AGENDA

REGULAR MEETING

* * *

CLAYTON CITY COUNCIL

* * *

TUESDAY, November 16, 2010

7:00 p.m.

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

Mayor: Hank Stratford
Vice Mayor: David T. Shuey

Council Members
Howard Geller
Joseph A. Medrano
Julie K. Pierce

- 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 on Monday 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 *
November 16, 2010

7:00 P.M.

1. CALL TO ORDER AND ROLL CALL – Mayor Stratford.

2. PLEDGE OF ALLEGIANCE – led by Mayor Stratford.

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 regular meeting of November 2, 2010. (View Here)

(b) Approve Financial Demands and Obligations of the City. (View Here)

4. RECOGNITIONS AND PRESENTATIONS - None.

5. REPORTS

(a) Planning Commission – Chair Sandra Johnson.
(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

Citizens may address the City Council on items within the Council's jurisdiction, (which are not on the agenda) by completing a speaker card available on the Lobby table and submitting it 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 by the Mayor, 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 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 request by the new owners (NUCP, Inc.) of the Flora Square mixed commercial building at 1026 Oak Street for the City Council's approval to allow a commercial recreation use (longevity fitness studio) as a ground floor lease occupancy rather retail commercial ground floor uses indicated in the Disposition and Development Agreement (DDA). (View Here)
(Community Development Director)

Staff recommendation: Following staff report and receipt of public comments, that Council deny the lease request without prejudice in the long term interest of seeking ground floor retail commercial occupancies.

(b) Discussion on status of 8th annual "Clayton Counts Down" New Year's Eve event being at risk due to lack of community and business donations and volunteers.
(Council Member Pierce) (View Here)

Staff recommendation: That Council provide policy direction on holding the event this year.

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

10. CLOSED SESSION

(a) *Government Code Sections 54956.9 (a), (b) (1) and (c)*.
Conference with Legal Counsel
Pending Litigation: *Katzman, et al. v. City of Clayton, et al.* Coordinated Cases Master/C07-01461/C07-00707, Superior Court of CA, Contra Costa County and related coverage issues.

(b) *Government Code Section 54957(b) (1)*.
1) City Manager annual performance evaluation.

Reports out from Closed Session: Mayor Stratford

11. ADJOURNMENT– The City Council will hold a Special Meeting with Town Center property and business owners on November 23, 2010 at 9:00 a.m. in the Clayton Community Library.
Its next regularly scheduled meeting will be on December 7, 2010.

# # # # #

MINUTES
OF THE
REGULAR MEETING
CLAYTON CITY COUNCIL

Agenda Date: 11-2-10

Agenda Item: 3a

TUESDAY, November 2, 2010

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:02 p.m. by Mayor Stratford in Hoyer Hall of the Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Stratford, Vice Mayor Shuey, Councilmembers Geller, Medrano and Pierce. Staff present: City Manager Gary Napper, City Attorney Dan Adams, and City Clerk Laci Jackson.

2. **CLOSED SESSION** –None.

3. **PLEDGE OF ALLEGIANCE** – led by Mayor Stratford.

4. **CONSENT CALENDAR- It was moved by Councilmember Pierce, seconded by Councilmember Medrano (Passed; 5-0 vote).**

(a) Approved the minutes of the regular meeting of October 19, 2010.

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

(c) Adopted Resolution 45-2010 amending the City's Uniform Penalty Schedule for local parking violations by adding a fee of $3.00 onto each local parking ticket to fund a State-imposed surcharge for the State Trial Court Trust Fund (AB 1617, 2010 statute).

(d) Approved the award of contract to Caltronics Business Systems for a 3-year lease and maintenance agreement for the replacement of the main copier at City Hall.

(e) Adopted Resolution 46-2010 of support for *Get Connected!*, a call for action to accelerate the deployment and implementation of broadband technology to unserved and underserved communities and populations in California.

(f) Approved the closure of the Clayton Community Library on seven (7) Sundays in calendar year 2011 for observance of certain holidays and holiday weekends.

5. **RECOGNITIONS AND PRESENTATIONS**

(a) Mayor Stratford read a Proclamation declaring November 2010 as "Pulmonary Hypertension Awareness Month" in the City of Clayton and presented it to Katie Grace Groebner. Katie Grace's mother Kathy thanked the City Council for raising awareness about Pulmonary Hypertension.

6. **REPORTS**

(a) Planning Commission- Commissioner Ted Meriam reported on the October 26th Commission meeting. He stated the Commission was prepared to review Use Permit for Longevity Center in the Flora Square building but referred it to the City Council for action in accordance with the DDA. The Commission also approved a variance for a home in Oakhurst to allow for a shade arbor.

(e) Other

Mayor Stratford stated he, Vice Mayor Shuey, Jim Diaz, and Ted Meriam were running for the two City Council seats in the November 2010 election. In accordance with Council policy, he invited Mr. Meriam to stay at the podium and speak, and then he invited Mr. Diaz forward.

Mr. Meriam stated he was a candidate for the City Council and stated it has been an engaging and challenging campaign. He thanked everyone for their support through the campaign and also thanked the current City Council and staff for their work on the election.

Mr. Diaz thanked everyone who has come out and supported the campaign and stated it was a wonderful experience.

(b) Trails and Landscaping Committee- No meeting to report.

(c) The City Manager reported when the election is over the California Legislature will go back into session and hopefully with the successful passage of Prop. 22. the State will no longer be able to raid Redevelopment Agency funds. He also reminded citizens the Council Reorganization meeting will occur on December 7th.

(d) City Council

Councilmember Medrano reported the Clayton Counts Down is quickly approaching and the committee is in need of volunteers. He stated the theme will be "Carnival 2010" and the event will run from 5pm-8pm.

Councilmember Pierce reiterated that committee needs volunteers and donations in order to make the event successful. She also attended the ABAG general assembly.

