



PLANNING COMMISSION AGENDA

Regular Meeting

7:00 P.M. on Tuesday, April 26, 2016

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. Commissioner Gregg Manning to report at the City Council meeting of May 3, 2016 (alternate Commissioner Tuija Catalano).
- 3. PUBLIC COMMENT**
- 4. MINUTES**
 - 4.a. Approval of the minutes for the April 12, 2016 Planning Commission meeting.
- 5. PUBLIC HEARINGS**
 - 5.a. **UP-03-16; Use Permit; Nick Adamson representing Village Oaks, LLC; 6200 Center Street, Suites I and J (APN: 119-620-060).** Review and consideration of a Use Permit for a dentist office (Victor Truong, DDS) to be located in a ground-floor tenant space in the Village Oaks commercial building in Clayton's Town Center.

Staff Recommendation: Staff recommends that the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider any public testimony and, if determined to be appropriate, conditionally approve Use Permit UP-03-16.

- 5.b. **ZOA-02-16; 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, 2016 to June 30, 2019. 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, and take and consider all public testimony and, if determined to be appropriate, adopt Resolution 02-16, recommending City Council approval of an Ordinance extending the parking waiver in the Town Center area until June 30, 2019.

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 **Tuesday, May 10, 2016.**

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

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

Minutes
Clayton Planning Commission Meeting
Tuesday, April 12, 2016

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

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

Present: Chair David Bruzzone
 Vice Chair Sandra Johnson
 Commissioner Dan Richardson
 Commissioner Gregg Manning
 Commissioner Tuija Catalano

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. Commissioner Dan Richardson to report at the City Council meeting of April 19, 2016 (alternate Commissioner Gregg Manning).

3. PUBLIC COMMENT

None

4. MINUTES

- 4.a. Approval of the minutes for the February 9, 2016 Planning Commission meeting.

Commissioner Manning moved and Commissioner Catalano seconded a motion to approve the minutes, as submitted. The motion passed 4-0-1 (Commissioner Richardson abstained as he did not attend the February 9, 2016 Planning Commission meeting).

5. PUBLIC HEARINGS

- 5.a. **TUP-02-16, Temporary Use Permit, Pat Middendorf, 6955 Marsh Creek Road (APN: 119-080-009).** Review and consideration of a Temporary Use Permit for the "Round Up" fundraiser event occurring from 5:00 p.m. to 11:00 p.m. on Saturday June 11, 2016 at the Easley Ranch, 6955 Marsh Creek Road. The western-themed event will involve barbecued food, two country western bands, and a dancefloor. Pursuant to California Environmental Quality Act (CEQA) Guideline 15304(e) – Minor Alterations to Land, the event is categorically exempt from CEQA.

Assistant Planner Sikela presented the staff report.

Chair Bruzzone asked about the parking plan proposed for the event.

Assistant Planner Sikela indicated that vendor and handicapped parking would be provided at the event site while event parking would be provided at nearby Diablo View Middle School. Staff is aware that some event attendees may choose to park in surrounding neighborhoods adjacent to the site.

Chair Bruzzone asked is this event larger than the annual wedding/reception events that are held at the Easley Estates?

Assistant Planner Sikela indicated that the wedding/reception events usually involve 50 to 200 attendees whereas the "Round Up" event is proposed to attract a larger crowd.

Commissioner Manning indicated the following:

- Similar events used to be held at the Easley Ranch many years ago, as recently as the 1990s, and those events attracted far more people—as many as 1,400—than the 500 to 700 attendees that are anticipated to attend the "Round Up" event.
- I have no problem with people parking in the surrounding neighborhoods since they park in these areas for such events as the Art and Wine Festival which attracts thousands of people.

The public hearing was opened.

Pat Middendorf, the applicant, indicated the following:

- I have just emailed to the City the insurance paperwork with a policy endorsement naming the City as additional insured.
- We are going to allow a maximum attendance of 500 people to the "Round Up" event.
- We have had a tremendous supportive response from the community as donations have already been contributed for our event and we have sold out of early event access tickets.

