



# **AGENDA**

## **REGULAR JOINT MEETINGS**

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### **CLAYTON CITY COUNCIL and CLAYTON SUCCESSOR & SUCCESSOR HOUSING AGENCIES**

\* \* \*

**TUESDAY, December 20, 2016**

**7:00 P.M.**

*Hoyer Hall, Clayton Community Library  
6125 Clayton Road, Clayton, CA 94517*

**Mayor:** Jim Diaz  
**Vice Mayor:** Keith Haydon

#### **Council Members**

Julie K. Pierce  
David T. Shuey  
Tuija Catalano

- A complete packet of information containing staff reports and exhibits related to each public item is available for public review in City Hall located at 6000 Heritage Trail and on the City's Website at least 72 hours prior to the Council meeting.
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at [www.ci.clayton.ca.us](http://www.ci.clayton.ca.us)
- Any writings or documents provided to a majority of the City Council after distribution of the Agenda Packet and regarding any public item on this Agenda will be made available for public inspection in the City Clerk's office located at 6000 Heritage Trail during normal business hours.
- If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at (925) 673-7304.

**\* CITY COUNCIL \***

**December 20, 2016**

1. **CALL TO ORDER AND ROLL CALL** – Mayor Diaz.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Diaz.

3. **CONSENT CALENDAR**

*Consent Calendar items are typically routine in nature and are considered for approval by the City Council with one single motion. Members of the Council, Audience, or Staff wishing an item removed from the Consent Calendar for purpose of public comment, question or input may request so through the Mayor.*

(a) Approve the minutes of the City Council’s regular meeting of December 6, 2016. [\(View Here\)](#)

(b) Approve the Financial Demands and Obligations of the City. [\(View Here\)](#)

(c) Adopt a Resolution accepting the transfer of fee title to real property (APN 119-015-007) known as “The Grove Park” from the Clayton Successor Agency for its continued use as a governmental purpose asset [public park]. [\(View Here\)](#)

(d) Approve a Third Addendum to the Exclusive Sales Listing Agreement with Transwestern Property Company West, Inc. to extend the existing terms and conditions to January 2, 2018 for the list and market for sale and development certain City-owned real properties in the Clayton Town Center (APN 118-560-010, vacant 1.67 acre parcel off Main Street; and APNs 119-050-034, 119-050-008, and 119-050-009 located at 1005 and 1007 Oak Street). [\(View Here\)](#)

(e) Adopt a Resolution approving the City’s AB 1600 Annual Report for FY 2015-2016 with the finding there remains a reasonable relationship between the current needs for the City’s Development Impact Fees and the purposes for which they were originally charged and collected (per *California Government Code Section 66000 et. seq.*). [\(View Here\)](#)

(f) Receive the appointment of Council Member Tuija Catalano as Mayor Diaz’s mayoral appointment of a Clayton community member to the Oversight Board of the Successor Agency to the former Clayton Redevelopment Agency. [\(View Here\)](#)

4. **RECOGNITIONS AND PRESENTATIONS** – None.

5. **REPORTS**

(a) Planning Commission – Commissioner William Gall.

(b) Trails and Landscaping Committee – No meeting held.

(c) City Manager/Staff

(d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

(e) Other

## 6. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

*Members of the public may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the City Clerk. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Mayor's discretion. When one's name is called or you are recognized by the Mayor as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, or may at its discretion request Staff to report back at a future meeting concerning the matter.*

*Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each of those items is considered by the City Council.*

## 7. **PUBLIC HEARINGS**

- (a) Public Hearing to consider the adoption of Urgency Ordinance No. 473 to prohibit outdoor cultivation of recreational marijuana plants, and discussion of various local policy issues arising from the California voters' passage of Prop 64 regarding local regulation of legal recreational marijuana. ([View Here](#))  
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following Council discussion or any amendments to the proposed Ordinance, determine if Council wishes to approve a motion to have the City Clerk read Ordinance No. 473 by title and number only and waive further reading; **5)** Following the City Clerk's reading, by motion approve Urgency Ordinance No. 473 for adoption with the finding the action does not constitute a project under CEQA (Note: Action requires 4/5ths affirmative vote); and then **6)** Provide policy directions as to desired local regulation of any aspects of the Adult Use of Marijuana Act (AUMA).

## 8. **ACTION ITEMS**

- (a) Consider the Second Reading and Adoption of Ordinance No. 471 amending the Clayton Zoning Map from Agricultural District (A) to Planned Development District (PD) for 2.77 Acres that comprise the St. John's Church/Southbrook Drive Mixed Use Planned Development Project. ([View Here](#))  
(Community Development Director)

Staff recommendations: **1)** Receive the staff report; **2)** Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Approve a motion to have the City Clerk read Ordinance No. 471 by title and number only and waive further reading; and **5)** Following the City Clerk's reading, by motion adopt Ordinance No. 471 with the finding the project will not have a significant effect on the environment as outlined in the City Council-adopted St. John's Church/Southbrook Drive Mixed Use Planned Development Project Final Initial Study/Mitigated Negative Declaration (IS/MND).

- (b) Continued consideration of a proposal to share the cost for installation of fencing and related field improvements and storage by Clayton Valley Little League (CVLL) involving a permanently fixed outfield baseball fence on Sports Field No. 3 at Clayton Community Park. ([View Here](#))  
(Maintenance Supervisor)

Staff recommendation: Following staff presentation and opportunity for public comments, that City Council provide general policy direction and funding source guidance to staff regarding these recreational field matters and CVLL's proposal.

- (c) Review of Mayoral determination for City Council ad-hoc, committee, inter-governmental and regional board assignments for 2017. ([View Here](#))  
(Mayor Diaz)

Staff recommendation: Following report by Mayor Diaz and opportunity for public comment, approve by motion the proposed City Council Member assignments for calendar year 2017.

9. **COUNCIL ITEMS** – limited to requests and directives for future meetings.

10. **CLOSED SESSION** – None.

11. **ADJOURNMENT**

The January 3, 2017 meeting was canceled by Council previous action.  
Therefore, the next regularly scheduled meeting of the City Council will be on January 17, 2017.

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**\* CLAYTON SUCCESSOR and SUCCESSOR HOUSING AGENCIES \***  
**December 20, 2016**

1. **CALL TO ORDER AND ROLL CALL** – Chairman Shuey.

2. **CONSENT CALENDAR**

*Consent Calendar items are typically routine in nature and are considered for approval by the Board with one single motion. Members of the Board, Audience or Staff wishing an item pulled from the Consent Calendar for purpose of public comment, question or discussion may request so through the Chair.*

(a) Approve the minutes of the regular meeting of December 6, 2016.[\(View Here\)](#)

(b) Adopt a Resolution granting fee title to real property known as “The Grove Park” (APN 119-015-007) to the City of Clayton for its continued use as a governmental purpose asset (public park). [\(View Here\)](#)

(c) Adopt a Resolution approving the Successor Agency’s 11<sup>th</sup> Recognized Obligation Payment Schedule for the time period covering July 1, 2017 through June 30, 2018 (ROPS 2017-18), as required by the CA Department of Finance (DOF). [\(View Here\)](#)

3. **PUBLIC COMMENT ON NON - AGENDA ITEMS**

*Members of the public may address the Board on items within the Board’s jurisdiction, (which are not on the agenda) at this time. To facilitate the recordation of comments, it is requested each speaker complete a speaker card available on the Lobby table and submit it in advance to the Secretary. To assure an orderly meeting and an equal opportunity for everyone, each speaker is limited to 3 minutes, enforced at the Chair’s discretion. When one’s name is called or you are recognized by the Chair as wishing to speak, the speaker shall approach the public podium and adhere to the time limit. In accordance with State Law, no action may take place on any item not appearing on the posted agenda. The Board may respond to statements made or questions asked, or may at its discretion request Staff to report back at a future meeting concerning the matter.*

*Public comment and input on Public Hearing, Action Items and other Agenda Items will be allowed when each item is considered by the Board.*

4. **PUBLIC HEARINGS** – None.

5. **ACTION ITEMS** – None.

6. **BOARD ITEMS** – limited to requests and directives for future meetings.

7. **ADJOURNMENT** – the next regular Successor Agency meeting will be scheduled as needed.

# # # # #

**MINUTES**  
**OF THE**  
**REGULAR MEETING**  
**CLAYTON CITY COUNCIL**

Agenda Date: 12-20-2016

Agenda Item: 3a

**TUESDAY, December 6, 2016**

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:03 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. **Councilmembers present:** Mayor Geller, Vice Mayor Diaz and Councilmembers Haydon, Pierce and Shuey, and Council Member-elect Catalano. **Councilmembers absent:** None. **Staff present:** City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, Assistant Planner Milan Sikela, and City Clerk/HR Manager Janet Brown.

2. **PLEDGE OF ALLEGIANCE** – led by Mayor Geller.

3. **CONSENT CALENDAR**

**It was moved by Councilmember Haydon, seconded by Councilmember Pierce, to approve the Consent Calendar as submitted. (Passed; 5-0 vote).**

(a) **Information Only** – No Action Requested.

1. Notification of a Public Hearing on Wednesday, January 4, 2017 by the Contra Costa Water District Board of Directors (CCWD) to consider a treated water rate revenue increase of up to 6.0% to become effective February 1, 2017.

2. Notification by Republic Services that residential and commercial solid waste/recycling collection and disposal services rates in Clayton will increase by 3.2% effective January 1, 2017 (ref. 90% of the annual October-October Consumer Price Index (CPI) change of 3.56%, per the City's Franchise Agreement).

(b) Approved the minutes of the regular meeting of November 15, 2016.

(c) Approved Financial Demands and Obligations of the City.

(d) Adopted Resolution No. 54-2016 awarding a lowest competitively-bid contract to Intermountain Slurry Company, Inc. in the amount of \$556,203.97 for the 2016-17 Arterial Streets and Oak Street Rehabilitation Projects (micro-surfacing), and transferring \$12,000 from the Oak Street Permanent Road Division Fund to CIP No. 10437.

(e) Adopted Resolution No. 55-2016 certifying the results of canvass of returns in the November 2016 General Municipal Election and declaring Julie Pierce, Jim Diaz, and Tuija Catalano elected to 4-year terms of public office on the City Council of the City of Clayton, California.

4. **RECOGNITIONS AND PRESENTATIONS** – None.

5. **REMARKS BY OUTGOING CITY COUNCIL MEMBER**

Mayor Howard Geller thanked the City Council for giving him the chance to being a part of a super team; it was one of the best experiences of his life, where he learned about things that he would never have learned before. He also thanked his wife, Debbie, stating she was the true Mayor where she helped him proofread his Mayor's Column. He also thanked City Manager Gary Napper who is a wordsmith and for being his final editor before his Mayor's Columns would go out. He also thanked City Attorney Mala Subramanian for keeping him out of jail. He also thanked Janet Brown for looking after him and taking care of his needs whenever he called; and finally he thanked the rest of the City staff noting the City Council makes policy but the City employees run the City and they have done a fabulous job. With this is not his final "Good-bye," he will still be in charge of the Saturday Concerts in The Grove and stay very active as to what is happening in the City, he will just be on the other side of the dais and will be able to speak his peace.

Vice Mayor Diaz presented Mayor Geller with a personalized clock as a small token of appreciation for his years of service on the Council and as Mayor.

Former Mayor Howard Geller then stepped down from the Council dais and sat in the audience. City Manager Gary Napper turned the meeting over to the City Clerk to perform the Oath of Office to the newly-elected City Council members.

6. **OATHS OF OFFICE BY NEWLY-ELECTED CITY COUNCIL MEMBERS**

The Oaths of Office by the November 2016 elected Councilmembers Julie Pierce, Jim Diaz and Tuija Catalano were administered by City Clerk Janet Brown. Each of the newly-elected Councilmembers took their seats at the Council dais and were provided signed Certificates of Election.

7. **ANNUAL REORGANIZATION OF CLAYTON CITY COUNCIL**

- (a) Election of Mayor by the City Council [Vice Mayor Diaz to conduct the election].

Vice Mayor Diaz opened nominations. Councilmember Pierce nominated Jim Diaz for the office of Mayor. Councilmember Shuey seconded the nomination. There were no other nominations and Vice Mayor Diaz closed the nominations.

**On call by Vice Mayor Diaz, the election of Jim Diaz as Mayor passed by acclamation (Passed; 5-0 vote).**

- (b) Election of Vice Mayor by the City Council [Newly-elected Mayor to conduct the election].

Mayor Diaz opened nominations for Vice Mayor. Councilmember Pierce nominated Keith Haydon for the position of Vice Mayor. Councilmember Shuey seconded the nomination. There were no other nominations and Mayor Diaz closed the nominations.

**On call by Mayor Diaz, the election of Keith Haydon as Vice Mayor passed by acclamation (Passed; 5-0 vote).**

(c) Recognitions and comments by Mayor and Council Members.

Councilmember Pierce advised she is deeply honored to be re-elected to the Clayton City Council by the citizens of Clayton for yet another term and will do everything she can to support that trust. She also expressed a "Thank you" to Howard Geller because he has done a splendid job for the last eight years, worked really hard and he is extremely diligent and took copious notes at Council meetings. Howard has been a tireless volunteer in the city of Clayton and he will continue to be a volunteer, he just won't have to spend every other Tuesday up here and have the long agenda packets to read. Julie wished both Howard and Debbie all the best and will not be letting him off the hook on the Concerts in The Grove.

Vice Mayor Haydon congratulated Tuija Catalano on her election to the City Council and Julie and Jim on their re-election to City Council. He also wanted to reinforce the recognition to Howard Geller and his wife Debbie; they are a strong team. Howard has really worked hard for Clayton and Vice Mayor Haydon doesn't think people realize what is expected when you are the Mayor. Not only does he lead and attend the City Council meetings, but he is also out representing the City at a number of different functions, meetings, and was always prepared, provided excellent comments, and represented our City well. He thanked Howard for his efforts and the efforts he provided to the Clayton Business and Community Association (CBCA), and for always being a great citizen and participant in the community.

Councilmember Shuey congratulated Tuija, Julie and Jim to the City Council noting the city has chosen wisely. Congratulations to Jim Diaz as Mayor. He added without any hesitation that throughout the time he has served on the City Council and Community Services Commission there is probably less than five people that could come close to doing what Howard has done for this City, both as a Councilmember and a Clayton Business and Community Association member, and as a citizen, and for him to come and give us eight years we have been truly blessed; he is very proud to have served with Howard as he did a fantastic job. Most people will never understand the depths of the commitment and work that Howard did for the City and it was a pleasure working with him. "Thank you, Howard."

Councilmember Catalano also expressed her "thank you", as it is a very humbling experience to run for City Council. You think you've done a few things in the city and you think you know a lot of people and then you campaign and realize that you do not know as many people as you need votes. First and foremost she expressed "thanks" to the people that voted for her, and thanked everyone who in some way helped her with this campaign by signing her Nomination Papers or by taking a yard sign or to distribute flyers. She also acknowledged her husband and kids; she's not certain that they know they "volunteered" for this task yet they did walk the streets and distribute flyers. The one person that she really wished could have been here tonight is her dad that passed away a few years ago. When she was a child, he served on a number of different county boards, so the apple doesn't fall too far in that respect. Council Member Catalano remarked she is very happy to be here today and many know that she is a native of Finland; today also happens to be Independence Day in Finland, which makes this quite an awesome day to end it here today with the swearing into elected office ceremony. She is looking forward to serving the community and wanted to thank everyone for the trust and support.

Mayor Diaz also expressed his "thank you" to the citizens of Clayton for his re-election. He looked back over the number of years that he sought public office, noting it took a little while but with perseverance and tenacity he was able to succeed. He also thanked his wife Dana who has always been extremely supportive of his endeavors. Mayor Diaz reflected back on the first time he met Howard in his role as the brand new chair of



CBCA's "Clayton Classic" Golf Tournament; he received a call from Howard one day and he was very supportive and helpful in making that event very successful. The call was out of the blue, but Howard offered his full support and effort through the Clayton Business and Community Association, including its Art and Wine Festival, the Concerts in The Grove with that truly being one of Howard's legacies he leaves behind to this town. Mayor Diaz thanked Howard and looks forward to continue working with him on the Concerts in The Grove.

Mayor Diaz also wished to thank the people that showed up tonight to support him, one being one of his oldest friends, Nick Montana, whom he met when they served together in the Clayton Police Department in the mid-1970s. He also recognized a number of police employees he has associated with over the years: Sergeant Tim Marchut, Rich Enea, Sr., Police Officer Rich Enea, Jr., and Police Office Coordinator Sandy Johnson. He also recognized Gary Hood in the audience, who was one of the biggest opponents to the Ipsen Bocce Court development; however, he now sees Gary Hood with his bocce team on a regular basis on Court One downtown.

At this time, Mayor Diaz invited people forward from the audience that wished to acknowledge former Mayor Geller for his service to the City. Elizabeth Patton, Field Representative from Senator Glazer's office, presented Howard Geller with a Proclamation highlighting his many accomplishments while serving on the Clayton City Council. Dominic Aliano, from Supervisor Mitchoff's office, presented Mr. Geller with a certificate thanking him for his service to the Clayton community.

## **8. REPORTS**

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff

City Manager Napper added on behalf of City staff he expressed its gratitude this evening to Howard Geller for all he has done to support its effort. As City Manager he gets to see first-hand more of the things Mr. Geller did as the Mayor and can tell you that he refers to Howard as "Citizen Mayor", he was truly an integral part of the community and had a presence at City Hall. Staff appreciates when City checks are signed in timely fashion, resolutions and ordinances were in need of signature; and when in City Hall Mayor Geller would also just chat with staff, keeping a pulse on the community. Personally, we "thank you" for your dedication and we will all miss you.

### **7:28 p.m. Social Break**

Mayor Diaz called for a short break in the Council proceedings so attendees in the audience and members of the City Council could socialize with the newly-installed members of the City Council and former Mayor Geller.

### **7: 45 p.m.**

Mayor Diaz called the Clayton City Council meeting back to order.

- (d) City Council - Reports from Council liaisons to Regional Committees, Commissions and Boards.

Vice Mayor Haydon attended the Clayton Library Foundation committee meeting and thanked the Library Foundation for its recent monetary contribution to the City to help with the staffing costs paid by the City for extra weekly operation hours; he attended the

Marsh Creek Multi-Use Trail meeting was cancelled and rescheduled to next week, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg and the Clayton Business and Community Association's Annual Tree Lighting event in downtown Clayton.

Councilmember Shuey did not share a report.

Councilmember Catalano attended the Clayton Business and Community Association's Annual Tree Lighting event in downtown Clayton.

Councilmember Pierce attended the San Jose Registry Forecast Group consisting of representatives from area realtors, the Bay Area Growth and Plan Bay Area meetings, the Metropolitan Transportation Commission meeting, the Contra Costa Transportation Authority Board meeting, the Associated Bay Area Governments Executive Board meeting, a joint meeting of the Associated Bay Area Governments and Metropolitan Transportation Commission meeting, the Bay Area Regional Collaborative meeting, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg, and she reminded the community of the upcoming Annual Christmas Homes Tour taking place on December 11, 2016 sponsored by the Clayton Historical Society.

Mayor Diaz attended a County Connection meeting, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg, and the Clayton Business and Community Association's Tree Lighting and Holiday event.

(e) Other – None.

**9. PUBLIC COMMENT ON NON - AGENDA ITEMS**

Steven Cross, 901 Sunvalley Blvd, Suite 220, Concord, representing the Center of Human Development, shared information about its low-cost or free mediation services offered to the Elderly, Family and/or Neighbor for disputes; available time can be for up to three hours. The Center of Human Development has found this dispute resolution service to have a 90% success rate. Mr. Cross wanted to get the word out about this community resources service.

**10. PUBLIC HEARINGS**

(a) Continued Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022):

- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
- 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
- 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and

- 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).  
(Assistant Planner)

Councilmember Catalano stated for the record she was in attendance at the Planning Commission meeting of October 25<sup>th</sup> on this matter but not at the City Council's initial hearing on November 15<sup>th</sup> meeting. She reviewed the November 15<sup>th</sup> City Council materials in advance of this meeting and as such stated she will participate in the discussion this evening regarding this item.

Assistant Planner Milan Sikela presented the staff report indicating this is a continued item from the November 15<sup>th</sup> regular City Council meeting. Mr. Sikela advised the City Council reviewed the item and provided three issues requiring additional staff research. Those items were a second story window located on the side elevation of the proposed home; the need for a 6' fence on the north property line located at the rear of the lot adjoining the Church parking lot; and the evaluation of a "No Parking" area in the shared driveway.

He indicated the applicant and the concerned neighbor have come to an agreement on a smaller window installed 6' from the finished floor on that elevation. The existing fence on the north end of the property line is a short somewhat see-through fence and the City Council requested the applicant construct a 6' solid good-neighbor fence. Staff worked with the applicant requiring this fence to be at least 3 feet above the retaining wall as required by the *Clayton Municipal Code* section 17.36 - General Regulations. Lastly, staff evaluated requiring a "No Parking" area in the shared driveway either in front of the garages or at the southern terminus of the driveway; the applicant worked with the Contra Costa County Fire Protection District reviewing its response access and water availability, and he noted the Fire District approved the site plans along with a submitted document that the shared driveway is not needed for fire safety purposes. The properties can be accessed for fire suppression purpose from Southbrook Drive and its fire hose length can wrap around the homes at least two times from that response location. The applicant also indicated one of the benefits of this project is to leave the shared driveway available for various private vehicles that are associated with these homes.

Lastly, Mr. Sikela noted an issue that was not asked for further research was a comment made about the location of the stormwater detention basins by Council Member Pierce. Staff provided a revised diagram as Attachment 10 to note the location of these basins and the applicant is working with the City Engineer on a stormwater control plan including an operation and maintenance agreement.

Mayor Diaz re-opened the Public Hearing on this item; no comments were offered and Mayor Diaz then closed the Public Hearing.

Councilmember Pierce thanked the residents and applicant on working together and coming up with an agreeable solution. Councilmember Haydon added his thank you to the applicant and residents in resolving the concerns City Council had identified in a fair manner.

1. **It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution No. 56-2016 adopting the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project (ENV-01-15). (Passed; 5-0 vote).**

2. **It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution No. 57-2016 modifying the existing land use designation from Institutional Density (ID) to Single Family Medium Density (MD) for the northern 0.41 acres of the St. John's Church/Southbrook Drive Mixed Use Planned Development Project.  
(Passed; 5-0 vote).**

3. **It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to have the City Clerk read Ordinance No. 471, by title and number only and waive further reading.  
(Passed; 5-0 vote).**

The City Clerk read Ordinance No. 471 by title and number only.

**It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve Ordinance No. 471 for Introduction with finding the action will not result in a significant adverse impact on the environment.  
(Passed; 5-0 vote).**

4. **It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to adopt Resolution No. 58-2016 approving the Development Plan (DP-01-15), Tentative Parcel Map (MAP-0-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project.  
(Passed; 5-0 vote).**

- (b) Public Hearing to consider the adoption of Urgency Ordinance No. 472 extending the interim local moratorium for an additional ten (10) months and fifteen (15) days on the operation or establishment of parolee homes and community supervision programs within the city of Clayton.  
(Community Development Director)

Community Development Director Mindy Gentry indicated that back on November 1, 2016 the Council adopted Ordinance No. 469 placing a forty-five day moratorium on the establishment, construction and operation of Community Supervision Programs and parolee homes. Unfortunately, the forty-five days did not provide staff adequate time to draft regulations and present them to both the Planning Commission and City Council for review and consideration. Due to the uses associated with the County's Community Supervision Program including parolee housing not being defined in the *Clayton Municipal Code*, the expiration of Ordinance No. 469 will not have met Council's concerns regarding on-going potential negative impacts to public health, safety and welfare, particularly if there were a dense concentration of parolee homes located near sensitive uses such as parks, schools, or day care. The adoption of this Ordinance will provide staff the further time needed to draft regulations and present them for consideration by the Planning Commission and then enactment by City Council. It is anticipated that staff will not need an extension beyond this additional ten months and fifteen days.

Mayor Diaz opened the Public Hearing for public comment; no comments were offered. Mayor Diaz closed the Public Hearing.

**It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to have the City Clerk read Ordinance No. 472, by title and number only and waive further reading.**

**(Passed; 5-0 vote).**

The City Clerk read Ordinance No. 472 by title and number only.

**It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to adopt Urgency Ordinance No. 472 with the finding the adoption of this Ordinance is not subject to the California Environmental Quality Act (CEQA) because CEQA only applies to projects which have the potential for causing a significant effect on the environment and this activity is not considered to be a project and can be seen with certainty that it will not have a significant effect or physical change to the environment.**

**(Passed; 5-0 vote).**

## **11. ACTION ITEMS**

- (a) Consider the Second Reading and Adoption of a proposed City-initiated Ordinance No. 470 updating the *Clayton Municipal Code*, Title 17 Zoning, Section 17.80 - Water Conserving Landscape Guidelines, concerning City Water Efficient Landscaping standards and regulations, per state mandate.  
(Community Development Director)

Community Development Director Mindy Gentry provided a brief background indicating no changes were made to this Ordinance that was introduced at the City Council's last regular meeting. In essence this Ordinance complies with Governor Brown's Executive Order B-29-15 which was passed due to emergency conditions pertaining to the statewide drought. This Ordinance produces a local ordinance in compliance with that Order.

Councilmember Haydon clarified the City is following up on the new State requirements so we are in alignment with the new regulations? Ms. Gentry responded that is correct; essentially, the ordinance the City currently has in its Municipal Code has been superseded by the State of California's model ordinance. With passage of this particular Ordinance the action will place the City of Clayton in line with the current state mandate.

Mayor Diaz opened the item for public comment; no comments were offered.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to have the City Clerk read Ordinance No. 470, by title and number only and waive further reading.**

**(Passed; 5-0 vote).**

The City Clerk read Ordinance No. 470 by title and number only.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to adopt Ordinance No. 470 with the finding the action does not constitute a project a under CEQA.**

**(Passed; 5-0 vote).**

12. **COUNCIL ITEMS** – None.

13. **CLOSED SESSION** - None.

14. **ADJOURNMENT**– on call by Mayor Diaz, the City Council adjourned its meeting at 8:22 p.m.

The next regularly scheduled meeting of the City Council will be December 20, 2016.

Councilmember Pierce announced that she will not be at the next regular City Council meeting of December 20, 2016.

# # # # #

Respectfully submitted,

\_\_\_\_\_  
Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

\_\_\_\_\_  
Jim Diaz, Mayor

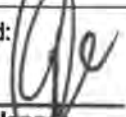
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Agenda Date 12/20/2016

Agenda Item: 3b

# STAFF REPORT

Approved:   
Gary A. Napper  
City Manager

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS  
**FROM:** Kevin Mizuno, FINANCE MANAGER  
**DATE:** 12/20/16  
**SUBJECT:** INVOICE SUMMARY

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## RECOMMENDATION:

Approve the following invoices:

12/16/2016	Cash Requirements	\$ 212,045.91
12/06/2016	ADP Payroll week 49, PPE 12/4/2016	\$ 87,286.06

Total \$299,331.97

Attachments:  
Cash Requirements Report dated 12/16/2016 (4 pages)  
ADP payroll report for week 49 (1 page)

# City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Batteries, liquid nails, tarps	\$275.65	\$0.00		\$275.65
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Misc - John	\$3,061.98	\$0.00		\$3,061.98
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Library clocks, paint	\$143.65	\$0.00		\$143.65
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	PAPA seminar, CA Pest reg	\$260.00	\$0.00		\$260.00
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Concrete & Bungees	\$276.23	\$0.00		\$276.23
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Rakes & Trash cans	\$215.69	\$0.00		\$215.69
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Repair tractor tire	\$201.43	\$0.00		\$201.43
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Replacement signs, drinking fountain parts fo	\$705.67	\$0.00		\$705.67
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Absorbent	\$327.13	\$0.00		\$327.13
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Office supplies	\$441.83	\$0.00		\$441.83
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Refund, cancelled Glock class, Investigation/	\$712.00	\$0.00		\$712.00
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	CAPE Membership	\$45.00	\$0.00		\$45.00
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Replacement ASP holder	\$25.60	\$0.00		\$25.60
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Gas	\$1,927.74	\$0.00		\$1,927.74
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Car washes, radar trlr power switch, tubing	\$74.73	\$0.00		\$74.73
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Fuel	\$1,243.66	\$0.00		\$1,243.66
<b>Totals for US Bank - Corp Pmt System CalCard:</b>					<b>\$11,424.08</b>	<b>\$0.00</b>		<b>\$11,424.08</b>
<b>US Bank (CM 9690)</b>								
US Bank (CM 9690)	12/20/2016	12/20/2016	4477112	1990-1 Bonds Admin Fee 11/1/16-10/31/17	\$715.00	\$0.00		\$715.00
<b>Totals for US Bank (CM 9690):</b>					<b>\$715.00</b>	<b>\$0.00</b>		<b>\$715.00</b>
<b>Verizon Wireless</b>								
Verizon Wireless	12/20/2016	12/20/2016	9776225098	Cell phones 11/2/16-12/1/16	\$66.96	\$0.00		\$66.96
<b>Totals for Verizon Wireless:</b>					<b>\$66.96</b>	<b>\$0.00</b>		<b>\$66.96</b>
<b>Waraner Brothers Tree Service</b>								
Waraner Brothers Tree Service	12/20/2016	12/20/2016	13377	Tree work, pruned live oaks in Clayton Rd me	\$2,100.00	\$0.00		\$2,100.00
Waraner Brothers Tree Service	12/20/2016	12/20/2016	13378	Remove 44 Sycamore trees on Keller Ridge	\$4,400.00	\$0.00		\$4,400.00
Waraner Brothers Tree Service	12/20/2016	12/20/2016	13379	Tree work, Remove large limbs in oak tree, Mi	\$700.00	\$0.00		\$700.00
<b>Totals for Waraner Brothers Tree Service:</b>					<b>\$7,200.00</b>	<b>\$0.00</b>		<b>\$7,200.00</b>
<b>Workers.com</b>								
Workers.com	12/20/2016	12/20/2016	117277	Seasonal workers week end 11/13/16	\$1,999.24	\$0.00		\$1,999.24
Workers.com	12/20/2016	12/20/2016	17344	Seasonal workers week end 11/20/16	\$2,614.40	\$0.00		\$2,614.40
Workers.com	12/20/2016	12/20/2016	117499	Seasonal workers week end 11/27/16	\$307.58	\$0.00		\$307.58
Workers.com	12/20/2016	12/20/2016	117443	Seasonal workers week end 11/27/16	\$1,343.10	\$0.00		\$1,343.10
<b>Totals for Workers.com:</b>					<b>\$6,264.32</b>	<b>\$0.00</b>		<b>\$6,264.32</b>
<b>GRAND TOTALS:</b>					<b>\$212,045.91</b>	<b>\$0.00</b>		<b>\$212,045.91</b>



## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<i>Totals for NBS Govt. Finance Group:</i>					\$1,200.00	\$0.00		\$1,200.00
<b>Neopost Northwest</b>								
Neopost Northwest	12/20/2016	12/20/2016	N6275356	Postage Meter 1/7/17-2/6/17	\$157.93	\$0.00		\$157.93
<i>Totals for Neopost Northwest:</i>					\$157.93	\$0.00		\$157.93
<b>Peace Officers Research Assoc of CA</b>								
Peace Officers Research Assoc of CA	12/20/2016	12/20/2016	167609	Dues 1/1/17	\$10.00	\$0.00		\$10.00
<i>Totals for Peace Officers Research Assoc of CA:</i>					\$10.00	\$0.00		\$10.00
<b>PERMCO, Inc.</b>								
PERMCO, Inc.	12/20/2016	12/20/2016	10672	General Engineering Services 11/26/16-12/9/16	\$6,010.00	\$0.00		\$6,010.00
PERMCO, Inc.	12/20/2016	12/20/2016	10673	CAP Inspections 11/26/16-12/9/16	\$166.00	\$0.00		\$166.00
PERMCO, Inc.	12/20/2016	12/20/2016	10674	Prep final plans, El Molino Sewer 11/26/16-12/9/16	\$3,103.50	\$0.00		\$3,103.50
PERMCO, Inc.	12/20/2016	12/20/2016	10675	Prep final plans/bidding/inspection, Arterial reha	\$150.00	\$0.00		\$150.00
PERMCO, Inc.	12/20/2016	12/20/2016	10676	Prep final plans/bidding, Meas. J Arterial reha	\$1,725.00	\$0.00		\$1,725.00
PERMCO, Inc.	12/20/2016	12/20/2016	10677	Prep bid pkg, Pine Hollow Rd/El Camino	\$366.00	\$0.00		\$366.00
<i>Totals for PERMCO, Inc.:</i>					\$11,520.50	\$0.00		\$11,520.50
<b>PG&amp;E</b>								
PG&E	12/20/2016	12/20/2016	12142016	Gas, Electricity - 11/15/16-12/13/16	\$18,333.63	\$0.00		\$18,333.63
<i>Totals for PG&amp;E:</i>					\$18,333.63	\$0.00		\$18,333.63
<b>Priority Payment Systems (Merchant Bankcard System)</b>								
Priority Payment Systems (Merchant Bar	12/20/2016	12/20/2016	113016	November Bankcard fees	\$112.32	\$0.00		\$112.32
<i>Totals for Priority Payment Systems (Merchant Bankcard System):</i>					\$112.32	\$0.00		\$112.32
<b>Sprint Comm (PD)</b>								
Sprint Comm (PD)	12/20/2016	12/20/2016	703335311-180	Cell Phones 10/26/16-11/25/16	\$270.63	\$0.00		\$270.63
<i>Totals for Sprint Comm (PD):</i>					\$270.63	\$0.00		\$270.63
<b>Staples Advantage</b>								
Staples Advantage	12/20/2016	12/20/2016	8042031072	November Office supplies	\$44.09	\$0.00		\$44.09
<i>Totals for Staples Advantage:</i>					\$44.09	\$0.00		\$44.09
<b>State Water Resources Control Board-Division Water Quality</b>								
State Water Resources Control Board-Di	12/20/2016	12/20/2016	WD-0119471	State Water Resources Control Board Annual 1	\$8,980.00	\$0.00		\$8,980.00
<i>Totals for State Water Resources Control Board-Division Water Quality:</i>					\$8,980.00	\$0.00		\$8,980.00
<b>US Bank - Corp Pmt System CalCard</b>								
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Final payment for Oakhurst, 2016 Mayors' Co	\$287.24	\$0.00		\$287.24
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Rocky Mountain Chocolate, toffee	\$170.00	\$0.00		\$170.00
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Transportation to/from APA Conference	\$294.92	\$0.00		\$294.92
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	CSMFO New OT law webinar	\$25.00	\$0.00		\$25.00
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Office supplies	\$251.43	\$0.00		\$251.43
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Lapel pins, PW employee shirts	\$342.50	\$0.00		\$342.50
US Bank - Corp Pmt System CalCard	12/20/2016	12/20/2016	Stmt end 11/22/16	Central storage, rent	\$115.00	\$0.00		\$115.00

# City of ayton

## Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
CCWD	12/20/2016	12/20/2016	F Series	Irrigation 10/7/16-12/6/16	\$9,904.34	\$0.00		\$9,904.34
				<i>Totals for CCWD:</i>	<u>\$9,904.34</u>	<u>\$0.00</u>		<u>\$9,904.34</u>
<b>City of Concord</b>								
City of Concord	12/20/2016	12/20/2016	54962	Printing, 2016 Financial Stmt	\$43.07	\$0.00		\$43.07
City of Concord	12/20/2016	12/20/2016	55409	November Dispatch services	\$20,089.50	\$0.00		\$20,089.50
City of Concord	12/20/2016	12/20/2016	55420	Live scan services, PW, PD	\$146.00	\$0.00		\$146.00
				<i>Totals for City of Concord:</i>	<u>\$20,278.57</u>	<u>\$0.00</u>		<u>\$20,278.57</u>
<b>Contra Costa County Animal Svcs Dept</b>								
Contra Costa County Animal Svcs Dept	12/20/2016	12/20/2016	ASD M5934	3rd Qtr Inst, Animal Control Svcs, ending 3/	\$16,198.28	\$0.00		\$16,198.28
				<i>Totals for Contra Costa County Animal Svcs Dept:</i>	<u>\$16,198.28</u>	<u>\$0.00</u>		<u>\$16,198.28</u>
<b>Critical Reach</b>								
Critical Reach	12/20/2016	12/20/2016	17-105	Critical Reach APBnet Crime Bulletin- Cal. y	\$145.00	\$0.00		\$145.00
				<i>Totals for Critical Reach:</i>	<u>\$145.00</u>	<u>\$0.00</u>		<u>\$145.00</u>
<b>CSAC Excess Insurance Authority</b>								
CSAC Excess Insurance Authority	12/20/2016	12/20/2016	17401087	EAP January-March 2017	\$312.00	\$0.00		\$312.00
				<i>Totals for CSAC Excess Insurance Authority:</i>	<u>\$312.00</u>	<u>\$0.00</u>		<u>\$312.00</u>
<b>Geoconsultants, Inc.</b>								
Geoconsultants, Inc.	12/20/2016	12/20/2016	18841	November Well Monitoring	\$1,546.50	\$0.00		\$1,546.50
				<i>Totals for Geoconsultants, Inc.:</i>	<u>\$1,546.50</u>	<u>\$0.00</u>		<u>\$1,546.50</u>
<b>Health Care Dental Trust</b>								
Health Care Dental Trust	12/20/2016	12/20/2016	219411	January Dental	\$2,733.40	\$0.00		\$2,733.40
				<i>Totals for Health Care Dental Trust:</i>	<u>\$2,733.40</u>	<u>\$0.00</u>		<u>\$2,733.40</u>
<b>Johnstone Supply</b>								
Johnstone Supply	12/20/2016	12/20/2016	23-S100382973.001	60 Amp contractor pole	\$128.66	\$0.00		\$128.66
				<i>Totals for Johnstone Supply:</i>	<u>\$128.66</u>	<u>\$0.00</u>		<u>\$128.66</u>
<b>Landscape Pest Control Services, Inc</b>								
Landscape Pest Control Services, Inc	12/20/2016	12/20/2016	94988	November gopher maintenance	\$790.00	\$0.00		\$790.00
				<i>Totals for Landscape Pest Control Services, Inc:</i>	<u>\$790.00</u>	<u>\$0.00</u>		<u>\$790.00</u>
<b>Legal Defense Fund</b>								
Legal Defense Fund	12/20/2016	12/20/2016	191697	Dues 1/1/17	\$13.50	\$0.00		\$13.50
				<i>Totals for Legal Defense Fund:</i>	<u>\$13.50</u>	<u>\$0.00</u>		<u>\$13.50</u>
<b>Marken Mechanical Services Inc</b>								
Marken Mechanical Services Inc	12/20/2016	12/20/2016	3106	September Library HVAC maintenance	\$502.17	\$0.00		\$502.17
				<i>Totals for Marken Mechanical Services Inc:</i>	<u>\$502.17</u>	<u>\$0.00</u>		<u>\$502.17</u>
<b>NBS Govt. Finance Group</b>								
NBS Govt. Finance Group	12/20/2016	12/20/2016	12202016	Arbitrage report FY 2017	\$1,200.00	\$0.00		\$1,200.00

## City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
<b>ADP, LLC</b>								
ADP, LLC	12/20/2016	12/20/2016	484374295	Payroll fees PPE 12/4/16	\$167.61	\$0.00		\$167.61
ADP, LLC	12/20/2016	12/20/2016	484118127	Qrtly payroll reports, period ending 9/30/16	\$19.80	\$0.00		\$19.80
				<i>Totals for ADP, LLC:</i>	<u>\$187.41</u>	<u>\$0.00</u>		<u>\$187.41</u>
<b>All City Management Services, Inc.</b>								
All City Management Services, Inc.	12/20/2016	12/20/2016	46114	School crossing guard services, 11/6/16-11/19	\$458.19	\$0.00		\$458.19
				<i>Totals for All City Management Services, Inc.:</i>	<u>\$458.19</u>	<u>\$0.00</u>		<u>\$458.19</u>
<b>Aqua Dream Pools</b>								
Aqua Dream Pools	12/20/2016	12/20/2016	CAP0225	C&D Refund, 408 Grenache Cir	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Aqua Dream Pools:</i>	<u>\$2,000.00</u>	<u>\$0.00</u>		<u>\$2,000.00</u>
<b>Bay Area Barricade Serv.</b>								
Bay Area Barricade Serv.	12/20/2016	12/20/2016	0342186-IN	"Closed for Winter" sign	\$29.97	\$0.00		\$29.97
				<i>Totals for Bay Area Barricade Serv.:</i>	<u>\$29.97</u>	<u>\$0.00</u>		<u>\$29.97</u>
<b>Bay Area News Group East Bay (CCT)</b>								
Bay Area News Group East Bay (CCT)	12/20/2016	12/20/2016	1015913	November Legal Ads	\$1,162.72	\$0.00		\$1,162.72
				<i>Totals for Bay Area News Group East Bay (CCT):</i>	<u>\$1,162.72</u>	<u>\$0.00</u>		<u>\$1,162.72</u>
<b>Best Best &amp; Kreiger LLP</b>								
Best Best & Kreiger LLP	12/20/2016	12/20/2016	784859	November Legal Services	\$8,500.00	\$0.00		\$8,500.00
Best Best & Kreiger LLP	12/20/2016	12/20/2016	784860	November Legal Services, Oak Creek Canyon	\$304.50	\$0.00		\$304.50
Best Best & Kreiger LLP	12/20/2016	12/20/2016	784861	November Legal Services, Admin/Finance	\$796.50	\$0.00		\$796.50
Best Best & Kreiger LLP	12/20/2016	12/20/2016	794862	November Legal Services, Prop. Damage, Oa	\$767.00	\$0.00		\$767.00
				<i>Totals for Best Best &amp; Kreiger LLP:</i>	<u>\$10,368.00</u>	<u>\$0.00</u>		<u>\$10,368.00</u>
<b>Big O Tires</b>								
Big O Tires	12/20/2016	12/20/2016	120983	Repairs for classic police car	\$657.74	\$0.00		\$657.74
				<i>Totals for Big O Tires:</i>	<u>\$657.74</u>	<u>\$0.00</u>		<u>\$657.74</u>
<b>CalPERS Health</b>								
CalPERS Health	12/20/2016	12/20/2016	2186	January Medical	\$33,178.48	\$0.00		\$33,178.48
				<i>Totals for CalPERS Health:</i>	<u>\$33,178.48</u>	<u>\$0.00</u>		<u>\$33,178.48</u>
<b>CalPERS Retirement</b>								
CalPERS Retirement	12/20/2016	12/20/2016	CC112416	City Council Retirement ending 11/24/16	\$182.70	\$0.00		\$182.70
CalPERS Retirement	12/20/2016	12/20/2016	120416	Retirement, PPE 12/4/16	\$13,875.06	\$0.00		\$13,875.06
CalPERS Retirement	12/20/2016	12/20/2016	December 16	December UAL	\$31,062.09	\$0.00		\$31,062.09
				<i>Totals for CalPERS Retirement:</i>	<u>\$45,119.85</u>	<u>\$0.00</u>		<u>\$45,119.85</u>
<b>Caltronics Business Systems, Inc</b>								
Caltronics Business Systems, Inc	12/20/2016	12/20/2016	2151367	Copier contract 11/17/16-11/30/16	\$31.67	\$0.00		\$31.67
				<i>Totals for Caltronics Business Systems, Inc:</i>	<u>\$31.67</u>	<u>\$0.00</u>		<u>\$31.67</u>






Agenda Date: 12-20-2016


Agenda Item: 3c

CONSENT ITEM

# STAFF REPORT

Approved:   
Gary A. Napper  
City Manager

**TO:** CITY COUNCIL

**FROM:** LAURA HOFFMEISTER, ASST. TO THE CITY MANAGER 

**MEETING DATE:** December 20, 2016

**SUBJECT:** ADOPT A RESOLUTION ACCEPTING THE TITLE OF CERTAIN PROPERTY ("The Grove" Park) OWNED BY THE FORMER REDEVELOPMENT AGENCY TO THE CITY OF CLAYTON FOR GOVERNMENTAL USE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34181(a)(1)

## RECOMMENDATION

It is recommended the City Council adopt the attached Resolution accepting title of certain property, The Grove Park, owned by the former Redevelopment Agency to the City of Clayton for governmental use pursuant to Health and Safety Code Section 34181(a)(1) – the Dissolution Act [ABx1 26 and AB 1484].

## BACKGROUND

AB 26, AB 1484 and other subsequent legislation, the "Dissolution Act", eliminated redevelopment agencies throughout the state of California on February 1, 2012; initiating the "wind down" of the former redevelopment agencies' activities and obligations.

The Successor Agency to the Redevelopment Agency of the City of Clayton (Successor Agency) is the successor entity to the former Redevelopment Agency of the City of Clayton (Redevelopment Agency) and is responsible for the wind-down of the affairs of the former Redevelopment Agency, including without limitation the disposition of assets and properties of the former Redevelopment Agency as directed by the Oversight Board to the Successor Agency (Oversight Board).

Health and Safety Code Section 34181(a)(1) provides that the Oversight Board shall direct the Successor Agency to dispose of all assets and properties of the former Redevelopment Agency; however, the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as parks, to the appropriate public jurisdiction.

Subject: Resolution accepting the title of certain property, "The Grove" Park, owned by the former Redevelopment Agency to the City for governmental use pursuant to Health and Safety Code Section 34181(a)(1)- the Dissolution Act [ABx1 26 and AB 1484].

Meeting Date: December 20, 2016

By letter December 30, 2015, the California Department of Finance (DOF) issued to the Successor Agency a finding of completion (FOC) in accordance with Health and Safety Code Section 34179.7, signifying the Successor Agency's full compliance with certain specified payment obligations under the Dissolution Act. Pursuant to Health and Safety Code Section 34191.5(b), no later than six months following the issuance to the Successor Agency of the FOC, the Successor Agency is required to prepare a Long-Range Property Management Plan (LRPMP) to address the disposition and use of the real properties of the former Redevelopment Agency.

A LRPMP was prepared containing information on the property owned by the former Redevelopment Agency. The LRPMP was approved by the Oversight Board (Resolution 04-2016) on October 20, 2016, and submitted to DOF for review and approval. By letter dated November 29, 2016 the California State Department of Finance provided written concurrence with the with the Oversight Board determination, that The Grove Park property meets the definition of government purpose asset and is therefore eligible for transfer to the City, pursuant to Health and Safety Code Section 34179(H).

The staff recommends the City Council adopt the attached Resolution accepting title to the City of Clayton for "The Grove" Park.

## **DISCUSSION**

There was only one real property held in title by the Redevelopment Agency. The real property is an approximate 1.14 acre property known as "The Grove" Park, Assessor's Parcel Number (APN) 119-015-007 located at 6100 Main Street in the City of Clayton. The site is fully developed as an active public park, including amenities such as a gazebo, picnic tables, paved paths, grass/irrigation, lighting and sound speakers, a restroom building and tot lot. In addition, state grant monies were used to assist in the construction of the public park, which acceptance of the state grant monies included an obligation that the City retain and maintain the land as a public park for twenty (20) years.

A final LRPMP that was prepared and submitted to the Oversight Board. HSC Section 34181 states "The oversight board shall direct the successor agency to.... dispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction...." [Underlining added.]

Because "The Grove" Park property was developed and improved and has continually served as a government purpose asset in accordance with Section 34181, public park, title should be accepted by the City for continued governmental use. The Successor Agency has agreed to transfer this property to the City.

Subject: Resolution accepting the title of certain property, "The Grove" Park, owned by the former Redevelopment Agency to the City for governmental use pursuant to Health and Safety Code Section 34181(a)(1)– the Dissolution Act [ABx1 26 and AB 1484].

Meeting Date: December 20, 2016

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### **FISCAL IMPACT**

There is no financial impact to with this transfer other than nominal document preparation costs and recording fee. "The Grove" Park property has been maintained by the City, and will continue to be maintained by the City, which is paid for through a special parcel tax (CFD 2006-1) which was approved by the voters (81.25%) through 2036-37.

### **ATTACHMENTS**

1. Resolution \_\_-2016
2. Title
3. Legal Description
4. Oversight Board Resolution 04-2016
5. DOF Letter dated November 29, 2016

RESOLUTION NO. \_\_\_\_ -2016

**RESOLUTION ACCEPTING THE TITLE AND TRANSFER OF CERTAIN  
PROPERTY ["The Grove" Park – Assessor Parcel Number (APN)  
119-015-007] OWNED BY THE FORMER REDEVELOPMENT AGENCY  
OF THE CITY OF CLAYTON TO THE CITY OF CLAYTON FOR  
GOVERNMENTAL USE PURSUANT TO  
HEALTH AND SAFETY CODE SECTION 34181(a)(1)**

**City Council  
City of Clayton, California**

**WHEREAS**, Assembly Bill 1X 26, enacted in June 2011, and as modified by the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861, and further modified by Assembly Bill 1484, enacted in June 2012, and other subsequently adopted legislation (collectively, the "Dissolution Act") dissolved and set out procedures for the wind-down of the affairs of all redevelopment agencies throughout the State effective February 1, 2012; and

**WHEREAS**, the Successor Agency to the Redevelopment Agency of the City of Clayton ("Successor Agency") is the successor entity to the former Redevelopment Agency of the City of Clayton ("Redevelopment Agency") and is responsible for the wind-down of the affairs of the former Redevelopment Agency, including without limitation the disposition of assets and properties of the former Redevelopment Agency as directed by the Oversight Board to the Successor Agency ("Oversight Board"); and

**WHEREAS**, Health and Safety Code Section 34181(a)(1) provides that the Oversight Board shall direct the Successor Agency to dispose of all assets and property of the former Redevelopment Agency; however, the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as parks, to the appropriate public jurisdiction; and

**WHEREAS**, on October 20, 2016 at a noticed public hearing, the Oversight Board, pursuant to Health and Safety Code Section 34181(f), and subdivision 34181(a) approved Resolution 04-2016, directing the Successor Agency of the City of Clayton to transfer ownership of "The Grove" Park, a former Redevelopment Agency owned parcel of land, consisting of an approximately 1.14 acre property Assessor's Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton, which is fully developed as an active public park, including amenities such as a gazebo, picnic tables, paved paths, grass/irrigation, lighting and sound speakers, a restroom building and a tot lot;

**WHEREAS**, on November 29, 2016, pursuant to Health and Safety Code Section 34179(H) the California State Department of Finance provided written concurrence with



the with the Oversight Board determination, that "The Grove" Park property meets the definition of government purpose asset and is therefore eligible for transfer to the City.

**WHEREAS**, on December 20, 2016 at a public meeting, the Successor Agency, approved Resolution SA \_\_-2016, authorizing and directing the transfer to the City of any interest that the Successor Agency may have in "The Grove" Park, Assessor Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Incorporation of Recitals.** The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

**Section 2. Approval of Conveyance of Property.** The City Council of the City of Clayton hereby accepts title and conveyance from the Successor Agency to the former Redevelopment Agency "The Grove" Park property, Assessor Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton including amenities such as a gazebo, picnic tables, paved paths, grass/irrigation, lighting and sound speakers, a restroom building and a tot lot, for governmental use pursuant to health and safety code section 43181(a) (1).

**Section 3. Authorization to Implement Resolution.** The City Council hereby authorizes and directs City staff, to take such actions and execute such documents as is necessary to effectuate such title acceptance of "The Grove" Park property to the City.

**Section 4. Severability.** If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

**Section 5. Effective Date.** This Resolution shall become effective upon its adoption.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council of the City of Clayton at a noticed public meeting thereof held on the 20<sup>th</sup> day of December, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY COUNCIL  
CITY OF CLAYTON, CA

---

Jim Diaz, Mayor

ATTEST:

---

Janet Brown, City Clerk

RECORDING REQUESTED BY:

CITY OF CLAYTON

ATTACHMENT 2

WHEN RECORDED MAIL TO:

CITY OF CLAYTON  
6000 HERITAGE TRAIL  
CLAYTON, CA 94517  
ATTN.: ENGINEERING DEP'T.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

The undersigned grantor(s) declare(s):  
CITY TRANSFER TAX \$  
DOCUMENTARY TRANSFER TAX \$  
SURVEY MONUMENT FEE \$

\_\_\_ Computed on the consideration or value of property conveyed; OR

\_\_\_ Computed on the consideration or value less liens or encumbrances remaining at time of sale.

APN 119-015-007

### GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON**

hereby GRANT(S) to

**CITY OF CLAYTON**

the real property in the City of Clayton, County of Contra Costa, State of California, described as:

**FOR LEGAL DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF CONTRA COSTA

}  
}ss.  
}

On \_\_\_\_\_  
before me, \_\_\_\_\_  
(here insert name and title of the officer), personally appeared

\_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**SUCCESSOR AGENCY TO THE REDEVELOPMENT  
AGENCY OF THE CITY OF CLAYTON**

By: \_\_\_\_\_  
James Diaz, Chairman

By: \_\_\_\_\_

By: \_\_\_\_\_

(Seal)

(This area for official notarial seal)

**Exhibit A****Legal Description****"The Grove" Park**

ALL OF LOTS 10 THROUGH 12 AND PORTIONS OF LOTS 2 THROUGH 9, 13, AND 14, IN BLOCK 3, AS SAID LOTS AND BLOCK ARE DELINEATED ON THAT MAP ENTITLED "MEMORANDUM MAP OF THE TOWN OF CLAYTON", AS FILED IN THE OFFICE OF THE RECORDER, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, IN BOOK E OF MAPS AT PAGE 101 ½, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

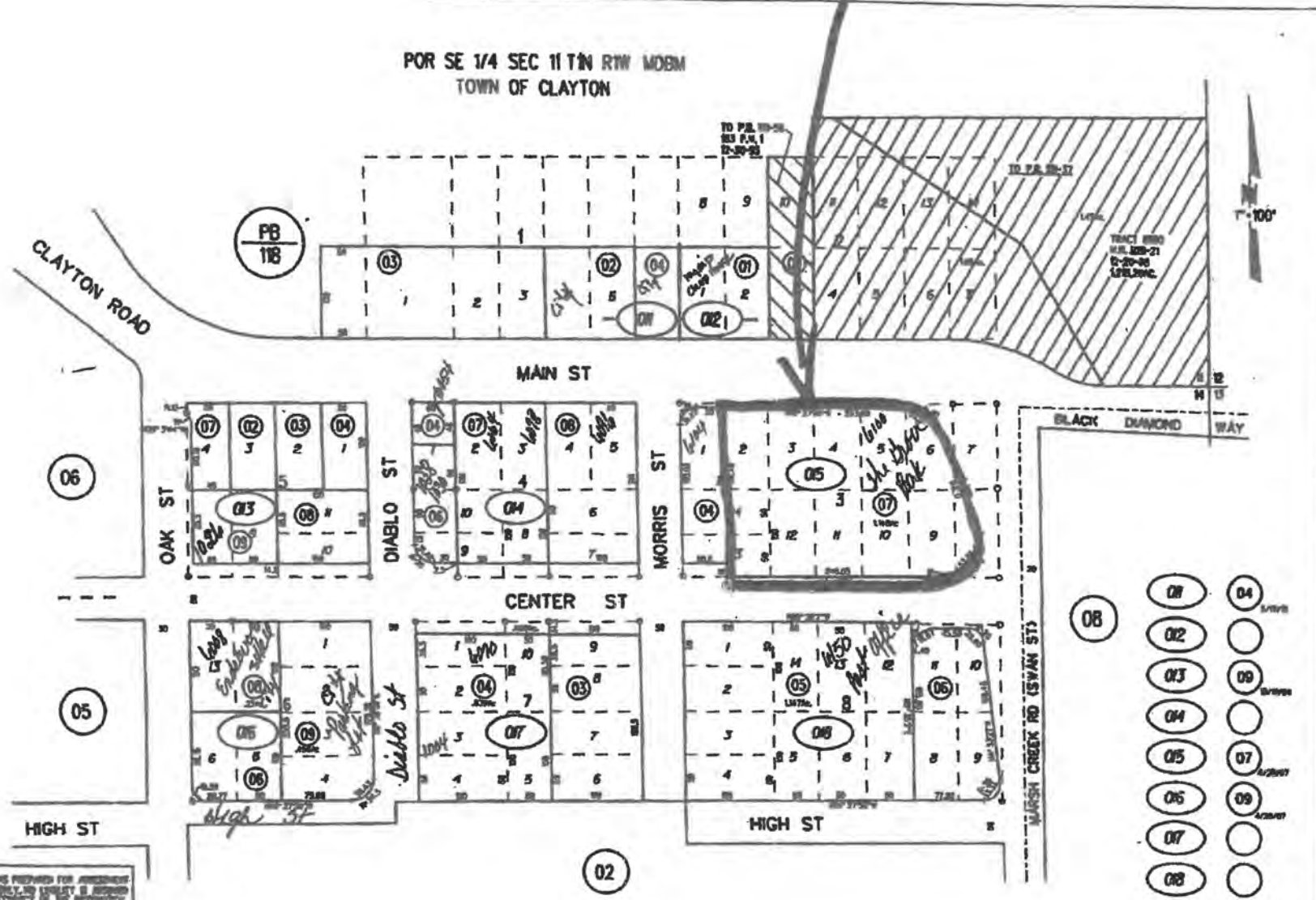
COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2 (E MAPS 101 ½); THENCE SOUTH 00° 32' 10" WEST, ALONG THE WEST LINE OF SAID LOT 2, 5.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF MAIN STREET; THENCE SOUTH 89° 27' 50" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 203.80 FEET; THENCE, ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 64° 38' 32", AN ARC DISTANCE OF 33.57 FEET TO A POINT OF COMPOUND CURVATURE, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF MARSH CREEK ROAD; THENCE, FOLLOWING SAID RIGHT OF WAY LINE, ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, THE RADIUS OF WHICH BEARS SOUTH 64° 38' 42" WEST AND HAVING A RADIUS OF 570.00 FEET, THROUGH A CENTRAL ANGLE OF 14° 35' 33", AN ARC DISTANCE OF 145.17 FEET TO A POINT OF COMPOUND CURVATURE; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, THE RADIUS OF WHICH BEARS SOUTH 79° 14' 15" WEST AND HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 101° 17' 55", AN ARC DISTANCE OF 53.04 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF CENTER STREET; THENCE, ALONG SAID RIGHT OF WAY, SOUTH 00° 32' 10" WEST, 5.00 FEET; THENCE NORTH 89° 27' 50" WEST, 247.71 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE, NORTH 00° 32' 10" EAST, 195.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1.1 ACRES, MORE OR LESS.

APN: 119-015-007

The Grove Park  
APN 119-015-007

POR SE 1/4 SEC 11 T1N R7W MDBM  
TOWN OF CLAYTON



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THIS MAP WAS PREPARED FOR PURPOSES OF RECORDING ONLY AND SHOULD BE USED AS A GUIDE TO THE ACTUAL RECORDS OF THE COUNTY OF CONTRA COSTA. THE COUNTY OF CONTRA COSTA DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED HEREON. THE COUNTY OF CONTRA COSTA DOES NOT WARRANT THE ACCURACY OF THE INFORMATION CONTAINED HEREON.

CITY OF CLAYTON		2014-2015	170
PRYOR PROPERTIES 1655 GARNET LN CONCORD CA TOWN OF CLAYTON FOR LOT 1 BLK 4	94519 01026/132 2001	119-014-004-4 18,475	26,058 44,533 13001 119-014-004-4
PRYOR PROPERTIES 1655 GARNET LN CONCORD CA TOWN OF CLAYTON FOR LOTS 1,9,10 BLK 4	94523 01026/129 2001	119-014-004-9 47,491	98,283 141,394 13001 119-014-004-9
GIOVANNI DORENDA TRE C/O BARBARA M CARNEY 963 HAWTHORNE DR MORAGA CA	94556 16777/964 1991	119-014-007-7 44,336	207,798 252,134 13001 119-014-007-7
AUSTIN DOLORES L TRE 21 FREITAS DR MORAGA CA TOWN OF CLAYTON LOTS 4-6 & POR LOT 7 BLK 4	94556 16142/791 1990	119-014-008-5 108,964	31,474 717,438 13001 119-014-008-5
SANDHU SUKHDEV & BALWINDER K 6104 MAJON ST CLAYTON CA TOWN OF CLAYTON FOR LOTS 1,2,3,4 BLK 3	94517 93212/300 1995	119-015-004-3 182,266	769,302 951,568 13001 119-015-004-3
CLAYTON REDEVELOPMENT AGENCY 6000 HERITAGE TRL CLAYTON CA	94517 99266/034 1999	119-015-007-6 626,890	626,890 13001 119-015-007-6 NONTAXABLE CY
DOMINA JOANN B TRE PO BOX 466 CLAYTON CA TOWN OF CLAYTON LOT 5 & POR LOT 6 BLK 6	94513 08046/999 2008	119-016-006-7 128,840	114 129,954 13006 119-016-006-7
CLAYTON CITY OF 6000 HERITAGE TRAIL CLAYTON CA TOWN OF CLAYTON LOTS 12 & 14 BLK 6	94517 01280/779 2001	119-016-008-3 176,626	1,865,153 2,041,779 13006 119-016-008-3 NONTAXABLE CY
CLAYTON CITY OF C/O REDEVELOPMENT DEPT. 6000 HERITAGE TRL CLAYTON CA	94517 06407/394 2006	119-016-009-1 321,278	321,278 13006 119-016-009-1 NONTAXABLE CY
ALDERETTE NACTAN L & ALICE TRE PO BOX 466 CLAYTON CA TOWN OF CLAYTON LOTS 6-8 & POR LOT 9 BLK 6	94513 09087/028 2013	119-017-003-3 73,850	73,850 13006 119-017-003-3
KONALD NUNN FAMILY 10500 BRENTWOOD BLVD BRENTWOOD CA TOWN OF CLAYTON LOTS 2/5 POR LOT 1&10 BLK 7	94513 13019/668 2013	119-017-004-1 497,247	100,454 597,701 13006 119-017-004-1
OCEAN VIEW NEVADA CORP 5000 S SANDYSTE NEED AD STR 100 CLAYTON CA FOR TOWN OF CLAYTON	94519 09046/173 2008	119-018-006-5 194,701	607,053 801,754 13006 119-018-006-5
BALES NATHAN J TRE BUSCAGLIA RICHARD & CHERYL TRE 45 VIA FARALLON ORINDA CA TOWN OF CLAYTON LOT 8 & POR LOTS 9-11 BLK 8	94563 13009/586 2013	119-018-006-5 194,701	607,053 801,754 13006 119-018-006-5

## RESOLUTION NO. 04 -2016

**RESOLUTION APPROVING THE TRANSFER OF CERTAIN  
PROPERTY ["The Grove Park" – Assessor Parcel Number (APN)  
119-015-007] OWNED BY THE FORMER REDEVELOPMENT AGENCY  
OF THE CITY OF CLAYTON TO THE CITY OF CLAYTON FOR  
GOVERNMENTAL USE PURSUANT TO  
HEALTH AND SAFETY CODE SECTION 34181(a)(1)**

**THE OVERSIGHT BOARD  
Successor Agency for the City of Clayton, California**

**WHEREAS**, Assembly Bill 1X 26, enacted in June 2011, and as modified by the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861, and further modified by Assembly Bill 1484, enacted in June 2012, and other subsequently adopted legislation (collectively, the "Dissolution Act") dissolved and set out procedures for the wind-down of the affairs of all redevelopment agencies throughout the State effective February 1, 2012; and

**WHEREAS**, the Successor Agency to the Redevelopment Agency of the City of Clayton ("Successor Agency") is the successor entity to the former Redevelopment Agency of the City of Clayton ("Redevelopment Agency") and is responsible for the wind-down of the affairs of the former Redevelopment Agency, including without limitation the disposition of assets and properties of the former Redevelopment Agency as directed by the Oversight Board to the Successor Agency ("Oversight Board"); and

**WHEREAS**, Health and Safety Code Section 34181(a)(1) provides that the Oversight Board shall direct the Successor Agency to dispose of all assets and property of the former Redevelopment Agency; however, the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as parks, to the appropriate public jurisdiction; and

**WHEREAS**, Health and Safety Code Section 34181(f) provides that all actions taken by the Oversight Board pursuant to subdivision 34181(a) shall be approved by resolution of the Oversight Board at a public meeting after at least 10 days' notice to the public, and that such action shall be subject to review by the Department of Finance ("DOF") pursuant to Health and Safety Code Section 34179; and

**WHEREAS**, the Redevelopment Agency owned one parcel of land, consisting of an approximately 1.14 acre property known as "The Grove Park," Assessor's Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton ("Grove Park Property"), which is fully developed as an active public park, including amenities such as a gazebo, picnic tables, paved paths, grass/irrigation, lighting and sound speakers, a restroom building and a tot lot;

**WHEREAS**, this Resolution shall supersede Oversight Board Resolution No. 2-2016, which previously approved a Long Range Property Management Plan for the Successor Agency and authorized the transfer of the Grove Park Property, but was not approved by DOF because it was not received prior to January 1, 2016.

**NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Incorporation of Recitals.** The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

**Section 2. Approval of Conveyance of Property.** The Oversight Board hereby approves, authorizes and directs the conveyance to the City of any interest that the Successor Agency may have in the Grove Park Property, Assessor Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton.

**Section 3. Authorization to Implement Resolution.** The Oversight Board hereby authorizes and directs Successor Agency staff, in cooperation with City staff, to take such actions and execute such documents as is necessary to effectuate such transfers, and convey the Grove Park Property to the City.

**Section 4. Submittal of Action to DOF.** Staff is hereby authorized and directed to submit this Resolution and all other appropriate information to DOF for review in accordance with Health and Safety Code Section 34179(h). The approvals and authorizations set forth in Sections 2 and 3 of this Resolution are conditioned upon either (a) approval by DOF of the Oversight Board's action under this Resolution to approve the conveyance of the Grove Park Property to the City as a governmental use property pursuant to Health and Safety Code Section 34181(a)(1), or (b) if DOF does not request a review within five business days, the Oversight Board's action becomes effective in accordance with said Section 34179(h).

**Section 5. Severability.** If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

**Section 6. Effective Date.** This Resolution shall become effective in accordance with Health and Safety Code Section 34179(h), which authorizes DOF to review all actions taken by the Oversight Board.



**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Clayton at a noticed public meeting thereof held on the 20<sup>th</sup> day of October, 2016, by the following vote:


AYES: Geller, Gentry, Hild, Richardson.

NOES: None.

ABSENT: Impastato, Mitchoff, Nicholas.

ABSTAIN: None.

THE OVERSIGHT BOARD FOR THE  
SUCCESSOR AGENCY FOR THE  
CITY OF CLAYTON, CA

  
\_\_\_\_\_  
Dan Richardson, Chair

ATTEST:   
\_\_\_\_\_  
Laura Hoffmeister, Clerk of the Board



November 29, 2016

Mr. Kevin Mizuno, Finance Manager  
City of Clayton  
6000 Heritage Trail  
Clayton, CA 94517

Dear Mr. Mizuno:

Subject: Approval of Oversight Board Action

The City of Clayton Successor Agency (Agency) notified the California Department of Finance (Finance) of its October 20, 2016 Oversight Board (OB) resolution on October 27, 2016. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

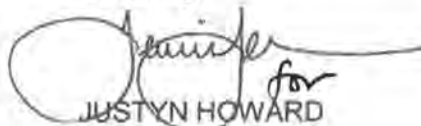
Based on our review and application of the law, OB Resolution No. 04-2016, approving transfer of property known as the Grove Park, located at 6100 Main Street, Assessor's Parcel Number 119-015-007, to the City of Clayton (City) for governmental use, is approved.

HSC section 34181 (a) (1) gives the OB the authority to direct the Agency to transfer ownership of assets that were constructed and used for a government purpose to the appropriate public jurisdiction. Finance concurs that the Grove Park property meets the definition of a government purpose asset and is therefore, eligible for transfer to the City.