Councilmember Geller stated he is working with CBCA to finish up the Daffodil Hill project and is working to bring back the Clayton Round-up.

Vice Mayor Shuey stated it is interesting running in elections in small towns and thanked everyone for running a polite and non-mudslinging campaign.

Mayor Stratford stated it has been a well run election.

7. PUBLIC COMMENT ON NON-AGENDA ITEMS

8. PUBLIC HEARINGS – None.

9. ACTION ITEMS

(a) Consider a series of actions to formally implement "Tier II" California Public Employees Retirement System (CalPERS) pension plans for all newly hired City employees.

The City Clerk presented the staff report and stated in order to finalize the Teir II pension systems for the Miscellaneous employees and the police officers bargaining units, as approved in Resolution 24-2010 and Resolution 34-2010, the Council must approve the Resolution of Intent and conduct the Introduction and First Reading of Ordinance No. 430.

The City Clerk outlined the possible savings the City may see from the implementation of the Tier II pension plan. She stated the cost analysis provided by CalPERS states there will be no immediate impact to the City's current employer contribution rate from this amendment since no "new hires" has yet occurred. She stated ultimately, the City's cost will decrease as it hires new employees subject to the lower pension plan to replace existing employees in the higher formula who retire or otherwise leave City employment.

The new employer contribution rate will be 6.755% of reportable earnings for local miscellaneous members entering membership for the first time in the Miscellaneous classification after the effective date of the amendment to contract.

The new employer contribution rate will be 13.436% of the reportable earnings for local sworn members entering membership for the first time in the Local Public Safety classification after the effective date of this amendment to contract.

The City Clerk stated the timeline for the new contract to be implemented is January 10, 2011 and stated this plan will effect new hires not current active employees. She also described in detail the assumptions and dollar savings to the City over the next 10 years. Since the Tier II pension plans cost less than the current plans, nothing but savings will be realized in the future.

No public comments were received.

It was moved by Councilmember Medrano, seconded by Councilmember Geller to adopt Resolution 47-2010 the Resolution of Intent (Passed; 5-0 vote).

It was moved by Councilmember Medrano, seconded by Councilmember Geller to have the City Clerk read Ordinance No. 430 by title and number only and waive By motion, approve the City Clerk to read Ordinance No. 430 by title and number only and waive further reading (Passed; 5-0 vote).

The City Clerk read Ordinance No. 430 by title and number only.

It was moved by councilmember Medrano, seconded by Councilmember Pierce to approve for Introduction and First Reading Ordinance No. 430 to Amend the Contract Between the Board of Administration of the California Public Employees' Retirement System (CalPERS) and the City of Clayton to Implement *California Government Code* Section 20475 (2.0% at 60 Full Formula for Miscellaneous Employees <u>and</u> 2.0% at 50 Full Formula for Local Public Safety) Providing Second Tier of Lower Level of Benefits for New City Employees (Passed; 5-0 vote).

(b) Council discussion and direction regarding the number of, dates and times for the 2011 series of the annual "Concerts in The Grove".

Councilmember Geller stated though the public would like to see the concerts every weekend he is proposing a schedule of every other weekend for the 2011 concert season. He proposed the following dates for the following 10 concerts: May 7, 21; June 4, 18; July 2, 16, 30; August 13, 27; Sept 10.

It was moved by Councilmember Medrano, seconded by Councilmember Pierce to approve the dates of the 2011 Concert series as presented by Councilmember Geller (Passed; 5-0 vote).

10. **COUNCIL ITEMS**- None received.

11. **ADJOURNMENT**– On call by Mayor Stratford the meeting adjourned at 7:33 p.m.

Respectfully submitted,

_____
Laci J. Jackson, City Clerk

APPROVED BY CLAYTON CITY COUNCIL

_____
Hank Stratford, Mayor

CITY OF CLAYTON

Agenda Date: 11/16/10

Agenda Item: 3b

Approved:

Gary A. Napper
City Manager/Executive Director

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MERRY PELLETIER, FINANCE MANAGER

DATE: NOVEMBER 16, 2010

SUBJECT: INVOICE SUMMARY

RECOMMENDATION **Approve the following Invoices.**

11/10/10	Invoices for Payment	$433,272.21

Attachment:
Invoice Expense Allocation Report - CC Meeting 11/16/2010 (10 pages)

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
Access One						
Access One	11/2/2010	Long Distance Svc 10/10		101-7332-02	Telephone	$0.76
	1088413	Invoice	Approved	101-7332-03	Telephone	$8.55
				101-7332-04	Telephone	$7.86
				101-7332-07	Telephone	$1.25
				101-7332-06	Telephone	$32.12
					Totals for Access One:	*$50.54*
Alameda County Sheriff's Office						
Alameda County Sheriff's Office	11/3/2010	PD Training Course 11/30/10		101-7373-06	Education & Training	$348.00
	11/3/10	Invoice	Approved			
					Totals for Alameda County Sheriff's Office:	*$348.00*
All City Management Services, Inc.						
All City Management Services, Inc.	10/27/2010	Crossing Guard 10/23/10		101-7419-06	Other Professional Services	$465.00
	21004	Invoice	Approved			
					Totals for All City Management Services, Inc.:	*$465.00*
Bay Area News Group East Bay						
Bay Area News Group East Bay	8/6/2010	Legal Notices for CIP Projec		303-7520-00	CIP Project Expenses	$545.40
	3608410	Invoice	Approved	303-7520-00	CIP Project Expenses	$545.40
	8/28/2010	Legal Notice		101-7384-04	Legal Notices	$80.00
	3641061	Invoice	Approved			
					Totals for Bay Area News Group East Bay:	*$1,170.80*
Blackbaud						
Blackbaud	10/27/2010	Cash Receipts Module 10/10		502-2101-00	Accounts Payable	$2,273.84
	90251358	Invoice	Approved			
	10/29/2010	FE Consulting 10/10		502-7485-00	Capital Equipment	$4,275.00
	90252438	Invoice	Approved			
	11/4/2010	New Check Stock 11/10		101-7312-05	Office Supplies/Expense	$317.81
	90254403	Invoice	Approved			
					Totals for Blackbaud:	*$6,866.65*

