



AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

* * *

TUESDAY, February 16, 2016

7:00 P.M.

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

Mayor: Howard Geller

Vice Mayor: Jim Diaz

Council Members

Keith Haydon

Julie K. Pierce

David T. Shuey

- 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
- 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 ***

February 16, 2016

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

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

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 February 2, 2016. [\(View Here\)](#)

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

(c) Adopt a Resolution appointing Maryann Carroll-Moser and Nancy Morgan to the citizens advisory Trails and Landscaping Committee for the terms of office to expire December 31, 2017. [\(View Here\)](#)

(d) Approve the NJPA competitive-bid award of contract to Garton Tractor, Inc. in the amount of \$46,242.70 for the purchase of a 2016 Ford New Holland Mini-Excavator using FY 2014-15 General Fund net excess reserves. [\(View Here\)](#)

(e) Approve the award of contracts to Painting by Ken (\$19,140), Floorscapes Quality Hardwood Flooring (\$5,472.50), J&R Services (\$6,150), and Ross Recreation Equipment (\$20,045.75), for the re-painting of Endeavor Hall (interior and exterior) and City Hall (exterior only), re-finishing of wood floor in Endeavor Hall, re-sealing of concrete floors at Endeavor Hall and at Clayton Community Park restrooms, and the purchase of ten (10) additional trash receptacles and three (3) replacement BBQs for Clayton Community Park, respectively, using FY 2014-15 General Fund net excess reserves. [\(View Here\)](#)

4. **RECOGNITIONS AND PRESENTATIONS**

(a) Recognitions to outgoing Trails and Landscape Committee Members Larry Casagrande, Robert Erich, Howard Glazier, and Harun Simbirdi in appreciation for their valued civic services to the Clayton community.

5. **REPORTS**

(a) Planning Commission – Chair Dave Bruzzone.

(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 item is considered by the City Council.

7. PUBLIC HEARINGS - None.

8. ACTION ITEMS

- (a) Consider a Resolution denying the final map for the Oak Creek Canyon project, a six-lot subdivision located north of the intersection of Diablo Parkway and east Marsh Creek Road. ([View Here](#))
(Community Development Director)

Staff recommendation: Following staff report and opportunity for public comment, that Council adopt the Resolution denying the final map.

- (b) Review of the City's Mid-Year Budget status report for Fiscal Year 2015-2016.
(Finance Manager; Council Budget/Audit Sub-Committee) ([View Here](#))

Staff recommendation: Following presentation of the Mid-Year Report and receipt of any public comments, that Council adopt a motion accepting the City's Mid-Year Budget Report for FY 2015-16 without any mid-year adjustments.

- (c) Consider and draft proposed Ballot Measure language for local voter consideration at the June 7, 2016 election, regarding extension of the Citywide Landscape Maintenance District special annual tax for a time period of ten years commencing FY 2017-2018 through 2026-2027. ([View Here](#))
(Assistant to the City Manager)

Staff recommendation: Following staff report and opportunity for public comments, that Council provide policy direction concerning its preferred Ballot Measure language for voter consideration of extending the time period and levy of the Citywide Landscape Maintenance District (CFD 2007-1).

- (d) Consider for approval the re-landscape conceptual designs for public medians located at Eagle Peak Drive and Oakhurst Drive (south), Keller Ridge Drive and Eagle Peak Drive, Eagle Peak Drive and Oakhurst Drive (north), Peacock Creek Drive at Clayton Road (first median), Regency Drive at Marsh Creek Road, Entry to City on Marsh Creek Road at Diablo Parkway, and Marsh Creek Road east side from Town Center sign to Center Street using approved Citywide Landscape Maintenance District project funds from FY 2015-16. ([View Here](#))
(Maintenance Supervisor)

Staff recommendation: Following staff presentation and opportunity for public comments, that Council accept the Trails and Landscaping Committee's and staff's recommended designs for re-landscaping of the selected subdivision entry medians.

- (e) Consider the Vice Mayor's request to hold seven (7) Classic Car Shows in the off-street City parking lot on Main Street in conjunction with four (4) Wednesday night Concerts in The Grove during select dates in 2016 to be funded by private donations. ([View Here](#))
(Vice Mayor Diaz)

Staff recommendation: Following the Vice Mayor's report and opportunity for public comment, that Council authorize the use of City properties for this community purpose.

- (f) City Council discussion to determine topics and subject matters for its annual joint special meeting with the Mount Diablo Unified School District Board of Education to be held in a Special Joint Meeting Monday, February 29, 2016.
(City Manager) ([View Here](#))

Staff recommendation: Following staff report and opportunity for public comments, that Council determine suitable topics for its joint special meeting with the Mount Diablo Unified School District Board of Education, and then approve by motion the calling of a City Council special joint meeting with the Mount Diablo Unified School District Board of Education to be held at 6:30 p.m. on Monday, February 29, 2016 at Hoyer Hall in the Clayton Community Library.

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

10. CLOSED SESSIONS

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator.
Real Property: 6055 Main Street, Clayton, CA (APN 119-011-003).
Instructions to City Negotiator: City Manager Gary Napper, concerning price and terms of payment.
Negotiating Party: Clayton Community Church (Shawn Robinson).

- (b) *Government Code Section 54956.8*, Conference with Real Property Negotiator.
Real Properties: 6005 Main Street (APNs 119-011-002-1; 118-560-010-1; 118-370-041-6).
Instructions to City Negotiators: Mayor Geller and Council Member Pierce, and Ed Del Beccaro, Managing Director, Transwestern, concerning price and terms of payment.
Negotiating Party: Pacific Union Land Company (Joshua Reed).

Report out from Closed Session: Mayor Geller

11. ADJOURNMENT

The next regularly scheduled meeting of the City Council will be March 1, 2016.

#

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 2-16-2016

Agenda Item: 3a

TUESDAY, February 2, 2016

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Diaz (arrived at 7:18 p.m.), and Councilmembers Haydon, Pierce, and Shuey. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Maintenance Supervisor Mark Janney, Chief of Police Chris Wenzel, Community Development Director Mindy Gentry, 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 Shuey, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).

- (a) Approved the minutes of the City Council's regular meeting of January 19, 2016 and its special meeting of January 25, 2016.
- (b) Approved Financial Demands and Obligations of the City.
- (c) Accepted the City's Investment Portfolio Report for the Second Quarter of FY 2015-16 ending December 31, 2015.
- (d) Adopted Resolution 08-2016 appointing Carin Kaplan, Howard Kaplan and April Winship to the citizens advisory Trails and Landscaping Committee for terms of office to expire December 31, 2015.
- (e) Approved the denial of a liability claim filed against the City by Dinah Thompson and authorize the City Clerk to send the rejection letter.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Recognition of Joseph L. Campbell, Board President, Contra Costa Water District 1991 – 2016 in appreciation for his valued leadership and public service to the citizens of Clayton upon his retirement.

Mayor Geller presented Mr. Campbell a Proclamation declaring February 17, 2016 as "Joseph L. Campbell" day in the City of Clayton. Mayor Geller also presented a plaque to Mr. Campbell recognizing his many years of service on the Costa Costa Water District Board.

Mr. Campbell was appreciative and thanked the Clayton City Council and Community. He noted that he has presented many certificates over the years; however this evening was the first time that he was the recipient of a plaque.

5. REPORTS

- (a) Planning Commission – Commissioner Tuija Catalano summarized the Commission's meeting of January 26, 2016. She noted its agenda included approval of Second Dwelling Unit Permit located at 1133 Easley Drive. Some neighbors were concerned about the potential neighborhood impact of this project. Commissioner Gregg Manning recused his vote due to the proximity of the project. The Commission determined second dwelling projects and the role it plays with our housing crisis creates new housing opportunities in Clayton. This project was approved.

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

- (c) City Manager/Staff

City Manager Gary Napper presented a slide reporting the 2015 Pavement Condition Index (PCI) was released with Clayton rating in the "Very Good" category. Mr. Napper compared the 2014 and 2015 differences noting Arterial PCI can be improved at the main thoroughfare located at Oakhurst Road to Marsh Creek Road. Mr. Napper stated, Collector PCI relates to neighborhood streets (Mountaire Parkway, Diablo Street, Eagle Peak, and Keller Ridge Drive) which are on schedule to be repaved in the next Fiscal Year.

(Vice Mayor Diaz arrived)

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

Councilmember Pierce attended meetings of the Metropolitan Transportation Commission (MTC), Contra Costa Transportation Authority, Associated Bay Area Governments (ABAG) and joint meetings of MTC and ABAG.

Councilmember Shuey did not provide a report.

Councilmember Haydon attended meetings regarding Marsh Creek Canyon, Clayton Community Library Foundation, Council – Manager Goals and Objectives for Calendar Year 2016, and Clayton Business and Community Association General Membership. He also advised that he and Vice Mayor Diaz conducted interviews with three citizens to serve on the Trails and Landscaping Committee.

Vice Mayor Diaz attended various committee meetings including Morgan Territory Fire Safe, League of California Cities Safety Policy, East Bay League of California Cities, and Community Emergency Response Team (CERT). He also advised that he and Councilmember Haydon conducted interviews with three citizens to serve on the Trails and Landscaping Committee. Mr. Diaz also attended the 37th annual Shellie Awards ceremony noting the Clayton Theatre Company received an award for best Choreographer.

Mayor Geller attended the Council – Manager Goals and Objectives for Calendar Year 2016. He also indicated the City is still accepting applications for citizens to serve on the Trails and Landscaping committee.

- (e) Other – None.

6. **PUBLIC COMMENT ON NON - AGENDA ITEMS** – None.

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) City Council discussion of potential uses for a portion or all of its \$389,895 in General Fund net excess reserve monies from FY 2014-15 on one-time expenditures, equipment or capital project unmet needs.

City Manager Napper indicated at the City Council's regular meeting of November 17, 2015 it was noted the previous fiscal year closed with a General Fund net excess of \$389,895. Staff inquired at that meeting whether the City Council was interested in discussing possible one-time expenditure items and capital projects using these funds. Staff was instructed to bring a list back at this meeting to explore different opportunities for use of some or the entire annual General Fund FY 2014-15 net excess on one-time expenditures for unmet needs of the City. Part of staff's obligation as staff is to identify unmet needs of the City for City Council review and policy decision for the unassigned funds. Mr. Napper provided a focus list for one-time unmet city needs for further exploration per the direction of the City Council.

City Department heads were available at this meeting to answer any questions or provide additional information to the City Council regarding items pertaining to their departments.

After considerable discussion and review, the City Council determined it would like to persue the following unmet needs:

- 2016 Mini Excavator.
- New trash cans, BBQs and reseal restroom floor at Community Park.
- Paint interior & exterior of Endeavor Hall, re-finish wood flooring, and re-seal concrete patio.
- Repaint City Hall exterior.
- Security Cameras at Exit/Entry points of City.
- Sustain Police deployment at full strength due to pending attrition.
- Demolition of Keller Ranch outbuildings (3).
- New interactive City website/IT Services.
- Electronic Records Management System (laserfiche).
- Searchable Online City Municipal Code.
- City back-up servers.

Mayor Geller opened the item to receive public comments; no public comments were offered.

Mr. Napper advised that items above his authority of approval will be brought back to future regular meetings of the City Council with no monies encumbered until awarded by the City Council.

City Council general direction was given to staff to provide additional research and bring back refined information for council consideration and action as appropriate.

9. **COUNCIL ITEMS**

10. **RECESS THE CITY COUNCIL MEETING**

Mayor Geller cancelled the recess of the City Council meeting as the need for the closed session no longer exists.

11. **RECONVENE THE CITY COUNCIL MEETING** – None.

12. **CLOSED SESSIONS**

Mayor Geller announced the need for this Closed Session no longer exists as advised by the City Manager.

- (a) *Government Code Section 54956.8*, Conference with Real Property Negotiator. Real Property: 6055 Main Street, Clayton, CA (APN 119-011-003).
Instructions to City Negotiator: City Manager Gary Napper, concerning price and terms of payment.
Negotiating Party: Clayton Community Church (Shawn Robinson).

Report out from Closed Session: Mayor Geller

No closed session held.

11. **ADJOURNMENT**– on call by Mayor Geller, the City Council adjourned its meeting at 9:05 p.m.

The next regularly scheduled meeting of the City Council will be February 16, 2016.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

Howard Geller, Mayor

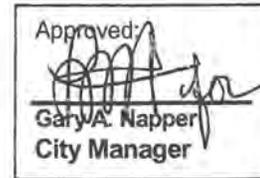
#



Agenda Date 2/16/2016

Agenda Item: 3b

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Kevin Mizuno, FINANCE MANAGER

DATE: 2/16/16

SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following Invoices:

2/12/2016 Cash Requirements Report	\$ 214,998.33
2/2/2016 Payroll, PPE 1/31/16, Week #5	\$ 80,624.85
2/10/2016 Early Check Cut, #31854, Cecyle Andrews	\$ 2,473.03

Total: \$ 298,096.21

Attachments:

Cash Requirements Report dated 2/12/2016 (5 pages)

ADP payroll report for week 5 (1 page)

Check # 31854, Cecyle Andrews (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
ADP, LLC								
ADP, LLC	2/16/2016	2/16/2016	468374477	PPE 1/31/16	\$162.45	\$0.00		\$162.45
<i>Totals for ADP, LLC:</i>					<u>\$162.45</u>	<u>\$0.00</u>		<u>\$162.45</u>
All City Management Services, Inc.								
All City Management Services, Inc.	2/16/2016	2/16/2016	42104	school crossing guard services 1/17/16-1/30/16	\$763.65	\$0.00		\$763.65
All City Management Services, Inc.	2/16/2016	2/16/2016	41874	school crossing guard services 1/3/16-1/16/16	\$509.10	\$0.00		\$509.10
<i>Totals for All City Management Services, Inc.:</i>					<u>\$1,272.75</u>	<u>\$0.00</u>		<u>\$1,272.75</u>
AT&T (CalNet3)								
AT&T (CalNet3)	2/16/2016	2/16/2016	7592142	service 12/22/15-1/21/16	\$1,715.92	\$0.00		\$1,715.92
<i>Totals for AT&T (CalNet3):</i>					<u>\$1,715.92</u>	<u>\$0.00</u>		<u>\$1,715.92</u>
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	2/16/2016	2/16/2016	0335146-IN	heavy duty fencing	\$211.58	\$0.00		\$211.58
<i>Totals for Bay Area Barricade Serv.:</i>					<u>\$211.58</u>	<u>\$0.00</u>		<u>\$211.58</u>
Bay Area News Group East Bay (CCT)								
Bay Area News Group East Bay (CCT)	2/16/2016	2/16/2016	0000942542	Legals January 2016	\$156.52	\$0.00		\$156.52
<i>Totals for Bay Area News Group East Bay (CCT):</i>					<u>\$156.52</u>	<u>\$0.00</u>		<u>\$156.52</u>
Blue Book Law Enforcement Directories								
Blue Book Law Enforcement Directories	2/16/2016	2/16/2016	6764	2 - CA 2015-16	\$24.95	\$0.00		\$24.95
<i>Totals for Blue Book Law Enforcement Directories:</i>					<u>\$24.95</u>	<u>\$0.00</u>		<u>\$24.95</u>
CalPERS Retirement								
CalPERS Retirement	2/16/2016	2/16/2016	CC 1/24/16	City Council Retirement ending 1/24/16	\$178.32	\$0.00		\$178.32
CalPERS Retirement	2/16/2016	2/16/2016	PPE 1/31/16	retirement PPE 1/31/16	\$13,548.55	\$0.00		\$13,548.55
CalPERS Retirement	2/16/2016	2/16/2016	February UAL	February UAL	\$28,437.00	\$0.00		\$28,437.00
<i>Totals for CalPERS Retirement:</i>					<u>\$42,163.87</u>	<u>\$0.00</u>		<u>\$42,163.87</u>
CCWD								
CCWD	2/16/2016	2/16/2016	H Series	Irrigation 12/4/15-2/3/16	\$8,290.05	\$0.00		\$8,290.05
<i>Totals for CCWD:</i>					<u>\$8,290.05</u>	<u>\$0.00</u>		<u>\$8,290.05</u>
City of Concord								
City of Concord	2/16/2016	2/16/2016	49491	Dispatch Services January 2016	\$20,089.50	\$0.00		\$20,089.50
City of Concord	2/16/2016	2/16/2016	49900	Forms, Printing	\$129.84	\$0.00		\$129.84
<i>Totals for City of Concord:</i>					<u>\$20,219.34</u>	<u>\$0.00</u>		<u>\$20,219.34</u>
Concord Garden Equipment								
Concord Garden Equipment	2/16/2016	2/16/2016	518474	Battery	\$121.92	\$0.00		\$121.92
<i>Totals for Concord Garden Equipment:</i>					<u>\$121.92</u>	<u>\$0.00</u>		<u>\$121.92</u>
Concord Uniforms								
Concord Uniforms	2/16/2016	2/16/2016	10620	Uniforms, Merrill	\$321.22	\$0.00		\$321.22
Concord Uniforms	2/16/2016	2/16/2016	10706	vest, Starick	\$1,057.25	\$0.00		\$1,057.25

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 Concord Uniforms:</i>					\$1,378.47	\$0.00		\$1,378.47
Contra Costa County Auditor-Controller								
Contra Costa County Auditor-Controller	2/16/2016	2/16/2016	70372(a)	reimbursement for overpayment	\$348.00	\$0.00		\$348.00
<i>Totals for Contra Costa County Auditor-Controller:</i>					\$348.00	\$0.00		\$348.00
Contra Costa County Office of the Sheriff (Training)								
Contra Costa County Office of the Sheri	2/16/2016	2/16/2016	15-2256	Range Use for December 2015	\$370.00	\$0.00		\$370.00
<i>Totals for Contra Costa County Office of the Sheriff (Training):</i>					\$370.00	\$0.00		\$370.00
Contra Costa County Sheriff - Forensic Svc Div (Lab)								
Contra Costa County Sheriff - Forensic S	2/16/2016	2/16/2016	CLPD-415	blood withdrawal services October - Decembe	\$1,102.50	\$0.00		\$1,102.50
Contra Costa County Sheriff - Forensic S	2/16/2016	2/16/2016	CLPD-1512	toxicology December 2015	\$1,840.00	\$0.00		\$1,840.00
<i>Totals for Contra Costa County Sheriff - Forensic Svc Div (Lab):</i>					\$2,942.50	\$0.00		\$2,942.50
Dig & Demo								
Dig & Demo	2/16/2016	2/16/2016	CAP0183	Deposit refund for 301 Meredith Court	\$1,856.82	\$0.00		\$1,856.82
<i>Totals for Dig & Demo:</i>					\$1,856.82	\$0.00		\$1,856.82
Geoconsultants, Inc.								
Geoconsultants, Inc.	2/16/2016	2/16/2016	18787	Well Monitoring for January 2015	\$1,546.50	\$0.00		\$1,546.50
<i>Totals for Geoconsultants, Inc.:</i>					\$1,546.50	\$0.00		\$1,546.50
Globalstar LLC								
Globalstar LLC	2/16/2016	2/16/2016	7069394	12/16/15-1/15/16	\$56.21	\$0.00		\$56.21
<i>Totals for Globalstar LLC:</i>					\$56.21	\$0.00		\$56.21
Hammons Supply Company								
Hammons Supply Company	2/16/2016	2/16/2016	192034	EH supplies	\$72.17	\$0.00		\$72.17
<i>Totals for Hammons Supply Company:</i>					\$72.17	\$0.00		\$72.17
Health Care Dental Trust								
Health Care Dental Trust	2/16/2016	2/16/2016	202519	February Dental	\$2,969.00	\$0.00		\$2,969.00
Health Care Dental Trust	2/16/2016	2/16/2016	204377	March Dental	\$3,027.52	\$0.00		\$3,027.52
<i>Totals for Health Care Dental Trust:</i>					\$5,996.52	\$0.00		\$5,996.52
Arlene Kikkawa-Nielsen								
Arlene Kikkawa-Nielsen	2/16/2016	2/16/2016	February 2016	Library Volunteer Coordinator - February 201	\$900.00	\$0.00		\$900.00
<i>Totals for Arlene Kikkawa-Nielsen:</i>					\$900.00	\$0.00		\$900.00
LarryLogic Productions								
LarryLogic Productions	2/16/2016	2/16/2016	1558	City Council Meeting 2/2/16	\$300.00	\$0.00		\$300.00
<i>Totals for LarryLogic Productions:</i>					\$300.00	\$0.00		\$300.00
Main Fire Protection Inc.								
Main Fire Protection Inc.	2/16/2016	2/16/2016	0091178	service date 2/2/16	\$217.81	\$0.00		\$217.81
<i>Totals Main Fire Protection Inc.:</i>					\$217.81	\$0.00		\$217.81

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
Scott or Sandi Michels								
Scott or Sandi Michels	2/16/2016	2/16/2016	CAP0187	Deposit refund for 646 Mt Olivet Ct	\$1,904.55	\$0.00		\$1,904.55
				<i>Totals for Scott or Sandi Michels:</i>	<u>\$1,904.55</u>	<u>\$0.00</u>		<u>\$1,904.55</u>
MPA								
MPA	2/16/2016	2/16/2016	February 2016	LTD/Life February 2016	\$1,690.18	\$0.00		\$1,690.18
				<i>Totals for MPA:</i>	<u>\$1,690.18</u>	<u>\$0.00</u>		<u>\$1,690.18</u>
Neopost Northwest								
Neopost Northwest	2/16/2016	2/16/2016	N5765316	contract for 3/7/16-4/6/16	\$158.20	\$0.00		\$158.20
				<i>Totals for Neopost Northwest:</i>	<u>\$158.20</u>	<u>\$0.00</u>		<u>\$158.20</u>
NORCAL Voice & Data								
NORCAL Voice & Data	2/16/2016	2/16/2016	1007	Wifi Setup City Hall	\$3,485.47	\$0.00		\$3,485.47
				<i>Totals for NORCAL Voice & Data:</i>	<u>\$3,485.47</u>	<u>\$0.00</u>		<u>\$3,485.47</u>
Pacific Telemanagement Svc								
Pacific Telemanagement Svc	2/16/2016	2/16/2016	813389	payphone February 2016	\$73.00	\$0.00		\$73.00
				<i>Totals for Pacific Telemanagement Svc:</i>	<u>\$73.00</u>	<u>\$0.00</u>		<u>\$73.00</u>
PERMCO, Inc.								
PERMCO, Inc.	2/16/2016	2/16/2016	10519	service 1/23/16-2/5/16	\$3,332.00	\$0.00		\$3,332.00
PERMCO, Inc.	2/16/2016	2/16/2016	10520	CAP Inspections 1/23/16-2/5/16	\$124.50	\$0.00		\$124.50
PERMCO, Inc.	2/16/2016	2/16/2016	10521	sub. proc. for row cert/clear; prepare final PS	\$915.00	\$0.00		\$915.00
PERMCO, Inc.	2/16/2016	2/16/2016	10522	solicit consult, prepare prelim plans & estimate	\$5,415.00	\$0.00		\$5,415.00
				<i>Totals for PERMCO, Inc.:</i>	<u>\$9,786.50</u>	<u>\$0.00</u>		<u>\$9,786.50</u>
Priority Payment Systems (Merchant Bankcard System)								
Priority Payment Systems (Merchant Bankcard System)	2/16/2016	2/16/2016	January 2016	Bankcard Fees for January 2016	\$186.31	\$0.00		\$186.31
				<i>Totals for Priority Payment Systems (Merchant Bankcard System):</i>	<u>\$186.31</u>	<u>\$0.00</u>		<u>\$186.31</u>
Psychological Resources Inc.								
Psychological Resources Inc.	2/16/2016	2/16/2016	7050	pre-employment screenings	\$900.00	\$0.00		\$900.00
				<i>Totals for Psychological Resources Inc.:</i>	<u>\$900.00</u>	<u>\$0.00</u>		<u>\$900.00</u>
Rex Lock & Safe, Inc.								
Rex Lock & Safe, Inc.	2/16/2016	2/16/2016	111286	Repair lock, Library	\$917.03	\$0.00		\$917.03
				<i>Totals for Rex Lock & Safe, Inc.:</i>	<u>\$917.03</u>	<u>\$0.00</u>		<u>\$917.03</u>
Riso Products of Sacramento								
Riso Products of Sacramento	2/16/2016	2/16/2016	151839	contract 1/18/16-2/17/16	\$94.86	\$0.00		\$94.86
				<i>Totals for Riso Products of Sacramento:</i>	<u>\$94.86</u>	<u>\$0.00</u>		<u>\$94.86</u>
Rogers Construction								
Rogers Construction	2/16/2016	2/16/2016	cap0181	C&D Deposit refund for 60 Mountaire Place	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Rogers Construction:</i>	<u>\$2,000.00</u>	<u>\$0.00</u>		<u>\$2,000.00</u>

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
Royal Pools								
Royal Pools	2/16/2016	2/16/2016	CAP0145	Deposit refund for 1150 Peacock Creek Dr	\$1,928.41	\$0.00		\$1,928.41
				<i>Totals for Royal Pools:</i>	<u>\$1,928.41</u>	<u>\$0.00</u>		<u>\$1,928.41</u>
Russo Auto Body								
Russo Auto Body	2/16/2016	2/16/2016	1733	repairs to PD Car # 1733	\$3,468.06	\$0.00		\$3,468.06
				<i>Totals for Russo Auto Body:</i>	<u>\$3,468.06</u>	<u>\$0.00</u>		<u>\$3,468.06</u>
Simpson Investigative Svc Grp								
Simpson Investigative Svc Grp	2/16/2016	2/16/2016	1859	Admin Investigation	\$1,165.86	\$0.00		\$1,165.86
				<i>Totals for Simpson Investigative Svc Grp:</i>	<u>\$1,165.86</u>	<u>\$0.00</u>		<u>\$1,165.86</u>
SPRAYTEC								
SPRAYTEC	2/16/2016	2/16/2016	13161	monthly maintenance for July	\$225.00	\$0.00		\$225.00
SPRAYTEC	2/16/2016	2/16/2016	13462	monthly maint 1/24/16 & 1/28/16	\$225.00	\$0.00		\$225.00
SPRAYTEC	2/16/2016	2/16/2016	13441	pump repair	\$1,488.13	\$0.00		\$1,488.13
				<i>Totals for SPRAYTEC:</i>	<u>\$1,938.13</u>	<u>\$0.00</u>		<u>\$1,938.13</u>
Sprint Comm (PD)								
Sprint Comm (PD)	2/16/2016	2/16/2016	703335311-170	service 12/26/15-1/25/16	\$273.93	\$0.00		\$273.93
				<i>Totals for Sprint Comm (PD):</i>	<u>\$273.93</u>	<u>\$0.00</u>		<u>\$273.93</u>
Staples Advantage								
Staples Advantage	2/16/2016	2/16/2016	8037828901	supplies for January 2016	\$320.49	\$0.00		\$320.49
				<i>Totals for Staples Advantage:</i>	<u>\$320.49</u>	<u>\$0.00</u>		<u>\$320.49</u>
Stericycle Inc								
Stericycle Inc	2/16/2016	2/16/2016	3003301265	Service 2/1/16	\$96.08	\$0.00		\$96.08
				<i>Totals for Stericycle Inc:</i>	<u>\$96.08</u>	<u>\$0.00</u>		<u>\$96.08</u>
Thomson Reuters-West								
Thomson Reuters-West	2/16/2016	2/16/2016	6105729662	CA Penal Code 2016 pamphlet	\$56.42	\$0.00		\$56.42
				<i>Totals for Thomson Reuters-West:</i>	<u>\$56.42</u>	<u>\$0.00</u>		<u>\$56.42</u>
US Bank Ops Center								
US Bank Ops Center	2/16/2016	2/16/2016	1990-1	Debt service for 1990-1 bonds rfdg 1997	\$88,310.75	\$0.00		\$88,310.75
				<i>Totals for US Bank Ops Center:</i>	<u>\$88,310.75</u>	<u>\$0.00</u>		<u>\$88,310.75</u>
Wells Fargo Bank, N.A.								
Wells Fargo Bank, N.A.	2/16/2016	2/16/2016	1285303	Lydia Lane Sewer Bond Interest	\$5,049.75	\$0.00		\$5,049.75
				<i>Totals for Wells Fargo Bank, N.A.:</i>	<u>\$5,049.75</u>	<u>\$0.00</u>		<u>\$5,049.75</u>
Mike Wells								
Mike Wells	2/16/2016	2/16/2016	CAP0182	Deposit refund for 267 Mountaire Pkwy, roo	\$500.00	\$0.00		\$500.00
				<i>Totals for Mike Wells:</i>	<u>\$500.00</u>	<u>\$0.00</u>		<u>\$500.00</u>
Western Extricator								

City of Clayton Cash Requirements Report

Western Exterminator	2/16/2016	2/16/2016	3890147	January services	\$370.00	\$0.00	\$370.00
				<i>Totals for Western Exterminator:</i>	<u>\$370.00</u>	<u>\$0.00</u>	<u>\$370.00</u>
				GRAND TOTALS:	\$214,998.33	\$0.00	\$214,998.33

Earnings Statement

0 Employees With Overflow Statement
0 Overflow Statement 1 Total Statement
Tot Cks/Vchrs:00000000035 Tot Docs in all:00000000038
First No. Last No. Total
Checks: ADPCHECK ADPCHECK 00000000006
Vouchers: 00000050001 00000050029 00000000029

Z7L TOTAL DOCUMENT
CITY OF CLAYTON
LOCATION 0001

CHECK STUFFING, RECONCILIATION

80624.85 GROSS
58136.64 NET PAY (INCLUDING ALL DEPOSITS)
9577.17 FEDERAL TAX
126.77 SOCIAL SECURITY
1107.05 MEDICARE
.00 MEDICARE SURTAX
.00 SUI TAX
3108.27 STATE TAX
.00 LOCAL TAX
65173.36 DEDUCTIONS
1532.23 NET CHECK

COMPANY CODE Z7L
CITY OF CLAYTON
TOTAL DOCUMENT
LOCATION 0001

VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM

VOID VOID VOID VOID VOID VOID VOID
VOID VOID VOID VOID VOID VOID VOID

THE ORIGINAL DOCUMENT HAS AN ARTIFICIAL WATERMARK ON THE BACK. HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENT.

2/10/2016

To: Cecyle Andrews
1199 Shell Lane
Clayton, CA 94517-1233

1020467	2/16/2016	R O # 1020467, 2003 Honda CRV		\$2,473.03	\$0.00	\$2,473.03
			Totals:	\$2,473.03	\$0.00	\$2,473.03

2/10/2016 31854

Two thousand four hundred seventy three and 03/100 Dollars

\$** 2,473.03

Cecyle Andrews
1199 Shell Lane
Clayton, CA 94517-1233



Agenda Date: 2-16-2016

Agenda Item: 3c

Approved:

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Janet Brown, City Clerk

DATE: February 16, 2016

SUBJECT: Appointment of Two (2) Citizens to the Trails and Landscaping Committee for terms of office February 17, 2016- December 31, 2017.

BACKGROUND

On December 31, 2015 the terms of appointed office expired for Trails and Landscape Committee (TLC) members Larry Casagrande, Anthony Chippero, Robert Erich, Harun Simbirdi, Howard Glazier and Alyse Smith. Staff notified each of the committee members their terms of office were ending, and also advertised the vacancies in the Clayton Pioneer, City posting boards, and on the City's website.

Two incumbents re-applied (Anthony Chippero; Alyse Smith) and were re-appointed at the regular Clayton City Council meeting of January 19, 2016. Three citizens applied (Carin Kaplan, Howard Kaplan and April Winship) were appointed to the TLC at the regular Clayton City Council meeting of February 2, 2016. The City subsequently received two applications from citizens (Maryann Carroll-Moser and Nancy Morgan) interested in joining the Trails and Landscaping Committee.

The Council interview sub-committee (Vice Mayor Diaz and Councilmember Haydon) interviewed the citizens (Maryann Carroll-Moser and Nancy Morgan) prior to this Council meeting and have informed staff of its recommendation to appoint.

There are currently five (8) people serving on the Trails and Landscaping Committee (Anthony Chippero, Christopher Garcia, Carin Kaplan, Howard Kaplan, Alyse Smith, Clayton Smith, Bob Steiner and April Winship). The appointment of these two (2) citizens will bring the membership to ten (10) for this advisory oversight committee (11 maximum).

RECOMMENDATION

On recommendation of the Council Sub-Committee, by minute motion adopt the attached Resolution appointing Maryann Carroll-Moser and Nancy Morgan to the TLC.

FISCAL IMPACT

None.

Attachments: Resolution – 1 page
Applications of (2) applicants- 2 pages

Trails and Landscaping Committee

Anthony Chippero	12/15	12/17
Christopher Garcia	12/14	12/16
Carin Kaplan	1/16	12/17
Howard Kaplan	1/16	12/17
Clayton Smith	12/14	12/16
Alyse Smith	12/15	12/17
Bob Steiner	12/14	12/16
April Winship	1/16	12/17

RESOLUTION NO. - 2016

**A RESOLUTION APPOINTING TWO CITIZENS
TO THE TRAILS AND LANDSCAPING COMMITTEE**

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

WHEREAS, in 2006, the City Council of Clayton adopted Resolution No. 8-2006 establishing and appointing a permanent citizens' advisory committee entitled "Trails and Landscaping Committee" for oversight of the 1997 Citywide Landscape Maintenance District (CFD 2007-1); and

WHEREAS, in 2007, the City Council of Clayton adopted Resolution No. 38-2007 appointing up to eleven (11) citizen members as the Citizens Oversight Committee for the Citywide Landscape Maintenance District (CFD 2007-1); and

WHEREAS, in 2011, the City Council of Clayton adopted Resolution No. 4-2011 amending the ending date to December 31 of the term of office for members of Trails and Landscape Committee (the Citizens' Oversight Committee) to the Citywide Landscape Maintenance District (CFD 2007-1) and extending the current members terms accordingly; and

WHEREAS, in December 2015, staff notified certain committee members via email and regular mail their terms of office were ending, and also advertised the opportunities in the Clayton Pioneer, City posting boards, and on the City's website; and

WHEREAS, two citizens recently submitted applications expressing willingness to serve in the appointed capacity.

WHEREAS, the City Council Interview Committee interviewed the two new applicants prior to the February 16, 2016 City Council meeting and recommend the appointment of each.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California, does hereby appoint Maryann Carroll-Moser and Nancy Morgan to the Trails and Landscaping Committee of the City of Clayton for the term of appointed office expiring on December 30, 2017.

PASSED, APPROVED AND ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held the 16th day of February 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Janet Brown, City Clerk



Received
JAN 29 2016
City of Clayton

APPLICATION FOR TRAILS AND LANDSCAPING COMMITTEE

Name Maryann Carroll-Moser Address 54 Karkin Place, Clayton

Home Phone 925-693-0841 Business Phone _____

E-mail address: maxiboyne@gmail Length of residency in Clayton 3yr

Occupation Retired - RN Present employer -

Why are you interested in serving on this Committee? I love to hike and appreciate having these beautiful trails available

What is your vision for the trails and public landscaped areas of our City? I want people that live and visit our city to be proud of our lush and beautiful landscapes. Also that they are maintained to be drought tolerant.

Please share your interests and hobbies, special training or education: Master of Science in Nursing
Walking miles with my dog
Love Gardening

- List 3 references with phone numbers: 1. Nancy Morgan 925-672-8705
2. Colleen Carroll 672-4416
3. Kelly Williams 925-917-9166

Signature: Maryann Carroll Moser Date: 1/29/16



Received

JAN 29 2016

City of Clayton

**APPLICATION FOR
TRAILS AND LANDSCAPING COMMITTEE**

Name Nancy Morgan Address 1061 Feather Circle

Home Phone 672 8705 Business Phone _____

E-mail address: nancy-morgan@comcast.net Length of residency in Clayton 12 yrs

Occupation Retired Present employer _____

Why are you interested in serving on this Committee? Because I enjoy ALL of the wonderful trails that are so close to where I live and so beautiful. I feel blessed to live in Clayton.

What is your vision for the trails and public landscaped areas of our City? That it continue to be what attracted me to Clayton.

The beautiful flowers and hillsides and trails that are so inviting.

Please share your interests and hobbies, special training or education: I have a Golden Retriever who loves to walk, I am currently President of our Dogpark, I love swimming, hanging out with my grand kids, hiking, rafting

List 3 references with phone numbers: 1. Maryann Moser - 693 0841

2. Jamie Williams - 639-9450

3. Marci Winkler - 360-4927

* * * * *

Signature: Nancy Morgan

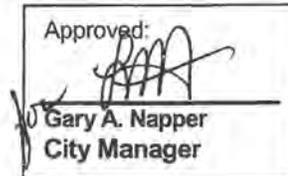
Date: 1-29-16



Agenda Date: 2-16-2016

Agenda Item: 3d

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MAINTENANCE DEPARTMENT
DATE: February 16, 2016
SUBJECT: Award of Competitive Contract to Garton Tractor (Fairfield, CA)
Purchase of 2016 New Holland Tier 4 E30B Mini Excavator Tractor

RECOMMENDATION

Approve the contract and appropriation of monies (\$46,242.70) from the excess General Fund monies from FY 2014-15 for the following item that had been presented at a regular public meeting held on 2 February 2016:

2016 New Holland E30B Mini Excavator from Garton Tractor, through the NJPA (National Joint Powers Alliance) competitive bid Contract #032515-CNH.

BACKGROUND

At its regular public meeting held on November 17, 2015, the City Council received a list of unmet needs for potential improvement, replacement, or new acquisitions pertaining to the mission of the City organization to sustain public services and infrastructure of the City. After review and critique of the 24 items listed, the City Council narrowed its interest for further study and additional staff research to thirteen (13) items. At its regular public meeting held on February 2, 2016, the City Council received a narrowed down list of items from staff accompanied by staff's additional research and refined cost estimates. Of the thirteen (13) items on the Focus List, seven (7) items involved the City's Maintenance Department:

- 2016 Mini Excavator
- 2016 Utility Bed Truck Ford F-350
- New trash cans, BBQs, and reseal restroom at the Clayton Community Park
- Paint interior and exterior of Endeavor Hall, refinish wood floors, re-seal concrete patio
- Solar power to run Clayton Fountain
- Replace 75 wood street light poles
- Paint exterior of City Hall (added after November meeting)

After the City Council had review and asked questions of staff on the above seven (7) items, two (2) items were dropped from funding: the 2016 Utility Bed Truck and solar power option to run the Clayton Fountain.

Three (3) other items on the Focus List are covered by a separate staff report:

- Paint exterior of City Hall (added after November meeting)
- New trash cans, BBQs, and reseal restroom at the Clayton Community Park
- Paint interior and exterior of Endeavor Hall, refinish wood floors, re-seal concrete patio

One additional item on the list will be re-submitted to the City Council after a light pole inspection report is completed with its findings.

- Replacement of 75 wood street light poles

PURCHASE OF EXCAVATOR

Working with Garton Tractor, Northern California's representative of New Holland Tractors, combined with our membership in the National Joint Powers Alliance, Maintenance staff was able to spec-out a suitable mini excavator with the necessary options and attachments for just under \$50,000. New Holland Tractors have proven to be a very reliable and affordable alternative to the higher price brands such as Case or John Deere. The purchase of a New Holland Brand excavator will assure that all 3 of the city's tractors are New Holland and can assist in the ease of operation and maintenance.

FISCAL IMPACT

The City Council's approval of this contract would authorize the transfer of \$46,242.70 to the Capital Equipment Replacement Fund (CERF) and an equal budget amendment increasing General Fund appropriations in FY 2015-16 accordingly. This increase in appropriations is funded by an assignment of available General Fund reserves (fund balance) at June 30, 2015 arising from \$389,895 in excess reserves as reported in the FY 2014-15 audited financial statements. After this assignment of fund balance the FY 2014-15 excess General Fund account has a remaining balance of \$343,652.30 for funding of other approved items on the Focus List. Using these transfer proceeds from the General Fund excess reserves, the CERF would make said purchase for asset depreciation tracking purposes.

Attachments: 1. Competitive Contract Quote by Garton Tractor [1 pg.]



Fairfield

Ukiah



Quality People Quality Products®

1-877-TRACTOR

(1-877-872-2867)

www.Garton-Tractor.com

QUOTE

Buyer: City of Clayton

Date: 2/11/2016

Address: _____ City, State: _____ Zip: _____

Invoice No. _____ Date: _____ Phone #: _____ P.O. # _____ Sales Tax District: _____

New or Used	Make	Model	Serial #	Stock #	Description	Amount
New	NH	E30B	TBA	TBA	Tier 4 Final 3.5 Ton Rops Excavator	\$42,620.00
					Rubber Tracks, 12" and 18" HD Bucket	
					2 Tined Hydraulic Thumb	
					City of Clayton NJPA Member #94233	
					New Holland NJPA Contract #032515-CNH	

TRADE-INS: Except as noted, Buyer Certifies Below Trade-Ins to be free of encumbrances except as noted. Freight & Handling: Included

Year	Make	Model	Serial #	Stock #	Description	Trade-In Allowance	Subtotal:	Amount
							\$42,620.00	
							Tax Rate: 8.500%	\$3,622.70
							Calif. Tire Tax:	\$0.00
							Extended Warranty:	
							UCC/Doc Fee:	
Trade-In Allowance \$0.00						Amount Owing	Net Trade-In Allowance	\$0.00
							Total Delivered Price:	\$46,242.70

"Trade-In's must be turned in or picked up no later than 5 days after delivery of purchased equipment."

Financing Terms:
Net 30 Days after delivery

Trade-In Allowance	\$0.00
Less Cash Down Payment*	
Total Down Payment	\$0.00
Unpaid Balance	\$46,242.70
Other Charges (#1)	
Other Charges (#2)	
AMOUNT FINANCED OR DUE ON DELIVERY	\$46,242.70

Notes

Warranty: _____

Availability: _____

WE appreciate your business!
 Jason Wellar jwellar@garton-tractor.com
 (415)471-6978

Quotes are subject to change by availability or manufacturer programs

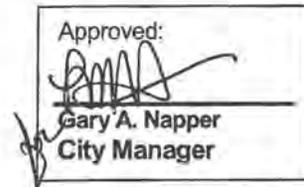
QUOTE



Agenda Date: 2-16-2016

Agenda Item: 3e

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MAINTENANCE DEPARTMENT

DATE: February 16, 2016

SUBJECT: Award lowest-bid contracts for re-painting exterior of City Hall; re-painting the exterior and interior, refinish the wood floors, and re-sealing the concrete patio at Endeavor Hall; and purchase trash receptacles, barbecues, and re-sealing the restroom concrete floors at Clayton Community Park, using FY 2014-15 General Fund net excess reserves.

RECOMMENDATION

Approve the following low-bid contracts and appropriation of monies (\$50,808.25) from the General Fund net excess reserve funds from FY 2014-15 for the following items that had been presented at a regular public meeting held on February 2, 2016:

1. The exterior re-painting of City Hall in the amount of \$6,900.00 with the lowest responsible quote from Painting by Ken.
2. The exterior and interior re-painting of Endeavor Hall for \$12,240.00 with the lowest responsible quote from Painting by Ken.
3. The sanding and refinishing of the oak wood floors at Endeavor Hall for \$5,472.50 with the lowest responsible quote from Floorscapes Quality Hardwood Flooring.
4. The cleaning and resealing of Endeavor Hall's concrete walkway and patio for \$1,250.00 with the quote from J&R Floor Services.
5. The purchase of ten (10) additional trash receptacles from Ross Recreation Equipment in the amount of \$18,321.75 for the Clayton Community Park.
6. The purchase of three (3) replacement barbecue grills from Ross Recreation Equipment in the amount of \$1,724.00 for the Clayton Community Park.
7. The cleaning and resealing of the two restroom concrete floors at the Clayton Community Park in the amount of \$4,900.00 with the lowest responsible quote from J&R Floor Services.

BACKGROUND

At its regular public meeting held on November 17, 2015, the City Council received a list of unmet needs for potential improvement, replacement, or new acquisitions pertaining to the mission of the City organization to sustain public services and infrastructure of the City. After review and critique of the 24 items listed, the City Council narrowed its interest for further study and additional staff research to thirteen (13) items. At its regular public meeting held on February 2, 2016, the City Council received a narrowed down list of items from staff accompanied by staff's additional research and refined cost estimates. Of the thirteen (13) items on the Focus List, seven (7) items involved the City's Maintenance Department:

- 2016 Mini Excavator
- 2016 Utility Bed Truck Ford F-350
- New trash cans, BBQs, and reseal restroom at the Clayton Community Park
- Paint interior and exterior of Endeavor Hall, refinish wood floors, re-seal concrete patio
- Solar power to run Clayton Fountain
- Replace 75 wood street light poles
- Paint exterior of City Hall (added after November meeting)

After the City Council had review and asked questions of staff on the above seven (7) items, two (2) items were dropped from funding: the 2016 Utility Bed Truck and solar power option to run the Clayton Fountain.

Two (2) other items on the Focus List will be re-submitted by separate staff reports:

- Replacement of 75 wood street light poles
This item will be re-submitted to the City Council after a light pole inspection report is completed with its findings.
- 2016 Mini Excavator
This item is being submitted for approval by the City Council by separate Consent Calendar action at this same meeting.

Net Result

The City Council direction above left three (3) remaining items for its approval via low bid contracts or quotes along with the associated authorization of funds:

- Exterior re-painting of City Hall
- Exterior and interior re-painting of Endeavor Hall, refinish wood floors, reseal concrete patio
- New trash cans, replacement BBQs, and reseal restroom floors at the Clayton Community Park

RECEIPT OF LOW-BID CONTRACTS

1. Re-painting of the Exterior wood siding at City Hall (total site expense of \$6,900)

Re-paint the wood surfaces on the exterior of City Hall to match its existing colors. Maintenance staff received three quotes with 'Painting by Ken' being the lowest responsible quote.

- Painting by Ken \$6,900.00
- Pacific Coast Design \$8,600.00
- R Brothers Painting \$38,400.00

2. Endeavor Hall Maintenance Projects (total site expense of \$18,962.50)

a. Re-paint the exterior and interior of Endeavor Hall matching its existing colors

Maintenance staff received three quotes with Painting by Ken being the lowest responsible quote.

- Painting by Ken \$12,240.00
- Pacific Coast Design \$14,300.00
- R Brothers Painting \$41,520.00

b. Sand and Refinish approximately 1,406 square feet of oak wood floors at Endeavor Hall using four (4) coats of sealant

Maintenance staff received three quotes with Floorscapes Quality Hardwood Flooring being the lowest responsible quote.

