



STAFF REPORT

TO: CLAYTON CITY COUNCIL

FROM: Kraig Chalem, Senior Planner

DATE: February 3, 2026

SUBJECT: Adoption of Ordinance No. 502 Amending the Clayton Municipal Code to Add Subsection 17.36.079 to Chapter 17.36 (General Regulations) of Title 17 (Zoning) Related to by Right Affordable Housing of Housing Element Opportunity Sites

RECOMMENDATION

Adopt Ordinance amending the Clayton Municipal Code to add subsection 17.36.079 to Chapter 17.36 of Title 17 to clearly state that developments meeting affordable housing requirements are allowed by right.

BACKGROUND

On January 17, 2023, the Clayton City Council adopted the Housing Element Update (HEU) for the 6th Housing Cycle, approved in December 2022. Following the public hearing, the City Council adopted Resolution No. 06-2023 certifying the Final Environmental Impact Report (EIR) prepared for the project and adopting the update.

DISCUSSION

The City Council adopted the Housing Element on January 17, 2023, within the statutory deadline. After adoption, the City submitted the element to HCD for certification. HCD had many comments and staff followed up.

Staff had thought that all issues had been resolved with HCD. However, as noted above, HCD had two additional comments, which staff seeks to satisfy by amending Resolution No. 06-2023, to incorporate a finding as noted below, and amending the zoning code to satisfy state requirements regarding entitlements.

On December 23, 2025, staff presented the Resolution revision and proposed Ordinance to the Clayton Planning Commission, and the Commissioners recommended that the City Council review and approve the Resolution and Ordinance as proposed.

On January 6, 2026, City Council approved the final revised Resolution No. 01-2026, adding a finding that identifies specific properties in the HEU as likely to redevelop and addresses that these properties within the City of Clayton do not constitute impediments to redevelopment within the planning period; and, first reading to amend the Clayton Municipal Code reflecting a state requirement that a non-vacant site that has been identified as a housing opportunity site

in the City's prior housing element and a vacant site that has been included in two or more consecutive housing element planning periods shall be an allowed residential use by right if at least 20% of the units are deed-restricted affordable units.

To effectuate this proposed change, staff recommend final adoption of Ordinance No. 502 amending Chapter 17.36 (General Requirements) of Title 17 (Zoning) by adding subchapter 17.36.079 (Housing Element Opportunity Sites) as follows:

"17.36.079 - Housing Element Opportunity Sites. Pursuant to Government Code section 65583.2(c), a non-vacant site that has been identified as a housing opportunity site in the City's prior housing element and a vacant site that has been included in two or more consecutive housing element planning periods shall be an allowed residential use by right for housing developments where at least twenty percent of the units are affordable to lower income households. Pursuant to Government Code section 65583.2(i), the development shall comply with all objective development standards, and a proposed subdivision of the property shall be subject to all applicable laws. If applicable, such projects shall be subject to design review."

CEQA

On January 17, 2023, in accordance with the California Environmental Quality Act (CEQA, Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, section 15000 et seq.), the Clayton City Council certified a Final Environmental Impact Report (EIR; State Clearinghouse No. 2022030086) that analyzed the potential impacts on the environment that could occur with adoption of the Housing Element update and related amendments to land use regulations. The additional finding and the housing-related Zoning amendment as summarized above are within the scope of the project analyzed in the certified EIR.

FISCAL IMPACT

There are no immediate fiscal impacts associated with the project.

ATTACHMENTS

[Att A - RES 01-2026 Housing Element 20260106.docx.pdf](#)

[Att B- Ordinance Amending Title 17-c1.](#)