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
CalPERS						
CalPERS	11/8/2010	Retirement PPE 10/31/10		101-7220-02	PERS Retirement	$3,958.97
	41093152	Invoice	Approved	101-7220-03	PERS Retirement	$2,311.05
				101-7220-04	PERS Retirement	$1,174.00
				101-7220-06	PERS Retirement	$12,088.90
				230-7220-00	PERS Retirement	$889.25
				101-2206-00	PERS Liability	$10.23
					Totals for CalPERS:	*$20,432.40*
Concord Uniforms						
Concord Uniforms	10/18/2010	PD Uniform 10/10		101-7312-06	Office Supplies/Expense	$141.97
	5000	Invoice	Approved			
					Totals for Concord Uniforms:	*$141.97*
Contra Costa County Mayor's Confer						
Contra Costa County Mayor's Confer	11/5/2010			101-7324-01	Dues and Subscriptions	$395.00
	11/5/10	Invoice	Approved	101-7372-01	Conferences	$1,200.00
					Totals for Contra Costa County Mayor's Confer:	*$1,595.00*
Contra Costa Topsoil						
Contra Costa Topsoil	10/22/2010	Fill Sand 10/10		210-7520-00	Landscape Projects	$447.93
	90542	Invoice	Approved			
					Totals for Contra Costa Topsoil:	*$447.93*
Contra Costa Tractor Mobile Svc						
Contra Costa Tractor Mobile Svc	11/3/2010	PW Equipment Maintenance		101-7342-03	Machinery/Equipment Maintenanc	$286.46
1099	014782	Invoice	Approved			
	10/15/2010	PW Equipment Maintenance		101-7342-03	Machinery/Equipment Maintenanc	$762.76
1099	014739	Invoice	Approved			
					Totals for Contra Costa Tractor Mobile Svc:	*$1,049.22*
Crop Production Svcs						
Crop Production Svcs	10/29/2010	PW General Supplies 10/10		210-7311-00	General Supplies	$622.73
	212616	Invoice	Approved			

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
	10/29/2010	PW General Supplies 10/10		210-7311-00	General Supplies	$5,670.08
	212617	Invoice	Approved			
					Totals for Crop Production Svcs:	*$6,292.81*
Emergency Vehicle Solutions, Inc						
Emergency Vehicle Solutions, Inc	10/27/2010	PD New Vehicle Supplies 10		502-7485-00	Capital Equipment	$500.00
	9130	Invoice	Approved			
					Totals for Emergency Vehicle Solutions, Inc:	*$500.00*
Grainger, Inc.						
Grainger, Inc.	10/20/2010	Fire Signs 10/10		101-7311-03	General Supplies	$127.25
	9376107828	Invoice	Approved			
					Totals for Grainger, Inc.:	*$127.25*
J & R Floor Services						
J & R Floor Services	11/1/2010	Janitorial Services /10		101-7417-03	Janitorial Service	$449.95
1099	10/01/10	Invoice	Approved	101-7417-06	Janitorial Service	$225.00
				101-7417-07	Janitorial Service	$2,175.00
				211-7417-00	Janitorial Services	$1,000.00
				101-7417-09	Janitorial Service	$1,000.00
				702-7417-00	Janitorial Service	$180.00
					Totals for J & R Floor Services:	*$5,029.95*
John Deere Landscapes Inc						
John Deere Landscapes Inc	10/27/2010	PW Landscape Supplies 10/		210-7311-00	General Supplies	$768.89
	56318860	Invoice	Approved	210-7520-00	Landscape Projects	$597.59
	10/21/2010	PW Landscape Supplies 10/		210-7311-00	General Supplies	$116.68
	56259767	Invoice	Approved			
	10/28/2010	PW Landscape Supplies 10/		210-7520-00	Landscape Projects	$219.30
	56331151	Invoice	Approved			
	11/1/2010	PW Landscape Supplies 11/		210-7520-00	Landscape Projects	$2,711.57
	56357878	Invoice	Approved			
					Totals for John Deere Landscapes Inc:	*$4,414.03*

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
LarryLogic Productions						
LarryLogic Productions	10/20/2010	City Council Video /10		101-7419-01	Other Professional Services	$427.50
1099	1090	Invoice	Approved			
	11/3/2010	City Council Video /10		101-7419-01	Other Professional Services	$292.50
1099	1096	Invoice	Approved			
					Totals for LarryLogic Productions:	*$720.00*
MCK Services Inc						
MCK Services Inc	10/31/2010	Old MCR Project 10/10		303-7520-00	CIP Project Expenses	$298,222.38
	17484	Invoice	Approved			
					Totals for MCK Services Inc:	*$298,222.38*
Michel & Fackler APC						
Michel & Fackler APC	10/27/2010	MPA Coverage Litigation 1		501-7413-00	Legal Services	$3,250.00
	2469	Invoice	Approved			
					Totals for Michel & Fackler APC:	*$3,250.00*
Miracle Playsystems Inc						
Miracle Playsystems Inc	10/19/2010	Lydia Ln Park Tot Lot Playsy		303-7520-00	CIP Project Expenses	$24,270.82
	9448	Invoice	Approved			
	11/3/2010	Lydia Ln Park Tot Lot Instal		303-7520-00	CIP Project Expenses	$20,087.93
	9461	Invoice	Approved			
					Totals for Miracle Playsystems Inc:	*$44,358.75*
Neopost (add postage)						
Neopost (add postage)	11/1/2010	Adm Postage Added 11/1/10		101-7314-05	Postage	$300.00
	11/1/10	Invoice	Approved			
					Totals for Neopost (add postage):	*$300.00*
Pacific Telemanagement Svc						
Pacific Telemanagement Svc	10/27/2010	Outside CH Phone Booth /10		101-7332-05	Telephone	$73.00
	230646	Invoice	Approved			
					Totals for Pacific Telemanagement Svc:	*$73.00*

