT**
4. **MINUTES**
 - 4.a. Approval of the minutes for the March 12, 2019 Planning Commission meeting.
5. **PUBLIC HEARINGS**
 - 5.a. **ZOA-03-19; Ordinance Extending the Town Center Parking Waiver; City of Clayton.** Review and consideration of a proposed Ordinance to extend the on-site parking waiver in the Town Center area for three years, from June 30, 2019 to June 30, 2022. The purpose of the proposed extension is to provide incentive to promote development activity in the Town Center area for retail and restaurant land uses.

Staff Recommendation: Staff recommends that the Planning Commission consider all information provided and submitted, take and consider all public testimony, and, if determined to be appropriate, adopt Resolution 02-19, recommending City Council approval of an Ordinance extending the parking waiver in the Town Center area until June 30, 2022.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

8.b. Commission.

9. ADJOURNMENT

9.a. The next regularly-scheduled meeting of the Planning Commission will be held on **May 28, 2019**.

Most Planning Commission decisions are appealable to the City Council within ten (10) calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in oral testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter. If you have a physical impairment that requires special accommodations to participate, please contact the Community Development Department at least 72 hours in advance of the meeting at 925-673-7300. An affirmative vote of the Planning Commission is required for approval. A tie vote (e.g., 2-2) is considered a denial. Therefore, applicants may wish to request a continuance to a later Commission meeting if only four Planning Commissioners are present.

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

Minutes
Clayton Planning Commission Meeting
Tuesday, March 12, 2019

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

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

Present: Chair Bassam Altwal
Vice Chair Peter Cloven
Commissioner A. J. Chippero
Commissioner William Gall
Commissioner Frank Gavidia

Absent: None

Staff: Community Development Director Mindy Gentry
Assistant Planner Milan Sikela, Jr.

2. ADMINISTRATIVE

- 2.a. Review of agenda items.
- 2.b. Declaration of Conflict of Interest.
- 2.c. Vice Chair Peter Cloven to report at the City Council meeting of March 19, 2019.

3. PUBLIC COMMENT

Ann Stanaway, 1553 Haviland Place, indicated that it was her opinion that City staff could do a better job enforcing the rules set by the Planning Commission.

4. MINUTES

- 4.a. Approval of the minutes for the November 13, 2018 Planning Commission meeting.

Vice Chair Cloven moved and Commissioner Gall seconded a motion to approve the November 13, 2018 Planning Commission minutes, as submitted. The motion passed 4-0-1 (Commissioner Gavidia abstained as he was not serving as a member of the Planning Commission at that time).

- 4.b. Approval of the minutes for the December 11, 2018 Planning Commission meeting.

Commissioner Chippero moved and Commissioner Gall seconded a motion to approved the December 11, 2018 Planning Commission minutes, as submitted. The motion passed 4-0-1 (Commissioner Gavidia abstained as he was not serving as a member of the Planning Commission at that time).

5. PUBLIC HEARINGS

- 5.a. **ZOA-01-19, Municipal Code Amendment, City of Clayton.** A City-initiated Ordinance for the purpose of making a recommendation to the City Council regarding amendments to temporary noncommercial signs within Chapter 15.08 – Sign Provisions of Title 15 in the Clayton Municipal Code.

Director Gentry presented the staff report.

Commissioner Chippero inquired what would qualify as a temporary sign? Director Gentry responded that the definition provided in the Clayton Municipal Code identified temporary signs as those types of signs that are made out materials such as cardboard and canvas.

Vice Chair Cloven had the following questions:

- So, regarding the 16 square-foot sign example provided by staff at tonight's meeting as a size example, according to our regulations, a property owner can have an unlimited amount of temporary noncommercial signs on private property? Director Gentry said that was correct.
- While I appreciate the protection of the freedom of speech, I am concerned about the possibility of visual blight.

Commissioner Gall inquired why was the aggregate sign area for temporary noncommercial signs changed to be an unlimited size. Director Gentry responded that there was discussion at the City Council level that aggregate sign areas would be self-regulating.

Commissioner Chippero had the following questions:

- So individual signs are required to have dimensions of 4 feet-by-4 feet to make the 16 square-foot maximum? Director Gentry responded that the signs could be any dimension, such as 1 foot-by-16 feet or 2 feet-by-8 feet, to make up the 16 square-foot maximum.
- How was the maximum 16 square-foot maximum per sign arrived at? Director Gentry responded that the City Council determined 16 square feet was an appropriate size in order to avoid having larger billboard type signs while still protecting first amendment rights and allow people to convey their message.