Vice Chair Johnson asked about the monitoring of the event to ensure that the attendees are 21 years or older.

The applicant responded with the following:

- There is an electric gate allowing for only one point of access to the event and we will have posted security at the gate who will check for identification to ensure attendees are 21 years or older.
- Wrist bands will be issued to attendees after their age is confirmed.
- Event bartenders will be paid and not volunteers. They are also trained to check for identification.

Commissioner Catalano asked if the proceeds generated by the "Round Up" event will go to the "Relay For Life" event.

The applicant responded that, yes, "Round Up" event proceeds will go to the "Relay For Life" event and the proceeds from the "Relay For Life" event will go to the American Cancer Society.

Jim Weaver, 926 Sylvaner Court, indicated the following:

- Support the "Round Up" event as we think it is for a wonderful cause.
- Have concerns about the four annual wedding and reception events held at the Easley Ranch because of the excessive noise generated by these events.
- The bass from the event-related music can be heard inside my home.
- The voice-only announcement portions of these events are extremely loud.
- We want to be good neighbors and, when the noise gets too loud, would rather contact an Easley event coordinator first rather than immediately going to the police.

Director Gentry indicated the following:

- Staff will work with property owner, Robert Easley, to address the noise issues.
- We will obtain a contact number from Robert Easley for concerned neighbors to call during events.
- The Easley Ranch is allowed a maximum of four administratively-approved temporary events each calendar year; any temporary events beyond that would need review and approval by the Planning Commission.

Vice Chair Johnson indicated that any concerned parties are welcome to call the Clayton Police Department if the point of contact cannot be reached on the event contact number.

Commissioner Richardson asked staff to work with the applicant on orienting the amplification equipment away from neighborhoods adjacent to the event site.

Commissioner Catalano clarified the 55-decibel allowance at the property line as required by the Clayton General Plan Noise Element and indicated she agreed with Commissioner Richardson's request regarding orientation of the amplification equipment.

The public hearing was closed.

Commissioner Manning moved and Commissioner Richardson seconded a motion to conditionally approve Temporary Use Permit TUP-02-16, with the findings of approval and conditions of approval recommended by staff. The motion passed 5-0.

6. OLD BUSINESS

None.

7. NEW BUSINESS

None.

8. COMMUNICATIONS

8.a. Staff

Director Gentry indicated that, at the City Council meeting of April 6, 2016, the City Council approved the contract for the environmental work for the Silver Oak Estates project.

Assistant Planner Sikela provided updates on the Verna Way and St. John's projects.

8.b. Commission

Chair Bruzzone reported on recent TRANSPAC meetings he attended and highlighted a potential tax measure being reviewed for transportation funds.

9. ADJOURNMENT

9.a. The meeting was adjourned at 7:55 p.m. to the regularly-scheduled meeting of the Planning Commission on April 26, 2016.

Submitted by
Mindy Gentry
Community Development Director


Approved by
David Bruzzone
Chair

Community Development\Planning Commission\Minutes\2016\0412

**PLANNING COMMISSION
STAFF REPORT**

Meeting Date: April 26, 2016

Item Number: 5.a.

From: Milan J. Sikela, Jr. 
Assistant Planner

Subject: Public Hearing to consider a Use Permit request for a dentist office to be located in a ground-floor tenant space in the Town Center (UP-03-16)

Applicant: Nick Adamson representing Village Oaks, LLC

REQUEST

Nick Adamson representing Village Oaks, LLC requests approval of a Use Permit for a dentist office (Victor Truong, DDS) to be located in a ground-floor tenant space in the Village Oaks commercial building in Clayton's Town Center.

PROJECT INFORMATION

Location: 6200 Center Street
APN: 119-620-060

General Plan Designation: Town Center Commercial.

Specific Plan Designation: Town Center Specific Plan — Town Center Commercial.

Zoning: Limited Commercial (LC).

Environmental Review: Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 – Existing Facilities, the project is categorically exempt from CEQA. This section of CEQA exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Public Notice: On April 15, 2016, a public hearing notice was posted at the notice boards and mailed to property owners within 300 feet of the project site.