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
PERMCO, Inc.						
PERMCO, Inc.	11/8/2010 9297	Eng Services 10/23-11/5/10 Invoice	Approved	303-7520-00	CIP Project Expenses	$8,356.01
	11/8/2010 9296	Eng Services 10/23-11/5/10 Invoice	Approved	303-7520-00	CIP Project Expenses	$1,330.56
	11/8/2010 9299	Eng Services 10/23-11/5/10 Invoice	Approved	303-7520-00	CIP Project Expenses	$2,283.69
	11/8/2010 9298	Eng Services 10/23-11/5/10 Invoice	Approved	601-2747-00	T&A Projects	$150.00
	11/8/2010 9294	Eng Services 10/23-11/5/10 Invoice	Approved	601-2740-00	T&A Projects	$150.00
	11/8/2010 9295	Eng Services 10/23-11/5/10 Invoice	Approved	601-2740-00	T&A Projects	$975.00
	11/8/2010 9293-1	Eng Insp SWP 21-09 Invoice	Approved	601-2744-00	T&A Projects	$62.25
	11/8/2010 9293-2	Eng Insp SWP 13-09 Invoice	Approved	601-2744-00	T&A Projects	$41.50
	11/8/2010 9293-3	Eng Insp SWP 01-10 Invoice	Approved	601-2744-00	T&A Projects	$41.50
	11/8/2010 9293-4	Eng Insp SWP 07-10 Invoice	Approved	601-2744-00	T&A Projects	$62.25
	11/8/2010 9293-5	Eng Insp SWP 10-10 Invoice	Approved	601-2744-00	T&A Projects	$41.50
	11/8/2010 9292	Eng Services 10/23-11/5/10 Invoice	Approved	101-7411-08	Professional Services Retainer	$2,939.50
					Totals for PERMCO, Inc.:	*$16,433.76*

PG&E

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
PG&E	10/22/2010	PG&E CH & Irrigation 10/10		210-7335-00	Gas & Electricity	$566.83
	10/22/10	Invoice	Approved	201-7335-00	Gas & Electricity	$202.84
				101-7335-03	Gas & Electricity	$2,072.98
	10/22/2010	Bldg & Park Service 10/10		210-7335-00	Gas & Electricity	$192.00
	Bldg & Park 10/10	Invoice	Approved	211-7335-00	Gas & Electricity	$92.70
				101-7335-03	Gas & Electricity	$65.49
				702-7335-00	Gas & Electricity	$223.53
				303-7520-00	CIP Project Expenses	$8.72
	10/19/2010	Traffic Signal Service 10/10		210-7335-00	Gas & Electricity	$32.74
	10/19/10	Invoice	Approved	201-7335-00	Gas & Electricity	$483.24
					Totals for PG&E:	*$3,941.07*
Raney Planning & Management, Inc.						
Raney Planning & Management, Inc.	11/5/2010	CCP Parking Lot Expansion 1		303-7520-00	CIP Project Expenses	$2,087.50
	1018E-1	Invoice	Approved			
					Totals for Raney Planning & Management, Inc.:	*$2,087.50*
Rex Lock & Safe, Inc.						
Rex Lock & Safe, Inc.	10/29/2010	CH Keys 10/10		101-7311-03	General Supplies	$41.41
	89021	Invoice	Approved			
	11/2/2010	PW Keys & tags 11/10		101-7311-03	General Supplies	$18.50
	89025	Invoice	Approved			
					Totals for Rex Lock & Safe, Inc.:	*$59.91*
Riso Products of Sacramento						
Riso Products of Sacramento	10/19/2010	PD Copier		101-7345-06	Office Equip-Maint/Repairs	$95.07
XC038	64324	Invoice	Approved			
					Totals for Riso Products of Sacramento:	*$95.07*
Rock N Waterfall Co						
Rock N Waterfall Co	11/1/2010	Waterfall Maintenance 11/10		210-7419-00	Other Professional Services	$650.00
1099	373	Invoice	Approved			
					Totals for Rock N Waterfall Co.	*$650.00*

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
Sprint Comm (PD)						
Sprint Comm (PD)	10/29/2010	PD Cell Phones /10		101-7332-06	Telephone	$302.52
	107 10/10	Invoice	Approved			
					Totals for Sprint Comm (PD):	*$302.52*
Sprint Comm (PW & ADM)						
Sprint Comm (PW & ADM)	10/28/2010	PW & Adm Cell Phones 10/		101-7332-03	Telephone	$207.09
	102 10/10	Invoice	Approved	101-7332-02	Telephone	$68.42
					Totals for Sprint Comm (PW & ADM):	*$275.51*
Stericycle Inc						
Stericycle Inc	11/1/2010	PD Haz Mat Removal 11/10		101-7419-06	Other Professional Services	$166.87
	3001134599	Invoice	Approved			
					Totals for Stericycle Inc:	*$166.87*
Turner, Huguet & Adams						
Turner, Huguet & Adams	10/31/2010	GHAD Legal Svc /10		212-7413-00	Legal Services	$444.00
1099	2129	Invoice	Approved			
					Totals for Turner, Huguet & Adams:	*$444.00*
Verizon Business						
Verizon Business	10/10/2010	Admin ISDN Line /10		101-7332-02	Telephone	$213.82
	61460302	Invoice	Approved			
	11/10/2010	Admin ISDN Line 12/10		101-7332-02	Telephone	$211.86
	62384058	Invoice	Approved			
					Totals for Verizon Business:	*$425.68*
Waraner Brothers						
Waraner Brothers	11/8/2010	Tree Trimming 11/10		210-7520-00	Landscape Projects	$8,750.00
1099	9119	Invoice	Approved			
	10/28/2010	Tree Removals 10/10		210-7419-00	Other Professional Services	$150.00
1099	9114	Invoice	Approved			
	10/28/2010	Tree Work MC Circle 10/10		210-7520-00	Landscape Projects	$1,500.00
1099	9116	Invoice	Approved			