- Floorscapes Quality Hardwood Flooring \$5,472.50
- Galicia Hardwood Floors \$6,442.50
- Professional Flooring \$6,900.00

c. Clean and reseal the outdoor patio and walkway at Endeavor Hall

- J&R Floor Service \$1,250.00

(Note: this was the only estimate that was received by Maintenance for this work because J&R Floor Service did the original sealing process of the patio and we want compatible re-sealing without damaging the existing patio surface)

3. Community Park maintenance projects (total site expense of \$24,945.75)

a. New trash receptacles, replacement BBQs and reseal restroom floors at the Community Park

The addition of ten (10) new DeMor trash receptacles to match the existing trash receptacles at the Clayton Community Park

- Ross Recreation Equipment at \$18,321.75
(sole northern California distributor of DeMor products)

b. The replacement of three (3) barbecue grills to match the existing barbecue grills at the Clayton Community Park

- Ross Recreation Equipment at \$1,724.00
(sole northern California distributor of DeMor products)

c. Clean and reseal the two (2) concrete restroom floors at the Clayton Community Park

Maintenance received three quotes with J&R Flooring Services being the lowest responsible quote.

- J&R Floor Service \$4,900.00
- Nor-Cal Industrial Floors \$6,540.00
- R. Brothers Painting \$8,868.00

FISCAL IMPACT

The City Council's approval of these contracts results in an increase to General Fund FY 2015-16 appropriations by \$50,808.25. This increase in appropriations is funded by an assignment of available General Fund reserves (fund balance) at June 30, 2015 arising from \$389,895 in excess reserves as reported in the FY 2014-15 audited financial statements. After this assignment of fund balance for the above facility maintenance projects, and approval of Agenda Item 3(d) Excavator, the FY 2014-15 excess General Fund account has a remaining balance of \$292,844.05 for funding of other approved items on the Focus List.



Agenda Date: 2-16-2016

Agenda Item: 8a

STAFF REPORT



TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MG*

DATE: FEBRUARY 16, 2016

SUBJECT: OAK CREEK CANYON FINAL MAP (MAP-04-03)

RECOMMENDATION

It is recommended the City Council, after discussion and opportunity for public comment, approve the Resolution denying the final map for the Oak Creek Canyon project, a six lot subdivision located north of the intersection of Diablo Parkway and Marsh Creek Road.

REQUEST

The applicant, West Coast Home Builders, Inc., is requesting a determination of conformance of the final map with the approved tentative map and a ministerial approval of a final map for the Oak Creek Canyon project (**Attachment 1**).

BACKGROUND

In December of 1997, the City entered into a Development Agreement with the applicant, West Coast Home Builders, which granted the right to develop an approximate nine acre parcel for five single family residential lots and one parcel for a stormwater detention basin. The Development Agreement also allowed the City to obtain right-of-way from West Coast Home Builders in order to widen and improve east Marsh Creek Road. The Development Agreement expired in 2009 without the project being constructed.

On March 22, 2005, the Planning Commission recommended the City Council:

- Adopt the Initial Environmental Study/Mitigated Negative Declaration (IES/MND);
- Approve the initiation of the annexation;
- Approve amendments to the General Plan and the Specific Plan; and
- Approve the pre-zoning.

The Planning Commission also approved the following project entitlements:

- Tentative subdivision map to create five residential lots and one lot for a stormwater detention basin to be dedicated to the City;
- Use permit for the stormwater detention basin; and
- Site plan review permit for the five single family residences.

The Planning Commission's decision to approve the tentative map was appealed to the City Council. The applicant, West Coast Home Builders, appealed the decision on the basis that conditions imposed on the project by the Planning Commission requiring the establishment of a homeowners association for maintenance of landscaping were not reasonably required given that the project was proposed for five residential lots plus a lot for a stormwater detention basin.

The *Clayton Municipal Code* authorizes the Planning Commission to take final action on the tentative map, use permit, and site plan review permit; however since the approval of tentative map was appealed, the City Council reviewed and considered approval of the tentative map. The Planning Commission's actions on the use permit and site plan review permit were not appealed.

In April of 2005, the City Council adopted the project IES/MND, approved the initiation of annexation of the project site, approved General Plan and Specific Plan amendments, and adopted an ordinance for pre-zoning the site to Single Family Residential (R-10) and Public Facility District (PF). The City Council also approved the Applicant's appeal of the Planning Commission's decision and eliminated the requirement to establish a homeowners association (**Attachment 2**).

The annexation, General Plan and Specific Plan amendments, and the zoning map designations were acted upon and completed in 2005.

The use permit and site plan review permit expired in 2006, while the tentative map had an expiration date of January 21, 2009 as outlined in the Development Agreement. In addition, due to the economic downturn, the State legislature passed a series of four bills with each bill extending the life of tentative maps statewide by two years; however the laws did not apply to local approvals. Those bills were SB 1115, AB 333, AB 208, and AB 116. The State legislature did not pass a tentative map timeline extension in its last legislative session in 2015. Therefore, the Oak Creek Canyon tentative map expired on January 21, 2016; however the applicant submitted certain materials in time for the matter to require public action by the City Council.

Due to the expiration of the local approvals (i.e., the use permit and site plan review permit), despite the validity of the tentative map, it made for a unique situation because the mitigation measures and the conditions of approval for the different project entitlements were intertwined and because all of the approvals were intertwined, it makes the use permit and site plan review permit required for approval of the final map. The entitlements are bundled together in one approval because the project was proposed, reviewed, and considered as a whole and not incrementally and therefore, all the entitlements were integral to the approval.

PROJECT OVERVIEW

The project consists of a six lot subdivision for the development of five single family residences and one stormwater detention basin. Access to the project would be provided by a public street which intersects with east Marsh Creek Road and Diablo Parkway (**Attachment 3**). A 50-foot vehicular access and pipeline easement are located south of the water tank which provides access to the Water District parcel. Grading would consist of cutting into portions of the slope to the north (uphill) of the building pads on Lots 1-5 and

adding fill material between the building pads on these lots and the project road. The site is zoned as R-10 (10,000 square foot minimum lot size).

DISCUSSION AND CHRONOLOGY

As stated earlier, the local [City] use permit and site plan review permit expired in 2006 and are both necessary components for approval of the final map. Therefore, the applicant submitted development applications to the City on February 21, 2014 for a new use permit and site plan review permit for the subject site as requested by the City and agreed to by the applicant. The new use permit and site plan review permit also require an update to the environmental document, which the applicant has agreed to complete and has provided funding to the City.

On March 21, 2014, the City deemed the application to be incomplete (**Attachment 4**) and provided a letter regarding the deficiencies with the application along with addressing the review of the final map. The City letter stated the final map was being reviewed for technical compliance and compliance with the conditions of approval and mitigation measures. The letter also summarized the City's position regarding offers of public dedication of residential subdivision streets, stormwater detention basins, public landscaping of residential right-of-ways and improvements. The City's position was it was no longer accepting the aforementioned items for City care and maintenance due the economic fiscal impacts and recommended the applicant contact the City Engineer on the matter to discuss the long term maintenance funding options for the project's residents. The letter also provided a list of the conditions of approval in regard to the final map and identified the outstanding items.

In August 2015, an email exchange occurred between City staff and West Coast Home Builders, Inc. (**Attachment 5**). On August 12, 2015, the applicant indicated he wished to move forward to record the final map. City staff responded by indicating research was conducted for any possible pathway to record the final map without having the use permit or site plan review permit. Staff found since one of the proposed lots was a detention basin, implemented via a use permit, and considering that use permit had expired, the final map could not be recorded until the use on the property had been established. Further, staff also recommended the applicant consider submitting a new tentative map application in order to process it concurrently with the proposed use permit and site plan review permit as a way to possibly save time due to the amount of work that needed to be accomplished between August and the expiration of the final map. The City also indicated it was waiting on a response from the City's letter dated March 21, 2014.

On August 14, 2015, the applicant responded to staff's email stating that the use permit and the site plan review permit applications, fees, and all of the required materials will be submitted in September as well as responding to the City's March 21, 2014 letter. The email also questioned whether a use permit is required to be in place in order to record a map.

A follow up email was sent to the applicant from City staff on August 17, 2015 in order to reiterate staff's concerns regarding the timeline for recordation of the final map with the amount of work that needed to be accomplished prior to the expiration of the map. The work still left to accomplish was the processing of a use permit and a site plan review permit along with an updated environmental document as well as approval of the final map by the City Council, all actions required before the January 21, 2016 expiration date.

A response from West Coast Home Builders, Inc. to the City's March 21, 2014 letter was received on October 8, 2015 (**Attachment 6**); however the outstanding issues with the final map, the conditions of approval, and the mitigation measures were not addressed sufficiently. The street, detention basin, and landscaping were shown as private and to be maintained by a homeowners association, but no formal submittal was made to change the conditions of approval to address this issue.

The City responded with a response letter on October 30, 2015 (**Attachment 7**). This letter outlined applicable conditions of approval and mitigation measures along with the current status. Staff identified, in addition to the lack of a use permit, one of the mitigation measures identified in the IES/MND required the applicant to furnish an acoustical report to ensure compliance with interior and exterior noise levels identified in the City's General Plan; however the site plan review permit expired therefore a noise study showing the interior and exterior noise levels cannot be done without an approved product or building placement. Staff also provided recommendations to the applicant to amend the conditions of approval due to the fact time was quickly running out to obtain approval of the use permit and site plan review permit. The letter also required the submittal of all of the requested materials by the close of business November 10, 2015 in order to provide adequate time for the City to process the request prior to the final map expiration.

The City received the applicant's response on December 14, 2015 (**Attachment 8**) and the City received a follow up submittal on January 20, 2016. The status of the project after reviewing the materials submitted is outlined below in the Conditions of Approval and Mitigation Measures section.

CONDITIONS OF APPROVAL AND MITIGATION MEASURES

Per the Subdivision Map Act 66473, "a local agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by this division or local ordinance, pursuant thereto; provided that a final map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative map."

Below, staff has identified all of the conditions of approval applicable to the final map, as well as the mitigation measures from the IES/MND document with an indication of the current status of each. The status is based on the latest materials submitted by the applicant along with the final map mylars received on January 25, 2016. Due to the lengthy verbiage, some of the conditions of approval have been shortened for brevity purposes, which have been indicated with an asterisk. For the conditions of approval and mitigation measures in their original form, see **Attachment 2** and **9**. Given that the applicant has not satisfactorily complied with all conditions of approval or the mitigation measures pertaining to the final map, staff recommends the City Council deny the approval of the final map as required pursuant to the Subdivision Map Act.

Conditions of Approval

- **Condition of approval #1:** The final map shall show deed restrictions in the following locations. The restrictions are intended to preserve an open and attractive visual character of the subject area. The restrictions shall prohibit grading (except for remedial grading, drainage improvements and disking for weed abatement); construction of all buildings and structures; and storage of any motor vehicles, trailers, recreational vehicles, graders, tractors, airplanes, or similar equipment.
 - a. The western portion of Lot 2, beginning at the western edge of the 50-foot wide roadway and pipeline easement serving the Contra Costa Water District parcel.
 - b. The northern portions of Lots 3-5 above the drainage bench generally located at elevation 630 feet.

Status: Complete for final map consideration.

- **Condition of approval #2:** The deeds for all lots shall contain language, which prohibits any future land division(s) to create additional home sites.

Status: This condition of approval should be memorialized in the CC&R's. Per condition of approval number 4, the CC&Rs are required prior to approval of the final map, and the CC&Rs do not contain a provision prohibiting future land division(s).

- **Condition of approval #4*:** The project shall have covenants, conditions, and restrictions (CC&R's), which address the issues listed below. The CC&R's shall be submitted to the Community Development Director for review and approval prior to approval of the final map.

Status: The CC&Rs submitted did not satisfactorily address the issues identified in the conditions of approval such as setbacks, fencing, and gates for any drainage facilities (**Attachment 10**). In addition, the CC&Rs discuss the project's street to be privately maintained. While, the City's current policy direction is to not accept the dedication of streets, the City Council approved the project and the map to have a public street. Therefore, the CC&Rs are not compliant with the conditions of approval for the final map nor did the applicant make a request of the City, at the suggestion of staff, to amend the conditions of approval to correct this issue.

- **Condition of approval #14:** The project is subject to development impact fees and parkland dedication fees, as established in the Municipal Code at the time of payment.

Status: The City received a check from the applicant for the Parkland Dedication fee, which is required prior to final map approval and totals \$12,845.00; however due to issues with the final map the City has not cashed the check.

- **Condition of approval #30*:** The final map shall include the dedication of landscape maintenance easements to the benefit assessment district for the landscape corridor along Marsh Creek Road on Lots 1 and 2; and the area between the sound fences on Lots 1 and 2 and the landscape corridor.

Status: The final map does not show adequate landscape maintenance easements and a benefit assessment district or comparable mechanism has not been established, nor did the applicant make a request of the City, at the suggestion of staff, to amend the conditions of approval to correct this issue.

- **Condition of approval #31*:** Prior to approval of the final map, the Developer shall submit a written request for and consent to the annexation of Lots 1 through 5 to the City's existing landscape maintenance district in accordance with the Mello-Roos Community Facilities Act of 1982 (California Government Code, Section 53311, et seq.).

Status: A written request for and consent to annex Lots 1 through 5 into the City's existing landscape maintenance in accordance with Mello-Roos Community Facilities Act of 1982 has not been received by the City.

- **Condition of approval #43*:** The Developer shall provide written determinations from the California Department of Fish and Game and the San Francisco Bay Regional Water Quality Board regarding jurisdiction for the seasonal drainage. The written determination shall be provided to the Community Development Department and City Engineer prior to approval of the final map.

Status: Complete for final map consideration.

- **Condition of approval #47:** The final map shall show dedication of a ten-foot wide public access easement along the eastern edge of Lots 5 and 6. A six-foot wide pedestrian trail shall be installed in the easement. The design (including installation of removable bollards) and paving material of the trail shall be in accordance with any applicable oil pipeline easement restrictions and subject to the review and approval of the City Engineer and Community Development Director. In lieu of the easement, the developer may offer to dedicate the same area in-fee to the City.

Status: Complete for final map consideration.

- **Condition of approval #54:** Prior to approval of the final map, the Developer shall contribute its fair share, as determined by the City, to a traffic calming/control fund for improvements such as installation of rumble strips, a flashing yellow light (on an interim basis), and/or a traffic signal on a permanent basis at or east of the project entrance road.

Status: At this time it has been determined by the City that payment is not required for final map approval; however it shall be required prior to grading or building permit issuance.

- **Condition of approval #58*:** Prior to approval of the final map, the Developer shall submit a written request for and consent to the formation of a benefit assessment district in accordance with the Benefit Assessment Act of 1982.

Status: The City has not received a written request for and consent to the formation of a benefit assessment district or comparable mechanism, nor did the applicant make a request of the City, at the suggestion of staff, to amend the conditions of approval to address this issue.

- **Condition of approval #59:** All drainage collection (ditches, storm drains, etc.) and treatment facilities, and access to such facilities, shall be located in public storm drain easements, which shall be shown on the final map. City personnel or contracted forces shall have the right of access to conduct inspections and maintenance of all on-site drainage devices. Maintenance of such facilities shall be performed by the City using either City personnel or contracted forces at the City's sole option. (There shall be no obligation on the City related to the maintenance of any subdrains.) The property owners shall pay for such maintenance work through the collection of annual assessments by the benefit assessment district, as described in the immediately preceding condition.

Status: A benefit assessment district or comparable mechanism has not been established to satisfy this condition of approval, nor did the applicant make a request of the City, at the suggestion of staff, to amend the conditions of approval to address this issue.

- **Condition of approval #69:** The Developer shall dedicate to the City easements for drainage improvements. The volume and rate of stormwater runoff from the site shall not exceed the amounts allowed by Section C.3 of the City's stormwater permit. The project shall bear the financial responsibility of the construction and perpetual maintenance (including monitoring and reporting) of these facilities with a funding mechanism acceptable to the City that addresses costs for capital replacement, inflation, and administration.

Status: The stormwater detention basin is an essential component to the volume and rate of stormwater runoff from the site. The use permit has expired for the stormwater detention basin therefore; there is not an approved method to handle the site's stormwater. Further, a benefit assessment district or comparable mechanism has not been established to satisfy condition, nor did the applicant make a request of the City, at the suggestion of staff, to address this issue.

- **Condition of approval #70:** The Developer shall prepare an operations and maintenance plan, including a schedule for on-going maintenance and replacement, for the stormwater facilities. The plan shall be submitted for review and approval of the City Engineer prior to recordation of the final map.

Status: The City has received a draft operations and maintenance plan for the stormwater facilities, which shows the stormwater detention basin on Lot 6; however the use permit established for the stormwater detention basin has expired. Therefore the operations and maintenance plan is not valid or complete for final map approval due to the lack of a use permit for the stormwater detention facility.

- **Condition of approval #78:** Prior to approval of the final map, the Developer shall agree to financially participate, on a fair share basis as determined by the City, in a funding program to design, install, and/or upgrade any downstream sewers serving the *Marsh Creek Road Specific Plan* area. If the funding program has been established prior to the approval of the final map, payment of the Developer's share shall be made prior to approval of the final map.

Status: The City requested a letter from the applicant to be submitted agreeing to financially participate on a fair share basis in a funding program to design, install, and/or update any downstream sewers serving the *Marsh Creek Road Specific Plan* area. A letter has not been submitted.

- **Condition of approval #85:** Upon approval of the final map, the subdivision shall be annexed into the existing City of Clayton Street Light Assessment District.

Status: The subdivision will automatically be annexed at the time of acceptance of the subdivision improvements.

- **Condition of approval #87*:** Prior to filing the final map, the Developer shall provide an interest-bearing, non-refundable cash deposit or cash bond, in an amount to be determined by the City Engineer, for use by the City in the completion of the improvements as shown on the tentative map at some undetermined time in the future.

Status: The City Engineer has determined a bond for this condition is not required at this time for final map approval, but a surety bond maybe required in the future prior to the issuance of a grading or building permit.

- **Condition of approval #88*:** Prior to approval of any grading or construction plans for maps, the Developer shall provide any necessary rights of entry, drainage easements, slope and/or grading easements, as may be required by the City Engineer, from adjoining property owners.

Status: Completed for final map consideration.

- **Condition of approval #90*:** Upon recording the final map, the City shall be given full size, reproducible, photo mylar copy of the of the recorded map and an electronic file of the map in a form which can be imported into AutoCAD, and configured as directed by the City Engineer.

Status: This shall be provided following the recordation of the final map.

Mitigation Measures

- **Mitigation Measure 15:** The developer shall dedicate to the City easements for drainage improvements. The volume and rate of stormwater runoff from the site shall be comparable to pre-development conditions to the maximum extent practicable. The project shall bear the financial responsibility of the construction and perpetual maintenance (including monitoring and reporting) of these facilities with a funding mechanism acceptable to the City that addresses costs for capital replacement, inflation, and administration.

Status: The stormwater detention basin is an essential component to the volume and rate of stormwater runoff from the site. The use permit has expired for the stormwater detention basin therefore; there is not an approved method to handle the site's stormwater. Further, a benefit assessment district or comparable mechanism has not been established to satisfy this mitigation measure, nor did the applicant make a request of the City, at the suggestion of staff, to address this mitigation measure.

- **Mitigation Measure 20:** Prior to approval of the final map, the project developer shall furnish a report prepared by an acoustical engineer, that necessary features have been incorporated into the project to ensure that exterior noise exposure levels will not exceed 60 dB (Ldn), and interior noise levels will not exceed 45 dB (Ldn). Features to reduce exterior noise level may include shielding of outdoor activity areas with buildings and construction of acoustically-rated fences. Methods to reduce indoor noise levels to acceptable levels include air conditioning of dwellings and installation of sound-rated windows. If the acoustical report recommends installation of a sound wall, the report shall examine the off-site impacts of any reflected noise.

In addition, the City may amend the *Specific Plan* Policy DD-13c to allow masonry wall sound walls in situation specifically approved by the Planning Commission where a finding is made that sound wall is necessary to mitigate noise levels to levels consistent with the *General Plan*.

Status: A noise report from February 2005 was submitted recommending noise attenuating features for the project; however this mitigation measure requires these features to be incorporated into the project in order to ensure noise levels will not be exceeded in compliance with the *General Plan*. A follow up report needs to be submitted showing the incorporated features will ensure noise exposure levels will not exceed those stated above. The site plan review permit for this project has expired; therefore a report cannot be submitted showing the project plans address this mitigation measure.

The *Specific Plan* has not been amended to allow the Planning Commission to make a finding regarding the necessity of a masonry sound wall for noise attenuation to levels consistent with the *General Plan*.

- **Mitigation Measure 21:** The project developer shall pay a fair share contribution to the City of Clayton for impacts to city services (e.g. police, library, parks, administration, planning, maintenance, engineering) directly related to impacts of the proposed project. The payment shall be made at the time of occupancy of the project's first unit and shall be based on the findings of the fiscal impact study prepared for annexation.

Status: The City received a check from the applicant for the Parkland Dedication fee, which is required prior to final map approval and totals \$12,845.00; however due to issues with the final map the City has not cashed the check.

- **Mitigation Measure 22:** A benefit assessment district (or comparable mechanism, subject to City approval) shall be established to provide funding for maintenance of the perimeter, entry, and detention basin landscaping, as well as any public trails. Funding of the benefit assessment district shall fully account for increased costs including maintenance costs, capital replacement costs, and administration.

Status: The benefit assessment district or a comparable mechanism has yet to be established. Furthermore, the CC&Rs do not address the funding or maintenance of the perimeter, entry, detention basin landscaping, or public trails.

- **Mitigation Measure 26:** Prior to approval of the final map, the project developer shall agree to financially participate, on a fair share basis, in a funding program to plan, design, install, and/or upgrade any sewers serving the *Marsh Creek Road Specific Plan* area.

Status: The City requested a letter from the applicant to be submitted agreeing to financially participate on a fair share basis in a funding program to design, install, and/or update any downstream sewers serving the *Marsh Creek Road Specific Plan* area. A letter has not been submitted.

CONCLUSION

Approval of a final map is considered a ministerial action as long as the final map conforms to all of the conditions of approval attached to the tentative map. In this particular case, the applicant has not fulfilled the conditions of approval nor have they made a request to amend or modify any of the conditions of approval in order to have the final map be compliant with the conditions of approval. Even, if the City Council was to consider the map to be in "substantial compliance" with the approved tentative map, compliance with the mitigation measures from the IES/MND would still be required. As outlined above the applicant has not achieved compliance with these measures. Based on the outstanding issues outlined above, staff recommends the City Council adopt the attached Resolution to deny approval of the final map.

Assuming denial of the final map, the pathway forward for the applicant is to submit a new tentative map to the City, which will be reviewed and considered concurrently with the other necessary entitlements, the use permit and site plan review permit. Review of the tentative map will not add additional time to this process, which already requires an update the existing environmental document.

FISCAL IMPACT

None.

ATTACHMENTS

1. West Coast Home Builders, Inc.'s Request for Final Map Approval , dated January 20, 2016 [2pp.]
2. Clayton City Council Notice of Decision for Oak Creek Canyon [20 pp.]
3. Approved Tentative Map [1pp.]
4. March 21, 2014 Letter from the City of Clayton to West Coast Home Builders, Inc. [6pp.]
5. August 2015 Email Exchange between the Applicant and the City of Clayton [4 pp.]
6. West Coast Home Builders, Inc.'s Response to the City of Clayton's March 21, 2014 Letter [7 pp.]
7. October 30, 2015 Letter from the City of Clayton to West Coast Home Builders, Inc. [5 pp.]
8. West Coast Home Builders, Inc.'s Response to the City of Clayton's October 30, 2015 Letter [5 pp.]
9. Mitigation Monitoring and Reporting Program for Oak Creek Canyon [11 pp.]
10. Draft CC&Rs [17 pp.]
11. Resolution of Denial [3 pp.]

RECEIVED

JAN 20 2016

WEST COAST HOME BUILDERS, INC. CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

4061 PORT CHICAGO HWY., SUITE H
CONCORD, CA, 94520

January 20, 2016

BY LETTER AND EMAIL

Mindy Gentry
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Re: **Oak Creek Canyon Subdivision Final Map**

Dear Mindy:

We are writing to confirm that the Final Map we have filed with the City substantially conforms to the approved tentative map and has been timely filed on December 20th, 2015 for purposes of the Subdivision Map Act, Government Code sections 66410, *et seq.* (the "Map Act"). Consistent with the requirements of the Map Act and sound land use planning principles, the Final Map does not include improvements or dedications for phases outside of the Final Map boundary.

Accordingly, and as set forth below, neither City staff nor the City Council has the discretion to delay processing or deny approval of the final map.

Note that section 66452.6(d) of the Map Act provides that a final map is deemed to be timely filed on delivery to the city engineer:

The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no final map or parcel map of all or any portion of the real property included within the tentative map shall be filed with the legislative body without first processing a new tentative map. Once a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. **Delivery to the county**

surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(Emphasis added). Approval of a final map is ministerial as long as the final map conforms to all of the conditions of approval attached to the tentative map.¹ (*Id.*; see *Youngblood v. Bd. of Supervisors* (1978) 22 Cal.3d 644, 648 (“[O]nce the developer complied with the conditions attached to [the approval of the tentative map] and submitted a final map corresponding to the tentative map, the board performed a ministerial duty in approving the final map.”)). We have satisfied this legal requirement, and the map is required by law to be approved.

If the City declines to take action on the map within the prescribed time, a “deemed approved” provision in the Map Act provides that a final map will be deemed approved by operation of law: “If the legislative body does not approve or disapprove the map within the prescribed time, or any authorized extension thereof, and the map conforms to all requirements and rulings, it shall be deemed approved, and the clerk of the legislative body shall certify or state its approval thereon.” (Gov. Code, § 66458(b).)

Here, the Final Map substantially conforms to all of the conditions of approval attached to the tentative map, and the Final Map was timely delivered to the City Engineer. The City Council has a ministerial duty to approve the final map and its failure to do so within prescribed time limits will result in the Final Map being deemed approved by operation of law.

Please do not hesitate to contact me should you have any questions.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Louis Parsons', written over a horizontal line.

Louis Parsons

¹ Pursuant to Map Act section 66452.6(d), processing, ministerial approval and recordation of a final map may lawfully occur after the expiration of a tentative map.



City Council
GREGORY J. MANNING, Mayor
DAVID T. SHUEY, Vice Mayor
PETER A. LAURENCE
JULIE K. PIERCE
WILLIAM R. WALCUTT

COMMUNITY DEVELOPMENT (925) 673-7340
ENGINEERING (925) 672-9700

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

**CITY COUNCIL
NOTICE OF DECISION**

RECEIVED

MAY 11 2005

CLAYTON COMMUNITY
DEVELOPMENT DEPT.

DATE: April 20, 2005
TO: Tom Kambe
West Coast Home Builders, Inc.
P.O. Box 4113
Concord, CA 94524-4113
RE: Oak Creek Canyon
Tentative Subdivision Map (MAP 04-03)
Use Permit (UP 01-05)
Site Plan Review (SPR 16-03)

**DISCOVERY
BUILDERS, INC**

APR 26 2005

RECEIVED

Following Clayton Planning Commission public hearings commencing on January 25, 2005 and concluding on March 8, 2005, the Planning Commission approved a tentative subdivision map, use permit, and site plan review for the Oak Creek Canyon Residential Subdivision on March 22, 2005. The applicant appealed the Planning Commission's action on the tentative subdivision map to the Clayton City Council. Following City Council public hearings commencing on April 5, 2005 and concluding on April 19, 2005, the City Council upheld the appeal and revised the conditions of approval. The City Council approved the project on April 19, 2005 based upon the findings listed below and subject to the conditions listed below.

PROJECT DESCRIPTION

The Oak Creek Canyon Residential Subdivision project site is located on the north side of Marsh Creek Road at the intersection with Diablo Parkway, APN 119-070-008.

- Tentative subdivision map MAP 04-03 to subdivide the approximate 9-acre parcel into five lots for single-family residences and one lot for a stormwater detention basin.
- Use permit UP 01-05 to establish a stormwater detention basin on the future Lot 6 (1.25 acres) located in the southeastern portion of the project site.
- Site plan review SPR 16-03 to allow construction of five single-family residences (total) on future Lots 1-5.

FINDINGS FOR APPROVAL OF TENTATIVE SUBDIVISION MAP

Based upon information in the staff reports and project files, as well as testimony at the public hearings, and the *Oak Creek Canyon Annexation & Residential Subdivision Initial Environmental Study/Negative Declaration*, the City Council finds that:

1. The proposed tentative map together with its proposed design and improvements, as conditioned, are consistent with the *General Plan* designations (as amended) and policies for the site, as well as the *Marsh Creek Road Specific Plan* designations (as amended) and policies for the site.
2. The project, as conditioned (including rezoning the site as Single Family Residential R-10 District and Public Facility District), conforms to the subdivision and zoning regulations.
3. The proposed single-family residential, stormwater detention basin, and public trail uses of the site are consistent with the existing single-family residential uses south of the site, the Contra Costa Water District public facility use west of the site, the public park and open space uses of the Clayton Community Park north of the site, and the planned residential uses and trails east of the site. As a result, the proposed tentative map, as conditioned, is compatible with the surrounding neighborhood, land uses, and trails.
4. The site is physically suitable for the residential development and density, including the stormwater detention basin and trails, as conditioned.
5. The project will incorporate numerous mitigation measures identified in the project's *Initial Environmental Study/Negative Declaration* and thereby reduce potentially significant impacts to less-than-significant levels. As a result, the project, as conditioned, 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.
6. Since the project site is not overlain by any existing easements for public access, the project, as conditioned, will not conflict with any easements acquired by the public for access through or use of the subject site. The existing easement along the eastern side of the project site is solely for operation and maintenance of oil pipeline(s) and not for public access.
7. Since the project site is not overlain by any existing easements for public access, the project, as conditioned, will not conflict with any easements acquired by the public for access through or use of the subject site. The existing easement along the eastern side of the project site is solely for operation and maintenance of oil pipeline(s) and not for public access.

FINDINGS FOR APPROVAL OF USE PERMIT

Based upon information in the staff reports and project files, as well as testimony at the public hearings, and the *Oak Creek Canyon Annexation & Residential Subdivision Initial Environmental Study/Negative Declaration*, the City Council finds the use permit for the stormwater detention basin, as conditioned:

1. Is consistent with the *General Plan* designation (as amended) and policies as well as the *Marsh Creek Road Specific Plan*.
2. Meets the standards and requirements of the *Zoning Ordinance*.

3. Is consistent with the purpose of the Public Facility District for publicly-owned facilities and utility uses.
4. Preserves general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards since the facility will decrease the amount of stormwater runoff leaving upstream areas, thereby decreasing erosion and sedimentation on downstream properties.
5. Imposes no significant negative impacts upon the health or general welfare of residents or employees of the City.
6. Will be in accord with the purpose of use permits as stated in Chapter 17.60 of the *Zoning Ordinance*.

FINDINGS FOR APPROVAL OF SITE PLAN

Based upon information in the staff reports and project files, as well as testimony at the public hearings, and the *Oak Creek Canyon Annexation & Residential Subdivision Initial Environmental Study/Negative Declaration*, the City Council finds the site plan, as conditioned:

1. Is consistent with the *General Plan* (as amended) designation and policies, as well as the *Marsh Creek Road Specific Plan* designations (as amended) and policies for the site.
2. Meets the standards and requirements of the *Zoning Ordinance*, as well as the design and development standards in the *Marsh Creek Road Specific Plan*.
3. Preserves general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards.
4. Maintains solar rights of adjacent properties.
5. Reasonably maintains the privacy of adjacent property owners and/or occupants.
6. Reasonably maintains the existing views of adjacent property owners and/or occupants.
7. Is complementary, although not identical with adjacent existing structures in terms of materials and colors.
8. Is compatible with the neighborhood and surrounding land uses.

CONDITIONS OF APPROVAL

These conditions apply to the *Oak Creek Canyon Tentative Map* (date stamped October 11, 2004), *Preliminary Grading and Drainage Plan* (date stamped January 6, 2005), and the *Site Plan* (date stamped January 19, 2005) prepared by Isakson & Associates, Inc.; the *Conceptual Perimeter Landscape Plan* and *Conceptual Front Yard Landscape Plan*, prepared by M.D. Fotheringham, date stamped October 11, 2004; and the architectural elevations entitled "Oak Creek Canyon by West Coast Home Builders Inc.", date stamped January 19, 2005.

Planning Conditions

1. The final map shall show deed restrictions in the following locations. The restrictions are intended to preserve an open and attractive visual character of the subject area. The restrictions shall prohibit grading (except for remedial grading, drainage improvements and disking for weed abatement); construction of all buildings and structures; and storage of any motor vehicles, trailers, recreational vehicles, graders, tractors, airplanes, or similar equipment.
 - a. The western portion of Lot 2, beginning at the western edge of the 50-foot wide roadway and pipeline easement serving the Contra Costa Water District parcel.

- b. The northern portions of Lots 3-5 above the drainage bench generally located at elevation 630 feet.
- 2. The deeds for all lots shall contain language, which prohibits any future land division(s) to create additional home sites.
- 3. The Developer shall relinquish rights of access to public property and right-of-way along the exterior boundaries of the project site. Access to the project road is not relinquished.
- 4. The project shall have covenants, conditions, and restrictions (CC&R's), which address the issues listed below. The CC&R's shall be submitted to the Community Development Director for review and approval prior to approval of the final map.
 - a. Except as otherwise allowed in the *Clayton Municipal Code*, the principal buildings on the project site shall comply with the setbacks listed below.

SETBACK	LOT 1	LOT 2	LOT 3	LOT 4	LOT 5
Front Setback from Front Property Line	20 feet	20 feet	20 feet	20 feet	20 feet
Rear Setback from Rear Property Line	25 feet	25 feet	25 feet	25 feet	25 feet
Interior Side Setback from Interior Side Property Line	10 feet	10 feet	10 feet	10 feet	10 feet
Interior Side Setback Between Residences	25 feet	25 feet	25 feet	25 feet	25 feet
Setback from Marsh Creek Road right of way	80 feet	80 feet	Not Applicable	Not Applicable	Not Applicable

- b. Property owners are 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, unless prior written approval is obtained from the Community Development Director.
- c. All fencing located on the Marsh Creek Road frontage portion of Lots 1 and 2 shall be setback at least fifty (50) feet from the edge of the right-of-way.
- d. All fencing located on the upslope portions Lots 2-5 behind the residences shall be open wire fencing. Solid fencing is prohibited in these areas.
- e. Property owners shall maintain any gates on their property needed for access to above-ground or under-ground drainage facilities.
- f. The property owners of Lots 2, 3, 4, and 5 shall be responsible for the maintenance of the graded bench. Furthermore, property owners shall not modify the graded bench and drainage facilities without prior written approval from the City of Clayton. The property owners shall not place or store any materials or structures on the bench or on the slope above the bench.
- g. No provision in the CC&R's that is included as a result of these Conditions of Approval may be amended without the prior written approval of the City of Clayton.

5. This tentative map approval is not effective until the General Plan Diagram designation for the project site has been amended to Public & Quasi-Public (Water District Parcel and Lot 6) [GPA 07-03]; the Zoning Map designation for the project site has been rezoned to Single Family Residential R-10 (Lots 1-5) and Public Facility (PF) District (Lot 6) [ZOA 08-03]; and the project site has been annexed to the City [ANX 05-03].
6. The Developer agrees to dedicate Lot 6, in fee, to the City for the purpose of construction and maintenance of a stormwater detention basin and its related facilities. The stormwater detention basin shall be sized and constructed to accommodate the stormwater flows solely created by the project. In accordance with the 1997 development agreement between the City and West Coast Home Builders, Inc., the remaining area of Lot 6 is reserved for future expansion of the detention basin to accommodate flows from the future development of other properties.
7. The Developer shall pay a fair share contribution to the City for impacts to city services (e.g., police, library, administration, planning, maintenance, engineering) directly related to impacts of the proposed project. The payment shall be made at the time of issuance of the building permit for the project's first unit and shall be based on the findings of the fiscal impact study prepared for the annexation. [MM 21]¹
8. Prior to the commencement of grading or construction activities, the Developer shall submit a recycling plan for construction and demolition materials to the City for review and approval. The plan shall include that all materials that would be acceptable for disposal in the sanitary landfill be recycled/reused. Documentation of the material type, amount, where taken and receipts for verification and certification statements shall be included in the plan. The Developer shall submit a performance deposit, as established in the project's conditions of approval to the City to ensure recycling of demolition materials. In addition the Developer shall cover all staff costs related to the review, monitoring and enforcement of this condition through the deposit account. [MM 23]
9. The Developer shall provide homeowners with educational materials regarding proper storage and disposal of household hazardous wastes, including fuels, oils, paints, and solvents. The format and wording of the educational materials shall be approved in advance by the Community Development Director. [MM 9]
10. Notification shall be provided on the deeds and California Department of Real Estate disclosure forms to future property owners regarding the presence of oil pipelines, the public trail north and east of the project site, and the planned extension of the project road to serve future residential development to the east. The wording of the notification shall be approved by the Clayton Community Development Director and City Attorney. [MM 10b]
11. All conditions of approval, which are applicable to the construction of the subdivision improvements, shall appear on the improvement drawings.

¹ Mitigation measures (MM) listed in the *Oak Creek Canyon & Residential Subdivision Initial Environmental Study/Negative Declaration* are referenced by number (e.g., MM 21 for Mitigation Measure 21).

12. 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.
13. 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, judgements, 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.
14. The project is subject to development impact fees and parkland dedication fees, as established in the Municipal Code at the time of payment.
15. All mitigation measures set forth in the Oak Creek Canyon Subdivision Initial Environmental Study/Negative Declaration (ENV 02-03) are hereby incorporated into these Conditions of Approval, as if fully contained herein, except those found infeasible pursuant to Section 15091 of the California Environmental Quality Act Guidelines.
16. The Developer shall be responsible for all fees and environmental review costs, including those charged by other governmental agencies including, but not limited to, the California Department of Fish and Game, and the US Army Corps of Engineers.

Site Plan Conditions

17. The site plan shall be amended to show the items listed below and be submitted for review and approval by the Community Development Department.
 - a. Residence on Lot 1 shall have a 25-foot rear setback.
 - b. The residence on Lot 3 shall have a 20-foot front setback.
 - c. The residences on Lots 3 and 4 shall be separated by a minimum of 25 feet.
18. The architectural elevations shall be amended to show the items listed below and be submitted for review and approval by the Community Development Department.
 - a. The first and second floor plans of the residence on Lot 3 shall be reversed on plans submitted for building permit review to demonstrate consistency with the architectural elevations and roof plan.
 - b. The roof plan for the residence on Lot 4 shall be reversed on plans submitted for building permit review to demonstrate consistency with the architectural elevations and roof plan.
19. The residences on Lot 1 and 2 shall be provided with forced air mechanical ventilation, satisfactory to the County Building Inspection Department, so windows may be kept closed at the discretion of the occupants to control noise intrusion.

Tree Retention Conditions

20. The Developer shall prepare a native tree preservation plan to minimize damage to on-site native trees during the construction of the project. The plan shall be reviewed and approved by the Community Development Director prior to issuance of a grading permit and shall include but not limited to installation of protective fencing during construction, appropriate irrigation practices, and inclusion of appropriate native tree preservation notes on grading and construction plans. Native trees, which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees equal to 150% of the value of the original tree(s) to be preserved. [MM 2]
21. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.
22. All trees greater than six inches in diameter at four (4) feet six (6) inches above ground level on Lot 4 shall be retained. If, during construction, it is found that it is necessary to remove of these trees, construction shall be halted in the immediate area of the subject tree(s) until a revision to the tree retention actions shown on the grading plan is reviewed and approved by the Community Development Director.
23. All tree removals are subject to issuance of a tree removal permit by the Community Development Department.

Landscaping Conditions

24. The subdivision improvement drawings shall include landscape and irrigation plans. The landscape and irrigation plans shall show the items listed below; meet the requirements of Chapter 17.80 of the Zoning Ordinance; and be submitted for review and approval by the Community Development Department, Maintenance Department, and City Engineer.
 - a. Paving, landscaping, and irrigation in the medians in Marsh Creek Road along the project's frontage, including light-colored pavers which match the existing pavers along Marsh Creek Road, low-profile rocks (which do not obstruct driver visibility) at the western and eastern ends of the median bulbs, and crepe myrtle trees.
 - b. The project's frontage on Marsh Creek Road shall have a 24-foot (minimum) landscape corridor accommodating a meandering pedestrian/equestrian path and clustered planting of oaks.
 - c. Landscaping in the area between the sound fences on Lots 1 and 2 and the above-noted 24-foot wide landscape corridor.
 - d. Perimeter landscaping on Lot 6 along the project road in a 25-foot wide strip extending from the back of the curb.
 - e. A wildflower mix (subject to the approval of the Community Development Director) shall be applied on all areas of Lot 6, which are outside of the landscaped areas along Marsh Creek Road and the project road, as well as the stormwater detention basin.
 - f. Groundcover and high maintenance landscaping at the project entry shall be on private property.
 - g. All trees shall be 24-inch box size.

- h. Native trees, including oaks with genetics similar to native oaks in the Clayton area (if such oaks are reasonably available).
 - i. Perimeter and median trees shall be provided at an average density of 1 tree/25 feet; perimeter and median shrubs shall be 5 gallon size and provided at an average density of 1 shrub/5 feet.
 - j. All trees installed pursuant to these conditions of approval shall not be removed or severely pruned without a tree removal permit.
 - k. Water meters and irrigation systems with automatic controls.
 - l. All anti-siphon water valves shall be screened.
 - m. All newly-graded areas in or adjacent to the public right-of-way shall not exceed a 3:1 (horizontal:vertical) ratio.
 - n. A layer of mulch two to four inches thick shall be applied in all landscape areas.
25. Three sets of the landscape and irrigation plans shall be submitted with the grading and improvement plans for review and approval by the Community Development Department, Engineering Department, and the Maintenance Department. These plans shall be approved prior to issuance of grading or encroachment permits. The landscape and irrigation plans shall be prepared by a landscape architect; shall have overall dimensions of 24" x 36"; shall contain approval blocks for the Community Development Director, City Engineer, and Maintenance Department; and shall show all existing and proposed public utilities within the project limits.
26. Landscaping to be maintained by the individual property owner(s) shall be installed (or, at the sole discretion of the City, bonded) in conformance with the approved plans prior to occupancy of the individual residence(s).
27. All plant material and irrigation ultimately to be maintained by City Maintenance Department or staff contracted by the City:
- a. Shall be installed prior to occupancy of the first residence.
 - b. Is subject to inspection by the Maintenance Department and must be guaranteed for one year from the date of acceptance of the subdivision improvements by the City Council.
28. Installation of all irrigation and landscaping shall be performed by a licensed contractor. Open trench inspection of the irrigation installation in City right-of-way (and areas to be maintained by the City or its contractor) is subject to approval of the Maintenance Department. Prior to the final inspection by the Maintenance Department, the installation shall be approved by the landscape architect.
29. 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 planted at least ten (10) feet away from any oil pipeline, unless a closer location is approved by the pipeline easement holder and operator. 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, trail, or driveway shall be installed with root guards.

30. The landscaping and irrigation improvements required to be installed in the 24-foot wide landscape corridor along the project's Marsh Creek Road frontage on Lots 1 and 2; in the area between the sound fences on Lots 1 and 2 and the above-noted 24-foot wide landscape corridor; and in the project road's median island shall be operated and maintained by a benefit assessment district as described herein. The final map shall include the dedication of landscape maintenance easements to the benefit assessment district for the landscape corridor along Marsh Creek Road on Lots 1 and 2; and the area between the sound fences on Lots 1 and 2 and the landscape corridor. Prior to the issuance of a building permit for the first residence (including model homes), the Developer shall submit written consent to the formation of a benefit assessment district under the auspices of the Landscaping & Lighting Act of 1972 (Streets and Highways Code 22500). Prior to issuance of a certificate of occupancy for the first residence (including model homes), the Developer shall pay all costs for and participate in the formation, including the holding of a ballot election, of the benefit assessment district. The benefit assessment district shall include the land area of Lots 1-5. Assessments shall be levied to fund the cost of all operating, maintenance, and repair needs for the irrigation and landscaping; periodic inspections costs; City administrative and reporting costs; County levy and collection costs; City overhead charges; contract administration and/or management charges; reserve funds for replacement and major repairs; and annual rate adjustments to account for cost-of-living increases. (Note: This benefit assessment district is separate from the existing City-wide landscape district. The project site (and the future lots) will remain in and be assessed for the existing City-wide landscape district.) Prior to occupancy of the first residence, the Developer shall install the landscaping and irrigation in the above described areas, subject to City review and approval. [MM 22]
31. The landscaping and irrigation improvements required to be installed in the median islands in Marsh Creek Road and the public trail along the easterly boundary of the Lot 5 shall be operated and maintained by the City as part of the duties of the City's existing landscape maintenance district. Prior to approval of the final map, the Developer shall submit a written request for and consent to the annexation of Lots 1 through 5 to the City's existing landscape maintenance district in accordance with the Mello-Roos Community Facilities Act of 1982 (California Government Code, Section 53311, et seq.). Prior to issuance of a certificate of occupancy for the first residence (including model homes), the Developer shall participate in the annexation of said lots, including the holding of a ballot election and the levying of assessments, to the landscape maintenance district.
32. The Developer shall maintain all landscaped areas, within and adjacent to the subdivision, both new and modified, for a period of 90 days after final acceptance of the subdivision improvements by the City Council. Prior to release of the Developer's maintenance responsibilities, all landscaped areas shall be inspected by representatives of the City Engineer and Maintenance Departments. This inspection shall include a water audit of the landscaped areas to identify any irrigation problems. The water audit shall be performed by City staff or contracted for by City staff and paid for by the Developer, at the City's sole discretion. All corrective measures shall be made as called for in the water audit and the punch list prepared by City staff and as-built plans, on reproducible mylars, shall be submitted to the City Engineer prior to the release of the Developer's responsibilities.

33. The Front Yard Landscape Plan shall be amended to show the modifications listed below and shall be submitted for review and approval by the Community Development Department prior to issuance of the building permit for the first residence (including model homes). The landscape plan shall show the items listed below:
- a. All trees shall be 24-inch box size.
 - b. The number of trees shown on the plans for the respective lots shall be as follows:

Lot	Total Trees
1	5
2	5
3	4
4	5
5	6
 - c. All landscaped areas (except turf areas) shall be planted at the following densities: five-gallon shrubs shall be at an average density of 1 shrub/ 5 feet; and one-gallon groundcover plants shall be at an average density of 1 shrub/ 3 feet.
 - d. Hydro-seeding of rear yard areas.
 - e. No landscaping in the area of the public access easement along the eastern edge of Lot 5.
 - f. Plans shall conform with Water Conserving Landscape Guidelines in Chapter 17.80 of *Zoning Ordinance* and the applicable stormwater regulations
 - g. Landscaping shall be installed in conformance with the approved plans prior to final inspection.