Commissioner Gavidia had the following comments:

- As I reviewed the information, it appeared that our City Attorney was concerned about a potential lawsuit over limiting maximum sign area.
- I understand the other Commissioners' concerns over visual blight but we must protect the right of free speech.
- When Americans burn the American flag, I find it extremely offensive; however, Americans have the right to do it. This is what free speech is all about.
- The first amendment is here to protect unpopular and unfavorable speech as well.
- I am against trying to place a restriction on the amount of signage on a property.
- People should be free to express themselves on their own property.
- These regulations for temporary noncommercial signage were meant for election season.

Chair Altwal had the following questions:

- Even though the proposed maximum area allowed per sign is 16 square feet, I could still have an unlimited amount of signs on my property if I wanted? Director Gentry responded that was correct.
- And on each sign I could say that same thing over and over, if I wanted? Director Gentry responded that was correct.
- How long can I display these types of signs on my property? Director Gentry responded the signs can be displayed for unlimited amount of time and added the City Attorney did not recommend placing a limit on the length of time in order to preserve the intent of the first amendment. However, the Code allows for enforcement if the signs are deteriorated or if the content of the sign is not considered to be protected speech.
- Regarding political signs, is there a law that requires political signs to be removed after an election? Director Gentry responded there is no actual law in place currently limiting the duration that signs can be displayed.
- This pertains to only temporary noncommercial signs on private property and not signs on public property or in the public right-of-way, correct? Director Gentry responded that was correct; the signs we are discussing tonight are only temporary noncommercial signs located on the private properties.

Vice Chair Cloven inquired whether his understanding was correct in that you can have as many signs as you want on your private property? Director Gentry responded that was correct.

Chair Altwal inquired whether these signs could be placed anywhere on my property such as in a window or on the roof of my house? Director Gentry responded that was correct.

The public hearing was opened.

Ann Stanaway, 1553 Haviland Place, had the following comments:

- It would be good to require signs to be taken down for a certain period of time when it is not necessary for the sign to be displayed.
- Allowing an unlimited aggregate of sign area seems totally politically motivated since, during the next election, we have three City Council positions opening up and the candidates will want as many signs as possible displayed.

The public hearing was closed.

Vice Chair Cloven indicated that, by allowing a 16-square foot maximum sign area, the City Council was seeking a middle ground and attempting not to limit free speech.

Commissioner Gavidia had the following comments and question:

- There should be no limit on signage.
- I discovered that, in a free speech class in a college on the other side of the country, Clayton was used as an example over free speech issues. I do not want Clayton to be known for infringing upon free speech.
- I believe people are decent and candidates are decent and would not abuse the unlimited aggregate amount of signage allowance.

- I believe there are decency laws that would prevent obscene or profane language, correct? Director Gentry responded that hate speech is not considered protected speech.

Chair Altwal indicated that the aggregate amount of signage and the time of duration that a sign can be displayed should both be restricted to a maximum size and duration.

Vice Chair Cloven indicated that, although he has concerns about blight caused by an unlimited amount of signage, we cannot limit free speech.

Chair Altwal indicated that, as a business owner, there were many regulations regulating such characteristics as font, color, lines of text, and a business could essentially still represent its own interests but had to comply with certain sign criteria. I think having regulations is a good idea.

Vice Chair Cloven indicated business signs are permanent in nature, not temporary.

Commissioner Gavidia indicated that business signs are different than political free speech signs and we should not be regulating someone's right to free speech. We should trust that Americans will do the right thing when it comes to free speech.

Commissioner Gall indicated he had concerns about allowing an unlimited aggregate of signs. I believe in free speech, but I think there should be a maximum allowance of aggregate signage allowed by the Code.

Chair Altwal indicated that he felt restricting aggregate sign area was not an issue related to free speech.

Since the City Council and City Attorney have already looked at this issue, I believe the direction is clear.

Vice Chair Cloven moved to adopt Resolution No. 01-19, recommending City Council approval of an Ordinance amending the City's Sign Provisions for temporary noncommercial signs. There was no second.