Authority: Chapter 2 Land Use – Section 2.3 Land Use Designations of the Town Center Specific Plan authorizes the Planning Commission to approve a Use Permit for an establishment involving office, commercial service, personal service, or studio uses in ground-floor locations. Any Use Permit considered by the Planning Commission shall be reviewed and approved in accordance with the standards in Section 17.60.040 of the Clayton Municipal Code.

DISCUSSION

The applicant, Nick Adamson representing Village Oaks, LLC, is requesting a public hearing for the consideration of a Use Permit for a dentist office (Victor Truong, DDS) to be located in a ground-floor tenant space in the Village Oaks commercial building located at 6200 Center Street in Clayton's Town Center (see **Attachment A** for the Vicinity Map). The proposed dentist office would occupy Suites I and J in the Village Oaks commercial building with Suite I encompassing 1,076 square feet in area and Suite J encompassing 1,134 square feet in area for a total combined area of 2,210 square feet (see **Attachment B** for an enlarged site plan).

Section 2.3 of the Town Center Specific Plan allows establishments involving office, commercial service, personal service, or studio uses in ground-floor locations with Planning Commission approval of a Use Permit. This Use Permit requirement for non-retail ground-floor commercial uses in the Town Center was implemented in order to encourage retail uses in ground-floor commercial spaces and, thereby, support the establishment of a strong retail district in the Town Center. However, the Planning Commission has previously granted Use Permits to allow non-retail commercial uses in ground-floor tenant spaces when the property owner had difficulty in leasing the ground-floor tenant space to a retail commercial business. The applicant has indicated that, given the location of the subject tenant space at the southeast corner of the Village Oaks commercial building, there has been extreme difficulty in leasing out the space (see **Attachment C** for a letter from the managing agent for the Village Oaks commercial building). The subject tenant space is oriented toward the rear corner of the parking lot, far from the public streets and sidewalks, and is not readily visible to pass-by traffic. Generally, retail commercial businesses rely on being visible to passing vehicles and pedestrians to help bolster patronage. Although Use Permits are considered by the Planning Commission on a case-by-case basis, staff notes that the previous tenant in Suite I—Clayton Mind and Body—obtained Use Permit approval from the Planning Commission in August 2008, which shows a history of Use Permit approval for non-retail commercial uses at this location.

Attachment D is a brief narrative provided by the applicant describing the proposed operations of the dentist office. According to the narrative, once the practice has fully developed its client base, a maximum of eight clients and approximately four employees (twelve total) will be on-site at any one time. Days and hours of operation are proposed to be Monday through Saturday from 7:00 a.m. to 7:00 p.m. Staff has provided conditions of approval addressing building permit, sign permit, and business license issuance.

Parking impacts are anticipated to be minimal since a maximum of twelve people are proposed to be on-site at any one time. The City's off-street parking space requirements listed in Section 17.37.030.A of the Clayton Municipal Code are one space per 250 square feet of floor area for commercial office uses, including dental offices. The parking lot at the Village Oaks commercial center has adequate parking to accommodate the anticipated demand for project-related parking spaces.

CONCLUSION

Staff has reviewed the proposal relative to the Use Permit standards of review in the Clayton Municipal Code as well as the Town Center Specific Plan guidelines and has determined that the proposal, as conditioned, is in conformance with the Clayton Municipal Code and Town Center Specific Plan. The proposed findings of approval listed below specifically address the Use Permit standards.

RECOMMENDATION

Staff recommends that the Planning Commission receive and consider the staff report and all information provided and submitted to date, receive and consider any public testimony and, if determined to be appropriate, conditionally approve Use Permit UP-03-16 for a dentist office (Victor Truong, DDS) to be located in a ground floor tenant space in the Village Oaks commercial building located at 6200 Center Street, Suites I and J, in Clayton's Town Center.