Fencing Conditions

34. The fencing plan shown on the *Front Yard Landscape Plan* shall be amended to show the items listed below and submitted for review and approval by the Community Development Department.
- a. Lot 1. The “Good Neighbor” fence shall be constructed as a sound fence (i.e., solid plywood core) along the eastern, southern, and western sides of the lot. The stub of the “Good Neighbor” fence extending along the western property line to Marsh Creek Road shall be deleted. [MM 20]
 - b. Lot 2. A “Good Neighbor” fence constructed as a sound fence shall be installed along the southern side of the property, setback at least 50 feet from the edge of the right-of-way of Marsh Creek Road. The fence shall enclose the western side of the building pad and shall not extend beyond the easterly edge of the 50-foot wide roadway and pipeline easement serving the Contra Costa Water District parcel. [MM 20]
 - c. Lot 5. The “Good Neighbor” and open wire fencing along the eastern property line shall be moved westward at least ten (10) feet to accommodate the public access easement. The “Good Neighbor” fence along the eastern property line may be extended northward to the drainage bench. A cattle gate (acceptable to the City Engineer) shall be installed at the northern terminus of the public access easement.
 - d. Notation shall be added to indicate that all fencing located on the Marsh Creek Road frontage portion of Lots 1 and 2 shall be setback at least fifty (50) from the edge of the right-of-way.

- e. Notation shall be added to indicate that all fencing located on the upslope portions Lots 2-5 behind the residences shall be open wire fencing. Solid fencing is prohibited in these areas. The only exception is the east property line of Lot 5, where solid fencing is allowed behind the residence to the drainage bench.
 - f. Lot 6. A six (6) foot high, tubular aluminum fence shall be installed with gates and locking system as specified by the City Engineer.
35. All fences and walls in proximity to public right-of-way shall be located at least one (1) foot inside the respective parcel.
36. Any fences crossing easements for landscape or drainage facility maintenance shall have 9-foot wide, lockable gates, which shall be maintained by the property owners on whose lot they are located.

Grading Conditions

37. The Grading Plan shall be amended as follows:
- a. Designs and actions listed in the *Oak Tree Preservation Plan* required to be prepared by MM 2 shall be incorporated into the grading plan.
 - b. A licensed surveyor or engineer shall survey the locations and limits of the trunk and dripline of all trees to be retained that could be affected by any work during project construction. The locations and limits shall be shown on the grading plans and appropriate construction and plot plans.
 - c. Construction contractors shall contact pipeline operators (e.g., Shell, Conoco-Phillips) at least seventy-two (72) business hours (excluding weekend and public holidays) prior to start of construction activities to obtain information on the location of underground oil pipes. [MM 10a]
 - d. The detention basin shall be located to allow adequate clearance for a twenty-four (24) foot wide landscape strip along Marsh Creek Road and a twenty-five (25) foot wide landscape strip extending into Lot 6 from the back of the curb along the project road. The pedestrian path along Marsh Creek Road shall be located on top of the detention basin berm.
 - e. All disturbed slopes steeper than 10% shall be track-walked for surface compaction, covered with jute netting and hydroseeded, or stabilized with other techniques acceptable to the City Engineer.
 - f. The exterior edges of the pads for Lots 1-5 which are visible from off-site locations shall be contoured and feathered so transitions between flat areas and graded slopes, or between graded and un-graded areas, are rounded off to avoid a mass-graded, padded lot effect. All new graded slopes must be configured to undulate and avoid relatively flat planes or sharp transitions to un-graded areas, particularly the eastern edge of Lot 3, which is the highest point proposed for grading.
 - g. All required side 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 popouts (with or without a foundation), air conditioning pads, and the like.
 - h. Two feet of flat area shall be provided on the graded portions of properties between a property or right of way line and the top of slope.

- i. All retaining walls in the project shall be constructed of segmental units (a.k.a., keystone), masonry block, or concrete. All retaining walls visible from street or sidewalk areas shall be covered with a stone fascia. Retaining walls greater than three feet in height shall be designed by a licensed engineer.
 - j. The retaining wall on the west side of the project road along the frontage of Lot 1 shall not exceed 30 inches in height.
 - k. Signature blocks shall be provided for the Community Development Director and the City Engineer.
38. The recommendations of the ENGEO geotechnical reports shall be incorporated into the construction plans. [MM 8]
39. All grading shall be performed and certified under the direction and inspection of a Registered Soils Engineer and shall be in accordance with the recommendations of the geotechnical report and the requirements of the City Engineer.
40. Grading permits and stormwater permits shall be obtained from the City Engineer.
41. The Developer shall identify the Best Management Practices for protection of air quality to minimize the generation of dust during construction. Such measures shall be included within the project grading plan and shall be approved prior to issuance of project grading permits.
- a. Earthmoving or other dust-producing activities shall be suspended during periods of high winds (i.e., instantaneous wind gusts of 25 mph or greater);
 - b. Equipment and manpower for watering of all exposed or disturbed soil surfaces shall be provided at least twice daily on any day of high winds or when construction activities occur, including weekends and holidays. A dust suppressant, added to the water before application, shall be used;
 - c. Stockpiles of debris, soil, sand or other materials that can be blown by the wind, shall be watered or covered;
 - d. Construction area and adjacent streets shall be swept of all mud and debris, since this material can be pulverized and later re-suspended by vehicle traffic;
 - e. A compliance officer, responsible for implementation and monitoring, shall be identified as part of the grading permit process. [MM 4]
42. If archeological, historical, or Native American materials are uncovered during any construction or pre-construction activities on the site, all work within 100 feet of these materials shall be immediately stopped. The Community Development Department and a qualified professional archeologist shall be notified. Work within this area shall not recommence until the archeologist has had an opportunity to evaluate the significance of the find, and outline appropriate mitigation measures, if they are deemed necessary. [MM 6]
43. The Developer shall provide written determinations from the California Department of Fish and Game and the San Francisco Bay Regional Water Quality Board regarding jurisdiction for the seasonal drainage. The written determination shall be provided to the Community Development Department and City Engineer prior to approval of the final map. If either or both agencies determine that seasonal drainage is a jurisdictional wetland, the Developer shall obtain and all permits required by the respective agencies. [MM 5]

Street Conditions

44. The right of way width for the project road shall be 48 feet. The street width shall be 32 feet from face-of-curb to face-of-curb. A sidewalk shall be provided on the north side of the project road and shall have a width of 4.5 feet (from face-of-curb). A six-foot wide (face of median curb to face of median curb) median shall be provided as shown on the tentative map. Sidewalks at driveways shall conform to the City's Standard Plans which will require additional right-of-way for travelways provided in accordance with Americans with Disabilities Act requirements. Residential setbacks shall be measured from the edge of the right-of-way.
45. Parking shall be prohibited along the south side of the project road and along the north side of the project road from Marsh Creek Road to the northern end of the proposed median. The parking prohibition shall be indicated by painting the face and top of curb red.
46. A meandering six-foot wide pedestrian path shall be installed along Marsh Creek Road from the Community Park entrance to the eastern edge of the project site. The design and paving material of the path shall be subject to the review and approval of the City Engineer and Community Development Director. The path shall be setback at least six (6) feet from the back of the curb, and on Lot 6 the path shall be located on top of the detention basin berm..
47. The final map shall show dedication of a ten-foot wide public access easement along the eastern edge of Lots 5 and 6. A six-foot wide pedestrian trail shall be installed in the easement. The design (including installation of removable bollards) and paving material of the trail shall be in accordance with any applicable oil pipeline easement restrictions and subject to the review and approval of the City Engineer and Community Development Director. In lieu of the easement, the developer may offer to dedicate the same area in-fee to the City.
48. All streets, sidewalks, curbs, and gutters adjacent to this subdivision shall be improved as necessary to connect improvements constructed within this subdivision to existing improvements. Any existing street, sidewalk, curb, gutter, or other existing improvement which in the sole opinion of the City Engineer, is damaged, either on- or adjacent to the project site, shall be repaired by the Developer to the satisfaction of, and in the manner required by, the City Engineer.
49. All street grades and geometrics shall be subject to the approval of the City Engineer. Grades shall not exceed 6% through intersections. The grade break between a minor street and a major street, at the projected curb line of the major street, shall not exceed 6%. Street grades shall not exceed 16% grade, shall have a minimum outside turning radius of 42 feet, and must be capable of supporting the imposed loads of fire apparatus (i.e., 37 tons).
50. The north end of the center median in the project road shall be shortened by ten (10) feet in order to provide adequate turning radius into Lots 1 and 2 for fire protection equipment.
51. The street name of the project road shall be subject to review and approval in accordance with City Council Resolution No. 68-2003.

52. All mailbox locations shall be constructed and grouped in accordance with US Post Service standards and the grouping of mailboxes shall be architecturally treated to reduce massing and visual impact. All mailbox locations are subject to review and approval of the Community Development Department and the US Postal Service.
53. Lots 1 and 2 shall have a shared driveway easement with fee title to the driveway included in Lot 2. A road maintenance agreement shall be established for Lots 1 and 2. The form and terms of said agreement shall be approved by the Community Development Director.
54. Prior to approval of the final map, the Developer shall contribute its fair share, as determined by the City, to a traffic calming/control fund for improvements such as installation of rumble strips, a flashing yellow light (on an interim basis), and/or a traffic signal (on a permanent basis at or east of the project entrance road. [MM 24]
55. The plans shall be amended to delete notation to a "Trail Crossing" across Marsh Creek Road at the project entrance.

Drainage Conditions

56. All ditches for conveying stormwater runoff shall be constructed of tan-colored reinforced concrete and shall have a maximum longitudinal slope of 10%. All stormwater runoff from impervious areas shall be treated and contaminants removed prior to discharge off of the site or into a natural water channel. The design of the detention and treatment facilities shall be subject to the approval of the City Engineer and Community Development Director and shall include, but not be limited to the installation of drywells for percolation.
57. The existing 72" storm drain shall be removed to the location of the proposed manhole shown on the tentative map, subject to the approval of the City Engineer. The proposed 48" storm drain shall be connected to the new manhole.
58. The maintenance of all storm drainage facilities within public easements and all of the improvements on Lot 6 shall be maintained by the City, or by forces contracted by the City, and funded by a benefit assessment district encompassing Lots 1 through 5. Prior to approval of the final map, the Developer shall submit written request for and consent to the formation of a benefit assessment district in accordance with the Benefit Assessment Act of 1982 (California Government Code, Section 54703, et seq.). Prior to issuance of a certificate of occupancy for the first residence (including model homes), the Developer shall participate in the formation, including the holding of a ballot election and the levying of assessments, of the benefit assessment district. Assessments shall be levied to fund the cost of all operating, maintenance and repair needs for all of the storm drainage facilities and all of the improvements on Lot 6, periodic inspections and testing, City administrative and reporting costs, City overhead charges, and reserve funds for capital replacements and major repairs. It is the intent of the City that any future properties which discharge stormwater into the detention basin on Lot 6 be annexed by the benefit assessment district and financially participate in the district's activities. [MM 15]

59. All drainage collection (ditches, storm drains, etc.) and treatment facilities, and access to such facilities, shall be located in public storm drain easements, which shall be shown on the final map. City personnel or contracted forces shall have the right of access to conduct inspections and maintenance of all on-site drainage devices. Maintenance of such facilities shall be performed by the City using either City personnel or contracted forces at the City's sole option. (There shall be no obligation on the City related to the maintenance of any subdrains.) The property owners shall pay for such maintenance work through the collection of annual assessments by the benefit assessment district, as described in the immediately preceding condition. [MM 17]
60. 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. [MM 17]
61. All roofs shall have rain gutters with rainwater leaders that directly discharge into an on-lot underground system which discharges through the face of curb at streets or into a concrete-lined ditch or storm drain inlet.
62. 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.
63. The Developer shall comply with all rules, regulations, and procedures of the National Pollution Discharge Elimination System (NPDES) as promulgated by the California State Water Resources Council, the San Francisco Bay Regional Water Quality Control Board, and the Contra Costa County Clean Water Program. The project management and design shall include best management practices during construction and post-construction phases for the elimination of storm water pollutants to the maximum extent practicable.
64. The Developer shall provide proof that a "Notice of Intent" has been filed with the State Regional Water Quality Control Board. Prior to acceptance of the subdivision the Developer shall provide proof to the City that the "Notice of Intent" has been closed out by the State Regional Water Quality Control Board.
65. Prior to the issuance of a grading permit, the Developer shall prepare and submit to the City a Storm Water Pollution Prevention Plan (SWPPP) in conformance with the requirements set forth by the Regional Water Quality Control Board (RWQCB). The SWPPP shall include pre-construction, construction, and post-construction Best Management Practices (BMP's). The SWPPP shall also include, but not be limited to:
 - a. Sampling (pre-construction, during construction, and post-construction) of the stormwater outfall at Mount Diablo Creek for sediments in accordance with State General Permit regulations.
 - b. Hydro-seeding or landscaping of all disturbed areas.
 - c. Best Management Practices, including landscaping or hydro-seeding of front and rear yards prior to acceptance of the subdivision.
 - d. A site spill response plan. [MM 12]

- e. An erosion control plan including such items as installation of berms, silt fences, sedimentation basins and other measures to minimize off-site transport of soil. Topsoil should be stockpiled during grading and distributed over the ground surface after grading has been completed. [MM 7]
 - f. Location of construction staging and materials storage areas.
 - g. On-site retention and treatment of stormwater through the use of water quality basins, grassy swales, biofilters and/or other methods acceptable to the City Engineer and the RWQCB. The project shall mitigate run-off quantities to the extent currently required by the City's NPDES Permit and Municipal Separate Storm Sewer System permit.
 - h. Installation of structural treatment facilities to remove total suspended solids and total petroleum hydrocarbon products to the extent currently required by the RWQCB, or to the satisfaction of the City Engineer. The methods and designs shall be shown on the grading and improvement plans, as appropriate, for review and approval by the City Engineer. [MM 13]
66. Prior to commencement of any site work that will result in a land disturbance of one acre or more, the Developer shall provide evidence to the City that the requirements for a stormwater State General Construction Permit have been met. [MM 11]
67. The Developer shall ensure that all project contractors shall conform to the requirements of the "Best Management Practices for Construction Sites" required by the City, including detention and/or filter materials to preclude an increase in water quantity and quality impacts from debris and sediments entering the stormwater system over "non-development" conditions. [MM 14]
68. The deeds for Lots 1, 2 and 3 shall contain wording, which notifies future owners of the potential serious risks to the respective owners and residents from failure of the Contra Costa Water District Seminary Water Tank and subsequent inundation of the respective lots and property. The notification wording on the deed shall be subject to the review and approval by the Community Development Director. [MM 19]
69. The Developer shall dedicate to the City easements for drainage improvements. The volume and rate of stormwater runoff from the site shall not exceed the amounts allowed by Section C.3 of the City's stormwater permit. The project shall bear the financial responsibility of the construction and perpetual maintenance (including monitoring and reporting) of these facilities with a funding mechanism acceptable to the City that addresses costs for capital replacement, inflation, and administration. [MM 15]
70. The Developer shall prepare an operations and maintenance plan, including a schedule for on-going maintenance and replacement, for the stormwater facilities. The plan shall be submitted for review and approval of the City Engineer prior to recordation of the final map.
71. The quantity and rate of stormwater runoff may take into consideration any applicable comments from the Contra Costa County Flood Control District to ensure that the quantity and creation of runoff from the site does not exceed historic rates and does not adversely impact downstream drainage facilities. [MM 16]

72. The Developer shall provide all project property owners with Clean Water Program educational materials. [MM 18]
73. The Developer shall construct the County Standard Plan CD52i, Type "M" Headwall Structure at the headwall proposed at the easterly property limits.
74. The Developer shall obtain a Contra Costa County Drainage Permit for any work within the County territory.

Utility Conditions

75. The Developer shall dedicate an 8-foot wide public utility easement along project's entire frontage on the north side of the Marsh Creek Road. The Developer shall cooperate with Verizon Wireless in the extension of underground telecommunication and electrical service to the Contra Costa Water District parcel.
76. The Developer shall, in the joint trench and across the project road at two locations specified by the City Engineer, 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 at residential property lines.
77. The Developer shall install all underground utilities (including sewers, water, storm drains, and joint trench) along the entire extent of the project road to the easterly boundary for possible future extension.
78. Prior to approval of the final map, the Developer shall agree to financially participate, on a fair share basis as determined by the City, in a funding program to design, install, and/or upgrade any downstream sewers serving the *Marsh Creek Road Specific Plan* area. If the funding program has been established prior to the approval of the final map, payment of the Developer's share shall be made prior to approval of the final map. [MM 26]
79. Sanitary sewers shall have a maximum depth of ten (10) feet from finished grade to invert.
80. The Developer shall connect to the sanitary sewer system, obtain applicable permits, and pay applicable fees required by the City of Concord Public Works Department.
81. The width of access and maintenance easements for underground facilities shall be twice the depth of the facility with a minimum width of 10 feet.
82. Underground facilities crossing lots shall be located in flat portions of the lots, not within slope areas.
83. Street lights shall be provided on the project road. Street light standards and photometrics showing levels of illumination shall be submitted for the review and approval of the Community Development Department. "Cut-off" fixtures and downward-oriented fixtures shall be used to minimize spillover of lighting into residences. [MM 3]

84. Street lighting shall be installed and activated prior to occupancy of the first residence. Developer shall pay for the cost of installation, activation, and electrical usage until final acceptance of subdivision improvements by the City Council.
85. Upon approval of the final map, the subdivision shall be annexed into the existing City of Clayton Street Light Assessment District.

Engineering Conditions

86. The Developer shall prepare a construction traffic plan for the review and approval of the City Engineer which addresses the following issues:
 - a. All construction traffic associated with the development of the proposed subdivision safely enters and exits the site from Marsh Creek Road.
 - b. Warning devices (e.g., mobile reader boards) shall be located east and west of the project site entrance to alert motorists of turning movements by construction vehicles. [MM 25]
87. The Developer is obligated to construct all street improvements and utilities (including, but not limited to, sanitary sewer, storm drain, and joint trench) in the project road from Marsh Creek Road to the project's easterly boundary. In order to avoid grading or the construction of improvements on the adjoining property to the east, the proposed grading and improvements may be shortened the least amount possible. That is, grading shall commence no further than three feet from the project boundary.

Prior to filing of the final map, the Developer shall provide an interest-bearing, non-refundable cash deposit or cash bond, in an amount to be determined by the City Engineer, for use by the City in the completion of the improvements as shown on the tentative map at some undetermined time in the future.

88. Prior to approval of any grading or construction plans or maps, the Developer shall provide any necessary rights of entry, drainage easements, slope and/or grading easements, as may be required by the City Engineer, from adjoining property owners. The Developer shall also provide written approval from the Contra Costa Water District and the oil pipeline easement holders and operators for the proposed work within any easements controlled by said parties.
89. All work shall be designed and constructed in accordance with the Municipal Code, as well as the City's Standard Plans and Specifications.
90. Upon recording of the final map, the City shall be given a full size, reproducible, photo mylar copy of the recorded map and an electronic file of the map in a form which can be imported into AutoCAD, and configured as directed by the City Engineer. Upon completion of the improvements and prior to City Council acceptance, the City shall be given a full size, reproducible, photo mylar copy of the improvement plans, and an electronic version in AutoCAD, annotated to reflect any changes that occurred during construction and signed by the Project Engineer.
91. Should the construction of any offsite improvements shown on the tentative map or required in these conditions of approval, necessitate the acquisition of sufficient title or interest in

lands not controlled by the Developer, the Developer shall make a good faith effort to obtain the necessary title or interest prior to the filing of the final map pursuant to Section 66457 of the Subdivision Map Act. If the Developer is unable to obtain the necessary title or interest and has demonstrated a good faith effort to the City's satisfaction (including, but not limited to preparation of an appraisal and submittal of a bona fide offer based on the appraisal), the City shall approve the final map, and, within 120 days of filing of the final map, obtain the necessary title or interest in accordance with Section 66462.5 of the Subdivision Map Act. The Developer shall pay for all costs, including City's legal, overhead, and administrative costs, involved in the acquisition of the necessary title or interest.

At the City's sole discretion, if the Developer has made the good faith effort described above and was not able to obtain the required rights of entry or easements, in lieu of the City obtaining the necessary rights of entry and/or easements, the City may allow the proposed improvements to be modified to eliminate the need for such rights of entry and/or easements. Should the City allow such modifications and prior to the filing of the final map, the Developer shall provide a non-refundable cash deposit or cash bond, in an amount to be determined by the City Engineer, for use by the City in the completion of the improvements as shown on the tentative map at some time in the future.

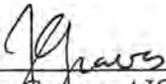
Fire Protection Conditions

92. The Developer shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of 2,000 GPM. Required flow shall be delivered from not more than two (2) hydrants flowing simultaneously while maintaining 20 pounds residual pressure in the main.
93. The Developer shall obtain the necessary approvals from the Contra Costa County Fire Protection District.
94. The Developer shall provide an adequate and reliable water supply for fire protection as set forth in the Uniform Fire Code.
95. The Developer shall provide two (2) hydrants of the East Bay type. Hydrant locations will be determined by the Fire Protection District upon submittal of three copies of a tentative map or site plan.
96. At least 13 feet, 6 inches of vertical clearance shall be provided to within 150 feet of travel distance to all portions of the exterior walls of every building.
97. All areas left in their natural state shall meet and be maintained to meet the Fire Protection District's weed abatement standards.
98. Access roads and hydrants shall be installed and in service prior to construction of residences.

ADVISORY NOTES

Advisory notes are provided to inform the applicant of: (a) *Clayton Municipal Code* requirements; or (b) requirements imposed by other agencies. The advisory notes are not part of the conditions of approval.

1. The applicant shall comply with all applicable state, county, and city codes, regulations, and adopted standards.
2. The conditionally-approved tentative map will expire thirty-six (36) months after its approval, unless otherwise extended in accordance with the provisions of Title 16 of the *Clayton Municipal Code* or the Subdivision Map Act (CMC §16.08.029).
3. All grading, construction, and other work shall occur only between 7:00 a.m. and 5:00 p.m. Monday through Friday. Any such work beyond these hours and days is strictly prohibited unless previously authorized in writing by the City Engineer (CMC §15.01.010) located at 1005 Oak Street, 925-672-9700.
4. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.
5. 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, 925-941-3300.



 Jeremy Graves, AICP
 Community Development Director

4/20/05

 Date

INSTRUCTIONS TO APPLICANT: Please sign one copy of this Notice of Decision and return it to the Community Development Department, 6000 Heritage Trail, Clayton, 94517. Retain the second copy for your records. If you have any questions, please call 925-673-7340.

I (We) agree to comply with the above conditions.

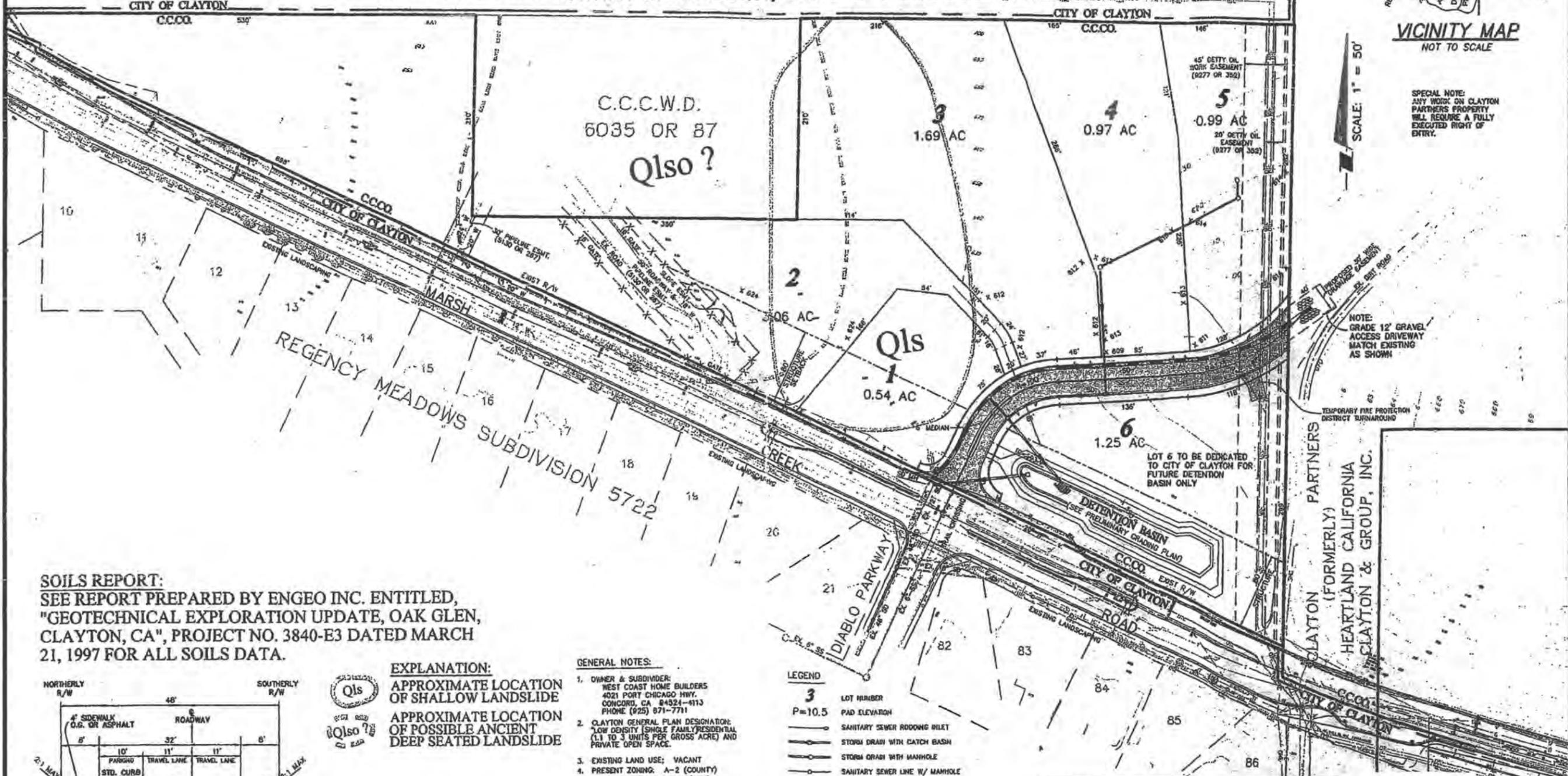
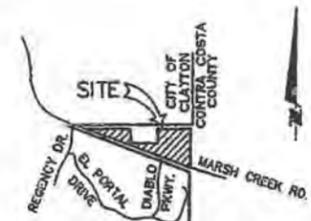
 , this 9th day of MAY, 2005

TENTATIVE MAP - MAP 04-03 OAK CREEK CANYON SUBDIVISION 6826 - CITY OF CLAYTON

CONTRA COSTA COUNTY, STATE OF CALIFORNIA

CITY OF CLAYTON
APN: 118-370-052

CITY OF CLAYTON
APN: 118-370-052



SCALE: 1" = 50'

SPECIAL NOTE:
ANY WORK ON CLAYTON PARTNERS PROPERTY WILL REQUIRE A FULLY EXECUTED RIGHT OF ENTRY.

NOTE:
GRADE 12" GRAVEL ACCESS DRIVEWAY MATCH EXISTING AS SHOWN

TEMPORARY FIRE PROTECTION DISTRICT TURNAROUND

LOT 6 TO BE DEDICATED TO CITY OF CLAYTON FOR FUTURE DETENTION BASIN ONLY

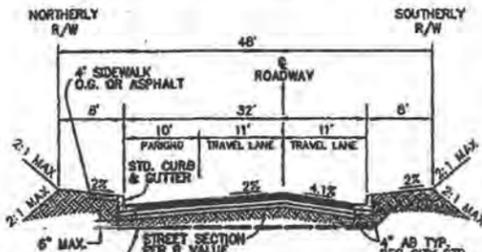
SOILS REPORT:
SEE REPORT PREPARED BY ENGEO INC. ENTITLED, "GEOTECHNICAL EXPLORATION UPDATE, OAK GLEN, CLAYTON, CA", PROJECT NO. 3840-E3 DATED MARCH 21, 1997 FOR ALL SOILS DATA.

EXPLANATION:
Qls APPROXIMATE LOCATION OF SHALLOW LANDSLIDE
Qlso? APPROXIMATE LOCATION OF POSSIBLE ANCIENT DEEP SEATED LANDSLIDE

- GENERAL NOTES:**
- OWNER & SUBDIVIDER: WEST COAST HOME BUILDERS 4021 PORT CHICAGO HWY. CONCORD, CA 94521-4113 PHONE (925) 871-7711
 - CLAYTON GENERAL PLAN DESIGNATION: LOW DENSITY (SINGLE FAMILY RESIDENTIAL (1.1 TO 3 UNITS PER GROSS ACRE) AND PRIVATE OPEN SPACE.
 - EXISTING LAND USE: VACANT
 - PRESENT ZONING: A-2 (COUNTY)
 - PROPOSED ZONING: R-10(CITY)
 - WATER SUPPLY: CONTRA COSTA WATER DISTRICT
 - SEWAGE: CITY OF CLAYTON
 - ASSESSOR PARCEL NO: 118-070-008
 - MINIMUM LOT SIZE: 0.54 AC.
 - MAXIMUM LOT SIZE: 3.06 AC.
 - TOTAL ACRES: 9.03 AC.
 - DENSITY: 0.864 UNITS/AC.
 - NO. OF LOTS: 6
 - CONTOUR INTERVAL: 2 FT. (1979 SEA LEVEL DATUM)
 - EXISTING SLIDES, SLIPS, SLUMP AREAS SHOWN. NO AREAS SUBJECT TO INUNDATION OR PONDING.

LEGEND

3	LOT NUMBER
P=10.5	PAD ELEVATION
—○—	SANITARY SEWER RIDDING INLET
—○—	STORM DRAIN WITH CATCH BASH
—○—	STORM DRAIN WITH MANHOLE
—○—	SANITARY SEWER LINE W/ MANHOLE
—○—	DIRECTION OF FLOW
—○—	OIL LINE
—○—	WATER LINE
—○—	DAYLIGHT LINE
—○—	GRADE BREAK
—○—	NEW AC PAVING



SUBDIVISION 6826
OAK CREEK CANYON

CITY OF CLAYTON CONTRA COSTA COUNTY CALIFORNIA

Isakson & Assoc. Inc.
civil engineering land surveying

2255 Ygnacio Valley Road, Suite C, Walnut Creek, CA 94598 Phone: (925) 937-9333

DATE: 10-11-04	DESIGNED BY: DOJ	DRAWN BY: OXB	CHECKED BY: DOJ	APP. NO: 9904	SHEET 1 OF 1
----------------	------------------	---------------	-----------------	---------------	--------------

OAK CREEK CANYON - TENTATIVE MAP (SUBD. 6826) - 10-11-04



COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
HANK STRATFORD, MAYOR
DAVID T. SHUEY, VICE MAYOR
JIM DIAZ
HOWARD GELLER
JULIE K. PIERCE

March 21, 2014

Monte Davis
Project Manager, Land Development
West Coast Home Builders
4061 Port Chicago Hwy, Ste. H
Concord CA, 94520

Re: Oak Creek Canyon - Application Completeness Review; SPR-01-14 & UP-01-14;

Dear Mr. Davis:

Thank you for the applications submitted on February 21, 2014, for a City Site Plan Review Permit (SPR-01-14) request to re-approve plans for an expired Site Plan Review Permit (SPR-16-03) for the design and construction of five (5) single-family residences on five (5) lots and associated project landscaping and a City Use Permit (UP-01-14) request to re-approve an expired Use Permit (UP-01-05) to establish a stormwater detention basin on Lot 6. The 8.87-acre real property is located on the north side of Marsh Creek Road at the intersection with Diablo Parkway (APN: 119-070-008).

Based on City staff's review of the new application submittal materials, the applications have been "deemed incomplete" for processing. A listing of the information and materials needed to deem the applications complete is listed below and contained within the referenced attached materials.

Before addressing the current application submittals we want to summarize the City's position and understanding relative to the previously approved applications. Regarding Tentative Subdivision Map Tract 6826 (MAP—04-03) and Development Agreement (DA), it is the City's legal determination the Tentative Subdivision Map remains valid per State time extensions but will expire on 1/21/16 unless a Final Map is completed or another State time extension is issued. However, the DA expired in 2009 and is no longer in effect. Also the previously approved Site Plan Review Permit (SPR-16-03) and Use Permit (UP-01-05) have expired. The other previously approved entitlements for subject property, consisting of an Annexation, General Plan Map and Zoning Map designations, were completed in 2005.

In order to move forward with processing of the current applications (SPR & UP) the following information and/or items will need to be supplied and/or addressed at this time:

1. Project Description - No project description letter was provided with the current submittal. Please provide a detailed project description letter that addresses the following information:

- A brief summary/history of past project approvals, completed actions, why the project was not implemented, etc.
 - Explain your current project objectives and goals.
 - Address any changes in the current project plans compared to prior plan approvals, particularly relating to the site plan, house plans, landscaping and physical site features such as the stormwater basin.
2. Annotated COA's and MM's - Please provide an annotated compliance list of Conditions of Approval and Mitigation Measures, using the previously approved applications MAP-04-03, ENV-02-03, SPR-16-03 & UP-01-05 from 2005. This information will assist the City in better understanding what components of the project you believe you have completed and/or complied with to-date.
 3. Agency Letters - Provide current, up-to-date and revised regulatory agency letters/permit clearances, including but not limited CDFW, Army Corps and SWRCB. The letters we have in the previous project files from those agencies are not current and appear to be out-of-date.
 4. Affordable Housing Plan - In 2010, the City of Clayton adopted its current Housing Element, which requires each residential project with over 2 units to develop an Affordable Housing Plan. Per Housing Element Policy I.2, this 5 unit project is obligated to provide 1 affordable housing unit (min. 10% of total). Housing Element policy desires the affordable units to be very-low and low income housing units. Please refer to the Housing Element for more detail and contact staff to discuss options for compliance.
 5. Habitat Conservation Plan - In 2007, the City of Clayton adopted and implemented the East Contra Costa County Habitat Conservation Plan (HCP). In accordance with Clayton Municipal Code Chapter 16.55, please submit a completed Habitat Conservation Plan (HCP) application, plans, and processing deposit fee of \$1,000. The HCP will likely require the payment of habitat impact fees in the amount in effect at the time of Permit Issuance.
 6. Environmental Review process - Although an Initial Study/Mitigated Negative Declaration (IS/MND) was previously approved in 2005, due to the long amount of time since that approval and known changes in some environmental conditions/standards, we believe that some additional environmental documentation update is necessary. Based upon recent discussions with a professional environmental consulting firm, we believe there are two possible environmental document updating approaches we can consider under the California Environmental Quality Act (CEQA). The first approach could be an Addendum to the IS/MND, but can only be used if no new mitigations measures are required or triggered. The second approach is a Subsequent IS/MND, and is used when it is anticipated that new Mitigation Measures not contained in the original IS/MND are determined to be required as result of further environmental analysis. It appears that a Subsequent IS/MND is most likely the environmental process that will be required. This required environmental document will necessitate the City contracting with an independent third-party environmental consultant/firm to prepare the analysis, including any additional studies determined to be necessary. All cost associated with this additional environmental review is the responsibility of the project applicant. Upon further discussion on this matter, the City could initiate the steps to obtain a work scope proposal from the environmental consulting firm (Raney) that completed the Final

IS/MND for the previously approved Oak Creek Canyon project in 2005. This will require a completed Environmental Information Form application and processing deposit fee of \$2,500.

7. Site Plan - No planning level project site plan was provided with the current submittal. Please provide an overall project site plan with site data information in accordance with the City's Site Plan Review Permit application procedures and form. Please specifically address and/or provide the following:
 - If there are any changes in the site plans from that previously approved, include an explanation in the project description.
 - Please review previous Conditions of Approval and Mitigation Measures and revise or update site plan accordingly.
 - Provide list and detail site data for the project, including but not limited to, site size (acres and square feet), size of each lot, uses, easements, open space, trails, access and maintenance roads, General Plan and Zoning designations, etc.
 - Show and identify all proposed retaining walls and list their height. Provide a typical retaining wall cross-section detail.

8. Cross-Section Details – No cross-section details of the project were provided with the current submittal. Staff believes several cross sections details of the site would be beneficial to assist City decision makers in clearly understanding the topographical components of the proposed hillside development. Please consult with staff on this matter to ensure the number of appropriate cross-sections, their location and information are provided.

9. House Model Plans – The 5 house model plans generally appear to be consistent with the model plans previously approved by the City but are lacking some details and information. Please address or include the following:
 - If there are any changes in the house model plans from those previously approved, include an explanation in the project description.
 - On the individual house model plans and/or on a separate cover sheet please provide and list the building square footage for each house plan. Make sure to list first and second floor living spaces (including any options), total living space and garage areas.
 - List and key all exterior colors and materials to the building elevations and to a separate color and materials board (to be provided).

10. Color and Materials Boards – No color and materials board was provided with the current submittal. Please provide a complete color and materials board for each house model plan at an 8 1/2" x 11" size. If there are any changes in the colors and materials from that previously approved, please include an explanation in the project description.

11. Landscape Plans - Please revise the landscape plans to address or include the following:
 - If there are any changes in the landscape plans from those previously approved, include an explanation in the project description.
 - Please review previous Conditions of Approval and Mitigation Measures and revise or update landscape plans accordingly.
 - Add the label "Preliminary" to the title of these "Landscape Architectural Construction Document" plans. Please note this is a planning level review of the landscape plans and that these plans are not currently being reviewed for technical construction compliance at this stage of the review process.

- Revise the landscape plans to match and include the number, size and extent of the stormwater detention basins that are now being proposed.
 - Clearly label the location and provide cross-section details of the surfacing material of all project trails, paths, sidewalks, maintenance roads, etc.
 - In 2010, the City adopted Landscape Water Conservation Standards (CMC Chapter 17.80), pursuant to state laws, which are applicable to the proposed project. Please have the landscape architect review and comply with these standards and complete the associated compliance forms available on the City's website using the following link:
<http://onlineforms.ci.clayton.ca.us/cddforms/waterconservation.pdf>
 - Sheet 8, Irrigation Note No. 2, makes reference to the City of Pleasanton. Please correct this note.
 - Please have the landscape architect review current City of Clayton Standards and Specifications for landscaping and irrigation and make any necessary revisions or corrections to the plans. Please contact City Engineer for the standard details.
 - Please clarify if any existing trees are proposed to be removed. If so, please prepare a tree removal and replacement plan per CMC Chapter 15.70. A tree removal application and appropriate processing fee will be required.
12. Preliminary Stormwater Control Plan – please confirm that the Preliminary Stormwater Control Plan submitted complies with the current edition of the Contra Costa County Stormwater C.3 Guidebook. An initial review by the City would appear to identify some inconsistencies and document errors. In the project description please describe and explain the changes in the stormwater control plan and number and size of detention basins.
13. Final Subdivision Map Plans – Please note the Final Subdivision Map 6826 is being reviewed for technical compliance and compliance with the applicable Tentative Map Conditions of Approval and Mitigation Measures at this time and the following relevant and interrelated comments pertaining to the final map are provided at this time (for your reference, some of these development changes were invoked in the recently completed “Diablo Estates at Clayton” subdivision and in review of other pending subdivision applications):
- Due to economic fiscal impacts and constraints since consideration of the project in 2005, the City will no longer accept offers of public dedication of residential subdivisions streets. The subdivision streets must be privately owned and maintained by the subdivision residents. Please contact the City Engineer on this matter to discuss the likely long term maintenance funding options for the project residents.
 - Due to economic fiscal impacts and constraints since consideration of the project nine (9) years ago, the City will no longer accept offers of public dedication of stormwater detention basins. The subdivision detention basin must be privately owned and maintained by the subdivision residents. Please contact the City Engineer on this matter to discuss the probable long term maintenance funding options for the project residents.
 - Due to economic fiscal impacts and constraints since consideration of the project in 2005, the City will no longer maintain the public landscaping of residential right-of-ways and improvements that you will install. The public landscaping must be privately maintained by the subdivision residents. Please contact the City Engineer on this matter to discuss the probable long term maintenance funding options for the project residents.
 - Please change the name of the private street roadway as it will not be named or referred to as Diablo Parkway. A new private roadway name will be required.

- On Sheet 2, the wording “City Planning Commission Statement” and subsequent wording will need to be amended. Subsequent recommended wording will be provided by the Community Development Director on this matter.
- Per COA No. 2, add notes on the final map that deeds for all lots shall contain language, which prohibits any future land division(s) to create additional home sites (i.e. only 5 homes sites are allowed on Lots 1-5 and no home site is allowed on Lot 6).
- Per COA No. 4, prior to approval of the final map submit up-to-date CC&R’s to the Community Development Director for review and approval.
- Per COA No. 43, prior to approval of the final map provide current, up-to-date and revised regulatory agency letters/ permit clearances, including but not limited CDFW, Army Corps and SWRCB. The letters/communications we have in the previous project files from those agencies are not complete and/or are out-of-date.
- Per COA No. 47, prior to approval of the final map verify compliance relating to public access easements for pedestrian trails.
- Per COA No. 54, prior to approval of the final map pay or verify Developers fair share contribution to traffic improvements.
- Per COA No. 59, prior to approval of the final map verify compliance relating to drainage collection and treatment.
- Per COA No. 64, prior to approval of the final map verify/provide proof that a “Notice of Intent” has been filed and closed out with the State Regional Water Control Board.
- Per COA No. 69, prior to approval of the final map submit and verify the financial responsibility funding mechanism for the construction and perpetual maintenance of the drainage improvements.
- Per COA No. 70, prior to approval of the final map submit and verify operations and maintenance plan for stormwater facilities.
- Per COA No. 78, prior to approval of the final map pay and verify Developers financial participation funding program for upgrading downstream sewers serving the Marsh Creek Road Specific Plan Area.
- Per COA No. 85, verify proposal to annex into the existing Street Light Assessment District.
- Per COA No. 87, prior to filing or approval of the final map provide and verify cash deposit or cash bond deposit for subdivision improvements.
- Per COA No. 88, prior to approval of the final map provide and verify private access easement across private roadway to benefit of adjacent property owner (Moita / APN: 075-200-021).
- Prior to approval of final map provide and verify compliance with all applicable Mitigation Measures; specifically MM’s 15, 16, 17, 20, 24 and 26.

14. Grading & Improvement Plan – We received the grading and improvement plans as part of the Site Plan and Use Permit applications, please note the grading and improvement plans for Oak Creek Canyon that were submitted are only required to be provided at this time for informational purposes in association with the City’s consideration of the Site Plan Review and Use Permit applications. The grading and improvement plans are not being reviewed for technical compliance at this time and will not be considered for approval at this time as part of these applications; however, the following relevant and interrelated comments pertaining to the map are provided to you at this time:

- Sheet 2B & 2C lists conditions of approval for the Tentative Map (MAP-04-03) and the expired Use Permit (UP-01-05) and expired Site Plan Review (SPR-16-03) that are no

longer applicable and/or in effect. Per COA No 11, only COA's applicable to the construction of the subdivision improvements shall appear on the improvement drawings.

- Sheet 2D lists tree preservation guidelines; however, no tree removal permit has been approved or issued. These notes will need to be amended and removed upon a City Tree Removal permit application being applied for and approved in accordance with CMC Chapter 15.70.
- Verify compliance with all applicable Conditions of Approval and Mitigations Measures.

15. Additional Copies of Revised Project Plans and Information – Please resubmit the following:

- 10 complete sets of 11" x 17" size plans of all new and/or revised document plans.
- 1 complete set of 8 1/2" x 11" size plans of all new and/or revised document plans.
- Note that as the project progresses thru the review process, the City may request that you provide additional copies of full size and reduced size plans and information. In order to avoid excessive printing costs and avoid waste we do not ask for extra copies at this time.

16. Electronic CD Copy of Project Plans and Documents – please provide one (1) electronic CD copy of all final revised project plans and support documents.

17. Mailing Labels – The 300' minimum radius property owner mailing list and labels is incomplete. Staff has initially identified that the subject property site is missing. Please update, verify and resubmit.

18. Other Information - Please note that as your application process moves forward, we may also identify that additional analysis and/or information is needed to clarify or expand upon some feature or element of the project. We will notify you in writing if this occurs.

19. Funding Deposits – Please note that all application funding deposits are minimum processing fee deposits and that depending on the amount of staff time needed for the processing of the project applications, the City may need and will request additional funding deposits to cover staff time spent on the project. If additional funding deposits are required the City will notify you in writing.

We are pleased to note the Oak Creek Canyon residential subdivision may be moving forward and we hope to plan for yet another quality residential development in the City of Clayton.

If you have any questions or wish discuss this mater in more detail, please call me directly at (925) 673-7343.

Sincerely,



Charlie Mullen
Community Development Director

Mindy Gentry

From: Mindy Gentry <mgentry@ci.clayton.ca.us>
Sent: Monday, August 17, 2015 11:04 AM
To: 'Monte Davis'
Cc: 'Louis Parsons'
Subject: RE: Oak Creek Canyon

Monte,

I want to reiterate that staff does have concerns regarding meeting the timeline for recordation of the Final Map with all of the work that needs to be done for the proposed entitlements, including a public review period for the revised environmental document. The City cannot guarantee that the SPR and UP will be presented to the Planning Commission with the conclusion of the appeal period and action on the Final Map by the City Council prior to the expiration of the map in order to meet your proposed timeline. I urge you to reconsider submitting a Tentative Map, which should not add any additional time to your entitlements or be a substantial increase the overall costs. The map would be run concurrently with the other two entitlement requests.

To follow up on your P.S., the use permit approval goes hand in hand with the approval of the map. The expired use permit established five single family lots and one lot for a stormwater detention basin. The stormwater basin is a requirement in order to construct the proposed five lots and that use needs to be established again prior to recordation of the Final Map.

Please keep the City posted on your progress.

Thank you,

Mindy Gentry
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517
(925) 673-7343 – direct
(925) 672-4917 – fax

-----Original Message-----

From: Monte Davis [mailto:MDavis@discoverybuilders.com]
Sent: Friday, August 14, 2015 8:55 AM
To: mgentry@ci.clayton.ca.us
Cc: Louis Parsons
Subject: RE: Oak Creek Canyon

Mindy

Good morning. In regards to the use permit and site plan permit, I will have both of them, applications, fee's and all required materials to you in Sept. I will be working on the deficiencies letter response, regarding it's incompleteness, resubmitting everything with my updated package.

Our plans and map seems to be in great shape, in-which we'll be addressing any redline comments and also including Charlie's comments. I should be able to submit the revised plans and map next week, hoping to have them approved (without further comments) by early Sept.

I think I could have all the requirements (use permit and site plan permit) materials and the plan checking process completed, submitted by mid to late Sept...will give it my best shot. If I run into dumps along the way and think my efforts will delayed any part of my submittial, I'll let you know.

The goal is not to let the V.T.M expire and hopefully get the final map before council in Nov, so we could get it recorded.

PS: I also read something that doesn't require a use permit to be in place for recording a map. Can you double check, but I think it's two (2) separate items and the map could be recorded, not sure.

Thanks in advance

M. Davis
Project Manager- Land Development.
Discovery Builders, Inc/ A.D Seeno Construction.
4061 Port Chicago Hwy Ste-H
Concord Ca, 94520
925-682-6419>Ofc
925-689-2047>Fax
925-250-3430>Cell
mdavis@discoverybuilders.com

CONFIDENTIAL COMMUNICATION:

This electronic mail message and any attachments are intended only for the use of the addresses(s) named above and may contain information that is privileged, confidential and exempt from disclosure under applicable law, if you are not an intended recipient, or the employee or agent responsible for delivering this e-mail to the recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this message or by telephone.