Commissioner Chippero indicated he was concerned about the blight that might be caused by having an unlimited aggregate but also did not want to infringe on free speech and suggested that a balance should be struck so the Planning Commission can agree on a motion.

Chair Altwal indicated there would be no infringement on free speech if we establish a maximum area for aggregate signs. A person can still express their opinion even if there is a maximum allowance for aggregate sign area.

Vice Chair Cloven indicated the Planning Commission needs to find middle ground regarding this issue.

Commissioner Gavidia had the following comments:

- We should not be creating laws restricting sign area maximums that that we cannot enforce.
- I support having no restrictions on aggregate sign areas.
- Balancing the issue of blight against the Constitution of the United States which allows for free speech, I am going to support the Constitution.
- With no aggregate limit, I do not believe that Clayton will suddenly suffer from blight caused by signs.
- I believe that the citizens of Clayton are good people and will not let our community be blight caused by signs.

Chair Altwal indicated that he does not feel comfortable with allowing maxim aggregate sign area to be unlimited.

The Planning Commission discussed ways to come to some sort of agreement on a vote.

Commissioner Gavidia indicated he was in favor of not voting on the recommendation in Planning Commission Resolution No. 01-19.

Director Gentry indicated if there is no action taken or no recommendation to the City Council then you are essentially recommending what is currently codified which is three square feet for temporary noncommercial signs.

Chair Altwal indicated I want to send something to the City Council and not just have our decision be no action.

Commissioner Gavidia said, if the Planning Commission cannot reach a decision, we should let the voters decide on this issue.

Vice Chair Cloven indicated he would be in favor of an aggregate that is larger than the current three square-foot aggregate listed in the Code.

Chair Altwal reiterated that he really wants to send a Planning Commission recommendation to the City Council and not a message that the Planning Commission is doing nothing.

Commissioner Chippero and Vice Chair Cloven both concurred that, as the Ordinance is currently written, the unlimited aggregate allowance would preclude any restriction on collective sign size anyway.

Chair Atwal explained that was the reason we should put a maximum restriction on aggregate sign area so that people may display a large amount of signs but something within reason that would not cause blight.

Director Gentry indicated that, for clarification purposes, people cannot combine the 16 square-foot signs directly adjacent to each other. Each sign has to have a minimum separation of 42 inches.

Chair Altwal indicated he was concerned about the possible abuse that may occur as a result of having unlimited aggregate sign area and wants to avoid a situation where the signs create an eyesore.

Commissioner Gavidia had the following comments:

- This issue is about political freedom of speech and we must preserve that right in our community.
- I am very passionate about the first amendment.
- Americans have the right of free speech; why are we trying to limit that right?
- We should not be recommending a limit on aggregate sign area since we cannot enforce it.

Chair Altwal indicated that the City should still have laws that govern sign aesthetics.

Vice Chair Cloven indicated that, as the proposed Ordinance is currently written, we are not limiting free speech.

Chair Altwal moved to adopt Resolution No. 01-19, adding a requirement for a maximum aggregate allowance and a maximum time limit that a sign can be displayed. There was no second.

Director Gentry indicated that, if the Planning Commission is recommending to add a maximum aggregate sign allowance or any other restrictions on signs such as duration or other criteria, there should be an actual dimensional threshold number and a time period recommended.

Chair Altwal moved to adopt Resolution No. 01-19, adding a requirement for a maximum aggregate allowance of 150 square feet. There was no second.

Vice Chair Cloven indicated there is value in having at least a maximum of 16 square feet per sign.

Commissioner Chippero moved and Vice Chair Cloven seconded a motion of no recommendation to the City Council for Resolution No. 01-19. The motion passed 4-1 (Chair Altwal voted to deny the motion).

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff.

Director Gentry informed the Planning Commission that she had accepted a position with the City of Concord and thanked the Planning Commission for all their hard work and indicated it had been a joy to work with them.

Assistant Planner Sikela praised Director Gentry for her excellent service to the City of Clayton and indicated she was kind, considerate, a great leader, always provided excellent guidance, had a great sense of humor, very intelligent, just an overall awesome boss, and she will be missed tremendously.

8.b. Commission.

Chair Altwal and the other Planning Commissioners praised Director Gentry for her excellent work and indicated that the City of Concord will definitely benefit by having her work there.