PROPOSED FINDINGS

Based upon the evidence set forth in the staff report, which includes relevant information from the project application, as well as testimony at the public hearing, the Planning Commission makes the following findings that Use Permit UP-03-16, as conditioned:

1. Is in conformity the General Plan and any applicable Specific Plan.

The project is in conformity with the General Plan objectives, policies, and land use designation since the project is located within the Town Center Commercial land use designation and the General Plan states that uses allowed within this designation shall be consistent with the Town Center Specific Plan.

This project is in conformity with the Town Center Specific Plan goals, policies, and land use designations since a dentist office, a commercial use, is an allowed use within the Town Center Specific Plan's Town Center Commercial land use designation with review and approval of a use permit by the Planning Commission. The Town Center Specific Plan intends to have an appropriate balance and mixture of uses and the proposed use or size will not interfere with or overwhelm the pedestrian and retail orientation of the district.

2. Is in conformity with City-adopted standards.

The project is in conformity with the City-adopted standards in the Zoning Ordinance as related to Use Permit standards of review by:

- a. Providing sufficient off-street parking for vehicles and bicycles as well as safe and effective access for vehicles, pedestrians, and bicycles.
 - b. Not generating significant traffic congestion since the dentist office entails a maximum of twelve people at any one time which is a nominal increase for such a large commercial building.
 - c. Being compatible with the Town Center Commercial land use designation by attracting and enhancing pedestrian activity, not occupying a tenant space visible from the street that would be better suited to a permitted use, complementing the intensity of existing tenants, and not involving the relocation of an existing business in the Town Center.
 - d. Not generating intermittent or constant noise levels violating the General Plan Noise Element.
 - e. Not generating significant levels of toxic or non-toxic dust, airborne particulate, fumes, or smells.
 - f. Not generating exterior lighting or significant litter.
 - g. Not resulting in crime or negative influences on minors.
 - h. Not representing a concentration of an activity that would be a detriment to the health, safety, and welfare of nearby residents, businesses, property owners, or employees.
3. Shall not negatively affect the general safety (e.g., seismic, landslide, flooding, fire, traffic) of the City or surrounding area.

The project entails a dentist office occupying an existing tenant space within an existing building which will not affect the general safety as it pertains to seismic activity, traffic impacts, landslides, flooding, or fires.

4. Shall not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City.

The project entails a dentist office occupying an existing tenant space within an existing building which will not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City.

5. The permit will be in accord with the purpose of Use Permits as stated in Section 17.60.020 of the Clayton Municipal Code.

By implementing the objectives, goals, and policies of the General Plan and Town Center Specific Plan; not being detrimental to the health, safety, and welfare of residents, businesses, property owners, and employees in the City; and being conditioned to promote compatibility with adjacent uses; the project complies with the purpose of Use Permits as stated in Section 17.60.020 of the Clayton Municipal Code.

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

PROPOSED CONDITIONS OF APPROVAL

These conditions of approval apply to the Victor Truong, DDS dentist office to be located in a ground-floor tenant space in the Village Oaks commercial building located at 6200 Center Street, Suite I and J (APN: 119-620-060) in Clayton's Town Center.

1. The applicant shall indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.
2. The days and hours of operation shall be Monday through Saturday from 7:00 a.m. to 7:00 p.m.
3. Prior to issuance of certificate of occupancy, a City of Clayton business license shall be obtained for Victor Truong, DDS.
4. The applicant shall obtain the necessary permits from the Contra Costa County Conservation and Development Department. All construction shall conform to the California Building Code.
5. Any project-related signage shall require review and approval by the City in accordance with Town Center Specific Plan sign guidelines and Clayton Municipal Code sign provisions.
6. Any changes to the dentist office operations use shall require Planning Commission review and approval.
7. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and any other payments that are due.

ADVISORY NOTES

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

1. The applicant shall comply with all applicable State, County, and City codes, regulations and adopted standards including, but not limited to, Contra Costa County Environmental Health, City of Concord sewer, and Central Contra Costa Sanitary District requirements, as well as pay all associated fees and charges.
2. This Use Permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be null and void (Clayton Municipal Code Sections 17.64.010-17.64.030).
3. All construction and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless specifically authorized in writing by the City Engineer (Clayton Municipal Code Section 15.01.101) located at 5375 Clayton Road, Concord, 925-363-7433.
4. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.