>>> "Mindy Gentry" <mgentry@ci.clayton.ca.us> 8/12/2015 11:40 AM >>>

Monte,

It was a pleasure meeting with you yesterday regarding the Oak Creek Canyon project. As per our conversation, I was going to research any potential pathways in order to record your final map. My research concluded that since one of the proposed lots is a detention basin, which was implemented by the use permit, and the use permit has expired, the final map cannot be recorded until the use on the property has been established. Therefore, since the map expires on January 1, 2016, Discovery Builders may want to consider submitting a new tentative map in order to run it concurrently with the already requested Site Plan Review and Use Permit. This may save Discovery Builders time as it would be incredibly difficult to run full entitlements to hearing with environmental review and to get the final map recorded by January 1st.

Secondly, I did find a response letter from Discovery Builders, dated June 2 2014; however following receipt of the aforementioned letter a meeting had occurred between the City and Discovery Builders regarding the status of the project. From that meeting, it is my understanding the City was still awaiting on a package to be submitted by Discovery Builders to address the deficiencies from the Completeness Review.

So in summary, the Final Map cannot be recorded without a use permit establishing the uses on the site and secondly, the City is awaiting a response from Discovery Builders in regards to Charlie Mullin's Application Completeness Review letter dated March 21, 2014.

Please let me know if you have any further questions.

Thank you,

Mindy Gentry
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517
(925) 673-7343 - direct
(925) 672-4917 - fax

-----Original Message-----

From: Monte Davis [mailto:MDavis@discoverybuilders.com]
Sent: Wednesday, August 12, 2015 11:01 AM
To: mindy gentry
Cc: Louis Parsons
Subject: Oak Creek Canyon

Mindy

It was nice meeting you yesterday, in-regards to our 5 lot Oak Creek Canyon. Moving forward, I would like to avoid our V.T.M expiring Jan 1 2016.

I think our plan to push the final map thru ASAP, would be most effective.

I spoke with my civil engineer yesterday as well, in-which he indicated, he will start fine tuning and bring everything current, we could possibly re-submit the map, by next week. He said, the map looks very good, but he needed change a few things (private street, etc..) I also spoke with the environmental agency, in-which they said, they could finalize

everything and have the report completed right after Labor Day. That being said, I think there's a good possibility, the map could go to council in November. I'll start working on the Storm Drain agreement, CC&R's, etc...

If you could research and fine out if there's anything else we need to handle prior, like fee's, plans, re-issue of permits, etc....I would appreciate it.

I'm thinking, we could possibly have all this completed by the end of Sept, let me know if that works for you.

Thanks in advance

M. Davis

Project Manager- Land Development.

Discovery Builders, Inc/ A.D Seeno Construction.

4061 Port Chicago Hwy Ste-H

Concord Ca, 94520

925-682-6419>Ofc

925-689-2047>Fax

925-250-3430>Cell

mdavis@discoverybuilders.com

CONFIDENTIAL COMMUNICATION:

This electronic mail message and any attachments are intended only for the use of the addresses(s) named above and may contain information that is privileged, confidential and exempt from disclosure under applicable law, if you are not an intended recipient, or the employee or agent responsible for delivering this e-mail to the recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this message or by telephone.

RECEIVED

OCT 08 2015

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

March 21, 2014

Monte Davis
Project Manager, Land Development.
West Coast Home Builders
4061 Port Chicago Hwy, Ste. H
Concord CA, 94520

Re: Oak Creek Canyon - Application Completeness Review; SPR-01-14 & UP-01-14;

Dear Mr. Davis:

Thank you for the applications submitted on February 21, 2014, for a City Site Plan Review Permit (SPR-01-14) request to re-approve plans for an expired Site Plan Review Permit (SPR-16-03) for the design and construction of five (5) single-family residences on five (5) lots and associated project landscaping and a City Use Permit (UP-01-14) request to re-approve an expired Use Permit (UP-01-05) to establish a stormwater detention basin on Lot 6. The 8.87-acre real property is located on the north side of Marsh Creek Road at the intersection with Diablo Parkway (APN: 119-070-008).

Based on City staff's review of the new application submittal materials, the applications have been "deemed incomplete" for processing. A listing of the information and materials needed to deem the applications complete is listed below and contained within the referenced attached materials.

Before addressing the current application submittals we want to summarize the City's position and understanding relative to the previously approved applications. Regarding Tentative Subdivision Map Tract 6826 (MAP—04-03) and Development Agreement (DA), it is the City's legal determination the Tentative Subdivision Map remains valid per State time extensions but will expire on 1/21/16 unless a Final Map is completed or another State time extension is issued. However, the DA expired in 2009 and is no longer in effect. Also the previously approved Site Plan Review Permit (SPR-16-03) and Use Permit (UP-01-05) have expired. The other previously approved entitlements for subject property, consisting of an Annexation, General Plan Map and Zoning Map designations, were completed in 2005.

In order to move forward with processing of the current applications (SPR & UP) the following information and/or items will need to be supplied and/or addressed at this time:

6-1

- Project Description - No project description letter was provided with the current submittal. Please provide a detailed project description letter that addresses the following information **This is not a new project, we are recording a Final Map**
1.
 - A brief summary/history of past project approvals, completed actions, why the project was not implemented, etc. **Tentative Map still valid**
 - Explain your current project objectives and goals. **Construct & Built homes**
 - Address any changes in the current project plans compared to prior plan approvals, particularly relating to the site plan, house plans, landscaping and physical site features such as the stormwater basin.
Stormwater basin is reduced and road is now private since the city does not want to maintain
 2. Annotated COA's and MM's - Please provide an annotated compliance list of Conditions of Approval and Mitigation Measures, using the previously approved applications MAP-04-03, ENV-02-03, SPR-16-03 & UP-01-05 from 2005. This information will assist the City in better understanding what components of the project you believe you have completed and/or complied with to-date.
Acknowledged
 3. Agency Letters - Provide current, up-to-date and revised regulatory agency letters/permit clearances, including but not limited CDFW, Army Corps and SWRCB. The letters we have in the previous project files from those agencies are not current and appear to be out-of-date.
We are to comply with HCP, submitting a PSR
 4. Affordable Housing Plan - In 2010, the City of Clayton adopted its current Housing Element, which requires each residential project with over 2 units to develop an Affordable Housing Plan. Per Housing Element Policy I.2, this 5 unit project is obligated to provide 1 affordable housing unit (min. 10% of total). Housing Element policy desires the affordable units to be very-low and low income housing units. Please refer to the Housing Element for more detail and contact staff to discuss options for compliance.
This is Not applicable
 5. Habitat Conservation Plan - In 2007, the City of Clayton adopted and implemented the East Contra Costa County Habitat Conservation Plan (HCP). In accordance with Clayton Municipal Code Chapter 16.55, please submit a completed Habitat Conservation Plan (HCP) application, plans, and processing deposit fee of \$1,000. The HCP will likely require the payment of habitat impact fees in the amount in effect at the time of Permit Issuance.
 6. Environmental Review process - Although an Initial Study/Mitigated Negative Declaration (IS/MND) was previously approved in 2005, due to the long amount of time since that approval and known changes in some environmental conditions/standards, we believe that some additional environmental documentation update is necessary. Based upon recent discussions with a professional environmental consulting firm, we believe there are two possible environmental document updating approaches we can consider under the California Environmental Quality Act (CEQA). The first approach could be an Addendum to the IS/MND, but can only be used if no new mitigations measures are required or triggered. The second approach is a Subsequent IS/MND, and is used when it is anticipated that new

Mitigation Measures not contained in the original IS/MND are determined to be required as result of further environmental analysis. It appears that a Subsequent IS/MND is most likely the environmental process that will be required. This required environmental document will necessitate the City contracting with an independent third-party environmental consultant/firm to prepare the analysis, including any additional studies determined to be necessary. All cost associated with this additional environmental review is the responsibility of the project applicant. Upon further discussion on this matter, the City could initiate the steps to obtain a work scope proposal from the environmental consulting firm (Raney) that completed the Final IS/MND for the previously approved Oak Creek Canyon project in 2005. This will require a completed Environmental Information Form application and processing deposit fee of \$2,500.

A CEQA consultant has been hired and retained

- **Site Plan** - No planning level project site plan was provided with the current submittal. Please provide an overall project site plan with site data information in accordance with the City's Site Plan Review Permit application procedures and form. Please specifically address and/or provide the following:
 - If there are any changes in the site plans from that previously approved, include an explanation in the project description.
Stormwater basin reduced due adjacent project development Not moving forward. Road is now private
 - Please review previous Conditions of Approval and Mitigation Measures and revise or update site plan accordingly. **Agreed**
 - Provide list and detail site data for the project, including but not limited to, site size (acres and square feet), size of each lot, uses, easements, open space, trails, access and maintenance roads, General Plan and Zoning designations, etc.
See Final Map and Tentative Map and original project approval
 - Show and identify all proposed retaining walls and list their height. Provide a typical retaining wall cross-section detail.
See Grading plan
7. **Cross-Section Details** – No cross-section details of the project were provided with the current submittal. Staff believes several cross sections details of the site would be beneficial to assist City decision makers in clearly understanding the topographical components of the proposed hillside development. Please consult with staff on this matter to ensure the number of appropriate cross-sections, their location and information are provided.
8. **See plan**
9. **House Model Plans** – The 5 house model plans generally appear to be consistent with the model plans previously approved by the City but are lacking some details and information. Please address or include the following:
 - If there are any changes in the house model plans from those previously approved, include an explanation in the project description.
NO changes
 - On the individual house model plans and/or on a separate cover sheet please provide and list the building square footage for each house plan. Make sure to list first and second floor living spaces (including any options), total living space and garage areas.
Agreed
 - List and key all exterior colors and materials to the building elevations and to a separate color and materials board (to be provided).
Okay- submitted

10. Color and Materials Boards – No color and materials board was provided with the current submittal. Please provide a complete color and materials board for each house model plan at an 8 1/2” x 11” size. If there are any changes in the colors and materials from that previously approved, please include an explanation in the project description.

No changes, color board submitted

11. Landscape Plans - Please revise the landscape plans to address or include the following:

- If there are any changes in the landscape plans from those previously approved, include an explanation in the project description.

Plans have been updated

- Please review previous Conditions of Approval and Mitigation Measures and revise or update landscape plans accordingly.

Agreed

Add the label “Preliminary” to the title of these “Landscape Architectural Construction Document” plans. Please note this is a planning level review of the landscape plans and that these plans are not currently being reviewed for technical construction compliance at this stage of the review process.

Agreed

- Revise the landscape plans to match and include the number, size and extent of the stormwater detention basins that are now being proposed.

Agreed

- Clearly label the location and provide cross-section details of the surfacing material of all project trails, paths, sidewalks, maintenance roads, etc.

Agreed

- In 2010, the City adopted Landscape Water Conservation Standards (CMC Chapter 17.80), pursuant to state laws, which are applicable to the proposed project. Please have the landscape architect review and comply with these standards and complete the associated compliance forms available on the City’s website using the following link:

<http://onlineforms.ci.clayton.ca.us/cddforms/waterconservation.pdf>

- Sheet 8, Irrigation Note No. 2, makes reference to the City of Pleasanton. Please correct this note.

Agreed

- Please have the landscape architect review current City of Clayton Standards and Specifications for landscaping and irrigation and make any necessary revisions or corrections to the plans. Please contact City Engineer for the standard details.

Agreed

- Please clarify if any existing trees are proposed to be removed. If so, please prepare a tree removal and replacement plan per CMC Chapter 15.70. A tree removal application and appropriate processing fee will be required.

No additional tree to be removed, other than mitigation and condition

12. Preliminary Stormwater Control Plan – please confirm that the Preliminary Stormwater Control Plan submitted complies with the current edition of the Contra Costa County Stormwater C.3 Guidebook. An initial review by the City would appear to identify some inconsistencies and document errors. In the project description please describe and explain the changes in the stormwater control plan and number and size of detention basins. Current Stormwater plan complies with current standards.

- Final Subdivision Map Plans – Please note the Final Subdivision Map 6826 is being reviewed for technical compliance and compliance with the applicable Tentative Map

Conditions of Approval and Mitigation Measures at this time and the following relevant and interrelated comments pertaining to the final map are provided at this time (for your reference, some of these development changes were invoked in the recently completed “Diablo Estates at Clayton” subdivision and in review of other pending subdivision applications):

Street is now private as discussed with city

- Due to economic fiscal impacts and constraints since consideration of the project in 2005, the City will no longer accept offers of public dedication of residential subdivisions streets. The subdivision streets must be privately owned and maintained by the subdivision residents. Please contact the City Engineer on this matter to discuss the likely long term maintenance funding options for the project residents. Please see **Street now private “Sage Lane” and Basin will be maintained by Homeowners**
- Due to economic fiscal impacts and constraints since consideration of the project nine (9) years ago, the City will no longer accept offers of public dedication of stormwater detention basins. The subdivision detention basin must be privately owned and maintained by the subdivision residents. Please contact the City Engineer on this matter to discuss the probable long term maintenance funding options for the project residents. **Detention Basin now “private” maintained by homeowners (sept 2015)**
- Due to economic fiscal impacts and constraints since consideration of the project in 2005, the City will no longer maintain the public landscaping of residential right-of-ways and improvements that you will install. The public landscaping must be privately maintained by the subdivision residents. Please contact the City Engineer on this matter to discuss the probable long term maintenance funding options for the project residents. **Landscaping now private maintained by homeowners**
- Please change the name of the private street roadway as it will not be named or referred to as Diablo Parkway. A new private roadway name will be required. Please see **Sage Lane “private” (sept 2015)**
- On Sheet 2, the wording “City Planning Commission Statement” and subsequent wording will need to be amended. Subsequent recommended wording will be provided by the Community Development Director on this matter.

Agreed

Per COA No. 2, add notes on the final map that deeds for all lots shall contain language, which prohibits any future land division(s) to create additional home sites (i.e. only 5 homes sites are allowed on Lots 1-5 and no home site is allowed on Lot 6).

Acknowledged, added

Per COA No. 4, prior to approval of the final map submit up-to-date CC&R’s to the Community Development Director for review and approval.

Acknowledged, submitting draft

- Per COA No. 43, prior to approval of the final map provide current, up-to-date and revised regulatory agency letters/ permit clearances, including but not limited CDFW, Army Corps and SWRCB. The letters/communications we have in the previous project files from those agencies are not complete and/or are out-of-date.
- Per COA No. 47, prior to approval of the final map verify compliance relating to public access easements for pedestrian trails.

Acknowledged, added

- Per COA No. 54, prior to approval of the final map pay or verify Developers fair share contribution to traffic improvements. **City to provide traffic control dollar amount regarding contribution**

- Per COA No. 59, prior to approval of the final map verify compliance relating to drainage collection and treatment.
- Per COA No. 64, prior to approval of the final map verify/provide proof that a "Notice of Intent" has been filed and closed out with the State Regional Water Control Board.
Agreed
- Per COA No. 69, prior to approval of the final map submit and verify the financial responsibility funding mechanism for the construction and perpetual maintenance of the drainage improvements.
Agreed privately maintained
- Per COA No. 70, prior to approval of the final map submit and verify operations and maintenance plan for stormwater facilities.
O & M maintain plans submitted
- Per COA No. 78, prior to approval of the final map pay and verify Developers financial participation funding program for upgrading downstream sewers serving the Marsh Creek Road Specific Plan Area. *A*
City to provide ~~traffic control~~ dollar amount regarding contribution
- Per COA No. 85, verify proposal to annex into the existing Street Light Assessment District.
- *Streetlight now privately maintained*
- Per COA No. 87, prior to filing or approval of the final map provide and verify cash deposit or cash bond deposit for subdivision improvements.
Agreed
- Per COA No. 88, prior to approval of the final map provide and verify private access easement across private roadway to benefit of adjacent property owner (Moita / APN: 075-200-021).
N/A any longer
- Prior to approval of final map provide and verify compliance with all applicable Mitigation Measures; specifically MM's 15, 16, 17, 20, 24 and 26.
Agreed

13. Grading & Improvement Plan – We received the grading and improvement plans as part of the Site Plan and Use Permit applications, please note the grading and improvement plans for Oak Creek Canyon that were submitted are only required to be provided at this time for informational purposes in association with the City's consideration of the Site Plan Review and Use Permit applications. The grading and improvement plans are not being reviewed for technical compliance at this time and will not be considered for approval at this time as part of these applications; however, the following relevant and interrelated comments pertaining to the map are provided to you at this time:

- Sheet 2B & 2C lists conditions of approval for the Tentative Map (MAP-04-03) and the expired Use Permit (UP-01-05) and expired Site Plan Review (SPR-16-03) that are no longer applicable and/or in effect. *Permits has been renewed and re-submitted Feb 21, 2014, per the request of C.Mullen to re-instate*
- Per COA No 11, only COA's applicable to the construction of the subdivision improvements shall appear on the improvement drawings.
Agreed
- Sheet 2D lists tree preservation guidelines; however, no tree removal permit has been approved or issued. These notes will need to be amended and removed upon a City Tree Removal permit application being applied for and approved in accordance with CMC Chapter 15.70.

There are No current trees within any building areas (lots 1-6) or rightway

- Verify compliance with all applicable Conditions of Approval and Mitigations Measures.

Agreed

14. Additional Copies of Revised Project Plans and Information – Please resubmit the following:

- 10 complete sets of 11" x 17" size plans of all new and/or revised document plans submitted
- 1 complete set of 8 1/2" x 11" size plans of all new and/or revised document plans.

Submitted

15. Note that as the project progresses thru the review process, the City may request that you provide additional copies of full size and reduced size plans and information. In order to avoid excessive printing costs and avoid waste we do not ask for extra copies at this time.

Agreed

16. Electronic CD Copy of Project Plans and Documents – please provide one (1) electronic CD copy of all final revised project plans and support documents.

Submitted

17. Mailing Labels – The 300' minimum radius property owner mailing list and labels is incomplete. Staff has initially identified that the subject property site is missing. Please update, verify and resubmit.

18. Submitted

19. Other Information - Please note that as your application process moves forward, we may also identify that additional analysis and/or information is needed to clarify or expand upon some feature or element of the project. We will notify you in writing if this occurs.

Agreed

20. Funding Deposits – Please note that all application funding deposits are minimum processing fee deposits and that depending on the amount of staff time needed for the processing of the project applications, the City may need and will request additional funding deposits to cover staff time spent on the project. If additional funding deposits are required the City will notify you in writing.

Agreed

We are pleased to note the Oak Creek Canyon residential subdivision may be moving forward and we hope to plan for yet another quality residential development in the City of Clayton.

If you have any questions or wish discuss this mater in more detail, please call me directly at (925) 673-7343.

Sincerely,

Charlie Mullen
Community Development Director

cc: West Coast Home Builders, 4021 Port Chicago Highway, Concord, CA 94520



City Council
DAVID T. SHUEY, MAYOR
HOWARD GELLER, VICE MAYOR
JIM DIAZ
KEITH HAYDO
JULIE K. PIERCE

COMMUNITY DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

October 30, 2015

Mr. Monte Davis
West Coast Home Builders
4061 Port Chicago Highway, Suite H
Concord, CA 94520

RE: Oak Creek Canyon Final Map (MAP-04-03)

Dear Mr. Davis:

Thank you for your re-submittal of Oak Creek Canyon's Final Map and associated materials. The City has the following concerns or is missing relevant information, therefore cannot recommend acceptance of the Final Map to the City Council until the following are addressed:

- **Condition of approval #1:** The final map shall show deed restrictions in the following locations. The restrictions are intended to preserve an open and attractive visual character of the subject area. The restrictions shall prohibit grading (except for remedial grading, drainage improvements and disking for weed abatement); construction of all buildings and structures; and storage of any motor vehicles, trailers, recreational vehicles, graders, tractors, airplanes, or similar equipment.
 - a. The western portion of Lot 2, beginning at the western edge of the 50-foot wide roadway and pipeline easement serving the Contra Costa Water District parcel.
 - b. The northern portions of Lots 3-5 above the drainage bench generally located at elevation 630 feet.
 - o **Status:** Complete.

- **Condition of approval #4:** The project shall have covenants, conditions, and restrictions (CC&R's), which address the issues listed below. The CC&R's shall be submitted to the Community Development Director for review and approval prior to approval of the final map.
 - o **Status:** Revised CC&Rs have yet to be submitted addressing the issues outlined in the conditions of approval. Draft CC&Rs were listed on the transmittal page dated October 8, 2015 that they were submitted to the City; however they were not included in the package nor were they included in electronic format on the CD. The latest Draft copy of the CC&R's within the project file is dated November 21, 2005; updated CC&Rs need to be submitted to the City for review and approval prior to approval of the final map.

- Staff recommends that West Coast Home Builders formally propose to amend this condition to state that the CC&Rs shall be submitted for review and approval prior to building or grading permit issuance rather than final map.

- **Condition of approval #14:** The project is subject to development impact fees and parkland dedication fees, as established in the Municipal Code at the time of payment.
 - **Status:** The City has not received payment for the Parkland Dedication fee, which totals \$12,845. Per the approved Development Impact fees, the Parkland Dedication fee is due prior to final map approval.

- **Condition of approval #30:** The final map shall include the dedication of landscape maintenance easements to the benefit assessment district for the landscape corridor along Marsh Creek Road on Lots 1 and 2; and the area between the sound fences on Lots 1 and 2 and the landscape corridor.
 - **Status:** Complete.

- **Condition of approval #31:** Prior to approval of the final map, the Developer shall submit a written request for and consent to the annexation of Lots 1 through 5 to the City's existing landscape maintenance district in accordance with the Mello-Roos Community Facilities Act of 1982 (California Government Code, Section 53311, et seq.).
 - **Status:** A written request for and consent to annex Lots 1 through 5 into the City's existing landscape maintenance in accordance with Mello-Roos Community Facilities Act of 1982 has not been received by the City.

- **Condition of approval #43:** The Developer shall provide written determinations from the California Department of Fish and Game and the San Francisco Bay Regional Water Quality Board regarding jurisdiction for the seasonal drainage. The written determination shall be provided to the Community Development Department and City Engineer prior to approval of the final map.
 - **Status:** Completed for the final map.

- **Condition of approval #47:** The final map shall show dedication of a ten-foot wide public access easement along the eastern edge of Lots 5 and 6. A six-foot wide pedestrian trail shall be installed in the easement. The design (including installation of removable bollards) and paving material of the trail shall be in accordance with any applicable oil pipeline easement restrictions and subject to the review and approval of the City Engineer and Community Development Director. In lieu of the easement, the developer may offer to dedicate the same area in-fee to the City.
 - **Status:** Completed for the final map.

- **Condition of approval #54:** Prior to approval of the final map, the Developer shall contribute its fair share, as determined by the City, to a traffic calming/control fund for improvements such as installation of rumble strips, a flashing yellow light (on an interim basis), and/or a traffic signal on a permanent basis at or east of the project entrance road.
 - **Status:** At this time it has been determined by the City that payment is not required for final map approval; however shall be required prior to grading or building permit issuance.

- **Condition of approval #58:** Prior to approval of the final map, the Developer shall submit written request for and consent to the formation of a benefit assessment district in accordance with Benefit Assessment Act of 1982.
 - **Status:** The City has not received a letter requesting for and consenting to the formation of a benefit assessment district. Per the letter dated March 21, 2014, the City has advised West Coast Home Builders that due the economic and fiscal impacts, City policy has changed and the City will no longer accept offers of public dedication of residential subdivision streets, stormwater basins, and will no longer maintain public landscaping of residential right-of-ways and improvements.

Staff recommends that West Coast Home Builders formally propose to amend this condition to remove the benefit assessment district requirement and to replace it with a Homeowners Association or other mechanism acceptable to the City.

- **Condition of approval #59:** All drainage collection (ditches, storm drains, etc.) and treatment facilities, and access to such facilities, shall be located in public storm drain easements, which shall be shown on the final map. City personnel or contracted forces shall have the right of access to conduct inspections and maintenance of all on-site drainage devices.
 - **Status:** Completed for the final map.
- **Condition of approval #70:** The Developer shall prepare an operations and maintenance plan, including a schedule for on-going maintenance and replacement, for the stormwater facilities. The plan shall be submitted for review and approval of the City Engineer prior to recordation of the final map.
 - **Status:** The City has received a draft operations and maintenance plan; however the use permit for the detention basin has expired; therefore the operations and maintenance plan is incomplete.

Staff recommends that West Coast Home Builders formally propose to amend this condition to state that the operations and maintenance plan shall be submitted for review and approval prior to building or grading permit issuance rather than final map.

- **Condition of approval #78:** Prior to approval of the final map, the Developer shall agree to financially participate, on a fair share basis as determined by the City, in a funding program to design, install, and/or upgrade any downstream sewers serving the *Marsh Creek Road Specific Plan* area. If the funding program has been established prior to the approval of the final map, payment of the Developer's share shall be made prior to approval of the final map.
 - **Status:** A letter needs to be submitted to the City agreeing to financially participate on a fair share basis in a funding program to design, install, and/or update any downstream sewers serving the *Marsh Creek Road Specific Plan* area.
- **Condition of approval #85:** Upon approval of the final map, the subdivision shall be annexed into the existing City of Clayton Street Light Assessment District.
 - **Status:** The subdivision will automatically be annexed at the time of acceptance of the subdivision improvements.

- **Condition of approval #87:** Prior to filing the final map, the Developer shall provide an interest-bearing, non-refundable cash deposit or cash bond, in an amount to be determined by the City Engineer, for use by the City in the completion of the improvements as shown on the tentative map at some undetermined time in the future.
 - **Status:** The City Engineer has determined a bond for this condition is not required at this time for final map approval, but a surety bond maybe required in the future prior to the issuance of a grading or building permit.

Staff recommends that West Coast Home Builders formally propose to amend this condition to require the bond prior to the issuance of a grading or building permit.

- **Condition of approval #88:** Prior to approval of any grading or construction plans for maps, the Developer shall provide any necessary rights of entry, drainage easements, slope and/or grading easements, as may be required by the City Engineer, from adjoining property owners.
 - **Status:** Completed.
- **Condition of approval #90:** Upon recording the final map, the City shall be given full size, reproducible, photo mylar copy of the of the recorded map and an electronic file of the map in a form which can be imported into AutoCAD, and configured as directed by the City Engineer.
 - **Status:** This shall be provided following the acceptance of the final map.

The following mitigation measures are applicable at the time of final map approval:

- **Mitigation Measure 20:** Prior to approval of the final map, the project developer shall furnish a report prepared by an acoustical engineer, that necessary features have been incorporated into the project to ensure that exterior noise exposure levels will not exceed 60 dB (Ldn), and interior noise levels will not exceed 45 dB (Ldn).
 - **Status:** A noise report from February 2005 was submitted recommending noise attenuating features for the project; however this mitigation measure requires these features to be incorporated into the project in order to ensure noise levels will not be exceeded. A follow up report needs to be submitted showing the incorporated features will ensure noise exposure levels will not exceed those stated above. The site plan review for this project has expired; therefore a report cannot be submitted showing the project plans address this mitigation measure.
- **Mitigation Measure 21:** The project developer shall pay a fair share contribution to the City of Clayton for impacts to city services (e.g. police, library, parks, administration, planning, maintenance, engineering) directly related to impacts of the proposed project. The payment shall be made at the time of occupancy of the project's first unit and shall be based on the findings of the fiscal impact study prepared for annexation.
 - **Status:** The City has not received payment for the Parkland Dedication fee, which totals \$12,845. Per the approved Development Impact fees, the Parkland Dedication fee is due at final map approval.
- **Mitigation Measure 22:** A benefit assessment district (or comparable mechanism, subject to City approval) shall be established to provide funding for maintenance of the perimeter, entry, and detention basin landscaping, as well as any public trails. Funding of the benefit assessment

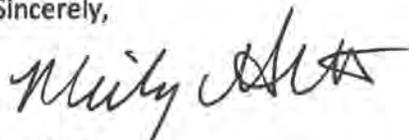
- district shall fully account for increased costs including maintenance costs, capital replacement costs, and administration.
 - o **Status:** The benefit assessment district or a comparable mechanism has yet to be established.
- Mitigation Measure 26: Prior to approval of the final map, the project developer shall agree to financially participate, on a fair share basis, in a funding program to plan, design, install, and/or upgrade any sewers serving the *Marsh Creek Road Specific Plan* area.
 - o **Status:** A letter needs to be submitted to the City agreeing to financially participate on a fair share basis in a funding program to design, install, and/or update any downstream sewers serving the *Marsh Creek Road Specific Plan* area.

Given the expiration of the use permit and the site plan review, the City of Clayton is recommending West Coast Home Builders request amendments to the conditions of approval as well as the mitigation measures contained within the Mitigated Negative Declaration. Without these amendments, the final map will not be able to be recommended for approval because the project will not be able to comply with the conditions of approval and the mitigation measures required for the project as outlined above. Further, since amendments to the conditions of approval are required prior to final map approval, staff is also recommending West Coast Home Builders include amendments to the conditions of approval that would remove the requirement of the benefit assessment district and have it replaced with a mechanism acceptable to the City such as an Homeowners Association.

Please submit the requested amendments; the final map revised per the City Engineer's 2014 comments; and a bond estimate to the City no later than the close of business on Tuesday, November 10, 2015 in order to provide the City time to process the request prior to the final map expiration. There is no guarantee that the amendments will be processed prior to the expiration of the tentative map; however this is the only available option given the unique situation where the tentative map approval is still active even though the local approvals have expired. This will also allow time for map review and preparation of the Subdivision Agreement.

If you have any questions or wish to discuss this matter in more detail, please contact me at (925) 673-7343 or mgentry@ci.clayton.ca.us.

Sincerely,



Mindy Gentry
Community Development Director

cc: Rick Angrisani, City Engineer

CITY OF CLAYTON

Founded 1857... Incorporated 1964

City Council
DAVID T. SHUEY, MAYOR
HOWARD GELLER, VICE MAYOR
JIM DIAZ
KEITH HAYDON
JULIE K. PIERCE

COMMUNITY
DEVELOPMENT (925) 673-7340
ENGINEERING (925) 363-7433

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

October 30, 2015

Mr. Monte Davis
West Coast Home Builders
4061 Port Chicago Highway, Suite H
Concord, CA 94520

RECEIVED

DEC 14 2015

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

RE: Oak Creek Canyon Final Map (MAP-04-03)

Dear Mr. Davis:

Thank you for your re-submittal of Oak Creek Canyon's Final Map and associated materials. The City has the following concerns or is missing relevant information, therefore cannot recommend acceptance of the Final Map to the City Council until the following are addressed:

- **Condition of approval #1:** The final map shall show deed restrictions in the following locations. The restrictions are intended to preserve an open and attractive visual character of the subject area. The restrictions shall prohibit grading (except for remedial grading, drainage improvements and disking for weed abatement); construction of all buildings and structures; and storage of any motor vehicles, trailers, recreational vehicles, graders, tractors, airplanes, or similar equipment.
 - a. The western portion of Lot 2, beginning at the western edge of the 50-foot wide roadway and pipeline easement serving the Contra Costa Water District parcel.
 - b. The northern portions of Lots 3-5 above the drainage bench generally located at elevation 630 feet.
 - o **Status:** Complete.
- **Condition of approval #4:** The project shall have covenants, conditions, and restrictions (CC&R's), which address the issues listed below. The CC&R's shall be submitted to the Community Development Director for review and approval prior to approval of the final map.
 - o **Status:** Revised CC&Rs have yet to be submitted addressing the issues outlined in the conditions of approval. Draft CC&Rs were listed on the transmittal page dated October 8, 2015 that they were submitted to the City; however they were not included in the package nor were they included in electronic format on the CD. The latest Draft copy of the CC&R's within the project file is dated November 21, 2005; updated CC&Rs need to be submitted to the City for review and approval prior to approval of the final map.
- Staff recommends that West Coast Home Builders formally propose to amend this condition to state that the CC&Rs shall be submitted for review and approval prior to building or grading permit issuance rather than final map.

CC&R's draft included

8-1

- **Condition of approval #14:** The project is subject to development impact fees and parkland dedication fees, as established in the Municipal Code at the time of payment.
 - **Status:** The City has not received payment for the Parkland Dedication fee, which totals \$12,845. Per the approved Development Impact fees, the Parkland Dedication fee is due prior to final map approval.
- Fee's included**
- **Condition of approval #30:** The final map shall include the dedication of landscape maintenance easements to the benefit assessment district for the landscape corridor along Marsh Creek Road on Lots 1 and 2; and the area between the sound fences on Lots 1 and 2 and the landscape corridor.
 - **Status:** Complete.
 - **Condition of approval #31:** Prior to approval of the final map, the Developer shall submit a written request for and consent to the annexation of Lots 1 through 5 to the City's existing landscape maintenance district in accordance with the Mello-Roos Community Facilities Act of 1982 (California Government Code, Section 53311, et seq.).
 - **Status:** A written request for and consent to annex Lots 1 through 5 into the City's existing landscape maintenance in accordance with Mello-Roos Community Facilities Act of 1982 has not been received by the City.
- ??????**
- **Condition of approval #43:** The Developer shall provide written determinations from the California Department of Fish and Game and the San Francisco Bay Regional Water Quality Board regarding jurisdiction for the seasonal drainage. The written determination shall be provided to the Community Development Department and City Engineer prior to approval of the final map.
 - **Status:** Completed for the final map.
 - **Condition of approval #47:** The final map shall show dedication of a ten-foot wide public access easement along the eastern edge of Lots 5 and 6. A six-foot wide pedestrian trail shall be installed in the easement. The design (including installation of removable bollards) and paving material of the trail shall be in accordance with any applicable oil pipeline easement restrictions and subject to the review and approval of the City Engineer and Community Development Director. In lieu of the easement, the developer may offer to dedicate the same area in-fee to the City.
 - **Status:** Completed for the final map.
 - **Condition of approval #54:** Prior to approval of the final map, the Developer shall contribute its fair share, as determined by the City, to a traffic calming/control fund for improvements such as installation of rumble strips, a flashing yellow light (on an interim basis), and/or a traffic signal on a permanent basis at or east of the project entrance road.
 - **Status:** At this time it has been determined by the City that payment is not required for final map approval; however shall be required prior to grading or building permit issuance.

Agreed

- **Condition of approval #58:** Prior to approval of the final map, the Developer shall submit written request for and consent to the formation of a benefit assessment district in accordance with Benefit Assessment Act of 1982.
 - **Status:** The City has not received a letter requesting for and consenting to the formation of a benefit assessment district. Per the letter dated March 21, 2014, the City has advised West Coast Home Builders that due the economic and fiscal impacts, City policy has changed and the City will no longer accept offers of public dedication of residential subdivision streets, stormwater basins, and will no longer maintain public landscaping of residential right-of-ways and improvements.
Agreed
Staff recommends that West Coast Home Builders formally propose to amend this condition to remove the benefit assessment district requirement and to replace it with a Homeowners Association or other mechanism acceptable to the City.
Admendments were agreed upon with staff and applicant prior to letter. Public now private
- **Condition of approval #59:** All drainage collection (ditches, storm drains, etc.) and treatment facilities, and access to such facilities, shall be located in public storm drain easements, which shall be shown on the final map. City personnel or contracted forces shall have the right of access to conduct inspections and maintenance of all on-site drainage devices.
 - **Status:** Completed for the final map.
- **Condition of approval #70:** The Developer shall prepare an operations and maintenance plan, including a schedule for on-going maintenance and replacement, for the stormwater facilities. The plan shall be submitted for review and approval of the City Engineer prior to recordation of the final map.
 - **Status:** The City has received a draft operations and maintenance plan; however the use permit for the detention basin has expired; therefore the operations and maintenance plan is incomplete.
O & M plan still valid
Staff recommends that West Coast Home Builders formally propose to amend this condition to state that the operations and maintenance plan shall be submitted for review and approval prior to building or grading permit issuance rather than final map.
Fee's and application has been resubmitted Sept 2015
- **Condition of approval #78:** Prior to approval of the final map, the Developer shall agree to financially participate, on a fair share basis as determined by the City, in a funding program to design, install, and/or upgrade any downstream sewers serving the *Marsh Creek Road Specific Plan* area. If the funding program has been established prior to the approval of the final map, payment of the Developer's share shall be made prior to approval of the final map.
 - **Status:** A letter needs to be submitted to the City agreeing to financially participate on a fair share basis in a funding program to design, install, and/or update any downstream sewers serving the *Marsh Creek Road Specific Plan* area.
Agreed, letter forthcoming after applicant reviews finanical information
- **Condition of approval #85:** Upon approval of the final map, the subdivision shall be annexed into the existing City of Clayton Street Light Assessment District.
 - **Status:** The subdivision will automatically be annexed at the time of acceptance of the subdivision improvements.
N/A

- **Condition of approval #87:** Prior to filing the final map, the Developer shall provide an interest bearing, non-refundable cash deposit or cash bond, in an amount to be determined by the City Engineer, for use by the City in the completion of the improvements as shown on the tentative map at some undetermined time in the future.
 - **Status:** The City Engineer has determined a bond for this condition is not required at this time for final map approval, but a surety bond maybe required in the future prior to the issuance of a grading or building permit.
- **Condition of approval #88:** Prior to approval of any grading or construction plans for maps, the Developer shall provide any necessary rights of entry, drainage easements, slope and/or grading easements, as may be required by the City Engineer, from adjoining property owners.
 - **Status:** Completed.
- **Condition of approval #90:** Upon recording the final map, the City shall be given full size, reproducible, photo mylar copy of the of the recorded map and an electronic file of the map in a form which can be imported into AutoCAD, and configured as directed by the City Engineer.
 - **Status:** This shall be provided following the acceptance of the final map.

Agreed

Staff recommends that West Coast Home Builders formally propose to amend this condition to require the bond prior to the issuance of a grading or building permit.

The following mitigation measures are applicable at the time of final map approval:

- **Mitigation Measure 20:** Prior to approval of the final map, the project developer shall furnish a report prepared by an acoustical engineer, that necessary features have been incorporated into the project to ensure that exterior noise exposure levels will not exceed 60 dB (Ldn), and interior noise levels will not exceed 45 dB (Ldn).
 - **Status:** A noise report from February 2005 was submitted recommending noise attenuating features for the project; however this mitigation measure requires these features to be incorporated into the project in order to ensure noise levels will not be exceeded. A follow up report needs to be submitted showing the incorporated features will ensure noise exposure levels will not exceed those stated above. The site plan review for this project has expired; therefore a report cannot be submitted showing the project plans address this mitigation measure.
- **Mitigation Measure 21:** The project developer shall pay a fair share contribution to the City of Clayton for impacts to city services (e.g. police, library, parks, administration, planning, maintenance, engineering) directly related to impacts of the proposed project. The payment shall be made at the time of occupancy of the project's first unit and shall be based on the findings of the fiscal impact study prepared for annexation.
 - **Status:** The City has not received payment for the Parkland Dedication fee, which totals \$12,845. Per the approved Development Impact fees, the Parkland Dedication fee is due at final map approval.
- **Mitigation Measure 22:** A benefit assessment district (or comparable mechanism, subject to City approval) shall be established to provide funding for maintenance of the perimeter, entry, and detention basin landscaping, as well as any public trails. Funding of the benefit assessment

Noise study forthcoming , during plan checking and review process

Fee's included

district shall fully account for increased costs including maintenance costs, capital replacement costs, and administration.

- o **Status:** The benefit assessment district or a comparable mechanism has yet to be established.

Forthcoming, submit during plan checking and review process

- Mitigation Measure 26: Prior to approval of the final map, the project developer shall agree to financially participate, on a fair share basis, in a funding program to plan, design, install, and/or upgrade any sewers serving the *Marsh Creek Road Specific Plan* area.

- o **Status:** A letter needs to be submitted to the City agreeing to financially participate on a fair share basis in a funding program to design, install, and/or update any downstream sewers serving the *Marsh Creek Road Specific Plan* area.

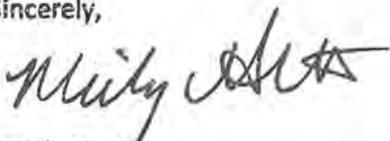
Agreed

Given the expiration of the use permit and the site plan review, the City of Clayton is recommending West Coast Home Builders request amendments to the conditions of approval as well as the mitigation measures contained within the Mitigated Negative Declaration. Without these amendments, the final map will not be able to be recommended for approval because the project will not be able to comply with the conditions of approval and the mitigation measures required for the project as outlined above. Further, since amendments to the conditions of approval are required prior to final map approval, staff is also recommending West Coast Home Builders include amendments to the conditions of approval that would remove the requirement of the benefit assessment district and have it replaced with a mechanism acceptable to the City such as an Homeowners Association.

Please submit the requested amendments; the final map revised per the City Engineer's 2014 comments; and a bond estimate to the City no later than the close of business on Tuesday, November 10, 2015 in order to provide the City time to process the request prior to the final map expiration. There is no guarantee that the amendments will be processed prior to the expiration of the tentative map; however this is the only available option given the unique situation where the tentative map approval is still active even though the local approvals have expired. This will also allow time for map review and preparation of the Subdivision Agreement.

If you have any questions or wish to discuss this matter in more detail, please contact me at (925) 673-7343 or mgentry@ci.clayton.ca.us.

Sincerely,



Mindy Gentry
Community Development Director

cc: Rick Angrisani, City Engineer

Oak Creek Canyon Annexation & Residential Subdivision
Mitigation Monitoring Program
ENV 02-03

Final – April 2005

The California Environmental Quality Act (CEQA) and CEQA Guidelines require Lead Agencies to adopt a program for monitoring the mitigation measures required to avoid significant environmental impacts of a project. The monitoring program 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 Environmental Study / Mitigated Negative Declaration for the Oak Creek Canyon annexation and residential subdivision are listed below along with the party responsible for implementation; 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.