9. ADJOURNMENT

9.a. The meeting was adjourned at 8:10 p.m. to the next regularly-scheduled Planning Commission meeting on March 26, 2019.


Submitted by
David Woltering, AICP
Interim Community Development Director

Approved by
Bassam Altwal
Chair

**PLANNING COMMISSION
STAFF REPORT**

Meeting Date: May 14, 2019

Item Number: 5.a.

From: David Woltering, AICP, MPA
Interim Community Development Director 

Subject: Ordinance Extending the Town Center Parking Waiver (ZOA-03-19)

Applicant: City of Clayton

REQUEST

The City of Clayton is requesting a public hearing to consider a City-initiated Ordinance to amend its Municipal Code to extend an existing off-street parking waiver provision for three years in the Town Center area from June 30, 2019 to June 30, 2022 (ZOA-03-19).

PROJECT INFORMATION

Location: Town Center

General Plan Designation: Town Center Commercial and Public Park/Open Space

Town Center Specific Plan Designation: Town Center Commercial and Public Facility

Zoning Classification: Limited Commercial (L-C), Planned Development (PD), and Public Facility (PF)

Environmental: The adoption of the Ordinance will not result in a significant adverse environmental impact as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the January 17, 2007 City Council adoption of the Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration (ENV-01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines.

Public Notice: On May 3, 2019, a public hearing notice was published in the Contra Costa Times and a public hearing notice was posted at designated locations in the City.

BACKGROUND

In 2007, the City of Clayton amended Chapter 17.37, the City's Off-Street Parking and Loading Regulations, along with other changes, to reduce the on-site parking requirements for specified land uses in the City's Town Center. The waiver provisions are covered in the Clayton Municipal Code (CMC) Section 17.37.030.C and Schedule 17.37.030.D (**Attachment B**).

The purpose for offering the waiver of required on-site parking was to provide an incentive to develop certain land uses and promote overall development activity in the Town Center area. The adopted parking waiver provisions primarily promote retail and restaurant land uses, though some parking reductions were provided for office and personal services uses as well. The basis for the recommended changes was the Town Center Parking Study developed in May 2006.

The original amendment to Chapter 17.37, which was passed by the City Council on June 26, 2007, provided a waiver period to June 30, 2010. Since that time, the Planning Commission considered, and the City Council approved on three separate occasions—July 20, 2010, May 21, 2013, and June 7, 2016—extensions of the parking waiver allowances until June 30, 2013, June 30, 2016, and June 30, 2019, respectively. This would be the fourth parking waiver extension request. In addition to the parking waiver extension, the City Council also approved entitlements associated with the parking waiver provisions: 1) The Flora Square Project (formerly known as the “Oak Center” Project); and 2) The Creekside Terrace Mixed Use Project.

DISCUSSION

The purpose of the City offering the parking waiver and associated provisions in 2007 was primarily to encourage and provide incentive to develop retail and restaurant uses in the Town Center. This action supported the Town Center Specific Plan policy to “Maintain and enhance retail and restaurant uses in the Town Center in order to sustain similar uses in the Town Center...” (Goal II, Page 9) as well as the Town Center Policy I.5 to “Encourage developers to seize incentives provided in the General Plan for increased structural coverage of smaller parcels in the Town Center.” Increasing structural coverage of smaller parcels is greatly enhanced when parking waiver provisions are provided. Overall, the purpose was manifold to incentivize commercial development in the Town Center area, assist in generating the “critical mass” needed to establish the Town Center as a more competitive commercial location in the County, and support the vision for a compact, pedestrian-friendly development pattern in the Town Center area.

When the City Council originally approved the parking waiver provisions, as suggested in the 2006 Parking Study, the parking waiver was intended to be in effect for three years or until a pre-determined on-street and off-street parking threshold was reached. The City Council set the threshold for reconsideration of the parking waiver provisions to be when 200 parking spaces that normally would have been required with development had been waived (CMC Section 17.37.030.D). The purpose of this provision was to ensure that existing conditions in the Town Center area were not compromised with respect to the availability of public parking, patterns of utilization, and parking needs of future commercial. To date, of the 200 parking spaces that potentially could be waived, a total of 57 parking spaces have been waived for two development projects in the Town Center: 21 spaces for the Creekside Terrace Project and 36 spaces for the Flora Square Project (formerly known as the “Oak Center” Project).