This is our determination with respect to the OB action taken.

Please direct inquiries to Cindie Lor, Supervisor, or Anna Kyumba, Lead Analyst, at (916) 445-1546.

Sincerely,

  
JUSTYN HOWARD  
Program Budget Manager


cc: Ms. Laura Hoffmeister, Assistant City Manager, City of Clayton  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County



Agenda Date: 12-20-2016

Agenda Item: 3d

Approved:

  
Gary A. Napper  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: CITY MANAGER**

**DATE: 20 December 2016**

**SUBJECT: APPROVE A THIRD ADDENDUM TO THE EXCLUSIVE SALES LISTING AGREEMENT WITH TRANSWESTERN PROPERTY COMPANY TO CONTINUE ITS LIST AND MARKET FOR SALE AND DEVELOPMENT OF CERTAIN CITY-OWNED REAL PROPERTIES IN THE CLAYTON TOWN CENTER**

## **RECOMMENDATION**

It is recommended the City Council, by minute motion, approve a Third Addendum to the Exclusive Sales Listing Agreement with Transwestern Property Company West, Inc. (a Texas Corporation) to extend the list time to 02 January 2018 for the market, sale and development of several City-owned real properties within the Clayton Town Center; specifically, a vacant 1.67 acre parcel on Main Street (APN 118-560-010) and two (2) improved but dilapidated real properties and one (1) adjacent unimproved parcel (0.75 acres total) located at 1005 and 1007 Oak Street (APNs 119-050-034, 119-050-008, and 119-050-009); and authorize the City Manager to sign the Third Addendum on behalf of the City.

## **BACKGROUND**

The City currently holds title to several real properties within the Clayton Town Center area that it previously attempted, with marginal progress, to self-advertise for sale and development to a private developer for construction of improvements consistent with the City Council's vision for its downtown contained in the *Clayton Town Center Specific Plan*. The real properties available are:

1. An unimproved vacant parcel with some frontage on Main Street (with dual access rights) consisting of approximately 1.67 acres acquired by the City in April 2013 from the Clayton Community Church. The land has two (2) signs posted on it by Transwestern noticing the property for sale (APN 118-560-010); and
2. Three smaller parcels with frontage on the west side of Oak Street, between Center and High Streets, comprised of two (2) unoccupied ramshackle bungalows abutting Mitchell Creek, along with an unimproved adjacent hillside parcel to the west. Records indicate City ownership going back to 1974 and 1986.

The latter real properties listed above enjoy, through significant financial efforts of the former Clayton Redevelopment Agency (RDA), a fully-entitled City-approved development project known as "Creekside Terrace." This commercial mixed-use project involves the permitted construction of a mixed-use two story building with a western-style frontage characteristic of architectural themes suggested in the *Town Center Specific Plan*. The first floor plans for approximately 7,200 sq. ft. of retail commercial space with a 20-foot ceiling. The second floor calls for seven (7) residential units which originally were targeted for affordable housing opportunities with additional financial assistance of the RDA. In the currently-entitled plan, the residential units are 1-bedroom with several containing dens.

The Creekside Terrace Project received its City entitlements on 06 July 2010, and those land use permits have just been extended by City Planning Commission action to now expire on 06 January 2018 (note: further extensions are eligible). The City placed small billboards on the property depicting and illustrating with color renderings the front elevations of the approved project. Those postings elicited several telephone calls and interests. However, at this time the City has no prospective developer interested in pursuing purchase or development of this property.

#### **COMMERCIAL BROKER SELECTION**

At its public meeting on 01 April 2014, following the City's solicitation of list proposals from several commercial realty companies, the City Council unanimously approved an agreement with Transwestern Property Company West, Inc. (dba Transwestern) to list and to market the City's vacant and underutilized real properties in the Town Center. Since that time, Transwestern created and developed a marketing plan, outreached to numerous retail commercial firms and prospective developers, and brought several interested developers to meet with the City Council Sub-Committee on Economic Development and City staff. During calendar year 2015, Transwestern submitted four (4) distinct developers to the City interested in developing the Main Street property.

The City Council considered the various proposed terms of purchase/sale and subsequently narrowed its relationship to one (1) developer, Pacific Union Land Investors, Inc. (PULI), interested in pursuing a mixed-use development involving retail commercial frontage with a senior care facility. On 19 July 2016 the City approved an Exclusive Negotiation Agreement (ENA) with PULI as it also worked on obtaining a Purchase-Sale Agreement for the 25,000 sq. ft. real property fronting the City's vacant land on Main Street (owner: Clayton Community Church; APN 119-011-003, 6055 Main Street).

When complications arose with its purchase agreement with the church, PULI requested additional time from the City to file its Initial [City] Application, which date was set to expire on November 1<sup>st</sup>. On 04 October 2016 at its regular public meeting and in recognition of the PULI's difficult status with the church, the City Council approved a First Amendment with PULI to extend its Initial Application filing deadline to 01 December 2016. That deadline has since passed without an extension and the City and PULI are presently out-of-contract. PULI remains interested in its purchase and development of the City land, as does the City provided PULI can remove unilateral contingency clauses in its Purchase-Sale Agreement for the church's property.

Irrespective of PULI's proposed project development status, it is to the mutual benefit of both parties for the City to continue its existing commercial brokerage association with Transwestern.

### **THIRD ADDENDUM WITH TRANSWESTERN**

The initial term of the Exclusive Sales Listing Agreement with Transwestern was for a period of 365 days commencing with the date of signature of the Agreement, namely 02 April 2014. At its regular public meeting held on 07 April 2015, the City Council and Transwestern mutually agreed to extend the existing terms and conditions of the original Agreement to a new expiration date of 02 January 2016. Once again, at its regular public meeting on 19 January 2016, both parties agreed to further extend its marketing relationship to 02 January 2017.

That date will pass before the City Council holds its first meeting in 2017 on January 17th. Consequently, the Agreement and its listing association warrant an additional time extension. Transwestern has provided a Third Addendum to extend the original terms and conditions to 02 January 2018. For disclosure purpose, one of the original three Transwestern agents on this listing (i.e. Colby Mikulich) is no longer associated with this Agreement.

It is staff's recommendation the City Council maintain its existing commercial brokerage relationship with Transwestern as proposed.

- Exhibits: 1. Third Addendum to Exclusive Sales Listing Agreement with Transwestern [1 pg.]  
2. Exclusive Sales Listing Agreement [7 pp.]  
3. Towne Centre Clayton development opportunity [3 pp.]  
4. Creekside Terrace Mixed-Use development opportunity [6 pp.]

**ADDENDUM TO EXCLUSIVE SALES LISTING AGREEMENT**

Listing name here and TRANSWESTERN PROPERTY COMPANY WEST, INC. DBA/ TRANSWESTERN, a Texas Corporation ("Broker") is effective upon execution of this Agreement (the "Effective Date"). Edward Del Beccaro, Matt Hatfield agree to the following amendment(s) in an Authorization regarding the subject property in the City of Clayton, County of Contra Costa, State of California, located at 6005 Main Street, Clayton CA, and further described as parcel number 118-560-010 and three (3) parcels totaling 0.65 acres that make up the Creekside Terrace Development with parcel numbers 119-050-009, 119-050-008, 119-050-034 in the City of Clayton, Contra Costa County, California.

1. Expiration date extended to: January 2, 2018

a. Note: This Listing Agreement is subject to termination by either party for any reason with (30) thirty days written notice. All other terms and conditions of the Agreement shall remain the same.

Dated: \_\_\_\_\_

Dated: 12-8-2016

OWNER: City of Clayton

BROKER: TRANSWESTERN PROPERTY COMPANY WEST, INC., DBA TRANSWESTERN License # 01263636

BY: \_\_\_\_\_  
Gary Napper, City Manager

BY: Edward F. Del Beccaro  
Edward F. Del Beccaro, Sr. Managing Director  
License # 00642167

Address:

BY: Matt Hatfield  
Matt Hatfield, Associate  
License # 01937755



## TRANSWESTERN

### EXCLUSIVE SALES LISTING AGREEMENT

This Exclusive Sales Listing Agreement ("Agreement") is made and entered into on this <sup>2nd</sup> day of APRIL, 2014, by and between The City of Clayton ("Owner") and **TRANSWESTERN PROPERTY COMPANY WEST, INC. DBA/ TRANSWESTERN**, a Texas Corporation ("Broker") is effective upon execution of this Agreement (the "Effective Date").

#### 1. BASIC AGREEMENT

- a. Subject to the terms and conditions of this Agreement, Owner grants Broker the exclusive right to offer for sale to third parties ("Buyer"), on the terms and conditions set forth in this Agreement, Owner's 1.66 acres of undeveloped land located at 6005 Main Street, Clayton, CA with parcel number 118-560-010 and three (3) parcels totaling 0.65 acres that make up the Creekside Terrace Development with parcel numbers 119-050-009, 119-050-008, 119-050-034 in the City of Clayton, Contra Costa County, California.
- b. Broker shall provide the professional services ("Services") set forth in Paragraph 2 in connection with the sale of the Property, and Owner shall compensate Broker for these Services, in accordance with the terms and conditions of this Agreement.

#### 2. BROKER'S SERVICES

- a. Owner is entering into this Agreement in reliance on Broker's special and unique abilities with respect to performing the Services. Broker accepts the relationship of trust and confidence established between it and Owner by this Agreement. Broker represents and warrants that Broker will use its best efforts, skill, judgment, and abilities to show the Property and offer the Property for sale.
  - i. "Show the Property", as used in this Agreement, shall mean presenting the Property to prospective Buyers and shall include the methods utilized in marketing the Property. Broker shall notify Owner of the methods Broker proposes to use in marketing the Property, and Owner shall have the right to approve or disapprove such methods. Owner shall make its determination whether to approve or disapprove the marketing methods on the basis of Owner's personal taste, the industry norm in marketing similar properties, and the potential effect of the proposed marketing on Owner's other properties, if any.
  - ii. "Offer the Property for Sale", as used in the Agreement, shall mean (1) presenting to the Buyer the terms and conditions upon which the Owner is willing to sell and convey the Property, which terms and conditions will be approved by Owner and presented by Broker in writing; (2) negotiating with the Buyer the terms and conditions upon which Buyer is willing to purchase the Property; and (3) bringing Buyer and Owner to the execution and subsequent closing of a transaction for Buyer to purchase the Property from Owner.
- b. Broker represents and warrants that it will further the interests of Owner in accordance with Owner's requirements and procedures, in accordance

with the highest professional standards, regulations and canons, and in compliance with all applicable national, federal, state and municipal laws, regulations, codes, ordinances, orders, and with those of any other body having jurisdiction.

- c. Broker represents and warrants that there are no obligations, commitments, or impediments of any kind that will limit or prevent performance of the Services. Notwithstanding the foregoing, Owner acknowledges that Broker may represent prospective Buyers and Owner consents to such dual representation so long as Owner is properly notified of such dual representation.
- d. Broker represents and warrants that all of the Services to be furnished by Broker pursuant to this Agreement from its inception until the closing of the sale of the Property shall be of the type, standard and quality that prevail among brokers of superior knowledge and skill engaged in commercial real estate brokerage practice.
- e. Broker represents and warrants that all its agents performing this brokerage listing will be duly licensed under the appropriate real estate licensing acts. The agent(s) primarily responsible for performing services under this listing is (are) **Edward Del Beccaro, Managing Director license # 00642167, Colby Mikulich Senior Associate license # 01755707 and Sean Barter Associate license # 01920111**. Broker represents and warrants that it will furnish efficient business administration and superintendence and perform the Services in the best way and in the most expeditious and economical manner consistent with the interests of Owner.
- f. Without limiting the generality of the foregoing, Broker agrees to:
  - i. Prepare and present in writing to Owner a marketing program within the first thirty (30) days of this Agreement. Owner reserves the right to edit, alter, change, and otherwise modify the program as it deems appropriate.
  - ii. Advertise, as appropriate, in newspapers, trade journals, and other publications as both parties agree in writing, with all advertisements to be approved by Owner prior to commitment.
  - iii. Prepare and produce an Offering Memorandum, subject to Owner's approval, for presentation to prospective purchasers.
  - iv. Prepare and produce detailed data as required to support and/or supplement the Offering Memorandum, which data is to be furnished to prospective purchasers displaying interest in the Property; such data and any modification(s) thereof are to be approved by Owner prior to distribution.
  - v. Provide written reports to Owner no later than the end of each calendar month, and biweekly oral reports describing the Broker's efforts, progress, and strategies.
  - vi. Communicate all purchase offers to Owner, and respond thereto as instructed by Owner.

### 3. INDEPENDENT CONTRACTOR

Broker is acting as an independent contractor in its capacity under this Agreement. Nothing contained in this Agreement or in the relationship of Owner and Broker shall be deemed to constitute a partnership, joint venture, employer/employee or any other relationship between Owner and Broker except



as limited by the terms of this Agreement. Broker's authority is limited to performing the Services in accordance with the terms in this Agreement. Broker does not have any authority to execute any contracts for or on behalf of Owner.

**4. TERM**

This Agreement shall be in effect for a period of 365 days commencing with the execution date first set forth hereinabove; provided, however, that after the initial 90 days of the term, Owner or Broker shall have the right and option to cancel this Agreement, with or without cause, by giving written notice to the other party and any such cancellation shall be effective thirty (30) days after the date of delivery of such notice.

**5. BROKER COMMISSION**

- a. Except as provided below, Owner agrees to pay Broker a sales commission equal to six percent (6%) of the gross sales price of the Property. Said commission shall be earned if, during the term hereof (or thereafter as provided in paragraph 5(c) below), a Buyer is procured by Broker, Owner or anyone else, and the sale to such Buyer is subsequently consummated and closed. The provision for the commission to be paid when an outside cooperating broker is involved is detailed in paragraph 5b.
- b. After the expiration of the initial forty-five (45) days of the term hereof, Broker agrees to cooperate with other real estate brokers who are validly registered with, and recognized by, Broker as representing prospective buyers. If the sale of the Property is achieved through such a cooperating broker, Owner will pay a total commission of six percent (6%) of the gross sales price. Broker will compensate the cooperating broker from the commission paid by Owner, provided that in no event shall the Broker's net compensation (after payment to the cooperating broker) be less than three percent (3%). For the purposes of this paragraph, if any agent or broker licensed with Broker (or its affiliate), other than those named in paragraph 2(e) hereinabove, represents the Buyer, such agent or broker shall be deemed to be a cooperating broker. Broker agrees to indemnify, defend and hold Owner harmless from any and all claims and expenses, to the limit of the sales commission, for additional brokers' or finders' fees arising from Broker's dealings in connection with this Agreement.
- c. If within 270 days after the expiration or the earlier termination of this Agreement, all of or any part of the Property is sold, or Owner enters into a contract leading to the sale of all or any portion of the Property, Owner shall pay to Broker the commission specified above, provided (i) that Broker presented the Property to Buyer before the expiration or termination of the Agreement, (ii) that the Buyer was on a list of bona fide prospects furnished by Broker to Owner within ten (10) days following the expiration or earlier termination of the Agreement, and (iii) that the sale to such Buyer is actually consummated.
- d. If the Property is sold, the commission provided for hereinabove shall be paid at closing (i.e., upon delivery of all closing documents and the transfer of title from Owner to Buyer) either directly from Owner's proceeds of sale or from other funds provided by Owner at closing. Should any proposed transaction under contract fail to be consummated as provided hereinabove for any reason other than the willful refusal of the Owner to close, Broker shall not be entitled to any commission or other compensation whatsoever.
- e. If a sale takes place between the City of Clayton and George Chen for the three (3) parcels totaling 0.65 acres that make up the Creekside Terrace Development with parcel numbers 119-050-009, 119-050-008, 119-050-

034 in the City of Clayton, Contra Costa County, California, then no commission is due or payable to Transwestern.

**6. DEFAULT AND REMEDIES**

- a. A party's failure or refusal to perform or observe any obligation, covenant, or condition of this Agreement, which failure or refusal is not cured by such party within ten (10) days of its receipt of written notice from the other party detailing the existence and nature thereof, shall constitute an "Event of Default".
- b. Should an Event of Default occur, the non-defaulting party may, at its option, in addition to all other rights and remedies given under this Agreement or by law or in equity, terminate this Agreement immediately.
- c. No failure by a party to insist upon the strict performance of any obligation, covenant, agreement, term, or condition of this Agreement, or to exercise any right or remedy available upon a breach or any subsequent breach of such obligation, covenant, agreement, term, or condition, shall act as a waiver of any rights or remedies of such party under this Agreement. No obligation, covenant, agreement, term, or condition of this Agreement, and no breach of this Agreement shall be waived, altered, or modified, except by written instrument. No waiver of any breach shall affect or alter this Agreement, but each and every obligation, covenant, agreement, term, and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach of this Agreement.

**7. OWNER'S OBLIGATIONS**

- a. Owner shall provide Broker with such material and information in its possession concerning the Property as is reasonably requested, including, without limitation, any environmental surveys, studies or reports.
- b. Owner shall promptly respond to any and all purchase offers presented to Owner by or through Brokers.
- c. Owner shall remain the sole Owner of the Property and shall not be or become a "foreign person", as defined in the Foreign Investment in Real Property Tax Act.
- d. Owner shall (i) refer promptly to Broker all inquiries and offers regarding the Property made directly to Owner by prospective purchasers or their cooperating brokers; (ii) identify in writing any proprietary information furnished to Broker's use only, which is not to be duplicated or shown to any other party; and (iii) permit inspection of the Property only by those accompanied by an authorized representative of the Broker.
- e. Owner shall disclose to all prospective purchasers of the Property the fact that Broker is the exclusive sales agent on the Property and as such shall have its name included in any sales contract. Owner shall deliver copies of any and all executed sales contracts to Broker.

**8. INDEMNITY AND HOLD HARMLESS**

- a. Broker agrees to indemnify, defend and hold harmless Owner from and against all demands, damages, expenses (including reasonable attorney's fees and costs), claims or causes of action brought or instituted by third parties against Owner (or its officers, members, partners, employees, agents or representatives) arising out of, caused by, or resulting from (i) the gross negligence, wrongful conduct or misrepresentation of Broker (and/or its agents, employees, or persons acting under Broker's control) in

performing the Services hereunder; or (ii) the acts of Broker which are in violation of, or beyond the lawful scope of, the Broker's authority under this Agreement.

- b. Owner agrees to indemnify, defend and hold harmless Broker from and against all demands, damages, expenses (including reasonable attorney's fees and costs), claims or causes of action brought or instituted by third parties against Broker (or its officers, employees, agents or representatives) arising out of, caused by, or resulting from (i) the proper and authorized acts and conduct of Broker (and/or its agents, employees, or persons acting under the Broker's controls) in performing the Services hereunder; or (ii) the gross negligence, wrongful conduct or misrepresentation of Owner (and/or its officers, members, partners, employees, agents and representatives).

**9. NON-DISCLOSURE**

Broker agrees that during the term of this Agreement and thereafter, it will not divulge to third parties without the consent of Owner (unless required by law) any non-public information obtained from or through Owner relating to the Property in connection with this Agreement.

**10. NOTICE**

Any notice in this Agreement provided or permitted to be given, made, or accepted by either party to the other, must be in writing and may be given or serviced by depositing the same in the United States mail, postpaid, registered or certified, return receipt requested, addressed to the party to be notified, or by delivering the same to an officer or agent of such party, or by delivering same by reputable overnight courier service, when appropriately addressed to the party to be notified. Notice deposited in the mail in the manner described in this Section 10 shall be effective from and after the expiration of three (3) days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. Copies of all notices shall be faxed on the same day as they are mailed or sent out for delivery. For purposes of this Notice, the addresses of the parties, until changes are afterwards provided in writing, shall be as follows:

To Owner: City Hall  
6000 Heritage Trail  
Clayton, CA 94517  
Attn: Gary A. Napper, City Manager  
Fax: (925) 672-4917

To Broker: **Transwestern Property  
Company West, Inc. d/b/a  
Transwestern ("Broker")**  
500 Ygnacio Valley Rd. Suite 100  
Walnut Creek, CA 94596  
Attn: Edward Del Beccaro, Managing Director  
Fax: (925) 357-2001

**11. NEGOTIATIONS**

Broker shall have the right to negotiate the proposed terms and conditions of sale for the Property, provided Owner shall have the sole right to approve all such terms and conditions, it being specifically understood and agreed that Broker shall have no authority to bind Owner to proposed terms and conditions and that Owner reserves the sole right and option to accept or reject any proposed terms and conditions presented to Owner by Broker. Owner shall have no obligation to Broker for the commission provided for herein by reason of Owner's having rejected any proposed terms and conditions.

**12. RECORDS AND AUDIT**

Broker shall keep adequate files, books and records relating to performance of the Services under this Agreement, and all such books and records shall be available at reasonable times to Owner or its designated representatives during a period ending three (3) years following the date of expiration or earlier termination of this Agreement. Owner's representative shall have the right to copy all such files, books and records.

**13. GOVERNING LAW**

This Agreement, and its interpretation, construction and enforcement, shall be governed by the substantive laws of the state in which the Property is located.

**14. OFAC REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION**

Owner represents and warrants that (i) it is not, and none of its partners, members, managers, employees, officers, directors, representatives or agents is, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or under any other law, rule, order, or regulation that is enforced or administered by OFAC (such persons and entities each being a "Prohibited Person"); (ii) it is not acting directly or indirectly, for or on behalf of any Prohibited Person; (iii) it is not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any Prohibited Person; and (iv) it will not contract with or otherwise engage in any dealings or transactions or be otherwise associated with any Prohibited Person.

Owner hereby agrees to defend, indemnify, and hold harmless Broker from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing representations and warranties.

**15. ENTIRE AGREEMENT; BINDING EFFECT**

This Agreement shall constitute the entire agreement between Broker and Owner and no change, modification or amendment shall be effective until and unless made in writing and signed by the parties hereto. This Agreement shall be binding upon any successors or assigns of Broker or Owner. The persons executing this Agreement for Owner and Broker each respectively represent and warrant to the other party that they are duly authorized to do so on behalf of such party.

*Signatures on next page.*




IN WITNESS WHEREOF, the undersigned parties have executed this Agreement, under seal, as of the date first set forth hereinabove.

CITY OF CLAYTON, CA ("Owner")

By:  04-02-14  
Name: GARY A. NAPPER  
Title: CITY MANAGER

**Edward Del Beccaro, Managing Director** d/b/a  
Transwestern ("Broker")

By:   
Name: Edward F. DelBeccaro  
Title: Managing Director  
3-28-2014

RETAIL DEVELOPMENT OPPORTUNITY

# TOWNE CENTRE CLAYTON

6005 Main Street, Clayton, CA



### AVAILABLE SPACE

- ±1.66 acres (±72,310 SF) located at the gateway position to downtown Clayton

### PROPERTY HIGHLIGHTS

- Located on Clayton Road, which has ±24,195 AADT, with 495 feet of street frontage on the major arterial
- Approximately 15 minutes from downtown Walnut Creek and less than 50 minutes to downtown San Francisco
- Adjacent to public transportation; just one block from Contra Costa County bus line
- Potential flexibility for city-encouraged uses and development proposals
- Potential drive-thru

### DEVELOPMENT REGULATIONS

- Height limit 40 Feet
- Structural coverage of the sight is limited to 40%
- City of Clayton's website: <http://ci.clayton.ca.us/>

### ENCOURAGED DEVELOPMENT OPTIONS

- Mixed use retail under multifamily
- Pedestrian oriented retail (grocery, drug store, convenience, restaurants)
- Bed & Breakfast or hotel operators
- Downtown village type development (boutique retail)
- Oxbow Public Market inspired regional destination (brewery, winery, restaurants)



### LEASING INFORMATION

**Ed Del Beccaro**  
 Managing Director  
 925.357.2019  
[ed.delbeccaro@transwestern.com](mailto:ed.delbeccaro@transwestern.com)  
 Lic 00642167

**Colby Mikulich**  
 Senior Associate  
 925.357.2016  
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**Sean Barter**  
 Associate  
 925.357.2032  
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RETAIL / MIXED-USE DEVELOPMENT OPPORTUNITY IN DOWNTOWN CLAYTON, CALIFORNIA



DOWNLOAD PDFs

Clayton, California

TOWNE CENTRE CLAYTON

CREEKSIDE TERRACE

NEW DEVELOPMENTS

DEMOGRAPHICS

CONTACT



### Retail/Mixed-Use Development Opportunity in Downtown Clayton, California.

Retail & Mixed-Use Development Opportunity

Entitled Mixed-Use Development Opportunity

#### TOWNE CENTRE CLAYTON

6011 Main Street, Clayton, CA  
±1.66 acres (±72,310 SF)

#### CREEKSIDE TERRACE

1005 - 1007 Oak Street, Clayton, CA  
±0.75 acres (±32,632 SF)

CLICK ABOVE TO LEARN MORE

The information provided herein was obtained from sources believed reliable; however, Transwestern makes no guarantees, warranties or representations as to the completeness or accuracy thereof. The presentation of this property is submitted subject to errors, omissions, change of price or conditions, prior sale or lease, or withdrawal without notice. Copyright © 2014 Transwestern.

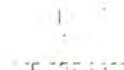
For More Information:



708.222.2222



info@transwestern.com



www.transwestern.com



500 Ygnacio Valley Road, Suite 100  
Walnut Creek, CA 94596  
925.357.2000

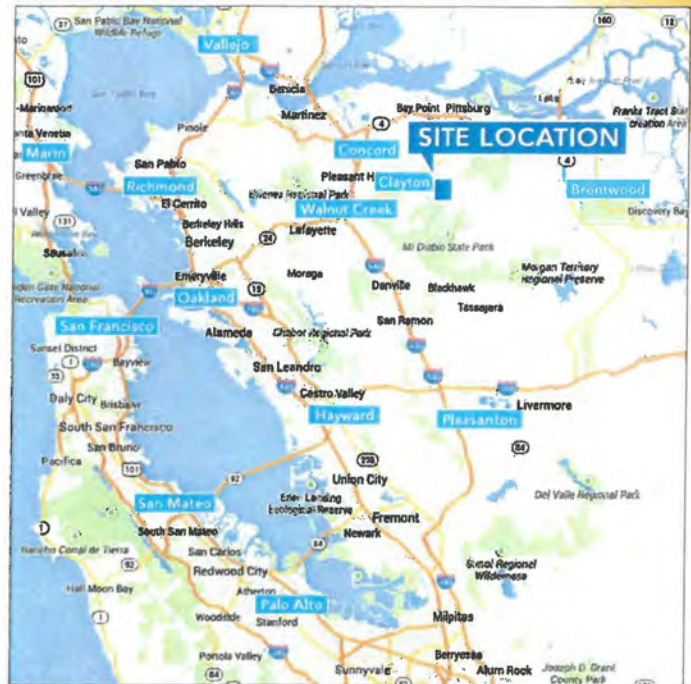
# RETAIL DEVELOPMENT OPPORTUNITY TOWNE CENTRE CLAYTON

6005 Main Street, Clayton, CA

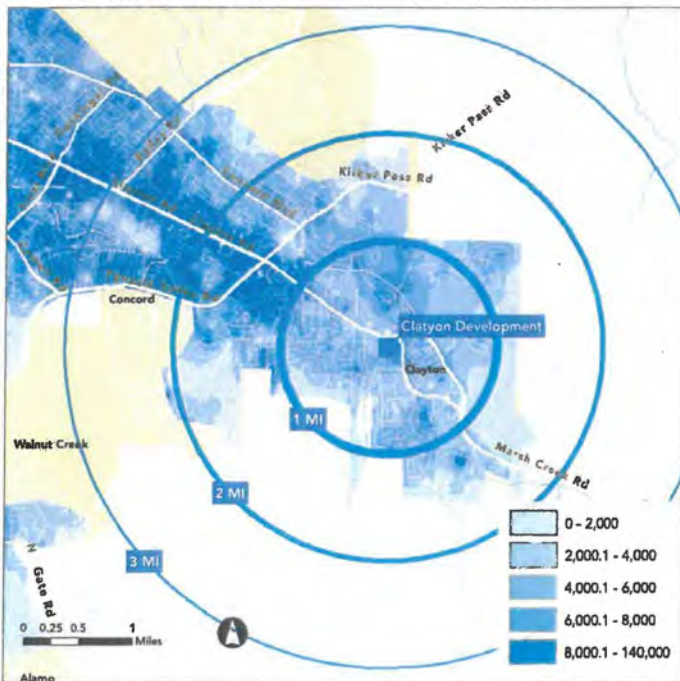
## EAST BAY LOCATION MAP



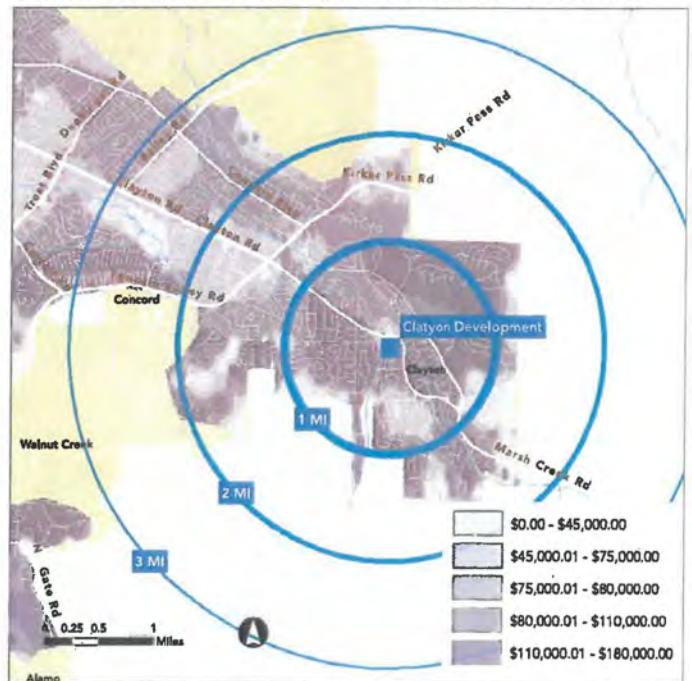
## BAY AREA LOCATION MAP



## DEMOGRAPHICS - POPULATION DENSITY



## DEMOGRAPHICS - MEDIAN HOUSEHOLD INCOME



### LEASING INFORMATION

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**Colby Mikulich**  
 Senior Associate  
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[www.transwestern.com/walnutcreek](http://www.transwestern.com/walnutcreek)





ENTITLED MIXED-USE DEVELOPMENT OPPORTUNITY

# CREEKSIDE TERRACE

1005 - 1007 Oak Street, Clayton, CA

**Ed Del Beccaro**  
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LIC 00642167

**Colby Mikulich**  
Vice President  
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**Matt Hatfield**  
Associate  
925.357.2028  
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LIC 01937755



[www.transwestern.com/walnutcreek](http://www.transwestern.com/walnutcreek)

## CREEKSIDE TERRACE [www.TowneCentreClayton.com](http://www.TowneCentreClayton.com)

1005 - 1007 Oak Street, Clayton, CA

### ENTITLEMENT

The proposed project involves the removal of two existing single-story modular structures and the construction of a two-story mixed-use building. The ground floor is proposed to consist of approximately 7,200 SF of retail space. The second floor of the building would consist of seven (7) residential units with a community room and laundry/storage room that overlooks Mitchell Creek to the west.

### PROPERTY HIGHLIGHTS

- **Condition: 2 existing single story modular structures:**
- 1005 Oak Street: ±2,360 SF
- 1007 Oak Street: ±1,680 SF
- Lot: ±32,632 SF (0.75 acres)
- APN: 119-050-009; 119-050-008; 119-050-034
- 2013 Combined Tax Assessment Value: \$532,740
- Potential flexibility for city-encouraged uses and development proposals

### LOCATION HIGHLIGHTS

- Located adjacent to Clayton Road, which has ±24,195 AADT
- Approximately 15 minutes from downtown Walnut Creek and less than 50 minutes to downtown San Francisco
- Adjacent to public transportation; just one block from Contra Costa County bus line



0.75 Acres of Mixed-Use Development Opportunity



### FOR MORE INFORMATION

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CITY OF CLAYTON

 **TRANSWESTERN®**

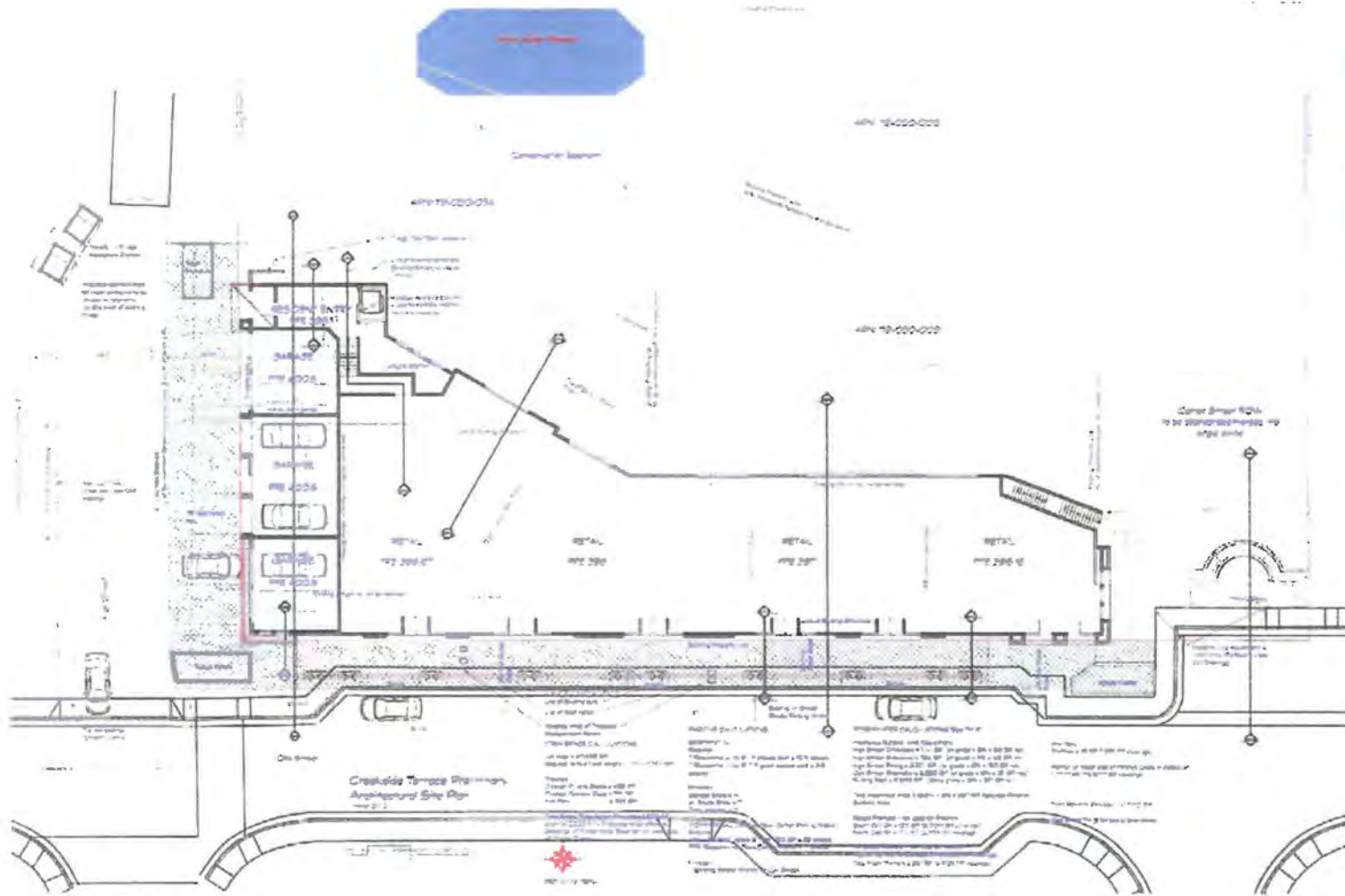
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**CREEKSIDE TERRACE** [www.TowneCentreClayton.com](http://www.TowneCentreClayton.com)  
 1005 - 1007 Oak Street, Clayton, CA

**SITE PLAN**



**FOR MORE INFORMATION**

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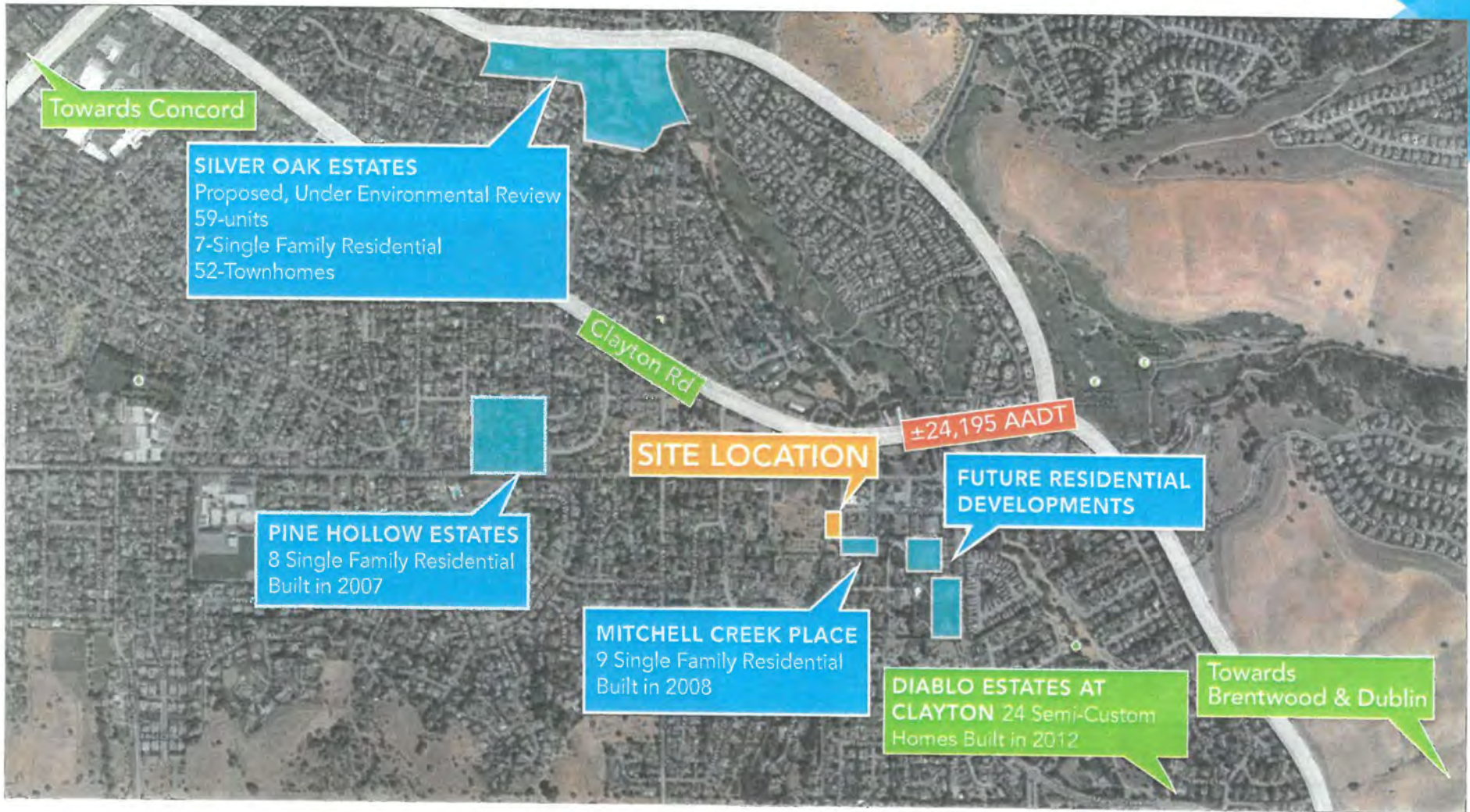
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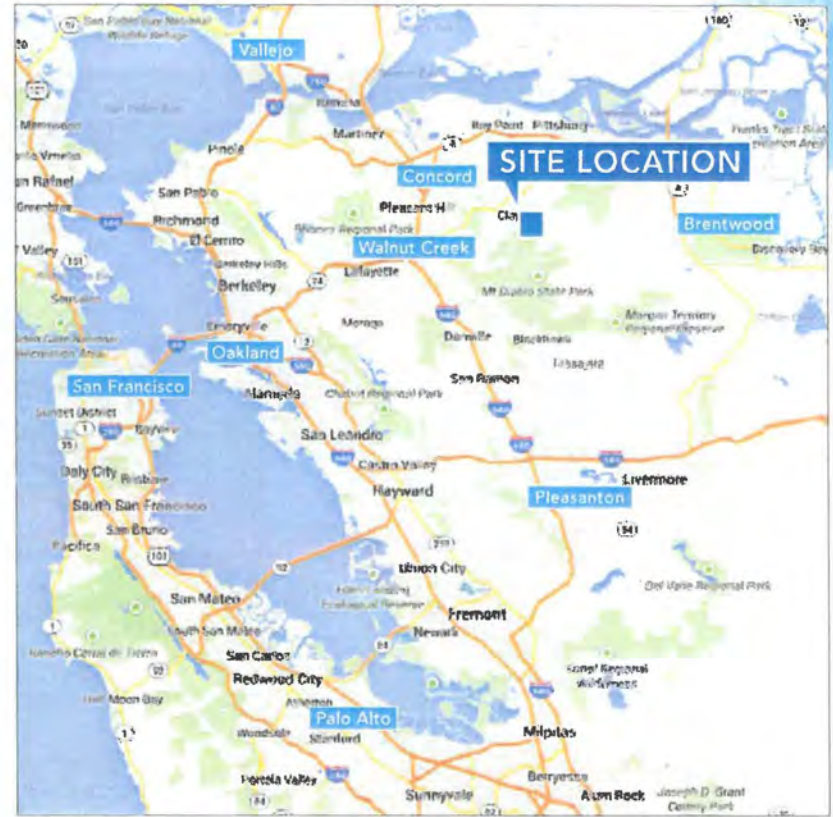
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**CREEKSIDE TERRACE** [www.TowneCentreClayton.com](http://www.TowneCentreClayton.com)  
 1005 - 1007 Oak Street, Clayton, CA

**EAST BAY LOCATION MAP**



**BAY AREA LOCATION MAP**

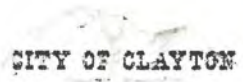


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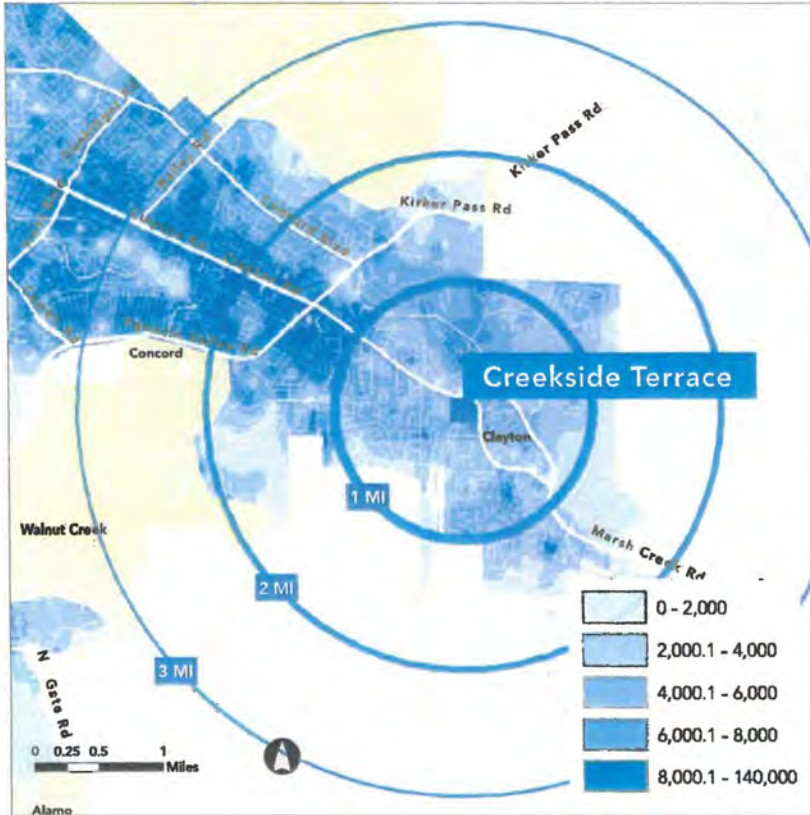


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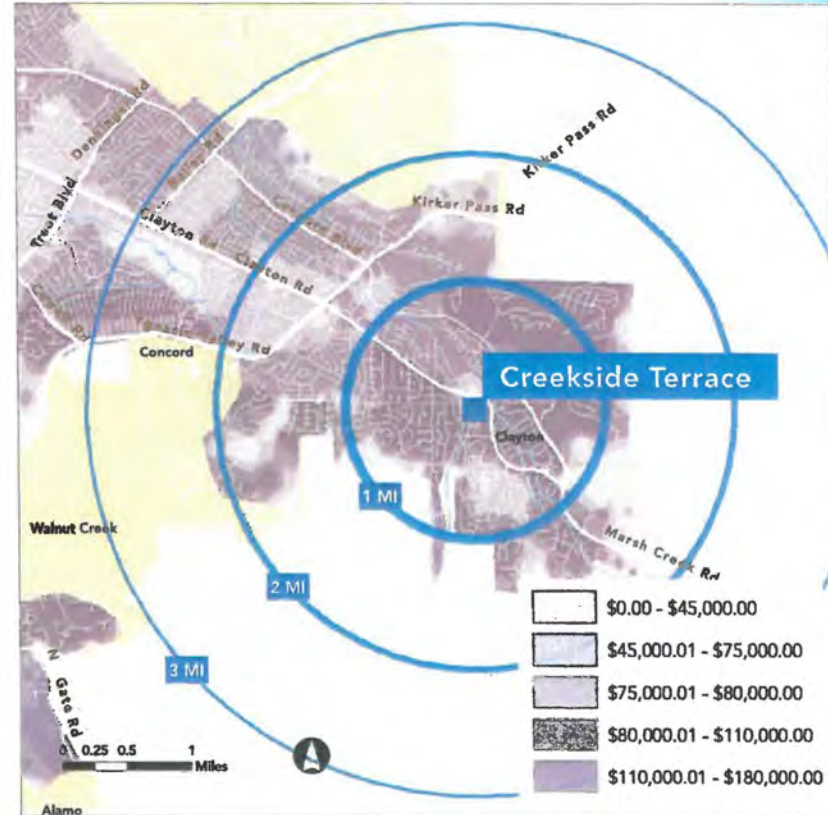
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**DEMOGRAPHICS - POPULATION DENSITY**



**DEMOGRAPHICS - MEDIAN HOUSEHOLD INCOME**

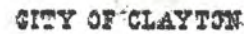


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Approved:

Gary A. Napper  
City Manager

# STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: KEVIN MIZUNO, FINANCE MANAGER, CPA**

**DATE: DECEMBER 20, 2016**

**SUBJECT: REVIEW OF THE CITY'S ANNUAL REPORT ON DEVELOPMENT FEES FOR THE FISCAL YEAR ENDING JUNE 30, 2016 IN COMPLIANCE WITH THE REPORTING REQUIREMENTS OF SECTION 66006 OF THE STATE GOVERNMENT CODE (AB 1600)**

## RECOMMENDATION

Staff recommends the City Council receive public comments, and then by motion adopt the attached Resolution finding there is a reasonable relationship between current needs for existing development impact fees and the purposes for which they were originally collected and authorizing internal accounting adjustments as noted.

## BACKGROUND

In 1989, Section 66000 et seq. of the California Government Code became effective. When passed in 1987, this section was known as AB 1600. When the Legislature passed AB 1600, it added a new chapter to the California Government Code on impact fees for development projects. The chapter sets forth a number of requirements that local agencies must follow if they are to exact impact fees from developers to defray the cost of construction of public facilities or expanded public service obligations related to development projects. Section 66006 mandates the reporting requirements on fees that the local agency must adhere to each fiscal year.

Through policies contained within the General Plan, the City of Clayton has established the nexus between the development and the capital improvements necessary to mitigate the effects of the development and approved impact fees to fund the mitigation measures. Further implementation of the impact fees is established in the Clayton Municipal Code sections related to each fee type.

## DISCUSSION

Section 66006 (b)(1) of the California Government Code requires each local agency to make public a report on development impact fees within 180 days after the last day of each fiscal year. Section

66006 (2) also requires each local agency to review the annual report on development fees at a public meeting not earlier than 15 days after the information is made available to the public. The City of Clayton made its annual report on development fees available to the public on December 2, 2016.

The AB 1600 report consists of a brief description of the fee type in the account or fund, the amount of the fee, the beginning and ending balance of the account or fund, the amount of fees collected and the interest earned. If there are funds in the accounts then there is also a requirement to make a finding that there is a reasonable relationship between current needs for and the purposes for which they were originally collected.

Development impact fees become due at different times in the stage of a development project. Some of the impact fees are due at time of final map, or building permit issuance; others not until final occupancy. As outlined in Attachment 4, the City collected new impact fees in FY 2015-16 pertaining to a Mitchell Canyon Dr. second unit project. Interest earnings are apportioned to the Development Impact Fee Fund (No. 304) through the quarterly city-wide interest allocation process. Within the Development Impact Fee Fund, quarterly interest allocations are further divided to each Development impact fee account based on proportional fee fund balances as of the end of the corresponding quarter.

City AB 1600 development impact fees are collected for the following purposes:

- Childcare Facilities
- Offsite Arterial improvements
- Fire Protection
- Community Facilities
- Parkland Dedication

The summary of the balances of the various fees are listed on Attachment 2. A ten (10) year income statement summary for each of the City's impact fees is presented on Attachment 3, which provides a snapshot of the sources of funds and balances in recent history. Detailed expenditure and revenue reports for each fee the City collected is provided in Attachment 4 for further analysis of specific transactions. Attachment 5 shows the outstanding projects for which these funds may be utilized as incorporated in the City Council annually adopted five-year evergreen Capital Improvement Program Budget. A schedule of all City-imposed development impact fees is shown in Attachment 6 disclosing the fee formulas, citing the authoritative section establishing each fee, and the specific development phase when each fee is due to the City.

The following is a summary of the eight (8) reporting requirements on development impact fees an imposing local agency must adhere to each fiscal year:

1. Create separate capital facilities funds or accounts for each improvement funded with impact fees (Government Code Section 66006(a)).



2. Remit all interest income earned by the fees to the same fund; interest income must be spent solely on the purpose for which the fee was originally collected (Section 66006(a)).
3. Within 180 days after the close of each fiscal year, prepare a public report concerning each impact fee fund. Such report must include the fund's beginning and ending balance for the fiscal year, amount of fees and interest deposited into the fund for the fiscal year, and a description of each expenditure from the fund for that year, including identification of the improvement being funded (Section 66006(b)).
4. Review the report at a public meeting not less than fifteen (15) days after the report is released to the public (Section 66006(b)(2)).
5. If fees remain unexpended or uncommitted five (5) years after being collected, the local agency is to make a finding that there remains a reasonable relationship between the current need for the fees and the purposes for which they were originally collected (Section 66001(d)).
6. Refund to current owner of lots or units developed projects any fees, with accrued interest, for which continued need cannot be demonstrated (Section 66001(e)).
7. A local agency must not co-mingle fees with any other revenue, except for temporary investment purposes (Section 66006(a)).
8. A local agency may not spend impact fees for maintenance or operation of improvements funded with impact fees (Section 65913.8).

The City is in compliance with the eight reporting requirements outlined above. The following three impact fees subject to the AB 1600 compliance requirements have not yet been fully or partially expended by the City for eligible purposes in a timeframe exceeding five (5) years: Childcare Facility fees, Offsite Arterial Improvement fees, and Community Facilities fees. Compliance is obtained with criteria number 5 above by adopting a Resolution that makes a finding that there remains a reasonable relationship between the current need for the fees and the purpose for which they were originally proposed.

1. *Child Care Facilities*

On April 20, 1988 the City Council adopted Ordinance No. 252 establishing the child care facilities development impact fee. The purpose of this development impact fee is to enable the development of facilities sufficient to meet existing and future preschool and school age child care needs. Under this law eligible facilities included building, equipment, and any accessory structures, programs and personnel licensed by the State for direct child care services providing but not limited to shelter, food, educational, and play opportunities for less than 24 hours per day. During the 1990s some funds were provided to the Contra Costa Child Care Council for material needs of programs and to provide outreach to Clayton residents as to home and other child care opportunities and programs.

As of June 30, 2016 there was a fund balance (including interest) of \$44,764 available. The Oakhurst Development did not pay into these funds as it was established after Oakhurst was approved. As a result of the relatively small fund balance, extended periods are necessary to achieve sufficient resources to finance the costs for child care related facilities or improvements. During FY 2015-16 no child care facility impact fees were collected as there was no project activity requiring payment of this fee. There is a need to continue this impact fee in order to collect sufficient funds to address future new capital needs for childcare. In FY 2015-16 the City allocated approximately \$601 in interest to the fund.

2. Parkland Dedication

On July 17, 1985 the City Council adopted the General Plan, which among other requirements, established a parkland dedication impact fee program as granted by the Subdivision Map Act of the state of California. Under this law, the general standard established is that it is found and determined that the public interest, convenience, health, welfare and safety require that five (5) acres of property for each one thousand persons residing within the City be devoted to local park and recreational purposes. The City's most recently adopted CIP Budget outlines park and recreation area construction or expansion projects with unfunded costs totaling \$7,919,000 for which funds may be eligible for use.

During FY 2015-16 no parkland dedication impact fees were collected as there was no project activity requiring payment of this fee. As of June 30, 2016 there was a modest fund balance of \$2,507 available, consisting primarily of the historical accrual of interest unspent to-date. Additional interest earnings of \$34 were allocated to this fund in FY 2015-16.

3. Offsite Arterial

On October 7, 1981 the City Council adopted Resolution No. 36-81 establishing a policy for off-site arterial street improvement impact fees for new residential developments. The policy established a nexus between development and increased traffic congestion on the City's major arterial streets. The purpose of this development impact fee is to assist the City in alleviating traffic congestion generated by each new development on the City's major arterial streets. Currently, the City's major arterial streets eligible for improvements to be financed by offsite arterial development impact fees include: Clayton Road, Oakhurst Boulevard, Marsh Creek Road, and Pine Hollow Road

As of June 30, 2016 there was a fund balance (including interest) of \$195,082 available. In FY 2015-16 the City collected \$1,456 in offsite arterial fees pertaining to a Mitchell Canyon Dr. second unit project and allocated \$2,602 in interest to the fund. The current balance is primarily derived from the accumulation of collections over the past ten (10) fiscal years from seven projects (Pine Hollow Estates, Mitchell Creek Pl, Longs, Flora Square, Village Market, Diablo Estates, and Mitchell Canyon Dr. second unit).

The collection of fees pertaining to the Pine Hollow Estates, Mitchell Creek, Longs, Flora Square, Village Market, and Mitchell Canyon Dr. second unit developments have not been expended within 5 years as of the year ended June 30, 2016. These fees may be used for projects outlined in the City's CIP Budget such as traffic signals on eastern Marsh Creek

Road and Pine Hollow Road Upgrades, for which unfunded costs, estimated at \$675,000, exceed current or anticipated annual funding sources. As such, more time is necessary to collect sufficient funds for these larger projects. Additional funding for these projects is expected to come from other sources such as Measure J, gas taxes, federal/state/regional grants, and other sources. In general, the City does not have control over the funding process from other agencies. However, the City must have adequate funds on hand to leverage and provide matching funds as required when other funds do become available to the City and maintain a competitive position to obtain the funds when they become available. Therefore a need exists to continue this impact fee.

4. Fire Protection

In 1987 the City Council adopted Ordinance No. 239 establishing the fire district development impact fee based on a report determining facility and equipment needs for the entire fire district (District). Facility cost and benefits were identified for incorporated and unincorporated areas and based on the assessment, it was determined that the City's contribution would be \$830,700 to the District. The purpose of the impact fees is to raise the necessary funds or to reimburse capital outlay to meet the City's contribution to the District. In FY 1999-00, the City's former RDA provided a loan of \$350,000 to help finance the construction of the District's fire station located in Clayton. To date, a total of \$54,762 in Fire Protection Fees has been used to repay the loan, which note has been assumed by the City of Clayton Successor Agency. As outlined in Attachment 4, these repayments occurred in FY 2004-05 and FY 2009-10.

As of June 30, 2016 there was a fund balance (including interest) of \$7,789 available. During FY 2015-16 the City collected \$134 in fire protection impact fees pertaining to the Mitchell Canyon second unit project and allocated interest of \$103 to the fund. To-date, the fire station loan has not been fully repaid to the Successor Agency from the mitigation fees. As of June 30, 2016 the loan balance was \$295,238. As there is still an outstanding loan balance there is a need to continue this impact fee.

5. Community Facilities

In 1990 the City Council adopted Ordinance No. 282 establishing the community facilities development impact. The purpose of this impact fee is to implement the goals and objectives of the City's Capital Improvement Program and to mitigate the unfavorable impacts attributed to new development by helping finance the construction of certain necessary public facilities.

As of June 30, 2016 there was a fund balance (including interest) of \$18,819 available. These funds are limited for improvements to City owned facilities (buildings and associated grounds). These and future funds are restricted for future new capital projects such as the Keller House renovation, Endeavor Hall, Clayton Community Library, City Hall, or public works corporation yard improvements or upgrades. In the most recently adopted CIP Budget, unfunded estimated costs for proposed construction or expansion of community facilities totaled \$3,000,000. Therefore there is a demonstrated need to continue collecting this development impact fee. During FY 2015-16 the City collected \$450 in community

facility impact fees pertaining to the Mitchell Canyon second unit project and allocated \$248 in interest to the fund.

## **SUMMARY**

To comply with AB 1600, the City Council must make findings that there is a reasonable relationship between current need for the fees and the purposes for which they were originally charged as demonstrated by programming of fees in the CIP and City operational budgets. It is important these findings can be and are made to ensure continuance of funding resources for these important programs.

Although AB 1600 requires that fees collected from developers be expended within five years, the law, as noted previously, also allows exceptions. Exceptions are provided in recognition that some projects require an extended planning period. There can be a number of reasons for this and may include: project costs can be of a magnitude that it requires longer than five years for costs required to accrue; or necessary matching funds may not be available within the five-year period.

As indicated in Attachment 5 there are many projects that have time frames that vary widely notably being parks, community facilities, as well as arterial street improvements which total over \$16,270,032. Of these about \$11,594,000 are eligible under- or unfunded projects for which collected development fees may be utilized. The fund needs for the identified projects are far greater than the amount of fees that are possible to collect in a five-year period. Construction will only be possible by leveraging these funds to obtain matching monies from state gas tax apportionments, Measure J, or grants (federal/state/regional) and other sources.

The City has shown herein that there remains a nexus between current needs for these impact fees and the purposes for which they were originally and are still needed in the future to be collected. This was accomplished by the City Council's prior approval of the City's CIP Budget which indicates the projects to be constructed and directs staff to allocate the collected funds to specified projects. In addition the City has demonstrated that it has expended costs for the new fire station that exceeded funds currently available to repay the Successor Agency.

As noted previously, AB 1600 requires that within 180 days of the close of the fiscal year, the City make available to the public the beginning and ending balance of each fee for the fiscal year, the fee interest and other income, the amount of expenditure, and fund allocations by fee category. Staff believes the intent of the legislation is to provide a reasonable period of time to close the books in order to provide accurate financial information, including all outstanding expenditures and revenues for the entire fiscal year. The City presented the audited FY 2015-16 comprehensive annual financial report to the City Council on November 1, 2016.

As also noted previously, not less than 15 days after the information is made public, the City Council is required to review this information at its next regularly scheduled public meeting. Since this information was made available to the public on October 28, 2016 with the posting of the City Council agenda materials online, the information will be placed on the December 20, 2016 City Council agenda for review and acceptance, in compliance with the reporting requirements.

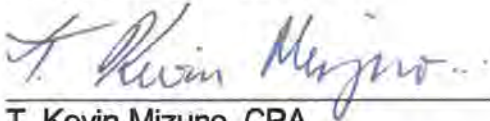
Subject: Review of the City's Annual Report on Development Fees for FY 2015-16 in Compliance with the Reporting Requirements of Section 66006 of the State Government Code (AB 1600)  
Date: December 20, 2016  
Page: 7 of 7

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## **FISCAL IMPACT**

The acceptance of this report and its attachments, including the attached Resolution, has no direct fiscal or budgetary impact to the City of Clayton, provided the collected development impact fees are retained.

Respectively submitted,



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T. Kevin Mizuno, CPA  
Finance Manager

### Attachments:

1. Resolution No \_\_-2016
2. Fund Balance Summary – AB 1600 Development Impact Fees
3. 10 Year Consolidated Income Statements – AB 1600 Developer Impact Fee
4. Revenue/Expenditure Detail – AB 1600 Development Impact Fees
5. Capital Improvement Program Projects with Funding needs
6. Development Impact Fee Listing

**RESOLUTION NO. \_\_-2016**

**A RESOLUTION FINDING THERE REMAINS A REASONABLE RELATIONSHIP  
BETWEEN CURRENT NEEDS FOR THE CITY'S DEVELOPMENT IMPACT FEES  
AND THE PURPOSES FOR WHICH THEY WERE ORIGINALLY CHARGED  
(GOVERNMENT CODE SECTION 66000 ET. SEQ.)  
RELATED TO THE CITY'S ANNUAL REPORT ON DEVELOPER FEES FOR  
FY 2015-16**

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

**WHEREAS**, the City's adopted General Plan, and 5-Year Capital Improvement Program identifies improvements necessitated by continued development in the City and fees paid for development impacts; and

**WHEREAS**, the City has been authorized by Municipal Code Sections 3.16.020 (Community Facilities), 3.18.040 (Fire Protection), 16.12.010 (Parkland Dedication), 16.60.050 (Childcare), and Resolution 36-81 (Offsite Arterial Streets) to establish and collect these impact fees; and

**WHEREAS**, the City has established discrete accounts and fees to finance the construction of these improvements as mitigation measures for continued development within the City; and

**WHEREAS**, the City annually adopts a comprehensive 5-Year Capital Improvement Program to prioritize improvements and allocates funds to construct the improvements as mitigation for continued development in the City; and

**WHEREAS**, these improvements are scheduled to be constructed over time as sufficient funds become available; and

**WHEREAS**, many of these identified improvements are of such size that sufficient funds have not been collected or obtained in order to construct these improvements by expending fees collected within the five-year expenditure period provided by Government Code Section 66001(d); and

**WHEREAS**, there continues to be a distinct nexus between continued development and the necessity to mitigate developments impacts; and

**WHEREAS**, fees collected previously and in the future are necessary to fund future improvements as indicated in the City's Capital Improvement Program; to reimburse the Agency and/or City for the advance funding to construct the Fire Station; and to address identified childcare needs; and

**WHEREAS**, certain fees collected in the Child Care Facility, Offsite Arterial, and Community Facility accounts have not been expended in a timeframe of five years, however are still necessary pursuant to AB1600 for the purpose in which they are collected as project costs exceed current available funds collected and thus it will take longer to collect the necessary funds for the improvements and capital assets as identified in the City's adopted Capital Improvement Program.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Clayton, California does hereby:

Section 1. Accept the above Recitals as fact, herewith approves the City's AB 1600 Report for FY 2015-16, and does find there remains a reasonable relationship between the current need for the impact fees and the purposes for which they were originally collected; and

Section 2. This Resolution shall become effective immediately upon its passage and adoption.