9-1

Mitigation Measure	Implementing Parties	Monitoring Parties	Milestones for Monitoring	Verification
Mitigation Measure 1 - Aesthetics The proposed grading plan and associated subdivision map should be modified to eliminate grading within slope areas of 26% or greater. Alternatively, as allowed by the Hillside Development regulations, the project developer shall obtain specific direction from the Planning Commission and/or City Council to allow grading in such areas, and demonstrate that the proposed grading is in the spirit of the Hillside Development Ordinance and Safety Element of the <i>General Plan</i> .	Project Developer	Clayton Planning Commission	Prior to approval of Tentative Map	
		City Engineer	During grading	
		City Engineer	Review certification upon completion of grading	
Mitigation Measure 2 - Aesthetics The project developer shall prepare an oak tree preservation plan to minimize damage to on-site oak trees during the construction of the residential portion of the project. The plan shall be reviewed and approved by the Community Development Director prior to issuance of a grading permit and shall include but not limited to installation of protective fencing during construction, appropriate irrigation practices, and inclusion of appropriate oak tree preservation notes on grading and construction plans. Native trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees equal to 150% of the value of the original tree(s) to be preserved.	Project Developer	Community Development Department	Prior to issuance of grading permits	
		City Engineer	Prior to approval of Subdivision Improvement Plans	
Mitigation Measure 3 - Aesthetics Street lights shall be equipped with cut-off lenses and oriented in a downward fashion. Exterior residential lighting shall not create glare and shall minimize	Project Developer	Community Development Department	Prior to approval of Subdivision Improvement Plans	

Mitigation Measure	Implementing Parties	Monitoring Parties	Milestones for Monitoring	Verification
<p>spillover of light onto adjacent properties. As part of the subdivision improvement plans, the project developer shall submit photometrics for street lights which show proposed locations and levels of illumination.</p>		Community Development Department	Prior to approval of Site Plans	
<p>Mitigation Measure 4 – Air Quality The following measures shall be adhered to during all construction phases of the project:</p> <ul style="list-style-type: none">) Earthmoving or other dust-producing activities shall be suspended during periods of high winds (i.e., instantaneous wind gusts of 25 mph and greater);) Until stabilized by hydroseeding or other techniques, all exposed or disturbed soil surfaces shall be watered with a dust suppressant whenever construction activities occur, on days of high winds (including weekends and holidays), and as directed by the City Engineer;) Stockpiles of debris, soil, sand or other materials that can be blown by the wind, shall be watered or covered; d) Construction area and adjacent streets shall be swept of all mud and debris, since this material can be pulverized and later re-suspended by vehicle traffic; e) The speed of all construction vehicles shall be limited to 15 miles per hour while on the site; f) A compliance officer, responsible for implementation and monitoring, shall be identified as part of the grading permit process. 	Project Contractor	Clayton City Engineer	Prior to approval of Subdivision Improvement Plans	
		City Grading Inspector	During project construction	

9-3

Mitigation Measure	Implementing Parties	Monitoring Parties	Milestones for Monitoring	Verification
<p>Mitigation Measure 5 – Biological Resources The project developer shall provide written determinations from the California Department of Fish and Game and the San Francisco Bay Regional Water Quality Board regarding jurisdiction for the seasonal drainage. The written determinations shall be provided to the Community Development Department prior to issuance of any grading or construction permits. If either or both agencies determine that seasonal drainage is a jurisdictional wetland, the project developer shall obtain and all permits required by the respective agencies.</p>	Project Developer	Community Development Department	Prior to issuance of grading permit or building permit, which ever comes first	
		City Engineer	Prior to issuance of grading permit or building permit, which ever comes first	
<p>Mitigation Measure 6 – Cultural Resources Should archeological, historical, or Native American artifacts or remains be discovered during construction of the project, work in the vicinity of the find shall stop immediately until a qualified archeologist or paleontologist, as appropriate, can evaluate the site and determine the significance of the find. Project personnel shall not collect or alter cultural resources. Identified cultural resources shall be recorded on forms DPR 422 (archeological sites) and/or DPR 523 (historic resources). If human remains are found, the County Coroner shall be contacted immediately. These requirements shall be incorporated into all grading, excavation and constructions plans and specifications.</p>	Project Developer	Community Development Department	Prior to approval of Subdivision Improvement Plans	
		Grading Inspector	During project construction	

9-4

Mitigation Measure	Implementing Parties	Monitoring Parties	Milestones for Monitoring	Verification
<p>Mitigation Measure 7 – Geology and Soils An erosion control plan shall be prepared and approved by the City Engineer prior to the issuance of a grading permit for the project. The erosion control plan shall employ NPDES-related Best Management Practices as set forth by the Regional Water Quality Control Board (RWQCB). The plan shall include such items as installation of berms, silt fences, sedimentation basins and other measures should be taken to minimize off-site transport of soil. Topsoil should be stockpiled during grading and distributed over the ground surface after grading has been completed. Erosion-resistant vegetation should be planted on all exposed soil areas.</p>	Project Developer	City Engineer	Prior to issuance of grading permit	
		Grading Inspector	During grading operations	
<p>Mitigation Measure 8 – Geology and Soils The recommendations of the ENGEO geotechnical reports shall be incorporated into the construction plans for the West Coast residential project.</p>	Project Developer	City Engineer	Prior to approval of Subdivision Improvement Plans	
<p>Mitigation Measure 9 - Hazards The project developer shall provide homeowners with educational materials regarding proper storage and disposal of household hazardous wastes, including fuels, oils, paints, and solvents. The format and wording of the educational materials shall be approved in advance by the Community Development Director.</p>	Project Developer	Community Development Department	Prior to issuance of Certificates of Occupancy	
<p>Mitigation Measure 10 - Hazards a) Grading and construction plans and specifications for the project shall include the wording which specifies that construction contractors shall contact pipeline operators (e.g., Shell, Conoco-Phillips) at least</p>	Project Developer	City Engineer	Prior to approval of Subdivision Improvement Plans	

9-5

Mitigation Measure	Implementing Parties	Monitoring Parties	Milestones for Monitoring	Verification
<p>seventy-two (72) hours prior to start of construction activities to obtain detailed identification of underground oil pipes.</p> <p>b) Notification shall be provided on the deeds and California Department of Real Estate disclosure forms to future property owners regarding the presence of crude oil pipelines. The wording of the notification shall be approved by the Clayton Community Development Director and City Attorney.</p>		<p>Community Development Department and City Attorney</p>	<p>Prior to issuance of Certificates of Occupancy</p>	
<p>Mitigation Measure 11 - Hydrology Prior to commencement of any site work that will result in a land disturbance of one acre or more, the project developer shall provide evidence to the City that the requirements for a stormwater State General Construction Permit have been met.</p>	<p>Project Developer</p>	<p>City Engineer</p>	<p>Prior to issuance of a grading permit</p>	
<p>Mitigation Measure 12 - Hydrology Prior to commencement of any site work, including demolition of existing structures or site improvements, the project developer shall submit a completed Stormwater Pollution Prevention Plan (SWPPP) to the City Engineer. The SWPPP shall include:</p> <p>a) Sampling (pre-construction, during construction, and post-construction) of the stormwater outfall at Mount Diablo Creek for sediments generated by the project, in accordance with State General Permit regulations.</p> <p>b) Hydro-seeding or landscaping of all disturbed areas.</p> <p>c) Best Management Practices, including landscaping or hydroseeding of front and</p>	<p>Project Developer</p>	<p>City Engineer</p>	<p>Prior to approval of Subdivision Improvement Plans</p>	
		<p>City Engineer</p>	<p>Prior to issuance of grading permit</p>	

9-6

Mitigation Measure	Implementing Parties	Monitoring Parties	Milestones for Monitoring	Verification
<p>rear yards prior to acceptance of the subdivision.</p> <p>d) A site spill response plan.</p>				
<p>Mitigation Measure 13 - Hydrology</p> <p>The project developer shall submit a water quality plan addressing any direct or incremental degradation of downstream water quality. The impacts to downstream water bodies may be mitigated by methods such as:</p> <p>a) On-site retention and treatment of stormwater through the use of water quality basins, grassy swales, biofilters and/or other methods acceptable to the City Engineer and the RWQCB. The project shall mitigate run-off quantities to the extent currently required by the City's NPDES Permit and Municipal Separate Storm Sewer System permit, and/or</p> <p>a) Installation of on-site treatment facilities to remove total suspended solids and total petroleum hydrocarbon products generated by the project to the extent currently required by the RWQCB, or to the satisfaction of the City Engineer.</p> <p>The methods and designs shall be shown on the grading and improvement plans, as appropriate, for review and approval by the City Engineer.</p>	Project Developer	City Engineer	Prior to approval of Subdivision Improvement Plans	
		City Engineer	Prior to issuance of a grading permit	

4-7

<p>Mitigation Measure 14 - Hydrology All project contractors shall conform to the requirements of the "Best Management Practices for Construction Sites" required by the City, including detention and/or filter materials to preclude an increase in water quantity and quality impacts from debris and sediments entering the stormwater system over "non-development" conditions.</p>	Project Developer	City Engineer	Prior to approval of Subdivision Improvement Plans	
		City Engineer	Prior to issuance of grading permit	
		City Engineer	During construction	
		City Engineer	Removal of straw, waddling, etc.	
<p>Mitigation Measure 15 - Hydrology The developer shall dedicate to the City easements for drainage improvements. The volume and rate of stormwater runoff from the site shall be comparable to pre-development conditions to the maximum extent practicable. The project shall bear the financial responsibility of the construction and perpetual maintenance (including monitoring and reporting) of these facilities with a funding mechanism acceptable to the City that addresses costs for capital replacement, inflation, and administration.</p>	Project Developer	City Engineer	Prior to approval of Final Map	
<p>Mitigation Measure 16 - Hydrology The quantity and rate of stormwater runoff may take into consideration any applicable comments from the Contra Costa County Flood Control District to ensure that the quantity and creation of runoff from the site does not exceed historic rates and does not adversely impact downstream drainage facilities.</p>	Project Developer	City Engineer	Prior to approval of Final Map	
<p>Mitigation Measure 17 - Hydrology Lots 1-5 shall include deed restrictions which provide City and other public agency personnel with the right of entry and access to inspect all on-site stormwater control devices, if any, located on private property.</p>	Project Developer	City Engineer	Prior to approval of Final Map	

8-6

<p>Mitigation Measure 18 - Hydrology The project developer shall provide all project property owners with Clean Water Program educational materials.</p>	Project Developer	Stormwater Manager	Prior to issuance of Certificates of Occupancy	
<p>Mitigation Measure 19 - Hydrology The deeds for Lots 1 and 2 shall contain wording which notifies future owners of the potential serious risks to the respective owners and residents from failure of the Contra Costa Water District Seminary Water Tank and subsequent inundation of the respective lots and property. The notification wording on the deed shall be subject to the review and approval by the Community Development Director.</p>	Project Developer	Community Development Department	Prior to issuance of Certificates of Occupancy	
<p>Mitigation Measure 20 - Noise Prior to approval of the final map, the project developer shall furnish a report prepared by an acoustical engineer, that necessary features have been incorporated into the project to ensure that exterior noise exposure levels will not exceed 60 dB (Ldn), and interior noise levels will not exceed 45 db (Ldn). Features to reduce exterior noise levels may include shielding of outdoor activity areas with buildings and construction of acoustically-rated fences. Methods to reduce indoor noise levels to acceptable level includes air conditioning of dwellings and installation of sound-rated windows. If the acoustical report recommends installation of a soundwall, the report shall examine the off-site impacts of any reflected noise. In addition, the City may amend <i>Specific Plan</i> Policy DD-13c to allow masonry sound walls in situations specifically approved by the Planning Commission where a finding is made that sound wall is necessary to mitigate noise levels to levels consistent with the <i>General Plan</i>.</p>	Project Developer	City Engineer	Prior to approval of the Final Map	
		Clayton Planning Commission	Prior to approval of Final Map	

b-6

<p>Mitigation Measure 21 – Public Services The project developer shall pay a fair share contribution to the City of Clayton for impacts to city services (e.g., police, library, parks, administration, planning, maintenance, engineering) directly related to impacts of the proposed project. The payment shall be made at the time of occupancy of the project’s first unit and shall be based on the findings of the fiscal impact study prepared for the annexation.</p>	Project Developer	Community Development Department	Prior to issuance of building permits	
<p>Mitigation Measure 22 – Public Services A benefit assessment district (or comparable mechanism, subject to City approval) shall be established to provide funding for maintenance of the perimeter, entry, and detention basin landscaping, as well as any public trails. Funding of the benefit assessment district shall fully account for increased costs including maintenance costs, capital replacement costs, and administration.</p>	Project Developer	City Engineer	Prior to issuance of first building permit	
<p>Mitigation Measure 23 – Public Services Prior to the commencement of grading or construction activities, the project developer shall submit a recycling plan for construction and demolition materials, to the City for review and approval. The plan shall include that all materials that would 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 project developer shall submit a performance deposit, as established in the project’s conditions of approval to the City to ensure recycling of demolition materials. In addition the project developer shall cover all staff costs related to the review, monitoring and enforcement of this condition through the deposit account.</p>	Project Developer	Assistant to the City Manager	Prior to issuance of demolition, grading, or building permit, whichever is first	

9-10

<p>Mitigation Measure 24 – Traffic The project developer shall contribute their fair share to a traffic calming/control fund for improvements such as installation of rumble strips, a flashing yellow light (on an interim basis), and/or a traffic signal (on a permanent basis) at or east of the project entrance road. A traffic signal could regulate flow of traffic on Marsh Creek Road and allow breaks in the traffic on Marsh Creek Road for the project and local residents to more easily enter onto or exit from Marsh Creek Road.</p>	Project Developer	City Engineer	Prior to approval of Final Map	
<p>Mitigation Measure 25 - Traffic The project developer shall prepare a construction traffic plan to ensure construction traffic safely enters and exits the project site. The construction traffic plan shall include proper warning devices for traffic on Marsh Creek Road.</p>	Project Developer	City Engineer	Prior to approval of Subdivision Improvement Plans	
<p>Mitigation Measure 26 – Utilities and Service Systems Prior to approval of the final map, the project developer shall agree to financially participate, on a fair share basis, in a funding program to plan, design, install, and/or upgrade any sewers serving the <i>Marsh Creek Road Specific Plan</i> area.</p>	Project Developer	City Engineer	Prior to approval of Final Map	

ENV\2003\02-03-MMP-Final

9-11

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

West Coast Home Builders, Inc.
4021 Port Chicago Hwy.
Concord, CA 94520

Attn.: Legal Dept.

RECEIVED

DEC 14 2015

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

**DISCLOSURES AND DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
OAK CREEK CANYON, SUBDIVISION 6826**

PREAMBLE

The disclosures and covenants, conditions, and restrictions set forth herein were prepared by the developer, West Coast Home Builders, Inc., a California corporation ("**Declarant**"), of Oak Creek Canyon, Subdivision 6826 (the "**Subdivision**" or "**Project**"), to provide information to prospective homebuyers and other persons interested in the Project of certain obligations imposed on, and rights and privileges granted to, Owners of Lots within the Subdivision.

Declarant recommends that each prospective homebuyer and Owner of a Lot within the Subdivision thoroughly familiarize themselves with the information contained herein and seek independent advice for clarification of any items set forth herein.

DISCLOSURES

1. **PROXIMITY TO AIRPORT.** The Buchanan Airport is located within ten (10) miles of the Subdivision. The Subdivision is under, or in close proximity to, the airport's traffic patterns and is subject to aircraft overflights and associated noise.
2. **FIRE BREAK.** The Contra Costa Consolidated Fire Protection District requires homeowners to maintain an effective fire break by removing and clearing flammable vegetation and combustible growth from areas within thirty (30) feet of buildings or structures.
3. **RESALE AND RENTAL SIGNS.** Buyer acknowledges and understands that Declarant desires to develop a stable community of owner-occupied homes, to protect property values, and to enhance the availability of financing for homes in the community. Buyer agrees that for the two (2) year period following the close of escrow, or until the sale by Declarant, of the last home in the Subdivision, whichever occurs first, Buyer shall not place any signage on or near its Lot advertising the sale or rental of its home.
4. **FUTURE DEVELOPMENT.** Buyer acknowledges that development may occur in the areas surrounding its new home. Declarant has no control over what happens in the future with privately owned land near the Subdivision. Please be aware that with development

comes the installation of necessary public facilities, such as sewer, water, storm drain, roadways, sidewalks, and utilities. Periodic interruption of such services may occur during scheduled or unscheduled shut-downs. Construction activities may cause disruption to the flow of traffic in areas used to access the Subdivision.

5. **FUTURE ROAD EXTENSION.** Buyer acknowledges that Sage Lane may be extended in the future to the east of the Subdivision as part of future land development in this area. Buyer acknowledges that this may result in additional traffic, including truck traffic, on Sage Lane during construction of such development and additional traffic due to the increase in residential housing.
6. **PRIVATE STREET MAINTENANCE (SAGE LANE).** Buyer acknowledges that Sage Lane is a private street. The Owners of homes in the Subdivision will be subject to a maintenance agreement for the maintenance and repair of Sage Lane. Buyers acknowledge that the City has no responsibility to repair or maintain the street improvements, unless and until a dedication thereof is made to and accepted by the City.. Declarant makes no representation or guarantee whether or when such street dedication will be made or accepted by the City.. Buyer also acknowledges that the City "may or may not", in the future accept Sage Lane as a public road.
7. **PRIVATE STREET MAINTENANCE AGREEMENT (SAGE LANE).** Buyer acknowledges that the Owners of Lots 1 through 5 will maintain and repair the private storm drain, located on "Lot 6", street lights, and street per the recorded Private Street Maintenance Agreement for Sage Lane recorded on _____, as Instrument No. _____, Contra Costa County Records. Buyer further acknowledges that the street improvements affected by this Declaration are private. The City has no responsibility to repair or maintain the street improvements, unless and until a dedication thereof is made to and accepted by the City.. Owners are required to undertake and complete such maintenance or repairs which meet City/ County standards for privately maintained street improvements. Buyer should refer to the Private Street Maintenance Agreement (Sage Lane) for more information.
8. **POLICE SERVICES DISTRICT.** Buyer acknowledges that the Subdivision is within the City of Clayton and under the City of Clayton Police department and Contra Costa County Sheriff's Department. Buyer acknowledges that there is a special tax that is payable annually, through property taxes, to maintain and augment police services. Buyer should contact City of Clayton and Contra Costa County for further information.
9. **MARSH CREEK ROAD.** Buyers are hereby informed that their new home will lie within close proximity to Marsh Creek Road. All noise and activities associated with the road of this nature are to be expected. Road maintenance may occur at any time throughout the day or night without notification. The road regularly experiences heavy traffic during commute hours and other undetermined times of the day. Your new home has been engineered according to certain sound requirements that may include specialized windows to minimize transmission of this road noise through closed windows. However, regardless of the efforts taken to minimize the impact of road noise within your new home, you may still experience some noise at any time during the day or night.
10. **CENTRAL CONTRA COSTA SANITARY DISTRICT.** The Central Contra Costa Sanitary District owns and operates a sewage treatment facility in the northwesterly direction of the Subdivision. This treatment facility operates twenty-four (24) hours a day seven (7) days

a week. Unpleasant odors associated with a facility of this type can be expected depending upon the direction of the wind at any given time.

11. **REZONING.** Buyers acknowledge that rezoning of properties adjacent to the Subdivision may be proposed in the future.
12. **VIEWS.** If Buyer is purchasing a home it perceives as having a view, Buyer should be aware that the view as seen from its home today is not guaranteed. Existing views may be altered or impaired by future construction within or surrounding the Subdivision, by growth of vegetation or trees, by fences, or by other factors not presently known. Declarant makes absolutely no representation as to the scope or extent of any view now or in the future.
13. **WATER RIGHTS.** Declarant reserves unto itself, its successors, and its assigns, all the subsurface water now or hereafter found or located in all or any part of the land above-described lying below the surface thereof, and expressly reserves the right to grant leases for such water without the right to enter upon the surface of said land for the purpose of recovering such water.
14. **HOUSE AND LOT SALES PRICE.** Buyer acknowledges that Declarant will be selling houses and Lots in the Subdivision and in the area around the Subdivision to other buyers in the future. Those houses and Lots may be larger, smaller, or similar to the house and Lot which Buyer is purchasing. The price which Buyer is paying for its house and Lot may fluctuate in the future, as with any investment, because of changing market conditions over which Declarant has little or no control. Declarant makes no representation or warranty that in the future the houses and Lots which are the same or similar to the one being purchased by Buyer will not sell for less than the price being paid by Buyer. Declarant reserves the right to change the prices upward or downward at any time.
15. **GEOLOGICAL CONDITIONS.** The Uniform Building Code, Chapter 33, provides for local building officials to exercise preventive measures during grading to eliminate or minimize damage from geologic hazards such as landslides, fault movements, earthquake shaking, rapid erosion, or subsidence. This Project is located in an area where some of these hazards may exist. Some California counties and cities have adopted ordinances that may or may not be as effective in the control of grading and site preparation. Buyers may discuss with the developer, the developer's engineer, the engineering geologist, and the local building officials to determine if the above-mentioned hazards have been considered and if there has been adequate compliance with Chapter 33 or an equivalent or more stringent grading ordinance during the construction of this Subdivision.

The property being offered for sale has been built on soils in Northern California which are known to be expansive in nature. As a result of this natural behavior, when the soils are wetted they have a tendency to swell and when dry, they shrink in volume. Buyers acknowledge that this movement can result in cracks occurring in concrete, stucco, drywall, and other surfaces. Buyer holds Declarant, its contractors, engineers, consultants, and its allied entities harmless from any damages resulting therefrom.

A Geotechnical Report for the Project was prepared by ENGEQ, Inc. dated February 22, 2008, and is available from the City for review upon request. Prior to doing any additional construction, Buyer should first obtain the advice of a qualified person experienced in construction practices and obtain County permits.

16. **LANDSCAPE.** Due to the soils in this area, additional watering will be needed to keep landscaping green and alive. Buyer should also be aware of the California is under a water conservation requirements during drought seasons and be aware that there will be added costs or fines associated with such frequent watering.
17. **WIND, DUST, AND PEST CONDITIONS.** The Subdivision, and adjoining property owned by Declarant and others, is located within an area which experiences consistent, gusty, high wind conditions.

As development and construction activities within and surrounding the Subdivision progresses, which may continue for at least fifteen (15) years, the gusty, high wind conditions may cause dust to infiltrate residential dwellings located within the Project, as well as cause construction debris to blow onto the Lots. While a nominal amount of dust and debris will often be anticipated as a result of typical development and construction activities, Buyers of Lots within the Project are cautioned that they may experience a significantly higher amount of dust infiltration and debris due to the geographical location of the Subdivision within an area which experiences gusty, high wind conditions. As a consequence, Buyer and other Owners of Lots within the Project may experience disruption of their lifestyle. In addition, the health of persons susceptible or prone to respiratory ailments will be aggravated by the wind and dust conditions.

Frequently, concurrent with grading operations, ground dwelling pests can be disturbed. These may include ants, bees, and small rodents. Buyers may experience a temporary infestation of these pests as they migrate to new nesting areas. Treatments commercially available at Buyer's local hardware store will usually eliminate any inconvenience caused by these temporary infestations should they occur. On rare occasions, a professional pest control company may have to be contacted if these treatments do not provide the degree of control Buyer feels is necessary.

18. **MOLD.** There has been a lot of recent publicity about mold. Mold is everywhere. The newspaper reports on the level of mold in the air that we breathe. Foods that are considered delicacies are related to certain molds such as cheese, wines, aged meats, etc. Some life-saving medicines are products of mold. It is also true that some individuals are more sensitive to mold exposures even though most people are not.

Mold needs moisture to produce itself. Moisture can come from many sources such as bathing, cooking, or having many people gathered in small area. Ventilation is important to prevent mold. Exhaust fans have been installed in Buyer's residence that should be used regularly. Windows and doors can be opened in good weather to further ventilate Buyer's home.

Buyer should be aware of any leaks that may occur in its home from appliances, possible window leaks, or other problems. Always make sure that the problem is immediately corrected and the area is thoroughly dried.

Buyer should periodically undertake preventive maintenance, such as caulking tubs and showers, resealing outside windows and siding, etc.

19. **POST TENSION SLABS.** The foundation of the home Buyer is purchasing has been built using a post-tension concrete system. This technique uses steel cables under high tension placed within the concrete slab. These cables must remain intact and not be disturbed or interrupted because the integrity of the system could easily be damaged or disrupted. CUTTING AND PENETRATING INTO THE CONCRETE SLAB, FOR WHATEVER REASON, MAY RUPTURE THE POST-TENSIONED CABLES AND/OR CAUSE SERIOUS PERSONAL INJURY AND SIGNIFICANT PROPERTY DAMAGE FOR WHICH DECLARANT SHALL NOT BE RESPONSIBLE.
20. **MAIL SERVICE.** The Postal Service may inform Declarant that, according to Federal Postal Service regulations, mail boxes in new developments may be clustered rather than located at each individual residence. This will require homeowners to pickup their mail at a box, which may be some distance from their home, but within the immediate neighborhood. Residents in the Subdivision and their guests are prohibited from parking in front of the mail box clusters at any time. Questions regarding mail service should be directed to the U.S. Post Office.
21. **HIGH VOLTAGE TRANSMISSION LINES.** The Project may be located near High Voltage Electric Transmission Lines. Owners should be aware that a number of research studies are now under way to determine if magnetic fields pose any health risk and, if so, what aspect of the fields might be harmful. As a result of a 1993 decision by the California Public Utilities Commission, a research and information program has been established. This program is managed by the California Department of Health Services and funded by utility ratepayers. The purpose of the program is to perform research and policy analysis, and provide education and technical assistance to benefit Californians. Until more is known, Buyer's best strategy is to stay informed. For more information, call the California Department of Health Services at (510) 622-4500 (callers should ask for "information about EMF's" to reach the proper party), or call Pacific Gas and Electric Company at (800) 743-6000 to request an informational brochure or to ask specific questions about a particular area.
22. **AGRICULTURAL AREA.** CATTLE GRAZING AND/OR CROP FARMING MAY OCCUR IN THE OPEN SPACES ADJACENT TO THIS SUBDIVISION. These open spaces are privately owned and have restricted access. Cattle grazing is an acceptable form of weed abatement. As a result, residents of this Project may be subject to inconvenience or discomfort from the following operations: cultivation and tillage of the soil; burning or agricultural waste products; lawful and proper use of agricultural chemicals, including, but not limited to, the application of pesticides and fertilizers; production, irrigation, growing, harvesting, and processing of any agricultural commodity, including horticulture, apiculture, the raising of livestock, and commercial practices performed as incident to or in conjunction with such agricultural operation, including preparation for market, delivery to storage or market, or to carriers or transportation to market. These operations will generate dust, smoke, noise, and odor.
23. **FIRE SPRINKLER SYSTEMS.** The homes in the Project have been designed with automatic interior fire-suppression sprinkler systems that meet the design standards of the Consolidated Fire Protection District. This provision is required at least in part so as to allow a General Plan consistency determination associated with the approval of the Oak Creek Canyon Subdivision.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

DRAFT

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

THIS DECLARATION is made on the date hereinafter set forth by West Coast Home Builders, INC., a California corporation, herein referred to as "**Declarant.**"

SECTION 1
RECITALS

1.01 **DESCRIPTION OF REAL PROPERTY.** Declarant is the owner of that certain real property in the City of Clayton, State of California, which is more particularly described as follows:

Lots: 1 through 5 and Parcel A, inclusive, of Subdivision 6826, Oak Creek Canyon, recorded in the Official Records of Contra Costa County on _____, 2015, in Book _____ of Maps, at Page ____.

THEREFORE, Declarant hereby declares that the real property as described above shall be held, conveyed, mortgaged, encumbered, used, occupied, sold, and improved subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of this Project, in accordance with the plan for improvement of the Subdivision and the division thereof into Lots. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants which shall run with the land, be enforceable as equitable servitudes, and shall be binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the property or Project.

SECTION 2
DEFINITIONS

In addition to other definitions provided for herein, the following terms shall have the following meanings:

- 2.00 "CITY" shall mean City of Clayton, a California Municipal
- 2.01 "COUNTY" shall mean Contra Costa County, California, the County in which the Project is located. The Project is under the jurisdiction of the County.
- 2.02 "DECLARANT" shall mean West Coast Home Builders, Inc., a California corporation.
- 2.03 "DECLARATION" shall mean this Declaration and any amendments, modifications, or supplements thereto.
- 2.04 "DECLARATION OF ANNEXATION" shall mean any instrument recorded in Contra Costa County, which extends the provisions of this Declaration to all or a portion of the Additional Property.
- 2.05 "IMPROVEMENTS" shall mean all structures and improvements on the Project, including, but not limited to, buildings, paving, fences, signs, and landscaping.
- 2.06 "LOT" shall mean any parcel of land shown on the Map and any other parcel of land designated as "Lot" in any recorded supplement to the Declaration.

- 2.07 "MAP" shall mean that recorded Subdivision Map entitled "Oak Creek Canyon, Subdivision 6826."
- 2.08 "MORTGAGE" shall mean a mortgage or deed of trust encumbering a Lot or other portion of the Project.
- 2.09 "MORTGAGEE" shall mean the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage.
- 2.10 "OWNER" or "OWNERS" shall mean the record holder or holders of title, if more than one, to any Lot in the Project. This shall not include contract sellers or persons, or entities having any interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale (or a recorded memorandum of such contract) to a purchaser who resides on the Lot in a Unit, then such purchaser, rather than the fee Owner, shall be considered the "Owner" as long as such purchaser resides on the Lot in a Unit as a contract purchaser.
- 2.11 "PROJECT" shall mean the entire real property described as follows:
- Lots: 1 through 5 and Parcel A, inclusive, of Subdivision 6826, Oak Creek Canyon, recorded in the Official Records of Contra Costa County on _____, 2015, in Book ___ of Maps, at Page ___.
- 2.12 "PROJECT DOCUMENTS" shall mean and include this Declaration, as amended from time-to-time, the exhibits, if any, attached hereto, together with the other basic documents used to create and govern the Project, including the Map.
- 2.13 "STREET" shall mean any street, highway, or other thoroughfare shown on said Map, regardless of what name or term shall be used on said Map to designate such street, highway, or thoroughfare.
- 2.14 "UNIT" shall mean a detached or attached dwelling structure on a Lot.

**SECTION 3
EASEMENTS AND USE RESTRICTIONS**

- 3.01 **EASEMENTS.** In addition to any and all other easements contained in this Declaration, the Properties shall be subject to the following easements:
- (a) **EASEMENTS FOR UTILITIES AND MAINTENANCE.** Easements over and under the Project, as shown on the Map, and as may hereafter be required or needed to service the Project, are hereby reserved by Declarant and its successors and assigns, together with the right to grant and transfer the same.
- (b) **ENCROACHMENT EASEMENTS.** Each Lot within the Project is hereby declared to have an easement over all adjoining Lots for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement, or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement, or shifting; provided, however, that in no event

shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist. Adjacent properties may also have encroachment easements which are not mentioned in this document.

(c) PUBLIC ACCESS EASEMENT (P.A.E.) and Public Pedestrian Access Easement (P.P.A.E). The Homeowners will be responsible for the maintenance, repair, and/or replacement of all the improvements within the P.A.E. and P.P.A.E. No structure, planting, or other materials shall be placed or permitted which may damage or interfere with the P.A.E. and P.P.A.E. In the event that Contra Costa County Public Works or the City of Clayton or Police or Fire Department needs to access the P.A.E. and P.P.A.E., they will be permitted. Please refer to the Map for the location of the P.A.E. and P.P.A.E.

(d) PUBLIC UTILITIES EASEMENT (P.U.E.). Public utilities, including, but not limited to, electricity, gas, telephone, and cable have been installed within a three (3) to five (5) foot easement, which lies parallel to the roads located within the Project. Please refer to the Map for the exact location of the P.U.E., as it may be strategically placed in differing locations within the Project.

(e) STORM DRAIN EASEMENTS (S.D.E.). The Homeowners will be responsible for the maintenance, repair, and/or replacement of the private S.D.E. area, including construction, access or maintenance, of works, improvements, and structures, whether covered or open, or the clearing of obstructions and vegetation. No structure, planting, or other materials shall be placed or permitted to remain, which may damage or interfere with the installation and maintenance of the public S.D.E., or which may change the direction of flow of drainage channels in the Easement, or which may obstruct or retard the flow of water through drainage channels in the Easement. There are access gates installed so in the event that Contra Costa County Public Works or the City of Clayton needs to access this drainage line for any reason, they will have such ability. At no time are these gates to be locked with any device that would prevent access by City/ Public Works personnel. Please refer to the Map for the location of the Private Storm Drain Easements.

(f) PRIVATE STORM DRAIN EASEMENT (P.S.D.E.). All of the P.S.D.E.'s mentioned herein are the sole responsibility of the Owners of the affected Lots 1-5, No structure, planting, or other materials shall be placed, or permitted to remain, which may change the direction of flow of drainage channels in the Easement, or which may obstruct or retard the flow of water through drainage channels in the Easement. All repair and/or maintenance of the private storm drains on these properties are the responsibility of the Owners. Please refer to the Map for the location of the Private Storm Drain Easements.

(g) WATERLINE EASEMENT. The Contra Costa Water District will be responsible for the maintenance, repair, and/or replacement of any water easement areas, including construction, access, or maintenance of works, improvements, and

structures, weather covered or open, or the clearing of obstructions and vegetation. No structure, planting, or other materials shall be placed, or permitted to remain, which may damage or interfere with the installation, operation, or maintenance of any waterline easements, or which may obstruct or retard the flow of water through pipes in the easement.

- (h) SANITARY SEWER EASEMENT (S.S.E.). Central Contra Costa Sanitary District will be responsible for the maintenance, repair, and/or replacement of any sewer facilities, including construction, access or maintenance of works, improvements, and structures, or the clearing of obstructions and vegetation. No structure, planting, or other materials shall be placed, or permitted to remain, which may damage or interfere with the installation, operation, or maintenance of any sewer line easements, or which may obstruct or retard the flow of sewage through pipes in the easement.

3.02 GRADING EASEMENTS. Certain Lots within the Subdivision may be subject to temporary grading easements in favor of adjacent, undeveloped properties. The adjacent property Owners, in the course of developing their property, may need to encroach up to ten (10) feet into the rear yards of the affected Lots to access with construction vehicles, install storm drains and/or v-ditches, and re-grade a portion of the rear yards. On behalf of such adjacent property Owner, Declarant retains the right to encroach into the Subdivision Lots 5, remove the fencing and other improvements, install the necessary storm drains and or v-ditches, and re-grade such areas. The adjacent property Owner shall promptly thereafter replace the fencing and improvements using like-kind materials. The adjacent property Owner shall repair any property damaged as a result of such grading activities and shall return the Owner's property to substantially the same condition as it was prior to any grading work.

3.03 RAIN GUTTERS, DOWNSPOUTS, AND LOT DRAINAGE. Buyer's home has been improved with the installation of rain gutters and downspouts to control the flow of rainwater off the roof and sides of the home. The downspouts direct water to a subsurface system of drainage pipes, which empties out over the City curb into the City's storm drain system. This system was designed to move water away from the foundation of the home and is an integral part of the design for the structural soundness of the home. It is Buyer's responsibility to inspect, maintain, and keep these drainage pipes clean and clear of any debris. Any alteration of this system can lead to ponding and other water collection points on the Project, which may then lead to uneven saturation of underlying soils and result in uneven movement of the soils underlying the home. This uneven movement of underlying soils could result in damage to the foundation and structure of the home and any other Lots shown on the Map.

3.04 DRAINAGE. Each Lot within the Project has been graded in accordance with Improvement/Grading Plans prepared by licensed civil and soils engineers. These plans are on file with the City Of Clayton. The plans provide for positive drainage of surface waters away from the entire foundation line of the house on each Lot. Drainage is to the Lot front, Lot rear, or Lot side, as the case may be, for ultimate off-site disposal. Such drainage is accomplished by positive grading, by cutting drainage swales or channels on the surface of the Lot, and by catch basins connected by underground piping. No Owner shall alter the Lot in any manner which will interfere with the established positive grading, including, but not limited to, alterations through the installation of landscaping, retaining walls, decks, concrete patios, walkways, driveways, parking areas, and flower boxes without first obtaining the professional advice of an engineer or other qualified

person experienced in grading and drainage practices. These lots may have "V" or "J" ditches existing for Subdivision drainage purposes. Homeowners of those Lots are solely responsible for the maintenance of these ditches. If failure to do so by the homeowner results in damage to its own or another homeowner's property, the defaulting homeowner is solely responsible for such damage. Each Owner shall keep all catch basins and related piping, and all downspout piping, free and clear of all debris. These homes may or may not have french drain systems in their underfloor areas. In the event that water should go underneath the house, these drains are designed to collect and divert the water into the main drainage system for the Project. These collection pipes may need to be flushed out from time-to-time to ensure reliable operation. The maintenance of this drain system is solely the responsibility of the homeowner. The Owners of each Lot shall also be responsible to maintain the drainage of its Lot in such a manner so that no surface waters will drain or run-off onto an adjoining Owner's Lot, or obstruct the free flow of waters along the established drainage pattern. In the event an Owner of an upstream property fails to keep said drainage systems fully functional and damage to adjoining properties may result, the Owners of those properties threatened, under the authority of this easement, may enter the source property, and commence to fix the problem at their will to prevent further loss of property due to lack of drain maintenance. Catch basins and piping shall be kept clean and clear of any debris. In addition, planted areas should be avoided immediately adjacent to the dwelling foundation. Irrigation systems are not permitted within three (3) feet of the dwelling foundations. If water is allowed to saturate the soils around the perimeter of the dwelling foundation, then water could accumulate and pond under the dwelling with adverse affects to the integrity of the dwelling and foundation. **ANY ALTERATIONS TO A LOT, PARTICULARLY TO THE ESTABLISHED GRADING AND DRAINAGE THEREOF, MAY RESULT IN ADVERSE AFFECTS TO THE INTEGRITY OF THE BUILDING CONSTRUCTED UPON THE LOT OR UPON ADJOINING LOTS. BUYER ACKNOWLEDGES THESE FACTS AND AGREES TO HOLD DECLARANT AND THEIR CONTRACTORS, ENGINEERS, CONSULTANTS, AND THEIR ALLIED ENTITIES HARMLESS FROM ANY DAMAGES RESULTING THEREFROM.**

- 3.05 **SLOPES AND RETAINING WALLS.** Portions of Lots, as designed on the Map, have slopes or retaining walls located on them. These slopes and walls were installed to assure the continued stability and structural integrity of each individual Lot. Each Owner is responsible for the maintenance and repair of any slopes and retaining walls located on its Lot.

No excavation, drilling, trenching, or other earth moving activities, such as those related to installation of retaining walls, swimming pools, or other underground structures shall be performed within a slope control area ("SCA") to avoid damage to the slope easement, and no modification or removal of a retaining wall or graded area shall be undertaken without first obtaining (a) the professional advice of a structural engineer for the design of the structure, (b) written approval from a soils engineer approving the grading and structure being installed, (c) a building permit from the County, and (d) inspection by the County prior to and after the installation has been completed. The installation of permanent irrigation systems within the SCAs is prohibited to avoid any detrimental saturation and possible erosion and/or slippage. **MODIFICATION OR DAMAGE TO THE SLOPE CONTROL AREA, A SLOPE, OR RETAINING WALL COULD ADVERSELY AFFECT THE STABILITY OF THE HOUSE CONSTRUCTED UPON THE LOT AND OTHER HOUSES IN THE SURROUNDING NEIGHBORHOOD.**

**SECTION 4
USE RESTRICTIONS**

- 4.01 **USE OF LOTS.** No Lot, or any portion thereof, shall be occupied and used except for single-family residential purposes by the Owner, their contract purchasers, lessees, tenants, or social guests. No trade, or business, or commercial activity shall be carried on or conducted upon any Lot, except that Declarant, its successors or assigns, may use any Lot in the Project owned by Declarant for a model home site and display and sales office during construction and until the last Lot is sold by Declarant. The provisions of this Section shall not prohibit home occupations as long as they are permitted by local law and are conducted in such a manner as to not adversely affect other Owners' use and enjoyment of the Project. No additional Homes are to be built on each lot
- 4.02 **GARAGES.** Each Owner shall keep its garage area in a neat and orderly condition. Garage doors shall be kept closed when not in use. Each Owner shall be entitled to the exclusive use of the driveway serving its garage and shall keep said driveway clean and free of debris.
- 4.03 **PARKING.** No commercial vehicles exceeding one and one-half (1½) ton gross weight shall be parked, or kept, or permitted to remain on Sage Lane or front of any residential Lot of any driveway overnight, nor shall any such vehicles be parked in front of any residential Lot or any driveway during the daytime for a longer period than is reasonably necessary to load or unload such vehicle. No recreational vehicle shall be permitted to park or be stored for a period exceeding seventy-two (72) hours in the front setback area of a Lot, or any area of a Lot situated between the residence and a public street. Said vehicles shall be screened from view from the adjacent public street and all adjoining Lots.
- 4.04 **LANDSCAPING.** Each Owner shall be responsible for all landscaping, street trees, fences, masonry block walls, and wood retaining walls (precast or retaining) that are located within their Lot. Each Owner will also be responsible for maintaining this landscaping to keep an aesthetically pleasing appearance consistent with landscaping on adjacent properties for the duration of ownership of the property. Owners shall also acknowledge that in the future, should they sell the property, the new purchaser shall be made aware of this landscape maintenance agreement, and be held to it as a new resident of this neighborhood per Section 5.12 of this document. If landscaping on the Lot is not installed by Declarant, each Owner shall be responsible for installing and maintaining front and front-side yard landscaping within its Lot within six (6) months after the close of escrow.
- 4.05 **FENCING.** All fencing shall be reviewed and approved by the County.
- 4.06 **SIGNS.** No sign of any kind shall be displayed to the public view on or from any Lot or any portion of the Project without the approval of the County as required by the Municipal Code, and except as follows:
- (a) One sign of not more than eighteen (18) inches by twenty-four (24) inches advertising a Lot for sale, lease, rent, or exchange displayed from a Lot; and
 - (b) Such signs as may be used by Declarant or its assignees in connection with the development of the Project and sale of Lots; and

- (c) Such other signs or notices as are required by law or as are otherwise necessary to perfect a right provided for in law.
- 4.07 **ANIMALS.** Owners shall comply with the County's ordinance for animals. In addition to the ordinances, no animals, reptiles, rodents, fish, livestock, poultry, or birds of any kind shall be raised, bred, or kept on any Lot or portion of the Project; except that no more than three (3) usual and ordinary household pets such as dogs, cats, fish, reptiles, or birds may be kept, provided that they are not kept, bred, or maintained for any commercial purposes, and they are kept under reasonable control at all times. Notwithstanding the foregoing, no pets may be kept on the Project which result in an annoyance or nuisance to other Owners.
- 4.08 **TRASH; STORAGE OF MATERIALS.** All garbage and trash shall be regularly removed from the Project and shall not be allowed to accumulate thereon. It shall be placed and kept in covered sanitary containers where it is not visible from any neighboring Lot, except for a reasonable time prior to or after collection. All woodpiles or storage piles shall be kept screened and concealed from view of other Lots. Garbage and trash shall be placed for pick up as required by the disposal service company.
- 4.09 **ANTENNAE; ROOF PROJECTIONS.** Except for any antennae, chimneys, vent stacks, or other items or equipment upon or projecting from the roof which are installed by Declarant as part of the initial improvements, no such item or equipment shall be erected or maintained upon the outside of any building on the properties unless the same has been approved by the County. Satellite dishes up to eighteen (18) inches in diameter may be installed so long as it is not installed on the front of the home or Lot and is arranged in a location below the roofline. When at all possible, all satellite dishes will be installed in the least conspicuous location so as to minimize visibility of the unit. Wiring shall be painted to the color of the background material.
- 4.10 **RIGHT TO LEASE.** No Owner shall be permitted to lease or rent its Lot for transient or hotel purposes, which shall include, but not be limited to, rental for any period less than thirty (30) days. All leases must be in writing and be expressly subject to the Project Documents, and the breach of any provision shall be a default under the Lease or Rental Agreement. The Owner shall provide the lessee with a copy of this Declaration and any other documentation that pertains to this Project.
- 4.11 **ARCHITECTURAL APPROVAL.** No building, fence, wall, obstruction, screen, awning, or structure of any kind shall be commenced, erected, or maintained upon the Project, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the County. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such improvements, alterations, etc. shall be submitted to the County for approval as to quality of workmanship and design, and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation.
- 4.12 **WINDOW COVERINGS.** Windows shall be covered by drapes, shades, or shutters and shall not be painted or covered by foil, cardboard, newsprint, or similar materials.
- 4.13 **POWER EQUIPMENT AND CAR MAINTENANCE.** No power equipment or work shops for car maintenance of any nature shall be permitted on the Project that would affect the noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objection.

- 4.14 **NUISANCES.** No noxious, illegal, or seriously offensive activities shall be carried on within any Lot, or in any other part of the Project, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to, or which may in any way interfere with the quiet enjoyment of each Owners' Lot.
- 4.15 **OWNER'S MAINTENANCE OBLIGATIONS.** Each Owner shall be responsible for maintaining and repairing its Lot, keeping it clean, and replacing necessary items so it does not interfere with the sale of another Lot in the Subdivision.
- 4.16 **SETBACKS.** All buildings shall be located on the Lot in conformance with the County's set-back regulations or, in the event a set-back waiver or amendment is obtained as to any Lot, in accordance with said set-back waiver or amendment.
- 4.17 **HOUSE MODIFICATIONS.** Before commencing any modifications to Buyer's home, Buyer must (a) receive approval by the City of Clayton or other governing agency, (b) obtain all required permits, and (c) have all necessary inspections conducted by the County or other governing agency, as required by law.
- 4.18 **DISABLED VEHICLES.** Storing of disabled vehicles or recreational vehicles within the front yard, driveway, or within public view shall be prohibited for longer than seventy-two (72) hours.

SECTION 5 **GENERAL PROVISIONS**

- 5.01 **TERM.** All of the restrictions, conditions, covenants, and agreements shall affect all of the Lots, as hereinabove set forth, and are made for the direct and reciprocal benefit thereof, and in furtherance of a general plan for the improvement of the Project and the covenants shall attach to and run with the land. All provisions of this Declaration shall be binding on all parties and all persons claiming under them for a period of thirty-five (35) years. Thereafter, the term of this Declaration shall be automatically extended for successive ten (10) year periods unless the Owners of at least fifty-one percent (51%) of the Lots comprising the Project vote to terminate this Declaration. Such vote shall be evidenced by an instrument in writing executed by such Owners in the manner provided by law for the conveyance of real property and shall be effective upon its recordation in the Official Records of the County of Contra Costa.
- 5.02 **ANNEXATION OF ADDITIONAL PROPERTY.** At the sole and exclusive option of Declarant, additional property may be annexed to and become subject to this Declaration by the method set forth in this Section ("**Additional Property**"). All or any portion of the Additional Property may be added to the Project without the approval of any Owner other than Declarant. Upon annexation, additional parcels shall become subject to this Declaration without the necessity of amending individual sections thereof.
- (a) **ANNEXATION PURSUANT TO PLAN.** The Additional Property may be annexed to and become a part of the Project, subject to this Declaration. Declarant shall be under no obligation to develop or annex said additional Lots and real property, and Declarant makes no representation with respect to whether or not such additional real property will ever be developed or annexed. This Section shall not be amended without the written approval of Declarant.

(b) **DECLARATION OF ANNEXATION.** A Declaration of Annexation shall be recorded covering the applicable portion of the Project to be annexed. All of the covenants, conditions, and restrictions of this Declaration shall apply to the annexed Additional Property in the same manner as if it were originally covered by this Declaration. No Declaration of Annexation shall diminish the covenants, conditions, or restrictions established by this Declaration. No Declaration of Annexation shall alter or change the general common plan or scheme created by this Declaration, nor shall it affect the provisions hereof as covenants running with the land or as equitable servitudes. Said Declaration shall include designation of Lots for the purpose of this Declaration.

5.03 **ENFORCEMENT.** If any Owner violates any provision of this Declaration, any other Owner of a Lot shall be entitled to pursue any remedy at law or in equity against the person or persons violating any such provision. The City, in its sole discretion, may enforce any or all of these covenants.

5.04 **EASEMENTS RESERVED AND GRANTED.** Any easements appurtenant to a Lot referred to in this Declaration shall be deemed reserved and/or granted by reference to this Declaration in a deed to said Lot.

5.05 **TERMINATION OF ANY RESPONSIBILITY OF DECLARANT.** If Declarant shall convey all of its right, title, and interest in and to the Project to any partnership, individual, or corporation, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual, or corporation shall be obligated to perform all such duties and obligations of Declarant.

5.06 **LIMITATION OF RESTRICTIONS ON DECLARANT.** Nothing in this Declaration shall be understood or construed to:

- (a) Prevent Declarant, its contractors or subcontractors, from going on the Project or any Lot, whatever is reasonably necessary or advisable in connection with the completion of said work, even if an express easement has not been recorded; or
- (b) Prevent Declarant or its representatives from erecting, constructing, and maintaining on any part or parts of the Project, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Project as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or
- (c) Prevent Declarant from conducting on any part of the Project its business of completing said work and of establishing a plan of ownership, and of disposing of said Project in Lots by sale, lease, or otherwise; or
- (d) Prevent Declarant from maintaining such sign(s), flag(s), or any displays for advertisements on any of the Project for the sale, lease, or disposition thereof; provided, however, that the maintenance of any such sign(s), flag(s), or any displays for advertisements shall not unreasonably interfere with the use by any Owner of its Lot.

The foregoing limitations of the application of the restrictions to Declarant shall terminate upon the sale of Declarant's entire interest in the Project.

Any action taken by Declarant, pursuant to any provision of this Section, will not unreasonably interfere with the Owners' rights and use of the Project.

- 5.07 **SUCCESSOR.** The rights of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of Declarant's interest in the Project, as developer, by an express assignment incorporated in a recorded deed that transfers any such interest to a successor or to a Mortgagee acquiring Declarant's interest in the Project by foreclosure or by deed in lieu of foreclosure.
- 5.08 **FAIR HOUSING.** No Owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, or mortgaging or occupancy of its Lot to any person of a specified race, sex, marital status, color, religion, ancestry, physical handicap, or national origin.
- 5.09 **AMENDMENT.** The provisions of this Declaration may be amended by Declarant, without the necessity of obtaining the approval of individual Lot Owners, to effect any technical change which does not affect any substantial right or benefit of the individual Lot Owners. Other amendments may be made by individual Lot Owners, but only by consent of not less than a fifty-one percent (51%) majority of the then individual Lot Owners. Any amendment to these covenants shall be by duly recorded, written instrument. As long as Declarant owns one (1) or more Lots in the Project, this Declaration may not be amended without the consent of Declarant.
- 5.10 **MORTGAGE PROTECTION.** A breach of any of the conditions contained herein, or any re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to said premises or any part hereof, but said conditions shall be binding upon and effective against any Owner of said premises whose title is acquired by foreclosure, Trustee's Sale, or otherwise.
- 5.11 **SEVERABILITY.** Invalidation of any one (1) or more of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
- 5.12 **AGREEMENT RUNS WITH THE LAND.** It is the intent of the parties that the provisions hereinabove shall run with the land and shall benefit and bind the respective successors and assigns of Owner and Declarant, including subsequent transferees of homes in the Project.

IN WITNESS WHEREOF, Declarant has executed this Declaration on this ____ day of _____, 2015.