The potential development and generation of the “critical mass” was dealt a significant setback with the onset of the Great Recession that lasted from 2007 to 2009. The area is still in need of the right combination of market conditions, appropriate proposals, and interest to achieve its development potential. Accordingly, Staff believes the same reasons exist in 2019 that did in 2007 to incentivize potential commercial development in the Town Center. Approval of the parking waiver would show continued effort and support and meaningful incentive to encourage and propel future commercial development in the Town Center area.

RECOMMENDATION

Staff recommends that the Planning Commission consider all information provided and submitted, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution 02-19, recommending City Council approval of an Ordinance extending the parking waiver in the Town Center area until June 30, 2022 (**Attachment A**).

ATTACHMENTS

- A. Planning Commission Resolution 02-19, with attachment:
 - Exhibit A – Draft Ordinance Extending the Parking Waiver for the Town Center Area
- B. Clayton Municipal Code Parking Excerpts

**CITY OF CLAYTON
PLANNING COMMISSION
RESOLUTION NO. 02-19**

**RECOMMENDING CITY COUNCIL APPROVAL OF AN ORDINANCE AMENDING SECTION
17.37.030.C (WAIVER PERIOD) OF THE CLAYTON MUNICIPAL CODE FOR THE PURPOSE OF
EXTENDING FROM JUNE 30, 2019 THROUGH JUNE 30, 2022 THE PARKING WAIVER PROVISION
IN THE TOWN CENTER AREA
(ZOA-03-19)**

WHEREAS, Ordinance No. 408 was adopted by the Clayton City Council on June 26, 2007, which provided a waiver period to allow specified reductions for on-site parking for development projects satisfying stated criteria as an incentive for development and redevelopment to occur in Clayton's Town Center area; and

WHEREAS, the initial waiver period contained within Ordinance No. 408 and reflected in 17.37.030.C of the Clayton Municipal Code expired on June 10, 2010 was extended by the adoption of Ordinance No. 428 by the City Council on July 20, 2010 and expired on June 30, 2013; and

WHEREAS, an additional waiver period contained within Ordinance No. 446 and reflected in 17.37.030.C of the Clayton Municipal Code was approved by the City Council on May 21, 2013 and expired on June 30, 2016; and

WHEREAS, the waiver period was further extended with the adoption of Ordinance No. 462 and reflected in 17.37.030.C of the Clayton Municipal Code by the City Council on June 7, 2016 and expires on June 30, 2019; and

WHEREAS, because only limited development has occurred in the Town Center area since the adoption of Ordinance Nos. 408, 428, 446, and 462, continuing to provide incentive to encourage general development and redevelopment in the Town Center area to projects which conform with the Clayton Town Center Specific Plan remains desirable; and

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

WHEREAS, on May 14, 2019, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony, both oral and documentary, and recommended approval to the City Council of the proposed Ordinance to extend the parking waiver for the Town Center for three years until June 30, 2022; and

WHEREAS, the Planning Commission has determined that the proposed amendments to the Clayton Municipal Code do not conflict with and are in general conformance with the City of Clayton General Plan; and

WHEREAS, the adoption of the Ordinance will not result in a significant adverse environmental impact as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the January 17, 2007 City Council adoption of the Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration (ENV-01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Clayton, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend City Council approval of the proposed Ordinance to amend the Clayton Municipal Code to extend the parking waiver in the Town Center area for three years, from June 30, 2019 to June 30, 2022, attached hereto as Exhibit A and incorporated herein by this reference.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a regular meeting on the 14th day of May, 2019.

APPROVED:

ATTEST:

Bassam Altwal
Chair

David Woltering, AICP
Interim Community Development Director

ATTACHMENT

Exhibit A – Draft Ordinance Extending the Parking Waiver in the Town Center Area

ORDINANCE NO. _____

**AN ORDINANCE
AMENDING SECTION 17.37.030.C (WAIVER PERIOD) OF THE CLAYTON MUNICIPAL CODE FOR
THE PURPOSE OF EXTENDING FROM JUNE 30, 2019 THROUGH JUNE 30, 2022 THE PARKING
WAIVER PROVISION IN THE TOWN CENTER AREA
(ZOA-03-19)**

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

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

WHEREAS, Ordinance No. 408 was adopted by the Clayton City Council on June 26, 2007, which provided a waiver period to allow specified reductions for on-site parking for development projects satisfying certain stated criteria as an incentive for development and redevelopment to occur in Clayton's Town Center area; and