**PASSED, APPROVED AND ADOPTED** by the City Council of Clayton, California at a regular public meeting thereof held on the 20<sup>th</sup> day of December, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk



CITY OF CLAYTON  
 AB 1600 DEVELOPMENT IMPACT FEE FUND BALANCE SUMMARY  
 JUNE 30, 2016

ATTACHMENT 2

FUND	(A) FUND BALANCE	(B) RESERVES	(C) DESIGNATED	(D) TOTAL ALLOCATED FUND BALANCE (B+C=D)	(E) UNALLOCATED RESERVES (A-D)
CHILDCARE FACILITIES	44,764	-	44,764	44,764	-
PARKLAND DEDICATION	2,507	-	2,507	2,507	-
OFFSITE ARTERIAL IMPROVEMENT	195,082	-	195,082	195,082	-
FIRE PROTECTION FEES	7,789	-	7,789	7,789	-
COMMUNITY FACILITIES	18,819	-	18,819	18,819	-
<b>TOTAL</b>	<b>268,962</b>	<b>-</b>	<b>268,962</b>	<b>268,962</b>	<b>-</b>

Footnotes:

- |                                       |            |
|---------------------------------------|------------|
| 1. Fire Station loan balance from RDA | \$ 295,238 |
| 2. Sewer Study loan balance from GF   | \$ 62,748  |

DEVELOPMENT IMPACT FEES  
 10 YEAR AB 1600 DEVELOPMENT IMPACT FEE REVENUE/EXPENDITURE SUMMARY  
 FY 2007 - FY 2018

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Ending Balance
<b>CHILDCARE FACILITY FEES</b>											
<b>REVENUE</b>											
Childcare Facility Fees (5307)	-	6,483	-	-	-	3,485	1,435	-	-	-	11,403
Interest	662	1,105	1,024	1,417	404	966	570	489	255	601	8,309
<b>EXPENDITURES</b>											
Total Expenditures	-	-	-	-	-	-	-	-	-	-	-
Total Revenue/over(under) Expenditures	662	7,588	1,024	1,417	404	4,451	2,005	489	255	601	20,712
<b>OTHER FINANCING SOURCES (USES)</b>											
Operating Transfers in	-	-	-	-	-	-	-	-	-	-	-
Operating Transfers out	-	-	-	-	-	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-	-	-	-	-	-
Excess (Deficiency) of Revenue and Other Sources Over (Under) Expenses & Other Financing Sources	662	7,588	1,024	1,417	404	4,451	2,005	489	255	601	20,712
FUND BALANCE JULY 1	25,868	26,530	34,118	35,142	36,559	36,963	41,414	43,419	43,419	43,908	44,764
FUND BALANCE JUNE 30	26,530	34,118	35,142	36,559	36,963	41,414	43,419	43,908	44,163	44,764	
<b>PARKLAND DEDICATION FEES</b>											
<b>REVENUE</b>											
Parkland Dedication Fees (5313)	23,121	60,016	280	-	55,885	-	-	-	-	-	161,214
Interest	1,210	3,634	12	2,238	302	1,404	800	686	163	34	14,098
<b>EXPENDITURES</b>											
Community Park Tot Lot (CIP 10385)	-	-	-	-	-	-	-	-	-	-	81,500
Downtown Park (CIP 10367)	-	-	-	-	-	-	-	-	-	-	57,234
2010 Pavement Rehab (CIP 10409)	-	-	-	-	-	-	-	-	59,297	-	59,297
Community Park Upgrades (CIP 10407)	-	112,443	-	-	-	-	-	-	-	-	112,443
Total Expenditures	-	112,443	-	-	-	-	-	-	-	-	251,177
Total Revenue/over(under) Expenditures	24,331	(48,793)	292	2,238	56,187	1,404	800	686	(59,134)	34	(135,162)
<b>OTHER FINANCING SOURCES (USES)</b>											
Operating Transfers in	-	-	-	-	-	-	-	-	-	-	280
Operating Transfers out	-	-	-	-	-	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-	-	-	-	-	280
Excess (Deficiency) of Revenue and Other Sources Over (Under) Expenses & Other Financing Sources	24,331	(48,793)	292	2,238	56,187	1,404	800	686	(59,134)	34	(134,882)
FUND BALANCE JULY 1	24,462	48,793	-	292	2,530	58,717	60,121	60,921	60,921	61,607	2,507
FUND BALANCE JUNE 30	48,793	-	292	2,530	58,717	60,121	60,921	61,607	2,473	2,507	

DEVELOPMENT IMPACT FEES  
 10 YEAR AB 1600 DEVELOPMENT IMPACT FEE REVENUE/EXPENDITURE SUMMARY  
 FY 2007 - FY 2016

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Ending Balance
<b>OFFSITE ARTERIAL IMPROVEMENT FEES</b>											
<b>REVENUE</b>											
Offsite Arterial Improvement Fees (5314)	-	114,147	-	-	-	24,753	10,192	-	-	1,456	162,196
Interest	369	4,317	4,163	5,476	3,423	4,090	2,466	2,114	1,105	2,602	30,504
<b>EXPENDITURES</b>											
Total Expenditures	-	-	-	-	-	-	-	-	-	-	-
Total Revenue/over(under) Expenditures	369	118,464	4,163	5,476	3,423	28,843	12,658	2,114	1,105	4,058	192,699
<b>OTHER FINANCING SOURCES (USES)</b>											
Operating Transfers in	-	-	-	-	-	-	-	-	-	-	-
Operating Transfers out	-	-	-	-	-	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-	-	-	-	-	-
<b>Excess (Deficiency) of Revenue and Other Sources Over (Under) Expenses &amp; Other Financing Sources</b>	369	118,464	4,163	5,476	3,423	28,843	12,658	2,114	1,105	4,058	192,699
<b>FUND BALANCE JULY 1</b>	14,410	14,779	133,242	137,405	142,881	146,304	175,147	187,805	187,805	189,919	195,082
<b>FUND BALANCE JUNE 30</b>	14,779	133,242	137,405	142,881	146,304	175,147	187,805	189,919	191,024	195,082	
<b>FIRE PROTECTION FEES</b>											
<b>REVENUE</b>											
Fire Protection Fees (5317)	-	8,397	2,700	-	-	5,100	2,100	-	-	134	20,831
Interest	-	281	476	-	-	122	102	83	45	103	2,173
<b>EXPENDITURES</b>											
Reimbursement for Clayton Fire Station	-	-	-	-	-	-	-	-	-	-	-
Total Expenditures	-	-	-	-	-	-	-	-	-	-	-
Total Revenue/over(under) Expenditures	-	8,678	3,176	-	-	5,222	2,202	83	45	237	23,004
<b>OTHER FINANCING SOURCES (USES)</b>											
Operating Transfers in	-	-	-	-	-	-	-	-	-	-	-
Operating Transfers out	-	-	-	11,854	-	-	-	-	-	-	54,762
Total Other Financing Sources (Uses)	-	-	-	(11,854)	-	-	-	-	-	-	(54,762)
<b>Excess (Deficiency) of Revenue and Other Sources Over (Under) Expenses &amp; Other Financing Sources</b>	-	8,678	3,176	(11,854)	-	5,222	2,202	83	45	237	(31,758)
<b>FUND BALANCE JULY 1</b>	-	-	8,678	11,854	-	-	5,222	7,424	7,424	7,507	7,789
<b>FUND BALANCE JUNE 30</b>	-	8,678	11,854	-	-	5,222	7,424	7,507	7,552	7,789	

DEVELOPMENT IMPACT FEES  
 10 YEAR AB 1600 DEVELOPMENT IMPACT FEE REVENUE/EXPENDITURE SUMMARY  
 FY 2007 - FY 2016

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	Ending Balance
<b>COMMUNITY FACILITIES FEES</b>											
<b>REVENUE</b>											
Community Facilities Fees (5323)	-	19,041	-	-	-	7,850	3,150	-	-	450	33,891
Interest	(230)	329	214	-	1,107	337	234	200	105	248	1,728
<b>EXPENDITURES</b>											
Corp Yard CIP 060	-	-	-	-	-	-	-	-	-	-	-
Endeavor Hall Shudders	-	-	5,024	-	-	-	-	-	-	-	5,024
Total Expenditures	-	-	5,024	-	-	-	-	-	-	-	5,024
Total Revenue/over(under) Expenditures	(230)	19,370	(4,810)	-	1,107	7,987	3,384	200	105	698	30,595
<b>OTHER FINANCING SOURCES (USES)</b>											
Operating Transfers in	-	-	-	-	-	-	-	-	-	-	-
Operating Transfers out	-	-	-	-	-	-	-	-	-	-	-
Total Other Financing Sources (Uses)	-	-	-	-	-	-	-	-	-	-	-
Excess (Deficiency) of Revenue and Other Sources Over (Under) Expenses & Other Financing Sources	(230)	19,370	(4,810)	-	1,107	7,987	3,384	200	105	698	30,595
FUND BALANCE JULY 1	(8,992)	(9,222)	10,148	5,338	5,338	6,445	14,432	17,816	17,816	18,016	18,819
FUND BALANCE JUNE 30	(9,222)	10,148	5,338	5,338	6,445	14,432	17,816	16,016	18,121	18,819	
<b>All FUND BALANCES</b>	<b>80,880</b>	<b>186,187</b>	<b>190,032</b>	<b>187,309</b>	<b>248,430</b>	<b>296,337</b>	<b>317,386</b>	<b>320,958</b>	<b>263,334</b>	<b>268,962</b>	<b>268,962</b>

City of Clayton  
 Childcare Facility Fees 304-5307  
 1999-2016

ATTACHMENT 4(a)

Date	Receipt	Paid By	Amount	
10/18/1999	8437	Paula Pedersen	205	
1/20/2000	8467	Presley	1,230	
4/14/2000	9272	Wm Lyon Homes-Diablo Village	1,435	
5/11/2000	9289	Wm Lyon Homes-Diablo Village	1,640	
5/23/2000	9293	Wm Lyon Homes-Diablo Village	1,845	
5/23/2000	9291	L. Afford-8106 Marsh Ck Rd	205	
5/31/2000	9296	S. Carvajal-989 Oak St	205	
5/31/2000	9295	Wm Lyon Homes-Diablo Village	410	
6/22/2000	9312	Wm Lyon Homes-Diablo Village	205	
<b>6/30/2000</b>		<b>General Ledger Balance</b>		<b>7,380</b>
11/6/2000	9383	B&B Properties	665	
12/11/2000	9399	Clyde Miles Construction (115 Oak Ct)	205	
11/3/2000	9379	Ocean West-Commercial (Post Office)	713	
9/22/2000	9352	Smith Quality Homes-Oakwood Cir	205	
4/4/2001	10634	Aspen Valley Builders-Oakwood Cir	205	
5/30/2001	10660	Lemke-Oakwood Cir	205	
<b>6/30/2001</b>		<b>General Ledger Balance</b>		<b>9,578</b>
11/26/2001	10731	Diamond Terrace	7,800	
8/28/2002	12368	Larwin Vintage Clayton-Bridlewood	615	
11/1/2002	13452	Larwin Vintage Clayton-Bridlewood	3,075	
11/27/2002	13467	Lydia-Rachel Ranch	1,640	
3/21/2003	13509	Larwin Vintage Clayton-Bridlewood	205	
<b>6/30/2003</b>		<b>General Ledger Balance</b>		<b>22,913</b>
<b>6/30/2004</b>		<b>General Ledger Balance</b>		<b>22,913</b>
6/30/2004		Interest Booked	1,688	
6/30/2005		Interest Booked	780	
<b>6/30/2005</b>		<b>General Ledger Balance</b>		<b>25,381</b>
6/30/2006		Interest Booked	487	
<b>6/30/2006</b>		<b>General Ledger Balance</b>		<b>25,868</b>
6/30/2007		Interest Booked	662	
7/31/2007	18577	Pine Hollow Estates	1,640	
9/30/2007	20008	Mitchell Creek Place	1,845	
10/31/2007	20691	Longs Drug Store	1,387	
10/31/2007	20698	Oak Center-Flora Square	1,497	
12/31/2007	20959	Village Market	114	
6/30/2008		Interest Booked	1,105	
<b>6/30/2008</b>		<b>General Ledger Balance</b>		<b>34,118</b>
6/30/2009		Interest Booked	1,024	
<b>6/30/2009</b>		<b>General Ledger Balance</b>		<b>35,142</b>
6/30/2010		Interest Booked	1,417	
<b>6/30/2010</b>		<b>General Ledger Balance</b>		<b>36,559</b>
6/30/2011		Interest Booked	404	
<b>6/30/2011</b>		<b>General Ledger Balance</b>		<b>36,962</b>

Date	Receipt	Paid By	Amount	
8/6/2011	Toll Bros- Diablo Estates		205	
1/3/2012	Toll Bros- Diablo Estates		1,025	
3/19/2012	Toll Bros- Diablo Estates		1,640	
4/17/2012	Toll Bros- Diablo Estates		615	
6/30/2012	Interest Booked		967	
<b>6/30/2012</b>	<b>General Ledger Balance</b>			<b>41,414</b>
8/8/2012	Toll Bros- Diablo Estates		410	
8/30/2012	Toll Bros- Diablo Estates		205	
10/29/2012	Toll Bros- Diablo Estates		410	
11/16/2012	Toll Bros- Diablo Estates		205	
1/14/2013	Toll Bros- Diablo Estates		205	
6/30/2013	Interest Booked		570	
<b>6/30/2013</b>	<b>General Ledger Balance</b>			<b>43,419</b>
6/30/2014	Interest Booked		489	
<b>6/30/2014</b>	<b>General Ledger Balance</b>			<b>43,908</b>
6/30/2015	Interest Booked		255	
<b>6/30/2015</b>	<b>General Ledger Balance</b>			
6/30/2016	Interest Booked		601	
<b>6/30/2016</b>	<b>Adjusted Year-End Balance</b>			<b>44,764</b>

Date	Receipt	Paid By	Amount	
10/18/1999	8437	Paula Pedersen-Oakwood Cir	2,569	
1/20/2000	8467	Presley-Diablo Village	8,107	
4/14/2000	9272	Wm Lyon Homes-Diablo Village	9,458	
5/11/2000	9289	Wm Lyon Homes-Diablo Village	10,809	
5/23/2000	9293	Wm Lyon Homes-Diablo Village	12,160	
5/23/2000	9291	L. Afford - 8106 Marsh Ck Rd.	2,569	
5/31/2000	9296	S. Carvajal - 989 Oak St.	2,569	
5/31/2000	9295	Wm Lyon Homes-Diablo Village	2,702	
6/22/2000	9312	Wm Lyon Homes-Diablo Village	1,351	
<b>6/30/2000</b>		<b>General Ledger Balance</b>		<b>52,293</b>
9/22/2000	9352	Smith Quality Homes-Oakwood Cir	2,569	
12/13/2000	9399	Miles Construction-115 Oak Ct.	2,569	
4/4/2001	10634	Aspen Valley Builders-1116 Oakwood Cir	2,569	
5/30/2001	10660	Lemke Construction-Oakwood Cir	2,569	
<b>6/30/2001</b>		<b>General Ledger Balance</b>		<b>62,569</b>
11/1/2001	11783	Mardel LLC-Bridlewood	48,811	
2/20/2002	11917	Lydia Associates-Rachel Ranch	20,552	
2002		CIP Projects-Westwood Park	(48,500)	
2002		CIP Project-Endeavor Hall Parking Lot	(27,595)	
<b>6/30/2002</b>		<b>General Ledger Balance</b>		<b>55,837</b>
9/23/2002		Diamond Terrace	75,268	
<b>6/30/2003</b>		<b>General Ledger Balance</b>		<b>131,105</b>
2004		Community Park Tot Lot (CIP)	(75,000)	
<b>6/30/2004</b>		<b>General Ledger Balance</b>		<b>56,105</b>
6/30/2004		Interest Booked	7,629	
6/30/2005		Community Park Tot Lot (CIP)	(6,500)	
<b>6/30/2005</b>		Interest Booked	1,815	
<b>6/30/2005</b>		<b>General Ledger Balance</b>		<b>59,049</b>
10/27/2005		Lenox Homes-Pine Hollow Estates	20,272	
2/24/2006		Transfer from Lenox C&D Deposit	280	
5/31/2006	18577	Pine Hollow Estates	1,640	
12/31/2005		CIP Project - Down Town Park	(57,234)	
6/30/2006		Interest Booked	455	
<b>6/30/2006</b>		<b>General Ledger Balance</b>		<b>24,462</b>
6/29/2007		Mitchell Creek Place	23,121	
6/30/2007		Interest Booked	1,210	
<b>6/30/2007</b>		<b>General Ledger Balance</b>		<b>48,793</b>
7/31/2007	18577	Pine Hollow Estates (s/b childcare)	(1,640)	
3/10/2008	21232	Lemke Construction - Diablo Point	61,656	
6/30/2008		Interest Booked	3,634	
6/30/2008		Trans to Community Park Upgrades CIP 10407	(112,443)	
<b>6/30/2008</b>		<b>General Ledger Balance</b>		<b>-</b>
1/31/2009		Trans from Pine Hollow Estates	280	
6/30/2009		Interest Booked	12	
<b>6/30/2009</b>		<b>General Ledger Balance</b>		<b>292</b>
6/30/2010		Interest Booked	2,238	
<b>6/30/2010</b>		<b>General Ledger Balance</b>		<b>2,530</b>

Date	Receipt	Paid By	Amount	
6/30/2011		Trans from Oakhurst AD for CCPark Project	55,885	
6/30/2011		Interest Booked	302	
6/30/2011		<b>General Ledger Balance</b>		<b>58,717</b>
<b>6/30/2012</b>		Interest Booked	1,404	
<b>6/30/2012</b>		<b>General Ledger Balance</b>		<b>60,121</b>
6/30/2013		Interest Booked	800	
<b>6/30/2013</b>		<b>General Ledger Balance</b>		<b>60,921</b>
6/30/2014		Interest Booked	686	
<b>6/30/2014</b>		<b>General Ledger Balance</b>		<b>61,607</b>
6/30/2015		Interest Booked	163	
6/30/2015		Trans to 2010 Pavement Rehab CIP 10407	(59,297)	
<b>6/30/2015</b>		<b>General Ledger Balance</b>		<b>2,473</b>
6/30/2016		Interest Booked	34	
<b>6/30/2016</b>		<b>Adjusted Year-End Balance</b>		<b>2,507</b>



Date	Receipt	Paid By	Amount	Balance
10/18/1999	8437	Paula Pedersen-1103 Oakwood Cir	1,456	
1/20/2000	8467	Presley-Diablo Village	8,736	
4/14/2000	9272	Wm Lyon Homes-Diablo Village	10,192	
5/11/2000	9289	Wm Lyon Homes-Diablo Village	11,648	
5/23/2000	9293	Wm Lyon Homes-Diablo Village	13,104	
5/23/2000	9291	L. Afford-8106 Marsh Ck Rd	1,456	
5/31/2000	9296	S. Carvajal-989 Oak St	1,456	
5/31/2000	9295	Wm Lyon Homes-Diablo Village	2,912	
6/22/2000	9312	Wm Lyon Homes-Diablo Village	1,456	
<b>6/30/2000</b>		<b>General Ledger Balance</b>		<b>52,416</b>
9/22/2000	9352	Smith Quality Homes-Oakwood Cir	1,456	
11/3/2000	9379	Ocean West-Commercial Post Office	24,028	
11/6/2000	9383	B&B Properties-Commercial	22,417	
12/11/2000	9399	Clyde Miles-115 Oak	1,456	
4/4/2001	10634	Aspen Valley Builders-Oakwood Cir	1,456	
5/30/2001	10660	Lemke-Oakwood Cir	1,456	
<b>6/30/2001</b>		<b>General Ledger Balance</b>		<b>104,685</b>
11/26/2001	10731	Diamond Terrace	87,634	
<b>6/30/2002</b>		<b>General Ledger Balance</b>		<b>192,319</b>
8/28/2002	12368	Larwin Vintage Clayton-Bridlewood	4,368	
11/1/2002	13452	Larwin Vintage Clayton-Bridlewood	21,840	
3/21/2003	13509	Larwin Vintage Clayton-Bridlewood	1,456	
11/27/2002	13467	Lydia Assoc-Rachael Ranch	11,648	
<b>6/30/2003</b>		<b>General Ledger Balance</b>		<b>231,631</b>
2003		CIP Projects-Marsh Creek Road	(230,000)	
1/3/2003		Kelok&Keller Ridge Signs, striping	(346)	
<b>6/30/2004</b>		<b>General Ledger Balance</b>		<b>1,285</b>
6/30/2004		Interest Booked	1,129	
6/30/2005		Interest Booked	77	
<b>6/30/2005</b>		<b>General Ledger Balance</b>		<b>2,491</b>
5/9/2006	18577	Pine Hollow Estates	11,648	
6/30/2006		Interest Booked	271	
<b>6/30/2006</b>		<b>General Ledger Balance</b>		<b>14,410</b>
6/30/2007		Interest Booked	369	
<b>6/30/2007</b>		<b>General Ledger Balance</b>		<b>14,779</b>
8/31/2007	20008	Mitchell Creek Place	13,104	
10/2/2007	20691	Longs Drug Store	46,725	
10/3/2007	20698	Oak Center Project-Flora Square	50,456	
12/27/2007	20959	Village Market	3,862	
6/30/2008		Interest Booked	4,317	
<b>6/30/2008</b>		<b>General Ledger Balance</b>		<b>133,243</b>
6/30/2009		Interest Booked	4,163	
<b>6/30/2009</b>		<b>General Ledger Balance</b>		<b>137,406</b>
6/30/2010		Interest Booked	5,476	
<b>6/30/2010</b>		<b>General Ledger Balance</b>		<b>142,882</b>
6/30/2011		B&B Properties-Commercial	3,423	
<b>6/30/2011</b>		<b>General Ledger Balance</b>		<b>146,305</b>

Date	Receipt	Paid By	Amount	Balance
8/16/2011		Toll Bros- Diablo Estates	1,456	
1/3/2012		Toll Bros- Diablo Estates	7,280	
3/19/2012		Toll Bros- Diablo Estates	11,648	
4/17/2012		Toll Bros- Diablo Estates	4,368	
6/30/2012		Interest Booked	4,090	
<b>6/30/2012</b>		<b>General Ledger Balance</b>		<b>175,147</b>
8/8/2012		Toll Bros- Diablo Estates	2,912	
8/30/2012		Toll Bros- Diablo Estates	1,456	
10/29/2012		Toll Bros- Diablo Estates	2,912	
11/16/2012		Toll Bros- Diablo Estates	1,456	
1/14/2013		Toll Bros- Diablo Estates	1,456	
6/30/2013		Interest Booked	2,466	
<b>6/30/2013</b>		<b>General Ledger Balance</b>		<b>187,805</b>
6/30/2014		Interest Booked	2,114	
<b>6/30/2014</b>		<b>General Ledger Balance</b>		<b>189,919</b>
6/30/2015		Interest Booked	1,105	
<b>6/30/2015</b>		<b>General Ledger Balance</b>		<b>191,024</b>
5/23/2016		S. Lucky - Mitchell Canyon Dr.	1,456	
6/30/2016		Interest Booked	2,602	
<b>6/30/2016</b>		<b>Adjusted Year-End Balance</b>		<b>195,082</b>

City of Clayton  
 Fire Protection Fees 303-5317  
 1999-2016

ATTACHMENT 4(d)

Date	Receipt	Paid By	Amount	Fund Balance
10/18/1999	8437	Paula Pedersen-1103 Oakwood Cir	300	
1/20/2000	8467	Presley-Diablo Village	1,800	
4/14/2000	9272	Wm Lyon Homes-Diablo Village	2,100	
5/11/2000	9289	Wm Lyon Homes-Diablo Village	2,400	
5/23/2000	9293	Wm Lyon Homes-Diablo Village	2,700	
5/23/2000	9291	L. Afford-8106 Marsh Ck Rd	300	
5/31/2000	9296	S. Carvajal-989 Oak St	300	
5/31/2000	9295	Wm Lyon Homes-Diablo Village	600	
6/22/2000	9312	Wm Lyon Homes-Diablo Village	300	
<b>6/30/2000</b>		<b>General Ledger Balance</b>		<b>10,800</b>
9/22/2000	9352	Smith Quality Homes-Oakwood Cir	300	
11/3/2000	9379	Ocean West-Commercial-Post Office	1,426	
11/6/2000	9383	B&B Properties-Commercial	1,330	
12/11/2000	9399	Clyde Miles Construction-115 Oak St	300	
4/4/2001	10634	Aspen Valley Builders-Oakwood Cir	300	
5/30/2001	10660	Lemke-Oakwood Cir	300	
<b>6/30/2001</b>		<b>General Ledger Balance</b>		<b>14,756</b>
11/26/2001	10731	Diamond Terrace	17,200	
8/28/2002	12368	Larwin Vintage Clayton-Bridlewood	900	
11/1/2002	13452	Larwin Vintage Clayton-Bridlewood	4,500	
3/21/2002	13509	Larwin Vintage Clayton-Bridlewood	300	
<b>6/30/2002</b>		<b>General Ledger Balance</b>		<b>37,656</b>
6/30/2003		Interest Booked	2,400	
<b>6/30/2003</b>		<b>General Ledger Balance</b>		<b>40,056</b>
6/30/2004		Interest Booked	2,852	
<b>6/30/2004</b>		<b>General Ledger Balance</b>		<b>42,908</b>
<b>3/24/2005</b>		Fireprotection fee reimbursement to RDA	(42,908)	
<b>6/30/2005</b>		<b>General Ledger Balance</b>		-
<b>6/30/2006</b>		<b>General Ledger Balance</b>		-
<b>6/30/2007</b>		<b>General Ledger Balance</b>		-
10/2/2007		Longs Drug Store	2,773	
10/2/2007	20691	Oak Center-Flora Square	2,994	
10/9/2007	20701	Pine Hollow Estates	2,401	
12/27/2007	20959	Village Market	229	8,168
<b>6/30/2008</b>		Interest Booked	281	
8/13/2008	21056	Mitchell Creek Place	2,700	
6/30/2009		Interest Booked	476	
<b>6/30/2009</b>		<b>General Ledger Balance</b>		<b>11,854</b>
1/15/2010		Transfer to RDA (JE Dec18)	(11,854)	
<b>6/30/2010</b>		<b>General Ledger Balance</b>		-
<b>6/30/2011</b>		Interest Booked	-	
<b>6/30/2011</b>		<b>General Ledger Balance</b>		-

Date	Receipt	Paid By	Amount	Fund Balance
8/16/2011		Toll Bros- Diablo Estates	300	
1/3/2012		Toll Bros- Diablo Estates	1,500	
3/19/2012		Toll Bros- Diablo Estates	2,400	
4/17/2012		Toll Bros- Diablo Estates	900	
6/30/2012		Interest Booked	122	
<b>6/30/2012</b>		<b>General Ledger Balance</b>		<b>5,222</b>
8/8/2012		Toll Bros- Diablo Estates	600	
8/30/2012		Toll Bros- Diablo Estates	300	
10/29/2012		Toll Bros- Diablo Estates	600	
11/16/2012		Toll Bros- Diablo Estates	300	
1/14/2013		Toll Bros- Diablo Estates	300	
6/30/2013		Interest Booked	102	
<b>6/30/2013</b>		<b>General Ledger Balance</b>		<b>7,424</b>
6/30/2014		Interest Booked	83	
<b>6/30/2014</b>		<b>General Ledger Balance</b>		<b>7,507</b>
6/30/2015		Interest Booked	45	
<b>6/30/2015</b>		<b>General Ledger Balance</b>		<b>7,552</b>
5/23/2016		S. Lucky - Mitchell Canyon Dr.	134	7,686
6/30/2016		Interest Booked	103	
<b>6/30/2016</b>		<b>Adjusted Year-End Balance</b>		<b>7,789</b>
<b>FY 2000-01</b>		<b>RDA Loan to Fire Station</b>		<b>350,000</b>
<b>FY 2004-05</b>		<b>Fire protection fee reimbursement</b>		<b>(42,908)</b>
<b>FY 2009-10</b>		<b>Fire protection fee reimbursement</b>		<b>(11,854)</b>
		<b>Balance due at 6/30/16</b>		<b>295,238</b>

City of Clayton  
 Community Facilities Development Fees 304-5323  
 1999-2016

ATTACHMENT 4(e)

Date	Receipt	Paid By	Amount	Balance
10/4/1999	8437	Pedersen	450	
1/20/2000	8467	Presley	2,700	
4/14/2000	9272	Wm Lyon Homes-Diablo Village	3,150	
5/11/2000	9289	Wm Lyon Homes-Diablo Village	3,600	
6/22/2000	9312	Wm Lyon Homes-Diablo Village	450	
5/23/2000	9293	Wm Lyon Homes-Diablo Village	4,050	
5/23/2000	9291	L. Afford-8106 Marsh Ck Rd	450	
5/31/2000	9296	S. Carvajal-989 Oak St	450	
5/31/2000	9295	Wm Lyon Homes-Diablo Village	900	
<b>6/30/2000</b>		<b>General Ledger Balance</b>		<b>16,200</b>
9/22/2000	9352	Smith Quality Homes-Oakwood Cir	450	
11/3/2000	9379	Ocean West-Post Office	3,565	
11/6/2000	9383	B&B Properties	3,326	
12/11/2000	9399	Clyde Miles- 115 Oak	450	
4/4/2001	10634	Aspen Valley-Oakwood Cir	450	
5/30/2001	10660	Lemke-Oakwood Cir	450	
<b>6/30/2001</b>		<b>General Ledger Balance</b>		<b>24,891</b>
11/26/2001	10731	Diamond Terrace	10,750	
<b>6/30/2002</b>		<b>General Ledger Balance</b>		<b>35,641</b>
8/28/2002	12368	Larwin Vintage Clayton-Bridlewood	1,350	
11/1/2002	13452	Larwin Vintage Clayton-Bridlewood	6,750	
3/21/2002	13509	Larwin Vintage Clayton-Bridlewood	450	
6/30/2002		CIP Projects-Corp Yard	(67,976)	
11/27/2002	13467	Lydia Assoc.-Rachael Ranch	3,600	
<b>6/30/2003</b>		<b>General Ledger Balance</b>		<b>(20,185)</b>
<b>6/30/2004</b>		<b>General Ledger Balance</b>		<b>(20,185)</b>
6/30/2004		Interest Booked	(997)	
3/24/2005		Transfer from CIP (Corp Yard)	9,141	
6/30/2005		Interest Booked	(382)	
<b>6/30/2005</b>		<b>General Ledger Balance</b>		<b>(12,423)</b>
5/9/2006	18577	Pine Hollow Estates	3,600	
6/30/2006		Interest Booked	(169)	
<b>6/30/2006</b>		<b>General Ledger Balance</b>		<b>(8,992)</b>
6/30/2007		Interest Booked	(230)	
<b>6/30/2007</b>		<b>General Ledger Balance</b>		<b>(9,222)</b>
8/31/2007	20008	Mitchell Creek Place	4,050	
10/2/2007	20691	Longs Drug Stores	6,932	
10/3/2007	20698	Oak Center Project-Flora Square	7,486	
12/27/2007	20959	Village Market	573	
6/30/2008		Interest Booked	329	
<b>6/30/2008</b>		<b>General Ledger Balance</b>		<b>10,148</b>
3/12/2009		Transfer to Endeavor Hall (Shutters)	(5,024)	
6/30/2009		Interest Booked	214	
<b>6/30/2009</b>		<b>General Ledger Balance</b>		<b>5,338</b>
6/30/2010		Interest Booked	-	
<b>6/30/2010</b>		<b>General Ledger Balance</b>		<b>5,338</b>

Date	Receipt	Paid By	Amount	Balance
6/30/2011		Interest Booked	1,107	
<b>6/30/2011</b>		<b>General Ledger Balance</b>		<b>6,445</b>
8/6/2011		Toll Bros- Diablo Estates	450	
1/3/2012		Toll Bros- Diablo Estates	2,250	
3/19/2012		Toll Bros- Diablo Estates	3,600	
4/17/2012		Toll Bros- Diablo Estates	1,350	
6/30/2012		Interest Booked	337	
<b>6/30/2012</b>		<b>General Ledger Balance</b>		<b>14,432</b>
8/8/2012		Toll Bros- Diablo Estates	900	
8/30/2012		Toll Bros- Diablo Estates	450	
10/29/2012		Toll Bros- Diablo Estates	900	
11/16/2012		Toll Bros- Diablo Estates	450	
1/14/2013		Toll Bros- Diablo Estates	450	
6/30/2013		Interest Booked	234	
<b>6/30/2013</b>		<b>General Ledger Balance</b>		<b>17,816</b>
6/30/2014		Interest Booked	200	
<b>6/30/2014</b>		<b>General Ledger Balance</b>		<b>18,016</b>
6/30/2015		Interest Booked	105	
<b>6/30/2015</b>		<b>General Ledger Balance</b>		<b>18,121</b>
5/23/2016		S. Lucky - Mitchell Canyon Dr.	450	
6/30/2016		Interest Booked	248	
<b>6/30/2016</b>		<b>Adjusted Year-End Balance</b>		<b>18,819</b>



Summary of Project Costs by Fiscal Year

\*\*Deleted by City Council

Project Number	Project Category	Project Description	Prior Year Funding	FY 2016/17	FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21	Future Costs	Total Budget
10400	Other	Downtown Economic Development	\$ 1,021,486.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,021,486.00
10400A	Other	Town Center Property Purchase	\$ 1,040,843.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,040,843.00
10401	Streets	Pedestrian Xing Signale**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10402	Streets	Clayton Road Trail Connection	\$ 264,879.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 264,879.00
10403	Streets	Downtown Entry Signage (in 10402)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10404	Streets	Marsh Creek Rd. Retaining Wall	\$ 319,980.17	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 319,980.17
10405	Streets	2007 Pavement Patching Project	\$ 128,684.22	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 128,684.22
10406	Streets	2008 Pavement Rehab Project	\$ 1,060,427.62	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,060,427.62
10407	Streets	Clayton Road Trail Connection	\$ 465,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 465,000.00
10408	Streets	2009 Pavement Rehab Project**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10409	Streets	2010 Pavement Rehab Project	tdb	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10410	Streets	2011 Neighborhood Street Project**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10411	Streets	2012 Neighborhood Street Project**	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10412	Streets	2009 Arterial Overlay Project	\$ 513,460.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 513,460.00
10413	Parks	Community Park Parking Lot Exp.	\$ 1,056,717.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,056,717.00
10414	Streets	East Marsh Creek Rd. Upgrade**	\$ 43,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 43,000.00
10415	Parks	Well Renovation	\$ 23,895.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 23,895.00
10416	Streets	Marsh Creek Rd. (old) Overlay	\$ 430,300.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 430,300.00
10417	Streets	2013 Neighborhood Street Project	\$ 1,263,258.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,263,258.00
10418	Streets	2014 Neighborhood Street Project	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10419	Parks	Community Park Lighting, etc.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,084,000.00	\$ 4,084,000.00
10420	Parks	School Bridge Area Improvements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 196,030.00	\$ 196,030.00
10421	Creeks	Cardinet Trail Restoration	\$ 75,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 75,000.00
10422	Sewers	El Molino Drive Sanitary Sewer Impr.	\$ 55,000.00	\$ 307,800.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 362,800.00
10423	Facilities	Library Upgrades	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,000,000.00	\$ 1,000,000.00
10424	Streets	2015 Neighborhood Street Project	\$ 774,229.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 774,229.00
10425	Streets	Collector Street Rehabilitation Project	\$ -	\$ 430,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 430,000.00
10426	Facilities	City Hall Parking Area Rehabilitation	\$ 27,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 27,000.00
10427	Facilities	Library Parking Lot Rehabilitation	\$ 51,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 51,000.00
10428	Facilities	Lydia Lane Park Parking Rehabilitation	\$ 11,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,000.00
10429	Facilities	2012 Trail Repaving Project	\$ 70,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 70,000.00
10430	Landscape	Clayton Road Median Landscaping	\$ 320,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 320,000.00
10431	Landscape	Daffodil Hill Landscaping	\$ 50,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 50,000.00
10432	Streets	2016 Neighborhood Street Project	\$ 552,600.00	\$ 1,054,265.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,606,865.00
10433	Streets	DVMS Safety Signing	\$ 23,462.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 23,462.00
10434	Parks	CCCP Scoreboard Replacement	\$ 46,244.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 46,244.00
10435	Facilities	Library HVAC Replacement	\$ 127,547.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 127,547.00
10436	Streets	2018 Neighborhood Street Project	\$ -	\$ -	\$ 428,091.00	\$ 394,730.00	\$ -	\$ -	\$ -	\$ 822,821.00
10437	Streets	2016 Arterial Rehabilitation Project	\$ -	\$ 1,200,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,200,000.00
10438	Streets	Arterial Streetlight LED Project	\$ 41,732.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 41,732.00
<b>Cost Totals</b>			<b>\$ 43,916,320.77</b>	<b>\$ 3,019,065.00</b>	<b>\$ 455,091.00</b>	<b>\$ 421,730.00</b>	<b>\$ 27,000.00</b>	<b>\$ 27,000.00</b>	<b>\$ 16,270,032.00</b>	<b>\$ 64,136,238.77</b>

Red denotes completed projects

Green denotes active projects funded in FY 16/17

Blue denotes active projects funded prior to FY 16/17

Brown denotes non-active projects used for accumulating income dedicated for future projects

\*\* Deleted by City Council



**2016/17-2020/21 Capital Improvement Program**

Category	Project Number	Project
Facilities	10337A	Keller House Rehabilitation

**DESCRIPTION - LOCATION**

Rehabilitation of historical ranch home and grounds located across Mt. Diablo Creek from the library.



**COMMENTS**

Estimated Cost	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$2,000,000	\$2,000,000
CM/Inspection								
ROW Acquisition								
Other								
<b>TOTAL</b>							\$2,000,000	\$2,000,000

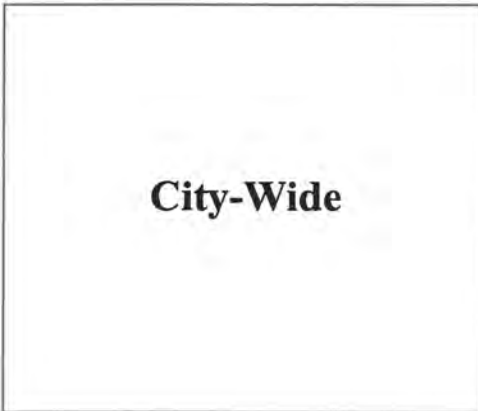
Funding Source(s)	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Unfunded							\$2,000,000	\$2,000,000
<b>Total</b>							\$2,000,000	\$2,000,000

**2016/17-2020/21 Capital Improvement Program**

Category	Project Number	Project
Creeks	10370	Creek Revitalization

DESCRIPTION - LOCATION

Clean out creeks, improve access to creek banks, reinforce creek banks and repair adjacent trails where needed, replace riparian vegetation.



COMMENTS

Catch-all project for when City hits the lottery.

Estimated Cost	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$3,000,000	\$3,000,000
CM/Inspection								
ROW Acquisition								
Other								
<b>TOTAL</b>							\$3,000,000	\$3,000,000

Funding Source(s)	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Unfunded							\$3,000,000	\$3,000,000
<b>Total</b>							\$3,000,000	\$3,000,000

**2016/17-2020/21 Capital Improvement Program**

<b>Category</b>	<b>Project Number</b>	<b>Project</b>
Streets	10375	Samuel Ct. Park

**DESCRIPTION - LOCATION**

Install landscaping and irrigation improvements.



**COMMENTS**

<b>Estimated Cost</b>	<b>Prior Yrs.</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>Future</b>	<b>TOTAL</b>
Preliminary Design								
Final Design							\$5,000	\$5,000
Construction							\$75,000	\$75,000
CM/Inspection							\$5,000	\$5,000
ROW Acquisition								
Other								
<b>TOTAL</b>							\$85,000	\$85,000

<b>Funding Source(s)</b>	<b>Prior Yrs.</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>Future</b>	<b>TOTAL</b>
Unfunded							\$85,000	\$85,000
<b>Total</b>							\$85,000	\$85,000

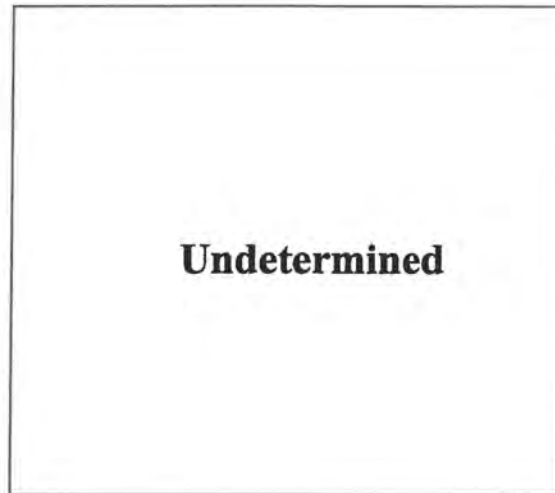


**2016/17-2020/21 Capital Improvement Program**

<b>Category</b>	<b>Project Number</b>	<b>Project</b>
Parks	10393	Skateboard Park

**DESCRIPTION - LOCATION**

Construct skateboard park at an undetermined location.



**COMMENTS**

<b>Estimated Cost</b>	<b>Prior Yrs.</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>Future</b>	<b>TOTAL</b>
Preliminary Design								
Final Design							\$45,000	\$45,000
Construction							\$660,000	\$660,000
CM/Inspection							\$45,000	\$45,000
ROW Acquisition								
Other								
<b>TOTAL</b>							<b>\$750,000</b>	<b>\$750,000</b>

<b>Funding Source(s)</b>	<b>Prior Yrs.</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>Future</b>	<b>TOTAL</b>
Unfunded							\$750,000	\$750,000
<b>Total</b>							<b>\$750,000</b>	<b>\$750,000</b>

**2016/17-2020/21 Capital Improvement Program**

Category	Project Number	Project
Streets	10396	East Marsh Creek Road Traffic Signal

**DESCRIPTION - LOCATION**

Install traffic signal on Marsh Creek Road  
somewhere east of Diablo Parkway.



**COMMENTS**

City Council postponed project.

Estimated Cost	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Preliminary Design								
Final Design							\$20,000	\$20,000
Construction							\$230,000	\$230,000
CM/Inspection							\$20,000	\$20,000
ROW Acquisition								
PG&E Poles							\$80,000	\$80,000
<b>TOTAL</b>							\$350,000	\$350,000

Funding Source(s)	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Unfunded							\$350,000	\$350,000
<b>Total</b>							\$350,000	\$350,000

**2016/17-2020/21 Capital Improvement Program**

Category	Project Number	Project
Parks	10419	Community Park Lighting, & Resurfacing

**DESCRIPTION - LOCATION**

Install sports field lighting, remove and replace turf with synthetic surfacing at Clayton Community Park



**COMMENTS**

Cost estimates per Cost-Benefit Analysis prepared by PMC and dated August 31, 2009

Estimated Cost	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$4,084,000	\$4,084,000
CM/Inspection								
ROW Acquisition								
Other								
<b>TOTAL</b>							\$4,084,000	\$4,084,000

Funding Source(s)	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Unfunded							\$4,084,000	\$4,084,000
<b>Total</b>							\$4,084,000	\$4,084,000

**2016/17-2020/21 Capital Improvement Program**

Category	Project Number	Project
Streets	10423	Library Upgrades

**DESCRIPTION - LOCATION**

Construct improvements to update Library including automatic checkout facilities, coffee/snack bar, etc.



**COMMENTS**

Includes 3,500 sf building addition plus new equipment and furniture

Estimated Cost	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$850,000	\$850,000
CM/Inspection								
ROW Acquisition								
Other							\$150,000	\$150,000
<b>TOTAL</b>							\$1,000,000	\$1,000,000

Funding Source(s)	Prior Yrs.	2016-17	2017-18	2018-19	2019-20	2020-21	Future	TOTAL
Unfunded							\$1,000,000	\$1,000,000
<b>Total</b>							\$1,000,000	\$1,000,000



**CITY OF CLAYTON**  
**AB 1600 DEVELOPMENT IMPACT FEES**

- NOTE ALL FEES LISTED ARE SUBJECT TO CHANGE -

Fee	Single-Family Residential	Multi-Family Residential	Non-Residential	Authority	Payment Date	Account Number
<b>Community Facilities Development</b>	\$450.00 / Unit	\$125.00 / Unit	Commercial/ Industrial: \$0.50/Gross sq ft	Municipal Code § 3.16.020	Residential: Occupancy Permit	304-5323-00
					Commercial/Industrial: Zoning Clearance for Building Permit	
<b>Offsite Arterial Street Improvement</b>	\$1,456.00 / Unit	\$1,019.00 / Unit	Commercial/ Business: \$3.37/Gross sq ft	City Council Resolution Nos. 36-81 & 14-86	Zoning Clearance for Building Permit	304-5314-00
<b>Childcare<sup>1</sup></b>	\$205.00 / Unit	\$205.00 / Unit	\$0.10/Gross sq ft	Municipal Code § 16.60.050	Zoning Clearance for Building Permit	304-5307-00
<b>Parkland Dedication</b>	\$2,569.00 / Unit	\$1,666.00 / Unit (Duplex \$2,180.00/ Unit)	\$0.00	Municipal Code § 16.12.010	Subdivision/Parcel Maps: Final Map Approval	304-5312-00
					Individual Parcels: Zoning Clearance for Building Permit	
<b>Fire Development Protection</b>	\$300.00 / Unit (Mobile Home: \$200.00 / Unit)	\$200.00 / Unit	\$0.20/Gross sq ft	Municipal Code § 3.18.040	Occupancy Permit	304-5317-00

<sup>1</sup> Senior housing units, second-dwelling units, affordable housing units, and churches are exempt.  
Last Revised: April 10, 2009




Agenda Date: 12-20-2016

Agenda Item: 3F

CONSENT ITEM

# STAFF REPORT

**TO:** HONORABLE MAYOR AND COUNCILMEMBERS

**FROM:** Laura Hoffmeister, Asst. to the City Manager 

**MEETING DATE:** December 20, 2016

**SUBJECT:** Mayoral appointment of Tuija Catalano as the Clayton community member on the Oversight Board of the Successor Agency to the Former Clayton RDA

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## REQUEST

Receive the Mayoral appoint Tuija Catalano as replacement for Howard Geller as the Mayor's community member appointment to the Oversight Board of the City as Successor Agency to the former Clayton Redevelopment Agency (RDA) regarding the conclusion of fiduciary responsibilities of the former Clayton RDA.

Howard Geller was appointed by then Mayor Geller, on February 21, 2012. According to Mayor Diaz, Mr. Geller has agreed to a replacement appointment, and Ms. Catalano has agreed to serve.

## BACKGROUND

Under AB1x 26, all redevelopment agencies were dissolved effective 01 February 2012 and replaced by "Successor Agencies" responsible for winding down the affairs of each redevelopment agency including liquidation and disposal of assets. By action at its public meeting on 17 January 2012, the Clayton City Council exercised its priority right to become the "Successor Agency" and the "Successor Housing Agency" to the former Clayton Redevelopment Agency.

Successor Agencies became operative on February 1<sup>st</sup> and on that date all assets, properties, contracts, and leases of the former redevelopment agency were transferred to the Successor Agency. The City of Clayton therefore is the Successor Agency of the Clayton Redevelopment Agency and hereafter manages and administers the fiduciary responsibilities of the former RDA pursuant to the enforceable obligations identified of the former RDA. Such matters as debt retirement, contractual obligations, loan payments and ensuring all rights are preserved of the various public taxing entities (including those of the City of Clayton) are charges within the Successor Agency's purview.

### **OVERSIGHT BOARDS**

Stipulated by law, the respective Oversight Board to the Clayton Successor Agency is composed of seven (7) members with each member appointed as follows:

- a. One member appointed by the Contra Costa County Board of Supervisors (Karen Mitchoff).
- b. One member appointed by the Mayor of the community (formerly Howard Geller).
- c. One member appointed by the largest Special District, - Contra Costa County Fire Protection District (Vito Impastato).
- d. One member appointed by elected County Board of Education Superintendent (John Hild).
- e. One member appointed by the Chancellor of the California Community Colleges (Jonah Nicholas).
- f. One member of the public appointed by the Contra Costa County Board of Supervisors (Dan Richardson).
- g. One member representing employees of the former redevelopment agency, appointed by the Mayor, from the largest recognized employee organization from the City of Clayton Miscellaneous Employees Unit (Mindy Gentry).

An Oversight Board Member serves at the pleasure of one's appointing entity or person or resignation. If a vacancy occurs the law requires a replacement to be appointed within 60 days, otherwise the State Governor makes an appointment to the vacant position of his choosing.

### **FISCAL IMPACT**

None. Members appointed to the Clayton Oversight Board do not receive any compensation or stipend for their service.

*Replace ob appointment by mayordec 2016 ccr*



Approved:   
Gary A. Napper  
City Manager

# AGENDA REPORT

**TO:** HONORABLE MAYOR AND COUNCIL MEMBERS

**FROM:** MALA SUBRAMANIAN, CITY ATTORNEY  
MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MG*

**DATE:** DECEMBER 20, 2016

**SUBJECT:** DISCUSSION OF POTENTIAL RECREATIONAL MARIJUANA REGULATIONS – PROPOSITION 64

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## **RECOMMENDATIONS**

It is recommended the City Council:

- 1a. Motion to have the City Clerk read the Urgency Ordinance No. 473 by title and number only and waive further reading; and
- 1b. Following the City Clerk's reading; by motion adopt Urgency Ordinance No. 473 to prohibit the personal use of outdoor cultivation of marijuana (**Attachment 1**); and
2. Discuss and provide direction to staff on the various issues regarding the potential prohibition and/or regulation of recreational marijuana following the passage of Proposition 64.

## **BACKGROUND**

### ***CONTROLLED SUBSTANCES ACT***

In 1970, Congress passed the Controlled Substances Act (CSA), which is the federal government's drug policy under which the manufacture, importation, possession, use and distribution of marijuana is illegal. According to the CSA, marijuana is classified as a Schedule 1 narcotic, which means it is defined as a drug with no currently accepted medical use and has a high potential for abuse.

### ***PROPOSITION 215: THE COMPASSIONATE CARE ACT***

In 1996 California voters passed Proposition 215 exempting patients and defined caregivers who possess or cultivate marijuana for medical treatment recommended by a physician from criminal laws, which otherwise prohibit possession or cultivation of marijuana.

### ***COLE MEMO***

In 2009, the federal government announced it would effectively end the raids on distributors of marijuana. These marijuana enforcement guidelines were updated in June of 2011 and most recently in August of 2013, which are known as the Cole Memo. The Cole Memo issued updated guidelines to federal prosecutors concerning marijuana under the Controlled Substances Act and set the priorities of the Department of Justice. The Cole Memo essentially conveys that states that have legalized marijuana should have a robust regulatory system in place and demonstrate the willingness of enforcement of such regulations. Further, the Memo hints that prosecuting state legal marijuana enterprises are probably not an efficient use of federal resources.

This guidance regarding marijuana enforcement occurred under the Obama Administration and given a new administration with a possibly less lenient stance on marijuana usage will be taking office on January 20, 2017 this could possibly change the Department of Justice guidelines for state's that have legalized marijuana.

### ***MEDICAL MARIJUANA REGULATION AND SAFETY ACT (MMRSA)***

In September of 2015, the State of California passed three separate bills: AB 266, AB 243, and AB 643, which are collectively known as the Medical Marijuana Regulation and Safety Act (MMRSA). These bills effectively created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical marijuana. While the law went into effect January 1, 2016, the state will not begin issuing licenses until January 1, 2018.

### ***PROPOSITION 64***

On November 8, 2016, voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"). The State of California passed Proposition 64 with 57.1% in favor. Locally, Contra Costa County voted 60.72% in favor and Clayton voted 53.8% in favor. AUMA legalized possession, transport, purchase, use, and transfer of recreational marijuana for individuals 21 years of age or older. Under AUMA, adults can possess up to 28.5 grams of marijuana, up to 8 grams of marijuana in the form of concentrated cannabis, which may be present in marijuana products such as edibles, and up to six living marijuana plants, and any marijuana produced by those plants. It would also legalize the cultivation of marijuana, marijuana delivery services, and recreational marijuana retail services. Proposition 64 took effect immediately following its passage and while some of these issues will not be in effect until January 1, 2018 when the State of California starts to issue licenses for the commercial sale, distribution, and cultivation of marijuana; there are

some aspects of the law that went into immediate effect such as the personal use and cultivation of marijuana.

AUMA allows for local control of marijuana uses. It allows local governments to:

- Ban all marijuana-related businesses outright, including marijuana dispensaries, delivery services, and any recreational marijuana retail services.
- Ban the outdoor cultivation of marijuana, unless the California Attorney General determines marijuana is no longer illegal under federal law (If marijuana is federally legalized, outdoor cultivation could be regulated, but not prohibited).
- Reasonably regulate indoor cultivation in private residences, but not ban it outright. AUMA would allow individuals to grow up to six marijuana plants in their home, and to possess all of the marijuana those plants provide.

#### *EXISTING MARIJUANA REGULATIONS IN CLAYTON*

Currently, the City of Clayton laws referencing marijuana mostly pertain to medical purposes and the Municipal Code is silent on the recreational use of marijuana. Per Section 17.36.080 of the Clayton Municipal Code, the City has prohibited: medical marijuana dispensaries; testing laboratories; facilities that store or maintain marijuana as part of their operations; and outdoor cultivation or production of cannabis; and some indoor cultivation (**Attachment 2 and 3**). The CMC does allow for the indoor cultivation of medical marijuana within residential zones within a detached, fully enclosed and secure secondary structure or within a primary residential structure at a location inhabited by a qualified patient or primary caregiver. In March of 2016, the City Council allowed for the delivery of medical marijuana due to accessibility concerns for community patients.

Additionally, the regulation of medical and recreational marijuana does not have to be consistent with one another and can be regulated differently.

#### *STATUS OF RECREATIONAL MARIJUANA IN NEIGHBORING JURISDICTIONS*

Since this issue is extremely new, staff researched the policies and status for recreational marijuana in neighboring jurisdictions:

- Concord – Ban on outdoor cultivation and is waiting on providing further direction until additional information is made available.
- Walnut Creek – Provided direction to staff to address the various issues, but have not acted on any aspects of Proposition 64 thus far.

#### **DISCUSSION**

Under AUMA, recreational use of marijuana is legal, as is recreational possession of marijuana and some level of indoor cultivation. Staff suggests the adoption of an Urgency Ordinance to ban the outdoor cultivation of marijuana, which is discussed in further detail below, as it is consistent with City Council previous action to ban the outdoor cultivation of

medicinal marijuana plants. In addition, staff is looking for direction from the City Council on the following policy issues: 1. Commercial retail sale; 2. Cultivation; 3. Delivery; 4. Testing; and 5. Personal use of marijuana. Based on the direction given regarding these policy issues, staff will return with additional information and proposed ordinances at a later date for Council consideration.

***ISSUE #1: OUTDOOR/INDOOR CULTIVATION FOR PERSONAL USE***

As stated previously, AUMA allows for the keeping of up to six marijuana plants for those over 21 years or older for personal use which can be cultivated either indoors or outdoors. Cities can regulate the cultivation of marijuana by banning or regulating the outdoor cultivation and "reasonably regulating" the indoor cultivation.

Given the City's Council's previous position prohibiting the outdoor cultivation of medical marijuana and staff's immediate concerns regarding the outdoor cultivation of recreational marijuana such as marijuana cultivation sites being clearly visible from public areas and easily accessible by the public, including youth and children; attraction to those looking to steal marijuana; the odorous nature of the plants; the potential for broader growth due to a larger space; and is less secure. Further, it is conceivable under the AUMA one could grow up to six plants in one's front yard unless local regulation prohibits it. These concerns raise an immediate threat to the public health, safety, and welfare in the City due to the negative effects created by the outdoor cultivation of marijuana. Due to these concerns and the Council's previous position on banning the outdoor cultivation of medical marijuana, staff is recommending the City Council adopt an Urgency Ordinance 473, pursuant to California Government Code Sections 36934, 36937, and 65858, placing an immediate ban on the outdoor cultivation of marijuana.

While AUMA allows for the prohibition of outdoor cultivation, local jurisdictions cannot prohibit the indoor cultivation but can "reasonably regulate". The Clayton Municipal Code allows for the indoor cultivation of medical marijuana but does not provide any regulations beyond those established by State law (**Attachment 2 and 3**).

- **POLICY QUESTION:** Does the City Council wish to reasonably regulate the indoor cultivation of marijuana? These regulations could range from a robust permitting system, including inspections by code enforcement, to a registration requirement system or no requirements beyond compliance with existing State law.

***ISSUE #2: INDOOR/OUTDOOR COMMERCIAL CULTIVATION***

Proposition 64 establishes a regulatory framework for commercial recreational marijuana operations. Local jurisdictions retain local land use and zoning authority over these operations; therefore jurisdictions may elect to allow or to prohibit the commercial outdoor and commercial indoor cultivation. A state license would be required for commercial indoor or outdoor cultivation of marijuana and the state would not issue a license unless the local jurisdiction permitted the operation of such business.

- **POLICY QUESTION:** Does the City Council wish to allow the indoor or outdoor commercial cultivation of marijuana?
- If the Council allows commercial cultivation; how does the Council foresee regulating these activities? These regulations could include a permit process, land use applications, security measures, and/or codified restrictions on locations and operating procedures.

**ISSUE #3: COMMERCIAL MARIJUANA ACTIVITIES**

Under AUMA, the creation of a variety of new commercial marijuana ventures, including recreational retail services, is forthcoming. The following is a list of possible commercial activities that could occur around recreational marijuana: commercial delivery, commercial manufacturing, commercial testing, and any commercial dispensaries or recreational retailers. This list is not comprehensive and there could conceivably be commercial recreational marijuana operations that have not been established or thought of yet. The City Council could ban all commercial uses or allow some or all of these commercial uses with appropriate regulations. Staff is seeking direction on the following policy issues:

- **POLICY QUESTIONS:** Allow or prohibit commercial marijuana activities within the City of Clayton?
- If the Council would allow the operation of commercial marijuana uses, identify which uses the Council would prohibit and which ones it would allow.
- If the Council allows commercial marijuana activities, please specify the general parameters of how the Council would like to regulate these activities. These regulations could include a permit process, land use applications, security measures, and/or codified restrictions on locations and operating procedures.
- If the Council wishes to allow commercial recreational marijuana uses does the Council wish to explore the fees and taxes to be imposed on these types of uses?
- Shall the City allow for recreational marijuana deliveries that begin or end within the City's boundaries? AUMA allows for the prohibition of deliveries but cannot prevent a delivery service from using public roads to pass through its jurisdiction. The City currently allows medical marijuana to be delivered in its municipal limits.

**ISSUE #4: REGULATION OF PERSONAL MARIJUANA USE LOCATIONS**

As indicated above, AUMA legalizes recreational use of marijuana. This means the City can no longer ban the use of marijuana by an individual in their own home. AUMA does not allow the smoking or ingesting of marijuana or marijuana products in any public place, absent local enabling legislation allowing use of marijuana or marijuana products in some public places. While AUMA does not define "public place," it does limit the smoking of marijuana to places where tobacco is permitted, which would be subject to the Clayton Municipal Code's smoking regulations (**Attachment 4**). Therefore anyone smoking in a blatantly public place without a local ordinance allowing so would be in violation of AUMA



and guilty of an infraction. However, the City's smoking ordinance does not explicitly mention marijuana. Note that medical marijuana is governed under a separate state statutory scheme and may be subject to different enforcement protocols. In addition, if the City Council opts to revise the smoking regulations to include marijuana, the Council may want to also expand the smoking ordinance to prohibit smoking in quasi-public spaces. These quasi-public spaces could include front yards, parking lots, and shopping centers.

- POLICY QUESTION: Does the City Council wish to modify the smoking ordinance to include marijuana?
- Does the Council wish to limit the scope of the allowable smoking locations?

### **OTHER ISSUES**

Since Proposition 64 is so new, the City Council may wish to consider waiting on providing policy directions to staff to see how legal interpretations may change over time. However, staff recommends at least acting on the outdoor cultivation aspect as this element is the most pressing issue. The other issues can wait to be addressed in 2017 because the State of California will not start issuing licenses for commercial operations until January 1, 2018.

Further, the City Council may want to delay direction and base its decision on what neighboring jurisdictions will adopt. For example if Concord allows commercial retail sales, this could negatively impact the City of Clayton from these uses but the City will not be privy to any of the associated revenue. Any decision made by the City Council can also be revised at a later date if there is a change of sentiment or if additional information arises.

### **OPTIONS**

The City Council can also consider the following options:

- 1) Not adopt Urgency Ordinance 473 prohibiting the outdoor cultivation of recreational marijuana. Should that be the City Council's preferred directive, a corollary question arises whether the City's current prohibition on outdoor cultivation for medicinal marijuana, presently in place, should be lifted by a subsequent ordinance at its next public meeting.
- 2) Adopt an Urgency Ordinance placing a temporary moratorium on the outdoor cultivation of recreational marijuana and direct staff to explore regulating the outdoor cultivation of both recreational and medical marijuana for personal use.

### **FISCAL IMPACTS**

Due to the increased enforcement and regulatory costs, the passage of Proposition 64 will likely result in a number of financial impacts to the City and depending on the direction of the City Council in response to Proposition 64 these costs may be more or less impactful.

If the City Council chooses to adopt an outdoor personal cultivation ban and/or regulations governing indoor/outdoor cultivation, such regulations will likely lead to an increase in administrative and code enforcement costs.

If the City Council adopts a commercial marijuana ban, such regulations will likely lead to an increase in administrative and enforcement costs. Alternatively, if the City Council adopts business regulations to govern marijuana businesses, such regulations will likely lead to an increase in administrative and enforcement costs, but may also lead to increased revenue due to the imposition of new business license fees and taxes. Any new taxes must be adopted pursuant to a vote of the electorate in accordance with Proposition 218. Furthermore, any general tax ballot measure would likely have to be consolidated with a regularly scheduled City Council election.

If the City Council chooses to adopt changes to the City's smoking regulations this could increase the costs of enforcement and regulation.

**ATTACHMENTS**

1. Urgency Ordinance 473 [pp. 5]
2. CMC Section 17.36.080 – Prohibited Uses and Activities [pp. 1]
3. CMC Section 17.04.138 – Medical Cannabis Uses [pp. 1]
4. CMC Section 8.14 – Regulation of Smoking [pp. 6]

**ATTACHMENT 1**

**ORDINANCE NO. 473**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLAYTON,  
CALIFORNIA, ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE  
SECTION 36937 ESTABLISHING A PROHIBITION ON THE OUTDOOR  
CULTIVATION OF MARIJUANA FOR PERSONAL USE**

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

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

**WHEREAS**, the City of Clayton, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, on November 8, 2016, voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA"); and

**WHEREAS**, the AUMA regulates, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age; and

**WHEREAS**, to regulate personal use of marijuana, the AUMA adds Section 11362.1 to the Health and Safety Code, which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of marijuana or not more than eight grams of marijuana in the form of concentrated cannabis contained in marijuana products; and

**WHEREAS**, the AUMA makes it lawful for those individuals to "possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants; and

**WHEREAS**, the AUMA makes it lawful for those individuals to smoke or ingest marijuana or marijuana products; and

**WHEREAS**, the AUMA authorizes cities to "reasonably regulate" without completely prohibiting cultivation of marijuana inside a private residence or inside an "accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure"; and

**WHEREAS**, the AUMA authorizes cities to completely prohibit outdoor cultivation on the grounds of a private residence, up to and until a "determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law"; and

**WHEREAS**, the outdoor cultivation of marijuana for personal use could be visible from public areas and easily accessible by the public, including youth and children; attracting those looking to steal marijuana; the plants are odorous; there is potential for broader growth; and the plants are less secure; and

**WHEREAS**, absent appropriate local regulation authorized by the AUMA, state regulations will control; and

**WHEREAS**, the “Medical Marijuana Regulation and Safety Act” (“MMRSA”), which took effect January 1, 2016, regulates use of marijuana for medical purposes; and

**WHEREAS**, the MMRSA contains a provision which provides that the State shall become the sole authority for regulation under certain parts of the Act unless local governments pass their own regulations; and

**WHEREAS**, in May 2013, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013) that cities have the authority to regulate or ban outright medical marijuana land uses; and

**WHEREAS**, the California Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

**WHEREAS**, under the Federal Controlled Substances Act, the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

**WHEREAS**, based on the findings above the potential establishment of marijuana cultivation and other uses in the City without regulation poses a current and immediate threat to the public health, safety, and welfare in the City due to the negative land use and other impacts of such uses as described above; and

**WHEREAS**, California Government Code Section 36937 expressly authorizes the City Council to adopt by four-fifths (4/5) vote, an urgency ordinance which is necessary for the immediate protection of the public health, safety, and welfare; and

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

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

**Section 1.** The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**Section 2.** The City Council hereby finds, determines, and declares that this Urgency Ordinance adopted pursuant to California Government Code Section 36937(b) is necessary because:

- A. Certain provisions of the AUMA became effective November 9, 2016, and contain provisions which allow for local governments to reasonably regulate or ban certain activities thereunder.
- B. There is a current and immediate threat to the public health, safety, and welfare of the City and its community, thereby necessitating the immediate enactment of this prohibition as an urgency ordinance in order to ensure that outdoor cultivation for personal use will not occur.

**Section 3. Urgent Need.** Based on the foregoing recitals and findings, all of which are deemed true and correct, this interim ordinance is urgently needed for the immediate preservation of the public health, safety, and welfare.

**Section 4. Amendment to Clayton Municipal Code Section 17.36.080.** Clayton Municipal Code Section 17.36.080 is hereby amended as follows:

Prohibited Uses and Activities. The following uses and activities in all zoning districts:

- (a) Any use or activity which is prohibited by local, regional, state, or federal law;
- (b) Establishment or operation of medical marijuana dispensaries, as defined in Section 17.04.138;
- (c) Outdoor cultivation or production of recreational marijuana for personal use or production of medical marijuana;
- (d) Indoor cultivation or production of medical marijuana, expecting medical marijuana cultivation or production in residential zones within a detached, fully enclosed and secure secondary structure or within a primary residential care giver as defined in Health and Safety Code section 11362.7; and
- (e) Other use or activities as may be determined by the Planning Commission to be of the same general character as those specifically prohibited.

**Section 5. Definitions.** For purposes of this ordinance, the following definitions shall apply:

- A. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
- B. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include:
  - i. Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
  - ii. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

- C. "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

**Section 6. Penalty for Violation.** No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided in Chapter 1.18 of this Municipal Code and/or under state law.

**Section 7. Authority.** This urgency ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Clayton by Government Code Section 36937, and therefore shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council.

**Section 8. CEQA.** This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa in accordance with CEQA Guidelines.

**Section 9. 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 10. Custodian of Records.** The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 6000 Heritage Trail, Clayton, CA 94517. The custodian of these records is the City Clerk.

**Section 11. Restatement of Existing Law.** Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by the City relating to the same subject matter or relating to the enumeration of permitted uses under the City's zoning code, shall be construed as

restatements and continuations, and not as new enactments.

**Section 12. Certification.** The City Clerk shall certify as to the adoption of this Urgency Ordinance and shall cause it to be published within fifteen (15) days of the adoption and shall post a certified copy of this Urgency Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with California Government Code Section 36933.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on December 20, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
Jim Diaz, 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 adopted, passed, and ordered posted at a regular meeting of the City Council held on December 20, 2016.

\_\_\_\_\_  
Janet Brown, City Clerk

# ATTACHMENT 2

Historic Places= pursuant to Government Code Section 65852.3(b). (Ord. 425, 2009).

**17.36.080 Prohibited Uses and Activities.** The following uses and activities are prohibited in all zoning districts;

- (a) Any use or activity which is prohibited by local, regional, state, or federal law;
- (b) Establishment or operation of medical marijuana dispensaries, as defined in Section 17.04.138;
- (c) Outdoor cultivation or production of medical marijuana;
- (d) Indoor cultivation or production of medical marijuana, excepting medical marijuana cultivation or production in residential zones within a detached, fully-enclosed and secure secondary structure or within a primary residential structure at a location legally inhabited by a qualified patient or primary caregiver as defined in Health and Safety Code section 11362.7; and
- (e) Other use or activities as may be determined by the Planning Commission to be of the same general character as those specifically prohibited. (Ordinance No. 448, 2013)

**17.36.082 Emergency Shelters Standards.**

Emergency shelters are only permitted in the Public Facilities (PF) zoning district subject to the development standards of the zone. In accordance with the authority granted to cities under State law (SB-2; 2007), emergency shelters must also meet the following objective development and management standards:

- A. An emergency shelter building shall be located a minimum distance of at least 300 feet from any residential use building or public or private K-12 school.
- B. An emergency shelter shall be located a minimum distance of at least 300 feet from another emergency shelter.
- C. The maximum number of beds or persons permitted to be served nightly by the facility shall not exceed ten (10).
- D. The maximum length of stay by an individual shall not exceed one hundred and eighty (180) consecutive days in a consecutive 12-month period.
- E. Off-street parking shall be provided in the ratio of one (1) space for every three (3) beds, plus one (1) parking space for each staff member on the largest shift. Provisions for bicycle parking shall also be made.
- F. An on-site interior client intake and waiting area shall be provided that is at least 200 square feet in area. A client intake and waiting area less than 200 square feet in size may be considered if it can be demonstrated the size of the intake and waiting area is sufficient to accommodate the demand.
- G. On-site parking lot lighting and security lighting shall be provided in accordance with City standards.
- H. Laundry and Refuse areas. The plan shall include provisions for indoor laundry facilities and an exterior enclosed refuse area.
- I. An operational plan shall be provided prior to the issuance of a Certificate of Occupancy or commencement of use, for the review and approval of the Community Development Director. At a minimum the plan shall contain provisions addressing the



# ATTACHMENT - 3

- D. "Rear lot line" means the lot line not intersecting a front lot line which is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line. (Ord 375, 2004)
- E. "Side lot line" means any lot line which is not a front or rear lot line. (Ord 375, 2004)

**17.04.136 Lot, Through.** "Through lot" means a lot, other than a corner lot, having frontage on two parallel, or approximately parallel streets (or vehicular access easements). (Ord 375, 2004)

**17.04.137 Manufactured Home.** A Manufactured Home@ means a single-family dwelling transportable in one or more sections constructed to a federally preemptive standard (Ord. 425, 2009).

**17.04.138 Medical Cannabis Uses.** A facility or location where marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 (Proposition 215). (Ordinance No. 448, 2013)

A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

B. "Cannabis dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, wither individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of retail sale.

C. "Cannabis manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis products or labels or relabels its container.

D. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

E. "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state; and

(2) Registered with the State Department of Public Health. (Ordinance No. 461, 2016)

**17.04.139 Mixed Use.** A Mixed Use@ means properties on which various uses, such as residential, commercial, or institutional, are combined in a single building or on a single site

# ATTACHMENT 4

## Chapter 8.14

### REGULATION OF SMOKING

#### Sections:

8.14.010	Findings.
8.14.020	Purpose.
8.14.030	Definitions.
8.14.040	Regulation of smoking in city-owned facilities.
8.14.050	Prohibition of smoking.
8.14.060	Regulation of smoking in places of employment.
8.14.070	Optional smoking areas.
8.14.080	Posting requirements.
8.14.090	Vending machines.
8.14.100	Distribution of free samples and coupons.
8.14.110	Out of package sales.
8.14.120	Enforcement.
8.14.130	Penalties.
8.14.140	Non-retaliation.
8.14.150	Other applicable laws.