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Vendor Name / Tax Identification Number	Transaction Date / Transaction Number	Description / Transaction Type	Status	Account Number	Account Description	Amount
	11/8/2010	Tree Trimming 11/10		210-7419-00	Other Professional Services	$900.00
1099	9118	Invoice	Approved			
	10/28/2010	Tree Work 10/10		211-7419-00	Other Professional Services	$750.00
1099	9115	Invoice	Approved			
					Totals for Waraner Brothers:	*$12,050.00*
Western Exterminator						
Western Exterminator	10/31/2010	Service 10/10		702-7341-00	Buildings/Grounds Maintenance	$87.00
	523908	Invoice	Approved	101-7341-07	Buildings/Grounds Maintenance	$93.50
				101-7419-09	Other Professional Services	$40.50
				101-7341-03	Buildings/Grounds Maintenance	$90.50
					Totals for Western Exterminator:	*$311.50*
Zee Medical Company						
Zee Medical Company	10/20/2010	PW First Aid Supplies 10/10		101-7311-03	General Supplies	$173.14
	33220	Invoice	Approved			
					Totals for Zee Medical Company:	*$173.14*

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

Account Summary

Account Number	Description	Net Amount
101-2206-00	PERS Liability	$10.23
101-7220-02	PERS Retirement	$3,958.97
101-7220-03	PERS Retirement	$2,311.05
101-7220-04	PERS Retirement	$1,174.00
101-7220-06	PERS Retirement	$12,088.90
101-7311-03	General Supplies	$360.30
101-7312-05	Office Supplies/Expense	$317.81
101-7312-06	Office Supplies/Expense	$141.97
101-7314-05	Postage	$300.00
101-7324-01	Dues and Subscriptions	$395.00
101-7332-02	Telephone	$494.86
101-7332-03	Telephone	$215.64
101-7332-04	Telephone	$7.86
101-7332-05	Telephone	$73.00
101-7332-06	Telephone	$334.64
101-7332-07	Telephone	$1.25
101-7335-03	Gas & Electricity	$2,138.47
101-7341-03	Buildings/Grounds Maintenance	$90.50
101-7341-07	Buildings/Grounds Maintenance	$93.50
101-7342-03	Machinery/Equipment Maintenanc	$1,049.22
101-7345-06	Office Equip-Maint/Repairs	$95.07
101-7372-01	Conferences	$1,200.00
101-7373-06	Education & Training	$348.00
101-7384-04	Legal Notices	$80.00
101-7411-08	Professional Services Retainer	$2,939.50
101-7417-03	Janitorial Service	$449.95
101-7417-06	Janitorial Service	$225.00
101-7417-07	Janitorial Service	$2,175.00
101-7417-09	Janitorial Service	$1,000.00
101-7419-01	Other Professional Services	$720.00
101-7419-06	Other Professional Services	$631.87
101-7419-09	Other Professional Services	$40.50

City of Clayton
Invoice Expense Allocation Report
CC Meeting 11/16/10

201-7335-00	Gas & Electricity		$686.08
210-7311-00	General Supplies		$7,178.38
210-7335-00	Gas & Electricity		$791.57
210-7419-00	Other Professional Services		$1,700.00
210-7520-00	Landscape Projects		$14,226.39
211-7335-00	Gas & Electricity		$92.70
211-7417-00	Janitorial Services		$1,000.00
211-7419-00	Other Professional Services		$750.00
212-7413-00	Legal Services		$444.00
230-7220-00	PERS Retirement		$889.25
303-7520-00	CIP Project Expenses		$357,738.41
501-7413-00	Legal Services		$3,250.00
502-2101-00	Accounts Payable		$2,273.84
502-7485-00	Capital Equipment		$4,775.00
601-2740-00	T&A Projects		$1,125.00
601-2744-00	T&A Projects		$249.00
601-2747-00	T&A Projects		$150.00
702-7335-00	Gas & Electricity		$223.53
702-7341-00	Buildings/Grounds Maintenance		$87.00
702-7417-00	Janitorial Service		$180.00
		GRAND TOTAL:	$433,272.21

Agenda Date: 11-16-10

Agenda Item: 8a

Approved:

Gary A. Napper
City Manager/Executive Director

CITY OF CLAYTON

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DAVID WOLTERING, AICP, COMMUNITY DEVELOPMENT DIRECTOR

DATE: NOVEMBER 16, 2010

SUBJECT: CONSIDERATION OF ALLOWING A COMMERCIAL RECREATION USE (LONGEVITY FITNESS STUDIO) AS A GROUND FLOOR LEASE OCUPANCY RATHER THAN A RETAIL COMMERCIAL USE PURSUANT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) FOR THE FLORA SQUARE BUILDING AT 1026 OAK STREET

RECOMMENDATION

It is recommended the City Council deny without prejudice the request to allow a commercial recreation use (Longevity Fitness Studio) as a ground floor lease occupancy rather than a retail commercial use within the Flora Square building at 1026 Oak Street.

PROJECT INFORMATION

Applicant / Location:	New Urban Communities Partners, LLC/ 1026 Oak Street, Suite 102 APN 119-013-009
General Plan Designation:	Town Center Commercial.
Town Center Specific Plan Designation:	Town Center Commercial.
Zoning:	Limited Commercial (L-C) District.
Environmental Review:	Categorically exempt per Section 15303 of the California Environmental Quality Act (CEQA) Guidelines.