ATTACHMENTS

- A. Vicinity Map
- B. Site Plan submitted by Applicant
- C. Letter from Applicant
- D. Applicant's Use Permit Description

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Community Development\Planning Commission\Final Staff Reports and Notices of Decision\2016\4-26-16\UP-03-16.village.oaks.dentist.office.sr.for.pc.mtg.4.26.16

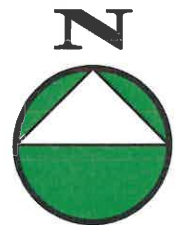
ATTACHMENT A



VICINITY MAP



**Victor Truong, DDS Family Dentistry
Village Oaks Commercial Building
6200 Center Street, Suites I and J
APN: 119-620-060
Use Permit UP-03-16**

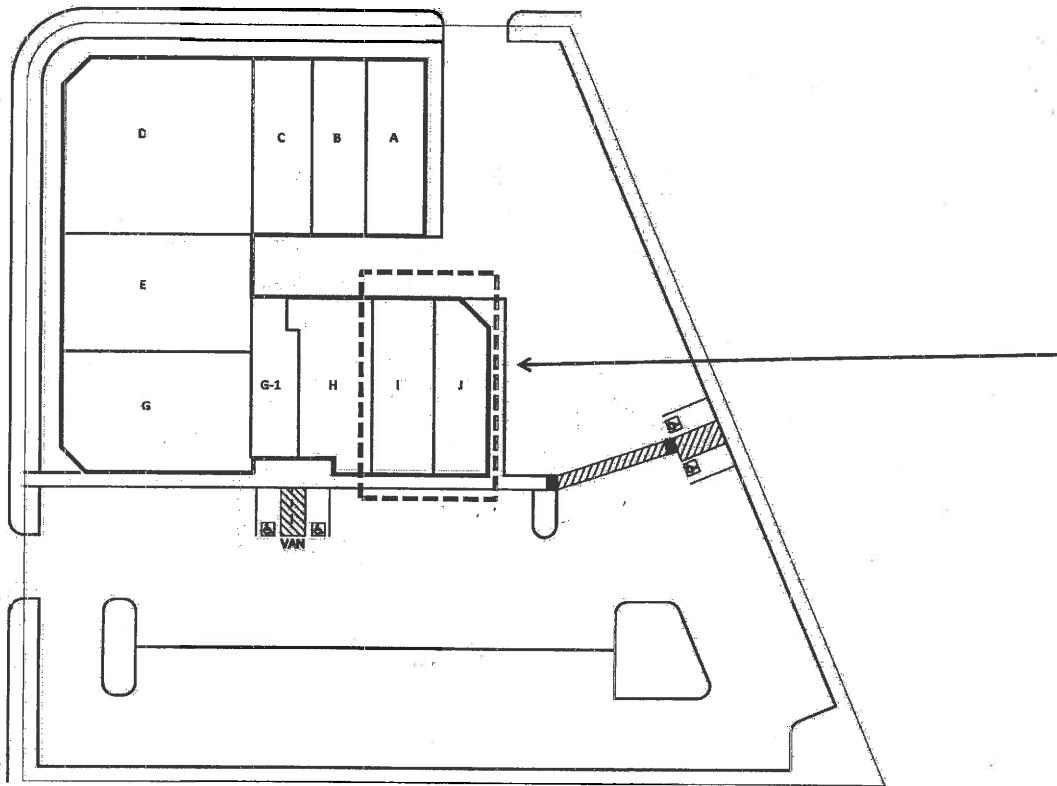


(Not to Scale)