8.14.010 Findings. The City Council of the City of Clayton hereby finds that:

A. The U.S. Environmental Protection Agency has determined that tobacco smoke is the major contributor of particulate indoor air pollution; and

B. Reliable studies have shown that breathing side stream or secondhand smoke is a significant health hazard, in particular for elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function; including asthmatics and those with obstructive airway disease; and

C. Health hazards induced by breathing side stream or secondhand smoke include heart disease, lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, broncho constriction, and broncho spasm; and

D. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing side stream or secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and

E. The smoking of tobacco, or any other weed or plant, is a danger to health; and

F. The health care costs and lost productivity incurred by smoking-related disease and death represent a heavy and avoidable financial drain on our community; and

G. The free distribution of cigarettes and other tobacco products encourages people to begin smoking and using tobacco products, and tempts those who had quit smoking to begin smoking again; and

H. Free distribution of cigarettes and other tobacco products promotes unsightly litter, thereby increasing the costs to the public in cleaning the streets; and also causes pedestrian traffic congestion. (Ord. 295, Sec. 1, 1992)

**8.14.020 Purpose.** The compelling purpose and intent of this chapter includes, but is not limited to, generally promoting the health, safety, and welfare of all people in the community against the health hazards and harmful effects of the use of addictive tobacco products. (Ord. 295, Sec. 1, 1992)

**8.14.030 Definitions.** The following words and phrases, whenever used in this chapter, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

A. "Area Open to the Public" shall mean any area available to and customarily used by the general public.

B. "Bar" means an establishment that is primarily devoted to the serving of alcoholic beverages and in which the service of food is minimal and only incidental to the consumption of such beverages (Department of Alcoholic Beverage Control Type 61, 42 or 48 licenses - "stand alone" bars). A "bar area" means that portion of a restaurant establishment where alcoholic beverages are sold and from which tobacco smoke can filter into the dining area of the restaurant through a passageway, ventilation system, or any other means.

C. "Distribute" means to give, sell, deliver, dispense, issue, or cause or hire any person to give, sell, deliver, dispense, issue or offer to give, sell, deliver, dispense or issue.

D. "Employee" means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit.

E. "Employer" means any person, partnership, corporation, including municipal corporation or public entity, who employs the services of two or more persons or two or more people conduct business within the establishment.

F. "Enclosed" means closed in by a roof and walls with appropriate openings for ingress and egress.

G. "General Public" shall mean shoppers, customers, patrons, patients, students, clients and other similar invitees of a Commercial Enterprise or Non-Profit Entity.

H. "Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including but not limited to, work areas, employee lounges, conference rooms, and employee cafeterias. A private residence is not a place of employment unless it is used as a childcare or health care facility.

I. "Smoking" means the carrying or holding of a lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind.

J. "Sports Arena" means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling centers, halls, ball fields and other playing fields, stadiums, and other similar facilities and places, whether indoor or outdoor, but excluding the outdoor areas of golf courses, where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports events.

K. "Vending machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper bill, or other thing representative of value, which dispenses or releases a tobacco product and/or tobacco accessories.

L. "Bowling lane" means the bowler's approach, the foul line and the lanes;

M. "Bowlers' settee" means the area immediately behind the bowling lane in which score is kept and seating is provided for bowlers waiting their turn to bowl;

N. "Visitors' settee" means seating provided immediately behind the bowlers' settee;

O. "Bowling center concourse" means that area separated from the bowling lane, bowlers' settee, and visitors' settee by at least one step or a physical barrier.

P. "Park" means all public open spaces, recreation areas and trails owned and maintained by the City of Clayton, whose primary purpose is recreation, either passive or active.

Q. "Trail" means a marked or established path or route, paved or unpaved, used for the recreational activities of walking, hiking, bicycling, and/or horseback riding.

R. "Open Space" means land left basically in its natural, undeveloped state to promote scenic and aesthetic beauty and used for the preservation of natural resources, managed production of resources and outdoor recreation.

(Ord. 295, Sec. 1, 1992, Ord. 307, 1993.)

**8.14.040** Regulation of smoking in city-owned facilities. Smoking is prohibited in all buildings, vehicles, or other areas occupied by city employees, owned or leased by the city, or otherwise operated by the city. (Ord. 295, Sec. 1, 1992, Ord. 307, 1993)

**8.14.050** Prohibition of smoking. Smoking is prohibited in the following places within the city of Clayton:

A. All enclosed areas available to and customarily used by the general public and all businesses patronized by the public, including, but not limited to, retail stores, the common areas of hotels and motels, pharmacies, banks, shopping malls, and other offices;

B. All indoor areas of restaurants, including but not limited to indoor dining areas, waiting areas, restrooms, offices, break rooms, food preparation areas, and bar areas. The owner, manager or operator of the restaurant shall post signs as prescribed by Section 8.14.080(A) and remove all ashtrays from tables. Smoking is permitted in any outdoor areas of restaurants, and also in the bar and dining indoor areas of restaurants after the consumption of all meals therein has ceased.

C. Waiting rooms, hallways, wards, and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy facilities, doctors' offices, except that health facilities shall also be subject to the provisions of Section 8.14.060 regulating smoking in places of employment;

D. Elevators, public rest rooms, indoor services lines, buses, taxicabs and other means of public transit under the authority of public entities, and in ticket, boarding, and waiting areas of public transit depot; provided, however, that this prohibition does not prevent the establishment of separate waiting areas for smokers and non-smokers, provided that at least sixty percent of a given waiting area shall be designated as a non-smoking area.

E. In public area of museums and galleries;

F. Theaters, auditoriums, concert facilities and halls which are used for motion pictures, stage dramas and musical performances, ballets or other exhibitions, both indoor and outdoor, except when smoking is part of any such production, provided however, in outdoor facilities, designated smoking areas may be provided which shall be segregated from non-smoking areas. Where seating area is provided in an outdoor facility, no more than 40% of the total seats of the facility may be designated as smoking seats;

G. Retail food marketing establishments, including grocery stores, and supermarkets;

H. Public schools and other public facilities under the control of another public agency, which are available to and customarily used by the general public, to the extent that the same are subject to the jurisdiction of the city;

I. Sports facilities, both indoor and outdoor, and convention halls.

J. Bowling centers, including but not limited to bowling lanes, bowlers' settees, visitors' settees and game rooms, provided however, that a designated smoking area may be provided on the bowling center concourse. The owner, manager or operator of the bowling center shall post signs as prescribed by Section 8.14.080(1) and remove all ashtrays from non-smoking areas;

K. Private residences when used as child care or health care facilities. Board and care facilities shall provide smoke-free living quarters for non-smoking boarders;

L. Bingo parlors, except a separate enclosed room may be designated as a smoking room. The owner, manager or operator of the bingo parlor shall post signs as prescribed by Section 8.14.080 and remove all ashtrays from the non-smoking room.

M. Parks, Trails, and Open Space.

Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a non-smoking establishment. (Ord. 295, Sec. 1, 1992, Ord. 307, 1993)

#### 8.14.060 Regulation of smoking in places of employment.

A. Smoking is prohibited in any place of employment, including, but not limited to, open office areas, shared offices and private offices occupied by employees performing clerical, technical, administrative or other business or work functions; and, conference and meeting rooms, classrooms, auditoriums, rest rooms, medical facilities, hallways, and elevators.

B. The provisions of this division shall be communicated to all employees within three weeks of its adoption, and at least annually thereafter. (Ord. 295, Sec. 1, 1992)

8.14.070 Optional smoking areas. Notwithstanding any other provisions of this division to the contrary, the following areas shall not be subject to the smoking restrictions of this division:

A. A private residence, including one which may serve as a place of employment, except when covered by Section 8.14.030(H);

B. Bars, except as provided otherwise in this division;

C. Licensed cardrooms;

D. Hotel and motel rooms rented to guests, provided however, that each hotel and motel designates not less than 30% of their guest rooms as non-smoking rooms and removes ashtrays from these rooms;

E. Rooms in restaurants, hotel and motel conference or meeting rooms and public and private assembly rooms while these rooms are being used for private functions;

F. Retail stores that deal exclusively in the sale of tobacco and smoking paraphernalia;

G. In places of employment, employers may provide specific smoking areas for employees provided all of the following conditions are met:

1. The smoking area shall be provided with a heating, ventilating and air-conditioning (HVAC) system designed such that none of the air from the smoking area will be recirculated into the other areas of the building.

2. The smoking area shall be completely separated from the remainder of the building by solid partitions or glazing without openings other than doors, and all doors leading to the smoking area shall be self-closing. The doors shall be provided with a gasket so installed as to provide a seal where the door meets the stop on both sides and across the top.

3. The smoking areas shall maintain a minimum negative pressure of 0.005-inch water column relative to non-smoking areas.

4. The employer shall submit written verification and test results to the city manager or his/her designees prepared by a licensed mechanical contractor or engineer that the HVAC system has been designed and tested and meets the requirements set forth in subsections (1) through (3) above.

5. If the HVAC system is part of a smoke removal system or pressurization system, any modifications to these systems to provide smoking areas will require approval from the Consolidated Fire Department. Written verification of this approval shall be provided to the city manager.

6. If the specific smoking area is an employee break room, lunch room or other area which may be used by non-smoking employees, then a separate non-smoking break room, lunch room or other area shall be provided of equal or larger size and include at least equal facilities. (Ord. 295, Sec. 1, 1992)

**8.14.080 Posting requirements.**

A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is controlled by this division, by the owner, operator, manager or other person having control of such building or other place.

B. Every hotel or motel regulated by this division will have posted at its entrance a sign clearly stating that non-smoking rooms are available, and every patron shall be asked as to his or her preference. (Ord. 295, Sec. 1, 1992)

**8.14.090 Vending machines.** Coin-operated cigarette vending machines may be located only on those premises which have either a type 61, type 42 or type 48 license from the Department of Alcoholic Beverage Control. Cigarette vending machines must be located at least 25 feet from any entry into the premise. (Ord. 295, Sec. 1, 1992)

**8.14.100 Distribution of free samples and coupons.**

A. No person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes shall in the course of such business distribute, or direct, authorize, or permit any agent or employee to distribute: (1) any cigarette or other tobacco or smoking product, including any smokeless tobacco product, or (2) coupons, certificates, or other written material which may be redeemed for tobacco products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building.

B. No agent or employee of any person, firm, association or corporation in the business of selling or otherwise distributing cigarettes or other tobacco or smoking products for commercial purposes shall in the course of such business distribute, (1) any cigarette or product, or (2) coupons, certificates, or other written material which may be redeemed for tobacco products without charge, to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building.

C. For purposes of this section, "public ground" and "public building" include sports arenas as defined in section 8.14.030(J) and any entertainment facility whether enclosed or not, except a bar, for which a charge is made for admission, whether publicly or privately owned. (Ord. 295, Sec. 1, 1992)

8.14.110 Out of package sales. No person shall sell or offer for sale cigarettes or smokeless tobacco not in the original packaging provided by the manufacturer. (Ord. 295, Sec. 1, 1992)

8.14.120 Enforcement.

A. Administration of this Chapter shall be by the city manager or his/her designees.

B. Any citizen who desires to register a complaint hereunder may initiate enforcement consideration with the city manager or his/her designees.

C. Any owner, manager, operator or employer of any establishment controlled by this Chapter may inform persons violating this division of the appropriate provisions thereof. (Ord. 295, Sec. 1, 1992)

8.14.130 Penalties.

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions of this section to fail to properly post signs required hereunder.

B. It shall be unlawful for any person to smoke in any area restricted by the provisions of this section.


C. Any person or business who violates subsection (A) or (B) herein, or any other provision of this section, shall be guilty of an infraction, punishable by:

1. A fine, not exceeding one hundred dollars, for the first violation;
2. A fine, not exceeding two hundred dollars, for a second violation of this ordinance within one year;
3. A fine, not exceeding five hundred dollars, for each additional violation of this ordinance within one year. (Ord. 295, Sec. 1, 1992)

8.14.140 Non-retaliation. No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this division. (Ord. 295, Sec. 1, 1992)

8.14.150 Other applicable laws. This division shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 295, Sec. 1, 1992)



Approved:   
Gary A. Napper  
City Manager

# STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCIL MEMBERS**

**FROM: MILAN J. SIKELA, JR., ASSISTANT PLANNER**

**DATE: DECEMBER 20, 2016**

**SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE REZONING THE ST. JOHN'S EPISCOPAL CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT SITE FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT (PD) (ZOA-03-15)**

## RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, take and consider all public testimony, and, if determined to be appropriate, take the following actions:

- 1a) Motion to have the City Clerk read the Ordinance No. 471 by title and number only and waive further reading; and
- 1b) Following the City Clerk's reading; by motion adopt City Council Ordinance No. 471 (**Attachment 1**) rezoning the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development project site from Agricultural District (A) to Planned Development District (PD).

## BACKGROUND

On December 6, 2016, the City Council introduced Ordinance No. 471, which proposes to rezone the 2.77-acre St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development project site from Agricultural District (A) to Planned Development District (PD). No changes were made to the Ordinance at the December 6, 2016 City Council meeting. The December 6, 2016 City Council staff report is provided as **Attachment 2** and an excerpt of the December 6, 2016 City Council minutes is provided as **Attachment 3**.



## **ENVIRONMENTAL DETERMINATIONS**

In compliance with the California Environmental Quality Act (CEQA), the City prepared and the City Council adopted an Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the project. In the IS/MND, five potentially significant impacts were identified. Mitigation measures have been provided for the five potentially significant impacts, thereby reducing the project impacts on the environment to a "less-than-significant" level. As a result, adoption of this Ordinance will not result in cumulative adverse environmental impacts or any other potentially significant impacts described in the State CEQA Guidelines. The evaluations, impacts, and mitigation measures are described in detail in the IS/MND and MMRP.

## **FISCAL IMPACT**

It is anticipated the approval of this Ordinance will not result in a direct fiscal impact to the City. The developer is required to pay the impact fees pertaining to community facilities development, offsite arterial improvements, childcare, parkland dedication, possible open space in-lieu, and fire development protection. These impact fees are to offset costs associated with this infrastructure. Further, the City will collect property taxes on the two new homes, which will assist by offsetting a portion of ongoing City operating costs.

## **ATTACHMENTS**

1. City Council Ordinance No. 471 [3 pp.]
2. Staff Report from the December 6, 2016 City Council Meeting [122 pp.]
3. Excerpt of the Minutes from the December 6, 2016 City Council Meeting [3 pp.]

**ATTACHMENT 1**

**ORDINANCE NO. 471**

**AN ORDINANCE OF THE CLAYTON CITY COUNCIL  
AMENDING THE CLAYTON ZONING MAP FROM AGRICULTURAL DISTRICT (A)  
TO PLANNED DEVELOPMENT DISTRICT (PD)  
FOR 2.77 ACRES THAT COMPRISE THE  
ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE  
PLANNED DEVELOPMENT PROJECT**

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

**WHEREAS**, Chapter 17.56 of the Clayton Municipal Code authorizes the City Council to amend the Official Zoning Map of the City of Clayton; and

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, and recommended approval to the Clayton City Council for the proposed modification of the zoning designation from Agricultural District (A) to Planned Development District (PD) for the 2.77-acre site comprised of St. John's Church/Southbrook Drive Mixed Use Planned Development Project; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 11-16, which recommended City Council approval of the rezone; and

**WHEREAS**, on November 15, 2016 and continued to December 6, 2016, the Clayton City Council held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, regarding the rezone; and

**WHEREAS**, the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act, which included an analysis of the rezone of the property from Agricultural District (A) to Planned Development District (PD), and concluded that there is no substantial evidence to suggest that the Project would have a significant effect on the environment; and

**WHEREAS**, the Clayton City Council adopted the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and

**WHEREAS**, the City Council approved a General Plan Amendment of 0.41 acres of the subject site from Institutional Density (ID) to Single Family Medium Density (MD); and

**WHEREAS**, the proposed zoning classification modification is in general conformance with the General Plan and that the public necessity, conveniences, and general welfare require the adoption of the proposed zoning classification modification; and

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

**SECTION 1.** The above-stated citations are true and accurate.

**SECTION 2.** Based on the entire record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this Ordinance, the real property at located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the map set forth in Exhibit A attached hereto and incorporated herein by reference (“property”) is hereby modified from Agricultural District (A) to Planned Development District (PD).

**SECTION 3. CEQA.** The City Council hereby determines that the project’s environmental impacts, which included the rezoning of the property from Agricultural District (A) to Planned Development District (PD), could be mitigated to a less-than-significant impact as determined by the St. John’s Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP).

**SECTION 4. Severability.** If any provisions of this Ordinance, or the application thereof to any person or circumstances, if held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of the 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 5. 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 6. 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 this Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular noticed public meeting of the City Council of the City of Clayton held on the 6<sup>th</sup> day of December, 2016.

**PASSED, ADOPTED, AND ORDERED POSTED** at a regular meeting of the City Council of the City of Clayton on December 20, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

---

Jim Diaz, Mayor

ATTEST:

---

Janet Brown, City Clerk

I hereby certify that the foregoing Ordinance was duly introduced at a noticed regular meeting of the City Council of the City of Clayton held on December 6, 2016, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council of the City of Clayton held on December 20, 2016.

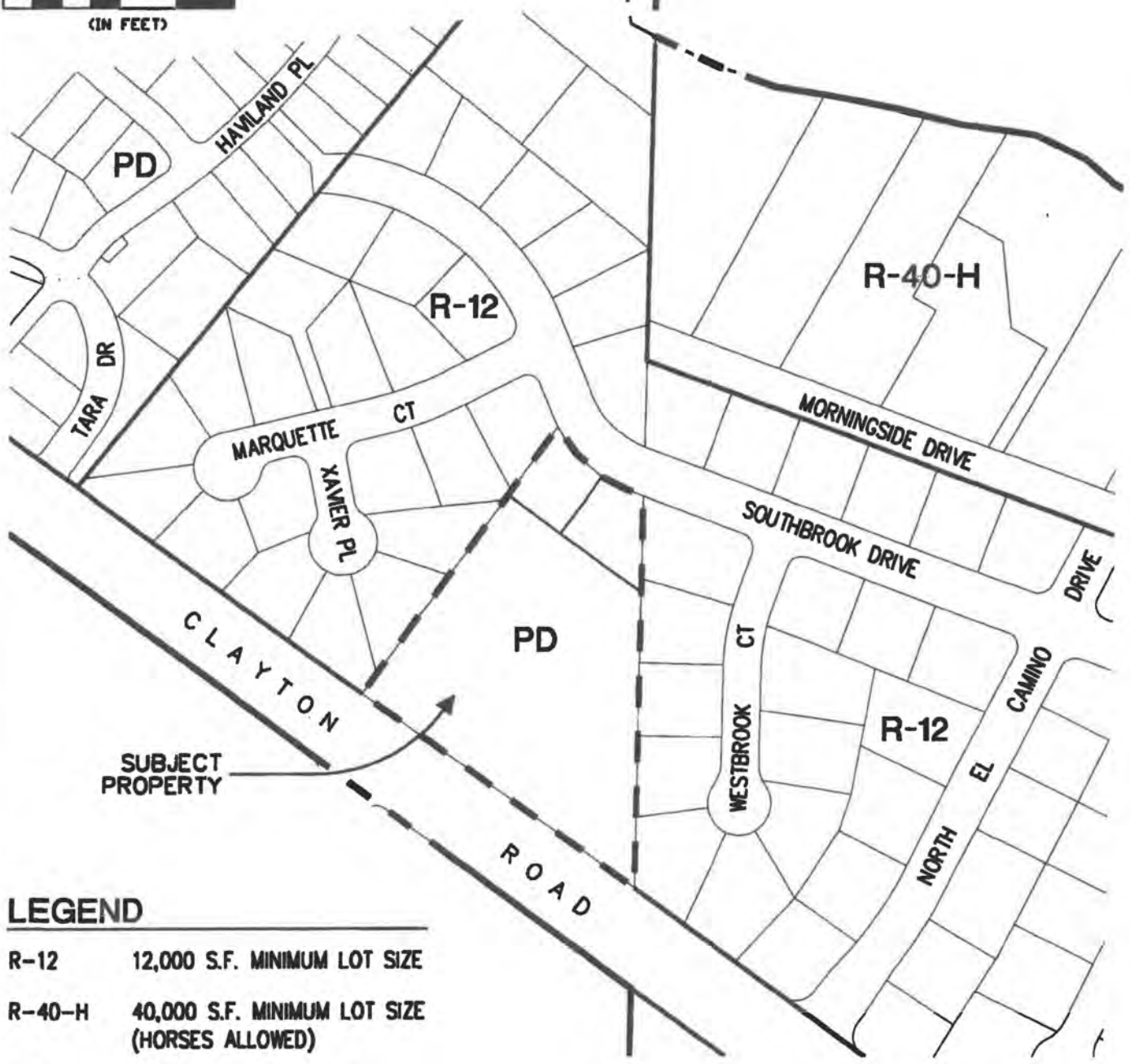
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Janet Brown, City Clerk

# PROPOSED ZONING MAP

## ST. JOHN'S EPISCOPAL CHURCH

### MS 01-15



SUBJECT PROPERTY

### LEGEND

- R-12      12,000 S.F. MINIMUM LOT SIZE
- R-40-H    40,000 S.F. MINIMUM LOT SIZE  
(HORSES ALLOWED)
- PD        PLANNED DEVELOPMENT

# CITY OF CLAYTON

*Founded 1857 ... Incorporated 1954*

**OCTOBER 2016**

THU, OCT 20 10:20 A WARREN ZONING MS 01-15 Z:\C0010502\ZONE MAP - 01-15.DWG

# ATTACHMENT 2



Approved:   
Gary A. Napper  
City Manager

## STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCIL MEMBERS**

**FROM: MILAN J. SIKELA, JR., ASSISTANT PLANNER**

**DATE: DECEMBER 6, 2016**

**SUBJECT: CONTINUED PUBLIC HEARING TO REVIEW AND CONSIDER THE THREE-LOT ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (ENV-01-15), GENERAL PLAN AMENDMENT (GPA-01-15), REZONE (ZOA-03-15), DEVELOPMENT PLAN (DP-01-15), TENTATIVE PARCEL MAP (MAP-01-15), SITE PLAN REVIEW PERMIT (SPR-07-16), AND TREE REMOVAL PERMIT (TRP-37-15)**

### RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, take the following actions:

- 1) Motion to approve City Council Resolution No. XX-2016 (**Attachment 1**) adopting the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15); and
- 2) Motion to approve City Council Resolution No. XX-2016 (**Attachment 2**) adopting a General Plan Amendment for 0.41 acres of the project site from Institutional Density (ID) to Single Family Medium Density (MD) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project (GPA-01-15); and
- 3a) Motion to have the City Clerk read the Ordinance No. 471 by title and number only and waive further reading; and

- 3b) Following the Clerk's reading; motion to approve City Council Ordinance No. 471 (**Attachment 3**) rezoning the project site from Agricultural District (A) to Planned Development District (PD) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project (ZOA-03-15); and
- 4) Motion to approve City Council Resolution No. XX-2016 (**Attachment 4**) approving the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for a three-lot subdivision for two single-family homes, to be effective on the same effective date as Ordinance No. 471.

### **BACKGROUND/DISCUSSION**

On November 15, 2016, the City Council reviewed the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development project. Following the public hearing, the City Council provided direction to staff and the applicant and ultimately continued the project to the next regularly scheduled City Council of December 6, 2016 (please see **Attachment 5** for the November 15, 2016 City Council staff report and **Attachment 6** for an excerpt of the November 15, 2016 City Council minutes). The direction to staff provided by the City Council encompassed the following issues:

- Oversee the pursuit of a mutually agreeable solution between the applicant and the neighbors regarding the second-story window on the right (west) elevation of Plan A and on the left (east) elevation of Plan B, which face the adjacent existing residences, in order to mitigate impacts to privacy;
- Require the installation of a six-foot fence along the proposed northern property line of the St. John's Episcopal Church property in order to mitigate impacts to privacy; and
- Evaluate the consideration of a "no parking" area at the southernmost terminus of the proposed shared driveway in order to allow for fire safety vehicle access.

### **Revised Window Design**

At the November 15, 2016 City Council meeting, comments were received from an adjacent neighbor regarding the proposed second-story window on the exterior side elevation facing the neighbor's property. The neighbor indicated that the proposed window was placed in such a manner that future occupants of the proposed residence would be able to look down upon the rear yard of his property and into his house. Due to the concerns raised regarding the impacts to privacy of the adjacent neighbors, the City Council provided direction to staff and the applicant to revise the design of the window in order to mitigate impacts to privacy.

As a result of the concerns expressed during the hearing, the applicant has proposed a clerestory window on the second-story elevation, which reduces the window in area and raises the height. The bottom of the window is now proposed at a minimum of six feet above the floor which will still allow light into the room while simultaneously providing mitigation of impacts to privacy. The applicant has provided a revised sheet showing the architectural elevations of the proposed residence on Lot A with the revised window design (**Attachment 7**). In addition, the property owner who commented on the originally-proposed window design has reviewed the revised window design and has indicated in writing that the revised design addresses his concerns (**Attachment 8**). A condition has also been provided addressing the raised window height, ensuring that the revised window design is utilized on the second-story of the right (west) elevation of Plan A and left (east) elevation of Plan B, which are the elevations that face the adjacent existing residential properties.

#### Fence Installation

Currently, an existing split-rail fence (**Attachment 9**) is located on what would be the northern property line, assuming approval of the tentative map, of the remainder St. John's Episcopal Church parcel. The City Council expressed concerns at the November 15, 2016 meeting that the height and design of the fence is inadequate to preserve the privacy of the two proposed residential lots since the pads of these two lots would be located approximately eight feet below the existing church parking lot. This difference in elevation between the church parcel and two proposed residential lots, combined with the low height and "see-through" design of the split-rail fence, would allow for people to stand on the church parcel and look down onto the two residential lots, thereby impacting the privacy of the two residential lots.

As a result of the concerns expressed, the applicant has proposed replacing the existing split-rail fence with a six-foot "good-neighbor" wooden fence. Installation of a six-foot solid fence would mitigate impacts to the privacy of the two residential lots. Furthermore, the applicant has proposed the fence location to be a minimum of three feet from the footing of the proposed retaining wall in order for the fence and retaining wall to not be considered as one structure, in accordance with Section 17.36.075.G of the Clayton Municipal Code. A revised cross section has been provided showing the location and height of the fence vis-à-vis the elevation of the proposed residential pads (**Attachment 10**). A condition has also been provided addressing the design and location of the proposed fencing on the northern property line of the proposed church parcel.

#### Fire Safety Access

At the November 15, 2016 City Council meeting, City Council comments included consideration of a "no parking" area in the shared driveway in front of the garages of each proposed residence. Since then, the applicant has met with Contra Costa County Fire Protection District (Fire District) and received documentation, issued on November 28, 2016, demonstrating compliance with the minimum code requirements for water supply and access. As part of that review, the Fire District has indicated that the shared driveway is not needed for fire access (**Attachment 11, Page 2**). Further, the applicant has submitted Fire District approved plans showing there is adequate



“hose reach” to all areas of each residential lot from fire safety vehicles parked on Southbrook Drive (**Attachment 12**). From staff’s perspective, a “no parking” area would not be needed in the shared driveway. Also, the applicant has indicated that the intent of the shared driveway is to remain open and available for the parking of private vehicles associated with the two proposed residences. As a result, the proposed conditions of approval have not been amended to require a “no parking” area in the shared driveway.

#### Stormwater Detention Basin Locations

During City Council review of the project, clarification was requested on the proposed locations of the stormwater detention basins. **Attachment 10** provides a revised site plan diagram showing the proposed locations of each stormwater detention basin.

#### FISCAL IMPACT

It is anticipated the approval of this project, as revised, will not result in a direct fiscal impact to the City. The developer is required to pay the impact fees pertaining to community facilities development, offsite arterial improvements, childcare, parkland dedication, possible open space in-lieu, and fire development protection. These impact fees are to offset costs associated with this infrastructure. Further, the City will collect property taxes on the two new homes, which will assist by offsetting a portion of ongoing City operating costs.

#### ATTACHMENTS

1. City Council Resolution No. XX-2016 adopting the St. John’s Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15) [8 pp.]
2. City Council Resolution No. XX-2016 adopting a General Plan Amendment to modify 0.41 acres of the project site from Institutional Density (ID) to Single Family Medium Density (MD) for the St. John’s Church/Southbrook Drive Mixed Use Planned Development Project (GPA-01-15) [3 pp.]
3. City Council Ordinance No. 471 approving a rezone of the project site from Agricultural District (A) to Planned Development District (PD) for the St. John’s Church/Southbrook Drive Mixed Use Planned Development Project (ZOA-03-15) [3 pp.]
4. City Council Resolution No. XX-2016 approving the St. John’s Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for a three-lot subdivision for two single-family homes [16 pp.]
5. November 15, 2016 City Council Staff Report [74 pp.]
6. November 15, 2016 City Council Minutes (Excerpt) [3 pp.]
7. Revised Architectural Elevation of Proposed Residence on Lot A [1 p.]
8. Email from Joe Rhodes [1 p.]
9. Photo of Existing Fence [1 p.]
10. Revised Cross Section and Stormwater Detention Basin Location Diagram [1 p.]
11. Contra Costa County Fire Protection District Document [2 pp.]
12. Fire District Approved Plans [2 pp.]

# ATTACHMENT 1

## RESOLUTION NO. XX-2016

### A RESOLUTION OF THE CLAYTON CITY COUNCIL ADOPTING THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT

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

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Tentative Parcel Map (MAP-01-15), Development Plan (DP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, the City prepared the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration ("IS/MND") and Mitigation Monitoring and Reporting Program ("MMRP") to evaluate the potential environmental impacts of the Project, in accordance with Section 15063 of Title 14 of the California Code of Regulations, the California Environmental Quality Act ("CEQA") Guidelines; and

**WHEREAS**, a draft IS/MND was duly noticed and circulated for a 20-day review period, with the public review comment period commencing on September 19, 2016 and ending on October 10, 2016; and

**WHEREAS**, no comments were received by the City on the IS/MND during the 20-day public review period;

**WHEREAS**, the Clayton Planning Commission has reviewed the IS/MND for the Project; and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the IS/MND and MMRP, received and considered testimony and evidence, both oral and documentary, and recommended Clayton City Council adopt the IS/MND and MMRP; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 09-16, which recommended City Council adoption of the IS/MND and MMRP; and

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

**WHEREAS**, on November 15, 2016 and continued to December 6, 2016, the Clayton City Council held a duly-noticed public hearing on the IS/MND and MMRP, received and considered testimony and evidence, both oral and documentary; and

**WHEREAS**, the custodian of the Final IS/MND is the Clayton Community Development Department and the Final IS/MND is available for public review at City Hall in the Community Development Department and the MMRP is attached as Exhibit A to this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON, THAT:**

**SECTION 1.** The City Council does hereby find and affirm the above noted Recitals are true and correct are hereby incorporated in the body of this Resolution as if restated in full.

**SECTION 2.** The Clayton City Council hereby finds, on the basis of the whole record before it (including the IS/MND, MMRP, and all comments received) that:

- a. The City of Clayton exercised overall control and direction over the CEQA review for the Project, including preparation of the Final IS/MND and MMRP, and independently reviewed the Final IS/MND and MMRP; and
- b. There is no substantial evidence that the Project will have a significant effect on the environment once mitigation measures have been followed; and
- c. The Final IS/MND and MMRP reflect the City's independent judgement and analysis.

**SECTION 3.** The Clayton City Council hereby adopts the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Clayton, California, at a regular meeting thereof held on the 6<sup>th</sup> day of December, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
\_\_\_\_\_. Mayor

ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk

I certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton, California at a regular meeting held on the 6<sup>th</sup> day of December, 2016.

\_\_\_\_\_  
Janet Brown, City Clerk

## EXHIBIT A

# St. John's Church/Southbrook Drive Mixed Use Planned Development Project Mitigation Monitoring and Reporting Program

October 2016

The California Environmental Quality Act (CEQA) and CEQA Guidelines require Lead Agencies to adopt a program for monitoring the mitigation measures required to avoid the significant environmental impacts of a project. The Mitigation Monitoring and Reporting Program (MMRP) ensures that mitigation measures imposed by the City are completed at the appropriate time in the development process.

The mitigation measures identified in the Initial Study/Mitigated Negative Declaration for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project are listed in the MMRP along with the party responsible for monitoring implementation of the mitigation measure, the milestones for implementation and monitoring, and a sign-off that the mitigation measure has been implemented.

<b>Mitigation Measure</b>	<b>Monitoring Agency</b>	<b>Implementation Schedule</b>	<b>Compliance Verification (Date / Initials)</b>
<p><b>Mitigation Measure 1.</b> Removal of trees shall occur between September 1st and January 31st, outside the bird nesting season, to the extent feasible. If tree removal must occur during the avian breeding season (February 1st to August 31st), a qualified biologist shall conduct a survey for nesting birds of all trees and shrubs within 75 feet of the entire project site 14 days prior to the commencement of construction, and submit the findings of the survey to the Community Development Department. If nesting passerines are identified during the survey within 75 feet of the project site, a 75-foot buffer around the nest tree shall be fenced with orange construction fencing. If the nest tree is located off the project site, then the buffer shall be demarcated as per above. The size of the buffer may be altered if a qualified biologist conducts behavioral observations and determines the nesting passerines are well acclimated to disturbance. If acclimation has occurred, the biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting passerines. Construction or earth-moving activity shall not occur within the established buffer until a qualified biologist has determined that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, which typically occurs by July 15th. However, the date may be earlier or later, and would have to be determined by a qualified biologist. If a qualified biologist is not hired to watch the nesting passerines, then the buffers shall be maintained in place through the month of August and work within the buffer may commence September 1st.</p>	<p>City of Clayton Community Development Department</p> <p>Qualified Biologist</p>	<p>If tree removal must occur during the avian breeding season (February 1st to August 31st), then nesting bird survey shall be conducted 14 days prior to the commencement of construction</p>	
<p><b>Mitigation Measure 2.</b> Prior to issuance of a grading permit, in accordance with the City's Tree Protection Ordinance, the applicant shall submit to the Community Development Department a Tree Replacement Plan identifying the protected tree that would be removed during project construction. Based upon the current tentative parcel map, the arborist report indicates that one protected tree is proposed for removal, and is rated by the Arborist Report as being of moderate health (Tree #6). Protected trees rated as being in fair or good health shall be replaced at the ratios specified in City of Clayton Municipal Code Section 15.70.040. The Tree Replacement Plan shall be submitted for review and approval by the Community Development Director prior to issuance of a grading permit.</p>	<p>City of Clayton Community Development Department</p>	<p>Prior to the issuance of a grading permit</p>	
<p><b>Mitigation Measure 3.</b> The following construction policies and guidelines for tree preservation and protection for the existing trees put forth by the City of Clayton shall be followed during project implementation:</p>	<p>City of Clayton Community Development Department</p>	<p>Prior to the commencement of any construction activity and during</p>	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
<ul style="list-style-type: none"> <li>• The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all protected oaks subject to City of Clayton Municipal Code Section 15.70.020.</li> <li>• A protective fence shall be installed around all oaks subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.</li> <li>• Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.</li> <li>• Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.</li> </ul>		construction	
<p><b>Mitigation Measure 4.</b> Prior to the issuance of a grading permit, the grading plan shall include a requirement (via notation) indicating that if cultural resources, or human remains are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken.</p>	City of Clayton Community Development Department	Prior to the issuance of a grading permit, mitigation requirements shall be noted on grading plan	
<p><b>Mitigation Measure 5.</b> Pursuant to State Health and Safety Code §7050.5(c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the</p>	City of Clayton Community Development Department  Contra Costa County Coroner (if	During construction	

<b>Mitigation Measure</b>	<b>Monitoring Agency</b>	<b>Implementation Schedule</b>	<b>Compliance Verification (Date / Initials)</b>
<p>contractor to develop a program for re-internment of the human remains and any associated artifacts. Additional work is not to take place in the immediate vicinity of the find, which shall be identified by the qualified archaeologist at the applicant's expense, until the preceding actions have been implemented.</p>	<p>human bone or bone of unknown origin is found during construction)</p> <p>Native American Heritage Commission (if remains determined to be Native American)</p>		
<p><b>Mitigation Measure 6.</b> Prior to the issuance of a grading permit, the project applicant shall prepare to the satisfaction of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions should include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Hydro-seeding;</li> <li>• Placement of erosion control measures within drainage ways and ahead of drop inlets;</li> <li>• The temporary lining (during construction activities) of drop inlets with "filter fabric";</li> <li>• The placement of straw wattles along slope contours;</li> <li>• Use of a designated equipment and vehicle "wash-out" location;</li> <li>• Use of siltation fences;</li> <li>• Use of on-site rock/gravel road at construction access points; and</li> <li>• Use of sediment basins and dust palliatives.</li> </ul>	<p>City Engineer</p>	<p>Prior to the issuance of a grading permit</p>	
<p><b>Mitigation Measure 7.</b> During construction, the project contractor, at the expense of the project applicant, shall completely remove and re-compact the existing non-engineered fill on-site under the supervision of a registered geotechnical engineer, according to the recommendations presented in the Geotechnical Investigation. The contractor shall remove the upper undocumented fill soil from the area extending at least five feet beyond the edge of the planned building envelopes and also below the planned rear retaining wall. Once removed, subsequent engineered fill may be used as approved by a licensed geotechnical engineer. A written summary of the operations shall be</p>	<p>City Engineer</p>	<p>During construction</p>	



Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
<i>submitted to the City Engineer.</i>			
<b>Mitigation Measure 8.</b> <i>The applicant shall submit a Final Stormwater Control Plan (including an Operations and Maintenance Manual) fully addressing the requirements of the City's recently amended Municipal Regional Stormwater NPDES Permit (Permit No. CAS612008, as amended November 19, 2015), and including an alternative to the use of sump pumps, such as dry wells, to the satisfaction of the City Engineer.</i>	City Engineer	Prior to approval of improvement plans	
<p><b>Mitigation Measure 9.</b> <i>During grading and construction, the project contractor shall ensure that the following measures are implemented, consistent with the recommendations in the Environmental Noise and Vibration Analysis:</i></p> <ul style="list-style-type: none"> <li>• <i>Grading and construction activities shall be limited to the daytime hours between 7:00 AM to 5:00 PM Monday through Friday, as specified in Section 15.01.101 of the Clayton Municipal Code. Any such work beyond said hours and days is strictly prohibited unless previously specifically authorized in writing by the City Engineer or designee or by project conditions of approval;</i></li> <li>• <i>The distances between on-site construction and demolition staging areas and the nearest surrounding residences shall be maximized to the extent possible; and</i></li> <li>• <i>All construction and demolition equipment that utilizes internal combustion engines shall be fitted with manufacturer's mufflers or equivalent.</i></li> </ul>	<p>City of Clayton Community Development Department</p> <p>City Engineer</p>	During grading and construction	

## ATTACHMENT 2

### RESOLUTION NO. XX-2016

**A RESOLUTION OF THE CLAYTON CITY COUNCIL  
MODIFYING THE EXISTING LAND USE DESIGNATION  
FROM INSTITUTIONAL DENSITY (ID) TO SINGLE FAMILY MEDIUM DENSITY  
(MD) FOR THE NORTHERN 0.41 ACRES OF THE  
ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED  
DEVELOPMENT PROJECT**

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

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, the applicant is proposing to modify the existing General Plan land use designation for a 0.41-acre portion of the 2.77-acre site located on the northern area of the property adjacent to Southbrook Drive from Institutional Density (ID) to Single Family Medium Density (MD) in order to create two single-family residential lots (0.19 acres and 0.22 acres in area) for the construction of a single-family residence on each lot; and

**WHEREAS**, the General Plan Amendment request is to modify the existing General Plan land use designation for the two single-family residential lots proposed as part of the St. John's Church/Southbrook Drive Mixed Use Planned Development Project and is not considered to be a "substantial amendment"; and

**WHEREAS**, the remaining 2.36-acre portion of the property containing the St. John's Episcopal Church will maintain its existing General Plan land use designation of Institutional Density (ID); and

**WHEREAS**, Section 65358 of the California Government Code provides for the amendment of all or part of an adopted General Plan; and

**WHEREAS**, the proposed modification of the General Plan land use designation for the 0.41-acre portion of the property adjacent to Southbrook Drive from Institutional Density (ID) to Single Family Medium Density (MD) would be in the public interest, has been assessed for potential impacts, and has been determined to not be detrimental to the public health, safety, or welfare; and

**WHEREAS**, the surrounding neighborhood, including properties adjacent to the Project consist of the single-family residential uses; and

**WHEREAS**, the proposed modification of the General Plan land use designation for the 0.41-acre portion of the property adjacent to Southbrook Drive from Institutional Density (ID) to Single Family Medium Density (MD) is internally consistent with the balance of the General Plan; and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, and recommended approval to the Clayton City Council for the proposed amendment to the General Plan land use designation for 0.41 acres of the project site from Institutional Density (ID) to Single Family Medium Density (MD) for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 10-16, which recommended City Council approval of the General Plan amendment; and

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

**WHEREAS**, on November 15, 2016 and continued to December 6, 2016, the Clayton City Council held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, regarding the General Plan amendment; and

**WHEREAS**, the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration (IS/MND) was prepared pursuant to the California Environmental Quality Act, which included an analysis of the amendment to the General Plan land use designation of 0.41 acres of the property from Institutional Density (ID) to Single Family Medium Density (MD) and concluded that the Project would result in a less-than-significant impact on the environment; and

**WHEREAS**, the Clayton City Council adopted the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Clayton, based on the entire record before it and pursuant to its independent review and consideration hereby **APPROVES** a General Plan amendment for 0.41 acres from Institutional Density (ID) to Single Family Medium Density (MD) for property located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the map set forth in Exhibit A attached hereto and incorporated herein by reference ("property").

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Clayton on the 6<sup>th</sup> day of December 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
\_\_\_\_\_, Mayor

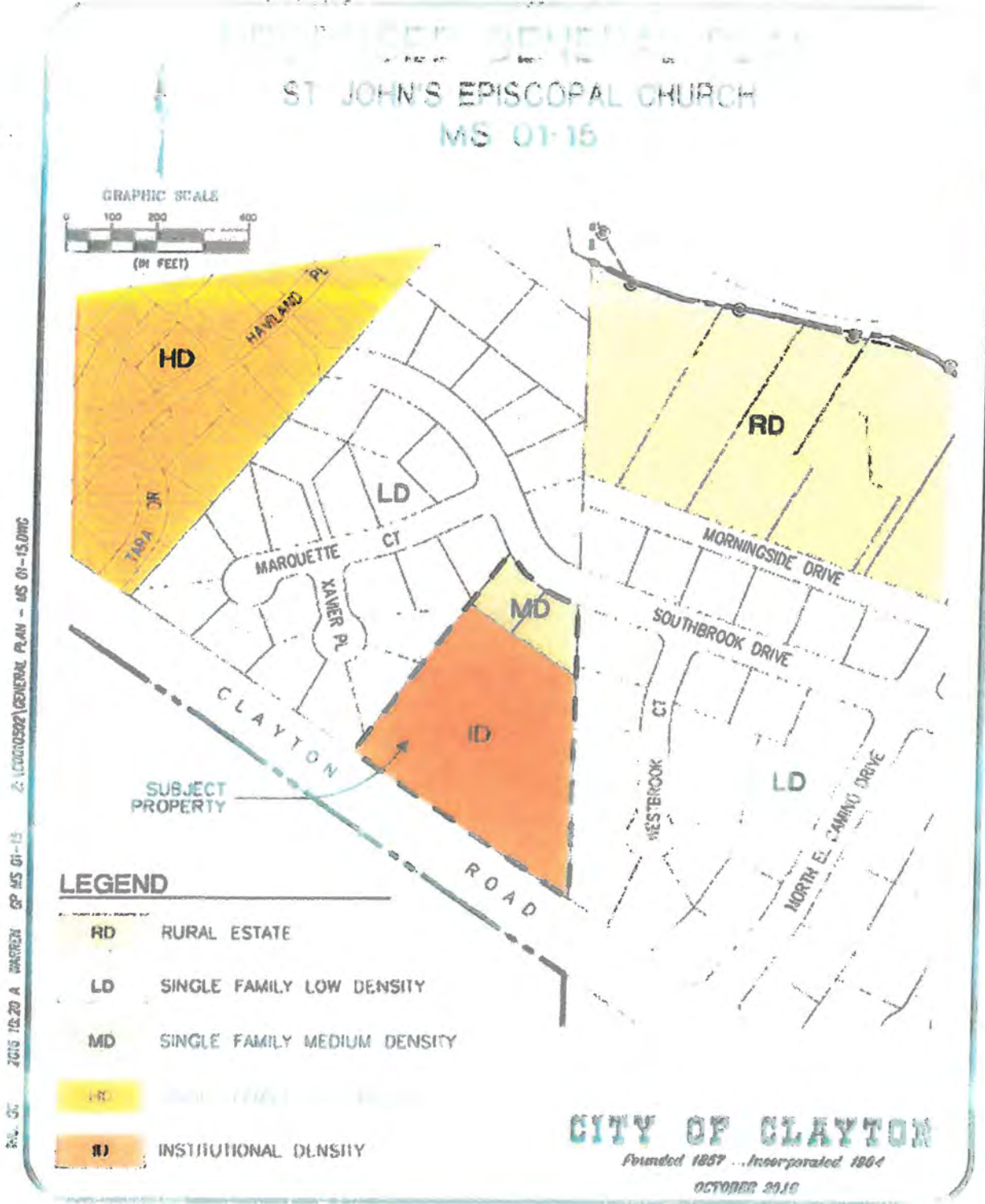
ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk

I hereby certify that the foregoing Resolution was passed, approved, and adopted at a regular meeting of the City Council of the City of Clayton held on the 6<sup>th</sup> day of December, 2016.

\_\_\_\_\_  
Janet Brown, City Clerk

Exhibit A



2: (C0200502) GENERAL PLAN - MS 01-15.DWG  
 2016 10:20 A WARREN CP MS 01-15  
 REV. CT

# ATTACHMENT 3

## ORDINANCE NO. 471

### AN ORDINANCE OF THE CLAYTON CITY COUNCIL AMENDING THE CLAYTON ZONING MAP FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT (PD) FOR 2.77 ACRES THAT COMPRISE THE ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT

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

**WHEREAS**, Chapter 17.56 of the Clayton Municipal Code authorizes the City Council to amend the Official Zoning Map of the City of Clayton; and

**WHEREAS**, the City received an application from Armand Buttici requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, and recommended approval to the Clayton City Council for the proposed modification of the zoning designation from Agricultural District (A) to Planned Development District (PD) for the 2.77-acre site comprised of St. John's Church/Southbrook Drive Mixed Use Planned Development Project; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 11-16, which recommended City Council approval of the rezone; and

**WHEREAS**, on November 15, 2016 and continued to December 6, 2016, the Clayton City Council held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, regarding the rezone; and

**WHEREAS**, the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act, which included an analysis of the rezone of the property from Agricultural District (A) to Planned Development District (PD), and concluded that there is no substantial evidence to suggest that the Project would have a significant effect on the environment; and

**WHEREAS**, the Clayton City Council adopted the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and

**WHEREAS**, the City Council approved a General Plan Amendment of 0.41 acres of the subject site from Institutional Density (ID) to Single Family Medium Density (MD); and

**WHEREAS**, the proposed zoning classification modification is in general conformance with the General Plan and that the public necessity, conveniences, and general welfare require the adoption of the proposed zoning classification modification; and

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

**SECTION 1.** The above-stated citations are true and accurate.

**SECTION 2.** Based on the entire record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this Ordinance, the real property at located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the map set forth in Exhibit A attached hereto and incorporated herein by reference ("property") is hereby modified from Agricultural District (A) to Planned Development District (PD).

**SECTION 3. CEQA.** The City Council hereby determines that the project's environmental impacts, which included the rezoning of the property from Agricultural District (A) to Planned Development District (PD), could be mitigated to a less-than-significant impact as determined by the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP).

**SECTION 4. Severability.** If any provisions of this Ordinance, or the application thereof to any person or circumstances, if held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of the 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 5. 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 6. 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 this Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular noticed public meeting of the City Council of the City of Clayton held on the 6<sup>th</sup> day of December, 2016.

**PASSED, ADOPTED, AND ORDERED POSTED** at a regular meeting of the City Council of the City of Clayton on December 20, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk

I hereby certify that the foregoing Ordinance was duly introduced at a noticed regular meeting of the City Council of the City of Clayton held on December 6, 2016, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council of the City of Clayton held on December 20, 2016.

\_\_\_\_\_  
Janet Brown, City Clerk



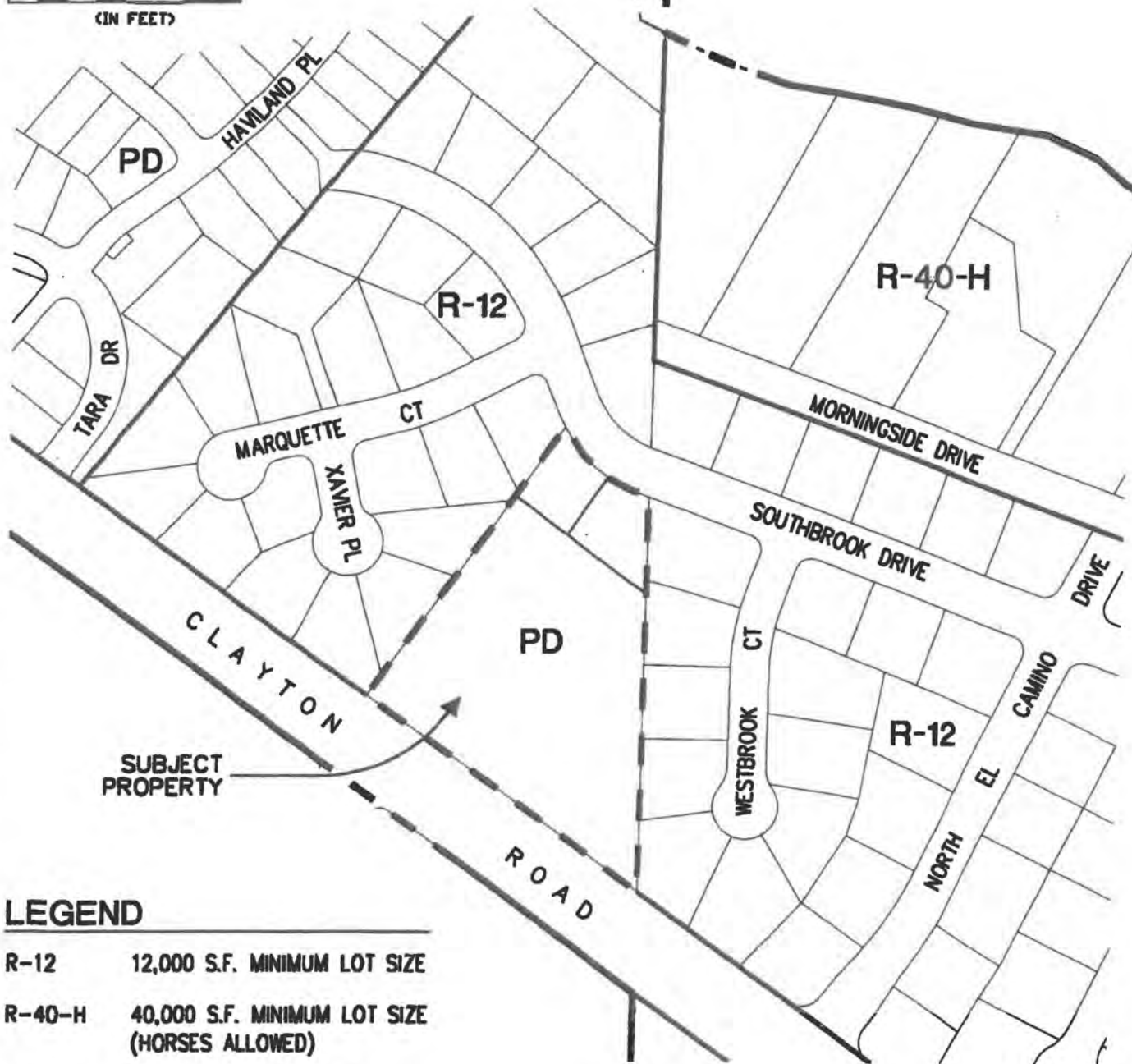
# PROPOSED ZONING MAP

## ST. JOHN'S EPISCOPAL CHURCH

### MS 01-15



GRAPHIC SCALE



### LEGEND

- R-12 12,000 S.F. MINIMUM LOT SIZE
- R-40-H 40,000 S.F. MINIMUM LOT SIZE (HORSES ALLOWED)
- PD PLANNED DEVELOPMENT

# CITY OF CLAYTON

Founded 1857 ... incorporated 1984

OCTOBER 2016

THU, OCT 13 2016 10:20 A WARREN ZONING MS 01-15 Z:\C0010502\ZONE MAP - 01-15.DWG

# ATTACHMENT 4

## RESOLUTION NO. XX-2016

### **A RESOLUTION OF THE CLAYTON CITY COUNCIL APPROVING THE DEVELOPMENT PLAN (DP-01-15), TENTATIVE PARCEL MAP (MAP-01-15), SITE PLAN REVIEW PERMIT (SPR-07-16), AND TREE REMOVAL PERMIT (TRP-37-15) FOR THE ST. JOHN'S EPISCOPAL CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT**

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

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, the applicant is proposing a Development Plan to develop two single-family residential lots; a Tentative Parcel Map to subdivide a 2.77-acre property into three parcels; a Site Plan Review Permit for review of architecture and landscaping; and a Tree Removal Permit to remove seven of the ten existing on-site trees as part of the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project; and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary; and recommended approval to the Clayton City Council for the proposed a Development Plan to develop two single-family residential lots; a Tentative Parcel Map to subdivide a 2.77-acre property into three parcels; a Site Plan Review Permit for review of architecture and design; and a Tree Removal Permit to remove seven of the ten existing on-site trees as part of the project; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 12-16, which recommended City Council approval of the Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit; and

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

**WHEREAS**, on November 15, 2016 and continued to December 6, 2016, the Clayton City Council held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, regarding the Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit; and

**WHEREAS**, Section 17.24.140.A.3 of the Clayton Municipal Code authorizes the City Council to approve development plans; and

**WHEREAS**, the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration (IS/MND) was prepared pursuant to the California Environmental Quality Act, which included an analysis of the Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit amendment and concluded that there is no substantial evidence to suggest that, as applicably mitigated, the Project would result in a less-than-significant impact on the environment; and

**WHEREAS**, the Clayton City Council adopted the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

**WHEREAS**, this Resolution cannot be implemented until Ordinance No. 471 - *An Ordinance of the Clayton City Council Amending the Clayton Zoning Map from Agricultural District (A) to Planned Development District (PD) for 2.77 Acres that Comprise the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project*, becomes effective.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council does determine the foregoing recitals are true and correct and makes the following findings for approval of the Development Plan as follows:

1. The City Council hereby finds, on the basis of the whole record before it, including all comments received, that the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-01-15):
  - a. Results in a significantly better quality development that could occur in a non-flexible zone based the evaluation of the project-related natural open space, open space, vehicular access, landscape design, site design, and design features, because the current zoning of Agricultural District (A) District would not allow new single-family residences and associated improvements to be constructed on lots that are 8,168 and 9,624 square feet in area which are uses and lot sizes that would be integrated and complementary with surround existing uses and lot sizes; and
  - b. Complies with the Open Spaces Requirements of Section 17.28.100 since the applicant is conditioned to enter into an agreement with the City to satisfy the applicable Open Space requirements; and
  - c. The General Plan land use designation for the 0.41-acre area has been amended to Single Family Medium Residential (MD) of which the two single-family homes are consistent with the General Plan land use designation, policies, and objectives for the site by complying with the intended land uses and density for the site; and

- d. Is compatible with and in harmony and character with the City as a whole and with adjoining areas and uses by incorporating two single-family residences which blend with the surrounding existing single-family neighborhoods and uses adjacent to the property; and
- e. Will incorporate mitigation measures identified by the project's Initial Study/Mitigated Negative Declaration and thereby reduce potentially significant impacts to less-than-significant levels. As a result, the project, as conditioned and mitigated, will not result in any significant effects on the environment, and there is no evidence that the project will have the potential for any adverse effect on fish and wildlife resources, or their habitat as defined in Section 711.2 of the Fish and Game Code; and
- f. Is sponsored by an applicant that intends to commence construction within 18 months after approval by the City Council of the Project's Development Plan.

**BE IT FURTHER RESOLVED**, the City Council does determine the foregoing recitals are true and correct and makes the following findings for approval of the tentative map as follows:

- 1. The City Council hereby finds, on the basis of the whole record before it, including all comments received, that the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Tentative Parcel Map (MAP-01-15):
  - a. The subdivision map, design, and improvements are consistent with the Clayton General Plan Single Family Medium Density land use designation, policies, and objectives for the site by complying with the intended land uses and density (3.1 – 5.0 units per acre) for the site, in accordance with Section 66473.5 of the State Government Code (Subdivision Map Act) and the City's regulation as related to tentative subdivision maps; and
  - b. The subdivision complies with State Government Code Section 66412.3 (Subdivision Map Act) by providing more residential units for the housing needs of the region while simultaneously not burdening public services needs of existing and future residents nor impacting fiscal and environmental resources; and
  - c. The subdivision has, to the maximum extent feasible, considered and provided availability for future passive or natural heating and cooling opportunities since the residences have been oriented on an east-to-west axis allowing for heating opportunities from sunshine throughout the day and the residences have incorporated large amounts of window openings to allow for adequate cooling opportunities through ventilation; and

- d. Will incorporate mitigation measures identified by the project's Initial Study/Mitigate Negative Declaration and thereby reduce potentially significant impacts to less-than-significant levels. As a result, the project, as conditioned and mitigated, will not result in any significant effects on the environment, and there is no evidence that the proposed project will have the potential for any adverse effect on fish and wildlife resources, or their habitat, as defined in Section 711.2 of the Fish and Game Code.

**BE IT FURTHER RESOLVED**, the City Council of the City of Clayton, based on the entire record before it and pursuant to its independent review and consideration hereby **APPROVES**, effective upon the effective date of Ordinance No. 471, a Development Plan to develop two single-family residential lots; a Tentative Parcel Map to subdivide a 2.77-acre property into three parcels; a Site Plan Review Permit for architecture and landscaping; and a Tree Removal Permit to remove seven of the ten existing on-site trees as part of the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project on property located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the Southbrook Drive Planned Development Standards set forth in Exhibit A attached hereto and incorporated herein by reference ("property") subject to the conditions listed below:

#### **PLANNING CONDITIONS**

1. Each property owner is responsible for the repair and maintenance of the required fences along their respective property lines. The fences shall be maintained in a style consistent with the design approved by the City.
2. A six-foot solid "good neighbor" wooden fence shall be installed along the northern property line of the St. John's Episcopal Church property and the southern (rear) property lines of both residential lots ("Lot A" and "Lot B"). The fence shall be a minimum of three (3) feet from the top of footing of all retaining walls. The location and design of the fence shall be submitted for review and approval by City staff.
3. All project-related fencing shall comply with the City's fencing standards including, but not limited to, the City's fencing height regulations.
4. The bottom of the second story windows on the side elevation (west [right] elevation of second story of residence on Lot A and east [left] elevation of second story of residence on Lot B ) of the both residences shall be a minimum of six (6) feet from the finished floor of second story floor level.
5. Property owners shall comply with the Tree Protection Conditions.
6. Routine inspection of the stormwater conveyance and treatment facilities, and the corresponding landscaping and irrigation improvements, shall be conducted by the property owner of each residential lot. The property owner of each residential lot shall be responsible for any needed maintenance work or repairs in their entirety.

7. The property owner of each residential lot shall perform and prepare annual inspections and reports for the stormwater conveyance and treatment facilities, which shall be submitted to the City along with payment of the City's required fees. In addition, the property owner of each residential lot shall be responsible to comply with the reports in relation to needed maintenance work or repairs.
8. The property owner of each residential lot shall be responsible to maintain the landscaping and irrigation in the public right-of-way and the stormwater conveyance and treatment facilities.
9. The deeds for all lots shall contain language which prohibits any future land division(s) to create additional home sites.
10. The project is subject to development impact fees. The applicant shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Wildlife.
11. At the time of filing of the final subdivision map, the subdivider shall pay the parkland dedication fees as determined by the City (pursuant to Chapter 16.12 of the Clayton Municipal Code).
12. The developer shall enter into an agreement with the City to satisfy the Open Space requirement as outlined in Section 17.28.100 of the Clayton Municipal Code. This agreement shall be completed prior to the filing of the final subdivision map.
13. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and other fees that are due.
14. Prior to the commencement of grading or construction activities, the applicant shall submit a recycling plan for construction materials to the City for review and approval. The plan shall include that all materials that would not be acceptable for disposal in the sanitary landfill be recycled/reused. Documentation of the material type, amount, where taken, and receipts for verification and certification statements shall be included in the plan. The applicant shall submit deposits to the City to ensure good faith efforts of construction and demolition recycling. A deposit of \$2,000 per residence shall be submitted prior to issuance of the building permit for each residence, or demolition permit. Appropriate documentation regarding recycling shall be provided to the City. All staff costs related to the review, monitoring, and enforcement of this condition shall be charged to the deposit account.
15. All conditions of approval, which are applicable to the construction of the subdivision improvements, shall appear on the improvement drawings.

16. Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the City of Clayton and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
17. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.
18. All mitigation measures set forth in the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration are hereby incorporated into these Conditions of Approval, as if fully contained herein, except those mitigation measures found infeasible pursuant to Section 15091 of the California Environmental Quality Act Guidelines. The applicant shall implement all mitigation measures set forth in the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Environmental Study/Mitigated Negative Declaration.
19. The applicant shall work with the neighboring property owners to replace the existing side yard fencing or install a new fence along, and just inside of, side property lines of each residential lot abutting existing adjacent residential properties.

**TREE PROTECTION CONDITIONS**

20. The recommendations listed in the Arborist Report, prepared for the project by Bob Peralta, ISA Certified Arborist, representing Valley Crest Tree Care Services (dated May 28, 2015), shall be implemented to protect trees to be retained on the project site. Specific tree preservation and preservation actions shall be listed on all grading and constructions plans and specifications for the project.

21. Prior to issuance of a grading permit, in accordance with the City's Tree Protection Ordinance, the applicant shall submit to the Community Development Department a Tree Replacement Plan identifying the protected tree that would be removed during project construction. Protected trees rated as being in fair or good health shall be replaced at the ratios specified in Section 15.70.040 of the Clayton Municipal Code. The Tree Replacement Plan shall be submitted for review and approval by the Community Development Director. [Mitigation Measure (MM) 2]
22. The following construction policies and guidelines for tree preservation and protection put forth by the City of Clayton shall be followed during project implementation [MM 3]:
  - a. The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all protected oaks subject to Section 15.70.020 of the Clayton Municipal Code.
  - b. A protective fence shall be installed around all oaks subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.
  - c. Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.
  - d. Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.
23. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees or shall be required to pay an lieu fee equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.
24. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

#### **LANDSCAPING CONDITIONS**

25. All plant material to be located in the public right-of-way shall be maintained by the property owner of each residential lot and is subject to inspection by the Maintenance Department and must be guaranteed for one year from the date of final inspection.
26. The applicant shall maintain all landscaped areas in the public right-of-way for a period of ninety (90) days after final acceptance of the subdivision improvements by the City Council. Following acceptance by



the City the property owner of each residential lot shall maintain all landscaped areas in the public right-of-way.

27. Installation of all irrigation and landscaping shall be performed by a licensed contractor.
28. All trees shall be planted at least ten (10) feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight (8) feet of a sidewalk or driveway shall be installed with root guards.
29. Prior to a grading permit being issued for the project, a revised Landscape, Irrigation, Fencing, and Retaining Wall Plan shall be submitted, along with construction plans for building permit issuance, to the Community Development Department for review and approval.
30. All project-related landscaping shall comply with the landscape water conservation standards listed in Chapter 17.80 of the Clayton Municipal Code.

#### **GRADING CONDITIONS**

31. Removal of trees shall occur between September 1<sup>st</sup> and January 31<sup>st</sup>, outside the bird nesting season, to the extent feasible. If tree removal must occur during the avian breeding season (February 1<sup>st</sup> to August 31<sup>st</sup>), a qualified biologist shall conduct a survey for nesting birds of all trees and shrubs within 75 feet of the entire project site 14 days prior to the commencement of construction, and submit the findings of the survey to the Community Development Director. If nesting passerines are identified during the survey within 75 feet of the project site, a 75-foot buffer around the nest tree shall be fenced with orange construction fencing. If the nest tree is located off the project site, then the buffer shall be demarcated as per above. The size of the buffer may be altered if a qualified biologist conducts behavioral observations and determines the nesting passerines are well acclimated to disturbance. If acclimation has occurred, the biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting passerines. Construction or earth-moving activity shall not occur within the established buffer until a qualified biologist has determined that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, which typically occurs by July 15th. However, the date may be earlier or later, and would have to be determined by a qualified biologist. If a qualified biologist is not hired to watch the nesting passerines, then the buffers shall be maintained in place through the month of August and work within the buffer may commence September 1<sup>st</sup>. [MM 1]

32. Prior to the issuance of a grading permit, the grading plan shall include a requirement (via notation) indicating that if cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken. to the issuance of a grading permit, the grading plan shall include a requirement (via notation) indicating that if cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken. [MM 4]
33. Pursuant to State Health and Safety Code §7050.5(c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. Additional work is not to take place in the immediate vicinity of the find, which shall be identified by the qualified archaeologist at the applicant's expense, until the preceding actions have been implemented. [MM 5]
34. Prior to the issuance of a grading permit, the applicant shall prepare to the satisfaction of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions include, but are not limited to, the following:
- a. Hydro-seeding;
  - b. Placement of erosion control measures within drainage ways and ahead of drop inlets;

- c. The temporary lining (during construction activities) of drop inlets with "filter fabric";
  - d. The placement of straw wattles along slope contours;
  - e. Use of designated equipment and vehicle "wash-out" location;
  - f. Use of siltation fences;
  - g. Use of on-site rock/gravel road at construction access points; and
  - h. Use of sediment basins and dust palliatives.
35. During grading and construction, the project contractor shall ensure that the following measures are implemented, consistent with the recommendations in the Environmental Noise and Vibration Analysis:
- a. Grading and construction activities shall be limited to the daytime hours between 7:00 a.m. to 5:00 p.m. Monday through Friday, as specified in Section 15.01.101 of the Clayton Municipal Code. Any such work beyond said hours and days is strictly prohibited unless previously specifically authorized in writing by the City Engineer or designee or by project conditions of approval;
  - b. The distances between on-site construction and demolition staging areas and the nearest surrounding residences shall be maximized to the greatest extent possible; and
  - c. All construction and demolition equipment that utilizes internal combustion engines shall be fitted with manufacturer's mufflers or equivalent. [MM 9]
36. A licensed surveyor or engineer shall survey the locations, elevations, and limits of the trunk and dripline of all trees to be retained and protected as shown on the tentative map tree retention plan. The locations and limits are to be shown on the grading plans and the construction plans. A licensed arborist shall review the proposed construction operations that may impact the preserved trees and shall provide mitigations that shall be incorporated into the grading and construction plans. The arborist shall review and approve (by signature on the plans) the grading and improvement plans prior to submittal to the City for plan check.
37. Signature blocks shall be provided for the Community Development Director and City Engineer on the grading and construction plans.
38. All required setbacks shall contain at least five feet of flat, unoccupied area. "Flat" means a cross-slope between 2% and 10%. "Unoccupied" means no encroachments by fireplaces, building pop-outs (with or without a foundation), air conditioner pads and the like.
39. Two feet of flat area shall be provided between a property or right-of-way line and the top of slope.
40. The recommendations of the geotechnical report shall be incorporated into the grading and construction plans.