DECLARANT:

WEST COAST HOME BUILDERS, INC.,
a California corporation

By: _____
Name: Albert D. Seenon, Jr
Its: President

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

On _____, 2015, before me, TRACEY L. MARQUIT, a Notary Public, personally appeared **ALBERT D. SEENO, JR**, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

TRACEY L. MARQUIT

DRAFT

RESOLUTION NO. _____

**A RESOLUTION DENYING APPROVAL OF A FINAL MAP FOR THE OAK CREEK
CANYON PROJECT
(MAP 04-03)**

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

WHEREAS, the City entered into a Development Agreement with West Coast Home Builders, Inc. (the applicant) in 1997, which granted the right to develop an approximate nine acre parcel for five single family residential lots and one parcel for a stormwater detention basin. The Development Agreement expired 2009 without the project being constructed; and

WHEREAS, the Planning Commission approved the tentative map, use permit, and site plan review permit in 2006; and

WHEREAS, the applicant, West Coast Home Builders, Inc. appealed the Planning Commission's decision regarding the tentative map on the basis that the conditions imposed on the project by the Planning Commission requiring the establishment of a homeowners association for maintenance and landscaping were not reasonably required given that the project was proposed for five residential lots plus a lot for a stormwater detention basin; and

WHEREAS, the City Council adopted the Initial Environmental Study/Mitigated Negative Declaration (IES/MND) and approved the project, including the appeal, on April 19, 2005; and

WHEREAS, the use permit and site plan review permit for the Oak Creek Canyon project expired in 2006; and

WHEREAS, the California legislature passed SB 1115, AB 333, AB 208, and AB 116, with each bill extending the life of approved tentative maps for two years. These bills did not apply to local approvals (i.e. use permit and site plan review permit); and

WHEREAS, on March 21, 2014, the City of Clayton sent a letter to West Coast Home Builders, Inc. deeming the use permit and site plan review permit applications incomplete as well as stating the final map was being reviewed for technical compliance and compliance with the conditions of approval and mitigation measures. The letter also stated the City's position of no longer accepting offers of public dedication of residential subdivision streets, stormwater detention basins, public landscaping of residential right-of-ways and improvements due to the economic fiscal impacts. The applicant was directed to speak with the City Engineer on the matter to discuss the long term maintenance funding options; and

WHEREAS, in August of 2015, an email exchange occurred between West Coast Home Builders, Inc. and the City of Clayton, in which the applicant indicated the desire to proceed forward with approval of the final map. The City responded by stating approval of the final map would not be possible due to the expiration of the use permit and site plan review permit as well as expressed concerns in two different emails regarding the amount of time left on the approved tentative map in relation to the amount of work needed to be completed. The applicant followed up with an additional email, stating all materials would be submitted in September; and

WHEREAS, on October 8, 2015, the City of Clayton received a submittal of materials and a response to its March 21, 2014 letter; however there were still outstanding issues with the final map; and

WHEREAS, on October 30, 2015, the City of Clayton sent a letter to the West Coast Home Builders, Inc. outlining the outstanding issues with applicable conditions of approval and mitigation measures as well as their current status. Recommendations were also provided to the applicant to amend the conditions of approval due to the fact time was running out to obtain approval of a use permit and a site plan review permit. The letter required submittal of all materials to be submitted no later than the close of business on November 10, 2015 in order to provide time for the City to process the request; and

WHEREAS, the City of Clayton received the applicant's response to its October 30, 2015 letter on December 14, 2015; and

WHEREAS, West Coast Home Builders submitted, prior to the expiration date of the tentative map, a written request of confirmation to the City of Clayton, dated January 20, 2016, that the final map substantially conforms to the approved tentative map; and

WHEREAS, the approved tentative map expired on January 21, 2016, however the request for substantial compliance and approval of the final map can be considered after the expiration date; and

WHEREAS, the Subdivision Map Act 66473 states, "*a local agency shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by this division or local ordinance, pursuant thereto; provided that a final map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative map.*"; and

WHEREAS, on February 16, 2016, the City Council duly held a meeting to review and consider approval of the final map which shall be in substantial conformance with the approved tentative subdivision map; and

NOW, THEREFORE, BE IT RESOLVED, the City Council does hereby find and affirm the above-noted Recitals are true and correct and do constitute in part or in whole its determination and order regarding this matter.

BE IT FURTHER RESOLVED, the City Council has determined the applicant has not complied with the mitigation measures required in the Initial Environmental Study/Mitigated Negative Declaration (IES/MND) incorporated herein by reference and has not complied with the conditions of approval incorporated herein by reference required for final map approval.

BE IT FURTHER RESOLVED, based on the written and oral record, the City Council hereby determines the final map is not in substantial compliance with the approved tentative map. The mitigation measures identified in Initial Environmental Study/Mitigated Negative Declaration (IES/MND) and the conditions of approval for the project as noted above have not been satisfied and therefore, the City Council disapproves the final map.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a regular public meeting thereof held on 16th day of February, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

HOWARD GELLER, Mayor

ATTEST:

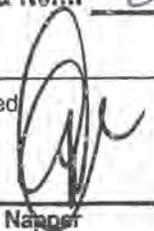
JANET BROWN, City Clerk



Agenda Date: 2-16-2016

Agenda Item: 8b

STAFF REPORT

Approved 
Gary A. Naager
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: KEVIN MIZUNO, FINANCE MANAGER, CPA

DATE: FEBRUARY 16, 2016

SUBJECT: MID-YEAR BUDGET REVIEW AS OF DECEMBER 31, 2015

RECOMMENDATION

Following staff presentation and opportunity for City Council and public comments, it is recommended, by motion, the City Council accept the Mid-Year Budget staff report of the City's General Fund and Special (Restricted-Use) Funds for Fiscal Year 2015-16 with no mid-year budget adjustments.

BACKGROUND

Following a public hearing, on June 16, 2015 the City's budgets for fiscal year 2015-16 were adopted by the City Council on June 16, 2015. The adopted Budget for the City's General Fund included projected revenues of \$4,124,444 and total appropriations of \$4,095,928. This resulted in an anticipated budgetary surplus of **\$28,516**.

FISCAL YEAR-TO-DATE BUDGETARY CHANGES

The following is a summary of budgetary actions already authorized by the City Council during fiscal year 2015-16. These budget amendments have been reflected as increases within the "Budget" column in the Mid-Year Budget-to-Actual Report (Attachment 1) for the applicable funds:

1. On July 21, 2015 the City Council approved a change order to the 2015 Neighborhood Street Project to add the Lower Easley Trail Repaving component at an estimated additional cost of \$30,000 to be financed by the Landscape Maintenance District Fund (No. 210) reserves. Pursuant to this authorization, total FY 2015-16 appropriations in the Landscape Maintenance District Fund were increased by \$30,000.
2. On September 15, 2015 the City Council approved the contract award to Graniterock Company totaling \$79,030 for the replacement of seven trail bridges' wooden decking throughout the boundaries of the Landscape Maintenance District. For this contract the City Council authorized an additional \$9,030 in appropriations as the adopted budget already incorporated an estimated project cost of \$70,000. Pursuant to this action total

FY 2015-16 appropriations for the Landscape Maintenance District Fund were increased by \$9,030.

The total impact arising from these two budgetary actions was an increase to total FY 2015-16 appropriations of \$39,030 in the Landscape Maintenance District Fund.

DISCUSSION

The revenue and expenditure figures for the first half of fiscal year 2015-16 are now compiled, offering a view of the fiscal picture for half of the operating year. The mid-year General Fund revenue and expenditure budget-to-actual report is included on pages 1-5 of Attachment 1.

1. General Fund Revenues

General Fund revenues for mid-year are at **57.44%** of budget compared to 55.27% in the prior year (2014-15) Mid-Year Budget Review. The following table summarizes significant revenue sources compared with results from the past two mid-year budget review reports:

<u>Description</u>	<u>2015-16</u>	<u>2014-15</u>	<u>2013-14</u>
Total <u>Mid-Year</u> Revenue	\$ 2,369,151	\$ 2,144,221	\$ 1,913,118
Property Taxes	935,923	922,799	848,831
Franchise Fees	207,119	201,755	202,714
RPTTF Distribution	261,851	166,339	120,050
Sales and Use Tax	164,341	126,110	115,122
Business Licenses	107,621	109,548	93,095
Inter Fund Transfers	52,282	139,829	216,854
Building Permit Fees	31,793	21,090	19,426
Real Property Transfer Tax	37,398	35,452	33,650
Planning Fees and Services	16,531	7,472	23,649
Mid-Year Actual to Projected Revenue	57.44%	55.27%	51.58%

An analysis of the mid-year General Fund status reveals that actual revenues are exceeding revenue projections by approximately **\$251,000**. This positive variance is associated with the following two significant non-recurring revenue sources:

- A. The first non-recurring revenue source was the City's share of the unencumbered Successor Agency (former RDA) balance remitted to the County Auditor-Controller's Office pertaining to the post redevelopment dissolution All Other Funds Due Diligence Review. Of the total payment remitted to the County and deposited into the redevelopment property tax trust fund (RPTTF), the City's share was \$87,393, or 6.9%. This non-recurring revenue source is reported in the RPTTF Distribution revenue line item.

- B. The second difficult to predict and non-recurring revenue source was SB90 state mandated reimbursement claim pay-outs of \$164,487 reported in the State Mandated Cost Reimbursement revenue line item. During FY 2015-16 the California State Controller's Office (SCO) finally made payment on over a dozen state-mandated program reimbursement claims, and interest thereon, dating back to the timeframe FY 2001-02 to FY 2003-04. Although there is still \$268,049 in unpaid claims on file with the SCO from FY 2004-05 through FY 2014-15, the City does not incorporate this revenue source into the operational budget due to the unpredictability of when claims will actually be approved by the State legislature and paid by the SCO.

Aside from the impact of these two irregular revenue sources, ordinary General Fund operational revenues overall remain on target with the budget. At mid-year, secured property tax revenues are below projections due to timing complexities involved in the California Department of Finance's (DOF) unwinding of the "triple-flip" in FY 2015-16. In March 2004, the voters of California approved Proposition 57, the California Economic Recovery Bond Act. The measure authorized the issuance of \$15 billion in "Economic Recovery Bonds" to close the state's operating budget deficit. Under Proposition 57, the bonds were repaid from a dedicated 0.25% increase in the state sales and use tax. The city/county portion of the sales and use tax rate imposed Bradley-Burns Uniform Sales Tax law is reduced by 0.25%, such that there is no net impact on the total rate. Cities and counties were reimbursed for the reduced sales and use tax revenue with transfers of local property tax revenues that would otherwise have gone to schools. Schools were made whole from the state general fund and experience no negative impact. This mechanism was referred to as the "triple flip." Ultimately as a result of this, by the close of FY 2015-16, any decrease in secured property tax revenue realized by the City is expected to be offset by a comparable return in sales & use taxes.

2. General Fund Expenditures

General Fund operational expenditures for mid-year are at \$2,035,962 (49.71% of budget) compared to \$2,018,106 (52.39% of budget) in the prior year (2014-15) Mid-Year Budget Review. The table below summarizes departmental expenditures compared with results from the past two Mid-Year Budget Reviews:

<u>Description</u>	<u>2015-16</u>	<u>2014-15</u>	<u>2013-14</u>
Legislative	\$ 25,310	\$ 39,294	\$ 28,605
Administration / Finance	478,040	428,666	542,429
Maintenance - Buildings & Other Parks	53,210	88,599	64,082
Planning & Community Development	141,511	151,576	162,035
General Services	96,022	89,437	88,870
Police	1,069,364	996,943	964,421
Library	55,955	56,473	63,935
Engineering	47,000	45,372	56,922
Community Park	69,548	121,747	120,561
Total	<u>\$ 2,035,962</u>	<u>\$ 2,018,106</u>	<u>\$ 2,091,861</u>

3. General Fund Extraordinary Item

As noted during the presentation of the City's FY 2014-15 audited financial statements at the November 3, 2015 City Council meeting, in the prior year the General Fund reported an extraordinary loss of \$200,000 arising from General Fund "claw-backs" specified in the AB 1484 post-dissolution Due Diligence Reviews (DDRs). "Claw-backs" pertain to lawful transfers between the City and former redevelopment agency during the timeframe of January 1, 2011 through January 31, 2012 retroactively disallowed by the DOF through the AB 1484 dissolution process. The extraordinary loss reported in FY 2014-15 was derived directly from the DDRs approved by the Successor Agency Oversight Board and required payments to be remitted back to the Successor Agency and Successor Housing Agency of \$137,500 and \$62,500 respectively. Classification of this item as an "extraordinary loss" is in accordance with *Governmental Accounting Standards Board (GASB) Statement No. 34* as it meets the criteria of being material to the financial statements and is both infrequent and unusual in nature. At the time of issuance of the FY 2014-15 audited financial statements, as the DOF had not yet completed their review of the All Other Funds DDR, there was a reasonable possibility the DOF would demand increase to the General Fund "claw-back" payment. This nature of this contingent loss was disclosed in the notes to the financial statements in accordance with accounting standards issued by the GASB.

After completing their review of the All Other Funds DDR, the DOF issued a determination letter on November 30, 2015 demanding increases to the claw-back obligation. After reviewing the determination letter, despite inconsistencies with the published findings of both the SCO and the independent accountants on the amount of claw-backs, a large portion of the DOF's increased demand appeared to be reasonably substantiated. However, an internal review did identify \$41,825 of the increase in demands appeared to be a double accounting of transfers already included in the concluded Low-Moderate Income Assets DDR. City management contested this portion of the DOF's findings through the administrative "meet and confer" process. Subsequent to the meet and confer phone conference with the DOF on November 9, 2015 the DOF issued their final determination letter on the All Other Funds DDR dated November 30, 2015 essentially disagreeing with the City's protests and communicating that no changes had been made to the claw-back obligation. As the Successor Agency had now fully exhausted any means of contesting the DOF under their post-dissolution administrative procedures, the final pathway to seek restitution was to file a lawsuit with the DOF. However, as the risks and costs associated with litigation outweighed the benefits of a favorable ruling on the disputed \$41,825, management elected to concede to the November 30, 2015 DOF letter. As such, an extraordinary loss of **\$230,786** is being reported in FY 2015-16. As the City operational budget does not include appropriations for extraordinary items due to their non-recurring and unusual nature, this loss has been reported "below the line" after the results of ordinary operations in accordance with GASBS 34.

4. Status of General Fund Reserves

As reported in the audited financial statements, the General Fund closed the prior year with a fund balance of \$5,538,632 on June 30, 2015. As identified previously, an

operating surplus exists at mid-year largely arising from two unbudgeted non-recurring revenue sources. However, after netting these non-recurring gains with the extraordinary loss arising from the conclusion of the post-RDA dissolution DDR process, the General Fund is still reporting an increase in fund balance of **\$102,403** to a total fund balance (reserve balance) of **\$5,641,035** at the mid-point of FY 2015-16.

At this point no General Fund budget amendments are deemed necessary as operational General Fund expenditures are currently expected to be within budget. In addition, the spike in unbudgeted non-recurring revenue sources offsets the unbudgeted All Other Funds DDR extraordinary loss in FY 2015-16. The General Fund budget will continue to be closely monitored and the necessity to amend the budget will be re-addressed towards the end of the fiscal year during the preparation of the fiscal year 2016-17 budget.

5. Other Fund Revenues and Expenditures

Annual revenues of the City's other significant Special Revenue and Capital Projects Funds each appear to be on target as budgeted. Consistent with prior years, Stormwater Assessment District Fund revenues are unsurprisingly under budget at mid-year as allocations from the County are annually received subsequent to mid-year.

The following is a mid-year budget-to-actual revenue comparison table of the City's significant Special Revenue and Capital Project funds:

Fund	Budgeted Revenue FY 2015-16	Mid-Year Actual Revenue	% Realized
Gas Tax	\$ 274,732	\$ 135,774	49.4%
Landscape Maintenance District	1,033,751	571,460	55.3%
The Grove Park	136,636	71,635	52.4%
Oakhurst GHAD	37,644	20,688	55.0%
Street Light Assessment District	127,291	70,219	55.2%
Stormwater Assessment District	125,304	23,295	18.6%
Measure J	303,537	187,346	61.7%
Grants	122,660	70,445	57.4%
Development Impact Fees	6,200	4,276	69.0%
Capital Improvement Program	1,674,863	864,353	51.6%

Annual expenditures of the City's other significant Special Revenue and Capital Projects Funds also appear to be on target as budgeted. Total expenditures of the Capital Improvement Program and Gas Tax funds reflect the completion of the 2015 Neighborhood Street Program (CIP Project No. 10424) in the fall of 2015. Expenditures of the Grants Fund exceed 50% of the budget due to \$50,000 in SLESF grant funds being used to fund our portion of the costs for one-time Records Management System/Dispatch equipment accompanying the new police dispatch services contract with the City of Concord.

The following is a mid-year budget-to-actual expenditure comparison table of the City's significant Special Revenue and Capital Project funds:

<u>Fund</u>	<u>Budgeted Expenditures FY 2015-16</u>	<u>Mid-Year Actual Expenditures</u>	<u>% Realized</u>
Gas Tax	\$ 670,217	\$ 512,180	76.4%
Landscape Maintenance District	1,360,905	439,643	32.3%
The Grove Park	142,288	39,630	27.9%
Oakhurst GHAD	37,668	24,917	66.1%
Street Light Assessment District	139,326	66,351	47.6%
Stormwater Assessment District	213,493	106,455	49.9%
Measure J	764,956	379,258	49.6%
Grants	176,673	104,617	59.2%
Development Impact Fees	60,180	-	0.0%
Capital Improvement Program	1,801,863	1,150,933	63.9%

6. Budget Sub-Committee Review

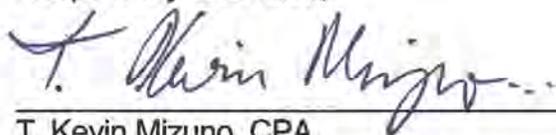
On February 10, 2016 the City Manager and the Finance Manager met with Mayor Howard Geller and Council Member Keith Haydon to review the Mid-Year Budget results. The Council Budget Sub-Committee supports the analysis and recommendations herein.

Staff recommends no budgetary action is necessary at this time. City staff continues to make substantial efforts to control operational costs in order to ensure ongoing sustainability in the current and future fiscal years to some. The possibility exists that unforeseen circumstances may arise impacting costs such as (but are not limited to): fluctuations in energy/water consumption and price, building maintenance or asset replacement, and unfunded state mandates or state-mandated shifts in revenue. The General Fund and other fund budgets will continue to be monitored and the necessity for budget amendments will be re-addressed towards the end of the fiscal year.

FISCAL IMPACT

The acceptance of this report does not have any direct fiscal impact to the City of Clayton. No budgetary amendments are being recommended for City Council approval at this time.

Respectfully submitted,



T. Kevin Mizuno, CPA
Finance Manager

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

	Actual	Budget	Variance (\$)	Budget Realized (%)	
101 - General Fund					
Revenues					
101-4101-00	Property Taxes - Secured	888,516	1,737,110	(848,594)	51.15%
101-4102-00	Property Taxes - Unsecured	37,925	42,300	(4,375)	89.66%
101-4103-00	Property Taxes - Unitary Tax	7,508	12,570	(5,062)	59.73%
101-4104-00	Property Taxes - Supplemental	1,974	21,400	(19,426)	9.22%
101-4106-00	Property Taxes - Other	-	11,000	(11,000)	0.00%
101-4108-00	Redevelopment Property Tax Trust Fund Dist.	261,851	290,000	(28,149)	90.29%
101-4301-00	Sales and Use Tax	164,341	330,300	(165,959)	49.76%
101-4502-00	Real Property Transfer Tax	37,398	71,500	(34,103)	52.30%
101-5101-00	Business Licenses	107,621	135,200	(27,579)	79.60%
101-5103-00	Building Permit Surcharge	31,793	48,900	(17,107)	65.02%
101-5106-00	Engineering Fees	3,771	7,960	(4,190)	47.37%
101-5201-00	Public Safety Allocation	31,796	80,500	(48,704)	39.50%
101-5202-00	Abandoned Veh Abate (AVA)	64	4,590	(4,526)	1.39%
101-5203-00	Motor Vehicle In Lieu	4,554	4,680	(126)	97.32%
101-5205-00	Other In Lieu	77,426	154,852	(77,426)	50.00%
101-5214-00	Post Reimbursements	412	500	(88)	82.37%
101-5217-00	State Mandated Cost Reimbursement	164,487	-	164,487	100.00%
101-5301-00	Planning Fees	6,090	6,660	(570)	91.44%
101-5302-00	Police Fees	8,495	13,260	(4,765)	64.06%
101-5303-00	City Hall Rental Fees	150	-	150	100.00%
101-5304-00	Planning Fees (Public Hearing)	10,441	20,000	(9,559)	52.20%
101-5306-00	Well Water Usage Charge	14,112	37,500	(23,388)	37.63%
101-5319-00	Miscellaneous City Services	4,151	495	3,656	838.52%
101-5322-00	City Fiduciary Fund Overhead Recovery	139,090	274,901	(135,811)	50.60%
101-5401-00	Franchises - Comcast Cable	104,817	204,000	(99,183)	51.38%
101-5402-00	Franchises - Garbage Fees	88,645	190,900	(102,255)	46.44%
101-5403-00	Franchises - PG&E	-	108,400	(108,400)	0.00%
101-5404-00	Franchises - Equilon Pipe	13,648	13,350	298	102.23%
101-5405-00	AT&T Mobility Francise Fees	9	50	(41)	18.30%
101-5501-00	Fines and Forfeitures	12,039	23,660	(11,621)	50.88%
101-5601-00	Interest	35,247	38,000	(2,753)	92.75%
101-5602-00	Park Use Fee	9,761	49,900	(40,140)	19.56%
101-5603-00	Meeting Room Fee	2,572	3,000	(428)	85.73%
101-5606-00	Unrealized Inv. Gain/Loss	331	-	331	100.00%
101-5608-00	Cattle Grazing Lease Rent	9,602	9,602	0	100.00%
101-5609-00	Cell Tower Lease Rent	19,474	34,000	(14,526)	57.28%
101-5613-00	Clayton Community Gym Field Rent	14,100	28,200	(14,100)	50.00%
101-5701-00	Reimbursements/Refunds	500	5,100	(4,600)	9.80%
101-5790-00	Other Revenues	1,377	4,040	(2,663)	34.08%
101-5791-00	Overhead cost recovery	784	1,500	(716)	52.26%
101-6002-00	Trx. From Measure J Fund	2,106	4,212	(2,106)	50.00%
101-6004-00	Trx. From Gas Tax	3,521	7,042	(3,521)	50.00%
101-6005-00	Trx. From St. Lights	5,413	10,826	(5,413)	50.00%
101-6006-00	Trx. From GHAD	3,399	6,797	(3,399)	50.00%
101-6007-00	Trx. From Landscape Mtnce.	16,932	33,863	(16,932)	50.00%
101-6011-00	Trx From Grove Park Fund	3,440	6,880	(3,440)	50.00%
101-6016-00	Trx.From Stormwater Asses.	17,472	34,944	(17,472)	50.00%
Total Revenues	2,369,151	4,124,444	(1,755,293)	57.44%	

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

Operating Expenses

101-7115-01	Council/Commission Compensation	11,700	23,400	11,700	50.00%
101-7220-01	PERS Retirement	1,554	3,963	2,409	39.22%
101-7231-01	Workers' Compensation	929	1,056	127	87.98%
101-7232-01	Unemployment Compensation	-	1,451	1,451	0.00%
101-7233-01	FICA and Medicare	426	920	494	46.29%
101-7324-01	Dues and Subscriptions	5,557	12,360	6,803	44.96%
101-7362-01	City Promotional Activity	2,472	5,000	2,528	49.44%
101-7363-01	Business Entertainment Expense	47	100	53	46.69%
101-7372-01	Conferences	-	500	500	0.00%
101-7419-01	Other Professional Services	2,625	7,500	4,875	35.00%
	Totals for Department(s) 01 - Legislative:	25,310	56,250	30,940	45.00%
101-7111-02	Regular Salaries	252,418	526,060	273,642	47.98%
101-7218-02	Life and LTD Insurance	2,082	4,770	2,688	43.64%
101-7220-02	PERS Retirement	60,504	109,400	48,896	55.30%
101-7231-02	Workers' Compensation	20,403	23,190	2,787	87.98%
101-7232-02	Unemployment Compensation	-	2,604	2,604	0.00%
101-7233-02	FICA and Medicare	3,849	7,454	3,605	51.63%
101-7241-02	Auto Allowance/Mileage	5,370	10,740	5,370	50.00%
101-7246-02	Benefit Insurance	43,697	88,270	44,573	49.50%
101-7311-02	General Supplies	46	100	54	46.28%
101-7324-02	Dues and Subscriptions	335	1,770	1,435	18.93%
101-7332-02	Telephone	3,419	7,000	3,581	48.85%
101-7364-02	Employee Recognition	348	1,500	1,152	23.22%
101-7371-02	Travel	-	100	100	0.00%
101-7373-02	Education & Training	399	1,000	601	39.90%
101-7411-02	Professional Services Retainer	38,519	48,000	9,481	80.25%
101-7413-02	Legal Services	2,338	5,000	2,663	46.75%
101-7414-02	Audit & Financial Reporting Services	27,200	27,000	(200)	100.74%
101-7415-02	Computer Services	11,365	15,260	3,895	74.48%
101-7419-02	Other Professional Services	5,750	7,330	1,580	78.44%
	Totals for Department(s) 02 - Admin/Fin:	478,040	886,548	408,508	53.92%
101-7111-03	Regular Salaries	4,877	6,200	1,323	78.65%
101-7112-03	Temporary Salaries	1,055	520	(535)	202.97%
101-7218-03	Life and LTD Insurance	40	60	20	66.90%
101-7220-03	PERS Retirement	4,216	1,900	(2,316)	221.88%
101-7231-03	Workers' Compensation	273	310	37	87.98%
101-7232-03	Unemployment Compensation	-	70	70	0.00%
101-7233-03	FICA and Medicare	48	130	82	36.96%
101-7246-03	Benefit Insurance	649	1,300	651	49.90%
101-7311-03	General Supplies	1,694	4,000	2,306	42.35%
101-7332-03	Telephone	467	2,900	2,433	16.12%
101-7335-03	Gas & Electricity	18,354	38,000	19,646	48.30%
101-7338-03	Water Services	4,087	13,600	9,513	30.05%
101-7341-03	Buildings/Grounds Maintenance	5,917	16,490	10,573	35.88%
101-7342-03	Machinery/Equipment Maintenance	98	4,000	3,902	2.45%
101-7343-03	Vehicle Maintenance	547	5,500	4,953	9.94%
101-7344-03	Vehicles: Gas, Oil & Supplies	3,993	12,340	8,347	32.36%
101-7346-03	HVAC Mtn & Repairs	1,265	16,000	14,735	7.91%
101-7373-03	Education & Training	910	700	(210)	130.00%
101-7411-03	Professional Services Retainer	306	9,600	9,294	3.18%
101-7417-03	Janitorial Service	3,864	8,400	4,536	48.01%
101-7419-03	Other Professional Services	550	400	(150)	137.50%
101-7429-03	Animal Control	-	525	525	0.00%
	Totals for Department(s) 03 - Maintenance:	53,210	142,945	89,735	37.22%

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

101-7111-04	Regular Salaries	81,209	164,590	83,381	49.34%
101-7115-04	Council/Commission Compensation	1,560	7,200	5,640	21.67%
101-7218-04	Life and LTD Insurance	618	1,530	912	40.37%
101-7220-04	PERS Retirement	17,091	25,810	8,719	66.22%
101-7231-04	Workers' Compensation	6,537	7,430	893	87.98%
101-7232-04	Unemployment Compensation	-	868	868	0.00%
101-7233-04	FICA and Medicare	1,118	2,390	1,272	46.78%
101-7241-04	Auto Allowance/Mileage	2,249	4,240	1,991	53.05%
101-7246-04	Benefit Insurance	18,254	33,600	15,346	54.33%
101-7323-04	Books/Periodicals	-	100	100	0.00%
101-7324-04	Dues and Subscriptions	480	675	195	71.11%
101-7332-04	Telephone	337	560	223	60.17%
101-7371-04	Travel	-	100	100	0.00%
101-7373-04	Education & Training	-	1,000	1,000	0.00%
101-7384-04	Legal Notices	239	2,500	2,261	9.56%
101-7411-04	Professional Services Retainer	11,736	19,200	7,464	61.13%
101-7413-04	Legal Services	83	-	(83)	100.00%
101-7419-04	Other Professional Services	-	1,000	1,000	0.00%
	Totals for Department(s) 04 - Community Dev.	141,511	272,793	131,282	51.87%
101-7231-05	Workers' Compensation	1,576	847	(729)	186.09%
101-7232-05	Unemployment Compensation	3,506	-	(3,506)	100.00%
101-7247-05	OPEB Contributions (Health Plan)	3,630	10,460	6,831	34.70%
101-7312-05	Office Supplies/Expense	3,307	6,300	2,993	52.50%
101-7314-05	Postage	2,400	4,000	1,600	60.00%
101-7331-05	Rentals/Leases	5,025	12,860	7,835	39.07%
101-7351-05	Insurance Premiums	68,892	74,609	5,717	92.34%
101-7381-05	Property Tax Admin. Costs	147	8,000	7,853	1.83%
101-7419-05	Other Professional Services	6,231	17,500	11,269	35.60%
101-7420-05	Administrative Costs	1,310	2,000	690	65.48%
	Totals for Department(s) 05 - General Support:	96,022	136,576	40,554	70.31%

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

101-7111-06	Regular Salaries	431,920	905,900	473,980	47.68%
101-7113-06	Overtime	40,911	75,000	34,089	54.55%
101-7116-06	Part-time Salaries	1,573	4,200	2,627	37.46%
101-7218-06	Life and LTD Insurance	3,202	8,400	5,198	38.12%
101-7220-06	PERS Retirement	190,437	391,600	201,163	48.63%
101-7231-06	Workers' Compensation	36,160	41,100	4,940	87.98%
101-7232-06	Unemployment Compensation	-	5,510	5,510	0.00%
101-7233-06	FICA and Medicare	7,855	14,540	6,685	54.03%
101-7241-06	Auto Allowance/Mileage	1,195	4,440	3,245	26.92%
101-7242-06	Uniform Allowance	9,000	9,000	-	100.00%
101-7246-06	Benefit Insurance	80,598	174,300	93,702	46.24%
101-7311-06	General Supplies	5,302	5,000	(302)	106.04%
101-7312-06	Office Supplies/Expense	1,795	2,350	555	76.38%
101-7314-06	Postage	55	500	445	11.00%
101-7324-06	Dues and Subscriptions	2,850	7,650	4,800	37.25%
101-7325-06	EBRCSA System Subscription	8,900	9,000	100	98.89%
101-7332-06	Telephone	3,950	10,000	6,050	39.50%
101-7342-06	Machinery/Equipment Maintenan	1,082	2,500	1,418	43.28%
101-7343-06	Vehicle Maintenance	7,134	16,000	8,866	44.59%
101-7344-06	Vehicles: Gas, Oil & Supplies	14,450	31,500	17,050	45.87%
101-7345-06	Office Equip-Maint/Repairs	1,565	1,800	236	86.92%
101-7364-06	Employee Recognition	23	500	477	4.59%
101-7365-06	CC Volunteer Recognition	-	300	300	0.00%
101-7373-06	Education & Training	4,528	10,000	5,472	45.28%
101-7408-06	Crossing guard services	3,106	10,000	6,894	31.06%
101-7411-06	Professional Services Retainer	-	19,200	19,200	0.00%
101-7413-06	Legal Services	440	-	(440)	100.00%
101-7417-06	Janitorial Service	1,361	2,700	1,339	50.42%
101-7419-06	Other Professional Services	9,634	4,380	(5,254)	219.94%
101-7424-06	Dispatch Services	120,537	241,100	120,563	49.99%
101-7425-06	Crime Lab	25,425	20,000	(5,425)	127.13%
101-7426-06	Jail Booking Fee	2,256	-	(2,256)	100.00%
101-7427-06	CAL ID	12,215	12,900	685	94.69%
101-7429-06	Animal Control	31,136	63,780	32,644	48.82%
101-7433-06	Integrated Justice System	8,770	14,140	5,370	62.02%
Totals for Department(s) 06 - Police:		1,069,364	2,119,290	1,049,926	50.46%

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

101-7111-07	Regular Salaries	3,295	11,840	8,545	27.83%
101-7112-07	Temporary Salaries	760	1,890	1,130	40.21%
101-7218-07	Life and LTD Insurance	26	110	84	23.25%
101-7220-07	PERS Retirement	957	3,700	2,743	25.86%
101-7231-07	Workers' Compensation	545	620	75	87.98%
101-7232-07	Unemployment Compensation	-	150	150	0.00%
101-7233-07	FICA and Medicare	111	320	209	34.82%
101-7246-07	Benefit Insurance	603	2,400	1,797	25.12%
101-7332-07	Telephone	1,852	2,160	308	85.74%
101-7335-07	Gas & Electricity	21,407	42,000	20,593	50.97%
101-7338-07	Water Services	848	1,650	802	51.40%
101-7341-07	Buildings/Grounds Maintenance	6,013	10,050	4,037	59.83%
101-7346-07	HVAC Mtn & Repairs	1,154	9,815	8,661	11.76%
101-7417-07	Janitorial Service	14,585	29,900	15,315	48.78%
101-7423-07	Library Additional Hours	3,798	20,811	17,013	18.25%
	Totals for Department(s) 07 - Library:	55,955	137,416	81,461	40.72%
101-7324-08	Dues and Subscriptions	187	630	443	29.68%
101-7411-08	Professional Services Retainer	46,355	80,000	33,645	57.94%
101-7412-08	Engineering/Inspection Service	458	-	(458)	100.00%
	Totals for Department(s) 08 - Engineering:	47,000	80,630	33,630	58.29%
101-7111-09	Regular Salaries	8,540	66,200	57,660	12.90%
101-7112-09	Temporary Salaries	3,771	22,530	18,759	16.74%
101-7113-09	Overtime	231	2,000	1,769	11.53%
101-7218-09	Life and LTD Insurance	79	620	541	12.80%
101-7220-09	PERS Retirement	2,619	20,250	17,631	12.93%
101-7231-09	Workers' Compensation	3,528	4,010	482	87.98%
101-7232-09	Unemployment Compensation	-	1,260	1,260	0.00%
101-7233-09	FICA and Medicare	556	2,690	2,134	20.68%
101-7246-09	Benefit Insurance	2,070	13,410	11,340	15.44%
101-7311-09	General Supplies	895	13,000	12,105	6.88%
101-7331-09	Rentals/Leases	-	500	500	0.00%
101-7335-09	Gas & Electricity	695	1,500	805	46.32%
101-7338-09	Water Services	30,264	98,000	67,736	30.88%
101-7417-09	Janitorial Service	6,784	13,010	6,226	52.15%
101-7419-09	Other Professional Services	9,516	1,500	(8,016)	634.40%
101-7429-09	Animal Control	-	3,000	3,000	0.00%
	Totals for Department(s) 09 - Comm. Park:	69,548	263,480	193,932	26.40%
	Total Operating Expenses	2,035,962	4,095,928	2,059,966	49.71%
	NET OPERATING SURPLUS/(DEFICIT)	333,189	28,516		
	Extraordinary Items				
101-8500-00	Extraordinary Loss - AB1484 All Other Funds DDR	(230,786)	-		
	BEGINNING FUND BALANCE	5,538,632	5,538,632		
	NET INCREASE/(DECREASE) IN FUND BALANCE	102,403	28,516		
	ENDING FUND BALANCE	5,641,035	5,567,148		

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

201 - Gas Tax Fund
Revenues

201-4607-00	Street Light Assessment	17,542	29,339	(11,797)	59.79%
201-5209-00	State Gasoline 2105	31,093	63,988	(32,895)	48.59%
201-5210-00	State Gasoline 2106	21,538	37,790	(16,252)	56.99%
201-5211-00	State Gasoline 2107	38,129	87,484	(49,355)	43.58%
201-5212-00	State Gasoline 2107.5	-	3,000	(3,000)	0.00%
201-5216-00	State Gasoline 2103	26,434	50,731	(24,297)	52.11%
201-5601-00	Interest	1,039	2,400	(1,361)	43.28%
Total Revenues		135,774	274,732	(138,958)	49.42%

Operating Expenses

201-7111-00	Regular Salaries	14,896	16,300	1,404	91.38%
201-7112-00	Temporary Salaries	2,318	3,600	1,283	64.38%
201-7218-00	Life and LTD Insurance	111	160	49	69.26%
201-7220-00	PERS Retirement	4,282	5,000	718	85.63%
201-7231-00	Workers' Compensation	941	900	(41)	104.58%
201-7232-00	Unemployment Compensation	-	250	250	0.00%
201-7233-00	FICA and Medicare	414	510	96	81.18%
201-7246-00	Benefit Insurance	2,534	3,300	766	76.79%
201-7311-00	General Supplies	4,437	12,000	7,563	36.97%
201-7327-00	Park & Street Supplies	89	1,500	1,412	5.90%
201-7335-00	Gas & Electricity	22,885	46,200	23,315	49.53%
201-7340-00	Traffic Safety Supplies	199	3,000	2,801	6.63%
201-7349-00	Traffic Signal Maintenance	4,795	25,000	20,205	19.18%
201-7350-00	Pavement Repairs/Maintenance	25,078	-	(25,078)	100.00%
201-7381-00	Property Tax Admin. Costs	-	300	300	0.00%
201-7419-00	Other Professional Services	4,200	1,406	(2,794)	298.72%
201-7486-00	CERF Charges	9,900	9,900	-	100.00%
201-8101-00	Transfer To General Fund	3,521	7,042	3,521	50.00%
201-8111-00	Transfer to CIP Fund	411,581	533,849	122,268	77.10%
Total Operating Expenses		512,180	670,217	158,037	76.42%

BEGINNING FUND BALANCE

428,649 **428,649**

NET OPERATING SURPLUS/(DEFICIT)

(376,406) **(395,485)**

ENDING FUND BALANCE

52,243 **33,164**

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

210 - Landscape Maintenance CFD**Revenues**

210-4604-00	Clayton LMD Assessment	566,249	1,029,751	(463,502)	54.99%
210-5601-00	Interest	5,211	4,000	1,211	130.28%
Total Revenues		571,460	1,033,751	(462,291)	55.28%

Operating Expenses

210-7111-00	Regular Salaries	57,150	138,000	80,850	41.41%
210-7112-00	Temporary Salaries	22,254	81,000	58,746	27.47%
210-7113-00	Overtime	137	500	363	27.46%
210-7218-00	Life and LTD Insurance	505	1,300	795	38.82%
210-7220-00	PERS Retirement	17,056	42,200	25,144	40.42%
210-7231-00	Workers' Compensation	10,931	10,400	(531)	105.11%
210-7232-00	Unemployment Compensation	-	3,900	3,900	0.00%
210-7233-00	FICA and Medicare	2,934	8,200	5,266	35.78%
210-7246-00	Benefit Insurance	12,934	28,000	15,066	46.19%
210-7311-00	General Supplies	12,345	48,500	36,155	25.45%
210-7316-00	Landscape Replacement	-	20,000	20,000	0.00%
210-7335-00	Gas & Electricity	8,621	25,000	16,379	34.48%
210-7338-00	Water Services	51,024	156,000	104,976	32.71%
210-7342-00	Machinery/Equipment Maintenan	3,578	22,600	19,022	15.83%
210-7343-00	Vehicle Maintenance	10,481	20,000	9,519	52.40%
210-7344-00	Vehicle Gas, Oil, and Supplies	4,777	15,000	10,223	31.85%
210-7381-00	Property Tax Admin. Costs	2,054	3,800	1,746	54.06%
210-7382-00	Election Services	-	10,000	10,000	0.00%
210-7411-00	Professional Services Retainer	-	10,000	10,000	0.00%
210-7419-00	Other Professional Services	19,702	149,500	129,798	13.18%
210-7486-00	CERF Charges/Depreciation	13,500	13,500	-	100.00%
210-7520-00	Landscape Projects	169,177	516,030	346,853	32.78%
210-7615-00	CCC Property Tax	2,638	2,700	62	97.71%
210-8101-00	Transfer To General Fund	16,932	33,863	16,932	50.00%
210-8113-00	Transfer to Stormwater Fund	912	912	-	100.00%
Total Operating Expenses		439,643	1,360,905	921,262	32.31%

BEGINNING FUND BALANCE	816,203	816,203
NET OPERATING SURPLUS/(DEFICIT)	131,818	(327,154)
ENDING FUND BALANCE	948,020	489,049

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

211 - The Grove Park CFD 2006-1**Revenues**

211-4613-00	Clayton DT Park Assessment	87,854	123,036	(55,382)	54.99%
211-5601-00	Interest	1,644	2,600	(956)	63.24%
211-5602-00	Park Use Fee	502	1,000	(498)	50.20%
211-5701-00	Reimbursements/Refunds	1,834	-	1,834	100.00%
211-5702-00	Donations/Contributions	-	10,000	(10,000)	0.00%
Total Revenues		71,635	136,636	(65,001)	52.43%

Operating Expenses

211-7111-00	Regular Salaries	6,491	32,700	26,209	19.85%
211-7112-00	Temporary Salaries	5,028	12,300	7,272	40.88%
211-7113-00	Overtime	69	-	(69)	#DIV/0!
211-7218-00	Life and LTD Insurance	52	310	258	16.92%
211-7220-00	PERS Retirement	1,903	10,000	8,098	19.03%
211-7231-00	Workers' Compensation	2,123	2,030	(93)	104.58%
211-7232-00	Unemployment Compensation	-	670	670	0.00%
211-7233-00	FICA and Medicare	502	1,408	906	35.64%
211-7246-00	Benefit Insurance	1,270	6,700	5,430	18.96%
211-7311-00	General Supplies	936	4,500	3,564	20.80%
211-7331-00	Rentals/leases	-	500	500	0.00%
211-7335-00	Gas & Electricity	848	1,510	662	56.13%
211-7338-00	Water Services	1,091	10,000	8,909	10.91%
211-7342-00	Machinery/Equipt Maintenance	-	800	800	0.00%
211-7343-00	Vehicle Maintenance	-	1,000	1,000	0.00%
211-7344-00	Vehicle Gas, Oil and Supplies	-	1,500	1,500	0.00%
211-7381-00	Property Tax Admin. Costs	2,056	3,980	1,924	51.65%
211-7417-00	Janitorial Services	6,560	13,420	6,861	48.88%
211-7419-00	Other Professional Services	3,150	7,020	3,870	44.87%
211-7420-00	Administrative Costs	945	3,850	2,905	24.53%
211-7485-00	Capital Equipment	-	18,000	18,000	0.00%
211-7486-00	Cerf Charges	2,700	2,700	-	100.00%
211-7615-00	CCC Property Tax	470	510	40	92.09%
211-8101-00	Transfer To General Fund	3,440	6,880	3,440	50.00%
Total Operating Expenses		39,630	142,288	102,658	27.85%

BEGINNING FUND BALANCE	234,033	234,033
NET OPERATING SURPLUS/(DEFICIT)	32,004	(5,652)
ENDING FUND BALANCE	266,037	228,381

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

212 - Oakhurst GHAD
Revenues

212-4606-00	Oakhurst GHAD Assessment	20,562	37,414	(16,852)	54.96%
212-5601-00	Interest	126	230	(104)	54.65%
Total Revenues		20,688	37,644	(16,956)	54.96%

Operating Expenses

212-7314-00	Postage	-	700	700	0.00%
212-7351-00	Liability Insurance	14,000	14,000	-	100.00%
212-7381-00	Property Tax Admin. Costs	675	1,400	725	48.22%
212-7389-00	Misc. Expense	-	270	270	0.00%
212-7412-00	Engineering/Inspection Service	-	3,000	3,000	0.00%
212-7413-00	Legal Services	-	1,500	1,500	0.00%
212-7419-00	Other Professional Services	2,043	-	(2,043)	100.00%
212-7520-00	Projects	4,800	10,000	5,200	48.00%
212-8101-00	Transfer To General Fund	3,399	6,798	3,400	49.99%
Total Operating Expenses		24,917	37,668	12,751	66.15%

BEGINNING FUND BALANCE	29,198	29,198
NET OPERATING SURPLUS/(DEFICIT)	(4,229)	(24)
ENDING FUND BALANCE	24,969	29,174

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

214 - Street Lighting Assessment
Revenues

214-4607-00	Street Light Assessment	69,295	125,991	(56,696)	55.00%
214-5601-00	Interest	924	1,300	(376)	71.10%
Total Revenues		70,219	127,291	(57,072)	55.16%

Operating Expenses

214-7113-00	Overtime	6,781	12,500	5,719	54.25%
214-7311-00	General Supplies	744	4,000	3,256	18.59%
214-7335-00	Gas & Electricity	51,292	106,510	55,218	48.16%
214-7381-00	Property Tax Admin. Costs	1,921	3,820	1,899	50.30%
214-7389-00	Misc. Expense	-	270	270	0.00%
214-7412-00	Engineering/Inspection Service	-	1,200	1,200	0.00%
214-7419-00	Other Professional Services	200	200	-	100.00%
214-8101-00	Transfer To General Fund	5,413	10,826	5,413	50.00%
Total Operating Expenses		66,351	139,326	72,975	47.62%

BEGINNING FUND BALANCE	137,992	137,992
NET OPERATING SURPLUS/(DEFICIT)	3,868	(12,035)
ENDING FUND BALANCE	141,860	125,957

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

216 - Stormwater Assessment**Revenues**

216-4602-00	Stormwater Assessment	-	82,240	(82,240)	0.00%
216-4603-00	Stormwater O&M Annual Fee	2,376	2,172	204	109.39%
216-5324-00	Street Sweeping Fees	19,158	38,780	(19,622)	49.40%
216-5601-00	Interest	849	1,200	(351)	70.73%
216-6007-00	Trx. From Landscape Mtrnce.	912	912	-	100.00%
Total Revenues		23,295	125,304	(102,009)	18.59%

Operating Expenses

216-7111-00	Regular Salaries	22,938	28,900	5,962	79.37%
216-7112-00	Temporary Salaries	5,227	12,870	7,643	40.62%
216-7218-00	Life and LTD Insurance	162	270	108	60.16%
216-7220-00	PERS Retirement	6,657	8,900	2,243	74.80%
216-7231-00	Workers' Compensation	1,977	1,890	(87)	104.58%
216-7232-00	Unemployment Compensation	-	660	660	0.00%
216-7233-00	FICA and Medicare	777	1,410	633	55.13%
216-7246-00	Benefit Insurance	3,496	5,900	2,404	59.26%
216-7311-00	General Supplies	3,770	9,300	5,530	40.53%
216-7373-00	Education & Training	-	1,000	1,000	0.00%
216-7389-00	Misc. Expense	67	500	433	13.39%
216-7409-00	Street Sweeping	17,500	44,100	26,600	39.58%
216-7412-00	Engineering/Inspection Service	-	10,000	10,000	0.00%
216-7419-00	Other Professional Services	19,488	38,349	18,861	50.82%
216-7481-00	Permit Fees	6,869	10,000	3,131	68.69%
216-7520-00	Projects	54	4,500	4,446	1.21%
216-8101-00	Transfer To General Fund	17,472	34,944	17,472	50.00%
Total Operating Expenses		106,455	213,493	107,038	49.86%

BEGINNING FUND BALANCE

153,840	153,840
----------------	----------------

NET OPERATING SURPLUS/(DEFICIT)

(83,160)	(88,189)
-----------------	-----------------

ENDING FUND BALANCE

70,680	65,651
---------------	---------------

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

220 - Measure J Fund**Revenues**

220-5223-00	Measure J Funds	27,403	274,342	(246,939)	9.99%
220-5225-00	Measure J Program 28a	28,002	28,195	(193)	99.32%
220-5601-00	Interest	454	1,000	(546)	45.42%
220-6003-00	Trx. From CIP Fund	131,487	-	131,487	100.00%
Total Revenues		187,346	303,537	(116,191)	61.72%

Operating Expenses

220-7385-00	TRANSPAC Fees	-	22,000	22,000	0.00%
220-7419-00	Other Professional Services	-	1,000	1,000	0.00%
220-8101-00	Transfer To General Fund	2,106	4,212	2,106	50.00%
220-8111-00	Transfer to CIP Fund	377,152	737,744	360,592	51.12%
Total Operating Expenses		379,258	764,956	385,698	49.58%

BEGINNING FUND BALANCE

457,525 457,525

NET OPERATING SURPLUS/(DEFICIT)

(191,912) (461,419)

ENDING FUND BALANCE

265,613 (3,894)

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

230 - Restricted Grants
Revenues

230-5220-00	Restricted Grants	71,622	116,100	(44,478)	61.69%
230-5222-00	Avoid the 25 Grant	480	4,000	(3,520)	12.00%
230-5601-00	Interest Income	2,132	2,560	(428)	83.28%
Total Revenues		74,234	122,660	(48,426)	60.52%

Operating Expenses

230-7111-00	Regular Salaries	14,055	68,177	54,122	20.62%
230-7113-00	Overtime	30,306	8,000	(22,306)	378.83%
230-7218-00	Life and LTD insurance	119	584	465	20.33%
230-7220-00	PERS Retirement	1,513	7,100	5,587	21.31%
230-7231-00	Workers' Compensation	3,033	2,900	(133)	104.58%
230-7232-00	Unemployment Compensation	-	440	440	0.00%
230-7233-00	FICA Taxes	256	920	664	27.81%
230-7242-00	Uniform Allowance	1,004	900	(104)	111.54%
230-7246-00	Benefit Insurance	77	10,900	10,823	0.71%
230-7411-00	General Supplies	195	-	(195)	100.00%
230-7424-00	Dispatch Services	50,000	50,000	-	100.00%
230-7485-00	Capital Equipment	2,894	17,660	14,766	16.39%
230-7520-00	Projects	1,165	9,092	7,927	12.81%
Total Operating Expenses		104,617	176,673	72,056	59.21%

BEGINNING FUND BALANCE	346,689	346,689
NET OPERATING SURPLUS/(DEFICIT)	(30,383)	(54,013)
ENDING FUND BALANCE	316,306	292,676

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

303 - Capital Improvements Fund
Revenues

303-5220-00	Restricted Grants	-	385,000	(385,000)	0.00%
303-5601-00	Interest	13,727	-	13,727	100.00%
303-6002-00	Trx. From Measure J Fund	377,152	737,744	(360,592)	51.12%
303-6003-00	Trx. From CIP Fund	41,732	-	41,732	100.00%
303-6004-00	Trx. From Gas Tax Fund	411,581	533,849	(122,268)	77.10%
303-6099-00	Capital Contribution	20,160	18,270	1,890	110.34%
Total Revenues		864,353	1,674,863	(810,510)	51.61%

Operating Expenses

303-7485-00	Capital Outlay - Equipment & Machinery	29,260	-	(29,260)	100.00%
303-7520-00	CIP Project Expenses	843,454	1,696,863	853,409	49.71%
303-8102-00	Transfer to CERF	105,000	105,000	-	100.00%
303-8111-00	Transfer to CIP Fund	41,732	-	(41,732)	100.00%
303-8116-00	Transfer to Measure J Fund	131,487	-	(131,487)	100.00%
Total Operating Expenses		1,150,933	1,801,863	650,930	63.87%

BEGINNING FUND BALANCE	2,008,088	2,008,088
NET OPERATING SURPLUS/(DEFICIT)	(286,580)	(127,000)
ENDING FUND BALANCE	1,721,507	1,881,088

City of Clayton
Budget-to-Actual Report
For Six Month Period Ending December 31, 2015

304 - Clayton Development Impact Fees
Revenues

304-5601-00	Interest	4,276	6,200	(1,924)	68.97%
Total Revenues		<u>4,276</u>	<u>6,200</u>	<u>(1,924)</u>	<u>68.97%</u>

Operating Expenses

304-7485-00	Capital Equipment	-	60,000	60,000	0.00%
304-7612-00	Interest Expense	-	180	180	0.00%
Total Operating Expenses		<u>-</u>	<u>60,180</u>	<u>60,180</u>	<u>0.00%</u>

BEGINNING FUND BALANCE	600,529	600,529
NET OPERATING SURPLUS/(DEFICIT)	4,276	(53,980)
ENDING FUND BALANCE	<u>604,805</u>	<u>546,549</u>



Agenda Item: 8c

Approved: _____
[Signature]
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS
FROM: Laura Hoffmeister, Assistant to the City Manager
MEETING DATE: February 16, 2016

SUBJECT: Consider proposed Ballot Measure language regarding extension of Citywide Landscape Maintenance District (CFD 2007-1) special annual tax for voter consideration at the June 2016 Election.