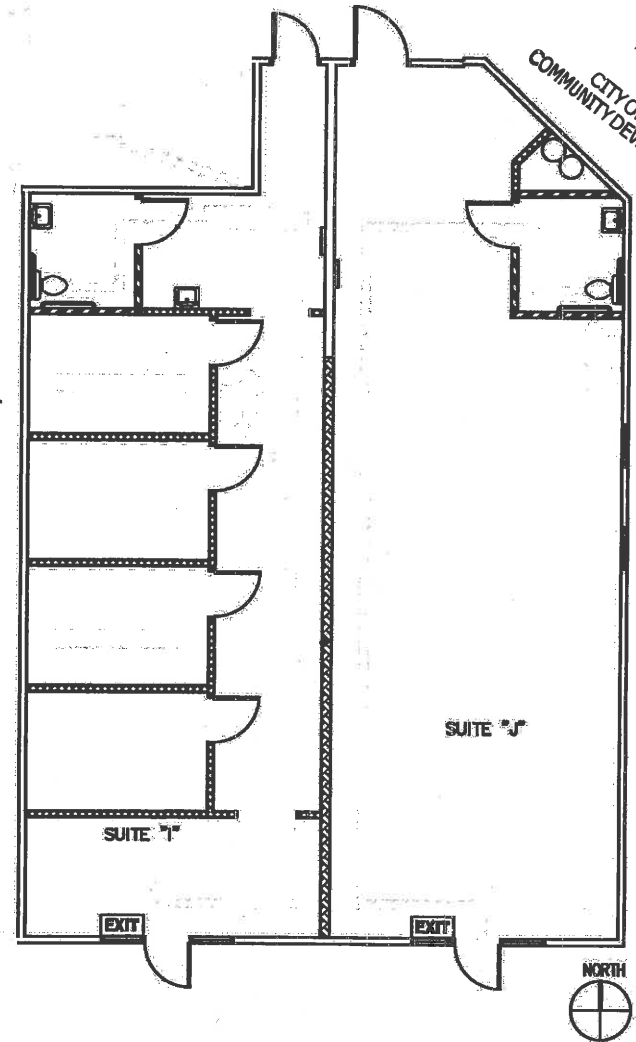
Use Permit Application for Village Oaks LLC / Village Oaks Center
Victor Truong, DDS, Dental Corp.: 6200 Center St., Ste. I & J Clayton, CA 94517

Village Oaks Center Site Plan
Center Street

Marsh Creek Road



Current Floor Plan for Ste. I & J



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APR 14 2016

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

ATTACHMENT B





ATTACHMENT C

April 1, 2016

Mr. Milan Sikela
Assistant Planner
City of Clayton
6000 Heritage Trail
Clayton, California 94517-1250

RECEIVED

APR 14 2016

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

Re: Current Leasing Status Report
Village Oaks, 6200 Center Street

Dear Milan:

Enclosed is a letter that I provided you in July of 2008 detailing the struggles that we have encountered regarding finding retail tenants for first floor vacancies at Village Oaks. There has been no change since then. We have added no new tenants to the ground floor in the past eight years so the same vacancies remain. We now have a dentist seriously interested that would like to lease spaces I & J which are shown on the attached site plan. This individual is willing wait the nearly two months it takes to determine if a Use Permit will be granted.

Suite I is currently occupied by Clayton Mind and Body which has never done well and has been unable to pay the contract rent and are on a month-to-month lease. Suite J has been vacant and unoccupied for over nearly ten years. We believe that these spaces are not suitable for a retail business because they have no street visibility and are located in the back corner of our property. It is our understanding that no new retail tenants have opened in Clayton since 2008 other than Subway.

As we stated in 2008, we will continue to seek out and work with retail tenants should they show any interest in our building.

Sincerely yours,
Coates & Sowards, Inc.
Managing Agent for Village Oaks


Stephen J. Coates, Manager

Enclosure



July 11, 2008

Mr. Milan Sikela
Assistant Planner
City of Clayton
6000 Heritage Trail
Clayton, California 94517-1250

Re: Current Leasing Status Report
Village Oaks, 6200 Center Street

Dear Milan:

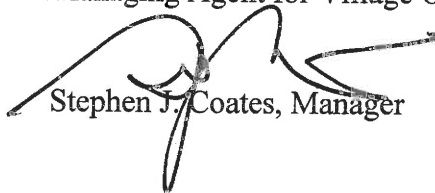
I thought it would be a good idea to keep you informed about how we are doing with leasing our vacant spaces at Village Oaks. I have been Managing and Leasing this property for over five years. Almost all our tenants live in Clayton and that is the primary reason that they have leased space in our building. We rarely have a request for retail tenants. I believe the primary reason for this is that there are not enough customers in the surrounding community to support a retail business. This may change over time but right now all requests for space seems to be for office or service uses.