41. All grading shall be performed under the direction and inspection of a registered soils or geotechnical engineer and shall be in conformance with the recommendations of the geotechnical report and the requirements of the City Engineer. Prior to the construction of any improvements, the engineer shall submit a testing and observation report to the City Engineer for review and approval.
42. Grading and stormwater permits shall be obtained from the City Engineer.
43. The applicant shall implement all of the Bay Area Air Quality Management District's Basic Construction Mitigation Measures, which include the following:
  - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - d. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - e. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - f. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
  - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

#### **STREET CONDITIONS**

44. The existing driveway at Parcel A is to be removed and replaced with standard curb, gutter and sidewalk.

45. The proposed driveway shall be constructed in accordance with the City's Standard Plan for driveways with monolithic sidewalks.
46. Applicant shall remove and replace any damaged existing curb, gutter and sidewalk as directed by the City Engineer.
47. Driveway and retaining walls at Southbrook Drive shall be designed to provide adequate sight distance per the City's Standard Plan.
48. The configuration and width of the shared driveway for the two residential lots shall be reviewed and approved by the City Engineer.
49. All mailbox locations shall be constructed and grouped in accordance with United States Postal Service standards and the grouping of mailboxes shall be architecturally treated to reduce massing and visual impact. All mailbox locations and design are subject to review and approval of the Community Development Department and the United States Postal Service.

#### **DRAINAGE CONDITIONS**

50. Total storm runoff peak flows from the site shall not exceed pre-development levels. All stormwater runoff from impervious areas shall be treated and contaminants removed prior to discharge from the site. The design of the detention and treatment facilities shall be subject to the approval of the City Engineer.
51. The applicant shall submit a Final Stormwater Control Plan (including an Operations and Maintenance Manual) fully addressing the requirements of the City's recently amended Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Permit No. CAS612008, as amended November 10, 2015), including the new "Green Streets/Green Infrastructure" requirements, and including an alternative to the use of sump pumps, such as dry wells, to the satisfaction of the City Engineer. [MM 8]
52. Maintenance of all drainage facilities shall be the responsibility of the homeowner on whose lot the facilities are located or adjacent to (including those facilities within the public right-of-way).
53. The improvement plans shall reflect that all on-site storm drain inlets shall be labeled "No Dumping – Drains to Creek" using thermoplastic stenciling or equivalent permanent method, subject to City approval.
54. All roofs shall have rain gutters with rain water leaders that drain into depressed biofiltration treatment beds located within landscaped areas before discharging into the storm drain system or the street.

55. The Mosquito and Vector Control District and its contractors shall have the right of access to conduct inspections and maintenance of all on-site drainage devices.
56. Developer shall, prior to commencement of construction, enter into a recorded covenant and agreement for each lot with the following requirements at a minimum:
  - a. Bioretention planter to be maintained as originally constructed and in accordance with the approved Operations and Maintenance Plan. Planters may not be modified without the approval of the City Engineer.
  - b. By September 15<sup>th</sup> of each year, lot owner is to perform (or have performed by a firm approved by the City) a pre-rainy season inspection and submit a report to the City along with payment of the required fees. Any deficiencies noted shall be remedied within 20 calendar days of completion of the inspection.
  - c. City shall have the right of access to inspect the bioretention planter at any time.
  - d. Should said City inspection reveal any problems or inadequacies with the bioretention planter or drainage system, Owner shall be notified and must remedy the problems or inadequacies within 30 days of said notice.

#### **UTILITY CONDITIONS**

57. Sanitary sewer plans shall be submitted to the City of Concord and the City Engineer for review and approval.
58. A sewer cleanout shall be provided on each sewer lateral at the front property line of each residential lot.
59. The applicant shall connect all residences to the sanitary sewer system, obtain applicable permits and pay applicable fees as required by the City of Concord.
60. The applicant shall install two four-inch conduits and pull-boxes with pull lines for City use for future tele-communication purposes. Conduits shall be installed in the public utility easement with termination on residential property lines behind the curbs.
61. The width of new access and maintenance easements for underground facilities shall be twice the depth of the facility with a minimum width of ten (10) feet, as determined appropriate and applicable by the City Engineer.
62. Underground facilities crossing lots shall be located in flat portions of the lots, not within slope areas.

63. Any existing underground facilities, either on-site or adjacent to the site, no longer required shall be either removed or filled, as directed by the City Engineer.
64. The applicant shall furnish and install the conduit required by AT&T California for the service connection wires or cables.

#### **ENGINEERING CONDITIONS**

65. The applicant shall obtain an encroachment permit for all work in the public right-of-way.
66. All required easements or rights-of-way for off-site improvements shall be obtained by the applicant at no cost to the City of Clayton. Advance permission shall be obtained from any property or easement holders for any work to be done within such property or easements.
67. Upon recording of the final map, the City shall be given a full size, reproducible, Mylar copy of the recorded map and an electronic file of the map in AutoCAD. Upon completion of the improvements and prior to City Council acceptance, the City shall be given a full size, reproducible Mylar copy of the grading, construction, irrigation and landscape plans (plus an electronic copy in PDF), annotated to reflect changes that occur during construction and signed by the Project Engineer and Landscape Architect.
68. All work shall be designed and constructed in accordance with the Municipal Code requirements and City Standard Plans and Specifications.
69. During construction, the project contractor, at the expense of the project applicant, shall completely remove and re-compact the existing non-engineered fill on-site under the supervision of a registered geotechnical engineer, according to the recommendations presented in the Geotechnical Investigation. The contractor shall remove the upper undocumented fill soil from the area extending at least five feet beyond the edge of the planned building envelopes and also below the planned rear retaining wall. Once removed, subsequent engineered fill may be used as approved by a licensed geotechnical engineer. A written summary of the operations shall be submitted to the City Engineer. [MM 7]

#### **PARKING CONDITION**

70. Four off-street parking spaces shall be provided on each lot; two covered spaces in the garage of each residence and two uncovered spaces which can be provided tandem or side by side in the driveways of each lot.

**EXPIRATION CONDITION**

71. The St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-04-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) shall expire simultaneously with the expiration of the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project Tentative Subdivision Map (MAP-01-15), pursuant to the tentative map expiration provisions listed in the State of California Government Code Subdivision Map Act.

**ADVISORY NOTES**

1. The applicant shall obtain the necessary approvals from the Contra Costa County Fire Protection District.
2. The applicant shall provide an adequate and reliable water supply for fire protection as set forth in the Uniform Fire Code.
3. The access driveway/roadway and turnaround improvements must be completed and inspected by the Contra Costa County Fire Protection District (CCCFPD) prior to construction on the two residential lots.
4. Development on any parcel in this subdivision shall be subject to review and approval by the CCCFPD to ensure compliance with minimum CCCFPD requirements.
5. Any future proposed residences are required to be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 13D or Section R313.3 of the 2013 California Residential Code. A minimum of two (2) sets of sprinkler plans shall be submitted to the CCCFPD for both residences for review and approval prior to installation.
6. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Clayton on the 6<sup>th</sup> day of December 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:



THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk

I hereby certify that the foregoing Resolution was passed, approved, and adopted at a regular meeting of the City Council of the City of Clayton held on the 6<sup>th</sup> day of December 2016.

\_\_\_\_\_  
Janet Brown, City Clerk

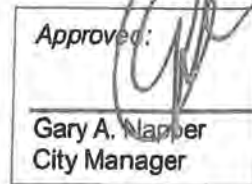
**EXHIBIT A**

**SOUTHBROOK DRIVE PLANNED DEVELOPMENT  
DEVELOPMENT STANDARDS**

<b>Front Setback</b>	<b>Interior Side Setback</b>	<b>Exterior Side Setback</b>	<b>Rear Setback</b>	<b>Accessory Buildings and Structures</b>	<b>Principal Building Height</b>	<b>Accessory Building Height</b>
20'	10' minimum 25' aggregate	Not Applicable	15'	Subject to CMC Section 17.36.055	Subject to CMC Section 17.16.070	Subject to CMC Section 17.36.055

# ATTACHMENT - 5

Agenda Date: 11/15/16  
Agenda Item: 7b



## STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCIL MEMBERS**

**FROM: MILAN J. SIKELA, JR., ASSISTANT PLANNER**

**DATE: NOVEMBER 15, 2016**

**SUBJECT: PUBLIC HEARING TO REVIEW AND CONSIDER THE THREE-LOT ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (ENV-01-15), GENERAL PLAN AMENDMENT (GPA-01-15), REZONE (ZOA-03-15), DEVELOPMENT PLAN (DP-01-15), TENTATIVE PARCEL MAP (MAP-01-15), SITE PLAN REVIEW PERMIT (SPR-07-16), AND TREE REMOVAL PERMIT (TRP-37-15)**

### RECOMMENDATIONS

It is recommended the City Council consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, take the following actions:

- 1) Motion to approve City Council Resolution No. XX-2016 (**Attachment 1**) adopting the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15); and
- 2) Motion to approve City Council Resolution No. XX-2016 (**Attachment 2**) adopting a General Plan Amendment for 0.41 acres of the project site from Institutional Density (ID) to Single Family Medium Density (MD) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project (GPA-01-15); and
- 3a) Motion to have the City Clerk read the Ordinance No. 471 by title and number only and waive further reading; and

- 3b) Following the Clerk's reading; motion to approve City Council Ordinance No. 471 (**Attachment 3**) rezoning the project site from Agricultural District (A) to Planned Development District (PD) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project (ZOA-03-15); and
- 4) Motion to approve City Council Resolution No. XX-2016 (**Attachment 4**) approving the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for a three-lot subdivision for two single-family homes, to be effective on the same date as adoption of Ordinance No. 471

### **BACKGROUND/DISCUSSION**

On October 25, 2016 the Planning Commission reviewed and approved four Planning Commission Resolutions which recommended City Council approval of the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development project. The St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development project is located on a 2.77-acre parcel between Clayton Road (located on the project site's southern frontage) and Southbrook Drive (located on the project's site's northern frontage) and is surrounded by existing single-family residential neighborhoods to the east and west (see **Attachment 5** for Vicinity Map). The subject property is addressed as 5555 Clayton Road (APN: 118-101-022) and is the site of the existing St. John's Episcopal Church comprising the church itself, ancillary church buildings, and a parking lot with 82 parking spaces.

The applicant proposes to subdivide the existing property into three lots. The largest parcel would consist of the existing structures and the parking lot related to the church; all existing structures and the parking lot associated with the church would remain unchanged by the project. The other two proposed parcels would be located in the northernmost undeveloped portion of the subject property adjacent to Southbrook Drive and would be utilized for the construction of two single-family residences, one two-story residence on each lot that would front onto and be accessed from Southbrook Drive.

The project entails review and consideration of an Initial Study/Mitigation Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).

## **ENVIRONMENTAL REVIEW**

In compliance with the California Environmental Quality Act (CEQA), the City has prepared an Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed project. The IS/MND was circulated for a 20-day public review period from September 19, 2016 to October 10, 2016. Due to the length of the IS/MND, the document was distributed to the City Council on November 9, 2016. The IS/MND and MMRP are available for review at the Community Development Department on the third floor of City Hall and can also be found on the City's website at:

<http://www.ci.clayton.ca.us/documents/ENV-01-15.FINAL.Public.Review.Draft%20Southbrook%20ISMND%20091316.pdf>

The IS/MND evaluated the potential project-related environmental impacts: aesthetics, agriculture resources, air quality, greenhouse gas emissions, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology, land use, mineral resources, noise, population and housing, public services, recreation, transportation/circulation, and utilities and service systems, and mandatory findings of significance. Of the eighteen potential impacts evaluated, the IS/MND identified five environmental factors that are "potentially significant": biological resources, cultural resources, geology and soils, hydrology and water quality, and noise. Mitigation measures have been provided for the five potentially significant impacts, thereby reducing the project impacts on the environment to a "less-than-significant" level. The evaluations, impacts, and mitigation measures are described in detail in the IS/MND.

## **GENERAL PLAN AMENDMENT**

The project site currently has a General Plan land use designation of Institutional Density (ID) (**Attachment 6**) which is intended for the development of various forms of senior housing projects under the sponsorship of public or quasi-public agencies with densities ranging from 7.6 to 20 units per acre. Since the two proposed single-family residences would not be compliant with the ID designation, the applicant is requesting to change the land use designation of the northernmost 0.41 acres to Single Family Medium Density (MD) (**Attachment 7**). The MD designation allows for planned unit development and single-family subdivisions including zero lot line projects and single-family residences at densities ranging from 3.1 to 5 units per acre as well as ancillary uses and structures typically associated with single-family residential development, including second dwelling units. Given that the 0.41-acre area is being split into two lots, the average lot size of the 0.41-acre area being proposed for a General Plan land use designation change is 8,929.8 square feet in area, amounting to 4.878 units per acre, which complies with the density range of 3.1 to 5 units per acre. As a result, the General Plan Amendment would allow compatibility for the proposed project with uses and densities allowed within the MD designation.

In looking at the surrounding General Plan land use designations, directly adjacent to the project site are Single Family Low Density (1.1 to 3 units per acre), Public and Semi-Public (City of Concord), and Single Family Residential (City of Concord) land

use designations. Within the immediate vicinity are also Single Family High Density (5.1 to 7.5 units per acre) and Rural Estate (0 to 1.0 units per acre). Given the mixture of surrounding residential land use designations, the proposed MD designation for the two residential lots would adequately integrate with the spectrum of nearby residential designations which range from Rural Estate to Single Family High Density.

### Housing Element

State law requires that the State Department of Housing and Community Development (HCD) forecast statewide housing needs and allocate the anticipated need to regions throughout the state. For the Bay Area, HCD provides the regional need to the Association of Bay Area Governments (ABAG), which then distributes the Regional Housing Needs Assessment (RHNA) to the cities and counties within the ABAG region. ABAG allocates housing production goals for cities and counties based on their projected share of the region's household growth, the state of the local housing market and vacancies, and the jurisdiction's housing replacement needs.

For the 2014-2022 projection period, ABAG has allocated the City of Clayton a total of 141 housing units, which must be accommodated for and demonstrated within the City's Housing Element. The City's 2015-2023 Housing Element identifies a citywide capacity of 275 housing units, which provides for a housing surplus of 134 units above the City's assigned RHNA of 141 units.

The Housing Element identifies the entire project site as an Underdeveloped Site and assigned it a realistic "unit capacity" (80% of the maximum density) of 42 units. While the northern 0.41-acre portion of the subject property includes a General Plan Amendment to a less dense residential designation, there is still adequate capacity citywide to accommodate the City's RHNA. The remaining 2.36-acre portion of the subject property could be utilized for future housing development as identified by the General Plan land use designation. The realistic "unit capacity", as assumed in the City's Housing Element, for the remaining 2.36-acre property is 37 units and the inclusion of the two proposed homes would bring the total units for the project site to 39 units, assuming approval of the General Plan Amendment. This is a decrease of a total of three units, from the assumed realistic capacity of 42 units, which still leaves an overall City capacity of 272 units, which is a surplus of 131 units above the required Regional Housing Needs Allocation. Therefore, the proposed project, including the General Plan Amendment, would not conflict with the City's General Plan including the 2015-2023 Housing Element due to there still being adequate capacity to accommodate the RHNA.

### REZONE

The current zoning for the subject property is Agricultural District (A) (**Attachment 8**). The surrounding zoning classifications directly adjacent to the project site are Single Family Residential R-12 District, Planned District (City of Concord), and Community Office (City of Concord). Within the immediate vicinity are also Single Family Residential R-40-H and Planned Development (PD) zoning districts. Existing uses on the project site include the church, ancillary church structures, and the church parking

lot, which are uses that are not characterized as agriculture, but are allowable per the Clayton Municipal Code with the approval a use permit. As the current zoning classification would suggest permitted uses would encompass such agriculture-related activities as farming, forestry, and the keeping of aviaries and apiaries. Also, the minimum lot size for properties in the Agricultural District is 5 acres, whereas the project site is 2.77 acres in area, showing a lack of conformance between the subject property and its existing zoning. Furthermore, the project site is not well-suited for agricultural activities, as it is surrounded in its entirety by residential development and church/office uses. Agricultural uses may be considered incompatible with residential, church, and office uses as agricultural activities could create noise, odors, and dust, which could be disruptive to nearby non-agriculture uses.

Furthermore, the Institutional Density General Plan land use designation for the subject property is intended for senior housing under sponsorship of public or quasi-public agencies and does not allow for agricultural uses. Since agricultural uses would conflict with the senior housing uses intended for the site by the General Plan, the proposed rezone to Planned Development would establish greater conformity between the existing General Plan land use designation for the site and the current and proposed uses (**Attachment 9**). In addition to providing conformity, the rezone would not conflict with any applicable land use plans, policies, or regulations.

Approval of the rezone would provide land use integration between the proposed residential portion of the project site and surrounding residential properties, allow development flexibility for potential future projects that may be proposed on the church portion of the subject property, and improve compatibility between zoning classifications and General Plan land use designations, resulting in a more harmonious development pattern that is consistent with the City's current vision.

## **DEVELOPMENT PLAN**

### **Open Space**

The proposed project is requesting a rezone of the entire project site to Planned Development; therefore, the provisions of CMC Chapter 17.28 would also be applicable, including the open space requirements of CMC Section 17.28.100. This section requires provisions for active and passive open space comprising of at least 20 percent of the project site. As a result, the proposed project would be required to acquire and dedicate off-site land for open space or make an in-lieu contribution for the dedication and/or maintenance of open space.

The total area of the two single family home sites is 17,859 square feet and 20 percent of that square footage the developer is required to provide as open space, with 10 percent active open space and 10 percent passive open space. Since on-site open space is not being provided, the developer has three options and shall memorialize the selected option or a combination of options by entering into an agreement with the City, prior to the recordation of the final map: 1) acquire the equivalent amount of land for public open space and/or the construction of open space at an off-site location, 2)

payment of an in-lieu financial contribution to the City for acquisition and/or maintenance of public open space, or 3) if the financial contributions are based upon maintenance costs, such contributions shall be based upon reasonable maintenance costs for a 10-year period and shall be proportional to the land area that would be required if open space area was provided on-site. Staff has provided a condition that the developer shall comply with the open space requirements of the CMC and shall enter into an agreement with the City regarding the open space requirements of the project.

**Development Standards**

The Planned Development District allows for flexibility in regulations, limitations, and restrictions different than those specified elsewhere in the City such as setbacks and height limitations, location of pedestrian and vehicular access, construction fences and walls, amongst others. The development standards for the two lots for the two single-family homes are proposed in the table below. Staff analyzed the development standards in the adjacent Single Family Residential Districts and found the proposed development standards were identical, with the exception of lot area, to those within the Single Family Residential R-12 District, which is the zoning district immediately adjacent to the proposed project; therefore the proposed development standards conform to surrounding existing development standards, development patterns, and house orientations.

<b>Front Setback</b>	<b>Interior Side Setback</b>	<b>Exterior Side Setback</b>	<b>Rear Setback</b>	<b>Accessory Buildings and Structures</b>	<b>Principal Building Height</b>	<b>Accessory Building Height</b>
20'	10' minimum 25' aggregate	Not Applicable	15'	Subject to CMC Section 17.36.055	Subject to CMC Section 17.16.070	Subject to CMC Section 17.36.055



**TENTATIVE PARCEL MAP**

The applicant proposes to subdivide the subject 2.77-acre property into three parcels with approximate proposed lot areas measuring as follows:

<b>PARCEL</b>	<b>AREA (IN SQUARE FEET)</b>	<b>AREA (IN ACRES)</b>
A	8,168	0.19
B	9,624	0.22
REMAINDER PARCEL WHERE EXISTING CHURCH IS LOCATED	102,933	2.36

The Tentative Parcel Map proposes to create two new single-family residential lots (Lot A and Lot B) on the undeveloped northern portion of the property along Southbrook Drive. The remaining third parcel will contain the existing church buildings and parking lot. The two proposed single-family residential lots are proposed to have a single-family residence placed on each lot that will be accessed by a shared driveway running along and being bisected by the shared side property line of the two proposed lots. The shared driveway is proposed to be 16 feet in width. Staff has provided a condition that the shared driveway width is subject to review and approval by the City Engineer.

Two existing easements are located on the east side property line of Lot B: a 5-foot wide private drainage easement and a 5-foot wide private stormdrain easement.

Regarding the required parking for the project, staff has provided a condition that four off-street parking spaces shall be provided on each lot; two covered spaces in the garage of each residence and two uncovered spaces which can be provided tandem or side by side in front of the garages of each residence.

Section 16.12 of the CMC requires all new subdivisions to dedicate land, pay a fee in-lieu thereof, or both for park or recreational purposes. For projects involving 50 parcels or less, the proposed subdivision is required to pay a fee equal to the land value of the portion of the local park required to serve the needs of the residents of the proposed subdivision. A condition has been provided requiring payment of parkland dedication fees at the time of filing the final map.

## **GRADING**

There are two topographical components of the subject property—the more level portion of the property, although with a slight downslope, where the church structures and parking lot are located; and then the steeper undeveloped portion of the lot at its northernmost reaches adjacent to Southbrook Drive. The more level portion of the property starts at a maximum elevation of approximately 349 feet above sea level and gradually descends from the southeastern corner of the church parcel along Clayton Road trending in a northwesterly downslope where, in the northern area, the downslope steepens to a minimum elevation of approximately 325 feet above sea level at the northwestern corner of proposed Lot A along Southbrook Drive. The majority of the elevation decline is in the northern portion of the property where the two single-family residential lots will be located. The maximum elevation of the residential portion of the property is approximately 337 feet above sea level with a minimum elevation of approximately 325 feet above sea level. The church portion of the property drops 11 feet in a 620-foot distance, then the terrain in the proposed residential area of the lot steepens considerably, dropping another 12 feet in an approximate 108-foot distance.

In order to address the downslope in the northern portion of the property, the applicant proposes to level off the residential portion of the property in order to provide graded pads for construction of the two proposed residences. As a result, a condition has been provided that the applicant shall obtain a grading permit from the City Engineer. With the pad elevation of the residences located at approximately 8 feet above the sidewalk, the applicant is proposing to install two staircases—one on each residential lot—leading from the sidewalk along Southbrook Drive up to the front porch of each home. Also, a cut in the slope is proposed for the shared driveway which will rise from Southbrook Drive to access the garages for each residence. Retaining walls approximately 2 feet 6 inches in height will run along either side of the driveway where the walls will terminate into the ground as the driveway reaches its apex in front of the garages. At the rear of the graded level residential pad areas backing up to the church parcel will be a retaining wall with a proposed maximum height of approximately 5 feet 6 inches, wrapping around to the side property lines of each residential lot where the wall will shorten to several inches in height. The church parcel would not be altered in any way by grading or the installation of retaining walls or fencing.

## **UTILITIES**

Water, sewer, and stormwater infrastructure for the church parcel would remain unchanged with the implementation of the proposed project. The proposed project would only alter the undeveloped northern portion of the project site as part of the construction of two new single-family residences.

### Water

Contra Costa Water District (CCWD) will provide water to the residential portion of the project site. Currently, an existing CCWD water main is located along Southbrook Drive which the applicant proposes to utilize in order to serve the two residential parcels via two water laterals extending from the existing water main, one water lateral to each lot.

### Sewer

Sewer service is currently provided in proximity to the residential project site by the City of Concord from an existing sewer line located along Southbrook Drive. The project would include the connection of the proposed residential units to sewer service by way of a new 8-inch sewer line extending from the existing sewer main. Two sewer laterals are proposed to service the two residential parcels, one sewer lateral to each lot. Conditions have been provided that the applicant shall provide a sewer cleanout on each sewer lateral at the front property line and shall submit sewer plans for review and approval by the City of Concord and the Clayton City Engineer.

### Stormwater

In order to comply with State's C.3 Standards, the portion of the project site proposed for development has been separated into drainage management areas corresponding with the two residential units. Stormwater runoff from the drainage management areas would be directed to separate bioretention areas, with one bioretention area on each residential lot. Per C.3 Guidebook instructions, the proposed bioretention areas would be sized with adequate capacity to receive and treat all runoff from the impervious areas of the project. Runoff entering the bioretention areas would move through permeable soil layers, which would slow the stormwater while also removing pollutants that may be contained in the runoff. Stormwater that exceeds the bioretention facilities' infiltration capacity, such as in the case of heavy storm events, would be directed to existing stormwater infrastructure located on the eastern portion of the project site and on Southbrook Drive.

Staff has concerns that the applicant proposes the use of sump pumps as a component of the on-site storm drain system, which would not be reliable. Furthermore, the use of sump pumps would require backup generators. Given the constraints of this design, a condition has been provided that an alternative design to the use of sump pumps shall be provided by the applicant, to be reviewed and approved by the City Engineer.

Funding for the operation and maintenance of the stormwater detention basins as well as all drainage facilities located on or adjacent to (including those facilities located in the public right-of-way) each residential lot will be the ongoing responsibility of the property owner of each residential lot. In order to ensure that the stormwater detention basins are not modified in any way and are adequately maintained, staff has provided a condition that the property owner for each lot shall be responsible for (including but not limited to) inspection, reporting, and maintenance of stormwater conveyance and treatment facilities, for which a covenant and agreement (including

stormwater operations and maintenance plan) will be recorded against each property. As conditioned, inspections would occur prior to September 15<sup>th</sup> of each year and report inspection findings to the City along with the payment of required fees. Conditions have also been provided addressing project-related stormwater, stormdrain, and drainage issues, including, but not limited to, the applicant submitting to the City Engineer for review and approval a stormwater operations and maintenance plan along with a final stormwater control plan.

## **SITE PLAN REVIEW PERMIT**

### **Architecture and Design**

As part of the project, two single-family residences are proposed for construction on the two proposed single-family lots on the Southbrook Drive frontage of the project site, one residence on each lot. Both residences are proposed as two-story homes with four bedrooms, three bathrooms, and a two-car garage. Floor plans and architectural elevations are provided as **Attachment 11**, roof plans are provided as **Attachment 12**, and exterior colors and materials are provided as **Attachment 13**.

While the two-story residences have been designed with slight variations in their exterior colors and materials, the residences share some architectural similarities as well. Each residence is proposed at 26 feet 9 inches in height, which complies with the 35-foot maximum building height allowed in single-family residential districts, as stipulated in CMC Section 17.16.070. Both residences are proposed to be designed with belly bands, "brown gray range" concrete roofing tile, and a 6:12 roof pitch. Plan A will utilize tan vertical board-and-batt siding, horizontal siding on the second-story gabled roof ends, and "El Dorado – La Plata Bluffstone" stone veneer highlights. Plan B will utilize grayish-brown "Hardie" horizontal siding, shingle siding on the second-story gabled roof ends, and "El Dorado – Bluffstone Mineret" stone veneer highlights.

Each residence features sufficient articulation with various projections, recesses, and undulations on all four facades. Visual interest is provided with the varying window sizes and locations which use a multitude of mullions and muntins to break up the various panes of window glass. The earth tones of the proposed exterior colors and materials provide dynamic yet subtle color schemes that foster a unique curb appeal augmenting the neighborhood streetscape while, at the same time, blending architectural integration and continuity with surrounding existing structures. Staff notes that the applicant was sensitive to minimizing impacts to the privacy of surrounding residences by placing only one second-story window on each side elevation of the proposed residences that faces toward the adjacent existing residential properties. Also, the appearance of the residences from off-site areas is enhanced by the garages being located toward the rear of the residences and oriented toward the other proposed residence rather than toward the street or adjacent existing homes. Furthermore, given that the garage is recessed in a stepped-in fashion behind the plane of the side elevations of the staircase and main floor bedroom sections of each residence, the garage is further screened from adjacent private properties, public streets, and public sidewalks.

**Setback Analysis**

As discussed earlier, the Planned Development zoning proposed for the site allows the project to establish project-specific setbacks, at the discretion of the City Council. Staff has provided a setback analysis below comparing the proposed setbacks for the two new lots and setbacks for comparable existing interior lots in the surrounding R-12 District. As is evident, the proposed setbacks for both lots (which are interior lots) are consistent with surrounding existing interior lot setbacks and actually provide a greater amount of setback area than interior lots in the R-12 District.

<b>Existing Setbacks Surrounding R-12 District</b>	<b>Proposed Setbacks Plan A</b>	<b>Proposed Setbacks Plan B</b>
Front Setback 20'	Front Setback (North) 20'	Front Setback (North) 20'
Side Setback 10' minimum  25' aggregate	Side Setback West 15' East 17' Aggregate 32'	Side Setback West 17' East 15' Aggregate 32'
Rear Setback 15'	Rear Setback (South) 17'	Rear Setback (South) 20'

**Residential Floor Area Analysis**

*Building Footprint*

The project meets the applicable building footprint requirements as show below.

<b>Proposed Lot Area Lot A</b>	<b>Proposed Building Footprint</b>	<b>Maximum Building Footprint Allowed</b>	<b>Compliance With Building Footprint Requirements</b>
8,168 sq ft	1,912 sq ft	2,400 sq ft	Yes

<b>Proposed Lot Area Lot B</b>	<b>Proposed Building Footprint</b>	<b>Maximum Building Footprint Allowed</b>	<b>Compliance With Building Footprint Requirements</b>
9,624 sq ft	1,912 sq ft	2,880 sq ft	Yes

**Floor Area**

The project meets the applicable building footprint requirements as show below.

<b>Proposed Lot Area Lot A</b>	<b>Proposed Floor Area</b>	<b>Maximum Floor Area Allowed</b>	<b>Compliance With Floor Area Requirements</b>
8,168 sq ft	3,168 sq ft	4,133 sq ft	Yes

<b>Proposed Lot Area Lot B</b>	<b>Proposed Floor Area</b>	<b>Maximum Floor Area Allowed</b>	<b>Compliance With Floor Area Requirements</b>
9,624 sq ft	3,168 sq ft	4,640 sq ft	Yes

**Landscaping**

The applicant has submitted a Landscape Plan for the project (see Attachment 14). The applicant is providing a mixture of Japanese maple, eastern redbud, and crape myrtle trees as well as various shrubs, ornamental grasses, and groundcovers. Staff has provided a condition that, prior to a grading permit being issued for the project, a revised Landscape, Irrigation, Fencing, and Retaining Wall Plan shall be submitted along with construction plans for building permit issuance to the Community Development Director for review and approval. Furthermore, landscaping (ornamental grasses and groundcovers) is proposed in front of both residential lots in the public right-of-way along Southbrook Drive. A condition has been provided addressing installation and maintenance of landscaping in the public right-of-way.

Overall, as conditioned, staff is satisfied with the proposed landscape plan as the applicant shows a good use of accent trees and a variety of shrubs and groundcover to provide a mix of heights, vegetative textures, and colors. Furthermore, the applicant has made good use of drought-tolerant landscaping and avoided utilizing turf as part of their landscape proposal. Staff has provided a condition that the landscaping for the project comply with the City's landscape water conservation standards, as listed in Chapter 17.80 of the CMC at the time of plan submittal.

### Fencing

Fencing is being proposed from the front porch of the residence on Lot A and the front corner of the residence on Lot B to both respective side property lines as well as in the rear yards of each residential lot. Staff conducted a site inspection of the property and observed that the existing side yard fences of each adjacent residential lot are older good-neighbor fences. As a result, staff has provided a condition that either the applicant work with the neighboring property owners to replace the existing side yard fencing or shall install a new fence along the side property lines of each residential lot abutting the existing adjacent residential properties.

### Retaining Walls

The proposed project includes construction of multiple retaining walls. The retaining walls are proposed with brownish-tan coloring using a high-strength pin-connection Basalite Geowall system (see **Attachment 15**). As a point of clarification, **Attachment 15** depicts a three-tiered retaining wall; however, the retaining walls proposed for the project will only be a single tier. The attachment was provided to show the color and style of the proposed retaining wall rather than the number of tiers. As mentioned previously, staff has provided a condition that complete retaining wall plans shall be submitted to the City for review and approval by the Community Development Director to ensure design compliance with the City's approval.

The largest retaining wall would be approximately 6 feet or less in height and would separate the church parking lot from the proposed backyards of each residential lot. The grade would be retained along the property line separating the parcel containing the church from the parcels containing proposed residential units. Additional retaining walls will also be placed on either side of the proposed shared driveway, as well as on either side of the entry stairways leading from each residence to the sidewalk along Southbrook Drive. Currently, a dilapidated wooden retaining wall exists adjacent to the sidewalk along Southbrook Drive that will be removed and replaced with a fill slope as part of the proposed project. Soil displacement between the removal of existing retaining walls and the construction of new retaining walls is expected to be essentially balanced and, as a result, the proposed project is not expected to require soil import or export.

Overall, as conditioned, staff is satisfied with the design of the proposed retaining walls with the natural earth tone colors as it will blend well with surrounding topography, neighborhood, and landscaping.

### **TREE REMOVAL PERMIT**

Currently existing on the project site are ten trees. As part of the project, the applicant is requesting approval of a Tree Removal Permit to remove seven of the ten trees, for which an Arborist Report has been submitted (see **Attachment 16**). Contained within the Arborist Report is a narrative that, in summary, addresses the poor branch structure and stress of the existing trees caused by the lack of maintenance and irrigation.

The applicant has submitted a Landscape Plan showing that six replacement trees will be provided. In analyzing the replacement trees vis-à-vis the removed trees, staff calculated the trunk diameter of the subject trees, which is the method of measurement used by the City to assess the size of a tree related to tree removal and/or tree replanting in accordance with the City's Tree Protection Ordinance. Section 15.70.015.E of the CMC defines the trunk diameter as the diameter of a tree trunk as measured 4 feet 6 inches above natural grade. Of the six replacement trees, three of them are proposed at 24-inch box size and three of them are proposed at 15-gallon size. Depending on the species of tree, a 24-inch box tree generally measures 1 to 2 inches in trunk diameter. For purposes of this analysis, staff averaged the trunk diameter of a 24-inch box tree as 1.5 inches (halfway between the 1- to 2-inch trunk diameter of 24-inch box trees). As for 15-gallon trees, a 15-gallon tree generally measures 0.5 to 1 inch in trunk diameter. Staff averaged the trunk diameter of a 15-gallon tree as 0.75 inches (halfway between the 0.5- to 1-inch trunk diameter). Based on these trunk diameter averages, three replacement 24-inch box trees would amount to a total of 4.5 inches of replacement trunk diameter and three replacement 15-gallon trees would amount to a total of 2.25 inches of replacement trunk diameter. As a result, the applicant is proposing to provide a combined total of 6.75 inches of replacement tree.

Section 15.70.040.A of the CMC provides the following options for tree replacement:

- For every inch of removed tree trunk diameter, a half inch (or 50%) of replacement tree may be provided if the replacement tree *is not* on the City's Protected Tree list; or
- For every inch of removed tree trunk diameter, a third of an inch (or 33%) of replacement tree may be provided if the replacement tree *is* on the City's Protected Tree list.

When evaluating the amount of removed tree diameter against replacement tree diameter, staff notes that four of the seven trees slated for removal have trunk diameters that are below the 6-inch minimum trunk diameter threshold that would trigger the requirement for a Tree Removal Permit. In other words, only three of the seven trees proposed for removal have trunk diameters exceeding the 6-inch trunk diameter threshold requirement. Based on this observation, staff notes that the three trees triggering the Tree Removal Permit requirement amount to a cumulative total of 20 inches of trunk diameter (6, 6, and 8 inches). Since the applicant is proposing to use replacement trees that are not on the City's Protected Tree list, 50% of the 20-inch removed tree trunk diameter would have to be mitigated by 10 inches of replacement tree(s). Given the applicant's proposed 6.75 inches of replacement tree trunk diameter, there is a shortfall of 3.25 inches of replacement tree trunk diameter.



As a result, staff has provided a condition that, prior to issuance of a grading permit for the project, a Tree Replacement Plan be submitted showing either two additional 24-inch box replacement trees or four additional 15-gallon trees to compensate for the 3.25-inch replacement tree trunk diameter shortfall or shall pay the appropriate tree replacement in-lieu fee if the applicant demonstrates there is not adequate space on-site to accommodate the required replacement trees with review and approval by the Community Development Director. Furthermore, a condition is provided that all project-related trees shall be planted a minimum of 10 feet away from water, sewer, and stormdrain lines. In addition, in order to minimize damage to public improvements (i.e. sidewalks), staff has provided a condition that trees planted less than 10 feet away from public improvements shall have root guards installed.

### **ENGINEERING COMMENTS**

As part of the project, the applicant will be providing off-site curb, gutter, and sidewalk modifications and improvements in the public right-of-way along Southbrook Drive as part of the installation of the shared driveway as well as for the removal of an existing unused driveway on the street frontage of Lot A. In order to ensure that improvements done in the public right-of-way are compliant with City regulations, including addressing safety issues relating to line-of-sight for vehicles entering and exiting the shared driveway, conditions have been provided regarding public right-of-way improvements and line-of-sight issues related to the retaining walls adjacent to the shared driveway as well as the shared driveway itself.

### **COMMENTS RECEIVED**

#### **Contra Costa County Fire Protection District**

The Contra Costa County Fire Protection district reviewed the proposal and made a determination that the project complies with Fire District standards as related to fire safety access. Staff has provided advisory notes addressing project compliance with Fire District requirements.

#### **East Contra Costa County Habitat Conservancy**

The requirements of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), as promulgated by the East Contra Costa County Habitat Conservancy, would not be applicable to this project. According to CMC Section 16.55.030, any development that permanently disturbs less than one acre of land would not be subject to the HCP/NCCP. Since the project to permanently disturb only 0.41 acres of land, the project would not be subject to HCP/NCCP requirements.

#### **Public Comment**

Staff received an email expressing opposition to the project. A copy of the email has been provided as **Attachment 17**.

## **FISCAL IMPACT**

It is anticipated the approval of this project will not result in a direct fiscal impact to the City. The developer is required to pay the impacts fees pertaining to community facilities development, offsite arterial improvements, childcare, parkland dedication, possible open space in-lieu, and fire development protection. These impact fees are to offset costs associated with this infrastructure. Further, the City will collect property taxes on the two new homes, which will assist by offsetting a portion of ongoing City operating costs.

## **ATTACHMENTS**

1. City Council Resolution No. XX-2016 adopting the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15) [8 pp.]
2. City Council Resolution No. XX-2016 adopting a General Plan Amendment to modify 0.41 acres of the project site from Institutional Density (ID) to Single Family Medium Density (MD) for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project (GPA-01-15) [3 pp.]
3. City Council Ordinance No. 471 approving a rezone of the project site from Agricultural District (A) to Planned Development District (PD) for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project (ZOA-03-15) [3 pp.]
4. City Council Resolution No. XX-2016 approving the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for a three-lot subdivision for two single-family homes [16 pp.]
5. Vicinity Map [1 p.]
6. Existing General Plan Land Use Designation [1 p.]
7. Proposed General Plan Land Use Designation [1 p.]
8. Existing Zoning Classification [1 p.]
9. Proposed Zoning Classification [1 p.]
10. Development Plan and Tentative Parcel Map Plan (including Preliminary Grading Plan, Preliminary Stormwater Control Plan, Boundary and Topography Plan, Site Plan, and Site Sections) [7 pp.]
11. Floor Plans and Architectural Elevations [4 pp.]
12. Roof Plans [2 pp.]
13. Exterior Colors and Materials Diagram [2 pp.]
14. Landscape Plan [1 p.]
15. Retaining Wall Example [1 p.]
16. Arborist Report [2 pp.]
17. Email from Michael Mayer-Oakes [1 p.]

# ATTACHMENT 1

## RESOLUTION NO. XX-2016

### A RESOLUTION OF THE CLAYTON CITY COUNCIL ADOPTING THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT

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

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Tentative Parcel Map (MAP-01-15), Development Plan (DP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, the City prepared the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration ("IS/MND") and Mitigation Monitoring and Reporting Program ("MMRP") to evaluate the potential environmental impacts of the Project, in accordance with Section 15063 of Title 14 of the California Code of Regulations, the California Environmental Quality Act ("CEQA") Guidelines; and

**WHEREAS**, a draft IS/MND was duly noticed and circulated for a 20-day review period, with the public review comment period commencing on September 19, 2016 and ending on October 10, 2016; and

**WHEREAS**, no comments were received by the City on the IS/MND during the 20-day public review period;

**WHEREAS**, the Clayton Planning Commission has reviewed the IS/MND for the Project; and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the IS/MND and MMRP, received and considered testimony and evidence, both oral and documentary, and recommended Clayton City Council adopt the IS/MND and MMRP; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 09-16, which recommended City Council adoption of the IS/MND and MMRP; and

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

**WHEREAS**, on November 15, 2016, the Clayton City Council held a duly-noticed public hearing on the IS/MND and MMRP, received and considered testimony and evidence, both oral and documentary; and

**WHEREAS**, the custodian of the Final IS/MND is the Clayton Community Development Department and the Final IS/MND is available for public review at City Hall in the Community Development Department and the MMRP is attached as Exhibit A to this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLAYTON, THAT:**

**SECTION 1.** The City Council does hereby find and affirm the above noted Recitals are true and correct are hereby incorporated in the body of this Resolution as if restated in full.

**SECTION 2.** The Clayton City Council hereby finds, on the basis of the whole record before it (including the IS/MND, MMRP, and all comments received) that:

- a. The City of Clayton exercised overall control and direction over the CEQA review for the Project, including preparation of the Final IS/MND and MMRP, and independently reviewed the Final IS/MND and MMRP; and
- b. There is no substantial evidence that the Project will have a significant effect on the environment once mitigation measures have been followed; and
- c. The Final IS/MND and MMRP reflect the City's independent judgement and analysis.

**SECTION 3.** The Clayton City Council hereby adopts the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Clayton, California, at a regular meeting thereof held on the 15<sup>th</sup> day of November, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
Howard Geller, Mayor

ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk

I certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton, California at a regular meeting held on the 15<sup>th</sup> day of November, 2016.

\_\_\_\_\_  
Janet Brown, City Clerk

St. John's Church/Southbrook Drive Mixed Use Planned Development Project  
Mitigation Monitoring and Reporting Program

October 2016

The California Environmental Quality Act (CEQA) and CEQA Guidelines require Lead Agencies to adopt a program for monitoring the mitigation measures required to avoid the significant environmental impacts of a project. The Mitigation Monitoring and Reporting Program (MMRP) ensures that mitigation measures imposed by the City are completed at the appropriate time in the development process.

The mitigation measures identified in the Initial Study/Mitigated Negative Declaration for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project are listed in the MMRP along with the party responsible for monitoring implementation of the mitigation measure, the milestones for implementation and monitoring, and a sign-off that the mitigation measure has been implemented.

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
<p><b>Mitigation Measure 1.</b> Removal of trees shall occur between September 1st and January 31st, outside the bird nesting season, to the extent feasible. If tree removal must occur during the avian breeding season (February 1st to August 31st), a qualified biologist shall conduct a survey for nesting birds of all trees and shrubs within 75 feet of the entire project site 14 days prior to the commencement of construction, and submit the findings of the survey to the Community Development Department. If nesting passerines are identified during the survey within 75 feet of the project site, a 75-foot buffer around the nest tree shall be fenced with orange construction fencing. If the nest tree is located off the project site, then the buffer shall be demarcated as per above. The size of the buffer may be altered if a qualified biologist conducts behavioral observations and determines the nesting passerines are well acclimated to disturbance. If acclimation has occurred, the biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting passerines. Construction or earth-moving activity shall not occur within the established buffer until a qualified biologist has determined that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, which typically occurs by July 15th. However, the date may be earlier or later, and would have to be determined by a qualified biologist. If a qualified biologist is not hired to watch the nesting passerines, then the buffers shall be maintained in place through the month of August and work within the buffer may commence September 1st.</p>	<p>City of Clayton Community Development Department  Qualified Biologist</p>	<p>If tree removal must occur during the avian breeding season (February 1st to August 31st), then nesting bird survey shall be conducted 14 days prior to the commencement of construction</p>	
<p><b>Mitigation Measure 2.</b> Prior to issuance of a grading permit, in accordance with the City's Tree Protection Ordinance, the applicant shall submit to the Community Development Department a Tree Replacement Plan identifying the protected tree that would be removed during project construction. Based upon the current tentative parcel map, the arborist report indicates that one protected tree is proposed for removal, and is rated by the Arborist Report as being of moderate health (Tree #6). Protected trees rated as being in fair or good health shall be replaced at the ratios specified in City of Clayton Municipal Code Section 15.70.040. The Tree Replacement Plan shall be submitted for review and approval by the Community Development Director prior to issuance of a grading permit.</p>	<p>City of Clayton Community Development Department</p>	<p>Prior to the issuance of a grading permit</p>	
<p><b>Mitigation Measure 3.</b> The following construction policies and guidelines for tree preservation and protection for the existing trees put forth by the City of Clayton shall be followed during project implementation:</p>	<p>City of Clayton Community Development Department</p>	<p>Prior to the commencement of any construction activity and during</p>	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
<ul style="list-style-type: none"> <li>• The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all protected oaks subject to City of Clayton Municipal Code Section 15.70.020.</li> <li>• A protective fence shall be installed around all oaks subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.</li> <li>• Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.</li> <li>• Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.</li> </ul>		construction	
<p><b>Mitigation Measure 4.</b> Prior to the issuance of a grading permit, the grading plan shall include a requirement (via notation) indicating that if cultural resources, or human remains are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken.</p>	City of Clayton Community Development Department	Prior to the issuance of a grading permit, mitigation requirements shall be noted on grading plan	
<p><b>Mitigation Measure 5.</b> Pursuant to State Health and Safety Code §7050.5(c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the</p>	City of Clayton Community Development Department  Contra Costa County Coroner (if	During construction	



<b>Mitigation Measure</b>	<b>Monitoring Agency</b>	<b>Implementation Schedule</b>	<b>Compliance Verification (Date / Initials)</b>
<p>contractor to develop a program for re-interment of the human remains and any associated artifacts. Additional work is not to take place in the immediate vicinity of the find, which shall be identified by the qualified archaeologist at the applicant's expense, until the preceding actions have been implemented.</p>	<p>human bone or bone of unknown origin is found during construction)</p> <p>Native American Heritage Commission (if remains determined to be Native American)</p>		
<p><b>Mitigation Measure 6.</b> Prior to the issuance of a grading permit, the project applicant shall prepare to the satisfaction of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions should include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Hydro-seeding;</li> <li>• Placement of erosion control measures within drainage ways and ahead of drop inlets;</li> <li>• The temporary lining (during construction activities) of drop inlets with "filter fabric";</li> <li>• The placement of straw wattles along slope contours;</li> <li>• Use of a designated equipment and vehicle "wash-out" location;</li> <li>• Use of siltation fences;</li> <li>• Use of on-site rock/gravel road at construction access points; and</li> <li>• Use of sediment basins and dust palliatives.</li> </ul>	<p>City Engineer</p>	<p>Prior to the issuance of a grading permit</p>	
<p><b>Mitigation Measure 7.</b> During construction, the project contractor, at the expense of the project applicant, shall completely remove and re-compact the existing non-engineered fill on-site under the supervision of a registered geotechnical engineer, according to the recommendations presented in the Geotechnical Investigation. The contractor shall remove the upper undocumented fill soil from the area extending at least five feet beyond the edge of the planned building envelopes and also below the planned rear retaining wall. Once removed, subsequent engineered fill may be used as approved by a licensed geotechnical engineer. A written summary of the operations shall be</p>	<p>City Engineer</p>	<p>During construction</p>	

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
<i>submitted to the City Engineer.</i>			
<b>Mitigation Measure 8.</b> <i>The applicant shall submit a Final Stormwater Control Plan (including an Operations and Maintenance Manual) fully addressing the requirements of the City's recently amended Municipal Regional Stormwater NPDES Permit (Permit No. CAS612008, as amended November 19, 2015), and including an alternative to the use of sump pumps, such as dry wells, to the satisfaction of the City Engineer.</i>	City Engineer	Prior to approval of improvement plans	
<b>Mitigation Measure 9.</b> <i>During grading and construction, the project contractor shall ensure that the following measures are implemented, consistent with the recommendations in the Environmental Noise and Vibration Analysis:</i> <ul style="list-style-type: none"> <li>• <i>Grading and construction activities shall be limited to the daytime hours between 7:00 AM to 5:00 PM Monday through Friday, as specified in Section 15.01.101 of the Clayton Municipal Code. Any such work beyond said hours and days is strictly prohibited unless previously specifically authorized in writing by the City Engineer or designee or by project conditions of approval;</i></li> <li>• <i>The distances between on-site construction and demolition staging areas and the nearest surrounding residences shall be maximized to the extent possible; and</i></li> <li>• <i>All construction and demolition equipment that utilizes internal combustion engines shall be fitted with manufacturer's mufflers or equivalent.</i></li> </ul>	City of Clayton Community Development Department  City Engineer	During grading and construction	

## ATTACHMENT 2

### RESOLUTION NO. XX-2016

**A RESOLUTION OF THE CLAYTON CITY COUNCIL  
MODIFYING THE EXISTING LAND USE DESIGNATION  
FROM INSTITUTIONAL DENSITY (ID) TO SINGLE FAMILY MEDIUM DENSITY  
(MD) FOR THE NORTHERN 0.41 ACRES OF THE  
ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED  
DEVELOPMENT PROJECT**

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

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, the applicant is proposing to modify the existing General Plan land use designation for a 0.41-acre portion of the 2.77-acre site located on the northern area of the property adjacent to Southbrook Drive from Institutional Density (ID) to Single Family Medium Density (MD) in order to create two single-family residential lots (0.19 acres and 0.22 acres in area) for the construction of a single-family residence on each lot; and

**WHEREAS**, the General Plan Amendment request is to modify the existing General Plan land use designation for the two single-family residential lots proposed as part of the St. John's Church/Southbrook Drive Mixed Use Planned Development Project and is not considered to be a "substantial amendment"; and

**WHEREAS**, the remaining 2.36-acre portion of the property containing the St. John's Episcopal Church will maintain its existing General Plan land use designation of Institutional Density (ID); and

**WHEREAS**, Section 65358 of the California Government Code provides for the amendment of all or part of an adopted General Plan; and

**WHEREAS**, the proposed modification of the General Plan land use designation for the 0.41-acre portion of the property adjacent to Southbrook Drive from Institutional Density (ID) to Single Family Medium Density (MD) would be in the public interest, has been assessed for potential impacts, and has been determined to not be detrimental to the public health, safety, or welfare; and

**WHEREAS**, the surrounding neighborhood, including properties adjacent to the Project consist of the single-family residential uses; and

**WHEREAS**, the proposed modification of the General Plan land use designation for the 0.41-acre portion of the property adjacent to Southbrook Drive from Institutional Density (ID) to Single Family Medium Density (MD) is internally consistent with the balance of the General Plan; and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, and recommended approval to the Clayton City Council for the proposed amendment to the General Plan land use designation for 0.41 acres of the project site from Institutional Density (ID) to Single Family Medium Density (MD) for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 10-16, which recommended City Council approval of the General Plan amendment; and

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

**WHEREAS**, on November 15, 2016, the Clayton City Council held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, regarding the General Plan amendment; and

**WHEREAS**, the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration (IS/MND) was prepared pursuant to the California Environmental Quality Act, which included an analysis of the amendment to the General Plan land use designation of 0.41 acres of the property from Institutional Density (ID) to Single Family Medium Density (MD) and concluded that the Project would result in a less-than-significant impact on the environment; and

**WHEREAS**, the Clayton City Council adopted the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Clayton, based on the entire record before it and pursuant to its independent review and consideration hereby **APPROVES** a General Plan amendment for 0.41 acres from Institutional Density (ID) to Single Family Medium Density (MD) for property located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the map set forth in Exhibit A attached hereto and incorporated herein by reference ("property").

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Clayton on the 15<sup>th</sup> day of November 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

---

Howard Geller, Mayor

ATTEST:

---

Janet Brown, City Clerk

I hereby certify that the foregoing Resolution was passed, approved, and adopted at a regular meeting of the City Council of the City of Clayton held on the 15<sup>th</sup> day of November, 2016.

---

Janet Brown, City Clerk

Exhibit A

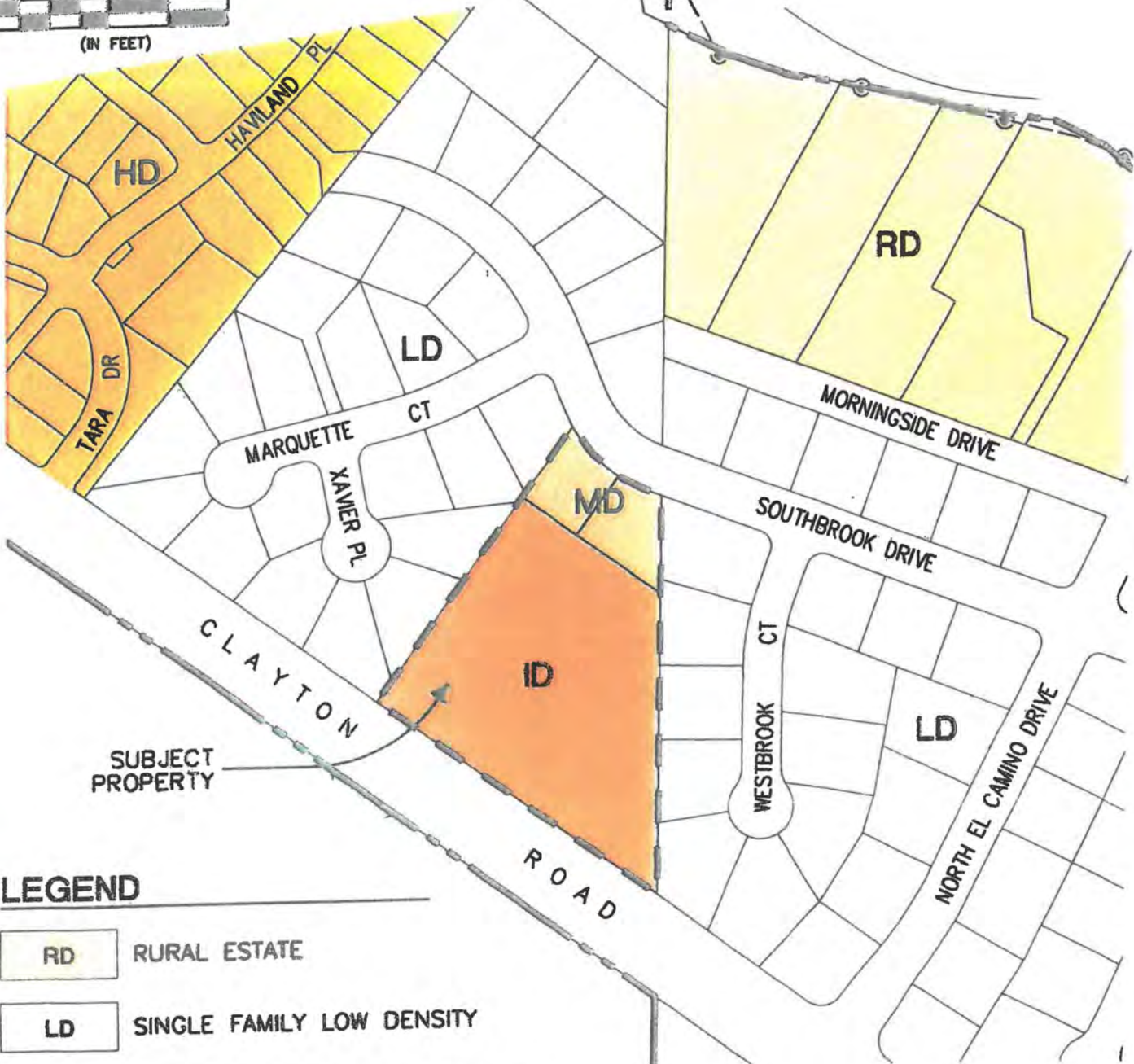
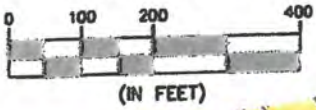
PROPOSED GENERAL PLAN

ST JOHN'S EPISCOPAL CHURCH

MS 01-15



GRAPHIC SCALE



SUBJECT PROPERTY

LEGEND

- RD RURAL ESTATE
- LD SINGLE FAMILY LOW DENSITY
- MD SINGLE FAMILY MEDIUM DENSITY
- HD SINGLE FAMILY HIGH DENSITY
- ID INSTITUTIONAL DENSITY

CITY OF CLAYTON

Founded 1857 ...Incorporated 1964

OCTOBER 2016

# ATTACHMENT 3

## ORDINANCE NO. 471

### AN ORDINANCE OF THE CLAYTON CITY COUNCIL AMENDING THE CLAYTON ZONING MAP FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT DISTRICT (PD) FOR 2.77 ACRES THAT COMPRISE THE ST. JOHN'S CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT

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

**WHEREAS**, Chapter 17.56 of the Clayton Municipal Code authorizes the City Council to amend the Official Zoning Map of the City of Clayton; and

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, and recommended approval to the Clayton City Council for the proposed modification of the zoning designation from Agricultural District (A) to Planned Development District (PD) for the 2.77-acre site comprised of St. John's Church/Southbrook Drive Mixed Use Planned Development Project; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 11-16, which recommended City Council approval of the rezone; and

**WHEREAS**, on November 15, 2016, the Clayton City Council held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, regarding the rezone; and

**WHEREAS**, the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act, which included an analysis of the rezone of the property from Agricultural District (A) to Planned Development District (PD), and concluded that there is no substantial evidence to suggest that the Project would have a significant effect on the environment; and

**WHEREAS**, the Clayton City Council adopted the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and

**WHEREAS**, the City Council approved a General Plan Amendment of 0.41 acres of the subject site from Institutional Density (ID) to Single Family Medium Density (MD); and

**WHEREAS**, the proposed zoning classification modification is in general conformance with the General Plan and that the public necessity, conveniences, and general welfare require the adoption of the proposed zoning classification modification; and

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

**SECTION 1.** The above-stated citations are true and accurate.

**SECTION 2.** Based on the entire record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this Ordinance, the real property at located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the map set forth in Exhibit A attached hereto and incorporated herein by reference ("property") is hereby modified from Agricultural District (A) to Planned Development District (PD).

**SECTION 3. CEQA.** The City Council hereby determines that the project's environmental impacts, which included the rezoning of the property from Agricultural District (A) to Planned Development District (PD), could be mitigated to a less-than-significant impact as determined by the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP).

**SECTION 4. Severability.** If any provisions of this Ordinance, or the application thereof to any person or circumstances, if held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of the 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 5. 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 6. 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 this Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular noticed public meeting of the City Council of the City of Clayton held on the 15<sup>th</sup> day of November, 2016.



**PASSED, ADOPTED, AND ORDERED POSTED** at a regular meeting of the City Council of the City of Clayton on December 6, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
Howard Geller, Mayor

ATTEST:

\_\_\_\_\_  
Janet Brown, City Clerk

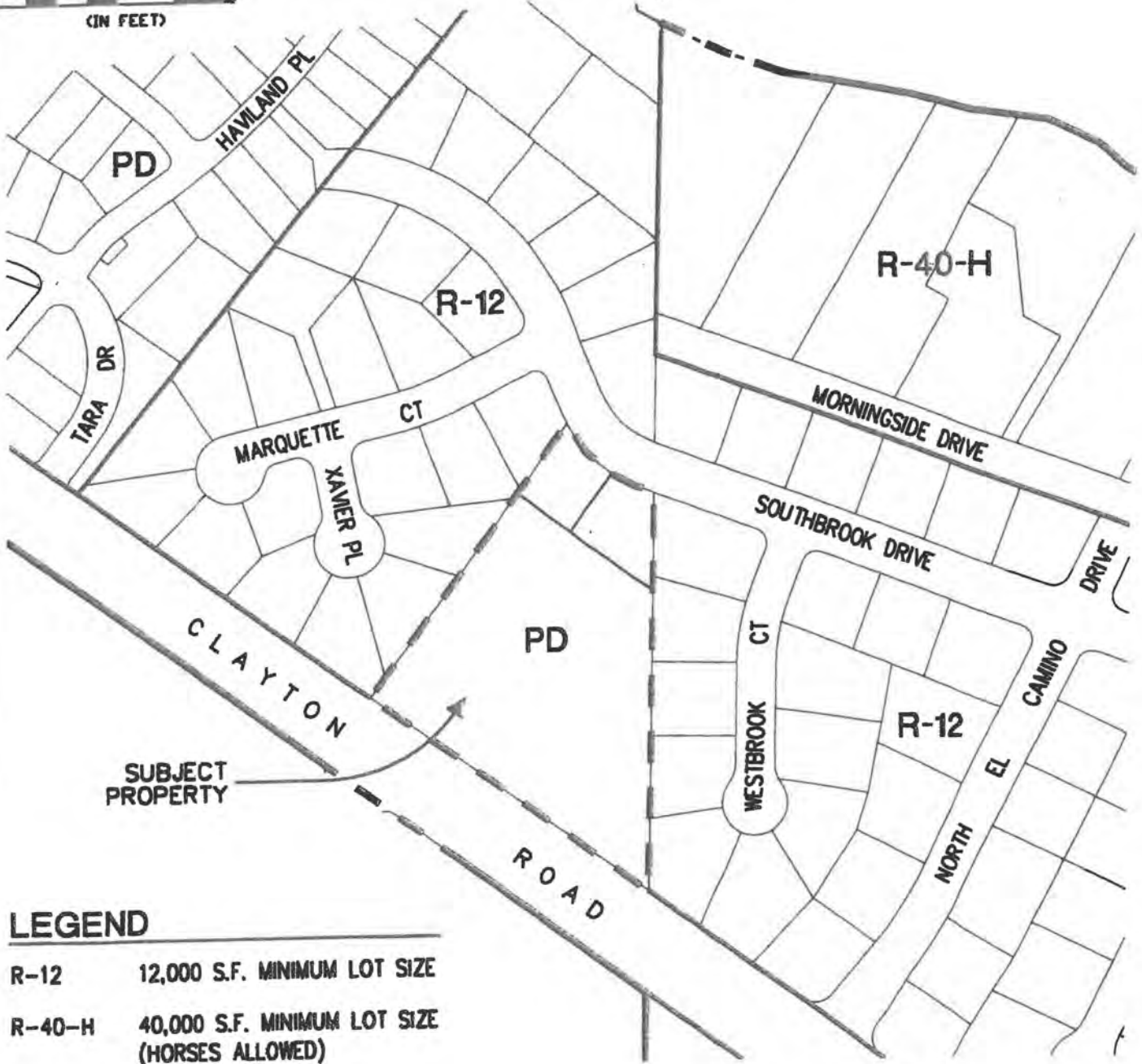
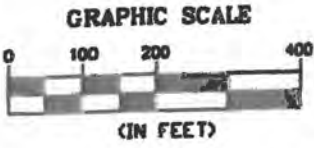
I hereby certify that the foregoing Ordinance was duly introduced at a noticed regular meeting of the City Council of the City of Clayton held on November 15, 2016, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council of the City of Clayton held on December 6, 2016.

\_\_\_\_\_  
Janet Brown, City Clerk

# PROPOSED ZONING MAP

## ST. JOHN'S EPISCOPAL CHURCH

### MS 01-15



### LEGEND

- R-12 12,000 S.F. MINIMUM LOT SIZE
- R-40-H 40,000 S.F. MINIMUM LOT SIZE (HORSES ALLOWED)
- PD PLANNED DEVELOPMENT

**CITY OF CLAYTON**

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**OCTOBER 2016**

# ATTACHMENT 4

## RESOLUTION NO. XX-2016

### A RESOLUTION OF THE CLAYTON CITY COUNCIL APPROVING THE DEVELOPMENT PLAN (DP-01-15), TENTATIVE PARCEL MAP (MAP-01-15), SITE PLAN REVIEW PERMIT (SPR-07-16), AND TREE REMOVAL PERMIT (TRP-37-15) FOR THE ST. JOHN'S EPISCOPAL CHURCH/SOUTHBROOK DRIVE MIXED USE PLANNED DEVELOPMENT PROJECT

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

**WHEREAS**, the City received an application from Armand Butticci requesting review and consideration of an Initial Study/Mitigated Negative Declaration (ENV-01-15), General Plan Amendment (GPA-01-15), Rezone (ZOA-03-15), Development Plan (DP-01-15), Tentative Parcel Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the subdivision of the existing 2.77-acre St. John's Episcopal Church property into three parcels for the existing church and two single-family residences ("Project"). The Project site is located at 5555 Clayton Road (APN: 118-101-022); and

**WHEREAS**, the applicant is proposing a Development Plan to develop two single-family residential lots; a Tentative Parcel Map to subdivide a 2.77-acre property into three parcels; a Site Plan Review Permit for review of architecture and landscaping; and a Tree Removal Permit to remove seven of the ten existing on-site trees as part of the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project; and

**WHEREAS**, on October 25, 2016, the Clayton Planning Commission held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, and recommended approval to the Clayton City Council for the proposed a Development Plan to develop two single-family residential lots; a Tentative Parcel Map to subdivide a 2.77-acre property into three parcels; a Site Plan Review Permit for review of architecture and design; and a Tree Removal Permit to remove seven of the ten existing on-site trees as part of the project; and

**WHEREAS**, the Clayton Planning Commission approved Planning Commission Resolution No. 12-16, which recommended City Council approval of the Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit; and

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

**WHEREAS**, on November 15, 2016, the Clayton City Council held a duly-noticed public hearing on the matter, received and considered testimony and evidence, both oral and documentary, regarding the Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit amendment; and

**WHEREAS**, Section 17.24.140.A.3 of the Clayton Municipal Code authorizes the City Council to approve development plans; and

**WHEREAS**, the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration (IS/MND) was prepared pursuant to the California Environmental Quality Act, which included an analysis of the Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit amendment and concluded that there is no substantial evidence to suggest that, as applicably mitigated, the Project would result in a less-than-significant impact on the environment; and

**WHEREAS**, the Clayton City Council adopted the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

**WHEREAS**, this Resolution cannot be implemented until Ordinance No. 471 - *An Ordinance of the Clayton City Council Amending the Clayton Zoning Map from Agricultural District (A) to Planned Development District (PD) for 2.77 Acres that Comprise the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project*, becomes effective.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council does determine the foregoing recitals are true and correct and makes the following findings for approval of the Development Plan as follows:

1. The City Council hereby finds, on the basis of the whole record before it, including all comments received, that the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-01-15):
  - a. Results in a significantly better quality development that could occur in a non-flexible zone based the evaluation of the project-related natural open space, open space, vehicular access, landscape design, site design, and design features, because the current zoning of Agricultural District (A) District would not allow new single-family residences and associated improvements to be constructed on lots that are 8,168 and 9,624 square feet in area which are uses and lot sizes that would be integrated and complementary with surround existing uses and lot sizes; and
  - b. Complies with the Open Spaces Requirements of Section 17.28.100 since the applicant is conditioned to enter into an agreement with the City to satisfy the applicable Open Space requirements; and
  - c. The General Plan land use designation for the 0.41-acre area has been amended to Single Family Medium Residential (MD) of which the two single-family homes are consistent with the General Plan land use designation, policies, and objectives for the site by complying with the intended land uses and density for the site; and

- d. Is compatible with and in harmony and character with the City as a whole and with adjoining areas and uses by incorporating two single-family residences which blend with the surrounding existing single-family neighborhoods and uses adjacent to the property; and
- e. Will incorporate mitigation measures identified by the project's Initial Study/Mitigated Negative Declaration and thereby reduce potentially significant impacts to less-than-significant levels. As a result, the project, as conditioned and mitigated, will not result in any significant effects on the environment, and there is no evidence that the project will have the potential for any adverse effect on fish and wildlife resources, or their habitat as defined in Section 711.2 of the Fish and Game Code; and
- f. Is sponsored by an applicant that intends to commence construction within 18 months after approval by the City Council of the Project's Development Plan.