Authority: The governing Development and Disposition Agreement (DDA) for the subject property states on page six "...[a]ll ground floor uses on the entire site shall only be "Retail Commercial" as defined in the General Plan, unless specifically allowed otherwise by an affirmative vote of the Clayton City Council." (please see **Attachment 1**). Longevity Fitness Studio is not a "Retail Commercial" use. Accordingly, the property owner/applicant is requesting affirmative action of the City Council to allow this proposed use.

REQUEST/DESCRIPTION

New Urban Communities Partners (NUCP), LLC, a partnership that has owned the Flora Square building at 1026 Oak Street since late March 2010, is proposing that Longevity Fitness Studio occupy 2,657 square-feet (approx. 47%) of the ground-floor space within this building. The total ground floor space of the Flora Square building is approximately 5,644 square feet in area. Longevity Fitness Studio space would have primary access from Oak Street and occupy the northern portion of the ground floor space within the building. The southern portion of the ground floor space has window frontage along Center Street and NUCP anticipates occupancy by retail commercial uses. The DDA that governs the use of the Flora Square building stipulates affirmative action of the City Council is required to allow a non-retail commercial use of the ground floor space within this building. Accordingly, NUCP has submitted a letter, dated November 4, 2010, to the City's Community Development Director describing and requesting that the Longevity Fitness Studio be allowed to occupy ground floor space within the Flora Square building (please see **Attachment 2**).

Longevity Fitness Studio would operate from 6:00 a.m. to 9:00 p.m. seven days a week. This fitness center would offer various programs, including pilates, dance classes, kickboxing, cross training, weight training, and comparable health/fitness uses. Pilates balls, yoga mats, exercise manuals, exercise clothing, nutritional drinks and foods, nutritional workout programs, and other assorted appurtenant items are also proposed for retail sale at the site. A maximum of approximately 42 people (28 members and 14 employees/instructors) can occupy the tenant space, based on maximum occupancy requirements; however, the actual expected occupancy at any given time would be lower. The property owners indicate between 150-200 clients a day to visit the site. The conversion of the ground-floor tenant space will involve installation of standard fitness center items such as exercise equipment, dance studio mirrors, and changing rooms/bathrooms.

ANALYSIS

The proposed fitness studio, Longevity Fitness Studio, does not meet the definition of "Retail Commercial". The City's Zoning Ordinance defines "Retail Business" as "...the sale, barter, and exchange of retail goods, wares, merchandise, or other personal property or any interest in them for profit or livelihood." (CMC Section 17.04.180 "Retail Business", Ordinance 414, 2008) (please see **Attachment 3**). An exchange of goods, wares, merchandise, etc. is not the primary use associated with the proposed Longevity Fitness Studio.

California Government Code Section 65866 states "[u]nless otherwise provided by the development agreement, rules, regulations, ...applicable to development of the property subject to a development agreement, shall be...in force...at the time of execution of the development agreement...." (please see **Attachment 4**). The provision of the Flora Square DDA that stipulates that Retail Commercial uses shall only be allowed on the ground floor after affirmative action of the City Council falls within the "[u]nless otherwise provided...."of Government Code Section 65866.

At the time of execution of the DDA on December 6, 2005, the Town Center Specific Plan cites "[e]xercise equipment, and schools and gymnasia for physical instruction" as a permitted use category (please see **Attachment 5**). Staff interprets Longevity Fitness to be within that category. Under the current Town Center Specific Plan, this use is within the category of "[d]ance, music, exercise, and martial arts studios" which is limited to an upper floor, unless a conditional use permit is approved to allow this type of use on the ground floor (please see **Attachment 6**). The DDA puts the City Council in the position of being able to consider non-Retail Commercial uses on ground floor in Flora Square. In return for this extra level of regulation the original developer was given the opportunity to construct lot line to lot line and enjoy the benefit of a 100% on-site parking waiver (please see **Attachment 7**).

Staff interprets California Government Code Section 65866 that the City Council could allow the non-Retail Commercial use, i.e., Longevity Fitness, without the need for the item to be brought before the Planning Commission for consideration of a use permit, given the subject use was permitted as of right in 2005 when the Flora Square DDA was executed. Staff has been contacted during the past couple of weeks by representatives of a proposed produce market and a proposed Subway sandwich shop who have indicated interest in occupying ground floor space within the Flora Square building. Although the proposed Longevity Fitness Studio use would not occupy the immediate storefront area on Center Street, this use would occupy approximately 47% of the leaseable ground floor space. It is likely that this non-retail commercial use, given the amount of space it would occupy, would limit the options and space flexibility for filling the remainder of the space with viable retail commercial uses as clearly desired in the governing DDA and the current Town Center Specific Plan. These documents generally direct non-retail commercial uses to the second floor of multi-story buildings in the Town Center area. Viable retail commercial uses should take the lead in determining how to program ground space in the Flora Square building. It would be unfortunate and contrary to the referenced guiding documents for a commitment to the Longevity Fitness Studio use to ultimately preclude desirable retail commercial uses because of space and/or configuration constraints.

Staff concludes that the property owner should continue to seek viable retail commercial uses for the ground floor space within the Flora Square building; those uses should be given preference in terms of size and configuration of the space available. The applicant's request could be denied without prejudice by the City Council to give the applicant additional time and opportunity to return with proposals for programming the entire ground floor space with uses (i.e., tenants). Those proposals may or may not seek some Redevelopment Agency assistance to fulfill desired occupancies.