The retail tenants that we have had in our building have not been successful. During the past five years a toy store vacated, a quilt shop has come and gone, and the western wear shop has had four different owners in five years and finally closed up. We worked with each of the businesses to succeed by providing attractive rental rates, and free rent to get started. We understand that the City of Clayton would like to see additional retail tenants to obtain sales tax revenues and we have no problem with leasing to retail tenants if they are available.

I have contacted the Broker handling the new building at 1026 Oak Street to keep her informed of our spaces available. Our rental rates would be considerably less than a new building so there is a real incentive to locate at Village Oaks. We have also had our spaces listed on LoopNet which is the largest electronic listing service in the nation. I can no remember a single call from a retailer. Almost all our calls for space have come from people living in Clayton who want to relocate or open a business in our building. Right now our only possible tenant is Snap Fitness who would take one of five spaces that we currently have available. If we are unable to finalize a Lease with this business then we may be sitting with a vacant space for some time. This business would be paying us several thousand dollars per month so we are quite concerned about not being able to lease Snap Fitness.

We will continue to seek out and work with retail tenants should they show any interest in our building.

Sincerely yours,
Coates & Sowards, Inc.
Managing Agent for Village Oaks



Stephen J. Coates, Manager

ATTACHMENT D

Statement of Operation for Use Permit Application

Applicant: Village Oaks LLC

Property Owner: Village Oaks LLC

Property Name: Village Oaks Center

Property Address: 6200 Center St., Clayton, CA 94517

Tenant Business: Victor Truong, DDS, Dental Corp.

Premises Address: 6200 Center St., Ste. I & J, Clayton, CA 94517

Size of Premises: 2,210 sq. ft.

Type of Activity: Family and Cosmetic General Dentistry Practice

Days/Hours of Operation: 6 days per week, Monday through Saturday, 7am to 7pm once practice has fully developed its client base

Number of Persons Involved: 12 persons once practice has fully developed its client base

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APR 14 2016

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

PLANNING COMMISSION STAFF REPORT

Meeting Date: April 26, 2016

Item Number: 5.b

From: Mindy Gentry
Community Development Director 

Subject: Ordinance Extending the Town Center Parking Waiver (ZOA-02-16)

Applicant: City of Clayton

REQUEST

The City of Clayton is requesting a public hearing to consider a City-initiated Ordinance to amend the City of Clayton Municipal Code to extend the off-street parking waiver for three years in the Town Center area from June 30, 2016 to June 30, 2019 (ZOA-02-16).

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 April 13, 2016, 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 Section 17.37.030.C and Schedule 17.37.030.D (**Attachment B**).

The purpose of offering the waiver of required on-site parking was to provide 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. The basis for the recommended changes were born out of 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 two separate occasions July 20, 2010 and May 21, 2013, extensions of the parking waiver allowances until June 30, 2013 and June 30, 2016 respectively. In addition to the parking waiver time extension, the City Council also approved various entitlements associated with the Creekside Terrace Mixed Use Project. The Creekside Terrace Mixed Use Project was the first project to take advantage of the parking waiver provisions.

DISCUSSION

The purpose of the City offering the parking waiver and associated provisions in 2007 was primarily to encourage and provide incentive to potential development for retail and restaurant uses in the Town Center. This action supported 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 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. The purpose at the time was also to “jump start” commercial development in the Town Center area and assist in generating the “critical mass” needed to establish the Town Center as a competitive commercial location.