RECOMMENDATION

Following the staff report and public comment, City Council to provide direction to staff on their preference of potential ballot wording, related to the Landscape District funding measure for the June 2016 election. The final wording will be brought back at the March 1, 2016 City Council public hearing for final action.

BACKGROUND

In 2007 a new Community Facilities District (CFD) was established to replace the old 1997 Landscape Maintenance District. The City Council and Clayton voters established (CFD) 2007-1, to receive dedicated maintenance and operation funds if the public voted for a special parcel tax. The tax revenue is the only funding source to pay for costs related to the operation, maintenance, repair and replacement landscaping, irrigation, roadway landscaping, trails and open space including fire breaks. City parks are not maintained by this special tax (but through the General Fund). In June 2007 a ballot measure for such dedicated funds was placed before the voters for the special tax known as Measure "B" for a 10 year period through FY 16/17. It received 82.94% voter approval (more than the minimum 66.66% required for a special tax). The special tax has been levied on the real property tax bills since FY 07/08. The City Council also set forth a Citizens Oversight Committee for the Landscape Maintenance District.

DISCUSSION

The TLC recommended and the City Council approved at its January 19th meeting, to set the public hearing on March 1, 2016 to authorize submittal to the voters in the June election continuing by 10 years the existing special parcel tax for the Citywide Landscape District (CFD 2007-1), and retaining the current tax rate methodology.

At the January TLC meeting staff provided three potential options for ballot wording for their review and recommendation to the City Council. The TLC did not indicate a specific preference between the options, noting that they were not familiar with the nuances of specific ballot wording. However, the TLC provide suggested wording modifications to emphasize the trails system (listing first in the sentence of what the funds pay for) and

Subject: Consider proposed Ballot Measure language regarding extension of Citywide Landscape Maintenance District (CFD 2007-1) special annual tax for voter consideration at the June 2016 Election

Date: February 16, 2016

Page 2 of 4

preferred the word of continue over extend, and the word current over existing where possible; and to include the duration as 10 years. They also suggested that oversight by the Citizens Committee be included in the ballot language if possible, noting that word limits may not allow. The TLC ultimately stated they would defer to the City Council who has had more experience in such matter as to the ballot measure wording.

The election regulations set the ballot measure wording to a maximum of 75 words. Staff has prepared three potential options, with the TLC input noted, for discussion of potential ballot wording for the City Council. The Staff has also attached the prior (June 2007) ballot language and the recent Grove Park ballot language as additional information.

FISCAL IMPACT

For fiscal year 2015-16 fiscal year the total annual levy amount was \$234.84 per residential parcel, or per acre or fraction thereof for non-residential parcels.

Currently there are approximately 4,103 parcels subject to the special tax; of these 4,043 are residential and approximately 60 are non-residential. The total amount of revenue received from this tax for FY 2015-16 is \$1,029,751. These are these are the sole source of funds for maintenance and operation of the Landscape Maintenance District. These tax revenues are placed into a Special Revenue (restricted use) Fund (No. 210) through which all eligible expenses are tracked, paid and audited. Allowable expenses include only that for the purposes of the Landscape District Operation and Maintenance District such as materials, supplies, equipment, utilities, labor, and administration (currently \$33,863/year; 3.3%).

CONCLUSION

It is recommended the City Council direct staff to prepare ballot wording (up to 75 words) for City Council consideration and action at the public hearing on March 1, 2016. The City Council may also select up to two members to work with staff on refining ballot wording for final consideration by the City Council at its March 1, 2016 public hearing.

OPTION 1

CITY OF CLAYTON CITYWIDE LANDSCAPE MAINTANCE DISTRICT FUNDING EXTENSION OF EXISTING SPECIAL TAX	
<p>To continue the existing operation and maintenance of the Citywide Landscape Maintenance District, shall the current existing special tax, funded by the citywide Community Facilities District 2007-1 levy, be continued extended for a period of 10 years at the current annual special tax with the same methodology rate (currently \$234.84 per year for single-family residential parcels, and per non-residential acre or fraction thereof) for Fiscal Years 2017/2018 through 2026/2027, with oversight by a Citizens Committee?</p> <p><small>(75 words maximum) 73 words option 1 (red are TLC changes)</small></p>	YES
	NO

OPTION 2

CITY OF CLAYTON CITYWIDE LANDSCAPE MAINTANCE DISTRICT FUNDING EXTENSION OF EXISTING SPECIAL TAX	
<p>Shall the existing Community Facility District 2007-1 (Citywide Landscape Maintenance District) be continued, with Citizens Oversight Committee, extended for a period of ten years, for the existing to-continue-the operation and maintenance of the public trails system, roadway landscaping, trails-system, open space weed abatement and related costs, at the current annual special tax with the same methodology rate (currently \$234.84 per year for single-family residential parcels, and per non-residential acre or fraction thereof) for Fiscal Years 2017/2018 through 2026/2027?</p> <p><small>(75 words maximum) 75 words option 2 (red are TLC changes)</small></p>	YES
	NO

OPTION 3

CITY OF CLAYTON CITYWIDE LANDSCAPE MAINTANCE DISTRICT FUNDING EXTENSION OF EXISTING SPECIAL TAX	
<p>To continue the existing operation and maintenance of public trails system, roadway landscaping, trails-system, open space weed abatement and related costs funded by the existing citywide Landscape Community Facility District 2007-1 levy, shall it be extended for a period of 10 years at the current annual special tax with the same methodology rate (currently \$234.84 per year for single-family residential parcels, and per non-residential acre or fraction thereof) for Fiscal Years 2017/2018 through 2026/2027?</p> <p><small>(75 words maximum) 73 words option 3 (red are TLC changes)</small></p>	YES
	NO

Subject: Consider proposed Ballot Measure language regarding extension of Citywide Landscape Maintenance District (CFD 2007-1) special annual tax for voter consideration at the June 2016 Election

Date: February 16, 2016

Page 4 of 4

November 2007 Landscape District (Measure B) ballot wording (passed 82.94%)

CITY OF CLAYTON CITYWIDE LANDSCAPE MAINTENANCE DISTRICT FUNDING EXTENSION OF EXISTING SPECIAL TAX	
Shall a new Community Facilities District 2007-1 (Citywide Landscape Maintenance District) be funded to replace the expiring District for a period of 10 years to operate and maintain public roadway landscaping, trails system, open space weed abatement and related costs, with an annual levy of a special tax in the initial amount of \$196.77 per residential parcel and per non-residential acre or fraction thereof, and with an initial yearly appropriations limit of \$850,550?	YES
	NO

November 2014 Grove Park (Measure P) ballot wording (passed 81.25 %)

CITY OF CLAYTON CITYWIDE LANDSCAPE MAINTENANCE DISTRICT FUNDING EXTENSION OF EXISTING SPECIAL TAX	
To continue the operation and maintenance of the Downtown "The Grove" Park, shall the existing special tax, funded by the citywide Community Facilities District 2007-1 levy, be extended at the current annual special tax with the same methodology rate (currently \$19.03 per year for single-family residential parcels, with higher commercial parcel rate) for Fiscal Years 2017/18 through 2036/2037?	YES
	NO



Agenda Date: 2-16-2016

Agenda Item: 8d

STAFF REPORT



TO: Honorable Mayor and Council Members

FROM: Maintenance Supervisor, John Johnston

DATE: February 16, 2016

SUBJECT: Consider recommendations from the Trails and Landscape Committee approving conceptual designs for re-landscaping the city's subdivision median entryways and the median for the East entry to the city.

RECOMMENDATION

Following staff presentation, public comment and City Council discussion, accept the Trails and Landscape Committee's and staff's recommended concept designs for re-landscaping of the subdivision entry medians and the East entry to the city; and for staff to move forward with preparing construction designs and bid packets.

BACKGROUND

At the April 7, 2015 Council Meeting, staff brought forth to the City Council, recommendations from the TLC committee on the options for landscape improvements within the Clayton Landscape Maintenance District encumbering \$300,000 from the reserve balance from the CLMD. It was recommended by the TLC to use the funds to improve the city's subdivision entryways and the median for the East Entry to the city. Following the April 7, 2015 City Council meeting, staff was asked to provide conceptual design plans for individual entryways. On the January 11th 2016 TLC meeting, staff presented conceptual designs for the median entryways, which were recommended by the TLC for approval by the City Council.

PROPOSAL

Staff has prepared a power point presentation of design details for each of the subdivision medians and will review the challenges and opportunities they present at the meeting. After City Council approval of conceptual designs, staff will create construction plans and bid packets to solicit bids for actual costs to complete the landscape improvement project.

Attachments: 1. Power Point Presentation [30 pgs.]

LANDSCAPE PROJECT 2015

ENTRY MEDIANS OPTION 1

1. Eagle Peak Drive and Oakhurst Drive (WEST)

AREA: 55 x 10 feet – 550sqft.

2. Keller Ridge Drive and Eagle Peak Drive

AREA: 100 x 10 feet – 1000sqft.

3. Eagle Peak Drive and Oakhurst Drive (EAST)

AREA: 215x15 feet - 3230sqft.

4. Peacock Creek Drive at Clayton Road first median

AREA: 150 x 8 feet – 1200sqft

5. Regency Drive at Marsh Creek Road

AREA: 250 x 10 feet – 2500sqft

6. Entry to City on Marsh Creek Road at Diablo Parkway

AREA: 60 x 12 feet – 720sqft. (east side) 40 x 12 feet – 480sqft (west side) Brick East 400sqft. and West 400sqft.

7. Marsh Creek Road east side from Town Center Sign to Center Street

AREA: Clayton Road to Corral – 330 x 8 feet – 2640sqft. Corral to Center Street 110 x 5 – 500sqft.

The Median Entry would be landscaped in a more formal appearance using hard scape, lighting, and shrubs. This would be like the landscaping installed on Clayton Road in the Median from Heritage Trail to Oakhurst Drive. Costs are only estimated using construct costs from the Clayton Road project in 2012 as a guide.

MEDIAN LOCATIONS



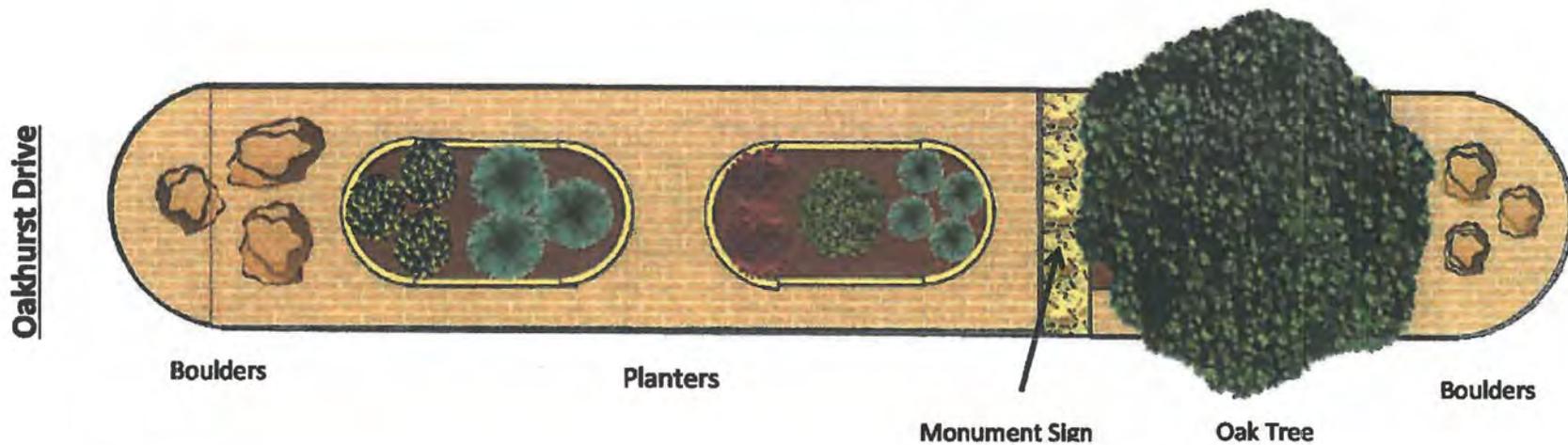
#1 EAGLE PEAK WEST MEDIAN



#1 EAGLE PEAK WEST ENTRY

Conceptual Design

NOT TO SCALE



Design features:

- Hardscape such as pavers and boulders embedded into paver area
- Recessed planters with colored concrete banding
- Drought tolerant plantings and low flow irrigation systems
- LED lighting for monument sign and specimen tree

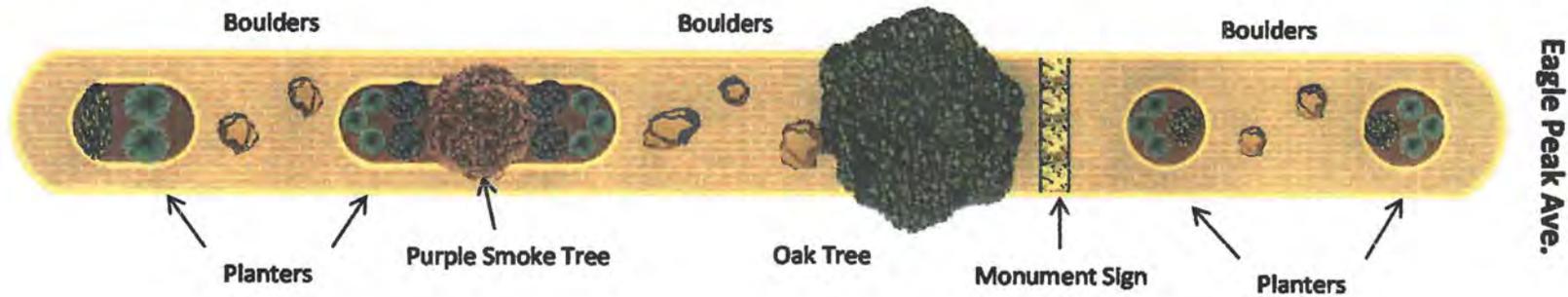
Design Challenges:

- This median has all utilities available in the median and poses no visible challenges.
- All shrubs and trees will be removed.
- Needs smart controller to meet water ordinance requirements

#2 KELLER RIDGE DRIVE MEDIAN



#2 KELLER RIDGE MEDIAN



Design Features:

- Hardscape such as pavers and boulders embedded into paver area
- Recessed planters with colored concrete banding
- Drought tolerant plantings and low flow irrigation systems
- LED lighting for monument sign and specimen tree

Design Challenges:

- This median has all utilities available in the median and poses no visible challenges.
- All Shrubs and trees will be removed.
- Needs smart controller to meet water ordinance requirements

#3 EAGLE PEAK EAST MEDIAN



#3 EAGLE PEAK EAST MEDIAN



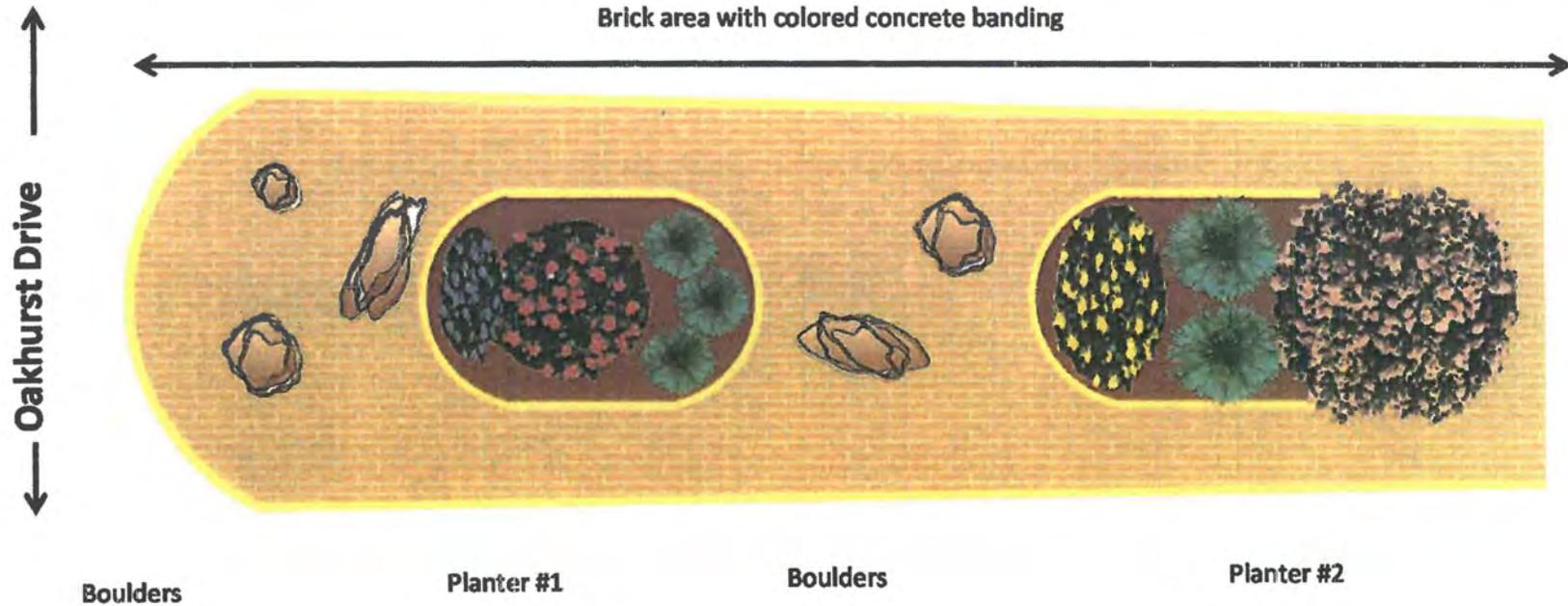
Design to include:

- Hardscape such as pavers and boulders
- Recessed planters with colored concrete banding
- Drought tolerant plantings and low flow irrigation systems
- LED lighting for specimen tree or trees will be explored
- Existing Xylosma to remain

Design Challenges:

- There are no utilities currently in the median for lighting
- A meter is located across the street and currently operates the monument
- Relocating portions of the existing Xylosma could be difficult
- Lighting could prove to be the most challenging and expensive
- Needs smart controller to meet water ordinance requirements

EAGLE PEAK EAST MEDIAN SOUTH END

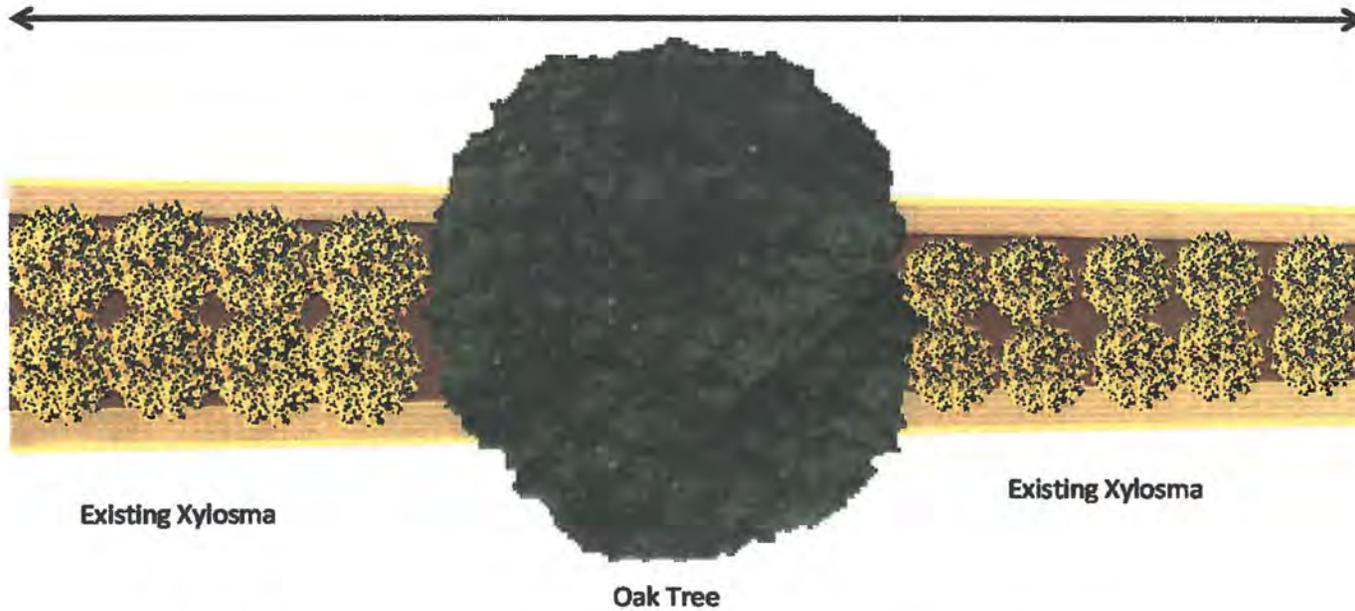


Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible LED lighting for planters
- Bubbler irrigation
- Drought tolerant plantings

EAGLE PEAK EAST MEDIAN MIDDLE

Brick strip with colored concrete banding

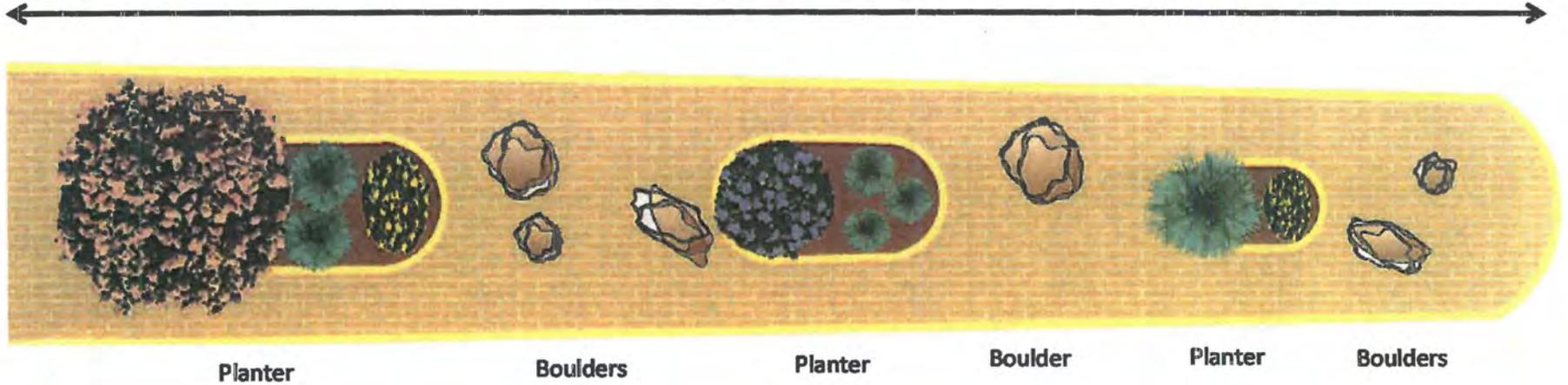


Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Specimen Oak Tree
- Possible LED lighting for tree
- Bubbler irrigation
- Drought tolerant plantings
- Existing Xylosma to remain

EAGLE PEAK EAST MEDIAN NORTH END

Brick area with colored concrete banding



Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible LED lighting for planters
- Bubbler irrigation
- Drought tolerant plantings

#4 PEACOCK CREEK DRIVE MEDIAN



#4 PEACOCK CREEK DRIVE MEDIAN

Conceptual Design

NOT TO SCALE



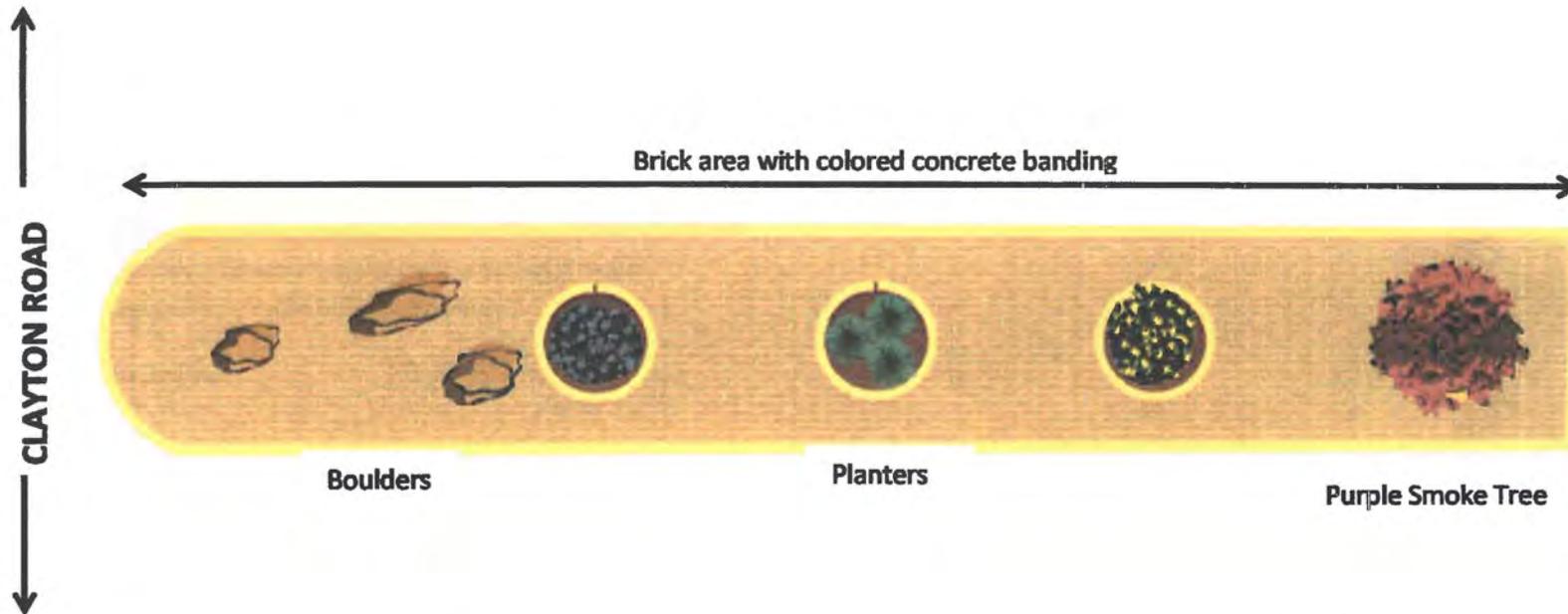
Design to include:

- Hardscape such as pavers and boulders
- Recessed planters with colored concrete banding
- Drought tolerant plantings and low flow irrigation systems
- LED lighting for monument sign and specimen tree or trees will be explored

Design Challenges:

- There are no utilities for electrical located in the median
- A meter is located behind the monument sign to right of the hill
- Fairly narrow median strip, only 8 feet wide
- Lighting could prove to be the most challenging and expensive.
- Needs smart controller to meet water ordinance requirements

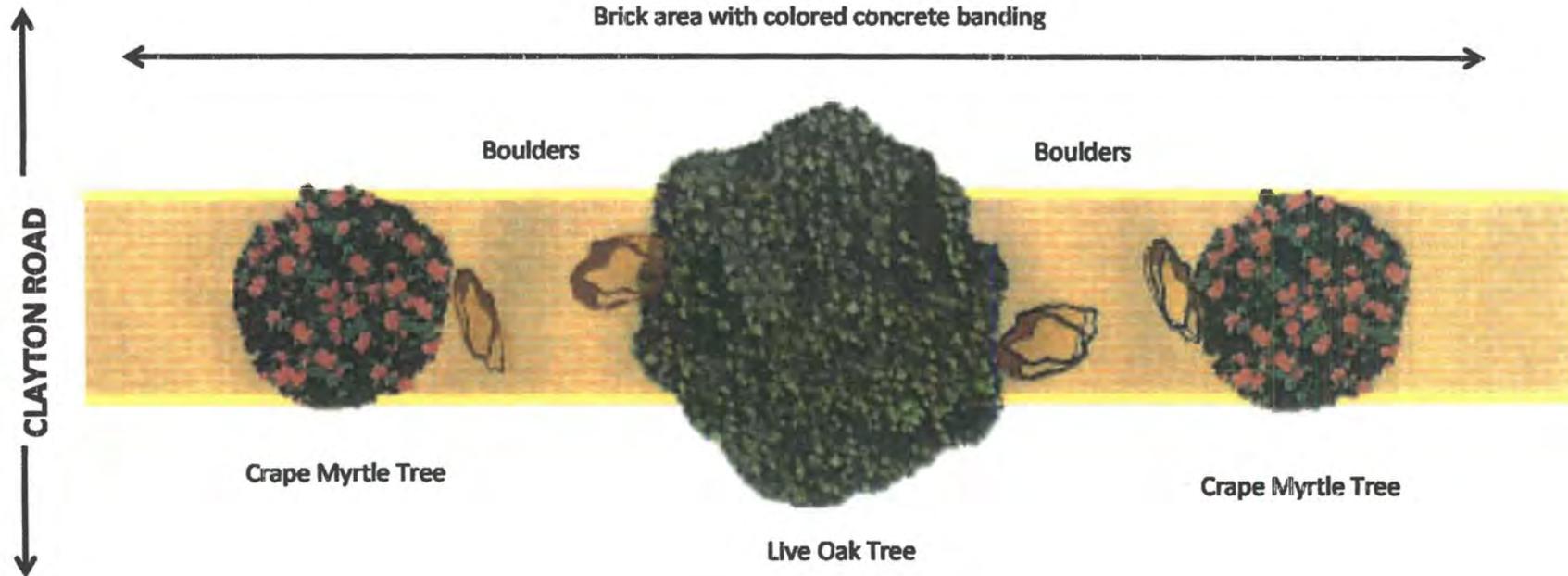
PEACOCK MEDIAN SOUTH END



Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible lighting for planters
- Bubbler irrigation
- Drought tolerant plantings

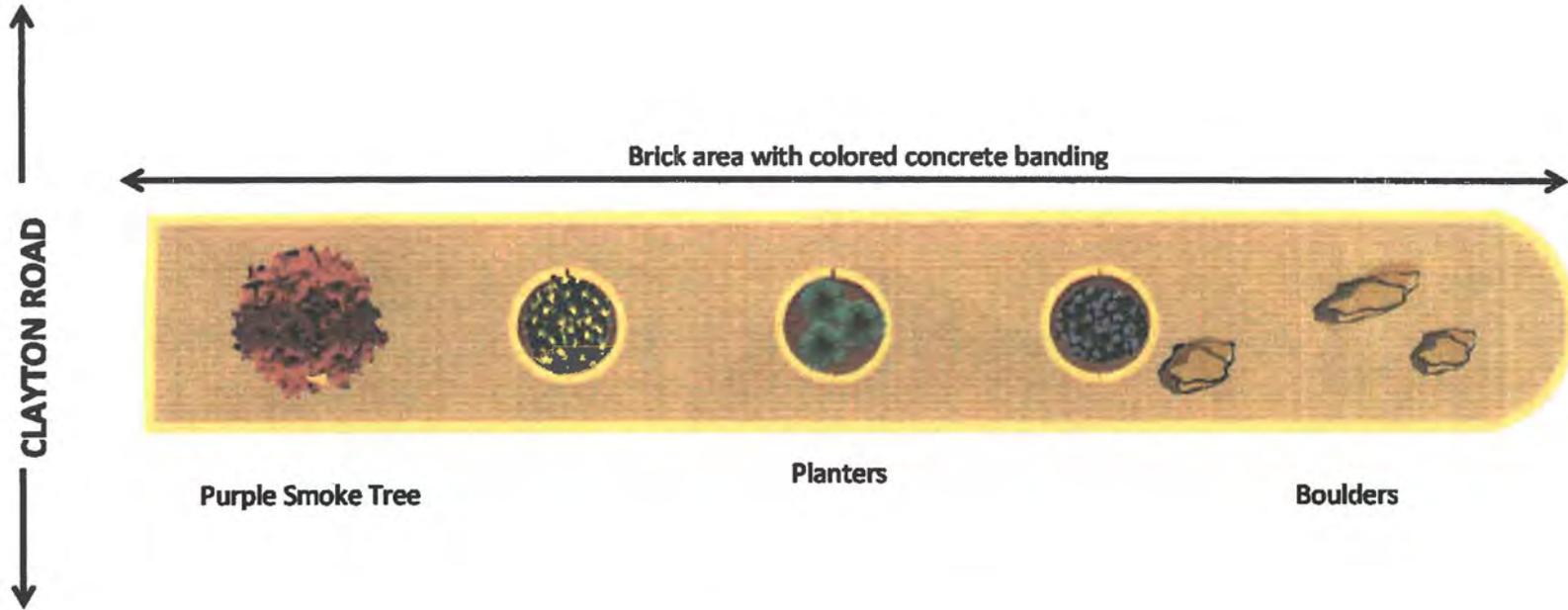
PEACOCK MEDIAN MIDDLE



Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible LED lighting for planters and under Oak Tree
- Bubbler irrigation
- Drought tolerant plantings

PEACOCK MEDIAN NORTH END



Purple Smoke Tree

Planters

Boulders

Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible LED lighting for planters
- Bubbler irrigation
- Drought tolerant plantings

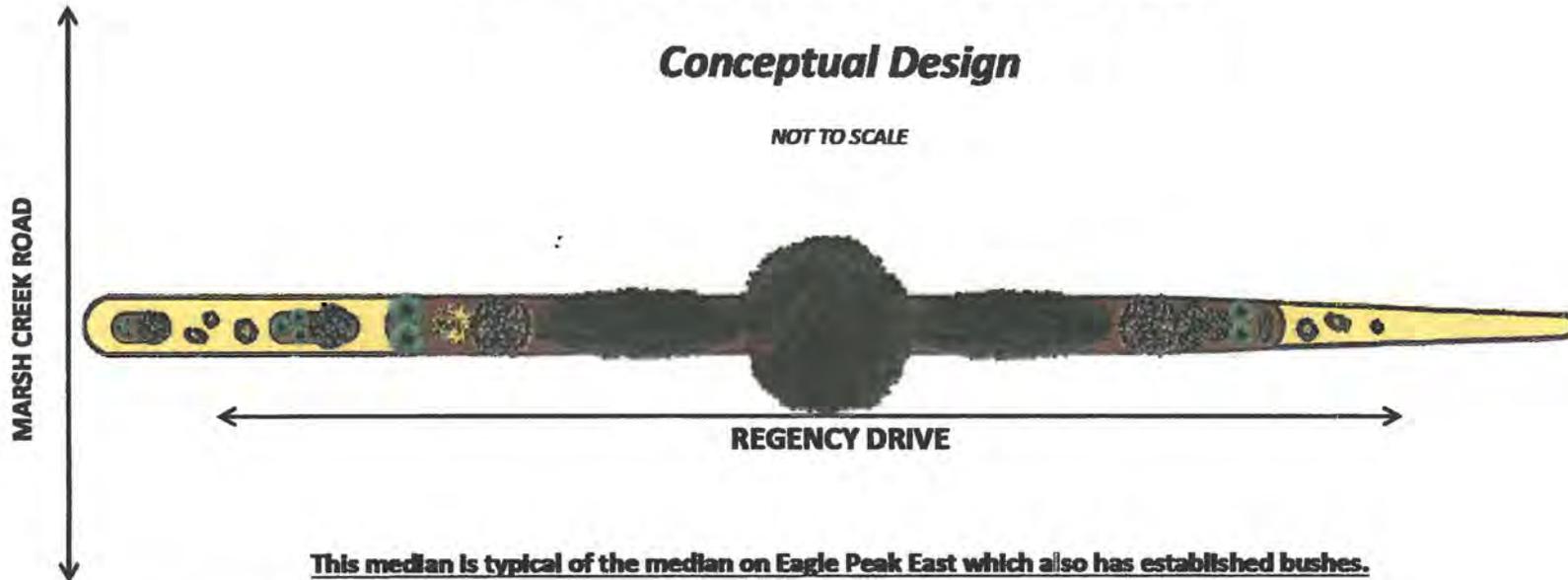
#5 REGENCY DRIVE MEDIAN



#5 REGENCY DRIVE MEDIAN

Conceptual Design

NOT TO SCALE



This median is typical of the median on Eagle Peak East which also has established bushes.

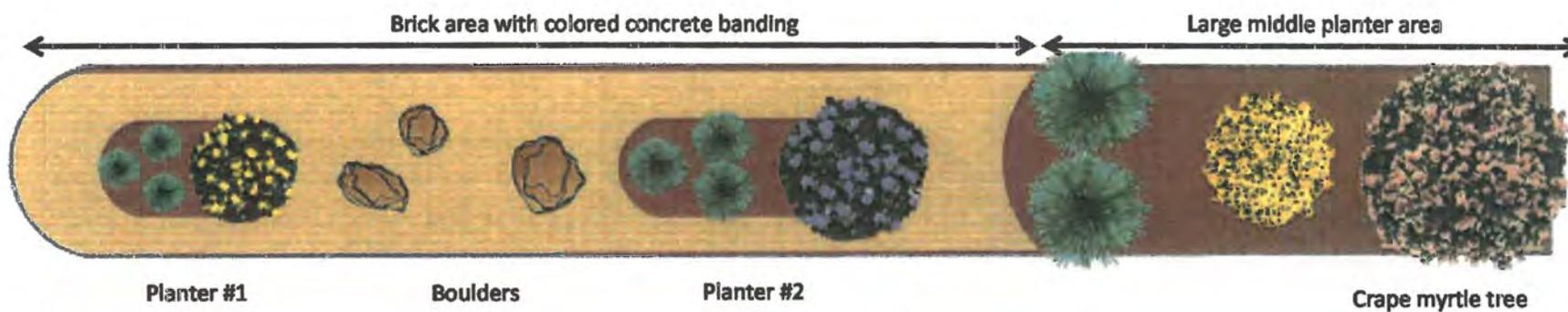
Design features:

- Hardscape such as pavers and boulders
- Recessed planters with colored concrete banding
- Drought tolerant plantings and low flow irrigation systems
- LED lighting for monument sign and specimen tree or trees will be explored
- Majority of existing Hawthorne bushes to remain

Design Challenges:

- There are no utilities currently in the median, such as water or electrical.
- Sleeves were installed at 2 points during the Regency Drive paving project.
- Methods to provide water to the median will be determined by available funding.
- Lighting could prove to be the most challenging and expensive.
- Needs smart controller to meet water ordinance requirements

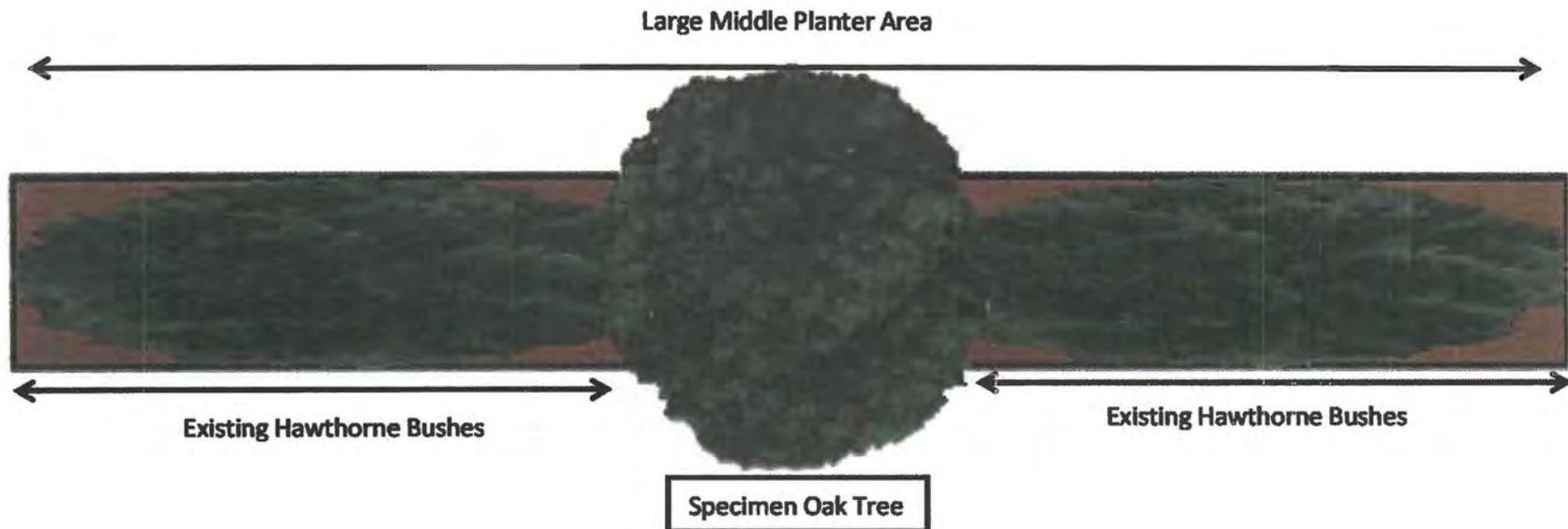
REGENCY MEDIAN NORTH END



Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible LED lighting for planters and under crape myrtle tree
- Bubbler irrigation
- Drought tolerant plantings

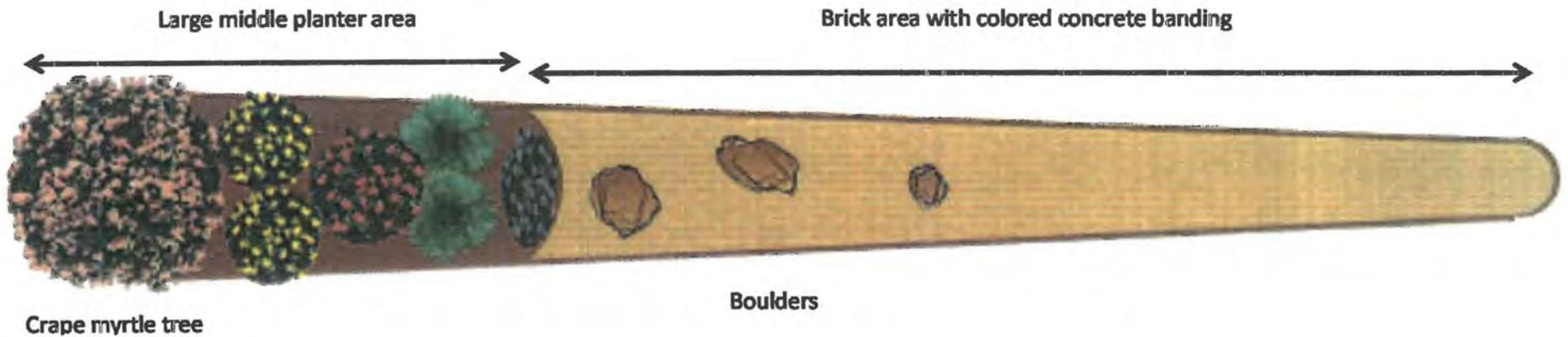
REGENCY MEDIAN MIDDLE



Design Details:

- Majority of Existing Hawthorne's to remain.
- Large specimen oak tree.
- Possible lighting under Oak tree.
- Shredded cedar bark covering
- Bubbler irrigation.