WHEREAS, the initial waiver period contained within Ordinance No. 408 and reflected in 17.37.030.C of the Clayton Municipal Code expired on June 10, 2010 was extended by the adoption of Ordinance No. 428 by the City Council on July 20, 2010 and expired on June 30, 2013; and

WHEREAS, an additional waiver period contained within Ordinance No. 446 and reflected in 17.37.030.C of the Clayton Municipal Code was approved by the City Council on May 21, 2013 and expired on June 30, 2016; and

WHEREAS, the waiver period was further extended with the adoption of Ordinance No. 462 and reflected in 17.37.030.C of the Clayton Municipal Code by the City Council on June 7, 2016 and expires on June 30, 2019; and

WHEREAS, because only limited development has occurred in the Town Center area since the adoption of Ordinance Nos. 408, 428, 446, and 462, continuing to provide incentive to encourage general development and redevelopment in the Town Center area to projects which conform with the Clayton Town Center Specific Plan remains desirable; and

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

WHEREAS, the City Council received the recommendation of the Planning Commission, the related staff report and other documents, and public testimony concerning the amendment, and determined that the amendment would be in conformance with the General Plan as well as determined that the public necessity, convenience, and general welfare would require adoption of the amendment.

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

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

SECTION 2. The first paragraph of Section 17.37.030.C of the Municipal Code is amended to read in its entirety as follows:

“C. Waiver Period. In order to encourage development of retail, restaurant, office, and personal service uses in the Town Center before June 30, 2022, a waiver period extending through June 30, 2022 is established during which the number of off-street parking and loading spaces required for projects meeting all of the criteria listed in subsections 1-4 below is reduced in accordance with Schedule 17.37.030.D.”

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

SECTION 4. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

SECTION 5. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause Section 1 of this Ordinance to be entered into the City of Clayton Municipal Code.

SECTION 6. CEQA. The adoption of the Ordinance will not result in a significant adverse environmental impact as the general environmental setting and anticipated impacts have not changed nor is there new information that would alter the findings of the January 17, 2007 City Council adoption of the Town Center and Vicinity Planning Amendments Initial Environmental Study/Negative Declaration (ENV-01-06) prepared in accordance with Section 15070 et seq. of the California Environmental Quality Act (CEQA) Guidelines.

The foregoing Ordinance was introduced at a regular public meeting of the City Council of the City of Clayton, California held on June __, 2019.

Passed, adopted, and ordered posted by the City Council of the City of Clayton, California at a regular public meeting thereof held on June __, 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Tuija Catalano, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance No. 462 was duly introduced at a regular public meeting of the City Council of the City of Clayton, California held on May 17, 2016 and was duly adopted, passed, and ordered posted at a regular public meeting of the City Council held on June 7, 2016.

Janet Brown, City Clerk

17.37.030 - Parking and Loading Space Requirements.

- A. Parking and Loading Space Schedules. Off-street parking spaces shall be provided in accordance with Schedule 17.37.030.A. Off-street loading spaces shall be provided for non-residential uses in accordance with Schedule 17.37.030.B or as required by the Planning Commission. References to spaces per square foot are to be computed on the basis of gross floor area unless otherwise specified, and shall include allocations of shared restroom, halls and lobby area, and mechanical equipment or maintenance areas, but shall exclude area for vertical circulation (e.g., stairs, elevators).
- B. Parking Schedule with Public Parking Easement. In lieu of the parking space requirements provided in Schedule 17.37.030.A, the number of off-street parking spaces required for projects meeting all of the criteria listed in subsections 1—3 below shall be in accordance with Schedule 17.37.030.C.
1. The parcel is located within the planning area of the Town Center Specific Plan (as amended).
 2. The project involves new construction and/or addition(s) of retail, restaurant, service, or office uses.
 3. The City Council accepts an offer of a public parking easement from the property owner. The public parking easement allows the general public to park in the off-street parking facility when any business establishment operating on the property is not open for business.
- C. Waiver Period. In order to encourage development of retail, restaurant, office, and personal service uses in the Town Center before June 30, 2019, a waiver period extending through June 30, 2019 is established during which the number of off-street parking and loading spaces required for projects meeting all of the criteria listed in subsections 1-4 below is reduced in accordance with Schedule 17.37.030.D.
1. The parcel is located within the planning area of the Town Center Specific Plan (as amended).
 2. The project involves construction, establishment, and/or addition(s) of retail, restaurant, office, or personal services uses.
 - 3.