ATTACHMENTS

1 Excerpt from December 6, 2005 Flora Square Deposition and Development Agreement
2 New Urban Communities Partners (NUCP), LLC, letter, dated November 4, 2010
3 City's definition of "Retail Business"
4 Government Code Section 65866
5 Town Center Specific Plan Land Use Excerpt, dated July 2005
6 Town Center Specific Plan Land Use Excerpt, dated February 2008
7 Chapter 17.37 of the Clayton Municipal Code – Parking Waiver

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (this "Agreement") is made as of December 6, 2005, by and between the Clayton Redevelopment Agency, a public body corporate and politic (the "Agency"), and Komgold, Inc, a California Corporation (the "Developer"), with reference to the following facts:

RECITALS

A. Pursuant to authority granted under California law, the Agency has the responsibility to implement the Redevelopment Plan for Clayton Community Redevelopment Project adopted by the City Council of the City of Clayton (the "City") by Ordinance No. 1164 on June 28, 1982 (as amended from time to time, the "Redevelopment Plan"). The Redevelopment Plan affects and controls the development and use of all real property located within an area within Clayton, California, more particularly described in the Redevelopment Plan (the "Project Area").

B. The Agency owns a parcel of real property (APN 119-013-005) within the Project Area more particularly described in the attached Exhibit A, respectively (the "Property"). The Property consists of one parcel of approximately 8,122 ± square feet located at the northeast corner of Oak Street and Center Street, more particularly described in the attached Exhibit A (the "Property").

C. The Developer wishes to acquire the Property and to develop on the Property a two-story commercial business project, to include, but not be limited to, retail commercial uses only on the ground floor with mixed commercial uses (e.g. office and retail) on the second floor ("Improvements"). Said Improvements shall comprise a minimum gross floor area of 12,500 sq. ft.

D. The Improvements are consistent with the City's General Plan, the Clayton Town Center Specific Plan, and applicable zoning requirements, which allows for the development of the Improvements, and are consistent with the Redevelopment Plan, and will promote the goals and objectives of the Redevelopment Plan to revitalize the Project Area.

E. To accomplish the development of the Improvements, pursuant to this Agreement, the Agency will convey the Property to the Developer, and the Developer shall cause to be constructed and operated the Improvements.

F. The Developer has represented that it has the necessary experience, skill, and ability to carry out the commitments contained in this Agreement.

G. Prior to the execution of this Agreement, the Agency approved a Negative Declaration in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and its implementing regulations ("CEQA").

WITH REFERENCE TO THE FACTS RECITED ABOVE, the Agency and the Developer (collectively the "Parties") agree as follows:

Within 90 days after the Agency approves the preliminary conceptual plans for the Improvements, Developer shall cause to be submitted to the Agency its preliminary design for the Improvements which design shall comply with the Agency's comments, if any, and the Town Center Specific Plan guidelines, and shall utilize high quality building materials. The preliminary design for the Improvements shall include the following specifications:

(a) All ground floor uses on the entire site shall only be "Retail Commercial" as those uses are defined in the General Plan of the City, unless specifically allowed otherwise by affirmative vote of the Clayton City Council.

The Agency shall within thirty days of receipt review the preliminary design and either approve it or indicate in writing the changes in the design necessary to obtain Agency approval. If the Agency reasonably requires changes to the design, Developer shall promptly make those changes and submit the revised plans to the Agency for approval. The Developer acknowledges that the Agency approval of the preliminary design does not constitute City approval of the design for the Improvements and in no way limits the City's discretion in considering any necessary land use approvals, or any other necessary approvals, for the Improvements. The Developer acknowledges that the approval of the final design and site plan shall be subject to Planning Commission and City Council approval. Agency shall have no right to approve of any plans for the interior of any building to be constructed on the Property, except to the extent that same would otherwise require approval of the City pursuant to its zoning or building code.

Section 2.4 Application for City Permits and Other Approvals.

At the same time it submits the design to the Agency pursuant to Section 2.3 above, the Developer shall apply to the City for various City permits and approvals (including design review, grading, and encroachment permits) necessary for construction of the Improvements based on that design (excluding a building permit), and shall diligently pursue and obtain such City permits and approvals no later than 90 days following application therefor. If the Agency reasonably requires changes to the design pursuant to Section 2.3 above, the Developer shall incorporate those changes into the City applications. Developer shall have no obligation to close escrow on the Property hereunder until such time as it has obtained all necessary discretionary permits or other governmental approvals and building permits necessary for the construction of the Improvements and the operation of the contemplated business thereon.

Section 2.5 Final Construction Plans; Building Permit.

(a) The Final Construction Plans for the Improvements shall consist of all construction documentation upon which the Developer and its contractors shall rely in building the Improvements. The Final Construction Plans shall include (without limitation) final architectural drawings, landscaping plans and specifications, final elevations, building plans and specifications (also known as "working drawings"). The Final Construction Plans shall be based upon the Agency approved design and City Approvals and shall not materially deviate therefrom without the written consent of the Agency.

Attachment 2

NUCP, LLC
NEW URBAN COMMUNITIES PARTNERS
1500 WILLOW PASS COURT · CONCORD, CA 94520
Phone: 925.852.0549 · Fax: 925.852.0546

Received
NOV 08 2010
City of Clayton

November 4, 2010

David Woltering
Community Development Director
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

RE: 1026 Oak St., Clayton

Dear Mr. Woltering,

NUCP LLC has been in control of the 1026 Oak Street building for approximately one year. In this time we have had three possible tenants interested in leasing the ground floor space in the building and two of the three did not pan out. We feel that Levity, Longevity Fitness Studio, with their combination of retail sales and fitness studio, will be a strong attractant to the Town Center area as well as to our building.

Goal III of the Town Center Specific Plan is to "*Establish the Town Center as the City's focus for economic development in the community.*" Policy III.1 is to "*Nurture and support established, expanded and new businesses which are permitted uses (including uses permitted with a use permit) in the Town Center.*" And Policy III.3 is to "*Encourage and support the operation of small, independent businesses and growing businesses.*" We feel Levity meets this goal. Levity is a small, independent and growing business and they need to grow and expand and have chosen1026 Oak Street in the Clayton Town Center to do this.