REGENCY MEDIAN SOUTH END



Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible LED lighting for planters and under crape myrtle tree
- *Bubbler* irrigation
- Drought tolerant plantings

#6 CITY LIMIT EAST ENTRY

1ST MEDIAN

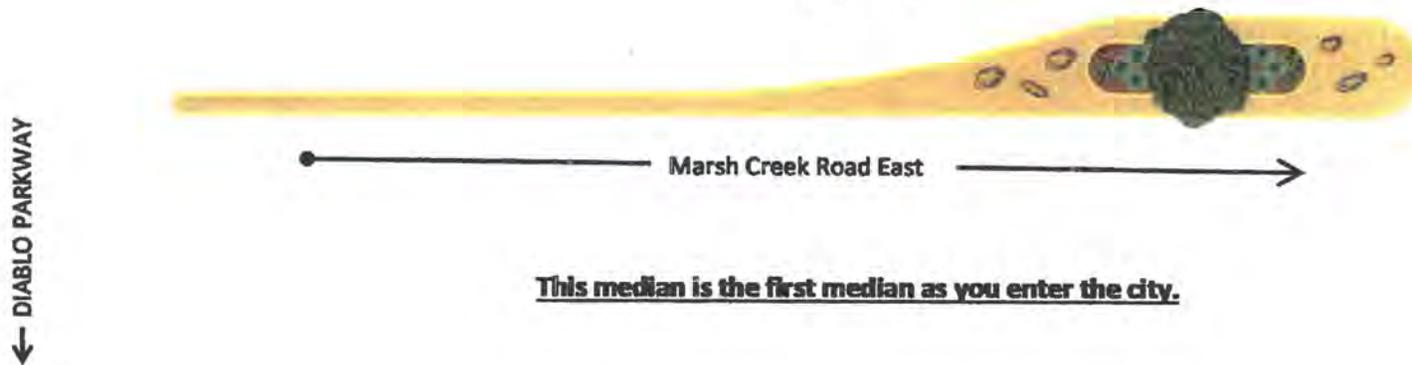


#6 CITY LIMIT EAST ENTRY

1st Median

Conceptual Design

NOT TO SCALE



This median is the first median as you enter the city.

Design to include:

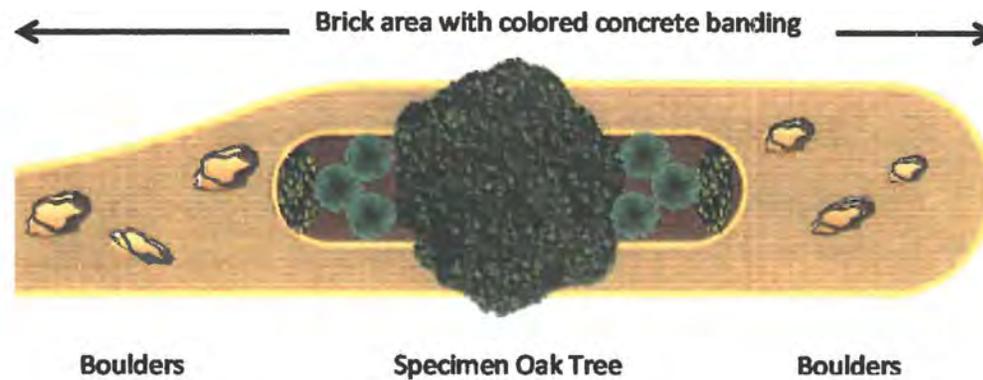
- Hardscape such as pavers and boulders
- Recessed planters with colored concrete banding
- Drought tolerant plantings and low flow irrigation systems
- LED lighting for specimen oak tree will be explored

Design Challenges:

- There are no utilities currently in the median, such as water or electrical.
- Sleeves were installed many years ago.
- Methods to provide water to the median will be determined by available funding.
- Lighting could prove to be the most challenging and expensive.
- Needs smart controller to meet water ordinance requirements

CITY LIMIT ENTRY (INSET)

1st Median



Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- Possible LED lighting under specimen oak tree
- Bubbler irrigation
- Drought tolerant plantings

#6 CITY LIMIT EAST ENTRY

2ND MEDIAN



#6 CITY LIMIT EAST ENTRY

2nd Median

Conceptual Design

NOT TO SCALE



This median is the first median as you enter the city.

Design to include:

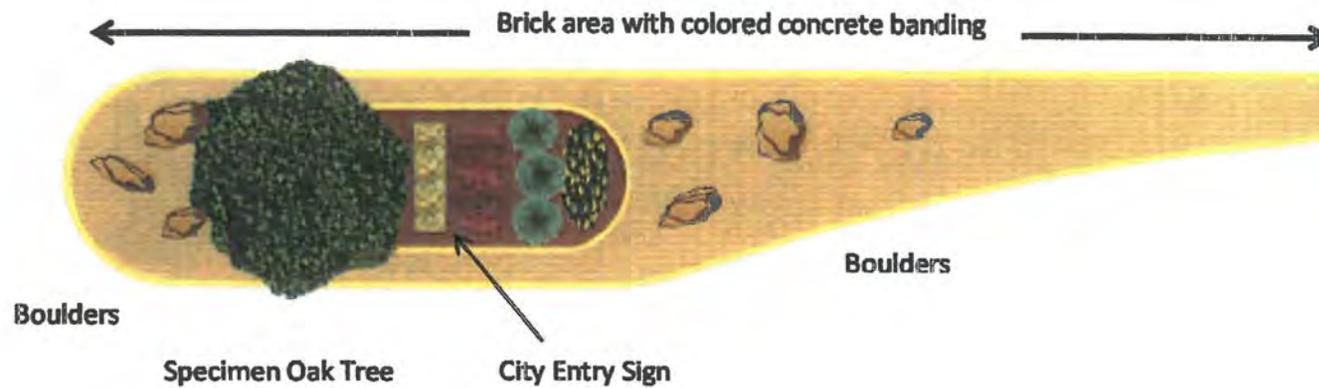
- Hardscape such as pavers and boulders
- Recessed planters with colored concrete banding
- Drought tolerant plantings and low flow irrigation systems
- LED lighting for Monument City Entry Sign

Design Challenges:

- There are no utilities currently in the median, such as water or electrical.
- Sleeves were installed many years ago.
- Methods to provide water to the median will be determined by available funding.
- Lighting could prove to be the most challenging and expensive.
- Needs smart controller to meet water ordinance requirements

CITY LIMIT ENTRY (INSET)

2nd Median



Design Details:

- Permeable pavers
- Colored concrete banding around planter borders
- Boulder moss rocks embedded into brick area
- LED lighting under specimen oak tree and City Entry Sign
- Bubbler irrigation
- Drought tolerant plantings

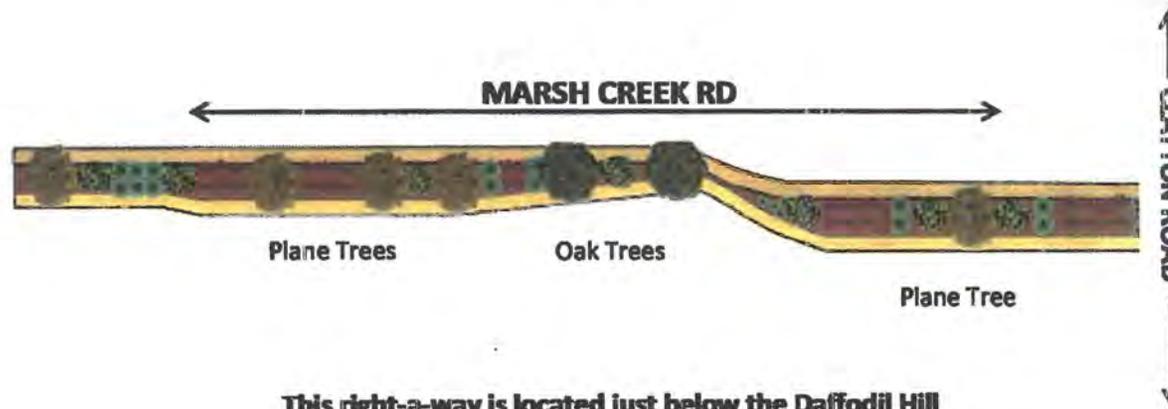
#7 MARSH CREEK RD RIGHT-A-WAY



#7 MARSH CREEK ROAD RIGHT-A-WAY

Conceptual Design

NOT TO SCALE



Design to include:

- Renovate horse trail with crushed gold rock
- Low flow irrigation system
- Spot plant with drought tolerant plantings
- Existing trees to remain

Design Challenges:

- Tree roots will be the biggest challenge

Gary Napper

From: James Diaz
Sent: Wednesday, February 10, 2016 5:06 PM
To: Gary Napper
Subject: 2016 Proposed Clayton Classic Car Show and Concerts
Attachments: 2016 Wednesday Night - Schedule - 02-07-16.pdf

Mr. Napper:

Gary,

Good afternoon.

CONSENT CALENDAR - February 16, 2016:

Please include in the Consent Calendar of the February 16, 2016 Clayton City Council Meeting the attached 2016 Wednesday Night Classic Car & Concerts In The Grove Schedule for Council action.

BACKGROUND:

The Classic Car Show, formally sponsored by Skipolini's Pizza Garden, was held on Wednesday's during previous Summer evenings. The Vintage Automobile Collection drew many individuals to the downtown area before the event ended in 2014.

In 2015, the Thursday Night Concerts In The Grove series added the Classic Car Show to the Thursday Night schedule. With the addition of the Car Show Series, attendance at the Concerts increased, with the final performance having a crowd of nearly 700 people.

In discussions with the leadership of several vintage car organizations, the idea of returning the Car Show to Wednesday nights was forwarded for 2016 plans, with a limited number of Concerts added to be included for entertainment. It would also limit conflicts with other area vintage Car Shows held on Thursday evenings.

As such, a combined Wednesday vintage Car Show series and limited Concerts were discussed with both Vintage Car groups and local Clayton business leaders.

I personally met and discussed this concept with local business owners, included were the following:

- Ed Moresi, Owner - Moresi's Chophouse and Ed's Mudville Grill,
- Steve Barton, Owner - Clayton Club Saloon,
- Clayton Smith, Manager - Skipolini's Pizza Garden,
- Nicolas, Owner - La Veranda, and
- Lance Nott, Owner - Center Street Deli & Cafe

All of the local business leaders thought the combined Classic Car Show and Concerts In The Grove would bring more people into the downtown area on Wednesday evenings and have a positive impact on local business.

EVENT LOCATION:

The Classic Car Show would be held in the city-owned parking lot located between the Clayton Community Church Offices and the Clayton Historical Society, as was done in 2015.

The Concerts In The Grove performances would be held in The Grove Park, as in previous years.

SPONSORSHIP:

The 2016 Wednesday Night Classic Car Shows & Concerts will be underwritten by both corporate and local businesses, including PG&E, Wells Fargo Bank, Clayton Valley Shell, Diablo View Construction, and other local funding groups.

2016 CLAYTON WEDNESDAY NIGHT CLASSIC CAR & CONCERT IN THE GROVE SERIES:

I would propose approval of the attached 2016 Wednesday Night Classic Car & Concerts In The Grove Schedule, with seven (7) Classic Car Shows and four (4) Concerts.

Respectfully submitted,

Jim Diaz

Attachment

2016 WEDNESDAY NIGHT CLASSIC CAR & CONCERT SCHEDULE

The Wednesday Night Classic Car & Concert In The Grove is a series of seven (7) Classic Car Shows and four (4) concerts, which will present local talent from the immediate Clayton Valley Area. Each Car Show will begin at 6:00 PM and end at 8:00 PM, with the Concert starting at 7:00 PM and ending promptly at 8:30 PM.

2016 CLASSIC CAR & CONCERT DATES:

ENTERTAINMENT:

- | | |
|-------------|------------------|
| • June 8 | Car Show Only |
| • June 22 | Music & Car Show |
| • July 6 | Music & Car Show |
| • July 20 | Music & Car Show |
| • August 3 | Music & Car Show |
| • August 17 | Car Show Only |
| • August 31 | Car Show Only |

February 7, 2016

June 2016

June 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1	2 Mayors Conference - Brentwood	3	4 Saturday Concert in The Grove
5	6	7 City Council Meeting	8 <i>Car show only</i>	9	10	11
12	13	14 Planning Commission Meeting	15	16	17	18 Saturday Concert in The Grove
19 Father's Day	20	21 City Council Meeting	22 <i>music & car show</i>	23	24	25
26	27	28 Planning Commission Meeting	29	30 CBCA General Membership Meeting	Notes:	

July 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2 Saturday Concert in The Grove
3	4 4 th of July Holiday & Parade	5 City Council Meeting	6 music & car show	7 Mayors Conference - San Pablo	8	9
10	11	12 Planning Commission Meeting	13	14	15	16 Saturday Concert in The Grove
17	18	19 City Council Meeting	20 music & car show	21	22	23
24	25	26 Planning Commission Meeting	27	28 CBCA General Membership Meeting	29	30 Saturday Concert in The Grove
31	Notes:					

August 2016						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2 City Council Meeting	3 music & car show	4 Mayors Conference – Antioch	5	6
7	8	9 Planning Commission Meeting	10	11	12	13 Saturday Concert in The Grove
14	15	16 City Council Meeting	17 car show only	18	19	20
21	22	23 Planning Commission Meeting	24	25 CBCA General Membership Meeting	26	27 Saturday Concert in The Grove
28	29	30	31 car show only	Notes:		



Approved: 
Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CITY MANAGER
DATE: 16 FEBRUARY 2016
SUBJECT: ESTABLISH DATE AND TOPICS FOR A JOINT SPECIAL MEETING WITH THE MT. DIABLO UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

RECOMMENDATION

Following City Council discussion of potential topics for a proposed Joint Special Meeting with the Board of Education of the Mt. Diablo Unified School District, and opportunity for public comment(s), it is recommended by motion the City Council call a Special Meeting to be held on **Monday, 29 February 2016** in Hoyer Hall of the Clayton Community Library at 6:30 PM and determine the list of City topics for inclusion on the joint meeting agenda.

BACKGROUND

In March 2014 the Clayton City Council met for the first time in recent years in a joint special meeting with the Board of Education of the Mt. Diablo Unified School District (MDUSD) to converse over items of mutual interest. A second joint meeting was held in Clayton on 9 February 2015. No actions were taken by either governing body at these joint meetings but the communication exchange did lead to further inter-agency staff contact and cooperation.

By letter dated October 5, 2015 (ref. Attachment A), the MDUSD Board of Education again expressed interest in a joint meeting in furtherance of developing relationships with communities from which its public school students reside. At its public meeting on 20 October 2015, the Clayton City Council selected its preferred meeting date of Monday, 29 February 2016, and that date has since been confirmed by MDUSD. It is now necessary to officially call the Joint Special Meeting on that date and set the agenda topics.

POTENTIAL AGENDA TOPICS

At its October 2015 meeting, the City Council previously identified the following two (2) items for inclusion on the Joint Meeting Agenda:

1. Report on the disposition and success of the stormwater runoff containment inter-agency project performed on MDUSD school property and on City property adjacent to the asphalt public trail rimming the Mt. Diablo Elementary School.
2. Discuss opportunities for improved protocols establishing neighborhood notification of outdoor school and/or Parent-Faculty Club events on school campuses during non-traditional school hours.

A suggested item for consideration would be to request a report/update from MDUSD regarding its inaugural year of after-school inter-mural sports programs at Diablo View Middle School.

The City Council may wish to identify additional joint discussion topics when setting the Agenda at this meeting.

Attachments: A. October 2015 letter from MDUSD [1 pg.]

B. Agenda and Minutes from February 9, 2015 Joint Special Meeting [12 pp.]



MT. DIABLO UNIFIED SCHOOL DISTRICT
JAMES W. DENT EDUCATION CENTER
1936 Carlotta Drive
Concord, California 94519-1358
(925) 682-8000, ext. 4000

ATTACHMENT A

Agenda Item: _____

OFFICE OF
SUPERINTENDENT

October 5, 2015

The Honorable Members of
the Clayton City Council
6000 Heritage Trail
Clayton, CA 94519

Dear Councilmembers:

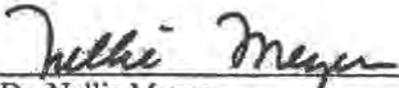
We would like to continue developing our relationship with the communities in which our students attend our schools. The last several years, we had an opportunity to meet with you as a Board, along with our Superintendent, to discuss some of the issues which are important to your City and community, as well as to our schools, our students and the parent community we serve. As we move towards full implementation of the Local Control Funding Formula, and its accountability plan, as well as the Common Core curriculum within each of our classrooms, we believe it is more important than ever to hear from our communities as to how we can better meet the needs of our students.

The Board approved at its' September 28, 2015 meeting, a number of dates throughout this school year, at which time we are available to meet with you. The following dates have been set aside for these meetings: November 2, 2015; December 14, 2015; January 4, 2016; February 1, 2016; ~~February 29, 2016~~; April 4, 2016; and May 2, 2016. If any of the above dates would be appropriate for your Council to meet with us, please select one and call (925) 682-8000, x4000, or email superintendentoffice@mdusd.org. We will schedule the meeting date at either your facility, one of our schools or our Board Room.

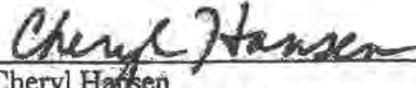
Thank you for your dedication to our communities. We look forward to hearing from you.

Sincerely,

MT. DIABLO UNIFIED SCHOOL DISTRICT



Dr. Nellie Meyer
Superintendent



Cheryl Hansen
President, Board of Education



SPECIAL MEETING
CLAYTON CITY COUNCIL
AND
MT. DIABLO SCHOOL DISTRICT BOARD

ATTACHMENT B

MONDAY, FEBRUARY 9, 2015

6:30 p.m. – 8:00 p.m.

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

<p><u>City Council</u> Mayor: David T. Shuey Vice Mayor: Howard Geller Councilmember: Jim Diaz Councilmember: Keith Haydon Councilmember: Julie Pierce</p>
--

<p><u>Mt. Diablo School District Board</u> President: Cheryl Hansen Vice President: Debra Mason Member: Brian Lawrence Member: Barbara Oaks Member: Linda Mayo</p>
--

Pursuant to CA Government Code Section 54957 and upon order of Mayor David T. Shuey, a special meeting is called for February 9, 2015 at 6:30 p.m. for the purpose of informational exchange with the Mt. Diablo District Board and the Clayton City Council.

Signed: 
David T. Shuey, Mayor

Date: 2/3/15

- *****
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Clayton Library, 6125 Clayton Road; 3) Ohm's Bulletin Board, 1028 Diablo Street, 4) www.ci.clayton.ca.us, 5) Mt. Diablo Unified School District, Denter Center, 1936 Carlotta Drive, Concord, CA and 6) www.mdusd.org
 - 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 one has 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.

1. **CALL TO ORDER AND ROLL CALL** – City of Clayton Mayor David T. Shuey and Mt. Diablo Unified School District Board President Cheryl Hansen
 2. **PLEDEGE OF ALLEGIANCE**
 3. **OPENING REMARKS** – City of Clayton Mayor David T. Shuey
 4. **OPENING REMARKS** – Mt. Diablo Unified School District Board President Cheryl Hansen
 5. **PUBLIC COMMENT PERIOD**
 6. **INFORMATIONAL EXCHANGE WITH MT. DIABLO UNIFIED SCHOOL DISTRICT**
 - a) Introduction to school presentations by Dr. Nellie Meyer, Superintendent.
 - b) Presentation by Irene Keenan, principal of Mt. Diablo Elementary School.
 - c) Presentation by Patti Bannister, principal of Diablo View Middle School.
 - d) The Mt. Diablo Unified School District and the Clayton City Council will provide each other updates on items of mutual interest and discuss current partnerships and other areas of cooperation. Discussion items may include:
 - Mt. Diablo Elementary campus storm water drainage issues onto the adjacent public trail and natural hillside abutting Clayton Road.
 - Discuss/feedback on recent Mt. Diablo Elementary modified school traffic circulation changes.
 - Discuss/feedback about promoting/encouraging the concept of chaperoned "walking school buses" to help mitigate congestion at MDE campus (coordinated through PFC).
 - Discuss/share the prospect of paid after-school programs at Diablo View Middle School. City community recreation contractor in Gym has capacity to provide programs if students/parents have interest.
 - Measure C Facilities update for Mt. Diablo Elementary, Diablo View Middle, and Clayton Valley Charter High School.
 - Share information/feedback regarding Clayton Valley Charter High School relationship.
- No formal action will be taken.
7. **ADJOURNMENT** – the next regularly scheduled City Council meeting is February 17, 2015. The next regularly scheduled Mt. Diablo Unified School District Board of Education meeting is February 23, 2015.

**MINUTES
OF THE
SPECIAL JOINT MEETING BETWEEN
CLAYTON CITY COUNCIL AND THE
BOARD OF TRUSTEES OF THE MT.
DIABLO UNIFIED SCHOOL DISTRICT**

Wednesday, February 9, 2015

1. **CALLS TO ORDER AND ROLL CALLS** – City of Clayton Vice Mayor Howard Geller and Mt. Diablo Unified School District Board President Cheryl Hansen.

The City Council meeting was called to order at 6:45 p.m. by Vice Mayor Geller in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Vice Mayor Geller, Councilmembers Diaz, Haydon and Pierce. Councilmembers absent: Mayor Shuey. City Staff present: Assistant to the City Manager Laura Hoffmeister, City Clerk Janet Brown, Chief of Police Chris Thorsen.

Mt. Diablo Unified School District Board Members present: President Cheryl Hansen, Vice President Debra Mason, Trustees Brian Lawrence, Barbara Oaks and Linda Mayo. Mt. Diablo Unified School District Board Members absent: None. School District Staff present: Superintendent Dr. Nellie Meyer, and Secretary Debbie Maher.

2. **PLEDGE OF ALLEGIANCE** – led by Vice Mayor Geller.
3. **OPENING REMARKS** – were made by Vice Mayor Howard Geller.
4. **OPENING REMARKS** – were made by Mt. Diablo Unified School District Board President Cheryl Hansen.
5. **PUBLIC COMMENT PERIOD**

Debbie LaDue indicated she is a teacher at Valle Verde Elementary School in Walnut Creek; she requested the School Board take a stand either for or against the "Northgate Unified School District" proposal and publicize its position. The intent of the group is to keep the Northgate High School community attendance intact and include the rest of MDUSD Walnut Creek attendance area into this new school district boundary. Parents would like a fact sheet about the proposal.

Michael Langley indicated concerns with the Clayton Valley Charter High School relationship with the Clayton City Council. Mr. Langley would like to see the Clayton City Council take greater interest in the Board meetings at Clayton Valley Charter High School.

Dee Billeter thanked the Clayton City Council for its leadership in the "Do The Right Thing" student recognition program. She also spoke of Patti Middendorf's dismissal from Clayton Valley Charter High School and was not pleased with Clayton City Councilmembers Pierce, Geller and Shuey's remarks about Clayton Valley Charter High School personnel.

6. INFORMATIONAL EXCHANGE WITH MT. DIABLO UNIFIED SCHOOL DISTRICT

- (a) Introduction to school presentations by Dr. Nellie Meyer, Superintendent.

MDUSD Superintendent Dr. Nellie Meyer presented a short video of various school sites and then introduced Principal Irene Keenen of Mt. Diablo Elementary School.

- (b) Presentation by Irene Keenan, principal of Mt. Diablo Elementary School.

Principal Irene Keenan, Mt. Diablo Elementary School, presented a short video of various student and teacher activities and projects.

- (c) Presentation by Patti Bannister, principal of Diablo View Middle School.

Principal Patti Bannister, Diablo View Middle School, presented a short video of various students and teachers expressing the reasons why they enjoy their school. Ms. Bannister displayed laminated signs with sayings of positive character trait reminders that are posted throughout the school.

- (d) The Mt. Diablo Unified School and the Clayton City Council will provide each other updates on items of mutual interest and discuss current partnerships and other areas of cooperation. Discussion items included:

Vice Mayor Geller noted that since the last Special Joint Meeting in March 2014, the City installed school speed zone signs on each side of the Diablo View Middle School campus as suggested at that meeting. The signs seem to be helpful in slowing down the traffic on Clayton and Marsh Creek Road near the school.

Assistant to the City Manager Laura Hoffmeister thanked the Superintendent on behalf of the City Manager on the recently revised mutual agreement for the joint use of Diablo View Middle School fields and the Clayton Community Gym. Establishing a new agreement was also an item identified at the last Joint Meeting.

- Mt. Diablo Elementary campus storm water drainage issues onto the adjacent public trail and natural hillside abutting Clayton Road:

Ms. Hoffmeister indicated an issue had come to the City's attention by the Clayton Maintenance Department regarding Mt. Diablo Elementary School campus storm drain water coming off its playground asphalt surfaces and causing drainage and erosion issues on the adjacent trail, slope above Clayton Road and to Clayton Road. It appears the issue has become more problematic since the classroom addition renovation project. Ms. Hoffmeister presented a short slideshow displaying a couple of problem areas, noting the trail itself meanders through both City and School properties. The Clayton Maintenance Department recently placed City sandbags on the school's property to minimize erosion of the hillside and to limit storm water overflows into the v-ditch to mitigate impacts of the drainage to the trail, slope and Clayton Road. She recommended both City and School Maintenance Departments work jointly on solutions to help resolve this storm water drainage problem.

MDUSD Board President Cheryl Hansen asked for clarification on the location of the storm drainage and if it was a result of Mt. Diablo Elementary School campus classroom addition renovation project or has it been going on for last few years?

Assistant to the City Manager Laura Hoffmeister stated her understanding is it has become more pronounced and problematic since the school's installation of additional classrooms. She pointed out the flow pattern from the school is toward Clayton Road from the school asphalt and fields. When all the classrooms and additional asphalt areas were installed the pervious space was diminished between the asphalt and the more natural dirt, increasing runoff and erosion.

MDUSD Board President Cheryl Hansen stated MDUSD Maintenance Supervisor Jeff McDonald was present at this meeting and he is now aware of the problem; she also wanted to bring this to the attention of School District staff member Tim Cody, who was in the audience.

Councilmember Pierce added this public trail is frequently used to gain access to downtown Clayton and its condition has become problematic because of the erosion, debris and sandy soil that washes down on the trail. Hopefully it can be addressed and repaired in an expeditiously inexpensive manner and figure out funds to make the repairs.

MDUSD Board President Cheryl Hansen agreed to have its staff work with the City staff on identifying the issues, acknowledging it is a joint problem and the safety of those using the trail is a top priority.

Vice Mayor Geller requested the two Maintenance Departments meet as soon as possible to work together on a solution to avoid any further damage to trail, slope and Clayton Road; it is an important arterial and cannot have closures or delays due to soil slippage.

Superintendent Meyer stated MDUSD Maintenance Supervisor Jeff McDonald will contact City Maintenance Supervisor John Johnson to collaborate on a joint solution of the storm water drainage in the next day or two.

- Discuss/feedback on recent Mt. Diablo Elementary modified school traffic circulation changes; and promoting/encouraging the concept of chaperoned "walking school buses" to help mitigate congestion at MDE campus (coordinated through PFC):

Vice Mayor Geller advised the area street configuration along with the school's location is surrounded by residential properties and has always been an area of concern and a priority for the City to make it work better. The Mt. Diablo Elementary School modified traffic circulation was recently done by the City in collaboration with the school to improve the safety of the children, and the question is has it helped?

Councilmember Pierce advised the City worked with the Central Contra Costa County Transportation (TRANSPAC) and received grant funds to install new signage and pavement striping through the 511 Contra Costa Street Smarts program for the re-configuration. The Central Contra Costa Transportation Authority further suggested more kids walking to school or using a school "walking pool" to help eliminate the traffic problem; noting ½ mile is considered a walkable distance. It can provide an opportunity for parents in the neighborhood to get to know each other walking kids to and from school safely or assistance can be provided by the Parent Faculty Club. 511 Contra Costa Street Smarts Program can be beneficial districtwide to students.

Principal Irene Keenan provided feedback the traffic circulation re-configuration around the school has improved. Ms. Keenan likes the idea of the "Walking School Bus" and will encourage the parents and students to participate in such program at Mt. Diablo Elementary School.

Councilmember Pierce added parents are parking further up Mitchell Canyon Road and Tiffin Drive to walk their children to school which is diverting some of the traffic off Pine Hollow. Police Chief Chris Thorsen stated his observation is traffic is backed up over one block in one direction and some drivers will attempt to pass the line in the opposing traffic lane. Driver/parent education outreach and police presence, as resources allow, will try to address this situation. Driver/parent education could be done by the school through their email list to parents.

MDUSD Board President Cheryl Hansen acknowledged this idea of circulation improvement was brought up at the last year's special Joint Meeting. Mt. Diablo Elementary is uniquely situated and a challenge in terms of options for improvement with limited parking and its somewhat narrow roads. Mrs. Hansen asked if the re-striping changes were completed?

Councilmember Pierce advised the re-striping changes and the turn configuration were completed and have made a big difference. The parent drivers have become savvy getting or avoiding the backup which has dispersed or spread the traffic further into the surrounding neighborhoods. She further noted the modified school circulation has helped with the afternoon traffic issues; additional assistance is still needed by having students walk or ride their bikes to school. She has spoken with the Police Chief about the safety of the kids riding their bikes to school; she added the 511 Contra Costa Street Smarts Program may be able to fund bike lockers on campus similar to the bike lockers on the Diablo View Middle School campus.

MDUSD Board Vice President Debra Mason mentioned her familiarity with the 511 Contra Costa Street Smarts Program and the "Walking School Bus" program; it has worked with some of the PTAs in surrounding communities, and she supports it.

Councilmember Haydon added addressing the drainage issue to the public trail (stretching from the school to Oak Street in downtown Clayton) may encourage its better use, especially in rainy weather. That in turn may encourage more parents to drop off and pick up their kids in the downtown where there are better streets and parking, which could help traffic issues immediately surrounding the school.

MDUSD Board President Cheryl Hansen added this is a good opportunity to expand the 511 Contra Costa Street Smarts Program throughout the district; she is supportive of improvements that were made to the striping and drop-off at Mt. Diablo Elementary School; although not perfect or ideal it seems to be working better than previous.

Jackie Travers a staff member at Highland's Elementary School in Concord, has also experienced problems with traffic at drop off and pick up times. She believes Highland's Elementary could benefit from the same measures that Mt. Diablo Elementary has pursued with the addition of crossing guards, walking school bus, and assistance from the Parent Faculty Club and Parent Teacher Association. Ms. Travers has also seen a benefit in reconfiguration of the traffic flow to and from the campus.

Councilmember Pierce advised the Mt. Diablo Elementary site did not have any extra space to work with and the reconfiguration of the traffic flow was the only solution that could be reasonably established, and it has helped. Ms. Pierce advised she will have 511 Contra Costa contact Highland's Elementary School for assistance.

- Discuss/share the prospect of paid after-school programs at Diablo View Middle School. City community recreation contractor in Gym has capacity to provide programs if students/parents have interest:

Vice Mayor Geller advised Casey Copeland from All Out Sports League (AOSL) has approached the City indicating he has the capacity and interest in coordinating after school program activities for the students of Diablo View Middle School.

Principal Patti Bannister noted she has not been approached by Mr. Copeland regarding a collaboration of after school program activities and she welcomes the conversation.

Councilmember Pierce added that Mr. Copeland, when he first started at the Gym, initiated tutoring and some after-school programs. Mr. Copeland has expressed to the City that he thinks these could be successful with the collaboration of the school and is hoping to coordinate with the school to fill a need that would be helpful for everybody. Since he already runs the recreation programs after school at Clayton Community Gym he can easily establish and run both after school and recreation programs.

MDUSD Board Trustee Brian Lawrence advised such conversation should start with the site principals whom, along with Superintendent Dr. Nellie Meyer, have the ability to implement new programs at their campus.

Willie Mims (NAACP East County, Education Chair) introduced himself and understood that programs would go through the School District first before programs would be implemented at the individual school sites. Typically, school districts have their own after school programs before going through a private vendor.

Vice Mayor Geller commented after school program and activities have had their own programs, although they were not run through City staff. He also confirmed the individual school principals do have control at the local level and the Mt. Diablo School District board would oversee any district-wide programming.

Councilmember Pierce added technically, after school gets out daily the Clayton Community Gym becomes a City facility resulting in a City activities program offered after school hours and weekends; the City would like to collaborate with the school to have programs that can work for them.

- Measure C Facilities update for Mt. Diablo Elementary, Diablo View Middle, and Clayton Valley Charter High School:

Vice Mayor Geller requested a facilities update on current and proposed projects for Mt. Diablo Elementary, Diablo View Middle and/or Clayton Valley Charter High School made possible by Measure C facilities bond act passed June 8th, 2010 in the amount

of \$348 million dollars with the purpose of enhancing the education of our students now and well into the future.

MDUSD Board President Cheryl Hansen invited staff member Timothy Cody, who oversees the Measure C bond program, to provide an update.

Mt. Diablo Unified School District staff member Timothy Cody presented a power point slide show illustrating the updates at the school sites located in the city of Clayton. Mt Diablo Elementary replaced portables with permanent new buildings; Diablo View Middle School built a new Science building; and Clayton Valley Charter High School had a new concession stand and science facilities completed. Mr. Cody stated the upcoming projects include a modernization effort to ensure the schools are ready to perform the statewide electronic computer testing; meet ADA and new standards related to various state safety mandates such as window and door caulk removal and replacement. The remaining balance is being distributed district wide for technology in the classrooms at \$185 per student; Mt. Diablo Elementary will receive approximately \$150,000; Diablo View Middle School \$120,000; and Clayton Valley Charter High School \$308,000. Mr. Cody advised the largest facilities project coming up is classroom modernization.

Councilmember Diaz asked about the energy savings the School District has seen to date as a result of the installation of solar panels at parking structures. Mr. Cody advised overall the Mt. Diablo School District has seen a cumulative savings of \$3.3 million dollars after the third year since the installation occurred.

Councilmember Pierce inquired on the initial upfront costs the Mt. Diablo School District needed for solar panel installation. Mr. Cody advised the capital cost was approximately \$68 million dollars which will take approximately 20 years for cost recovery.

Councilmember Haydon asked about the allocation of approximately \$185 per student and how many years are left in Measure C facility funds. Mr. Cody advised the Measure C facility funds are available for three to four more years.

MDUSD Board President Cheryl Hansen advised future Measure C facility projects are expected to come to the Mt. Diablo School Board in spring 2015 with a budget remaining of approximately \$77 million dollars.

Riley Travers, Clayton Valley Charter High School student, had questions about the Measure C funds and how they are supposed to be used. She advised at CV Charter the women's restrooms and showers are not maintained, especially at the upstairs stage location, which prevents students from using them. Ms. Travers also advised there are not enough student lockers resulting in multiple students sharing, and she inquired on the status of installation of a swimming pool and a stage. She was further concerned with the placement of the new concession stand in front of the old women's showers that have not been used in years.

MDUSD Board President Cheryl Hansen advised the Mt. Diablo School District owns the school buildings and the grounds they were built on; however, Clayton Valley Charter oversees the property maintenance including the showers and lockers. The pool that was discussed prior to the opening of the Charter school was not written into the Measure C funding plan.

MDUSD Board Trustee Brian Lawrence added the Measure C funding requests were driven by individual school sites; pool and performance stages were not included. The Clayton Valley High School main site-selected projects included the all-weather track, all-weather field and stadium lights as well as some other smaller items.

MDUSD Board President Cheryl Hansen advised Measure C funds are used to ensure school sites are more habitable for students; some improvements were identified by each campus while others were made district wide.

Misha Safran has been teaching in the Mt. Diablo Unified School District and suggested since Clayton Valley Charter High School is renting the facility, perhaps a re-work of the priority list should focus more on sanitation, health and student safety.

MDUSD Board President Cheryl Hansen encourages parents and students to contact Mr. Cody and Mr. Jeff McDonald regarding their concerns, as it is the tenant's responsibility for maintenance. The School District is responsible for the physical planning and modernization renovation.

MDUSD Superintendent Dr. Nellie Meyer stated the original list of improvements needed at the campuses was identified, and that list was publicized when voters voted on the Bond Measure; the first priorities were on American Disabilities Act compliance.

MDUSD Board Trustee Brian Lawrence advised meetings were set for community feedback on various improvements prior to going to the voters; he thanked Ms. Safran for the feedback.

MDUSD Board President Cheryl Hansen clarified the Mt. Diablo Unified School District is responsible for the physical campus planning while the individual sites are responsible for the day-to-day maintenance within the campus.

Matt Hill advised sanitation is a huge area of concern. The prior Snack Shack at Clayton Valley Charter High School was shut down by the Contra Costa County Health Department which affected a large number of people at the time. Restroom facilities are awful. It was easier for school Maintenance Department personnel to repair lockers and showers first. Recent improvements have made a positive impact to the campus.

MDUSD Board President Cheryl Hansen noted both Mt. Diablo Unified School District and taxpayers paid for Measure C funding and priorities were set at the time voters voted on the Measure C.

Willie Mims (NAACP East County, Education Chair) expressed Mt. Diablo School District has responsibility to maintain school facilities but Clayton Valley Charter High School is an independent charter which diverted much of the maintenance and oversight responsibility from Mt. Diablo School Unified District.

Jackie Travers, parent and staff member in Mt. Diablo Unified School District, saw a decrease in Measure C funding for arts programs and money back into buildings and classrooms. We are here to educate the children and send them out into the world as the most rounded intelligent people; money needs to be put back into the buildings, not the football field.

Board President Hansen stated Measure C funds by law can only be used on building and grounds improvements, not for education programs or classroom instruction. The fund's uses are limited to the items that were provided to the voters as part of the Measure C election voting process.

Councilmember Diaz clarified the School District contacts as Mr. Cody about Measure C Capital Improvements and confirmed Jeff McDonald as the Executive Director of Operations at Mt. Diablo Unified School District.

- Share information/feedback regarding Clayton Valley Charter High School relationship:

Vice Mayor Geller advised this was an item suggested by Mayor Shuey and unfortunately he was unable to be in attendance this evening.

Councilmember Pierce noted Clayton City Councilmembers were very active and supportive in the formation of the Charter High School and remains in support; however, it is not to taking sides on the recent issues. The goal is to see the kids prosper and it is not fair to bring the Mt Diablo Unified School Board into the issues, as it is no longer the controlling governing body of that school campus; it is the Charter High governing board which is a separate and different body from the School Board which is present tonight. Councilmember Pierce clarified it is her personal opinion when it was expressed or written in the press; what she says does not represent the position of the Clayton City Council. She also noted what is in the press or posted in blogs by others is not always a correct statement of her comments.

Allison Snow expressed her dissatisfaction with prior comments made by Clayton Councilmembers that she has seen in media, blogs or heard at the Charter Governing Board meeting, supporting the Charter Executive Director and Charter Board. She stated her concern of Clayton Valley Charter High School losing the initial collaborative model in which it was founded, and the Charter governing board does not provide financial budget line item details. Ms. Snow would like the City Council to rethink their individual positions supporting Mr. Linzey and the Charter governing board.

Misha Safran is a teacher at Northgate High School and was on the committee to form the Clayton Valley Charter High School. She is now concerned with teachers leaving the school.

Laurie Arbour is a teacher at Clayton Valley Charter High School. She expressed her concern of teachers leaving the school and Pat Middendorf terminated without cause.

Matt Hill is involved with the Mt. Diablo School District and was disappointed when teachers left the school; not one Charter Governing Board member asked why they left or contacted any of the teachers. He also stated his concern of the Title 9 issues which are still occurring at CV Charter School, and the legal costs the CV Charter will have due to recent investigations by the Contra Costa County Board of Education.

Matt Mazzei stated his concern over a preliminary proposal of a new or affiliated Charter Arts Academy financial plan to use a revolving loan from the Charter. He supported the Charter but not the current leadership of the Charter.

Sharon DeGener stated her 6th grader will not attend Clayton Valley Charter due to its current leadership. She understood that credentialed teachers left mid-year, and a qualified teacher was offered a tech job instead of teaching position.

Walter Rike noted his concern is campus safety for female students. He wants an explanation of what he stated were six individual female students being inappropriately assaulted by adult male employee on campus. He wants to know why no investigation by the District Attorney.

Jim Middendorf shared his concerns about Clayton Valley Little League being forced off Clayton Valley Charter High School fields; concerns of the current campus leadership and the teachers leaving; proposals to add students and grow the campus, which is not what others wanted and not what the Charter was originally envisioned. He stated the teachers at the campus had a "Vote of No Confidence" in the Executive Director and teachers left because they did not like the leadership. The Executive Director received a 20% raise and now wants to hire a principal, another executive, yet the teachers who do the education only got a 3% raise.

Chris O'Connell was in the first graduating class at Clayton Valley Charter High School. His concerns included teachers leaving due to health issues, such as stress from the work environment. He was accepted to Sacramento State and has great grades because of teachers at Clayton Valley Charter High School. Need to support the current teachers and those that left, and keep teachers from leaving; concern that Mr. Linzey shoves teachers out and the newer teachers are easier to manipulate by him.

Willie Mims expressed his concern about the leadership controversy at Clayton Valley Charter High School and campus safety for the students. He is concerned with the comment made regarding assault on students by a school employee; an educator's job is to protect students; someone needs to hold the adults accountable. He wants the California State Attorney General, the District Attorney, and the County Board of Education to investigate the Charter School; there is dysfunction in school leadership and something has to be done, something is wrong. He opposed the Charter School, but thought at the beginning it was going good until the recent controversy.

Bud Beamer stated he supports the local elected officials' comments but it should be as individuals, not with their elected titles. He appreciated Councilmember Pierce's statement that it is about students and everyone needs to focus on the students.

Riley Travers thanked everyone for listening. Students are asked to go to board meetings but are afraid to speak out for fear of losing funds for their CV Charter school clubs.

Jackie Travers stated she is a supporter of special needs programs and concerned the Charter School does not support special needs students. The special needs parents have reached out to Mr. Linzey but receive no response. They will next go to the State Board of Education about their concerns.

Bridget Billeter shared concerns the Charter School does not have an independent audit; the County Office of Education needs investigation of the Charter financial books and the lack of open transparency in the Governing Board selection process. She stated that Bud Beamer, a candidate for the Charter Governing Board, was

disqualified to serve on board; the Governing Board members should have known Mr. Beemer's conflict to serve in advance of the process.

MDUSD Board Trustee Brain Lawrence stated the School District Board of Trustees has no oversight over the operation of Clayton Valley Charter High School. He was not on the School District Board when the Charter conversion happened and the whole situation became divisive. He believes the School District is more responsive or at least better today and that some in the public were and are hoping Clayton Valley Charter will fail. He has lots of concerns about the direction of Charter, is extremely concerned about the comments yet the focus needs to be to improve the education and teaching and school environment of the children.

MDUSD Board President Cheryl Hansen stated the School District Board tried to get the former superintendent to collaborate when the Charter was first proposed. The former superintendent refused repeatedly, and ultimately the School District Board now has a new Superintendent, Dr. Nellie Meyer. President Hansen stated she voted to approve the Charter at the local School District level but was out voted. She stated that if it had been approved by this School District, then this School District would have been the compliance or overseer role and perhaps we would not have the discord that exists today. She felt the situation was heartbreaking and hoped that all can be a voice to help heal the community that is being devastated by this harmful discord, and have it rectified quickly.

Councilmember Pierce agrees big problems in tearing everything apart and starting from scratch to collaborate and cooperate. Initially the Charter Board unanimously voted for its current executive director. She rarely hears from those who agree with the Charter board; inexperienced poor guidance from the administration, focused on students and teachers working hard. Both sides of story misrepresented in blogs and in press - not good. The Clayton City Council cares; good schools mean a tremendous amount to communities and cities; need to fight for Charter, should collaborate.

Councilmember Haydon said he is new to Clayton City Council since the Charter School was formed; however he has been following the issues. He clarified the Clayton City Council is not above the Mt. Diablo Unified School District; the purpose of tonight's meeting is to work together on common issues for the betterment of the Clayton community. The focus needs to be on common issues; goals and issues need to be identified and addressed before working on a positive solution.

Laurie Arbour provided Councilmember Haydon the Stakeholders for Transparency meeting packet.

MDUSD Board Vice President Debra Mason commented everyone has a right to come forward to speak their mind and demand what they want for their kids. She encourages everyone to Do the Right Thing to ensure students receive the education they deserve.

Vice Mayor Geller asked if there were any other topics that need to be discussed tonight or any future topics?

MDUSD Board President Cheryl Hansen suggested joint meetings more than once a year.

Vice Mayor Geller added that a future agenda should cover the successes and the short comings of Common Core.

Vice Mayor Geller suggested a physical education class of students learning – playing bocce ball could be established since the Elementary School is nearby the new Bocce Court Center in downtown Clayton.

MDUSD Board Trustee Brain Lawrence liked the idea of nearby students learning bocce ball.

Vice Mayor Geller confirmed mutual staff will contact each other to address issues that were discussed tonight.

MDUSD Board Trustee Linda Mayo invited the community to the Pleasant Hill Library for a presentation on Common Core occurring in March.

Vice Mayor Geller requested an email be sent with more information regarding the Common Core presentation at Pleasant Hill Library.

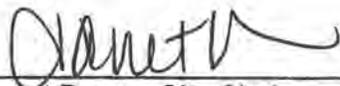
Vice Mayor Geller and Board President Hansen thanked everyone for attending and stated that general guidance to respective staff as appropriate was provided and that no formal action was taken on any agenda items.

6. **ADJOURNMENT**– on calls by Vice Mayor Geller and Board President Hansen the joint meeting adjourned at 9:35 p.m.

The next regularly scheduled City Council meeting is on February 17, 2015. The next regularly scheduled Mt. Diablo Unified School District Board of Education meeting is February 23, 2015.

#

Respectfully submitted,



Janet Brown, City Clerk

APPROVED BY CLAYTON CITY COUNCIL



David T. Shuey, Mayor