ATTACHMENT B

A building permit (if required) for the project has been issued within two (2) years of project approval. Construction and a final building permit inspection are completed within one year of the issuance of the building permit. These time periods may be extended once up to six (6) months by the Planning Commission upon a showing of good cause.

- 4. City Council approval is granted for any individual project in which the requirement for more than seventy-five (75) parking spaces is waived.
- D. **Monitoring of Spaces During Waiver Period.** The Director shall monitor the amount of retail, restaurant, office, and personal service development within the planning area of the Town Center Specific Plan (as amended) during the waiver period. The Director shall determine the number of parking spaces which would have been required in accordance with Schedule 17.37.030A. Upon determining that new retail, restaurant, office, and personal service development has occurred or has been proposed, or other reductions in parking space requirements have been granted for which the aggregate number exceeds two hundred (200) reduced spaces, a report shall be presented to the Planning Commission. The Planning Commission shall review the report and make any appropriate recommendations for consideration by the City Council. This report shall include an assessment of the existing parking conditions in the planning area of the Town Center Specific Plan with respect to the availability of public parking, patterns of utilization, and parking needs of future commercial development in Town Center.
- E. **Director Determination.** Where the proposed use classification is not specified herein, the Director shall determine the probable use and the number of parking and loading spaces required. In order to make this determination, the Director may require the submission of survey or other data from the applicant or have data collected at the applicant's expense.

SCHEDULE 17.37.030A	
OFF-STREET PARKING SPACE REQUIREMENTS	
Use Classification	Required Off-Street Parking Spaces
Residential	

Single-Family Dwelling	4 per unit (2 must be fully-enclosed and 2 may be tandem).
Small Lot (<4,000 sq. ft. net lot area, Multifamily General Plan designation)	2 per unit (2 must be fully-enclosed and 1 may be tandem). 0.5 per guest parking per unit.
Duplex Dwelling	2 per unit (1 must be covered and 1 may be tandem). 0.5 guest parking per unit.
Multiple-Family Dwelling	
Studio	1 per unit (covered).
1 Bedroom	1.5 per unit (1 must be covered).
2+ Bedroom	2 per unit (1 must be covered).
> Guest Parking	0.5 per unit.
Second Dwelling Unit	See Section 17.47.020.B.
Group Residential	1 per sleeping room plus 1 per 100 sq. ft. used for assembly purposes or common sleeping areas.
Commercial - Retail	
Building/Garden/Pool Supplies and Sales	1 per 500 sq. ft. of floor area.
Food/Beverage Sales	1 per 250 sq. ft.
Furniture, Appliance, & Household Equipment Sales	1 per 500 sq. ft.

Restaurant and/or Bar:	
On-Site Eating and/or Drinking	Greater of 1 per 75 sq. ft. or 1 per 3 seats.
Take-Out Service	1 per 150 sq. ft.; plus queue space for 5 cars for drive-up service.
Combination On-Site/Take-Out Service	1 per 400 sq. ft. behind counter, plus greater of 1 per 75 sq. ft. in front of counter or 1 per 3 seats.
Entertainment or Dancing	1 per 50 sq. ft. of public assembly area.
Outdoor Seating	No additional spaces for the first 12 seats; 1 additional space per 3 seats for more than 12 seats.
Retail Sales (not listed under another Use Classification)	1 per 250 sq. ft.
Commercial - Services	
Animal Services	1 per 400 sq. ft.
(Grooming, Hospital, Boarding)	
Automotive Services:	
Repairs	4 per service bay.
Rentals	1 per 400 sq. ft. plus 2 storage spaces.
Service Stations	3 per service bay plus 1 per each employee.
Vehicle Storage	1 per 500 sq. ft.