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 when 200 parking spaces that normally would have been required with development had been waived (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, only seven parking spaces have been waived through the payment of in-lieu fees per Section 17.37.070 for the Creekside Terrace Mixed Use Project located on the west side of Oak Street and north of High Street. The Community Development Director is responsible for monitoring this threshold and reporting back to the Planning Commission. The Planning Commission, in turn, is responsible for reviewing the Director’s report and making a recommendation to the City Council. No written reports to date have been provided to the Planning Commission given the low level of development activity which have resulted in a limited number of parking waivers (seven) being applied toward the 200 parking space threshold.

The potential development and generation of the “critical mass” was dealt a significant setback with the onset of the Great Recession. Based on recent developer inquires for Town Center properties, a turnaround could possibly be on the horizon. Developer interest is supported by rising land and real estate values in the area, according to the developers who have made inquiries. Staff believes that the same reasons exist in 2016 that did in 2007 to incentivize potential commercial development in the Town Center. Approval of the parking waiver would show continued effort and support as well as the provision of an impetus to precipitate 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 02-16, recommending City Council approval of an Ordinance extending the parking waiver in the Town Center Area until June 30, 2019 (**Attachment A**).

ATTACHMENTS

- A. Planning Commission Resolution 02-16, with attachment:
 - Exhibit A – Draft Ordinance Extending the Parking Waiver for the Town Center Area
- B. Clayton Municipal Code Parking Excerpts

ATTACHMENT A

CITY OF CLAYTON PLANNING COMMISSION RESOLUTION NO. 02-16

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, 2013 THROUGH JUNE 30, 2016 THE PARKING WAIVER PROVISION IN THE TOWN CENTER AREA (ZOA-02-16)

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 and then was amended again by Ordinance No. 428 and expired on June 30, 2013; and

WHEREAS, an additional third waiver period contained within Ordinance No. 446 and reflected in 17.37.030.C of the Clayton Municipal Code expires on June 30, 2016;

WHEREAS, because only limited development has occurred in the Town Center area since the adoption of Ordinances No. 408, 428, and 446 and 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 April 26, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, and 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, 2019; 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, 2016 to June 30, 2019, 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 26th day of April, 2016.

APPROVED:

ATTEST:

David Bruzzone
Chair

Mindy Gentry
Community Development Director

ATTACHMENTS

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, 2016 THROUGH JUNE 30, 2019 THE PARKING WAIVER PROVISION IN THE TOWN CENTER AREA (ZOA-02-16)

**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 and then was amended again by Ordinance No. 428 and expired on June 30, 2013; and

WHEREAS, an additional third waiver period contained within Ordinance No. 446 and reflected in 17.37.030.C of the Clayton Municipal Code expires on June 30, 2016;

WHEREAS, because only limited development has occurred in the Town Center area since the adoption of Ordinances No. 408, 428, and 446 and 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; 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. Section 17.37.030.C of the Municipal Code is amended to read 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, 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.”

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 meeting of the City Council of the City of Clayton held on _____, 2016.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular meeting thereof held on _____, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON

Howard Geller, 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 was duly introduced at a regular meeting of the City Council of the City of Clayton held on _____, 2016 and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on _____, 2016.

Janet Brown, City Clerk

ATTACHMENT B

- I. Administrative Relief. Subject to the following requirements, administrative relief from the terms of this chapter may be granted for matters regarding dimensions and square footage, as well as design standards for parking spaces, loading spaces, and parking lots.
1. The Director makes express written findings that the requirements of this chapter are impractical as applied to the project; and
 2. Measures are incorporated into the project and the Director expressly finds in writing that the measures advance the purposes of this chapter; and
 3. The City Attorney reviews and approves the Director's action as complying with all applicable laws.

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 17.37.030A. Off-street loading spaces shall be provided for non-residential uses in accordance with Schedule 17.37.030B 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 17.37.030A, 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 17.37.030C.
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, 2016, a waiver period extending through June 30, 2016 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. (Ord. 446).
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. 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 (1) 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 (Ord. 428).
 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 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 17.37.030B 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.

SCHEDULE 17.37.030D REDUCTION OF REQUIRED PARKING AND LOADING SPACES DURING WAIVER PERIOD		
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.