**BE IT FURTHER RESOLVED**, the City Council does determine the foregoing recitals are true and correct and makes the following findings for approval of the tentative map as follows:

- 1. The City Council hereby finds, on the basis of the whole record before it, including all comments received, that the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Tentative Parcel Map (MAP-01-15):
  - a. The subdivision map, design, and improvements are consistent with the Clayton General Plan Single Family Medium Density land use designation, policies, and objectives for the site by complying with the intended land uses and density (3.1 – 5.0 units per acre) for the site, in accordance with Section 66473.5 of the State Government Code (Subdivision Map Act) and the City's regulation as related to tentative subdivision maps; and
  - b. The subdivision complies with State Government Code Section 66412.3 (Subdivision Map Act) by providing more residential units for the housing needs of the region while simultaneously not burdening public services needs of existing and future residents nor impacting fiscal and environmental resources; and
  - c. The subdivision has, to the maximum extent feasible, considered and provided availability for future passive or natural heating and cooling opportunities since the residences have been oriented on an east-to-west axis allowing for heating opportunities from sunshine throughout the day and the residences have incorporated large amounts of window openings to allow for adequate cooling opportunities through ventilation; and

- d. Will incorporate mitigation measures identified by the project's Initial Study/Mitigate Negative Declaration and thereby reduce potentially significant impacts to less-than-significant levels. As a result, the project, as conditioned and mitigated, will not result in any significant effects on the environment, and there is no evidence that the proposed project will have the potential for any adverse effect on fish and wildlife resources, or their habitat, as defined in Section 711.2 of the Fish and Game Code.

**BE IT FURTHER RESOLVED**, the City Council of the City of Clayton, based on the entire record before it and pursuant to its independent review and consideration hereby **APPROVES** a Development Plan to develop two single-family residential lots; a Tentative Parcel Map to subdivide a 2.77-acre property into three parcels; a Site Plan Review Permit for architecture and landscaping; and a Tree Removal Permit to remove seven of the ten existing on-site trees as part of the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project on property located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the Southbrook Drive Planned Development Standards set forth in Exhibit A attached hereto and incorporated herein by reference ("property") subject to the conditions listed below:

#### **PLANNING CONDITIONS**

1. Each property owner is responsible for the repair and maintenance of the required fences along their respective property lines. The fences shall be maintained in a style consistent with the design approved by the City.
2. All project-related fencing shall comply with the City's fencing standards including, but not limited to, the City's fencing height regulations.
3. Property owners shall comply with the Tree Protection Conditions.
4. Routine inspection of the stormwater conveyance and treatment facilities, and the corresponding landscaping and irrigation improvements, shall be conducted by the property owner of each residential lot. The property owner of each residential lot shall be responsible for any needed maintenance work or repairs in their entirety.
5. The property owner of each residential lot shall perform and prepare annual inspections and reports for the stormwater conveyance and treatment facilities, which shall be submitted to the City along with payment of the City's required fees. In addition, the property owner of each residential lot shall be responsible to comply with the reports in relation to needed maintenance work or repairs.
6. The property owner of each residential lot shall be responsible to maintain the landscaping and irrigation in the public right-of-way and the stormwater conveyance and treatment facilities.
7. The deeds for all lots shall contain language which prohibits any future land division(s) to create additional home sites.

8. The project is subject to development impact fees. The applicant shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Wildlife.
9. At the time of filing of the final subdivision map, the subdivider shall pay the parkland dedication fees as determined by the City (pursuant to Chapter 16.12 of the Clayton Municipal Code).
10. The developer shall enter into an agreement with the City to satisfy the Open Space requirement as outlined in Section 17.28.100 of the Clayton Municipal Code. This agreement shall be completed prior to the filing of the final subdivision map.
11. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and other fees that are due.
12. Prior to the commencement of grading or construction activities, the applicant shall submit a recycling plan for construction materials to the City for review and approval. The plan shall include that all materials that would not be acceptable for disposal in the sanitary landfill be recycled/reused. Documentation of the material type, amount, where taken, and receipts for verification and certification statements shall be included in the plan. The applicant shall submit deposits to the City to ensure good faith efforts of construction and demolition recycling. A deposit of \$2,000 per residence shall be submitted prior to issuance of the building permit for each residence, or demolition permit. Appropriate documentation regarding recycling shall be provided to the City. All staff costs related to the review, monitoring, and enforcement of this condition shall be charged to the deposit account.
13. All conditions of approval, which are applicable to the construction of the subdivision improvements, shall appear on the improvement drawings.
14. Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the City of Clayton and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
15. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses

of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.

16. All mitigation measures set forth in the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration are hereby incorporated into these Conditions of Approval, as if fully contained herein, except those mitigation measures found infeasible pursuant to Section 15091 of the California Environmental Quality Act Guidelines. The applicant shall implement all mitigation measures set forth in the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Environmental Study/Mitigated Negative Declaration.
17. The applicant shall work with the neighboring property owners to replace the existing side yard fencing or install a new fence along, and just inside of, side property lines of each residential lot abutting existing adjacent residential properties.

#### **TREE PROTECTION CONDITIONS**

18. The recommendations listed in the Arborist Report, prepared for the project by Bob Peralta, ISA Certified Arborist, representing Valley Crest Tree Care Services (dated May 28, 2015), shall be implemented to protect trees to be retained on the project site. Specific tree preservation and preservation actions shall be listed on all grading and constructions plans and specifications for the project.
19. Prior to issuance of a grading permit, in accordance with the City's Tree Protection Ordinance, the applicant shall submit to the Community Development Department a Tree Replacement Plan identifying the protected tree that would be removed during project construction. Protected trees rated as being in fair or good health shall be replaced at the ratios specified in Section 15.70.040 of the Clayton Municipal Code. The Tree Replacement Plan shall be submitted for review and approval by the Community Development Director. [Mitigation Measure (MM) 2]
20. The following construction policies and guidelines for tree preservation and protection put forth by the City of Clayton shall be followed during project implementation [MM 3]:
  - a. The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all protected oaks subject to Section 15.70.020 of the Clayton Municipal Code.



- b. A protective fence shall be installed around all oaks subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.
  - c. Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.
  - d. Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.
21. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees or shall be required to pay an lieu fee equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.
22. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

#### **LANDSCAPING CONDITIONS**

23. All plant material to be located in the public right-of-way shall be maintained by the property owner of each residential lot and is subject to inspection by the Maintenance Department and must be guaranteed for one year from the date of final inspection.
24. The applicant shall maintain all landscaped areas in the public right-of-way for a period of ninety (90) days after final acceptance of the subdivision improvements by the City Council. Following acceptance by the City the property owner of each residential lot shall maintain all landscaped areas in the public right-of-way.
25. Installation of all irrigation and landscaping shall be performed by a licensed contractor.
26. All trees shall be planted at least ten (10) feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight (8) feet of a sidewalk or driveway shall be installed with root guards.

27. Prior to a grading permit being issued for the project, a revised Landscape, Irrigation, Fencing, and Retaining Wall Plan shall be submitted, along with construction plans for building permit issuance, to the Community Development Department for review and approval.
28. All project-related landscaping shall comply with the landscape water conservation standards listed in Chapter 17.80 of the Clayton Municipal Code.

#### **GRADING CONDITIONS**

29. Removal of trees shall occur between September 1<sup>st</sup> and January 31<sup>st</sup>, outside the bird nesting season, to the extent feasible. If tree removal must occur during the avian breeding season (February 1<sup>st</sup> to August 31<sup>st</sup>), a qualified biologist shall conduct a survey for nesting birds of all trees and shrubs within 75 feet of the entire project site 14 days prior to the commencement of construction, and submit the findings of the survey to the Community Development Director. If nesting passerines are identified during the survey within 75 feet of the project site, a 75-foot buffer around the nest tree shall be fenced with orange construction fencing. If the nest tree is located off the project site, then the buffer shall be demarcated as per above. The size of the buffer may be altered if a qualified biologist conducts behavioral observations and determines the nesting passerines are well acclimated to disturbance. If acclimation has occurred, the biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting passerines. Construction or earth-moving activity shall not occur within the established buffer until a qualified biologist has determined that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, which typically occurs by July 15th. However, the date may be earlier or later, and would have to be determined by a qualified biologist. If a qualified biologist is not hired to watch the nesting passerines, then the buffers shall be maintained in place through the month of August and work within the buffer may commence September 1<sup>st</sup>. [MM 1]
30. Prior to the issuance of a grading permit, the grading plan shall include a requirement (via notation) indicating that if cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken. to the issuance of a grading permit, the grading plan shall

include a requirement (via notation) indicating that if cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken. [MM 4]

31. Pursuant to State Health and Safety Code §7050.5(c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. Additional work is not to take place in the immediate vicinity of the find, which shall be identified by the qualified archaeologist at the applicant's expense, until the preceding actions have been implemented. [MM 5]
32. Prior to the issuance of a grading permit, the applicant shall prepare to the satisfaction of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions include, but are not limited to, the following:
  - a. Hydro-seeding;
  - b. Placement of erosion control measures within drainage ways and ahead of drop inlets;
  - c. The temporary lining (during construction activities) of drop inlets with "filter fabric";
  - d. The placement of straw wattles along slope contours;
  - e. Use of designated equipment and vehicle "wash-out" location;
  - f. Use of siltation fences;
  - g. Use of on-site rock/gravel road at construction access points; and
  - h. Use of sediment basins and dust palliatives.
33. During grading and construction, the project contractor shall ensure that the following measures are implemented, consistent with the recommendations in the Environmental Noise and Vibration Analysis:
  - a. Grading and construction activities shall be limited to the daytime hours between 7:00 a.m. to 5:00 p.m. Monday through Friday, as specified in Section 15.01.101 of the Clayton Municipal Code.

Any such work beyond said hours and days is strictly prohibited unless previously specifically authorized in writing by the City Engineer or designee or by project conditions of approval;

- b. The distances between on-site construction and demolition staging areas and the nearest surrounding residences shall be maximized to the greatest extent possible; and
  - c. All construction and demolition equipment that utilizes internal combustion engines shall be fitted with manufacturer's mufflers or equivalent. [MM 9]
34. A licensed surveyor or engineer shall survey the locations, elevations, and limits of the trunk and dripline of all trees to be retained and protected as shown on the tentative map tree retention plan. The locations and limits are to be shown on the grading plans and the construction plans. A licensed arborist shall review the proposed construction operations that may impact the preserved trees and shall provide mitigations that shall be incorporated into the grading and construction plans. The arborist shall review and approve (by signature on the plans) the grading and improvement plans prior to submittal to the City for plan check.
  35. Signature blocks shall be provided for the Community Development Director and City Engineer on the grading and construction plans.
  36. All required setbacks shall contain at least five feet of flat, unoccupied area. "Flat" means a cross-slope between 2% and 10%. "Unoccupied" means no encroachments by fireplaces, building pop-outs (with or without a foundation), air conditioner pads and the like.
  37. Two feet of flat area shall be provided between a property or right-of-way line and the top of slope.
  38. The recommendations of the geotechnical report shall be incorporated into the grading and construction plans.
  39. All grading shall be performed under the direction and inspection of a registered soils or geotechnical engineer and shall be in conformance with the recommendations of the geotechnical report and the requirements of the City Engineer. Prior to the construction of any improvements, the engineer shall submit a testing and observation report to the City Engineer for review and approval.
  40. Grading and stormwater permits shall be obtained from the City Engineer.
  41. The applicant shall implement all of the Bay Area Air Quality Management District's Basic Construction Mitigation Measures, which include the following:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- e. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- f. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

#### **STREET CONDITIONS**

- 42. The existing driveway at Parcel A is to be removed and replaced with standard curb, gutter and sidewalk.
- 43. The proposed driveway shall be constructed in accordance with the City's Standard Plan for driveways with monolithic sidewalks.
- 44. Applicant shall remove and replace any damaged existing curb, gutter and sidewalk as directed by the City Engineer.
- 45. Driveway and retaining walls at Southbrook Drive shall be designed to provide adequate sight distance per the City's Standard Plan.
- 46. The configuration and width of the shared driveway for the two residential lots shall be reviewed and approved by the City Engineer.

47. All mailbox locations shall be constructed and grouped in accordance with United States Postal Service standards and the grouping of mailboxes shall be architecturally treated to reduce massing and visual impact. All mailbox locations and design are subject to review and approval of the Community Development Department and the United States Postal Service.

#### **DRAINAGE CONDITIONS**

48. Total storm runoff peak flows from the site shall not exceed pre-development levels. All stormwater runoff from impervious areas shall be treated and contaminants removed prior to discharge from the site. The design of the detention and treatment facilities shall be subject to the approval of the City Engineer.
49. The applicant shall submit a Final Stormwater Control Plan (including an Operations and Maintenance Manual) fully addressing the requirements of the City's recently amended Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Permit No. CAS612008, as amended November 10, 2015), including the new "Green Streets/Green Infrastructure" requirements, and including an alternative to the use of sump pumps, such as dry wells, to the satisfaction of the City Engineer. [MM 8]
50. Maintenance of all drainage facilities shall be the responsibility of the homeowner on whose lot the facilities are located or adjacent to (including those facilities within the public right-of-way).
51. The improvement plans shall reflect that all on-site storm drain inlets shall be labeled "No Dumping – Drains to Creek" using thermoplastic stenciling or equivalent permanent method, subject to City approval.
52. All roofs shall have rain gutters with rain water leaders that drain into depressed biofiltration treatment beds located within landscaped areas before discharging into the storm drain system or the street.
53. The Mosquito and Vector Control District and its contractors shall have the right of access to conduct inspections and maintenance of all on-site drainage devices.
54. Developer shall, prior to commencement of construction, enter into a recorded covenant and agreement for each lot with the following requirements at a minimum:
  - a. Bioretention planter to be maintained as originally constructed and in accordance with the approved Operations and Maintenance Plan. Planters may not be modified without the approval of the City Engineer.

- b. By September 15<sup>th</sup> of each year, lot owner is to perform (or have performed by a firm approved by the City) a pre-rainy season inspection and submit a report to the City along with payment of the required fees. Any deficiencies noted shall be remedied within 20 calendar days of completion of the inspection.
- c. City shall have the right of access to inspect the bioretention planter at any time.
- d. Should said City inspection reveal any problems or inadequacies with the bioretention planter or drainage system, Owner shall be notified and must remedy the problems or inadequacies within 30 days of said notice.

#### **UTILITY CONDITIONS**

- 55. Sanitary sewer plans shall be submitted to the City of Concord and the City Engineer for review and approval.
- 56. A sewer cleanout shall be provided on each sewer lateral at the front property line of each residential lot.
- 57. The applicant shall connect all residences to the sanitary sewer system, obtain applicable permits and pay applicable fees as required by the City of Concord.
- 58. The applicant shall install two four-inch conduits and pull-boxes with pull lines for City use for future tele-communication purposes. Conduits shall be installed in the public utility easement with termination on residential property lines behind the curbs.
- 59. The width of new access and maintenance easements for underground facilities shall be twice the depth of the facility with a minimum width of ten (10) feet, as determined appropriate and applicable by the City Engineer.
- 60. Underground facilities crossing lots shall be located in flat portions of the lots, not within slope areas.
- 61. Any existing underground facilities, either on-site or adjacent to the site, no longer required shall be either removed or filled, as directed by the City Engineer.
- 62. The applicant shall furnish and install the conduit required by AT&T California for the service connection wires or cables.

#### **ENGINEERING CONDITIONS**

- 63. The applicant shall obtain an encroachment permit for all work in the public right-of-way.

3. NO PARKING — FIRE LANE signs or red curbs shall be provided throughout both sides of the twenty (20) foot wide access driveway/roadway and turnaround. The applicant shall submit a minimum of two (2) copies of site improvement plans indicating existing hydrant locations and proposed fire apparatus access for your review and approval prior to obtaining building permits.
4. The twenty (20) foot wide access driveway/roadway and turnaround improvements must be completed and inspected by the Contra Costa County Fire Protection District (CCCFFPD) prior to construction on the two residential lots.
5. Development on any parcel in this subdivision shall be subject to review and approval by the CCCFFPD to ensure compliance with minimum CCCFFPD requirements.
6. Any future proposed residences are required to be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 13D or Section R313.3 of the 2013 California Residential Code. A minimum of two (2) sets of sprinkler plans shall be submitted to the CCCFFPD for both residences for review and approval prior to installation.
7. 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.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Clayton on the 15<sup>th</sup> day of November 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

\_\_\_\_\_  
Howard Geller, Mayor



ATTEST:

---

Janet Brown, City Clerk

I hereby certify that the foregoing Resolution was passed, approved, and adopted at a regular meeting of the City Council of the City of Clayton held on the 15<sup>th</sup> day of November 2016.

---

Janet Brown, City Clerk

**EXHIBIT A**

**SOUTHBROOK DRIVE PLANNED DEVELOPMENT**

**DEVELOPMENT STANDARDS**

Front Setback	Interior Side Setback	Exterior Side Setback	Rear Setback	Accessory Buildings and Structures	Principal Building Height	Accessory Building Height
20'	10' minimum 25' aggregate	Not Applicable	15'	Subject to CMC Section 17.36.055	Subject to CMC Section 17.16.070	Subject to CMC Section 17.36.055



### VICINITY MAP

**St. John's Church/Southbrook Drive  
Mixed Use Planned Development  
ENV-01-15, GPA-01-15, ZOA-03-15,  
DP-01-15, MAP-01-15,  
SPR-07-16, TRP-37-15  
5555 Clayton Road  
APN: 118-101-022**



(Not to Scale)

# ATTACHMENT 6

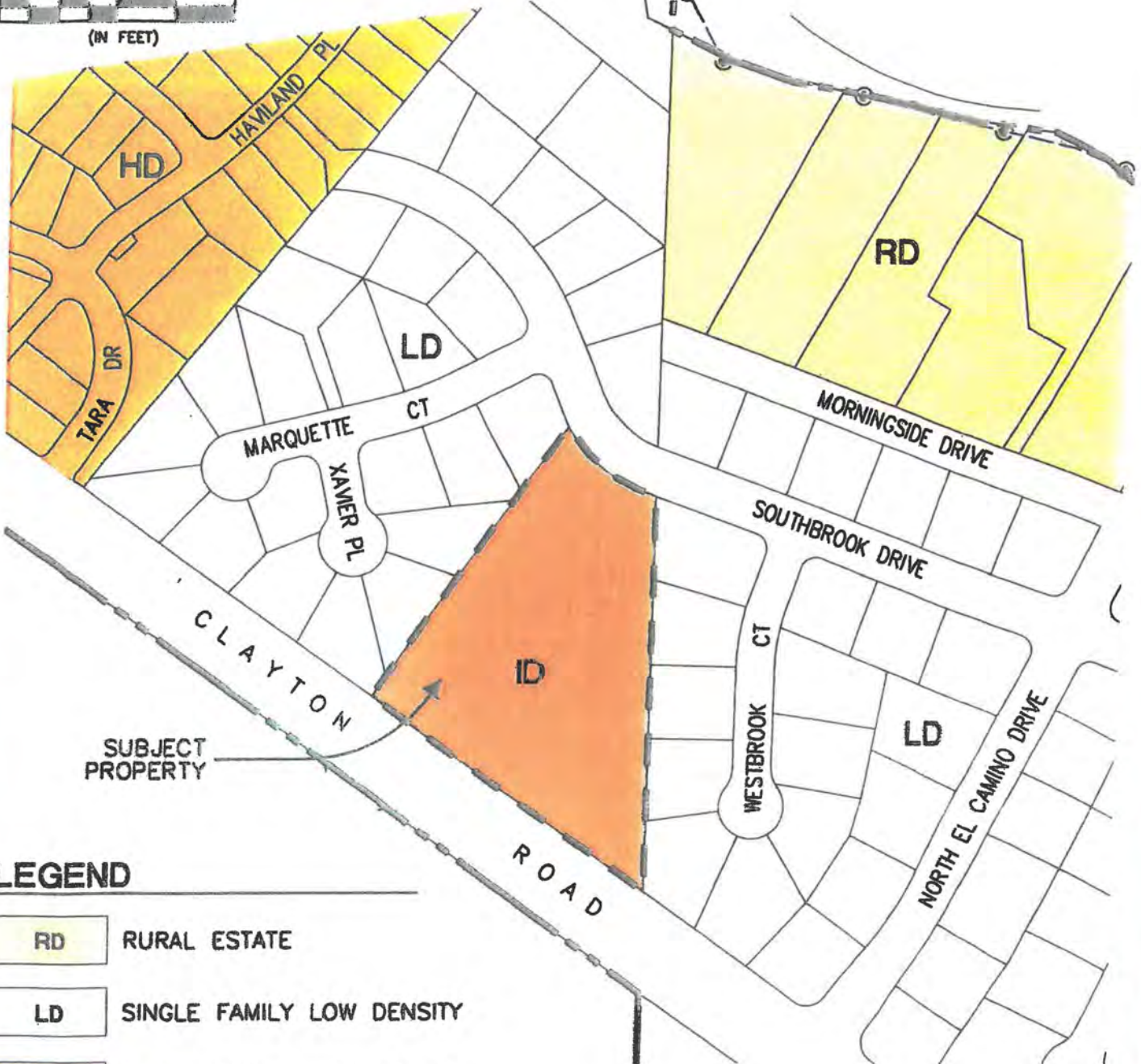
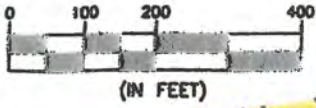
## EXISTING GENERAL PLAN

### ST JOHN'S EPISCOPAL CHURCH

MS 01-15



GRAPHIC SCALE



SUBJECT PROPERTY

### LEGEND

- RD** RURAL ESTATE
- LD** SINGLE FAMILY LOW DENSITY
- HD** SINGLE FAMILY HIGH DENSITY
- ID** INSTITUTIONAL DENSITY

**CITY OF CLAYTON**

*Founded 1857 ... Incorporated 1964*

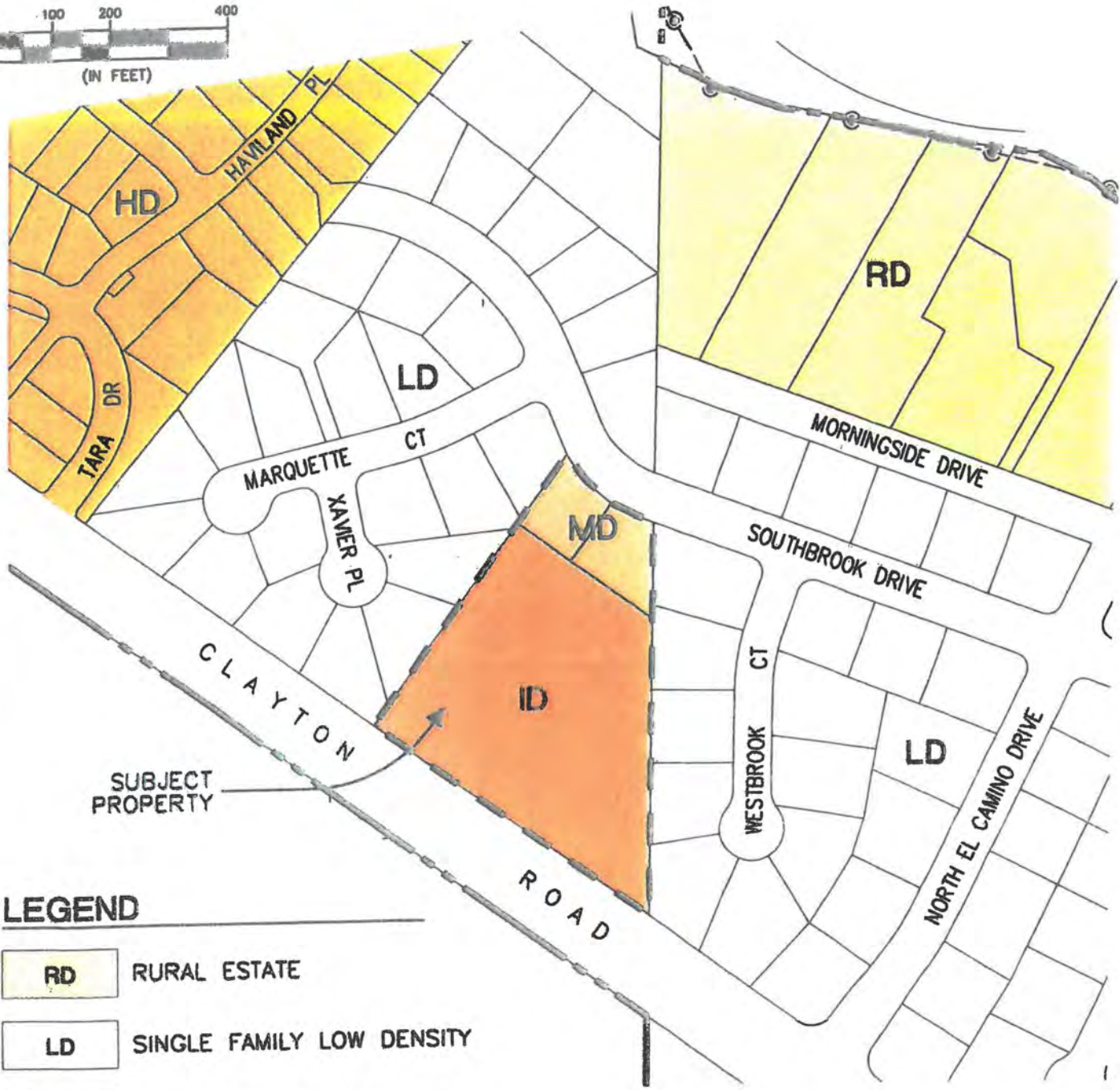
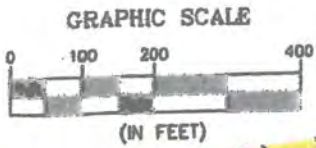
OCTOBER 2016

# ATTACHMENT 7

## PROPOSED GENERAL PLAN

### ST. JOHN'S EPISCOPAL CHURCH

#### MS 01-15

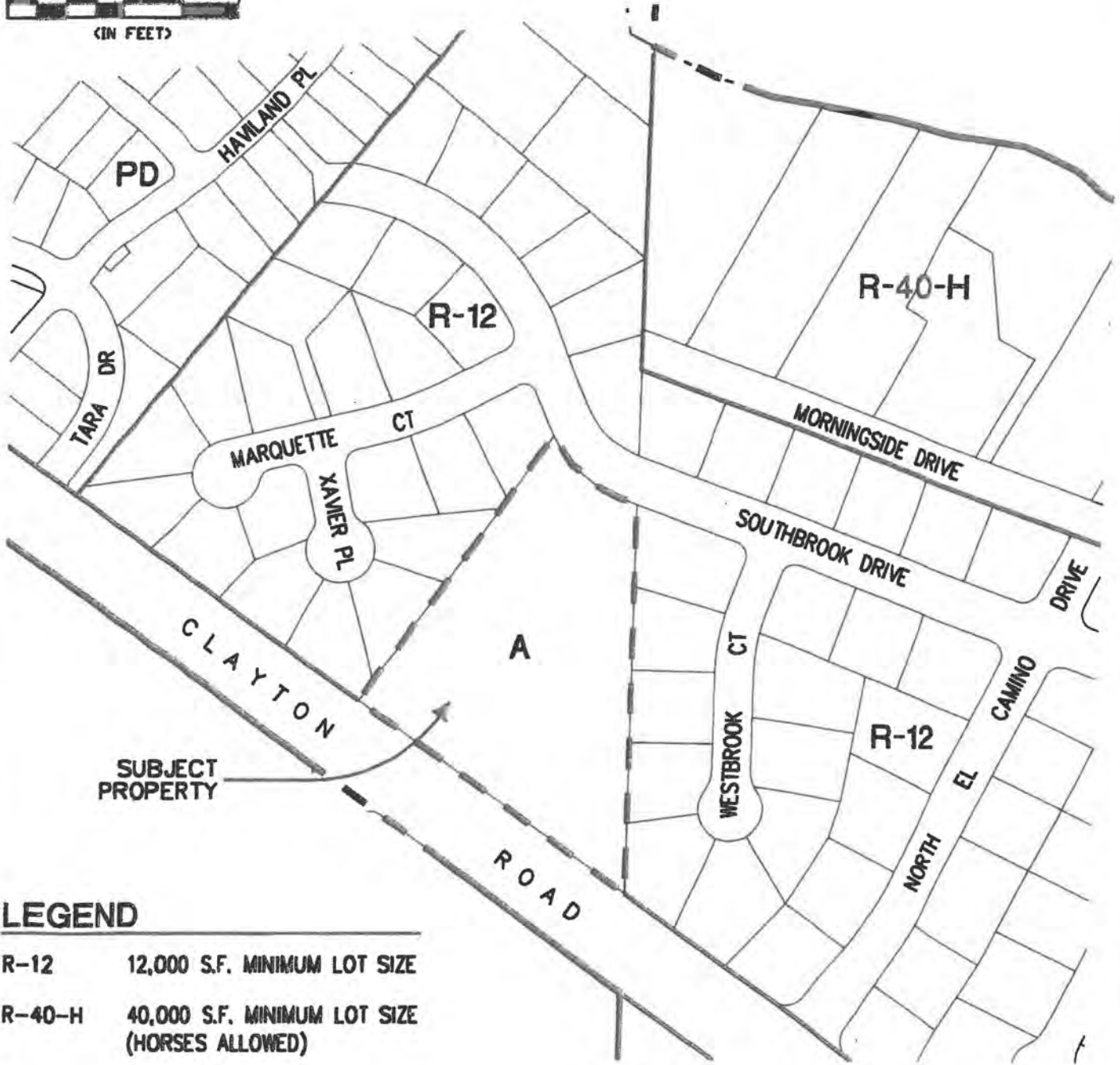


SUBJECT PROPERTY

### LEGEND

- RD RURAL ESTATE
- LD SINGLE FAMILY LOW DENSITY
- MD SINGLE FAMILY MEDIUM DENSITY
- HD SINGLE FAMILY HIGH DENSITY
- ID INSTITUTIONAL DENSITY

# ATTACHMENT 8 EXISTING ZONING MAP ST. JOHN'S EPISCOPAL CHURCH MS 01-15



## LEGEND

- R-12      12,000 S.F. MINIMUM LOT SIZE
- R-40-H    40,000 S.F. MINIMUM LOT SIZE  
(HORSES ALLOWED)
- A          AGRICULTURAL

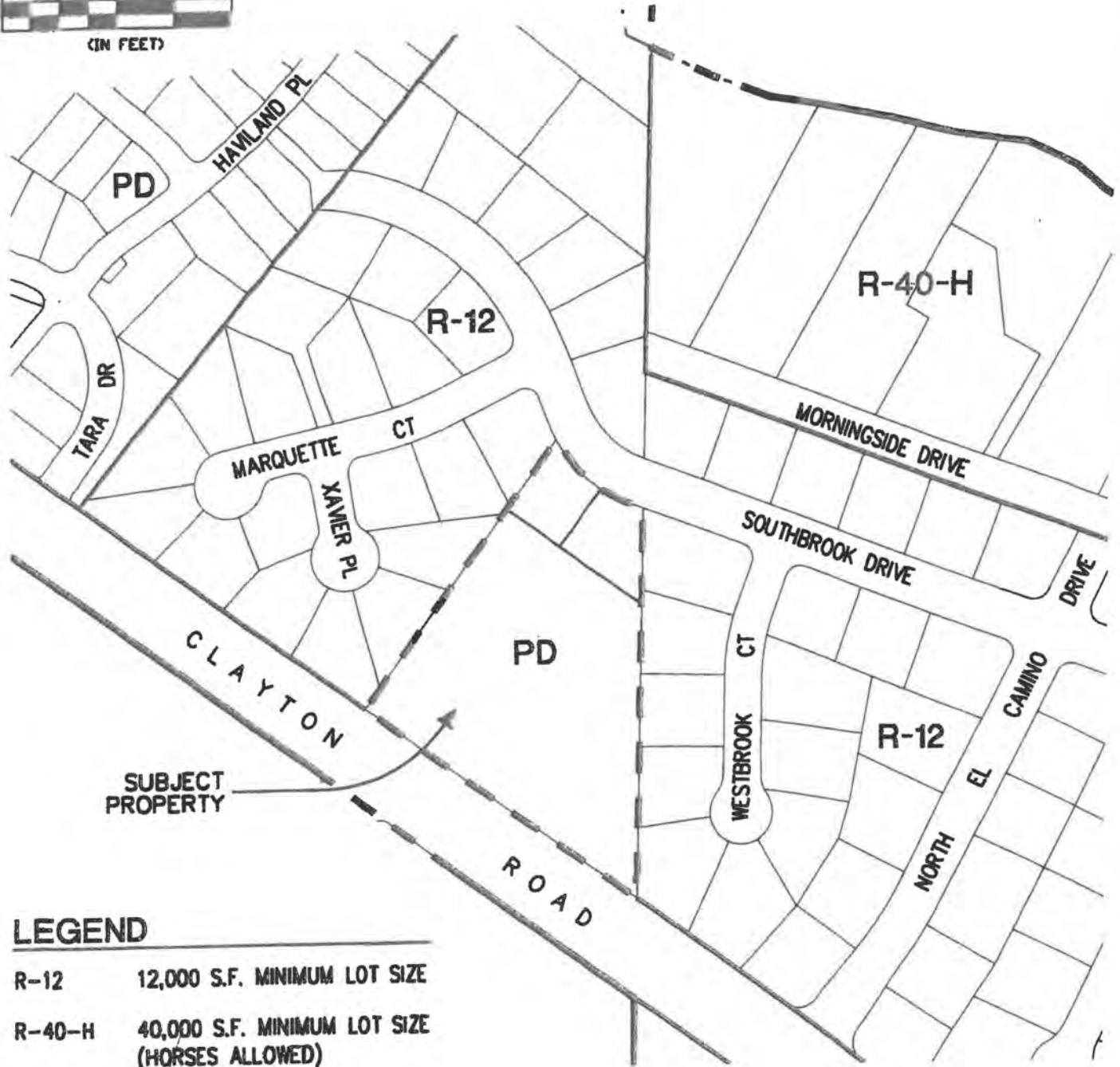
**CITY OF CLAYTON**

*Founded 1857 ... incorporated 1954*

OCTOBER 2010

C:\GIS\ZONING\EXISTING ZONE MAP - MS 01-15.DWG  
 CLAYTON MS 01-15  
 11/14/10 10:57 AM

# ATTACHMENT 9 PROPOSED ZONING MAP ST. JOHN'S EPISCOPAL CHURCH MS 01-15



SUBJECT  
PROPERTY

## LEGEND

- R-12      12,000 S.F. MINIMUM LOT SIZE
- R-40-H    40,000 S.F. MINIMUM LOT SIZE  
(HORSES ALLOWED)
- PD        PLANNED DEVELOPMENT

**CITY OF CLAYTON**

*Founded 1857 ... Incorporated 1964*

OCTOBER 2016

CLAYTON ZONING MAP - MS 01-15.DWG

**GENERAL NOTES:**

**PROPERTY OWNER:** THE PROTESTANT EPISCOPAL BISHOP OF CALIFORNIA, A CORPORATION SOLE

**DEVELOPER:** ANANDA BASTIC

**PROPERTY ADDRESS:** 2005 CLAYTON ROAD CLAYTON, CA 94517

**CIVIL ENGINEER:** ALIQUOT ASSOCIATES, INC. 1300 SOUTH MAIN ST. WALNUT CREEK, CA 94598 PHONE: (925) 478-3300 FAX: (925) 478-3300

**SUBS ENGINEER:** ADGEY GEORGEY MICHAEL OWREY 1700 TOYON ROAD, LAFAYETTE, CA 94549 PHONE: (925) 839-7000 FAX: (925) 839-7204

**BASES OF FINISH:** FINISHES SHOWN HEREON ARE BASED ON FOUND MONUMENTS LOCATED ON SOUTH BROOK DRIVE AS SHOWN ON SUBDIVISION JESB, BOOK 114 PAGE 23

**BENCHMARK:** CONTRA COSTA COUNTY BM 4200 A SET LOCATED ON CLAYTON IN THE CURB BETWEEN TWO DROP INLETS AT THE SOUTHWEST CORNER OF S. CAMINO DRIVE AND CLAYTON ROAD

**STAMPED:** 3187 1989

**ELEVATIONS:** 357.00 (COUNTY USL DATUM)

**AREA:** 17,702 SF = 0.41 ACRES PARCELS A&B 102,833 SF = 2.36 ACRES REMAINDER PARCEL

**EXISTING USE:** PARCELS A&B - VACANT; REMAINDER - CHURCH

**PROPOSED USE:** PARCEL A&B: SINGLE FAMILY DETACHED RESIDENTIAL; REMAINDER: INSTITUTIONAL (CHURCH)

**PROPOSED CONVEYANCE:** PARCELS A, B, 27A, PARCEL B, 27B; REMAINDER CHURCH PARCELS - N/A

**PROPOSED NUMBER OF LOTS:** 3

**EXISTING ZONING:** A (MIDDLE-TURN)

**PROPOSED ZONING:** PD

**EX. OF:** S

**PROPOSED OFA:** PARCELS A & B: MD-3-5A/A 25/100-1/4C-3.00w; REMAINDER: D

**PERVIOUS SURFACE:** 6,600 SF

**OPEN SPACE:** PAY IN LIEU FEE

**ASSOCIATION'S PARCEL NO.:** 118 - 101 - 002

**CONTRACT INTERVALS:** 1 FOOT

**TOPOGRAPHIC SURVEY:** ALIQUOT ASSOCIATES, INC., SEPTEMBER 2014

**PLUMBING AGENCIES:**

**CITY OF CLAYTON:** 2005 HERITAGE TRAIL CLAYTON, CA 94517 (925) 673-7300

**CITY OF CLAYTON:** 2005 HERITAGE TRAIL CLAYTON, CA 94517 (925) 673-7300

**CITY OF CONCORD:** 1600 PARADISE DRIVE W4/20 CONCORD, CA 94519 (925) 671-3221

**PACIFIC GAS AND ELECTRIC:** 1328 BERNARD ST. WALNUT CREEK, CA 94598 (925) 834-3274

**PACIFIC BEL:** 400 LENOX LN. RM 205 WALNUT CREEK, CA 94598 (925) 843-4428

**CONTRA COSTA WATER DISTRICT:** 1338 CONCORD AVENUE CONCORD, CA 94504 (925) 488-8900

**CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT:** 2010 GEARY ROAD FLAGSTAFF HILL, CA 94503 (925) 430-3000

**COMCAST:** 440 DANIEL ROAD DANVILLE, CA 94526 (925) 846-3288

**PUBLIC WORKS:**

**STORM DRAIN:**

**SEWER:**

**GAS & ELECTRIC:**

**TELEPHONE:**

**WATER SUPPLY:**

**FIRE DISTRICT:**

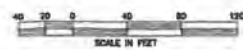
**CABLE TV:**

**LEGEND**

- PROPERTY LINE
- STORM DRAIN LINE
- SANITARY SEWER LINE
- SANITARY SEWER LATERAL
- OVERHEAD ELECTRICAL LINES
- WATER LINE
- WATER LATERAL
- GAS LINE
- JOINT TRENCH
- RETAINING WALL
- PRIVATE ELECTRODER
- PUBLIC ELECTRODER
- CATCH BASIN
- CLEAN OUT
- CURB AND GUTTER
- SANITARY SEWER MANHOLE
- UNDERGROUND ELECTRICAL DROP
- ELECTRICAL WALT
- POWER POLE
- JOINT POLE
- CITY WIRE
- WATER WELL
- WATER VALVE
- FIRE HYDRANT
- WATER METER
- ELECTRIC METER
- TOP OF CURB
- EDGE OF PAVEMENT
- EDGE OF CONCRETE
- MAIL BOX
- FLOW LINE
- TOP OF BANK
- GROUND ELEVATION
- TREE
- DRIP LINE OF TREES
- HIGH DENSITY POLYETHYLENE
- PRIVATE ACCESS EASEMENT
- SANITARY SEWER EASEMENT
- SANITARY SEWER OVERFLOW
- PRIVATE STORM DRAIN EASEMENT
- PUBLIC UTILITY EASEMENT
- CONTRA COSTA WATER DISTRICT EASEMENT
- FENCE
- TREE TO BE REMOVED
- ZONE AC AREAS OF SPECIAL FLOOD HAZARD (100-YEAR FLOOD)
- ZONE AD AREAS OF SPECIAL FLOOD HAZARD (100-YEAR FLOOD)
- ZONE X AREAS DETERMINED TO BE OUTSIDE 300-YEAR FLOOD PLAN



**SITE PLAN**



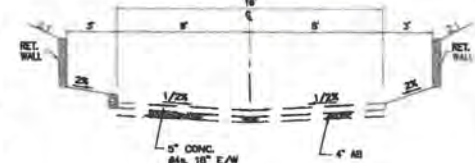
**VICINITY MAP**  
NO SCALE

**SHEET INDEX:**

- TM-1 TITLE SHEET
- TM-2 PRELIMINARY GRADING AND DRAINAGE PLAN
- TM-3 PRELIMINARY UTILITY PLAN
- TM-4 PRELIMINARY STORMWATER CONTROL PLAN
- TM-5 BOUNDARY AND TOPO
- TM-6 SITE/DEVELOPMENT PLAN
- TM-7 SITE SECTION

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JAN 18 2016

CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT



**Typical Dwy Section**  
NOT TO SCALE

**ALIQUOT**  
PLANNERS  
CIVIL ENGINEERS  
SURVEYORS  
290 SOUTH MAIN STREET  
SUITE 20  
WALNUT CREEK, CA 94598  
(925) 478-3300  
FAX (925) 478-3300



VESTING TENTATIVE PARCEL MAP AND DEVELOPMENT PLAN  
 TITLE SHEET  
 SOUTHBROOK DRIVE, MS 01-15  
 CONTRA COSTA COUNTY  
 CALIFORNIA  
 CLAYTON

SHEET NO. 1 OF 7  
 DATE: 8/24/15  
 DRAWING NUMBER: TM  
 PROJECT NUMBER: 15-015




**ATTACHMENT 10**





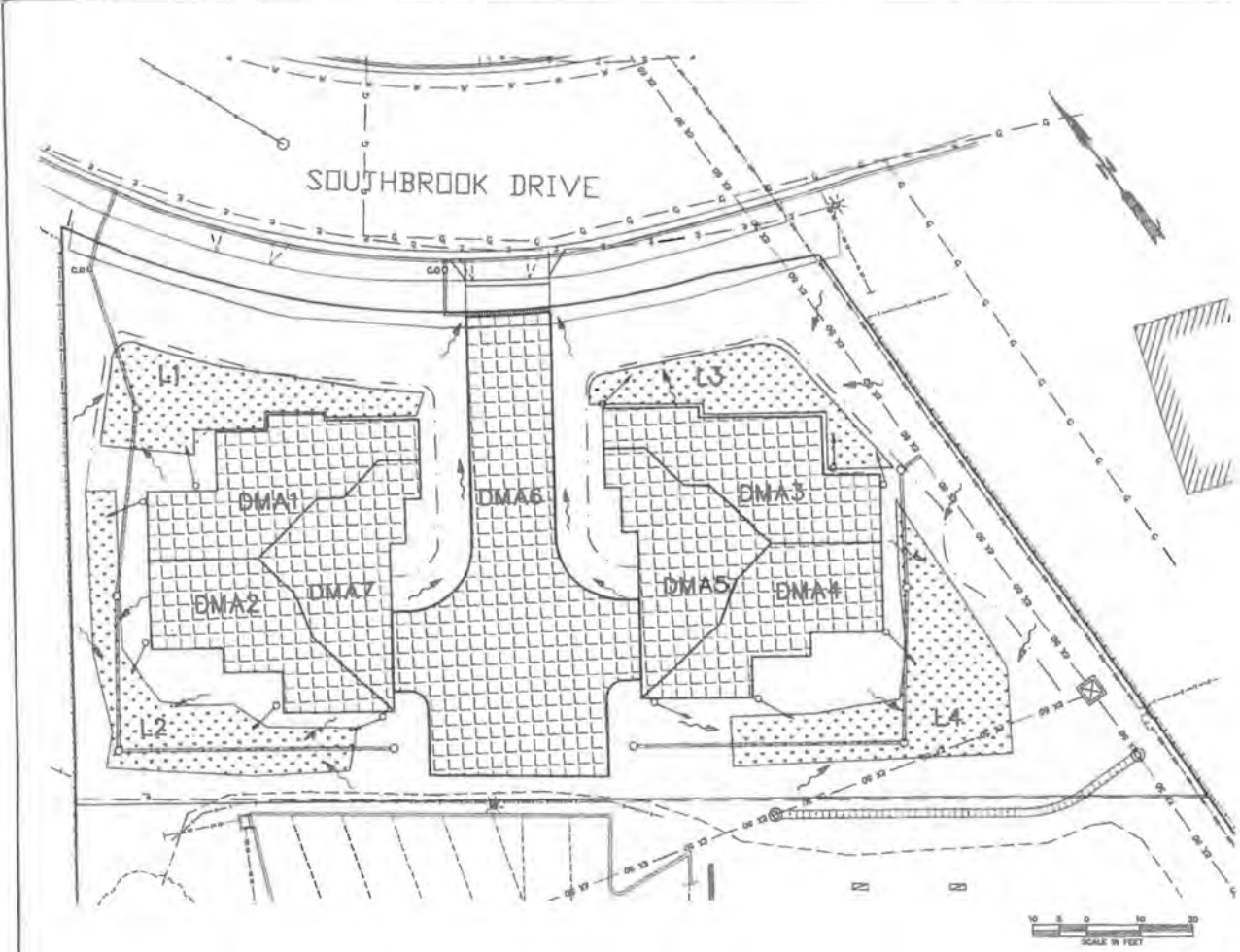


**LEGEND**

-  LANDSCAPE
-  ROOF / DRIVEWAY
-  ROOFLEADER

AREA ID	IMPERVIOUS AREA (SF)	RECEIVING LANDSCAPE AREA* (SF)	TREATED/NOT TREATED
DMA 1	815	711 (L1)	TREATED (<2:1)
DMA 2	688	785 (L2)	TREATED (<2:1)
DMA 3	884	482 (L3)	TREATED (<2:1)
DMA 4	888	955 (L4)	TREATED (<2:1)
DMA 5	738		NOT TREATED
DMA 6	2,227		NOT TREATED
DMA 7	716		NOT TREATED
TOTAL IMPERVIOUS = 8,656 SF			

\*ROOF LEADERS DIRECTED TO LANDSCAPING



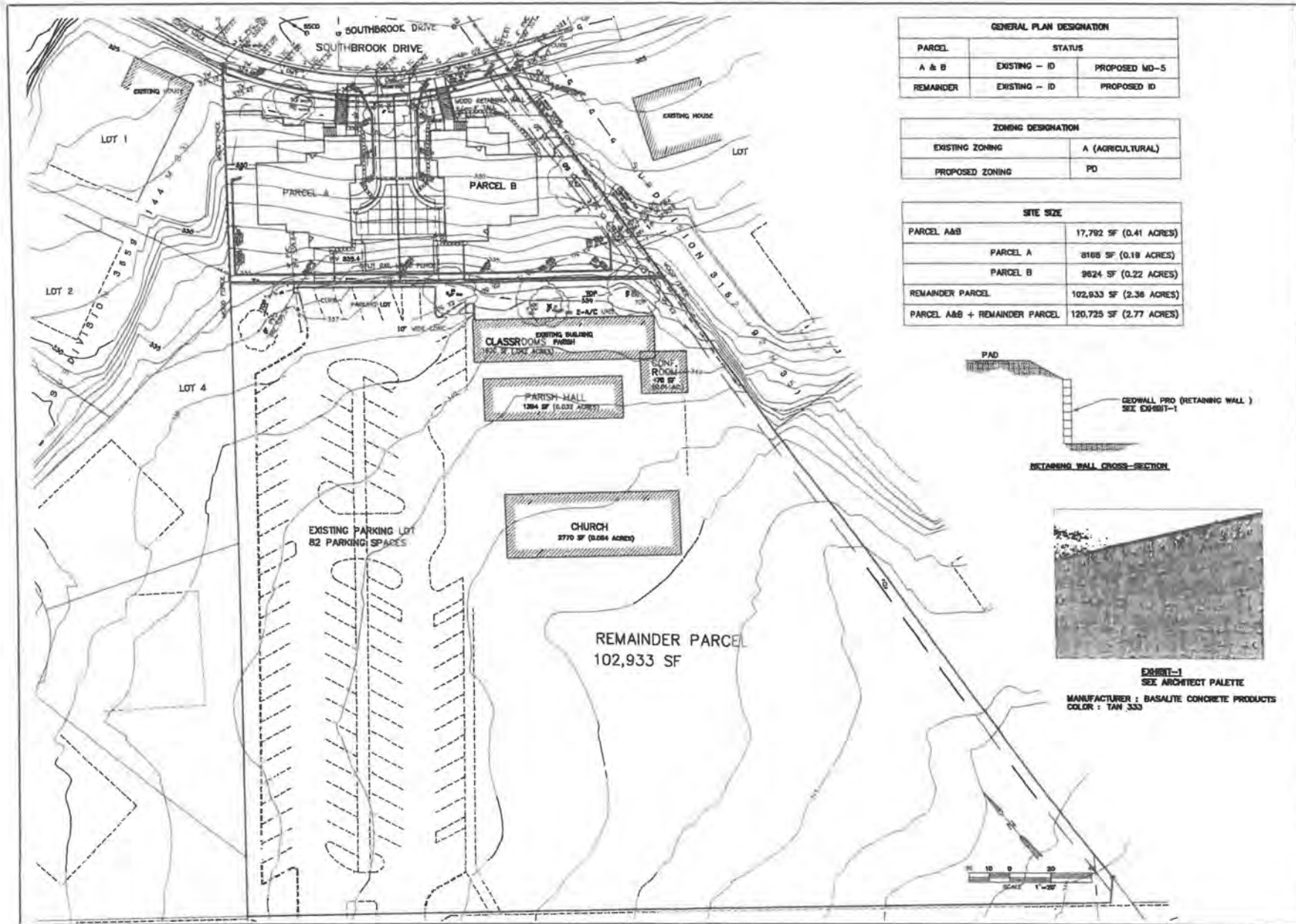
NO.	DATE	REVISIONS



VESTING TENTATIVE MAP - MS 01-15  
 PRELIMINARY STORM WATER CONTROL PLAN  
 SOUTHBROOK DRIVE  
 CLAYTON      CONTRA COSTA COUNTY      CALIFORNIA

DATE	BY	FOR





GENERAL PLAN DESIGNATION		
PARCEL	STATUS	
A & B	EXISTING - ID	PROPOSED MD-5
REMAINDER	EXISTING - ID	PROPOSED ID

ZONING DESIGNATION	
EXISTING ZONING	A (AGRICULTURAL)
PROPOSED ZONING	PD

SITE SIZE	
PARCEL A&B	17,792 SF (0.41 ACRES)
PARCEL A	8168 SF (0.19 ACRES)
PARCEL B	9624 SF (0.22 ACRES)
REMAINDER PARCEL	102,933 SF (2.36 ACRES)
PARCEL A&B + REMAINDER PARCEL	120,725 SF (2.77 ACRES)

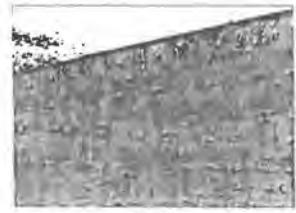
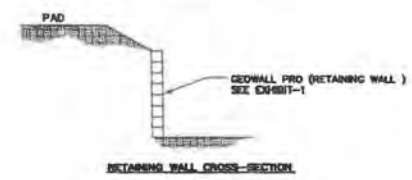
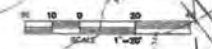


EXHIBIT-1  
SEE ARCHITECT PALETTE  
MANUFACTURER : BASALITE CONCRETE PRODUCTS  
COLOR : TAN 333



**ALIQUOT**  
PLANNERS  
CIVIL ENGINEERS  
SURVEYORS  
090 SOUTH MAIN STREET  
SUITE 200  
WALNUT CREEK, CA 94596  
(925) 470-2500  
FAX (925) 470-2500



VESTING TENTATIVE MAP - MS 07-15  
SITE / DEVELOPMENT PLAN  
SOUTHBROOK DRIVE  
CONTRA COSTA COUNTY  
CALIFORNIA

CLAYTON  
DRAWING NUMBER  
DATE 10/20/15  
SCALE 1"=20'  
BY [signature]  
CHECKED [signature]  
DATE 10/20/15  
SCALE 1"=20'  
BY [signature]  
CHECKED [signature]  
DATE 10/20/15  
SCALE 1"=20'













1111 Stone Valley Road  
 #1000, St. Johns  
 21544  
 410.221.1111

Revisions

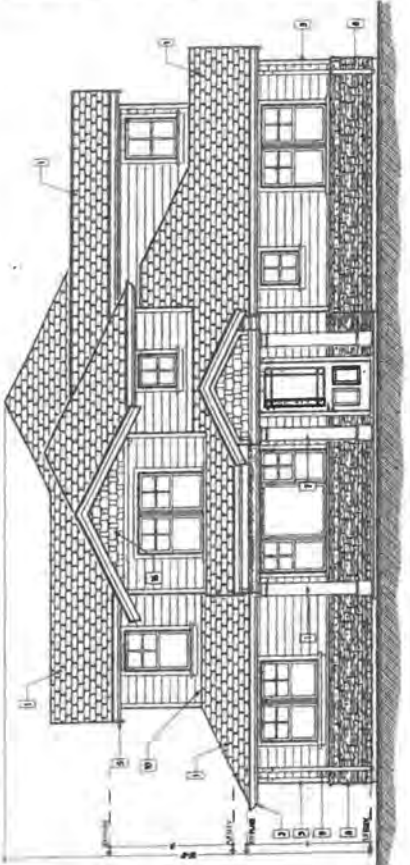
1	Initial	11/15/22
2	Revised	11/15/22

Southbrook Drive  
 @ St. Johns  
 Custom Residences  
 Portion of APN 115-101-022

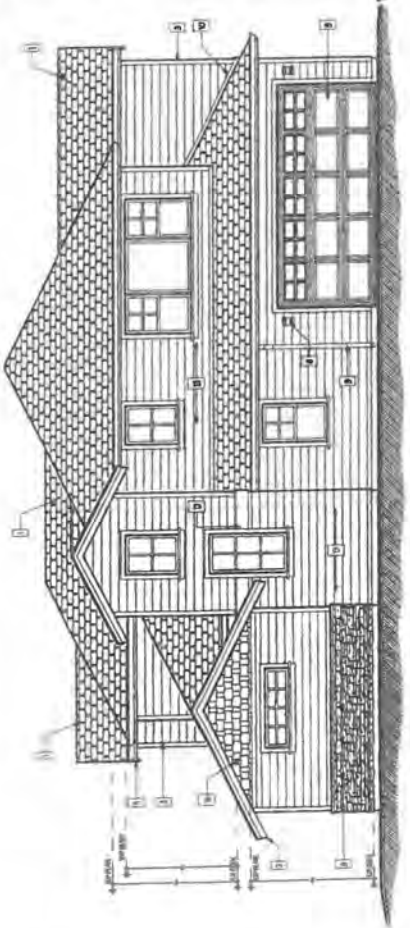


Plan D -  
 Exterior  
 Elevations  
 11/15/22

Sheet Number  
 A-2.2



2 Front Exterior Elevation [ North ]

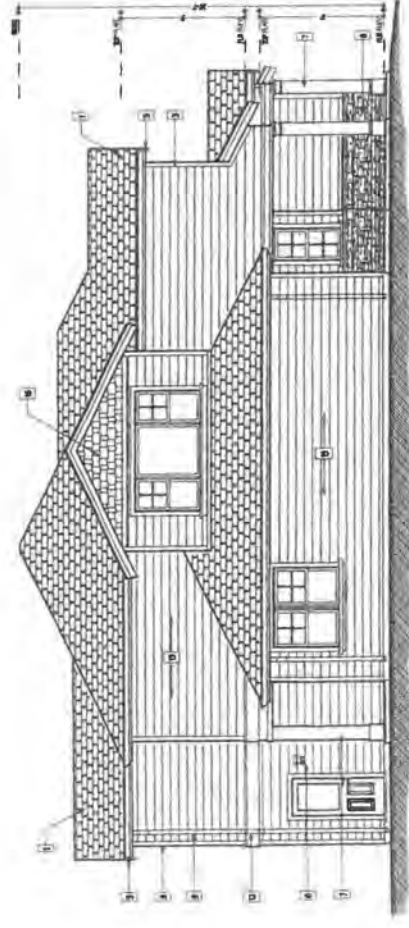


1 Right Exterior Elevation [ West ]

- EXTERIOR ELEVATION NOTES:
- 1. EXTERIOR FINISHES SHALL BE AS SHOWN UNLESS NOTED OTHERWISE.
  - 2. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 3. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 4. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 5. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 6. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
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  - 8. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 9. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 10. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 11. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 12. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 13. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 14. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 15. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 16. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 17. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 18. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 19. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.
  - 20. ALL FINISHES SHALL BE APPLIED TO THE EXTERIOR SURFACE UNLESS NOTED OTHERWISE.



4 Rear Exterior Elevation [ South ]



3 Left Exterior Elevation [ East ]





# ATTACHMENT 13

## SouthBrook Residence Plan "B"

5555 Clayton Road  
Clayton, California 94517

### House Colors & Materials



#### Roofing:

Eagle Roofing "Brown Gray Range"  
Flat Concrete Roofing Tiles  
Color: Bel Air 287



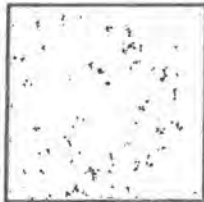
#### Trim Paint:

Window Trim  
Kelly Moore "NOT MY FAULT" KM 5825-3



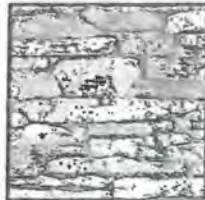
#### Trim Paint:

Fascia Boards & Gutters, Columns, Garage Door  
Kelly Moore "BONE" KM 27



#### Siding:

Body  
Kelly Moore "ABBEY ROAD" KM 4586-2



#### Stone Veneer:

El Dorado Stone  
Bluffstone Mineret

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COMMUNITY DEVELOPMENT DEPT

PDF Designs, Inc + Paul D. Friend, AIA

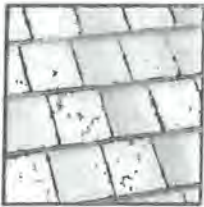
4171 Suisun Valley Road, Suite C, Fairfield, CA 94534

707 864-6986

# SouthBrook Residence Plan "B"

5555 Clayton Road  
Clayton, California 94517

## House Colors & Materials



### Roofing:

Eagle Roofing "Brown Gray Range"  
Flat Concrete Roofing Tiles  
Color: Bel Air 287



### Trim Paint:

Window Trim  
Kelly Moore "NOT MY FAULT" KM 5825-3



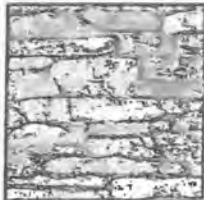
### Trim Paint:

Fascia Boards & Gutters, Columns, Garage Door  
Kelly Moore "BONE" KM 27



### Siding:

Body  
Kelly Moore "ABBEY ROAD" KM 4586-2



### Stone Veneer:

El Dorado Stone  
Bluffstone Mineret

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JAN 13 2016

CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT

PDF Designs, Inc + Paul D. Friend, AIA

4171 Suisun Valley Road, Suite C, Fairfield, CA 94534

707 864-6986





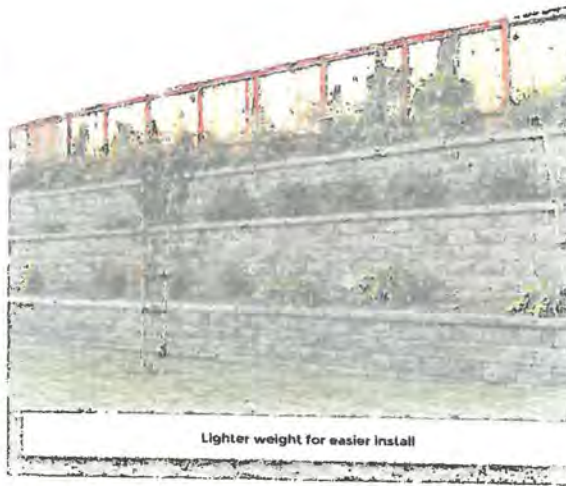
Request Basalite Products and Catalog

# GEO WALL PRO

## BASALITE RETAINING WALL SYSTEM

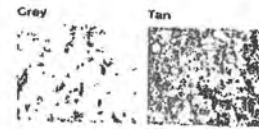
The Geowall Series by Basalite features an open core design and high strength pin connection system. Each block face measures one square foot for easy calculation.

Geowall Pro is the smallest of the series. The lighter weight and shorter tail design make it easy to handle for installers and a perfect choice for residential projects in addition to roadway, residential and commercial projects. It can be used by itself for short gravity walls or in combination with geogrid for taller structural earth walls. The Pro is available in multiple face styles.



Lighter weight for easier install

Click to Enlarge Swatch



*Note: We can't guarantee that your monitor's display of color will be accurate. Please contact a dealer or a Basalite Representative to view a sample.*

### Download PDFs:

Select Category

### Links:

- [Ask a Question About Geowall Pro](#)
- [Basalite \(www.basalite.com\) Home](#)
- [Basalite \(www.basalite.com\) About Us](#)
- [Basalite \(www.basalite.com\) Contact Us](#)
- [Basalite \(www.basalite.com\) Product Catalog](#)

### Product Unit Specifications

Click on any of the sizes below to see more details



Tri Plane



Classic



Straight Bevel



Ashlar Face



Corner Unit



Beveled Corner

<http://www.basalite.com/product-categories/geowall-pro/geowall-pro>

ATTACHMENT 15

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COMMUNITY DEVELOPMENT DEPT



# ATTACHMENT 16

4677 Pacheco Blvd  
Martinez, CA 94553  
925-924-8900 tel  
925-734-0769 fax



## ValleyCrest Tree Care Services

April 5, 2015

Armand Buttici III  
2804 Velvet Way  
Walnut Creek, CA 94596

RE: 5555 Clayton Road Tree Report

Dear Armand,

Thank you for asking me to provide a Consulting Arborist Report for your proposed housing project located at 5555 Clayton Road in Clayton, California. The site is behind St. John's Episcopal Church on a vacant lot with 10 very small mostly volunteer trees. This report will identify the trees, their size, health and recommendations. I have numbered the trees 1-10 and will be plotted by Aliquot Associates, Inc., by number and size.

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MAY 28 2015

CITY OF CLAYTON  
COMMUNITY DEVELOPMENT DEPT

Tree Number	Species	Size	canopy	Health	Recommendation
1	Silk tree	6" dbh. 5'		Moderate	Poor condition-recommend removal
2	Silk tree	8" dbh. 5'		Moderate	Poor condition-recommend removal
3	Privot	3" dbh. 3'		Poor	Volunteer-recommend removal
4	Privot	3" dbh. 3'		Poor	Volunteer-recommend removal
5	Valley oak	6" dbh. 4'		Good	Poor branch structure-in good helath
6	Ash tree	6" dbh. 7'		Moderate	Signs of blight/dead branches-removal
7	Walnut	4" dbh. 2'		Poor	Next to building/leaning - removal
8	Olive tree	3" dbh. 2'		Poor	Next to building/poor health-removal
9	Valley Oak	6"dbh. 4'		Good	Small oak with poor branch structure
10	Valley Oak	12" dbh. 8'		Good	Small oak with good branch structure

4677 Pacheco Blvd  
Martinez, CA 94553  
925-924-8900 tel  
925-734-0769fax

The trees that I evaluated are all very small and have never been properly maintained or irrigated. As a result most of the trees have poor branch structure and will need to be removed. The Valley oaks have adapted much better without water but still show signs of stress. I believe replacing these trees with nursery grown trees properly installed and irrigated will have longer term impact on the property.

If any trees do remain during construction I recommend placing orange protective fencing to protect the root zone. Due to the size of the trees most of the protection will be less than 7' from the root flare.

Please give me a call if you need additional information or have any questions, 925-525-3795.

Sincerely,

Bob Peralta  
Registered Consulting Arborist #505  
American Society of Consulting Arborist  
ISA Certified Arborist WE-7150A

**Milan Sikela**

# ATTACHMENT 17

---

**From:** Michael <mikejbwhoo@yahoo.com>  
**Sent:** Tuesday, November 08, 2016 5:51 PM  
**To:** Milan Sikela  
**Subject:** St. John's Church/Southbrook Drive Mixed Use Project

Dear Milan-

I would like to voice my concerns about this project.

I have been unable to attend these meetings but as I reside in the immediate area I wish to express my concern about the impact on our neighborhood. I have to say that this all seems like a very poorly considered idea when the area in question is viewed. It is a very small parcel of land and has only limited access to the street which will be shared by both homes. This means parking problems for the hypothetical dwellers as well as for those who already live here. As well as over all traffic which can be very bad at times for our small street. We get kids, I assume, racing up and down the road way on the blind turn right where this new driveway will be. It will be a prime spot for an accident. As well as over all noise in the area, coming from the church. There are many evening when the church has functions which seem to get loud, so I cannot imagine anyone wanting to live in homes that are so close to it.

I have only been here for five year but I have to say this is a bad idea, please do not go forward with this project.

Sincerely,

Michael Mayer-Oakes

(number withheld) Southbrook Drive

# ATTACHMENT 6

The City Clerk read Ordinance No. 470 by title and number only.

**It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to approve Ordinance No. 470 for Introduction with the finding the action will not result in a significant adverse impact on the environment. (Passed; 5-0 vote).**

- (b) Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022):
- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
  - 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
  - 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and
  - 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).

City Assistant Planner Milan Sikela presented the staff report noting several entitlements are required for approval of this project including an Environmental Review, General Plan Amendment, Rezone, Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit. Mr. Sikela provided a description of the site location with Clayton Road bordering the project site on the south and Southbrook Drive bordering the project site on the north; he further gave a brief description of the buildings on the existing parcel. Mr. Sikela then outlined the steps needed to complete the Environmental Review including the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared in accordance with the California Environmental Quality Act (CEQA). The General Plan Amendment is a related request to change the undeveloped land use designation of 0.41 acres from Institutional Density (ID) to Single Family Medium Density (MD) to accommodate two proposed single-family residential lots. The Rezone will change the entire project site from Agricultural (A) District to Planned Development (PD) District to allow a mixed use Planned Development project consisting of the existing church and the 2 proposed single-family parcels.

The Development Plan will establish the development standards for the site, thereby allowing the proposed uses on the site. The Tentative Parcel Map will subdivide the existing 2.77-acre church property into 3 parcels consisting of the existing church parcel and, if approved, the 2 single family residential lots. The Site Plan Review Permit allows the review of the architecture and design of the 2 proposed residences, as well as the landscaping, fencing and retaining walls. The Tree Removal Permit allows the removal of 7 of the existing 10 trees to be replaced with newly planted trees, shrubs and groundcover.

Mr. Sikela reviewed the detailed maps of the proposed sites, the proposed 2 single-family residences, the elevation map, the proposed exterior single-family residences, the proposed floor plans of the residences, the house colors and materials, a photo of the

current site and a photo of the site with the 2 proposed single-family residences. Mr. Sikela also advised staff has provided a condition that trees shall be planted a minimum of 10 feet away from water, sewer, and storm drain lines. He further advised the City Engineer has inserted written conditions addressing safety issues relating to line-of-sight for vehicles entering and exiting the shared driveway and public right-of-way improvements. Mr. Sikela also received written determinations the proposed project complies with Contra Costa County Fire Protection District standards; the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan is not applicable to this project. And finally, he noted staff received one email expressing opposition to the project as a public comment.

Councilmember Pierce asked about the stormwater plans, knowing that C3 requires bio-retention areas and she was unable to find them on the map. Mr. Sikela advised the bio-retention areas are found on the upper right and left corners in the front of the lots down by Southbrook Drive as water will naturally drain to the north of the lots. The developer will have a layer of percolation materials laid down to prevent the water from flowing offsite.