Washing/Detailing	1 per 200 sq. ft. of office/lounge area; plus queue for 5 cars.
Catering Services	1 per 400 sq. ft.
Dry Cleaning Services	2 plus 1 per employee
Maintenance and Repair Services	1 per 400 sq. ft.; plus 1 per 500 sq. ft. of outdoor storage area.
Personal Services (Barber, Beauty Shop)	1 per 250 sq. ft.
Commercial - Office	
Offices:	
Business and Professional	1 per 250 sq. ft.
Medical and Dental	1 per 250 sq. ft.
Financial Services	1 per 250 sq. ft. plus 1.5 spaces per ATM.
Commercial - Other	
Mini-Storage	3 for customer parking at office.
Recreation Facilities:	
Video Arcades	1 per 400 sq. ft.
Dance/Music Studio	1 per 600 sq. ft.

Fitness Studio	1 per 250 sq. ft.
Other Facilities	As specified by approving body.
Tennis/Racquetball	4 per court.
Theaters	1 per 3 fixed seats, or 1 per 50 sq. ft. of assembly area if seats are not fixed.
Visitor Accommodations:	
Bed and Breakfast Inns	1 per guest room, in addition to spaces for the primary residential use.
Hotels/Motels	1 per guest room plus 2 spaces for guest registration plus 1 per 50 sq. ft. banquet seating area.
Care Facilities	
Congregate Care/Convalescent Facilities	0.5 per sleeping room or as specified by use permit.
Day Care	
Family Day Care - Small	No spaces.
Family Day Care - Large	See Section 17.45.030.B.7.
Day Care Center	1 per employee, plus 1 for first 5 children, plus 1 for each additional 10 children thereafter.
Emergency Shelter	As specified by Section 17.36.082.

Residential Care Homes	1 per 3 beds (or as specified by use permit) plus spaces for the primary residential use.
Public and Quasi-Public Facilities	
Clubs and Lodges	1 per 50 sq. ft. used for assembly purposes.
Emergency Medical Facilities	1 per 200 sq. ft.
Government Offices	1 per 250 sq. ft. or as specified by use permit.
Museums, Libraries, Cultural Facilities, Community Centers	1 per 300 sq. ft. or as specified by use permit.
Public Park and Recreation Facilities	As specified by use permit.
Public Safety, Service, and Maintenance Facilities	As specified by site plan review permit or use permit.
Religious Assembly	1 per 3 fixed seats (20" of bench equals 1 seat) or 1 per 50 sq. ft. of assembly area if seats are not fixed.
Schools, Public or Private	1 for each employee; plus 1 for every 100 sq. ft. of classroom.
Utility Facilities	As specified by use permit.

(Ord. 408, 2007; Ord. 410, 2007)

SCHEDULE 17.37.030B OFF-STREET LOADING SPACES REQUIRED	
Gross Floor Area (Sq. Ft.)	Off-Street Loading Spaces/ Size (Width x Length x Vertical Clearance)
Less than 10,000	0
10,000 to 50,000	1 Space (10 ft. x 35 ft. x 14 ft.)
Over 50,000	2 Spaces (12 ft. x 45 ft. x 14 ft.)

SCHEDULE 17.37.030C OFF-STREET PARKING SPACES REQUIRED WITH PUBLIC PARKING EASEMENT	
Use Classification	Required Off-Street Parking Spaces
Retail Sales - 1 st and/or 2 nd Floor	1 per 400 sq. ft.
Restaurant and/or Bar - 1 st and/or 2 nd Floor On-Site Eating and/or Drinking Entertainment or Dancing	Greater of 1 per 125 sq. ft. or 1 per 5 seats. 1 per 75 sq. ft. of public assembly area.
Office - 2 nd Floor	1 per 350 sq. ft.

Commercial Services- 2 nd Floor	1 per 350 sq. ft.
--	-------------------

<p align="center">SCHEDULE 17.37.030D REDUCTION OF REQUIRED PARKING AND LOADING SPACES DURING WAIVER PERIOD</p>		
Parcel Area*	Use Classification	Reduction
≤ 10,000 sq. ft.	Retail Sales/Restaurant - 1 st and/or 2 nd Floor	100%
	Office or Personal Services - 2 nd Floor	100%
> 10,000 sq. ft.	Retail Sales/Restaurant - 1 st and/or 2 nd Floor	75%
	Office or Personal Services - 2 nd Floor	25%

* Parcel Area is that shown on the Assessor's Maps of the Contra Costa County Assessor's Office as of January 1, 2007 (termed "Original Parcels"). Development projects located on parcels created by any subsequent division of the Original Parcels must comply with the requirements applicable to the parcel areas of the Original Parcels.