Councilmember Haydon asked about the height of the retaining wall in the back of the property. Mr. Sikela responded the wall is 6' to 6 1/2' tall at its highest point in the middle of the back, then it tapers downward.

Councilmember Haydon also asked about the public comment email staff received concerned with potential traffic impact to the neighborhood. Mr. Sikela advised the potential traffic impact was analyzed in the environmental documents and City Engineer is working with the applicant to comply with line-of-sight regulations, which standard is 12' back from the edge of the driveway.

Mayor Geller inquired about the 2' fence at the back of the lot bordering the church parking lot; he thought it should be taller for privacy and security reasons between the adjacent property owners. He also asked if there is enough room in the extra two parking spots at the end of the shared driveway to park and turn around a vehicle? Mr. Sikela responded at the Council's pleasure a condition can be added to increase the height of the fence bordering the church parking lot. He added there still needs discussion to occur between the applicant and the Fire Protection District regarding the private driveway bulb as there was some confusion as to the area being a shared residential driveway and not a fire access road.

Councilmember Pierce suggested a possible condition of keeping the area between the garage doors clear as these requirements are a part of areas of Oakhurst with shared driveways. Councilmember Shuey recommended the City leave that matter to be worked out between the property owners.

Mayor Geller opened the Public Hearing for comments.

Vidal Elzam, 5550 Southbrook Circle, inquired which trees are designated for removal? Mr. Sikela advised the three Valley Oak trees will remain on the property.

Mr. Elzam asked about the slope; since grading will need to occur, will the applicant take into account impacts to the adjoining properties? He also indicated there is a lot of wildlife on those lands presently and inquired if that wildlife will be relocated? Mayor Geller responded usually the wildlife will naturally re-locate when grading occurs.

Joe Rhodes, 33 Marquette Court, expressed concerns regarding the second story window location, noting the line of sight will eliminate the privacy of his backyard, bedroom, living room and office. Councilmember Pierce offered a possible solution of raising the windows above eye level so the surrounding neighbors would still have their

privacy. Such good neighbor features are incorporated all the time and she would like it added to the condition of approval on both sites. Councilmember Shuey inquired if such a condition was acceptable to the developer.

Armand Butticci, developer of the proposed project, advised he met with the neighbors regarding this project about 2 ½ years ago and recalls there was a different window proposed. Mr. Butticci advised he can take another look at the window and other options such as adding a tree for privacy purposes; his concern is restricting the size and height of a window in that large open room would detract from its overall ambience. Mr. Butticci indicated he will work with the neighbors to come up with a solution.

Mayor Geller closed the Public Hearing. City Council discussion ensued regarding site and design matters noted; there was general consensus with giving the developer and the existing neighbors additional time to work out agreeable solutions to the raised issues.

Mayor Geller re-opened the Public Hearing.

**It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to continue the Public Hearing to the next regular City Council meeting of Tuesday, December 6, 2016. (Passed; 5-0 vote).**

8. **ACTION ITEMS** – None.

9. **COUNCIL ITEMS** – None.

10. **CLOSED SESSION**

Mayor Geller announced the City Council will adjourn into a closed session to discuss the subject matter listed below [8:27 p.m.]:

- (a) *Government Code Section 54956.9(d)(2)* – Significant Exposure to Litigation.  
Conference with Legal Counsel: Anticipated Litigation (1 case).

Report out from Closed Session (8:33 p.m.)

Mayor Geller reported the City Council received information from its legal counsel regarding this matter but no reportable action was taken.

11. **ACTION ITEM**

- (a) Consider authorizing the Mayor to execute an amendment to the Oak Creek Canyon Tolling Agreement between the City of Clayton and West Coast Homebuilders to extend the limitations period to file a legal challenge.

City Attorney Mala Subramanian advised a request was received from West Coast Home Builders asking for a time extension for another six months to the Tolling Agreement which is set to expire tomorrow. The developer submitted an application pursuant to the Tolling Agreement but it has not been deemed complete by the City; they believe they can submit additional surveys and information within the next sixty days to deem their application as complete and considered within the proposed 180 day time

# ATTACHMENT 7

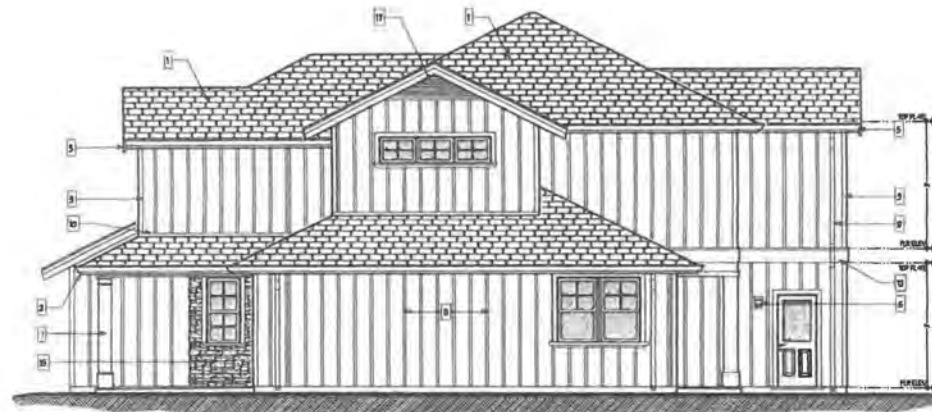


1 Left Exterior Elevation [ East ]  
Scale: 1/8" = 1'-0"

2 Front Exterior Elevation [ North ]  
Scale: 1/8" = 1'-0"

EXTERIOR ELEVATION NOTES:

- |  |   |   |
|--|---|---|
| <p>1 CONCRETE RAFTER CEILING - FINISHED TO BE EXPOSED<br/>NO SHALL BE REFINISHED WITH BRUSHED WOOD GRAIN FINISH OF<br/>UNDERLAYMENT. FINISHING ACCESSORIES BE SMALL CORNER WITH<br/>CORNER OF ONE SIDE WITH AND ADJUSTABLE - BLINDING<br/>MOUNTAIN TO CORNER TO BE LATER FINISHING ACCESSORIES<br/>MOUNTAIN, FOR TO BE FINISHED ACCESSORIES</p> <p>2 2x4 FLOOR JOIST WITH SPACING OF 24" ON CENTER FROM OTHER<br/>2x4 JOISTS. SUPPORTED BY WOOD BRACKET JOIST - WOOD<br/>BRACKET - 2x4x8x16 - SEE STUDY DRAWING SHEET - FINISH STUDY</p> <p>3 ROOF JOIST WITH SPACING OF 24" ON CENTER FROM OTHER<br/>ROOF JOISTS. SUPPORTED BY WOOD BRACKET JOIST - WOOD<br/>BRACKET - 2x4x8x16 - SEE STUDY DRAWING SHEET - FINISH STUDY</p> <p>4 LUMBER FLOORING - 1/2" x 3/4" x 8" - SEE STUDY DRAWING SHEET - FINISH STUDY</p> | <p>5 ROCKS 2x4 TO WOOD JOIST OF 2x4 JOIST<br/>ROCKS 2x4 TO WOOD JOIST OF 2x4 JOIST<br/>ROCKS 2x4 TO WOOD JOIST OF 2x4 JOIST</p> <p>6 ROOFING SYSTEM - SHINGLES - FINISHED TO BE EXPOSED<br/>SHINGLES AND CEILING TO BE EXPOSED</p> <p>7 2x4 FLOOR JOIST WITH SPACING OF 24" ON CENTER FROM OTHER<br/>2x4 JOISTS. SUPPORTED BY WOOD BRACKET JOIST - WOOD<br/>BRACKET - 2x4x8x16 - SEE STUDY DRAWING SHEET - FINISH STUDY</p> <p>8 ROOFING SYSTEM - SHINGLES - FINISHED TO BE EXPOSED<br/>SHINGLES AND CEILING TO BE EXPOSED</p> <p>9 2x4 FLOOR JOIST WITH SPACING OF 24" ON CENTER FROM OTHER<br/>2x4 JOISTS. SUPPORTED BY WOOD BRACKET JOIST - WOOD<br/>BRACKET - 2x4x8x16 - SEE STUDY DRAWING SHEET - FINISH STUDY</p> <p>10 2x4 FLOOR JOIST WITH SPACING OF 24" ON CENTER FROM OTHER<br/>2x4 JOISTS. SUPPORTED BY WOOD BRACKET JOIST - WOOD<br/>BRACKET - 2x4x8x16 - SEE STUDY DRAWING SHEET - FINISH STUDY</p> <p>11 VERTICAL SIDING - 2x4x8x16 - FINISHED TO BE EXPOSED</p> | <p>12 2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED</p> <p>13 2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED</p> <p>14 2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED</p> <p>15 2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED</p> <p>16 2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED</p> <p>17 2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED<br/>2x4x8x16 - FINISHED TO BE EXPOSED</p> |
|--|---|---|



3 Right Exterior Elevation [ West ]  
Scale: 1/8" = 1'-0"

4 Rear Exterior Elevation [ South ]  
Scale: 1/8" = 1'-0"



Yield D. Hovnd  
Architect

4191 Saxon Valley Road  
Fairfax, VA 22030  
703.444.8888 / www.PDFDesign.com

Revisions

**Southbrook Drive**  
**@ St. Johns**  
 Custom Residences  
 Portion of APN 118-101-022



Plan "A"  
Exterior  
Elevations  
Scale: 1/8" = 1'-0"  
September 2015

Sheet Number  
**A-2.1**

# ATTACHMENT 8

**Milan Sikela**

---

**From:** Armand Buttici III <ab3design@comcast.net>  
**Sent:** Tuesday, November 22, 2016 12:37 PM  
**To:** Milan Sikela; Mindy Gentry  
**Subject:** FW: Window Height at southbrook

Fyi

Thank You,  
Armand Buttici III  
AB3 Design  
510-697-6060 (Cell)

-----Original Message-----

**From:** Joe Rhodes [<mailto:joerhodes44@gmail.com>]  
**Sent:** Tuesday, November 22, 2016 12:20 PM  
**To:** [Ab3design@comcast.net](mailto:Ab3design@comcast.net)  
**Cc:** Jeannie Rhodes  
**Subject:** Window Height

Armand, regarding your text concerning the bedroom window height of the house you are planning to build:  
. window beginning at 6 feet off the bedroom floor would settle the matter of the window height for my wife and I.  
Thank you for getting back to us so quickly on this matter.  
Joe Rhodes  
925-628-6101  
33 Market Court  
Clayton, CA

Sent from my iPhone=



Google Maps

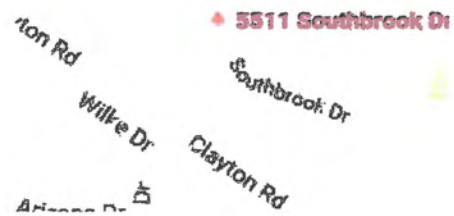
Clayton, California

# ATTACHMENT 9

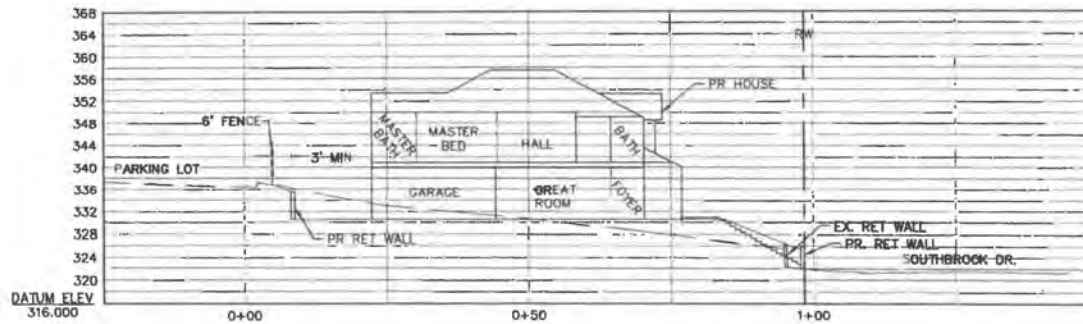
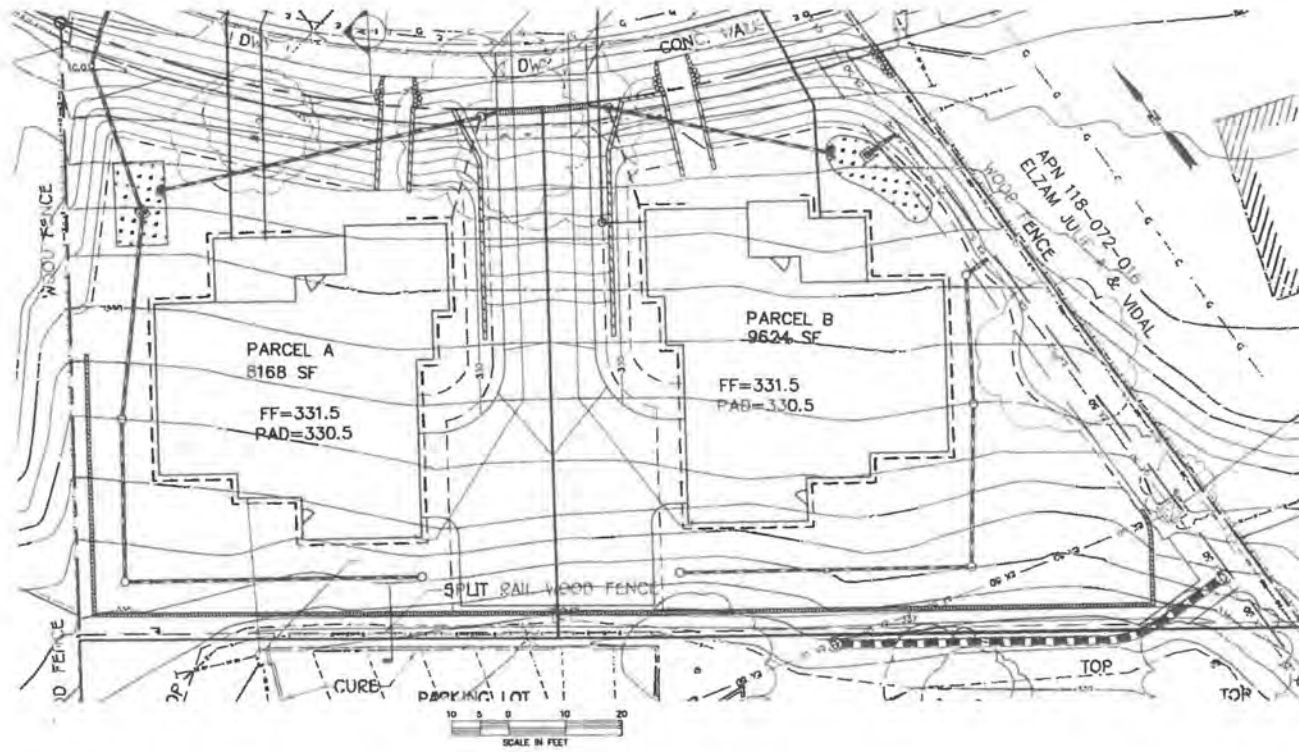


Image capture: Jul 2015 © 2016 Google

Street View - Jul 2015



# ATTACHMENT 10



**ALIQUOT**  
 PLANNERS  
 CIVIL ENGINEERS  
 SURVEYORS  
 1000 SOUTH MAIN STREET  
 SUITE 200  
 WALNUT CREEK, CA 94596  
 (925) 476-1100  
 FAX (925) 476-1101

NO.	BY	DATE	REVISIONS



VESTING TENTATIVE MAP - MS 01-15  
 SITE SECTIONS  
 SOUTHBROOK DRIVE  
 CONTRA COSTA COUNTY  
 CALIFORNIA

CLAYTON

DATE	2/20/15
DRAWN BY	ASB
CHECKED BY	ASB
DATE	11/20/15
DATE	1/20/16
DATE	1/20/16
DATE	1/20/16

P:\11\1111031\_00\Drawings\Tentative Map\104-7 SITE SECTIONS.dwg, 11/20/2015 10:12:55 AM, Admin P01

# ATTACHMENT 11



Contra Costa County

Fire Protection District

F.D. Permit Number 2016-07420 LD

Date 11/28/16

Date

Description of Work: Access Review 5555 Clayton Rd (Lot Split)

Project Name: St. Johns, Southbrook Address: 5555 Clayton Rd. Suite \_\_\_\_\_

City: Clayton, Ca. Zip \_\_\_\_\_ Additional Info. \_\_\_\_\_

Company: Aliquot Engineers Address: 1390 S. Main St - Suite 310

Contact Person: Vince D'Alo Phone No. ( ) \_\_\_\_\_ Lic # / Type \_\_\_\_\_

City: Walnut Creek State: CA Zip: 94596 Email: vdalo@aliquot.com

**APPLICATION SECTION: DO NOT MARK BELOW THIS LINE**

We have reviewed the proposed land development plans for the project facility. Our review is to insure compliance with the minimum code requirements related to fire and life safety as set forth in the California Fire Code. The following selected comments shall apply to this project:

- The applicant shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of \_\_\_\_\_ GPM. Required flow shall be delivered from not more than \_\_\_\_\_ hydrants flowing simultaneously while maintaining 20 pounds residual pressure in the water main. CFC 507.1 (2013)
- The applicant shall provide \_\_\_\_\_ hydrant(s) of the East Bay type. Hydrant location(s) are as
  - Determined by this office
  - As submitted. CFC 507.5 (2013)
- Provide emergency apparatus access roadways with all-weather driving surfaces of not less than \_\_\_\_\_ feet unobstructed width, and not less than 13 feet 6 inches of vertical clearances, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access roads shall not exceed \_\_\_\_\_ % grade, shall have a minimum outside turning radius of \_\_\_\_\_ feet, and shall be capable of supporting the imposed loads of fire apparatus. (i.e., \_\_\_\_\_ tons) CFC 503.2 (2013)
- Dead end emergency apparatus access roadways in excess of 150 feet in length shall be provided with approved provisions for the turning around of Fire District apparatus. CFC 503.2.5 (2013)
- Access road(s) and hydrant(s) shall be installed and in service prior to construction. CFC 2013 (501.4)
- Paint red curbs and mark curbs with white lettering "NO PARKING - FIRE LANE" a minimum of three inches tall with a 1/2 inch wide minimum stroke. The interval between stenciled lettering shall be adequate to inform the public of the existence of a fire lane but in no event shall the interval exceed 25 feet.
- Submit two (2) copies of automatic fire sprinkler system plans and specifications, as prepared by a C-16 licensed fire sprinkler contractor, which conform to NFPA 13 D - 2013, for review and approval prior to installation. CFC 903.2 (2013) FOR EACH HOME.

(CONTINUED OVER)

Fee computed by: [Signature]

Received by: [Signature]

Cash  Credit  Check No. \_\_\_\_\_

Amount Due: \$360

Amount Received: \$360

Invoice No. 16-6703

Additional comments: DRAWING "EXH" HAS ONLY BEEN REVIEWED FOR WATER SUPPLY & ACCESS.

ACCESS FROM THE STREET (SOUTHBROOK DRIVE) MEETS MINIMUM FIRE CODE REQUIREMENTS. COMMON DRIVEWAY IS NOT REQUIRED FOR FIRE DEPT. USE.

Approved plans, including calculations, shall be onsite at time of inspection. Failure to have approved plans onsite may result in the cancellation of the inspection, and a reinspection fee being assessed.

Contact the Fire District at 925-941-3323 (minimum two working days notice required) to schedule an onsite inspection. No inspections will be scheduled on Fridays.

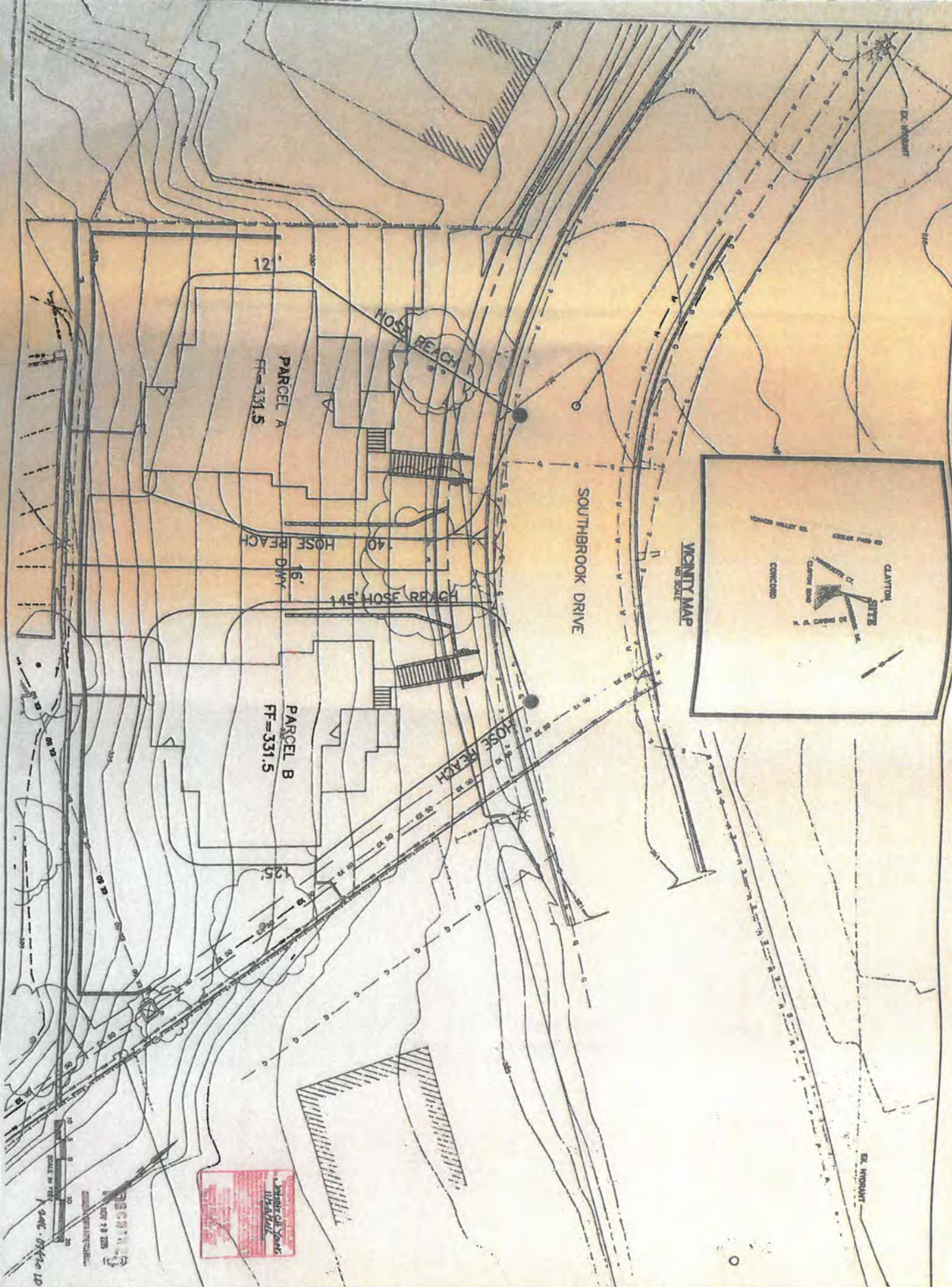
***On the morning of the inspection, a confirmation telephone call made to the Fire District at 925-941-3300 is necessary between 8:00 and 8:30 AM. Otherwise, the inspection will be cancelled.***

***Final acceptance is subject to field inspections and tests.***

Approval does not relieve the designer/contractor from complying with all applicable fire code requirements, nor does it abrogate the requirements of other authorities having jurisdiction.

Approved as submitted.       Approved with Comments.       Denied, Resubmittal Required.

Reviewed by: JOHNNY CH YOUNG      Date: 11/20/2016



EXH	1	of	1
DATE	11/22/16	BY	YAO
SCALE	1"=10'	PROJECT	5555 CLAYTON RD
NO.	2330910	DATE	11/22/16

**FIRE DEPARTMENT EXHIBIT**  
**5555 CLAYTON ROAD**  
**APN: 118-101-022**



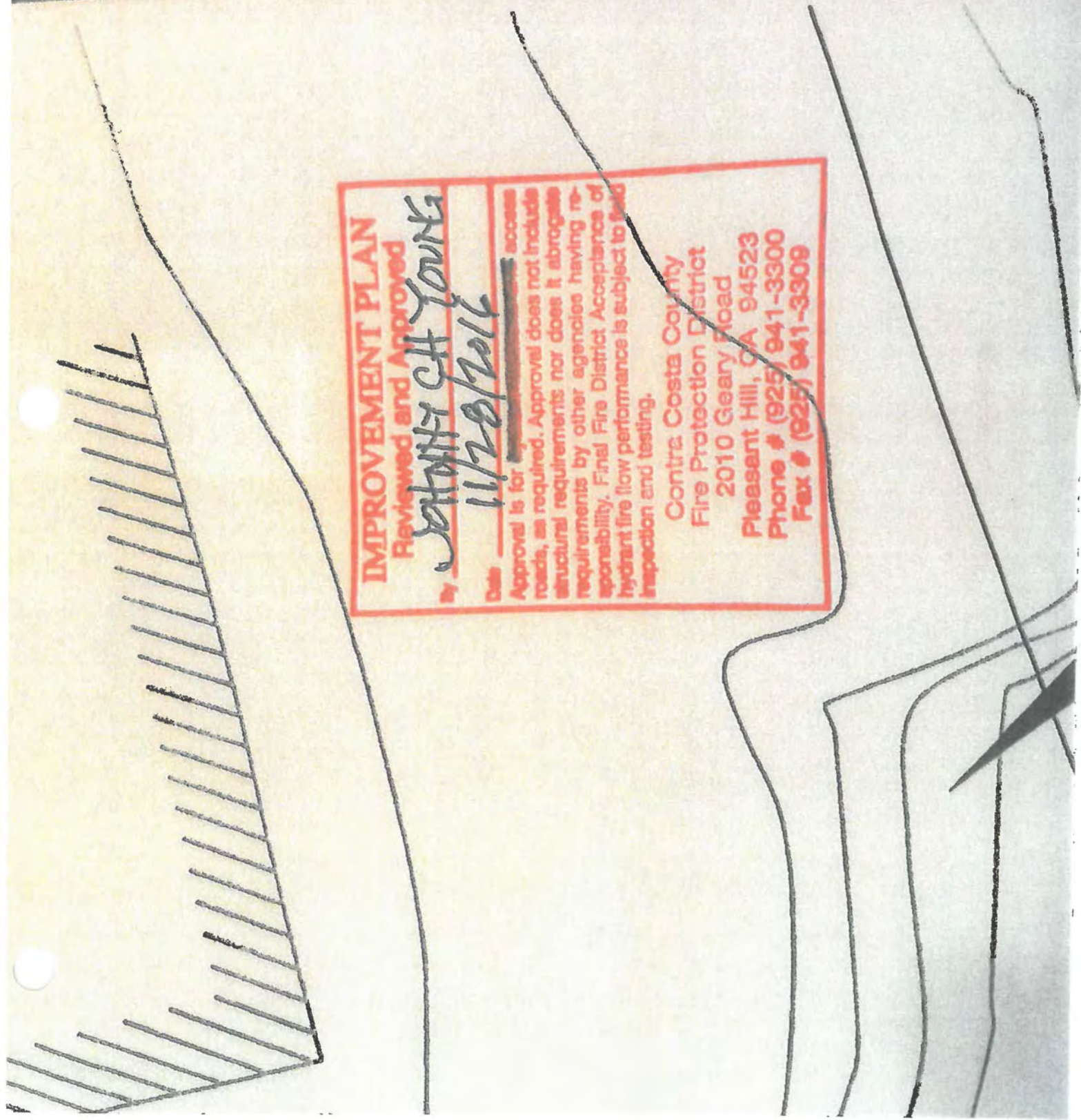
NO.	DATE	REVISIONS

**ALLOQUOT**  
 7700  
 4141 BRADLEY  
 STREET, CLAYTON  
 CA 94520  
 (925) 754-1100

**IMPROVEMENT PLAN**  
Reviewed and Approved  
by JOHN H. CH. YOUNG  
Date 11/28/2016

Approval is for access  
roads, as required. Approval does not include  
structural requirements nor does it abrogate  
requirements by other agencies having re-  
sponsibility. Final Fire District Acceptance of  
hydrant fire flow performance is subject to field  
inspection and testing.

Contra Costa County  
Fire Protection District  
2010 Geary Road  
Pleasant Hill, CA 94523  
Phone # (925) 941-3300  
Fax # (925) 941-3309



Councilmember Snuey did not share a report.

Councilmember Catalano attended the Clayton Business and Community Association's Annual Tree Lighting event in downtown Clayton.

Councilmember Pierce attended the San Jose Registry Forecast Group consisting of representatives from area realtors, the Bay Area Growth and Plan Bay Area meetings, the Metropolitan Transportation Commission meeting, the Contra Costa Transportation Authority Board meeting, the Associated Bay Area Governments Executive Board meeting, a joint meeting of the Associated Bay Area Governments and Metropolitan Transportation Commission meeting, the Bay Area Regional Collaborative meeting, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg, and she reminded the community of the upcoming Annual Christmas Homes Tour taking place on December 11, 2016 sponsored by the Clayton Historical Society.

Mayor Diaz attended a County Connection meeting, the December 2016 Contra Costa County Mayors' Conference hosted by the City of Pittsburg, and the Clayton Business and Community Association's Tree Lighting and Holiday event.

(e) Other – None.

## 9. PUBLIC COMMENT ON NON - AGENDA ITEMS

Steven Cross, 901 Sunvalley Blvd, Suite 220, Concord, representing the Center of Human Development, shared information about its low-cost or free mediation services offered to the Elderly, Family and/or Neighbor for disputes; available time can be for up to three hours. The Center of Human Development has found this dispute resolution service to have a 90% success rate. Mr. Cross wanted to get the word out about this community resources service.

## 10. PUBLIC HEARINGS

- (a) Continued Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022):
- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
  - 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
  - 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and

- 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).  
(Assistant Planner)

Councilmember Catalano stated for the record she was in attendance at the Planning Commission meeting of October 25<sup>th</sup> on this matter but not at the City Council's initial hearing on November 15<sup>th</sup> meeting. She reviewed the November 15<sup>th</sup> City Council materials in advance of this meeting and as such stated she will participate in the discussion this evening regarding this item.

Assistant Planner Milan Sikela presented the staff report indicating this is a continued item from the November 15<sup>th</sup> regular City Council meeting. Mr. Sikela advised the City Council reviewed the item and provided three issues requiring additional staff research. Those items were a second story window located on the side elevation of the proposed home; the need for a 6' fence on the north property line located at the rear of the lot adjoining the Church parking lot; and the evaluation of a "No Parking" area in the shared driveway.

He indicated the applicant and the concerned neighbor have come to an agreement on a smaller window installed 6' from the finished floor on that elevation. The existing fence on the north end of the property line is a short somewhat see-through fence and the City Council requested the applicant construct a 6' solid good-neighbor fence. Staff worked with the applicant requiring this fence to be at least 3 feet above the retaining wall as required by the *Clayton Municipal Code* section 17.36 - General Regulations. Lastly, staff evaluated requiring a "No Parking" area in the shared driveway either in front of the garages or at the southern terminus of the driveway; the applicant worked with the Contra Costa County Fire Protection District reviewing its response access and water availability, and he noted the Fire District approved the site plans along with a submitted document that the shared driveway is not needed for fire safety purposes. The properties can be accessed for fire suppression purpose from Southbrook Drive and its fire hose length can wrap around the homes at least two times from that response location. The applicant also indicated one of the benefits of this project is to leave the shared driveway available for various private vehicles that are associated with these homes.

Lastly, Mr. Sikela noted an issue that was not asked for further research was a comment made about the location of the stormwater detention basins by Council Member Pierce. Staff provided a revised diagram as Attachment 10 to note the location of these basins and the applicant is working with the City Engineer on a stormwater control plan including an operation and maintenance agreement.

Mayor Diaz re-opened the Public Hearing on this item; no comments were offered and Mayor Diaz then closed the Public Hearing.

Councilmember Pierce thanked the residents and applicant on working together and coming up with an agreeable solution. Councilmember Haydon added his thank you to the applicant and residents in resolving the concerns City Council had identified in a fair manner.

1. **It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution No. 56-2016 adopting the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project (ENV-01-15). (Passed; 5-0 vote).**



2. It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to adopt Resolution No. 57-2016 modifying the existing land use designation from Institutional Density (ID) to Single Family Medium Density (MD) for the northern 0.41 acres of the St. John's Church/Southbrook Drive Mixed Use Planned Development Project.  
(Passed; 5-0 vote).

3. It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to have the City Clerk read Ordinance No. 471, by title and number only and waive further reading.  
(Passed; 5-0 vote).

The City Clerk read Ordinance No. 471 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve Ordinance No. 471 for Introduction with finding the action will not result in a significant adverse impact on the environment.  
(Passed; 5-0 vote).

4. It was moved by Councilmember Pierce, seconded by Councilmember Catalano, to adopt Resolution No. 58-2016 approving the Development Plan (DP-01-15), Tentative Parcel Map (MAP-0-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project.  
(Passed; 5-0 vote).

- (b) Public Hearing to consider the adoption of Urgency Ordinance No. 472 extending the interim local moratorium for an additional ten (10) months and fifteen (15) days on the operation or establishment of parolee homes and community supervision programs within the city of Clayton.  
(Community Development Director)

Community Development Director Mindy Gentry indicated that back on November 1, 2016 the Council adopted Ordinance No. 469 placing a forty-five day moratorium on the establishment, construction and operation of Community Supervision Programs and parolee homes. Unfortunately, the forty-five days did not provide staff adequate time to draft regulations and present them to both the Planning Commission and City Council for review and consideration. Due to the uses associated with the County's Community Supervision Program including parolee housing not being defined in the *Clayton Municipal Code*, the expiration of Ordinance No. 469 will not have met Council's concerns regarding on-going potential negative impacts to public health, safety and welfare, particularly if there were a dense concentration of parolee homes located near sensitive uses such as parks, schools, or day care. The adoption of this Ordinance will provide staff the further time needed to draft regulations and present them for consideration by the Planning Commission and then enactment by City Council. It is anticipated that staff will not need an extension beyond this additional ten months and fifteen days.

Mayor Diaz opened the Public Hearing for public comment; no comments were offered. Mayor Diaz closed the Public Hearing.



Agenda Date: 12-20-2016

Agenda Item: 8b

Approved:

Gary A. Napper  
City Manager

# STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: John Johnston Maintenance Supervisor**

**DATE: 12-20-2016**

**SUBJECT: Continued Discussion of a Clayton Valley Little League Proposal for Permanent Fencing and Storage on Field No. 3 of the Clayton Community Park**

## BACKGROUND

At the November 1, 2016 City Council Meeting staff presented the City Council with a proposal from Clayton Valley Little League (CVLL) to install a permanent fence and storage container to be located on Field No. 3 at the Clayton Community Park. Council directed staff to research more accurate costs and bring this proposed joint project back for further discussion.

## PROJECT COSTS

Staff was able to obtain some basic costs for some of the components of the project and other costs would have to be based on estimates until more accurate planning, engineering design, and surveying would be completed. It should be noted the estimates for the fence received by CVLL did not include a middle rail, prevailing wages, hauling off of excess debris, surveying, etc.

- Fencing with a Gate: \$25,000 - \$30,000
- Mow/Housekeeping Strip: \$20,000 - \$25,000
- Building Pad for Storage Unit: \$ 3,000 - \$ 5,000
- Player Warning Track: \$10,000 - \$15,000

**TOTAL \$58,000 - \$75,000**

**Note:** It is impossible to give an estimate on the cost of the storage building without design and Council direction to have the permanent storage unit match other public buildings in the park.

Staff received written quotes for the fence, building pad, and mow/housekeeping strip. Phone quotes were obtained for the excavation and installation of the player warning track. This project would have to go out for formal bid so the final costs of the project could vary from the actual quotes received. Other associated costs have been provided as an attachment to this report.

### **Park Users and User Groups**

The obvious major impact this fence would have on other user groups is eliminating the use of any other organized sports with the exception of baseball on Field No. 3. The addition of a permanent pitching mound will prohibit its use for youth softball, and the addition of the fence will eliminate its use for any adult softball. Soccer will obviously not be able to use the field at all. As these are the only sports fields located within town it narrows, even further, the places people can go to enjoy open space park areas. Staff drew up a conceptual plan with dimensions to show the approximate open area that would now be available for all other park users. Many people use the open areas on the upper fields for a variety of activities. This fence will obviously close in the Field No. 3 park area and limit the amount of open space area outside the fence line.

### **PUBLIC POLICY DISCUSSION**

As stated at the November 1, 2016 Council Meeting, CVLL's proposal significantly modifies the original design of Field No. 3 as adaptive for other play purposes, both by organized sports and public free play. The determination of Community Park's public purpose in this respect requires public and stakeholder input along with City Council discussion. Following staff presentation and opportunity for public comment, staff seeks City Council general policy direction and funding source guidance regarding these recreational field matters.

#### Attachments:

1. Conceptual Plan [1 page]
2. Fence estimates, 8' height or 6' height [4 pages]
3. Housekeeping Strip estimate [1 page]
4. Associated Costs [1 page]
5. City Attorney input regarding AB 2404 – "The Fair Play Act" [2 pages]
6. City Council minutes from Nov. 1, 2016 meeting [3 pages]
7. Staff Report from Nov. 1, 2016 meeting [9 pages]
8. CCP Rental Fees and CVLL Fee Revenue FY 2016 [3 pages]

**ATTACHMENT 1**

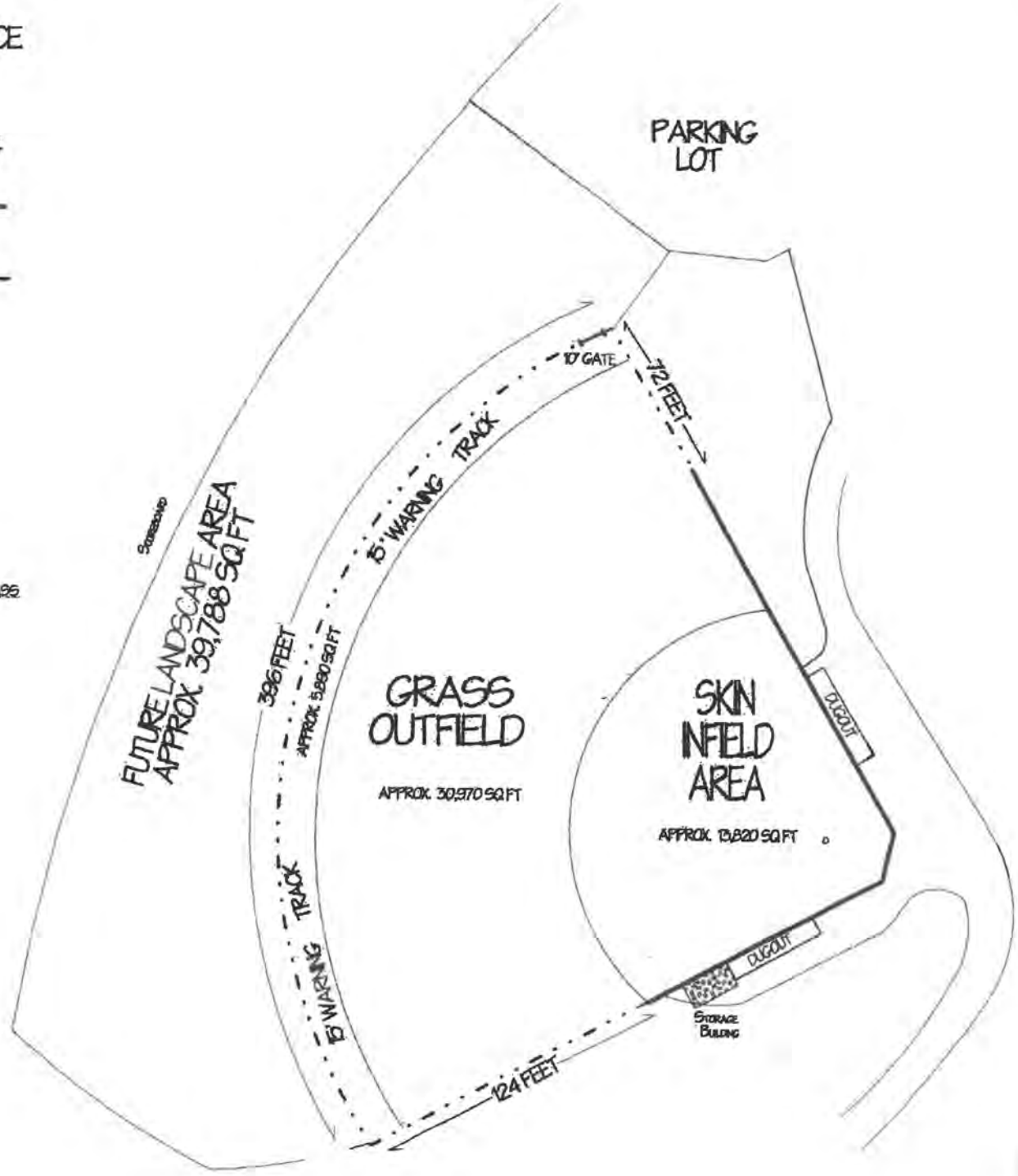
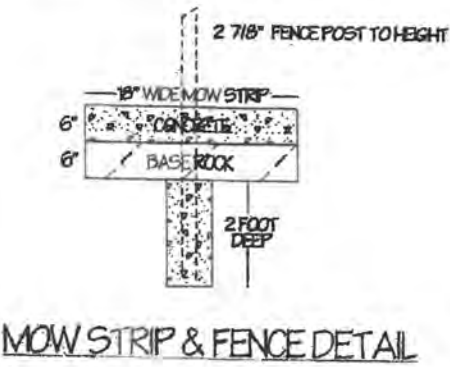
**NOTE:**  
 6 OR 8 FOOT HIGH BLACK FENCE  
 TOP AND BOTTOM RAILS  
 2 7/8" END POST  
 2 3/8" LINE POST  
 9 GAUGE BLACK WIRE FENCING

EXISTING FENCE 

PROPOSED NEW FENCE 

PROPOSED 10' GATE 

PROPOSED 10' X 10' STORAGE CONTAINER 



Revision #:	Scale:	Landscape Plan:	Landscape Design by:
Date: 11/15/2016	1" = 60'	CCP FIELD NO. 3 FENCE	CITY OF CLAYTON

# MORGAN FENCE CO., Inc.

3046-B Rockville Rd • Fairfield, CA 94534

Phone (707) 427-6159

Fax (866) 710-0899

WWW.MORGANFENCE.COM

**"No Job Too Small"**

## CONTRACT PROPOSAL

QUOTE GOOD FOR 30 DAYS

Contractor's License No.

CA 896119

- Family Owned and Operated Since 1962-

CUSTOMER NAME	City of Clayton		DATE	11.9.2016	
ADDRESS	6000 Heritage Trail		P.O.#		
CITY STATE ZIP	Clayton Ca 94517		SALESPERSON	J Morgan	
TELEPHONE HOME	925-672-6691	BUS.	925-673-7326	MATERIAL INSTALLED	<input checked="" type="checkbox"/>
FAX		ATTN:	John Johnston	COLOR	Black <input checked="" type="checkbox"/>
EMAIL ADDRESS	jjohnston@ci.clayton.ca.us		REPAIR	<input type="checkbox"/>	
STREET & NUMBER	2 Regency Drive		CHAIN LINK	<input checked="" type="checkbox"/>	
CITY STATE ZIP	Clayton Ca 94517		BARB WIRE	<input type="checkbox"/>	
TELEPHONE HOME		BUS.		ORNAMENTAL IRON	<input type="checkbox"/>
CROSS STREET			STYLE	8' CL	

TOTAL LINEAR FOOTAGE LESS GATES	DIAMETER LINE POST OD IN INCHES	GATE FRAME SIZE	SPECIAL INSTRUCTIONS
582'	2 3/8"	1 5/8"	Install 582' of 8' 9ga All Black chain fence with 1- 10'x8' Double Swing gate. 12" deep mow strip trench will be dug out by City and we will set our posts in mow strip 24" deep from dirt level in the trench. City to have mow strip poured after we set our posts. Bid with Prevailing Wages.
OVERALL HEIGHT	HOLE DIAMETER IN INCHES	TOP RAIL & TENSION WIRE	
8'	8"x24"	RAIL TOP BOTTOM <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> TENSION WIRE TOP BOTTOM <input type="checkbox"/> <input type="checkbox"/>	
WIRE FABRIC GAUGE	POST SPACING	DIRT FROM HOLES	SKETCH 
9	8FT. OR LESS IN CONCRETE	LEAVE TAKE <input type="checkbox"/> <input checked="" type="checkbox"/>	
SELVEDGE KNUCKLE-UP BARB-UP	SINGLE OR WALK GATE SIZE		
KK	-		
DIAMETER END POST OD IN INCHES	DOUBLE DRIVE GATE SIZE	POST SIZE	RAIL SIZE
2 7/8"	10'x8'	-	-

DIAMETER GATE POST OD IN INCHES	ROLL GATE SIZE	PICKET SIZE	<p><b>ALL SIGNED CONTRACTS WILL BE REVIEWED BY MANAGEMENT PRIOR TO ACCEPTANCE.</b> All materials will remain the property of Morgan Fence Company, Inc. until all invoices pertaining to this job in full. Right of access and removal is granted to MFC, Inc. in the event of non-payment under the terms of this contract. MFC, Inc. assumes no responsibility for any and all repairs for underground sprinklers, electrical, etc. damages during the normal course of installation. All pricing is for CASH OR CHECK payment, payment by CREDIT CARD will lose the included 5% discount.</p> <p style="text-align: right;"><b>INITIAL HERE</b></p>	
2 7/8"	-	-	<p>RECEIPT OF DOWN PAYMENT ACKNOWLEDGE</p> <p>\$ _____ <input type="checkbox"/> CASH <input type="checkbox"/> CHECK <input type="checkbox"/> CREDIT CARD</p> <p>TOTAL COMPLETE <b>\$29,000.00</b></p>	
<p>TERMS OF PAYMENT</p> <p><b>\$1,000 Down 50% to Order Materials</b></p> <p><b>Balance Due on Completion</b></p>				
<p>A SERVICE CHARGE OF 1 1/2% PER MONTH OF 18% PER ANNUM WILL BE CHARGED ON ALL ACCOUNTS NOT PAID WITHIN 30 DAYS OF INVOICE DATE.</p>		<p>CUSTOMER SIGNATURE _____</p> <p style="text-align: right;">DATE _____</p>		

# MORGAN FENCE CO., Inc.

3046-B Rockville Rd • Fairfield, CA 94534

Phone (707) 427-6159

Fax (866) 710-0899

WWW.MORGANFENCE.COM

## "No Job Too Small"

### CONTRACT PROPOSAL

QUOTE GOOD FOR 30 DAYS

Contractor's License No.

CA 896119

- Family Owned and Operated Since 1962-

CUSTOMER NAME	City of Clayton		DATE	11.9.2016	
ADDRESS	6000 Heritage Trail		P.O.#		
CITY STATE ZIP	Clayton Ca 94517		SALESPERSON	J Morgan	
TELEPHONE HOME	925-672-6691	BUS.	925-673-7326	MATERIAL INSTALLED	<input checked="" type="checkbox"/>
FAX		ATTN:	John Johnston	COLOR	Black <input checked="" type="checkbox"/>
EMAIL ADDRESS	jjohnston@ci.clayton.ca.us		REPAIR		<input type="checkbox"/>
STREET & NUMBER	2 Regency Drive		CHAIN LINK		<input checked="" type="checkbox"/>
CITY STATE ZIP	Clayton Ca 94517		BARB WIRE		<input type="checkbox"/>
TELEPHONE HOME		BUS.		ORNAMENTAL IRON	<input type="checkbox"/>
CROSS STREET			STYLE	6' CL	

TOTAL LINEAR FOOTAGE LESS GATES	DIAMETER LINE POST OD IN INCHES	GATE FRAME SIZE	SPECIAL INSTRUCTIONS
582'	2 3/8"	1 5/8"	Install 582' of 6' 9ga All Black chain fence with 1- 10'x6' Double Swing gate. 12" deep mow strip trench will be dug out by City and we will set our posts in mow strip 24" deep from dirt level in the trench. City to have mow strip poured after we set our posts. Bid with Prevailing Wages.
OVERALL HEIGHT	HOLE DIAMETER IN INCHES	TOP RAIL & TENSION WIRE	
6'	8"x24"	RAIL TOP <input checked="" type="checkbox"/> BOTTOM <input checked="" type="checkbox"/> TENSION WIRE TOP <input type="checkbox"/> BOTTOM <input type="checkbox"/>	
WIRE FABRIC GAUGE	POST SPACING	DIRT FROM HOLES	SKETCH 
9	8FT. OR LESS IN CONCRETE	LEAVE <input type="checkbox"/> TAKE <input checked="" type="checkbox"/>	
SELVEDGE KNUCKLE-UP BARB-UP	SINGLE OR WALK GATE SIZE		
KK	-		
DIAMETER END POST OD IN INCHES	DOUBLE DRIVE GATE SIZE	POST SIZE	RAIL SIZE
2 7/8"	10'x6'	-	-

DIAMETER GATE POST OD IN INCHES	ROLL GATE SIZE	PICKET SIZE	<b>ALL SIGNED CONTRACTS WILL BE REVIEWED BY MANAGEMENT PRIOR TO ACCEPTANCE.</b> All materials will remain the property of Morgan Fence Company, Inc. until all invoices pertaining to this job in full. Right of access and removal is granted to MFC, Inc. in the event of non-payment under the terms of this contract. MFC, Inc. assumes no responsibility for any and all repairs for underground sprinklers, electrical, etc. damages during the normal course of installation. All pricing is for CASH OR CHECK payment, payment by CREDIT CARD will lose the included 5% discount.
2 7/8"	-	-	
TERMS OF PAYMENT <b>\$1,000 Down 50% to Order Materials</b> <b>Balance Due on Completion</b>	RECEIPT OF DOWN PAYMENT ACKNOWLEDGE \$ <input type="checkbox"/> CASH <input type="checkbox"/> CHECK <input type="checkbox"/> CREDIT CARD		TOTAL COMPLETE <b>\$25,700.00</b>
A SERVICE CHARGE OF 1 1/2 % PER MONTH OF 18% PER ANNUM WILL BE CHARGED ON ALL ACCOUNTS NOT PAID WITHIN 30 DAYS OF INVOICE DATE.	CUSTOMER SIGNATURE _____ DATE _____		





CEMENT CONTRACTOR, INC.

2620 E. 18TH STREET - ANTIOCH, CA 94509
PHONE (925) 757-3660 - FAX (925) 757-3731
LICENSE NO. 378838 AND SBE #1739266

PROPOSAL SUBMITTED TO: CITY OF CLAYTON
PHONE: 925-250-5803 DATE: November 9, 2016
FAX:
JOB NAME: CLAYTON COMMUNITY PARK
JOB LOCATION: CLAYTON
ATTN: Mark Janney Plans Drawn By:
EMAIL: mjanney@ci.clayton.ca.us Date of Plans/Revision:

WE HEREBY SUBMIT SPECIFICATIONS AND ESTIMATES TO FURNISH, FORM, PLACE & FINISH:

Table with 5 columns: Description, Quantity, Unit, Price, Total. Includes items like 'EXCAVATE, SET & POUR MOW BAND 600' X 18" X 6" WITH 6" ROCK WITH 2 BAR #4 REBAR' and 'EXCAVATE, SET & POUR 10 X 20 PAD 6" CONCRETE 6" ROCK #4 @ 12"'

APPROX 45 YARDS OF SOIL TO BE LEFT AT SITE

INCLUDED: Excavation, Rebar, Backfill & clean up, Concrete, Grading for subgrade, Rock 6", Forming,

EXCLUDED: Spoil off-haul, Engineer Staking, Testing, Permits

TERMS: NET 30 DAYS - INTEREST AT A RATE OF 10% PER ANNUM WILL BE ADDED TO ALL PAST DUE ACCOUNTS. SHOULD IT BE NECESSARY TO COLLECT PAYMENT, REASONABLE ATTORNEY'S FEES, PLUS COST OF SUIT SHALL BE ADDED TO THE PRINCIPAL SUM OF THIS PROPOSAL AND ANY CHARGES. NO RETENTION, SUBCONTRACT FEE'S AND TERMS TO BE ACCEPTABLE TO WAYNE E. SWISHER CEMENT CONTRACTOR, INC. ALL INSURANCE CERTIFICATE REQUIREMENTS MUST BE APPROVED BY WAYNE E. SWISHER CEMENT CONTRACTOR, INC. PRIOR TO OUR STARTING WORK. OR SUCH REQUIREMENTS WILL NOT BE CONSIDERED FOR THIS JOB. IF THIS PROJECT HAS AN OCP, OCP OR SIMILAR INSURANCE PROGRAM, ANY CHANGE TO OUR INSURANCE COSTS WILL BE LIMITED TO OUR ACTUAL INSURANCE RATES AS AN AUTOMATIC ADD OR DEDUCT TO THIS PROPOSAL. THE COST OF SURETY BONDS AND BOND COST COVERAGES, THAT MAY BE REQUIRED, SHALL BE PAID DIRECT BY CONTRACTOR TO SURETY AT THE SURETY'S TERMS. WAIVER OF SUBROGATION EXCLUDED. WE ARE AN EQUAL OPPORTUNITY EMPLOYER.

WE PROPOSE HEREBY TO FURNISH MATERIAL AND LABOR - COMPLETE IN ACCORDANCE WITH THE ABOVE SPECIFICATIONS, FOR THE SUM OF:

TWENTY FOUR THOUSAND AND NO / 100 \*\*\*\*\* \$ 24,000.00

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED. ALL WORK TO BE COMPLETED IN A WORKMANLIKE MANNER ACCORDING TO STANDARD PRACTICES. ANY ALTERATIONS OR DEVIATION FROM ABOVE SPECIFICATIONS INVOLVING EXTRA COSTS WILL BE EXECUTED ONLY UPON WRITTEN ORDERS, AND WILL BECOME AN EXTRA CHARGE OVER AND ABOVE THE ESTIMATE. ALL AGREEMENTS CONTINGENT UPON STRIKES, ACCIDENTS, OR DELAYS BEYOND OUR CONTROL. OWNER TO CARRY FIRE, TORNADO, AND OTHER NECESSARY INSURANCE. OUR WORKERS ARE FULLY COVERED BY WORKMAN'S COMPENSATION INSURANCE.

AUTHORIZED SIGNATURE: \_\_\_\_\_

NOTE: THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN 30 DAYS.

ACCEPTANCE OF PROPOSAL -

THE ABOVE PRICES, SPECIFICATIONS, AND CONDITIONS ARE SATISFACTORY AND ARE HEREBY ACCEPTED. YOU ARE AUTHORIZED TO DO THE WORK AS SPECIFIED. PAYMENT WILL BE MADE AS OUTLINED ABOVE.

SIGNATURE: \_\_\_\_\_

DATE OF ACCEPTANCE: \_\_\_\_\_

**ASSOCIATED PROJECT COSTS**

The following are costs that staff feels are necessary to complete the project.

**Irrigation System Modifications:**

• Smart Controller	\$10,000
• Sprinkler Heads	\$5,000
• Piping	\$2,000
• Fittings	\$3,000
• Labor & Equipment	<u>\$60,000</u>
<b>TOTAL</b>	<b>\$80,000</b>

**Ballfield Play Surface Renovation:**

- Materials, Equipment, and Labor \$15,000 - \$20,000

**Sodding Field No. 3:**

- Material & Labor (\$1 Sq. Ft.) \$70,000 - \$75,000

**Design & Blueprints:**

- Contract for architect \$10,000 - \$30,00

The following is a list of some the items that could directly impact the degree of difficulty and the cost of the integrating CVLL's proposal into a complete public park vision:

- Degree of irrigation redesign
- Landscape solutions for area outside the fence line
- Storage Building Design
- Degree of Design & Blueprints

**Field Maintenance**

There are always maintenance costs associated with any new infrastructure or landscape. The following is a list of the obvious additional maintenance associated with the proposal:

- Edging along new fence line area
- Upkeep of new warning track area
- Future repair and replacement of permanent fence
- Unknown maintenance of possible future landscape

**AB2404 THE FAIR PLAY ACT**

A baseball field with a permanent mound could not be utilized by a softball team. The rules of softball indicate a pitcher will pitch at surface level to the batter (see <http://americanprofile.com/articles/baseball-vs-softball/>; see also Official Rules of Softball, Rule 2, Section 2, available at [http://www.isfsoftball.org/english/rules\\_standards/rulebook.pdf](http://www.isfsoftball.org/english/rules_standards/rulebook.pdf), page 13). Even if a regulation softball game were played from a mound, it would have to be a smaller mound than is used in baseball. Because of this difference in the rules, altering even one of the baseball fields to include a permanent mound could potentially open the City to litigation under AB 2404, the Fair Play Act. Further research would need to be done into the particular demographics and athletic participation in the City to determine whether the alteration is appropriate or would put the City at risk of litigation.

The purpose of AB 2404, passed in 2004 and codified as Government Code Section 53080, is to prevent gender discrimination in the operation of community youth athletic programs. Section 53080 creates a right for civil action for gender discrimination in these programs. It prohibits any city from discriminating against any person on the basis of sex or gender in the operation, conduct, or administration of community youth athletics programs or in the allocation of parks and recreation facilities and resources that support or enable the programs. (See Government Code Section 53080(a).

Community youth athletics program is defined as "any athletic program in which youth solely or predominantly participate, that is organized for the purposes of training for and engaging in athletic activity and competition, and that is in any way operated, conducted, administered, supported, or enabled by a city, county, city and county, or special district." See Government Code Section 53080(c). Parks and recreation facilities and resources is defined as "park facilities, including, but not limited to, athletic fields, athletic courts, gymnasiums, recreational rooms, restrooms, concession stands and storage spaces; lands and areas accessed through permitting, leasing, or other land use arrangements, or otherwise accessed through cities, counties, cities and counties, or special districts; sports and recreation equipment; devices used to promote athletics such as scoreboards, banners, and advertising; and all moneys used in conjunction with youth athletics." See Government Code Section 53080(d). Section 53080 also lays out what factors courts should consider to determine whether discrimination exists, including:

- a. Whether the selection of community youth athletics programs offered effectively accommodate the athletic interests and abilities of members of both genders;
- b. The provision of moneys, equipment, and supplies;
- c. Scheduling of games and practice times;
- d. Opportunity to receive coaching;
- e. Assignment and compensation of coaches;
- f. Access to lands and areas accessed through permitting, leasing, or other land use arrangements, or otherwise accessed through a city, a county, a city and county, or a special district;
- g. Selection of the season for a sport;
- h. Location of the games and practices;
- i. Locker rooms;
- j. Practice and competitive facilities;
- k. Publicity; and

I. Officiating by umpires, referees, or judges who have met training and certification standards.”  
See Government Code Section 53080(f).

In making the determination of effective accommodation, courts shall assess whether the city has accommodated athletic interests of both genders in any of the following ways: (1) The community youth athletics program opportunities for boys and girls are provided in numbers substantially proportionate to their respective numbers in the community; and (2) Where the members of one gender are underrepresented in community youth athletics programs, the city can demonstrate that the interests and abilities of the members of that gender have been fully and effectively accommodated by the present program and allocation of resources. See Government Code Section 53080(g).

As a result, installing a permanent baseball mound on any of the four available fields could open the City to a civil suit under AB 2404, unless the City could prove equal opportunity was provided to both genders and the City is fully and effectively accommodating both genders. Any alteration would potentially lessen the opportunities for girls hoping to play softball in the city, and it would be antithetical to demonstrating full and effective accommodation of both genders in its programs.

(c)

Consideration of a proposal by Clayton Valley Little League to permanently install a fixed outfield baseball fence on Sports Field No. 3 at Clayton Community Park, and discussion of the need and funds to renovate the 1992-installed turf playing field and/or all fields at Clayton Community Park (Fields 1-4).

Maintenance Supervisor John Johnston advised the City received a proposal from Clayton Valley Little League (CVLL) requesting joint installation of a permanent fence and location of a storage container at Clayton Community Park on Field 3. In addition, CVLL would also like to build a permanent pitching mound on the same field. Maintenance staff has reviewed the proposal and noted an 8-foot high fence is preferred as a safety component, and it needs the accompanying installations of a minimum 12-inch wide housekeeping strip located under the fence line, a ten foot wide permanent warning track for player safety, and preferably a storage container that matches all other existing buildings or structures located within the public park. Staff cautioned the installation of a permanent fence will limit the use of this field for other sports, impact the existing irrigation system layout and effectiveness, increase field maintenance, and impact other field uses and user groups. Mr. Johnston noted that without a conceptual design it is difficult to come up with cost estimates and the integration into the complete public park proposal. To maximize the public discussion of this item, staff invited representatives from Mt. Diablo Soccer Association (MDSA) and All Out Sports League (AOSL) to also provide input on CVLL's proposal and how it may impact their programs.

City Manager Napper added since this item was being brought here for discussion it was determined to open up further discussion on the broader view of the current condition of Clayton Community Park which was installed in 1992. It is recognized that chasing water leaks has disrupted the playing surface of all fields and natural wildlife creating holes that kids could fall into while playing soccer, which field condition has recently resulted in the Soccer Association not using or renting our fields any longer. Rental revenue collected has significantly declined due to the conditions of the fields, the extended drought made them further unsafe and as a result some sports organizations have found alternate play locations. Staff put together in Section 2 of the Report a range of ideas to renovate all playing fields and associated park irrigation systems.

Councilmember Shuey inquired why the preference of any 8' fence versus a 6' fence? Mr. Johnston advised an 8' fence is preferred for the safety of the kids that will be running into it or trying to jump up to catch a fly ball.

Councilmember Shuey asked if staff had any further updates as to installation and maintenance costs of artificial turf? Mr. Johnston advised installation of artificial turf would require a complete regrading, landscaping, irrigation system, design and blueprints. He has also heard the lifespan of artificial turf has shortened to approximately 8 years and it requires its own maintenance plan to include brooming and watering it down.

Councilmember Haydon inquired if there are currently any adult teams using the fields? Casey Copeland, President of All Out Sports League, advised his organization is currently using Field 2 for softball in the spring, summer and fall; occasionally for a tournament they may use an additional field. Mr. Copeland also advised some kids have stopped playing on the fields due to the number of potholes and poor turf conditions.

Councilmember Shuey advised he had a conversation with Jeremy Amos, President of Mt. Diablo Soccer League, prior to this meeting noting that soccer has a real issue with player and referee safety on all fields at Clayton Community Park, and have since found other fields to use. Mr. Amos indicated to Mr. Shuey with the combination of the safety of the fields, ground squirrel issues and field costs, it has been problematic for the league.

Kevin Dern, President of Clayton Valley Little League advised that he advocating this proposal to return Clayton Community Park Field 3 to what it once was. The last few years CVLL has struggled with its fields, and is looking to find its home fields. The current condition of the fields is in despair, where a lot of safety hazards have occurred. As a non-profit they do not have a lot of funds and that is why they are seeking out a partnership with the City for field improvements. Currently the League is unable to host any tournaments, play-offs or all-stars due to the condition and design of the fields.

Councilmember Shuey inquired on the additional request from the League for the installation of a permanent pitching mound on Field 3: would it be feasible to still use the portable mound so the field could still be used for softball? Mr. Dern reluctantly replied "yes."

Councilmember Haydon inquired on the use of a temporary fence? Mr. Dern advised CVLL currently has a temporary fence it is using which needs to be put up and taken down each time it is needed and then stored. Parents are tired of having to do this each and every game.

Mayor Geller would like to have CVLL work with Clayton Maintenance staff to determine costs and on-going maintenance and irrigation costs with this item brought back to the Council for consideration. Councilmember Haydon wondered if the renovations to Clayton Community Park could be done in phases? Mayor Geller also made a suggestion that CVLL consider putting in a donation request to the Clayton Business and Community Association as this project could help a lot of kids for years to come.

Aaron Paez, long time Clayton resident and new CVLL Board Member, advised there is a business side to this proposal as it has the potential of bringing approximately 1,400 people to the City between April and June during that time frame, with Saturdays hosting 18 to 22 games in the City area. This could bring more business to the local restaurants as typically after a game teams will get together and have some pizza or hamburgers to reward the kids.

City Manager Napper commented the community dialogue presented this evening is encouraging; Clayton Community Park is not in its present condition based on a lack of desire however, and the park's annual maintenance costs are approximately \$187,000 while annual rental revenues are approximately \$44,000 for the entire park, including picnic rentals. The operational gap is subsidized by the General Fund, whereas in contrast The Grove Park more successfully maintained as it has a non-competing revenue source dedicated to its operation and maintenance. He noted some surrounding cities, such as Pleasant Hill, have a Recreation District which is a community facilities funded by a separate parcel tax. Approximately \$24,000 of the revenues collected last fiscal year for rentals at Clayton Community Park came from CVLL's play.

Councilmember Pierce thanked Clayton Valley Little League for bringing this issue up as it is a good opener for what needs to be done at Clayton Community Park and could possibly satisfy other community needs such as a BMX or skate park. Ms. Pierce would also like to be sure that any modifications to the park be kept safe and in playable condition, and if it is proper to fence off part of this field, limiting its use of other organizations or the public to use that area, the City needs to improve the other areas of the park too.

Mr. Napper commented he appreciated the fact that Clayton Valley Little League approached the City with this proposal but at a minimum merely installing a fence would not be sufficient without the necessary warning track and underlying concrete mow strip. Mr. Johnston noted he just received a proposal from Pacheco Bros. Landscape to renovate all four fields with what is necessary, without irrigation system improvements or and permanent baseball mound, and it would be approximately \$120,000.

Mr. Johnston added the proposal from Pacheco Bros. includes removing the weeds, leveling out the fields, seed, and fertilize. This renovation would need to be done several years in a row, at approximately \$120,000.00 per year, to keep them maintained; the City's general maintenance and staffing level cannot provide a higher level of field care and certainly does not address possible extended drought conditions, lack of irrigation, or ground squirrel prevention measures. He added Field 3's irrigation system must undergo a re-design to properly address the impacts of a permanent fence.

City Manager Napper asked is the City Council willing to allow this field to go to baseball by installing a permanent fence? If that is the desired policy direction, staff will work with Clayton Valley Little League and bring this item back to the Council with refinement of associated costs.

Councilmember Pierce requested additional community outreach to let the community know the City Council is considering a proposed change to Clayton Community Park and encourages additional community input.

~~(d) Continued consideration of Mayor Geller's request for the City to initiate a feasibility study for construction of a second public restroom in the Clayton Town Center area.~~

~~Mayor Geller advised this item was continued as the Council was not at full capacity at the last meeting when this item was presented and wanted to seek everyone's input.~~

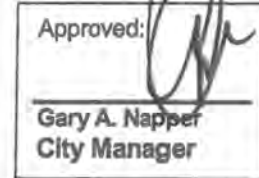
~~Councilmember Pierce advised there is not enough information to make a decision on this item. Ms. Pierce performed her own online research and learned the cost of a public restroom could be anywhere from \$200,000 to \$400,000 for a pre-fabricated facility that would be nearly identical to what is at The Grove Park. She also looked into how to determine the size of a facility to meet crowd needs of 3,000 to 10,000 and the added restroom size being contemplated would not meet those types of needs. Ms. Pierce would like staff to do further research before the Council goes any further on this item and prioritizes this as a capital improvement need of the City for 22 days per year.~~

~~Mayor Geller would like this consideration returned to staff for its input on where additional restrooms could be located including the on-going maintenance costs. Mayor Geller thinks if there is a real restroom facility across the street from the park, not portable toilets, it would be utilized by the concert crowds and reduce the times people are waiting in line to use the existing park facility. Another suggestion is to go in conjunction with the builder of the commercial strip near the Clayton Historical Society to serve the public needs.~~

~~Councilmember Haydon confirmed he thinks it is worth the time for staff to investigate and determine a location of an additional restroom in the downtown.~~

~~Councilmember Shuey inquired on how much staff time would be needed as he does not want staff to spend tremendous amounts of time on something if from a stand point of a policy decision, it is determined that it is not needed. Councilmember Shuey also noted that for larger events such as the Labor Day Derby, Oktoberfest, Art and Wine, port-a-potties will still be needed to accommodate the large attendance at these events. Councilmember Shuey asked if an additional restroom was placed in the Black Diamond Corral across the street from the park, would that be considered a part of "The Grove Park" for funds?~~

~~City Manager Napper advised his initial reaction is "No," the Corral would not fall under "The Grove Park" and would be hard pressed to make such a nexus to that special~~



# STAFF REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**

**FROM: John Johnston Maintenance Supervisor**

**DATE: 10-27-2016**

**SUBJECT: Clayton Valley Little League Proposal for Permanent Fencing and Storage on Field No. 3 of the Clayton Community Park**

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## PROPOSAL

Clayton Valley Little League (CVLL) has presented the City with a proposal to jointly install a permanent fence (shared cost) and their storage container that would be located on Field No.3 at Clayton Community Park (CCP). In addition to these alterations CVLL also proposes to build a permanent pitching mound on this baseball field. As the park is a community park, open to all individuals, and enjoyed by many user groups, staff seeks stakeholder input and City Council direction about the proposals design, impact on park irrigation, maintenance, park users, user groups, and project costs.

### **Design**

CVLL's proposal includes a 6 or 8 foot galvanized black vinyl coated fence cemented directly into the grass area. In consideration of the initial proposal, Maintenance staff notes the following sports field components must be part of any approval:

- 8 foot high fence as opposed to a 6 foot high fence
- Installation of a 10 foot wide double maintenance gate
- Minimum 12 inch wide housekeeping strip located directly under the fence line
- 10 foot wide permanent warning track for player safety

CVLL's proposal also seeks free storage of a permanent metal cargo container as a CVLL equipment storage facility. If accepted, staff would like this storage facility to match all other existing buildings and or structures located within the park. Much time and effort has been placed on making sure all building



and or structures have met certain design criteria. These designs range from bathrooms, garbage container area, and Nextel building, to barbeques, shade structures, and garbage cans. Staff would like to continue this type of design criteria for this and all other future design proposals.

*Note: Based on the initial CVLL design, no access is provided to remove the storage container without removal of the 3<sup>rd</sup> base line fence.*

### **Field Irrigation**

Installation of this fence and storage container will impact the irrigation system located in and around Field No. 3. Alterations to the irrigation system must include:

- Relocation of the majority of sprinklers located within the new playing area
- Complete redesign of the majority of irrigation systems and or sprinklers located outside the playing area
- Possible landscape redesign of area located outside the newly-fenced playing area including hardscape and structures, as the remaining area is insufficient for organized soccer play
- Possible relocation of the scoreboard

### **Field Maintenance**

There are always maintenance costs associated with any new infrastructure or landscape. The following is a list of the obvious additional maintenance associated with the proposal:

- Edging along new fence line area
- Upkeep of new warning track area
- Future repair and replacement of permanent fence
- Unknown maintenance of possible future landscape

### **Park Users and User Groups**

Installation of this fence will take more than half the open area now available for all park users. Many people use the open areas on the upper fields for a variety of activities. This fence will obviously close in the Field No. 3 park area and limit the amount of open space area outside the fence line.

The obvious major impact this fence would have on other user groups is eliminating the use of any other organized sports with the exception of baseball on Field No. 3. The addition of the pitching mound will eliminate the use of any youth softball, and the addition of the fence will eliminate the use of any adult softball. Soccer will obviously not be able to use the field at all. As these are the only sports fields located within town it narrows, even further, the places people can go to enjoy open space park areas.

On a smaller note, the new scoreboards at the park were specifically designed to accommodate a variety of sports.

### **Project Costs**

It is unfeasible at this stage to give an estimated cost on this proposal without at least conceptual designs to consider. The price range could vary significantly depending on the detail and scope of work. The following is a breakdown of staff's estimated range of probable cost associated with converting Field No. 3 as proposed by CVLL:

- Fencing with Gate & Housekeeping Strip: \$20,000 - \$30,000
- Irrigation System Modifications: \$50,000 - \$100,000
- Ballfield Play Surface: \$15,000 - \$20,000
- Re-Landscape: \$15,000 - \$100,000
- Complementing Storage Building: \$5,000 - \$80,000
- Design & Blueprints: \$10,000 - \$50,000

The following is a list of some the items that could directly impact the degree of difficulty and the cost of the integrating CVLL's proposal into a complete public park vision:

- Degree of irrigation redesign
- Landscape solutions for area outside the fence line
- Storage Building Design
- Degree of Design & Blueprints

### **PUBLIC POLICY DISCUSSION**

While initially viewed as a rather simple request by CVLL, its proposal significantly modifies the original design of Field No. 3 as adaptive for other play purposes, both by organized sports and public free play. The determination of Community Park's public purpose in this respect requires public and stakeholder input along with City Council discussion. For maximum outreach, staff also invited the Mt. Diablo Soccer Association and All Out Sports League (AOSL) to this meeting to offer comments regarding the permanent modification to Field No. 3.

Alternatively, modifying Field No. 3 as suggested by CVLL does open up for discussion what other public park features could be added to the balance of this play area. For example, should it be left (renovated) as open

play field turf for the flying of kites or other free play activities? Should it be converted to park hardscape with picnic shelters and other associated play structures, or should plans be considered for a BMX professionally-designed bike park or a properly designed skate park. Converting turf use to recreational hardscape would certainly reduce irrigation and repair expenses. In essence, does the CVLL proposal open up other beneficial use alternatives for the remainder of Field No. 3, and at what and whose expense?

### CVLL FIELD #3 OVERVIEW



## SECTION II

### **SUBJECT: RENOVATION OF CLAYTON COMMUNITY PARK FIELDS**

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#### **HISTORY**

When the park first opened up to the public in 1992 many user groups filled the parks schedule with activities ranging from soccer, softball, and baseball. Both youth and adult leagues alike enjoyed the new park for its fantastic views and facilities. The fields were kept closed from November 1<sup>st</sup> thru March 31<sup>st</sup> to allow the fields time to recover, and a possible opportunity to reseed or renovate. The City, not having a parks and recreation department, found it difficult from the start keeping up with the day to day maintenance and operations of the park.

As the years went by the fields slowly started to deteriorate. Broken main lines, caused by continual ground movement, ground squirrels, wild hogs, and just everyday use began to break down the park grounds. This was especially noticeable within the playing field areas. In addition within recent years, the annual turf respite period has been encroached as CVLL pushes each year to have earlier access to the sports fields due to area field demands and participation numbers. And finally, years of drought came at a time when the fields were on their last blade of grass.

Other than the renovation of the infield lawn area of Field No. 1 in 2001, these park grounds have never had a complete renovation of irrigation, lawns or landscape. They have held up surprisingly well considering the minimal maintenance received and continual use over the years. Staff considers the CVLL request as an opportune time to start a public dialogue as to how we get the Clayton Community Park back to its glory days when it was a shining example of what's good in this community.

The following represents just a few options to get the park back into shape, with very broad costs to give a basic idea of what the City would need in funds. For purposes of this policy discussion, the following budgetary information on Clayton Community Park is useful in providing relativity to the magnitude of expense:

	<u>Fiscal Year 2016-17</u>
Field and Facility Rental Revenue Total:	\$ 43,900
Field and Facility Maintenance Budget:	\$186,800

*23.5% recovery*

## **A. RENOVATE ALL PLAYING FIELD SURFACES**

### **Scope of Work**

- Complete irrigation systems check and repair
- Grading and removal of all weeds, mounds, swales, and uneven surfaces of playing fields
- Top dressing all playing fields with loam soil or sand for detailed leveling
- Seeding all playing fields

### **Targeted Areas**

- Field No. 1 thru Field No. 4 playing area
- All lawn areas affected by renovation

### **User Impact**

Fields could be done in phases depending on the time frame of the project. Only the playing fields would be impacted. Below are possible scenarios:

- One field each year
- 2 select fields each year, possibly divide the upper and lower fields
- All fields at once

The best possible time to reseed any of the fields would be around October, early November. Any later and it may be too cold for the seed to germinate. Staff recommends such a project should be done all at once in the off-season which would minimize any organized user groups.

### **Setbacks**

- Aging irrigation system may leave us right back where we started
- Return of drought restrictions may not give us a chance at all

### **Rough Cost Estimate**

- Rough estimate between \$100,000 - \$200,000

## **B. RENOVATE ALL PLAYING FIELD SURFACES and PARK IRRIGATION SYSTEMS**

### **Scope of Work**

- Complete irrigation system design & blueprints
- Complete irrigation system installation of main line and main line components (valves, flow sensors, regulators, wiring, controllers, etc.)
- Complete irrigation system installation of lateral lines and lateral line components (sprinklers, check valves, etc.)
- Grading and removal of all weeds, mounds, swales, and uneven surfaces in all lawn areas
- Top dressing all playing fields and surrounding lawn areas with loam soil or sand
- Seeding all playing fields and surrounding lawn areas
- Plant replacement in all surrounding landscape areas within the newly installed irrigation system area.

### **Targeted Areas**

- Field No. 1 thru Field No. 4 playing areas
- All surrounding lawn areas within the park
- All surrounding landscape areas within the park

### **User Impact**

Fields and or landscape areas could be done in phases depending on the time frame of the project. Below are possible scenarios:

- One field and surrounding landscape each year
- Divide the upper & lower park lawn and landscape areas
- The entire Community Park at once leaving partial areas open during construction

This would be a major undertaking and possibly the only real long term solution to all the continuing irrigation problems that have plagued the park over the many years.

### **Setbacks**

- Large areas of the park would be shut down for unknown periods of time
- It is unknown if a new irrigation system would work any better than the old one

### **Rough Cost Estimate**

- Nearly improbable to project, could be in the range of \$2.0 million or more.

### **C. INSTALLATION OF ARTIFICIAL TURF**

#### **Scope of Work**

- Complete grading, landscaping, irrigation, and artificial turf design & blueprints
- Complete irrigation system installation of main line and main line components (valves, flow sensors, regulators, wiring, controllers, etc.).
- Complete irrigation system installation of lateral lines and lateral line components (sprinklers, check valves, etc.)
- Complete drainage system removal and installation.
- Grading of entire construction area
- Fence installation of all artificial turf areas
- Plant replacement in all surrounding landscape areas within the newly installed irrigation system area.

*Note: It is assumed that only the playing field areas will have artificial turf installed. Some form of irrigation system must be installed on or around the turf areas to assist in cooling high surface temperatures, as well as sanitation and biological controls to reduce health and safety risks. Irrigation systems must also be installed throughout other areas of the park that will have a combination of hardscape and drought tolerant landscaping.*

#### **Targeted Areas**

- The entire Clayton Community Park

#### **User Impact**

Fields and or landscape areas could be done in phases depending on the time frame of the project. Below are possible scenarios:

- Divide the upper & lower park lawn and landscape areas
- The entire Community Park at once leaving partial areas open during construction

This would also be a major undertaking and severely impact the park users.

### **Setbacks**

- It is unknown how the continuing movement of the park hills would affect the newly installed turf.
- It is unknown how well the new irrigation system will hold up
- What damage will be done to the new turf with a major irrigation break
- Is the maintenance department equipped to take on artificial turf

### **Rough Cost Estimate**

A 2011 preliminary report commissioned by the City to examine artificial turf at Clayton Community Park estimated over \$3.5 million at that time for just the artificial turf installation; it did not include a drainage plan or under-fabric infrastructure. It is unknown what the cost factors might be after 5 years from the date of that concept plan discussion; it could be in the neighborhood of \$5 million or more.

### **COUNCIL DISCUSSION**

These are just basic scenarios to give an idea of the level, or degree of renovation that the City needs to consider before staff can assemble a more in-depth plan of action. Given the information provided, staff would like direction on how to proceed with the proposed renovation and to what degree.





**Gary Napper**

---

**From:** Kevin Mizuno  
**Sent:** Tuesday, November 01, 2016 9:58 AM  
**To:** Gary Napper  
**Subject:** CCP FY 2016 rental stats

Good morning Gary,

Below are the CCP FY 2016 rental statistics you asked for, with other minor pieces of information that may be helpful:

- Total FY 2016 CCP rental revenue - \$43,538
- FY 2016 CCP rental revenue from CVLL - \$24,110 (\$2,980 of this was for 2015 fall ball) **55.4%**
- FY 2016 CCP rental revenue from soccer (AYSO-MDSA) - \$6,180 (only \$1,869 will be received for 2016 soccer season) **14.2%**

**70% sports**  
**30% picnic**

*T. Kevin Mizuno, CPA*  
Finance Manager  
City of Clayton  
6000 Heritage Trail  
Clayton, CA 94517-1250  
Phone: (925) 673-7309  
Fax: (925) 672-4917

## Clayton Valley Little League Field Rental

Master Fee Schedule 2015-2016	
Regular Field Rental Rate	\$34/Hour
Youth Field Rental Rate	\$21/Hour

### \*\*\*2016\*\*\*

2016 Reserved Field Rental Hours	Total Hours	Rate/Hour	Total
February 20, 2016-July 2, 2016	1,170	\$ 21.00	\$ 24,570.00
14% Discounted Rate per City Manager	1,170	\$ 18.06	\$ 21,130.00

Owed for 2016 Season Net of Discount **\$ 21,130.00**

Note: Does not include Fall Ball 2016 Use

### \*\*\*2015\*\*\*

Clayton Valley Little League	Total Actual Hours	Rate/Hour	Total
Field #1	431	\$ 20.00	\$ 8,620.00
Field #2	433	\$ 20.00	\$ 8,660.00
Field #3	300	\$ 20.00	\$ 6,000.00
<b>2015 Grand Totals</b>	<b>1,164</b>	<b>\$ 20.00</b>	<b>\$ 23,280.00</b>

Authorized Discount (7/9/15): \$ (3,280.00)

Owed for 2015 Season Net of Discount **\$ 20,000.00**

Note: Does not include Fall Ball 2015 Use

#### 2015 Payments:


5/21/2015	\$	(11,640.00)
7/14/2015		(8,360.00)
<b>Total Paid</b>	<b>\$</b>	<b>(20,000.00)</b>

PUBLIC FACILITIES AND PARKS RENTAL FEES (CONTINUED)	
City Hall Courtyard	
Non-profit (Clayton-based or non-Clayton-based non profits)	\$48 / hour
Resident	\$59 / hour
Non-resident or Commercial	\$73 / hour
Deposit (for all)	\$100 / rental - clean up/damage
Reservation rental time change (same date)	\$41 less than 7 calendar days prior to use date
Reservation rental date change	\$51 less than 7 calendar days prior to use date
Rental Cancellation	14 days or less: no refund 15-29 days: 50% refund (deposit+rental fee) and \$25 processing fee 30 or more days: \$25 processing fee
Clayton Community Park and Related Facilities	
Picnic Areas	
Picnic Area #2 - Resident <sup>2</sup>	\$18 flat fee for 4 hours
Picnic Area #2 - Non Resident or Commercial <sup>2</sup>	\$25 flat fee for 4 hours
Picnic Area #3 - Resident <sup>2</sup>	\$18 flat fee for 4 hours
Picnic Area #3 - Non Resident or Commercial <sup>2</sup>	\$25 flat fee for 4 hours
Picnic Area #4 - Resident <sup>2</sup>	\$43 flat fee for 4 hours
Picnic Area #4 - Non Resident or Commercial <sup>2</sup>	\$55 flat fee for 4 hours
Picnic Area #5 - Resident (6 separate areas) <sup>2</sup>	\$35 / table flat fee for 4 hours (1st 2 tables) \$6 / table flat fee for 4 hours (each additional table)
Picnic Area #5 - Non Resident or Commercial (6 separate areas) <sup>2</sup>	\$45 / table flat fee for 4 hours (1st 2 tables) \$7 / table flat fee for 4 hours (each additional table)
Picnic Area #6 Resident (Large Group Area)	\$290 / day
Picnic Area #6 Resident (Large Group Area)	\$35 / hour - 4 hour minimum required
Picnic Area #6 Non Resident or Commercial (Large Group Area)	\$378 / day
Picnic Area #6 Non Resident or Commercial (Large Group Area)	\$49 / hour - 4 hour minimum required
Picnic Area #5 & #6 Combined - Resident	\$464 / day
Picnic Area #5 & #6 Combined - Resident	\$57 / hour - 4 hour minimum required
Picnic Area #5 & #6 Combined - Non Resident or Commercial	\$605 / day
Picnic Area #5 & #6 Combined - Non Resident or Commercial	\$76 / hour - 4 hour minimum required
Picnic Area #7 - Resident	\$46 flat fee for up to 4 hours
Picnic Area #7 - Non Resident or Commercial	\$59 flat fee for up to 4 hours
Reservation rental time change (same date)	\$41 less than 7 calendar days prior to use date
Reservation rental date change	\$51 less than 7 calendar days prior to use date
Rental Cancellation	14 days or less: no refund 15-29 days: 50% refund and \$25 processing fee 30 or more days: \$25 processing fee
Rain out	Reschedule to alt. date at no additional cost (no refund)
Sports Fields	
Adult Sports Field Rental	\$35 / hour
Youth Sports Field Rental	\$21 / hour
Field Rental Change of Time, Same Date	\$41 less than 7 calendar days prior to use date
Field Rental Change of Date	\$51 less than 7 calendar days prior to use date
Field Rental Cancellation	No refund less than 14 days prior to use
Rain out	Reschedule to alt. date at no additional cost (no refund)

Agenda Date: 12-20-2016

Agenda Item: 8c



Approved:   
\_\_\_\_\_  
Gary A. Napper  
City Manager

# AGENDA REPORT

**TO: HONORABLE MAYOR AND COUNCILMEMBERS**  
**FROM: CITY MANAGER**  
**DATE: 20 DECEMBER 2016**  
**SUBJECT: DETERMINATION OF COUNCIL COMMITTEE ASSIGNMENTS**

---

## **RECOMMENDATION**

It is recommended the City Council determine its various Council ad-hoc and committee assignments for the ensuing year of 2017.

## **BACKGROUND**

In addition to its primary role as elected officials of the City of Clayton, members of the City Council hold a variety of ad-hoc and committee assignments that involve the direct participation of its members in a host of local and regional issues and intergovernmental organizations. Pursuant to its adopted *Council Guidelines and Procedures*, the Mayor assigns the Council ad-hoc and committee appointments annually each December. It further presents an opportunity to review the established committees and determine continued relevance, need to create new ones, or abolish existing ones. In making the assignments, the Mayor is encouraged to seek individual input from members of the City Council regarding appointment preferences.

Attached is the current list of City Council sub-committees and associated assignments during 2016. The list has been updated (*in red font*) to reflect the elections made at the Council Reorganization Meeting held on December 6th relative to the chair and vice chair of the Oakhurst Geological Hazard Abatement District (GHAD). The Clayton Financing Authority (CFA) chair and vice chair are automatically filled by the mayor and vice mayor of the City, respectively, per its By-Laws.

Also attached are the pertinent pages from the *Council Guidelines and Procedures* referencing Council ad-hoc and committee assignments.

Attachments: A. City Council Committee Assignments – 2016 [2 pp.]  
B. *Council Guidelines and Procedures* [2 pp.]

# CITY COUNCIL ASSIGNMENTS STANDING/AD-HOC COMMITTEES/LIAISONS

## CITY OF CLAYTON 2017

Association of Bay Area Governments (ABAG)	Julie Pierce Alternate: David Shuey
Budget/Audit Committee	Howard Geller; Keith Haydon
Citizens Corps Council (CERT)	Jim Diaz Alternate: Keith Haydon
Clayton Financing Authority [CFA]* *[offices automatically go to Mayor & Vice Mayor, per Bylaws]	President – Jim Diaz Vice President – Keith Haydon
Contra Costa Water District [CCWD] Liaison	Howard Geller Alternate: Jim Diaz
Central Contra Costa Transit Authority [CCCTA]	Jim Diaz Alternate: - vacant -
“Do The Right Thing” Program	David Shuey
Downtown Activities Committee	Howard Geller, Jim Diaz
East Bay Division - League of California Cities	Jim Diaz Alternate: Keith Haydon
East Contra Costa County Habitat Conservancy	Keith Haydon Alternate: Howard Geller
Economic Development Committee	Julie Pierce, Howard Geller Alternate: Dave Shuey

Endeavor Hall Marketing Committee	Howard Geller, Keith Haydon
Garbage & Recycling Committee	Keith Haydon, David Shuey
Interview Committees:	
a. Planning Commission applicants	City Council
b. Trails and Landscaping Committee applicants	Vice Mayor Keith Haydon
Clayton Library Foundation Liaison	Keith Haydon Alternate: Jim Diaz 2 <sup>nd</sup> Alternate: David Shuey
Mayors' Conference – Contra Costa County	Mayor & Council
Mt. Diablo School District Liaison Committee	Julie Pierce, David Shuey Alternate: Howard Geller
Oakhurst Geological Hazard Abatement District [GHAD]	Chair – <i>David Shuey</i> Vice Chair – <i>Tuija Cantalano</i>
Trails and Landscaping Committee (TLC) Liaison	Vice Mayor Alternate: Keith Haydon
TRANSPAC	Julie Pierce Alternate: Keith Haydon
“Unsung Heroes” Program Committee	Howard Geller; David Shuey


\* \* \* \* \*

Revised: *08 December 2018*  
Original Adoption: 17 December 2004

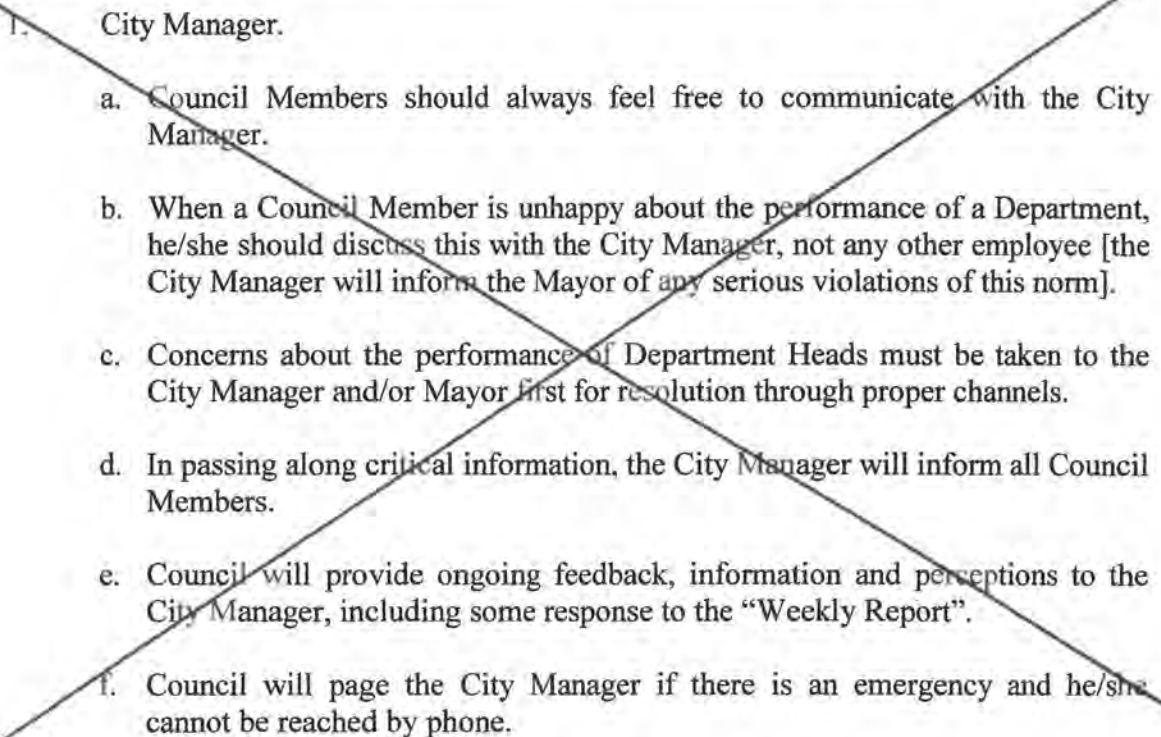
- ~~4. Council Members exhibit care and respect for each other as persons.~~
- ~~5. Council Members promote care and respect for each other's point of view. Each Member has a right to be heard.~~
- ~~6. Opinions are expressed honestly, openly, civilly and with integrity.~~
- ~~7. Humor is an important tool.~~
- ~~8. Traditions are respected but not always binding.~~

**C. COUNCIL INTERACTION AND COMMUNICATION**

1. The Mayor makes Council sub-committee appointments annually in December; the Mayor is encouraged to seek input from Council regarding appointment preferences.
2. Members will take seriously the responsibility of reporting to Council on sub-committees and other regional, state and national board/agency/group activities in which they are involved.
3. Each Council Member has the responsibility to initiate resolution of problems as soon as possible.
4. Members shall recall and abide by the Brown Act when giving information to each other outside of public meetings.
5. Cheap shots at each other are not allowed by Members during public meetings, in the media, or at any other time.
6. Relationships are informal, but Council Members need to be aware of impact on and perception of the public.
7. Council Members will be flexible in covering Council responsibilities for each other.
8. Council Sub-Committees.
  - a. Sub-committee areas belong to the Council as a whole; they are not seen as territorial.
  - b. Sub-committees shall keep the rest of the Council fully informed. The rest of the Council is responsible for letting a sub-committee know if they want more information or to give input.
  - c. Before sub-committees start moving in new directions, they will obtain direction from the rest of the Council.

- 
- d. Sub-committee reports will be made under “Council Reports” at Council meetings, when appropriate.
  - e. Sub-committee memos will be sent on an interim basis to update other Council Members on:
    - 1). Issues being discussed.
    - 2). Options being considered.
    - 3). Progress.
  - f. Appropriate reports will also be included in the City Manager’s “Weekly Report”.
  - g. Council may contact Department Heads or the City Manager to be briefed on any sub-committee work.
  - h. Council shall review the performance of citizen committees no less frequently than every six months.
  - i. Sub-committees are task oriented with scheduled dates of completion.

D. COUNCIL INTERACTION AND COMMUNICATION WITH STAFF

- 
- I. City Manager.
    - a. Council Members should always feel free to communicate with the City Manager.
    - b. When a Council Member is unhappy about the performance of a Department, he/she should discuss this with the City Manager, not any other employee [the City Manager will inform the Mayor of any serious violations of this norm].
    - c. Concerns about the performance of Department Heads must be taken to the City Manager and/or Mayor first for resolution through proper channels.
    - d. In passing along critical information, the City Manager will inform all Council Members.
    - e. Council will provide ongoing feedback, information and perceptions to the City Manager, including some response to the “Weekly Report”.
    - f. Council will page the City Manager if there is an emergency and he/she cannot be reached by phone.



**MINUTES  
OF THE  
REGULAR MEETING**

Agenda Date: 12-20-2016

Agenda Item: 3a SA

**CLAYTON SUCCESSOR and SUCCESSOR HOUSING AGENCIES**

**September 20, 2016**

1. **CALL TO ORDER & ROLL CALL** - the meeting was called to order at 8:12 p.m. by Chairman Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Board Members present: Chairman Geller, Vice Chair Diaz, Board Members Haydon, Pierce and Shuey. Board Members absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, and City Clerk/Secretary Janet Brown.
  
2. **CONSENT CALENDAR-** It was moved by Board Member Shuey, seconded by Board Member Pierce, to approve the Consent Calendar as submitted (Passed; 5-0 vote).
  - (a) Approved the minutes of the regular public meeting of February 2, 2016.
  - (b) Adopted a Resolution by the Successor Agency to the Redevelopment Agency of the City of Clayton approving an Agreement and Repayment Schedule for the Supplemental Educational Revenue Augmentation Fund Loan.
  - (c) Adopted a Resolution by the City Council in its capacity as the Housing Successor to the Redevelopment Agency of the City of Clayton approving an Agreement and Repayment Schedule for the Supplemental Educational Revenue Augmentation Fund Loan.
  
3. **PUBLIC COMMENT ON NON-AGENDA ITEMS** – None.
  
4. **PUBLIC HEARINGS** – None.
  
5. **ACTION ITEMS** – None.
  
6. **BOARD ITEMS** – None.
  
7. **ADJOURNMENT** – on call by Chairman Geller the meeting adjourned at 8:13 p.m.

###

Respectfully submitted,

\_\_\_\_\_  
Janet Brown, Secretary

Approved by the Board of Directors  
Clayton Successor & Successor Housing Agencies

\_\_\_\_\_  
Howard Geller, Mayor



Agenda Date: 12-20-2016

Agenda Item: 3b SA


CONSENT ITEM

Approved:

Gary A. Napper  
City Manager

# STAFF REPORT

**TO:** SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON

**FROM:** LAURA HOFFMEISTER, ASST. TO THE CITY MANAGER 

**MEETING DATE:** December 20, 2016

**SUBJECT:** ADOPT A RESOLUTION APPROVING THE TRANSFER OF CERTAIN PROPERTY ("The Grove" Park) OWNED BY THE FORMER REDEVELOPMENT AGENCY TO THE CITY OF CLAYTON FOR GOVERNMENTAL USE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34181(a)(1)

## RECOMMENDATION

It is recommended the Successor Agency adopt the attached Resolution approving the transfer of certain property, "The Grove" Park, owned by the former Redevelopment Agency to the City of Clayton for governmental use pursuant to Health and Safety Code Section 34181(a)(1) – the Dissolution Act [ABx1 26 and AB 1484].

## BACKGROUND

AB 26, AB 1484 and other subsequent legislation, the "Dissolution Act", eliminated redevelopment agencies throughout the state of California on February 1, 2012; initiating the "wind down" of the former redevelopment agencies' activities and obligations.

The Successor Agency to the Redevelopment Agency of the City of Clayton (Successor Agency) is the successor entity to the former Redevelopment Agency of the City of Clayton (Redevelopment Agency) and is responsible for the wind-down of the affairs of the former Redevelopment Agency, including without limitation the disposition of assets and properties of the former Redevelopment Agency as directed by the Oversight Board to the Successor Agency (Oversight Board).

Health and Safety Code Section 34181(a)(1) provides that the Oversight Board shall direct the Successor Agency to dispose of all assets and properties of the former Redevelopment Agency; however, the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as parks, to the appropriate public jurisdiction.

Subject: Resolution approving the transfer of certain property, "The Grove" Park, owned by the former Redevelopment Agency to the City for governmental use pursuant to Health and Safety Code Section 34181(a)(1)– the Dissolution Act [ABx1 26 and AB 1484].

Meeting Date: December 20, 2016

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By letter December 30, 2015, the California Department of Finance (DOF) issued to the Successor Agency a finding of completion (FOC) in accordance with Health and Safety Code Section 34179.7, signifying the Successor Agency's full compliance with certain specified payment obligations under the Dissolution Act. Pursuant to Health and Safety Code Section 34191.5(b), no later than six months following the issuance to the Successor Agency of the FOC, the Successor Agency is required to prepare a Long-Range Property Management Plan (LRPMP) to address the disposition and use of the real properties of the former Redevelopment Agency.

A LRPMP was prepared by the Successor Agency containing information on the property owned by the former Redevelopment Agency. The LRPMP was approved by the Oversight Board (Resolution 04-2016) on October 20, 2016, and submitted to DOF for review and approval. By letter dated November 29, 2016 the California State Department of Finance provided written concurrence with the with the Oversight Board determination, that "The Grove" Park property meets the definition of government purpose asset and is therefore eligible for transfer to the City, pursuant to Health and Safety Code Section 34179(H).

The staff recommends the Successor Agency adopt the attached Resolution directing staff to transfer title to the City of Clayton for "The Grove" Park.

## **DISCUSSION**

There was only one real property held in title by the Redevelopment Agency. The real property is an approximate 1.14 acre property known as "The Grove" Park, Assessor's Parcel Number (APN) 119-015-007 located at 6100 Main Street in the City of Clayton. The site is fully developed as an active public park, including amenities such as a gazebo, picnic tables, paved paths, grass/irrigation, lighting and sound speakers, a restroom building and tot lot. In addition, state grant monies were used to assist in the construction of the public park, which acceptance of the state grant monies included an obligation that the City retain and maintain the land as a public park for 20 years.

The final LRPMP that was prepared by the Successor contained various information on the Grove Park Property required by Health and Safety Code Section 34191.5, including parcel data, acquisition information, environmental information, development plans and activity, potential for transit-oriented development and advancement of planning objectives and proposed property disposition.

HSC Section 34181 states "The oversight board shall direct the successor agency to.... dispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction...." [Underlining added.]

Subject: Resolution approving the transfer of certain property, "The Grove" Park, owned by the former Redevelopment Agency to the City for governmental use pursuant to Health and Safety Code Section 34181(a)(1)- the Dissolution Act [ABx1 26 and AB 1484].

Meeting Date: December 20, 2016

---

Because "The Grove" Park property was developed and improved and has continually served as a government purpose asset in accordance with Section 34181, public park, it should be transferred to the City for continued governmental use.

### **FISCAL IMPACT**

There is no financial impact to either the Successor Agency or the City with this transfer other than nominal document preparation costs and recording fee. "The Grove" Park property has been maintained by the City, and will continue to be maintained by the City, which is paid for through a special parcel tax (CFD 2006-1) which was approved by the voters (81.25%) through 2036-37.

### **ATTACHMENTS**

1. Resolution SA \_\_-2016
2. Title
3. Legal Description
4. Oversight Board Resolution 04-2016
5. DOF Letter dated November 29, 2016

## RESOLUTION NO. SA \_\_\_ -2016

**RESOLUTION APPROVING THE TRANSFER OF CERTAIN  
PROPERTY [“The Grove” Park – Assessor Parcel Number (APN)  
119-015-007] OWNED BY THE FORMER REDEVELOPMENT AGENCY  
OF THE CITY OF CLAYTON TO THE CITY OF CLAYTON FOR  
GOVERNMENTAL USE PURSUANT TO  
HEALTH AND SAFETY CODE SECTION 34181(a)(1)**

**Successor Agency for the City of Clayton, California**

**WHEREAS**, Assembly Bill 1X 26, enacted in June 2011, and as modified by the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861, and further modified by Assembly Bill 1484, enacted in June 2012, and other subsequently adopted legislation (collectively, the “Dissolution Act”) dissolved and set out procedures for the wind-down of the affairs of all redevelopment agencies throughout the State effective February 1, 2012; and

**WHEREAS**, the Successor Agency to the Redevelopment Agency of the City of Clayton (“Successor Agency”) is the successor entity to the former Redevelopment Agency of the City of Clayton (“Redevelopment Agency”) and is responsible for the wind-down of the affairs of the former Redevelopment Agency, including without limitation the disposition of assets and properties of the former Redevelopment Agency as directed by the Oversight Board to the Successor Agency (“Oversight Board”); and

**WHEREAS**, Health and Safety Code Section 34181(a)(1) provides that the Oversight Board shall direct the Successor Agency to dispose of all assets and property of the former Redevelopment Agency; however, the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as parks, to the appropriate public jurisdiction; and

**WHEREAS**, Health and Safety Code Section 34181(f) provides that all actions taken by the Oversight Board pursuant to subdivision 34181(a) shall be approved by resolution of the Oversight Board at a public meeting after at least 10 days’ notice to the public, and that such action shall be subject to review by the Department of Finance (“DOF”) pursuant to Health and Safety Code Section 34179; and

**WHEREAS**, on October 20, 2016 at a noticed public hearing, the Oversight Board, pursuant to Health and Safety Code Section 34181(f), and subdivision 34181(a) approved Resolution 04-2016, directing the Successor Agency of the City of Clayton to transfer ownership of “The Grove” Park, a former Redevelopment Agency owned parcel of land, consisting of an approximately 1.14 acre property Assessor’s Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton, which is fully developed as an active public park, including amenities such as a gazebo, picnic tables,

paved paths, grass/irrigation, lighting and sound speakers, a restroom building and a tot lot;

**WHEREAS**, on November 29, 2016, pursuant to Health and Safety Code Section 34179(H) the California State Department of Finance provided written concurrence with the with the Oversight Board determination, that "The Grove" Park property meets the definition of government purpose asset and is therefore eligible for transfer to the City.

**NOW, THEREFORE, THE SUCCESSOR AGENCY FOR THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

**Section 2.** Approval of Conveyance of Property. The Successor Agency hereby approves, authorizes and directs the conveyance to the City of any interest that the Successor Agency may have in "The Grove" Park property, Assessor Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton.

**Section 3.** Authorization to Implement Resolution. The Successor Agency hereby authorizes and directs Successor Agency staff, in cooperation with City staff, to take such actions and execute such documents as is necessary to effectuate such transfers, and convey "The Grove" Park property to the City.

**Section 4.** Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

**Section 5.** Effective Date. This Resolution shall become effective upon its adoption.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Clayton at a noticed public meeting thereof held on the 20<sup>th</sup> day of December, 2016, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**THE SUCCESSOR AGENCY FOR THE  
FORMER REDEVELOPMENT  
AGENCY  
CITY OF CLAYTON, CA**

---

Jim Diaz, Chair

**ATTEST:**

---

Janet Brown, City Clerk

RECORDING REQUESTED BY:

CITY OF CLAYTON

ATTACHMENT 2

WHEN RECORDED MAIL TO:

CITY OF CLAYTON  
6000 HERITAGE TRAIL  
CLAYTON, CA 94517  
ATTN.: ENGINEERING DEP'T.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

The undersigned grantor(s) declare(s):

CITY TRANSFER TAX \$  
DOCUMENTARY TRANSFER TAX \$  
SURVEY MONUMENT FEE \$

\_\_\_ Computed on the consideration or value of property conveyed; OR

\_\_\_ Computed on the consideration or value less liens or encumbrances remaining at time of sale.

APN 119-015-007

### GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON**

hereby GRANT(S) to

**CITY OF CLAYTON**

the real property in the City of Clayton, County of Contra Costa, State of California, described as:

**FOR LEGAL DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF CONTRA COSTA

}  
}ss.  
}

On \_\_\_\_\_  
before me, \_\_\_\_\_  
(here insert name and title of the officer), personally appeared

\_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**SUCCESSOR AGENCY TO THE REDEVELOPMENT**

**AGENCY OF THE CITY OF CLAYTON**

By: \_\_\_\_\_

James Diaz, Chairman

By: \_\_\_\_\_

By: \_\_\_\_\_

(Seal)

(This area for official notarial seal)



**Exhibit A****Legal Description****“The Grove” Park**

ALL OF LOTS 10 THROUGH 12 AND PORTIONS OF LOTS 2 THROUGH 9, 13, AND 14, IN BLOCK 3, AS SAID LOTS AND BLOCK ARE DELINEATED ON THAT MAP ENTITLED “MEMORANDUM MAP OF THE TOWN OF CLAYTON”, AS FILED IN THE OFFICE OF THE RECORDER, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, IN BOOK E OF MAPS AT PAGE 101 ½, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2 (E MAPS 101 ½); THENCE SOUTH 00° 32' 10" WEST, ALONG THE WEST LINE OF SAID LOT 2, 5.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF MAIN STREET; THENCE SOUTH 89° 27' 50" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 203.80 FEET; THENCE, ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 64° 38' 32", AN ARC DISTANCE OF 33.57 FEET TO A POINT OF COMPOUND CURVATURE, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF MARSH CREEK ROAD; THENCE, FOLLOWING SAID RIGHT OF WAY LINE, ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, THE RADIUS OF WHICH BEARS SOUTH 64° 38' 42" WEST AND HAVING A RADIUS OF 570.00 FEET, THROUGH A CENTRAL ANGLE OF 14° 35' 33", AN ARC DISTANCE OF 145.17 FEET TO A POINT OF COMPOUND CURVATURE; THENCE ALONG THE ARC OF A TANGENT CURVE TO THE RIGHT, THE RADIUS OF WHICH BEARS SOUTH 79° 14' 15" WEST AND HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 101° 17' 55", AN ARC DISTANCE OF 53.04 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF CENTER STREET; THENCE, ALONG SAID RIGHT OF WAY, SOUTH 00° 32' 10" WEST, 5.00 FEET; THENCE NORTH 89° 27' 50" WEST, 247.71 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE, NORTH 00° 32' 10" EAST, 195.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 1.1 ACRES, MORE OR LESS.

APN: 119-015-007



CITY OF CLAYTON		2014-2015			170
PRYOR PROPERTIES	119-014-004-4	18,475	26,056	44,531	13001 119-014-004-4
1655 GARNET LN CONCORD CA 94519	01026/132 2001				
PRYOR PROPERTIES	119-014-008-9	47,401	85,903	133,304	13001 119-014-008-9
1655 GARNET LN CONCORD CA 94519	01026/129 2001				
TOWN OF CLAYTON FOR LOTS 1,9,10 BLK 4					
GIOVANNI DORENDA TRE C/O BARBARA M CARNEY 963 HANDBORNE DR CONCORD CA 94519	119-014-007-7	44,336	207,798	252,134	13001 119-014-007-7
	16777/964 1991				
TOWN OF CLAYTON FOR BLK 24					
AUSTIN BLOOMER L TRE	119-014-008-5	188,984	31,473	220,457	13001 119-014-008-5
21 FREITAS DR MORAGA CA 94556	16142/791 1990				
TOWN OF CLAYTON LOTS 4-6 & POR LOT 7 BLK 4					
SANDHU SUKHOVY & BALKINDER K 6134 MAIN ST CLAYTON CA 94517	119-015-004-3	182,266	769,302	951,568	13001 119-015-004-3
	09212/310 1995				
TOWN OF CLAYTON FOR LOTS 1,2,3 BLK 3					
CLAYTON REDEVELOPMENT AGENCY	119-015-007-6	626,890		626,890	13001 119-015-007-6
6000 HERITAGE TRL CLAYTON CA 94517	99266/034 1999				NONTAXABLE CY
DONINA JOANN S TRE	119-016-006-7	129,849	114	129,964	13006 119-016-006-7
PO BOX 466 CLAYTON CA 94517	00846/999 2008				
TOWN OF CLAYTON LOT 5 & POR LOT 6 BLK 6					
CLAYTON CITY OF	119-016-008-3	176,626	1,865,153	2,041,779	13006 119-016-008-3
6000 HERITAGE TRAIL CLAYTON CA 94517	01289/779 2001				NONTAXABLE CY
TOWN OF CLAYTON LOTS 12 & 14 BLK 6					
CLAYTON CITY OF	119-016-009-1	321,228		321,228	13006 119-016-009-1
6000 HERITAGE TRAIL CLAYTON CA 94517	06407/394 2006				NONTAXABLE CY
ALDEBETTE MACTAN L & ALICE TRE	119-017-003-3	73,850		73,850	13006 119-017-003-3
13057/028 2013					
TOWN OF CLAYTON LOTS 8-9 & POR LOT 9 BLK 7					
RONALD 'NUNN' FAMILY	119-017-004-1	497,247	100,454	597,701	13006 119-017-004-1
10500 BRENTWOOD BLVD BRENTWOOD CA 94513	13019/668 2013				
TOWN OF CLAYTON LOTS 2/5 FOR LOT 1&10 BLK 7					
OCEAN VIEW NEVADA CORP	119-018-005-7	786,377	1,125,640	2,984,217	13006 119-018-005-7
5000 S WILLETTE RD CLAYTON CA 94517	20469/177 2008				
FOR TOWN OF CLAYTON					
BALES NATHAN J TRE BUSCAGLIA RICHARD & CHERYL TRE 45 VIA FARALLON ORINDA CA 94563	119-018-006-5	194,701	607,053	801,754	13006 119-018-006-5
	13009/586 2013				
TOWN OF CLAYTON LOT 8 & POR LOTS 9-11 BLK 8					

RESOLUTION NO. 04 -2016

**RESOLUTION APPROVING THE TRANSFER OF CERTAIN  
PROPERTY ["The Grove Park" – Assessor Parcel Number (APN)  
119-015-007] OWNED BY THE FORMER REDEVELOPMENT AGENCY  
OF THE CITY OF CLAYTON TO THE CITY OF CLAYTON FOR  
GOVERNMENTAL USE PURSUANT TO  
HEALTH AND SAFETY CODE SECTION 34181(a)(1)**

**THE OVERSIGHT BOARD**

**Successor Agency for the City of Clayton, California**

**WHEREAS**, Assembly Bill 1X 26, enacted in June 2011, and as modified by the Supreme Court of the State of California in the matter of *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861, and further modified by Assembly Bill 1484, enacted in June 2012, and other subsequently adopted legislation (collectively, the "Dissolution Act") dissolved and set out procedures for the wind-down of the affairs of all redevelopment agencies throughout the State effective February 1, 2012; and

**WHEREAS**, the Successor Agency to the Redevelopment Agency of the City of Clayton ("Successor Agency") is the successor entity to the former Redevelopment Agency of the City of Clayton ("Redevelopment Agency") and is responsible for the wind-down of the affairs of the former Redevelopment Agency, including without limitation the disposition of assets and properties of the former Redevelopment Agency as directed by the Oversight Board to the Successor Agency ("Oversight Board"); and

**WHEREAS**, Health and Safety Code Section 34181(a)(1) provides that the Oversight Board shall direct the Successor Agency to dispose of all assets and property of the former Redevelopment Agency; however, the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as parks, to the appropriate public jurisdiction; and

**WHEREAS**, Health and Safety Code Section 34181(f) provides that all actions taken by the Oversight Board pursuant to subdivision 34181(a) shall be approved by resolution of the Oversight Board at a public meeting after at least 10 days' notice to the public, and that such action shall be subject to review by the Department of Finance ("DOF") pursuant to Health and Safety Code Section 34179; and

**WHEREAS**, the Redevelopment Agency owned one parcel of land, consisting of an approximately 1.14 acre property known as "The Grove Park," Assessor's Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton ("Grove Park Property"), which is fully developed as an active public park, including amenities such as a gazebo, picnic tables, paved paths, grass/irrigation, lighting and sound speakers, a restroom building and a tot lot;

**WHEREAS**, this Resolution shall supersede Oversight Board Resolution No. 2-2016, which previously approved a Long Range Property Management Plan for the Successor Agency and authorized the transfer of the Grove Park Property, but was not approved by DOF because it was not received prior to January 1, 2016.

**NOW, THEREFORE, THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF CLAYTON DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1.** Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

**Section 2.** Approval of Conveyance of Property. The Oversight Board hereby approves, authorizes and directs the conveyance to the City of any interest that the Successor Agency may have in the Grove Park Property, Assessor Parcel Number (APN) 119-015-007, located at 6100 Main Street in the City of Clayton.

**Section 3.** Authorization to Implement Resolution. The Oversight Board hereby authorizes and directs Successor Agency staff, in cooperation with City staff, to take such actions and execute such documents as is necessary to effectuate such transfers, and convey the Grove Park Property to the City.

**Section 4.** Submittal of Action to DOF. Staff is hereby authorized and directed to submit this Resolution and all other appropriate information to DOF for review in accordance with Health and Safety Code Section 34179(h). The approvals and authorizations set forth in Sections 2 and 3 of this Resolution are conditioned upon either (a) approval by DOF of the Oversight Board's action under this Resolution to approve the conveyance of the Grove Park Property to the City as a governmental use property pursuant to Health and Safety Code Section 34181(a)(1), or (b) if DOF does not request a review within five business days, the Oversight Board's action becomes effective in accordance with said Section 34179(h).

**Section 5.** Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

**Section 6.** Effective Date. This Resolution shall become effective in accordance with Health and Safety Code Section 34179(h), which authorizes DOF to review all actions taken by the Oversight Board.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Oversight Board for the Successor Agency to the Redevelopment Agency of the City of Clayton at a noticed public meeting thereof held on the 20<sup>th</sup> day of October, 2016, by the following vote:

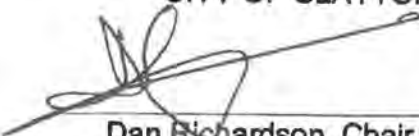
AYES: Geller, Gentry, Hild, Richardson.

NOES: None.

ABSENT: Impastato, Mitchoff, Nicholas.

ABSTAIN: None.

THE OVERSIGHT BOARD FOR THE  
SUCCESSOR AGENCY FOR THE  
CITY OF CLAYTON, CA



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Dan Richardson, Chair

ATTEST:



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Laura Hoffmeister, Clerk of the Board



November 29, 2016

Mr. Kevin Mizuno, Finance Manager  
City of Clayton  
6000 Heritage Trail  
Clayton, CA 94517

Dear Mr. Mizuno:

Subject: Approval of Oversight Board Action

The City of Clayton Successor Agency (Agency) notified the California Department of Finance (Finance) of its October 20, 2016 Oversight Board (OB) resolution on October 27, 2016. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB action.

Based on our review and application of the law, OB Resolution No. 04-2016, approving transfer of property known as the Grove Park, located at 6100 Main Street, Assessor's Parcel Number 119-015-007, to the City of Clayton (City) for governmental use, is approved.

HSC section 34181 (a) (1) gives the OB the authority to direct the Agency to transfer ownership of assets that were constructed and used for a government purpose to the appropriate public jurisdiction. Finance concurs that the Grove Park property meets the definition of a government purpose asset and is therefore, eligible for transfer to the City.

This is our determination with respect to the OB action taken.

Please direct inquiries to Cindie Lor, Supervisor, or Anna Kyumba, Lead Analyst, at (916) 445-1546.

Sincerely,

  
JUSTYN HOWARD  
Program Budget Manager

cc: Ms. Laura Hoffmeister, Assistant City Manager, City of Clayton  
Mr. Bob Campbell, Auditor-Controller, Contra Costa County

Approved:

Gary A. Napper  
City Manager

# STAFF REPORT

**TO:** CITY OF CLAYTON SUCCESSOR AGENCY BOARD

**FROM:** KEVIN MIZUNO, FINANCE MANAGER, CPA

**DATE:** DECEMBER 20, 2016

**SUBJECT:** CONSIDER A RESOLUTION TO APPROVE AND ADOPT THE 11<sup>TH</sup> RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 2017-2018), PURSUANT TO THE DISSOLUTION ACT

## RECOMMENDATION

It is recommended the Successor Agency Board adopt the attached Resolution approving the 11<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2017-2018) covering the timeframe July 1, 2017 through June 30, 2018 pursuant to Section 31471(h) and 34177(l)(1) of the California Redevelopment Law – the Dissolution Act, [ABx1 26 and AB 1484].

## BACKGROUND

Under the Dissolution Act, “enforceable obligations” of the former redevelopment agency (e.g. Clayton Redevelopment Agency) include the following financial arrangements (the ROPS of a city or county):

- Bonds
- Loans
- Payments required by state or federal government
- Obligations to employees
- Judgments or settlements
- Binding and legally enforceable agreements entered into before AB1x26
- Contracts for RDA administration, Successor Agency administration, and Oversight Board administration



The monies to fund payment of the requested ROPS enforceable obligations are issued by the Contra Costa County Auditor-Controller (CAC) to Clayton's "Redevelopment Obligation Retirement Fund". As its name implies, this fund replaces the former Redevelopment Agency's three Funds and functions as the repository for sufficient tax increment revenues in the amounts identified and approved in subsequent ROPS to effectively "retire" all former Clayton Redevelopment Agency debts and contractual obligations over a multi-year period. Once all identified and certified debts and obligations have been satisfied, the Successor Agency is then dissolved.

## **DISCUSSION**

### ***Prior Recognized Obligation Payment Schedule***

A DOF Determination Letter dated April 11, 2016 accepted the Clayton Oversight Board-approved ROPS 2016-2017 with three modifications as follows:

- Complete disallowance of the \$592,412 in Supplemental Educational Revenue Augmentation Fund (SERAF) payments requested (Item No. 3).
- Reduction to administrative cost allowance of \$18,085 in accordance with the calculations established by *California Health & Safety Code* section 34171(b)(3).
- Reduction of RPTTF award by \$121,997, equal to the balance of "other funds" as reported in the Cash Balances Form section of the ROPS.

These DOF imposed modifications resulted in the Clayton Successor Agency receiving \$809,203 in June 2016 for enforceable obligations through the six month period ending December 31, 2016. Also, pursuant to the DOF's April 11, 2016 determination letter, the Clayton Successor Agency expects to receive \$106,915 in January 2017 for enforceable obligations through the six month period ending June 30, 2017.

### ***Current Recognized Obligation Payment Schedule***

Included herein, as Attachment 1 to this staff report, is the 11<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2017-2018). Pursuant to *California Health & Safety Code* section 34177(o)(1), commencing with the ROPS 2016-2017 and thereafter, agencies shall now submit an Oversight Board approved annual ROPS to the State Department of Finance (DOF) and the CAC by February 1, 2016 and each February 1, thereafter. The DOF will make its determination by April 15, 2016, and each April 15 thereafter.

On this annual ROPS, the Successor Agency is requesting redevelopment property tax trust fund (RPTTF) monies to pay for obligations totaling \$594,439 and \$125,000 for the six month periods ending December 31, 2017 and June 30, 2018, respectively. In addition to RPTTF, the Successor Agency is requesting authorization to use post-due diligence review (DDR) reserves and other unencumbered balances to make payments on enforceable obligations consistent with the DOF's April 11, 2016 determination letter.

For the six month period ending December 31, 2017 the Successor Agency is requesting authorization to make payments on the following enforceable obligations:

- Principal and interest on the 2014 Refunding Tax Allocation Bonds,
- Trustee and other professional service fees directly related to the bonds,
- First of four scheduled repayments on the SERAF loan from the Successor Housing Fund (No. 616) to Successor Agency Fund (No. 615), and
- Administrative costs under *California Health & Safety Code* section 34171(b).

Immediately thereafter, for the six month period ending June 30, 2018, the Successor Agency is requesting authorization to make payments on the following enforceable obligations:

- Interest on the 2014 Refunding Tax Allocation Bonds, and
- Administrative costs under *California Health & Safety Code* section 34171(b).

### **SERAF Loan**

During FY 2009-10, as part of the State of California's emergency measures to address its own budgetary issues they imposed a two year raid on local redevelopment agencies in the form of SERAF demands. To the former Agency, this meant an astounding \$2,371,940 in SERAF payments was required to be made to the CAC between FY 2009-10 and FY 2010-11. In order to meet this massive obligation, an intra-agency loan of \$592,412 was established from the low-moderate income fund to the non-housing fund on May 19, 2010. The principal amount of this loan was originally scheduled for repayment in four equal installments of \$148,103 commencing FY 2011-12 and ending in FY 2014-15. With the state-imposed dissolution of redevelopment agencies effective February 1, 2012 and the rigorous new restrictions on SERAF loan repayments established through AB1484, the full principal balance the SERAF loan is currently outstanding and unpaid.

SERAF loans became eligible for repayment starting in the six month period ending December 31, 2014, provided that the following three circumstances are met: (1) The Successor Agency has completed its DDRs; (2) the results of the DDRs are reviewed by the Oversight Board; and (3) the Successor Agency has received a Notice of Completion by the DOF. As the Successor Agency has met each of these requirements, the previous ROPS (2016-2017) included a request for repayment of the SERAF loan in full in the six month period ending June 30, 2017. Repayment of the SERAF loan is an inter-fund transaction between the Successor Agency and Successor Housing Agency, and has no impact to the City of Clayton General Fund. As noted previously, this obligation was fully disallowed by the DOF, making reference to *California Health & Safety Code* section 34171(d)(1)(G) requiring an Oversight Board-approved repayment schedule.

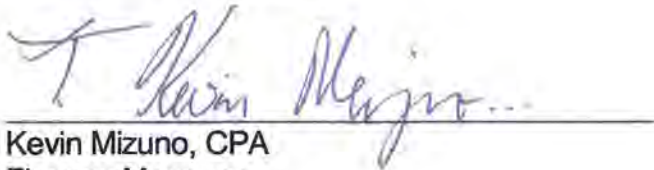
On September 20, 2016 the Clayton Successor Agency Board adopted Resolution No. 02-2016SA approving an agreement and repayment schedule for the SERAF loan in accordance with *California Health & Safety Code* section 34171(d)(1)(G). Consistent with the Oversight Board's

original approval of the SERAF loan repayment terms on April 26, 2012, the balance of the SERAF loan will be payable to the Successor Housing Agency in four equal principal installments of \$148,103 beginning in the fiscal year 2017-18 and ending in the fiscal year 2020-21 ROPS period. Accordingly, the ROPS 2017-2018 includes the first SERAF loan repayment of \$148,103 in the six month period ending December 31, 2017.

### **FISCAL IMPACT**

Once approved by the DOF, ROPS 2017-2018 will be in place for the Successor Agency to make payments on agreements and other obligations of the former Redevelopment Agency for the period of time July 1, 2017 through June 30, 2018. Absence this approval the Successor Agency is not permitted to make such payments.

Respectively submitted,



Kevin Mizuno, CPA  
Finance Manager

### **Attachments:**

1. Successor Agency Resolution approving the 11<sup>th</sup> ROPS 2017-2018 Resolution (3 pp.)
  - o Exhibit A: 11<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2017-2018)

**RESOLUTION NO. 04- 2016SA**

**A RESOLUTION APPROVING AND ADOPTING THE  
11th RECOGNIZED OBLIGATION PAYMENT SCHEDULE  
(ROPS 2017-2018) FOR THE TIME PERIOD OF  
JULY 01, 2017 THROUGH JUNE 30, 2018,  
PURSUANT TO SECTION 31471(h) AND 34177(I)(1)  
OF THE CALIFORNIA REDEVELOPMENT LAW**

**THE CITY COUNCIL (AS SUCCESSOR AGENCY)  
City of Clayton, California**

**WHEREAS**, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Clayton (the "City") adopted in accordance with the California Community Redevelopment Law, City Ordinance No. 243 on July 20, 1987 adopting the Redevelopment Plan for the Clayton Redevelopment Project Area (the "Redevelopment Plan"), as amended from time to time; and

**WHEREAS**, the Redevelopment Agency of the City of Clayton (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to said Redevelopment Law; and

**WHEREAS**, Assembly Bill X1 26 (the "Dissolution Act") and Assembly Bill X1 27 (the "Alternative Redevelopment Program Act") were enacted by the State of California on June 28, 2011, to significantly modify the Community Redevelopment Law and to end the existence of or modify continued operation of redevelopment agencies throughout the state (Health & Safety Code §33000, et seq.; the "Redevelopment Law"); and

**WHEREAS**, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of these Redevelopment Restructuring Acts; and

**WHEREAS**, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

**WHEREAS**, the Court's decision means that all California redevelopment agencies, including the Clayton Redevelopment Agency, are now terminated and have been automatically dissolved on February 1, 2012 pursuant to the Dissolution Act; and

**WHEREAS**, on January 17, 2012 by Resolution No. 03-2012, the Clayton City Council did exercise its priority right and took action to become the Successor Agency and the Successor Housing Agency of the former Clayton Redevelopment Agency; and

**WHEREAS**, December 1, 2016 the California Department of Finance (DOF) posted instructions for completing the 11<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2017-2018) covering the time period of July 1, 2017 through June 30, 2018, including the requirement that the ROPS 2017-2018 must be approved by its Oversight Board and submitted electronically to the DOF by February 1, 2017; and

**WHEREAS**, under Title 14 of the California Code of Regulations, Section 15378(b)(4), the approval of the ROPS is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a project, but instead consists of the continuation of an existing governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program because it merely lists enforceable obligations previously entered into and approved by the former Clayton Redevelopment Agency; and

**WHEREAS**, the City of Clayton Successor Agency Board has reviewed and duly considered the Staff Report, the proposed 11<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2017-2018), plus documents and other written evidence presented at the meeting.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of Clayton, California, and serving as the Successor Agency Board, does hereby find the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

**BE IT FURTHER RESOLVED** that the Successor Agency Board does hereby approve and adopt the 11th Recognized Obligation Payment Schedule (ROPS 2017-2018), attached hereto as "Exhibit A" and incorporated herein as if fully set forth in this Resolution.

**BE IT FURTHER RESOLVED** that the Successor Agency Board authorizes and directs its City Manager or the City Manager's designee to: (1) post the 11<sup>th</sup> Recognized Obligation Payments Schedule (Exhibit A) on the City's website; (2) designate a City representative to whom all questions related to the 11<sup>th</sup> Recognized Obligation Payment Schedule can be directed; (3) notify, by mail or electronic means, the County Auditor-Controller, the State Department of Finance, and the State Controller of the Oversight Board's action to adopt the 11<sup>th</sup> Recognized Obligation Payment Schedule (ROPS 2017-2018), and to provide those persons with the internet website location of the posted schedule and the contact information for the City's designated contact; and (4) to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Recognized Obligation Payment Schedule on behalf of the Successor Agency and City.

**BE IT FURTHER RESOLVED** that if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibit A, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution, Exhibit A

## ATTACHMENT 1

or any part thereof. The Successor Agency Board hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Resolution or of Exhibit A irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Resolution and of Exhibit A are declared to be severable.

**AND BE IT FURTHER RESOLVED** that this Resolution shall and does take immediate effect upon its adoption.

**PASSED, APPROVED AND ADOPTED** by the Successor Agency Board of Clayton, California at a regular public meeting thereof held on the 20<sup>th</sup> day of December 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA  
Serving as the Clayton Successor Agency Board

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Jim Diaz, Chair

ATTEST:

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Janet Brown, City Clerk

**Recognized Obligation Payment Schedule (ROPS 17-18) - Summary**  
 Filed for the July 1, 2017 through June 30, 2018 Period

**Successor Agency:** Clayton  
**County:** Contra Costa

<b>Current Period Requested Funding for Enforceable Obligations (ROPS Detail)</b>	<b>17-18A Total (July - December)</b>	<b>17-18B Total (January - June)</b>	<b>ROPS 17-18 Total</b>
<b>A Enforceable Obligations Funded as Follows (B+C+D):</b>	<b>\$ 112,897</b>	<b>\$ 31,510</b>	<b>\$ 144,407</b>
B Bond Proceeds	38,033	31,510	69,543
C Reserve Balance	60,697	-	60,697
D Other Funds	14,167	-	14,167
<b>E Redevelopment Property Tax Trust Fund (RPTTF) (F+G):</b>	<b>\$ 594,439</b>	<b>\$ 125,000</b>	<b>\$ 719,439</b>
F RPTTF	469,439	-	469,439
G Administrative RPTTF	125,000	125,000	250,000
<b>H Current Period Enforceable Obligations (A+E):</b>	<b>\$ 707,336</b>	<b>\$ 156,510</b>	<b>\$ 863,846</b>

Certification of Oversight Board Chairman:  
 Pursuant to Section 34177 (o) of the Health and Safety code, I hereby  
 certify that the above is a true and accurate Recognized Obligation  
 Payment Schedule for the above named successor agency.

\_\_\_\_\_  
 Name Title  
 /s/ \_\_\_\_\_  
 Signature Date

**Clayton Recognized Obligation Payment Schedule (ROPS 17-18) - ROPS Detail**  
**July 1, 2017 through June 30, 2018**  
 (Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	17-18A (July - December)					Q	17-18B (January - June)					W	
											Fund Sources						Fund Sources						
											L	M	N	O	P		R	S	T	U	V		
Item #	Project Name/Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	ROPS 17-18 Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	17-18A Total	Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	17-18B Total	
3	City Loan entered into on 5/19/10	SERAF/SERAF	6/19/2010	6/30/2017	Successor Agency LMI	Inter-Loan for SERAF payment to State	All	4,265,390	Y	863,846	38,033	60,697	14,167	469,439	125,000	707,336	31,510	-	-	-	-	125,000	156,510
4	Contract for Consulting Services	Fees	11/1/1996	8/31/2024	US Bank	Payroll Agent Fees	All	1,980	N	1,980	1,980					1,980							
7	Successor Agency Functions	Admin Costs	1/1/2014	8/30/2017	City of Clayton	Expenses for Successor Agency Operation	All	250,000	N	250,000					125,000	125,000						125,000	
8	Contract for Consulting Services	Housing Entity Admin Cost	2/22/2011	12/31/2015	Ranchey Planning	Housing Element Implementation	All		Y														
11	Contract for Consulting Services	Fees	6/7/1988	9/10/2019	NBS Local Government Solutions	RDA Arbitrage Reporting	All	1,200	N	1,200				1,200		1,200							
13	City Loan entered into on 6/17/99	Reentered Agreements	6/17/1999	1/1/2023	City of Clayton	City Loan entered into on 6/17/99 Firestation Project	All		Y														
16	Refunding Tax Allocation Bonds 2014	Refunding Bonds Issued After 6/27/12	6/26/2014	8/1/2024	US Bank	Bonds issued to refund the 1999 and 1999 non-housing RDA Tax Allocation Bonds	All	3,419,798	N	462,563	38,053			395,000		431,053	31,510						31,510
20	SERAF Repayment Loan	City/County Loans After 6/27/11	10/20/2016	6/30/2021	Successor Housing Fund	SERAF Repayment Loan	All	592,412	N	148,103		60,697	14,167	73,239		148,103							
21									N	\$ -						\$ -							\$ -
22									N	\$ -						\$ -							\$ -
23									N	\$ -						\$ -							\$ -
24									N	\$ -						\$ -							\$ -
25									N	\$ -						\$ -							\$ -
26									N	\$ -						\$ -							\$ -
27									N	\$ -						\$ -							\$ -
28									N	\$ -						\$ -							\$ -
29									N	\$ -						\$ -							\$ -
30									N	\$ -						\$ -							\$ -



**Clayton Recognized Obligation Payment Schedule (ROPS 17-18) - Report of Cash Balances  
(Report Amounts in Whole Dollars)**

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see [Cash Balance Tips Sheet](#).

A	B	C	D	E	F	G	H	I	
		<b>Fund Sources</b>							
		<b>Bond Proceeds</b>		<b>Reserve Balance</b>		<b>Other</b>	<b>RPTTF</b>		
	<b>Cash Balance Information by ROPS Period</b>	Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS period balances and DDR RPTTF balances retained	Prior ROPS RPTTF distributed as reserve for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	<b>Comments</b>	
<b>ROPS 15-16B Actuals (01/01/16 - 06/30/16)</b>									
1	<b>Beginning Available Cash Balance (Actual 01/01/16)</b>	228,537	-	60,697	-	121,997	6,050	Cell G1: RPTTF requested in ROPS 2016-17 already reduced by \$121,997 by DOF for fiscal year ending 6/30/17. Spent in 6 months ending 12/31/16 per DOF instructions.	
2	<b>Revenue/Income (Actual 06/30/16)</b> RPTTF amounts should tie to the ROPS 15-16B distribution from the County Auditor-Controller during June 2016	6	-	-	-	14,167	125,000	Cell G2: This is the only "Other" cash balance (\$14,167) available for ROPS 2017-18 obligations, excluding remaining balances in columns E or H.	
3	<b>Expenditures for ROPS 15-16B Enforceable Obligations (Actual 06/30/16)</b>	39,848	-	-	-	-	125,000		
4	<b>Retention of Available Cash Balance (Actual 06/30/16)</b> RPTTF amount retained should only include the amounts distributed as reserve for future period(s)	-	-	-	-	-	-		
5	<b>ROPS 15-16B RPTTF Balances Remaining</b>	No entry required							
6	<b>Ending Actual Available Cash Balance</b> C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ 188,695	\$ -	\$ 60,697	\$ -	\$ 136,164	\$ 6,050	Cell G1: RPTTF requested in ROPS 2016-17 already reduced by \$121,997 by DOF for fiscal year ending 6/30/17. Spent in 6 months ending 12/31/16 per DOF instructions.	