The down town will benefit from them by bringing in an estimated 150-200 clients throughout the day from Clayton and the surrounding communities. It is for this reason we are willing to make a substantial investment into our building to bring them into the down town. Our belief is that Levity is consistent with the other tenants we are currently in final lease negotiations with, which will create a vibrant and health oriented anchor to this end of the Town Center.

The Town Center Specific Plan "*Land Use Designations*" list as permitted uses "*Dance, music, exercise, and martial arts studios**" as approved uses in the Town Center provided they obtain a use permit if they are located on the ground floor. We therefore ask that the council approve the use of the ground floor at 1026 Oak Street for these uses.

Sincerely,

Steve Thomas
Member, NUCP LLC

1026 Oak St., Suite 102

Clayton, CA

Building Owner: NUCP, LLC

Name of Business: **LEVITY**, Longevity Fitness Studio

Statement of Operations

Physical Fitness Classes
LevityCamp – Cross training
Body Blast – All Calesthetic Workout
"Hoops" – Hoop and Pilates Ring Class
"Pilates is a Blast" Pilates Mat Class – Beginners/Intermediate-Advanced
Pilates Reformer Classes – Endurance, Super Stretch, Muscle Work, Rehabilitation
Aerobic Bar Class
Swiss Ball Classes – Core, Legs, Back
Kickboxing – Muay Thai Style
Belly Dance Class
Hula Dance Class
Tap Dance Class
Exotic Dance Class
Zumba/Brazilian Moves Combo Class
Salsa
Pilates Ball Class
Aero Training – summer 2011
Summer Boot Camp – Clayton Outdoor/Trail Camp – summer 2011
Core Training Class
Just Balls Class – Medicine Balls/Pilates Balls/Swiss Balls

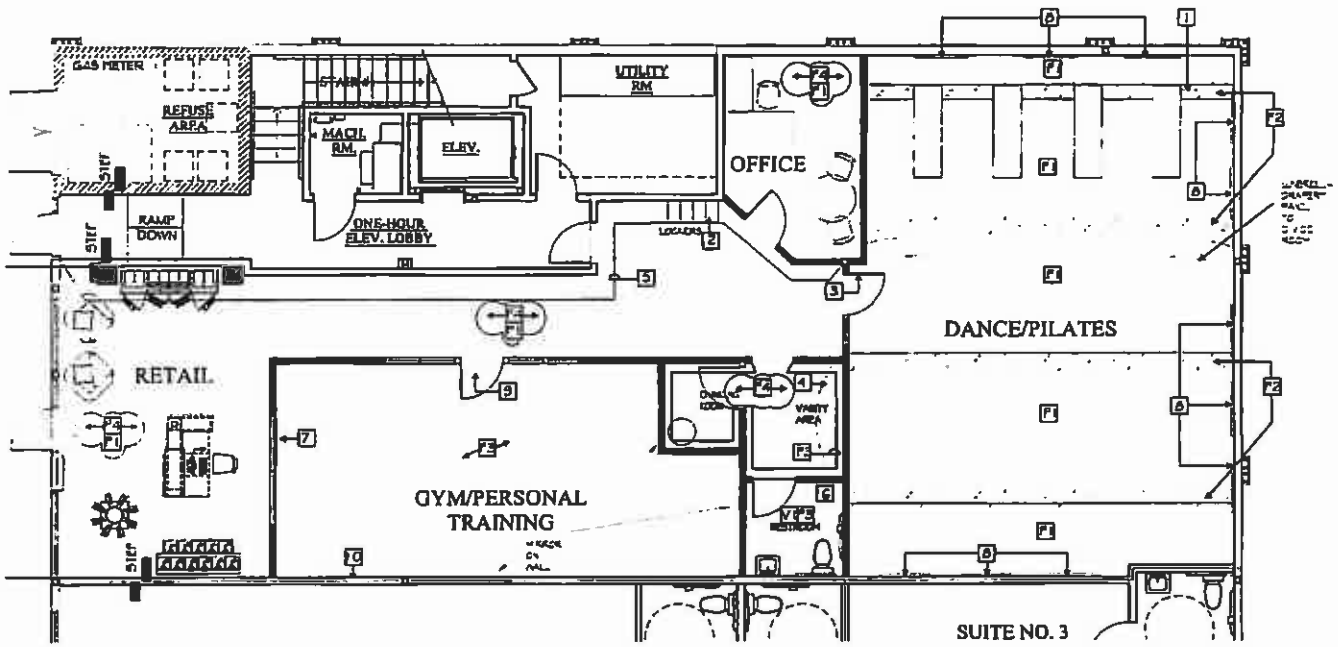
Types of Training
Weight Lifting/Weight Training
Endurance Training
Athletic Training
Pilates Training
Flex Training
Balance Training
Plyometric Training
Body Rehabilitation
Body Callisthenic Training
TRX Suspension Training
Aero Training/Trapeze – summer 2011

Merchandise for Sale
Equipment – Swiss Balls, Yoga Mats, Pilates Equipment (resistance bands, Pilate's balls, rings)
Exercise manuals/books and videos– **Levity** Training Guides – Cliff Notes for Exercise
Clothing – Logo Wear (workout clothing – pants, shirts, hats, gloves), Logo Yoga/Sport Bags
Beauty/Body Wellness – Arbonne Swiss Skincare, Organic Skin Care Line
Innersense Organic Hair Care
Superfoods Supplements, Water

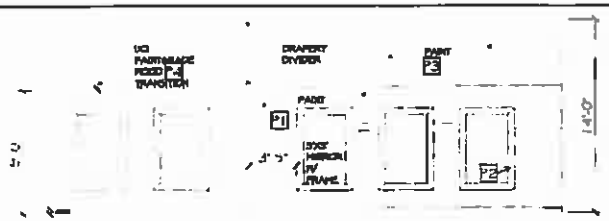
Days and Hours of Operation:
Monday – Sunday
5am-10pm

Space Occupancy:
20 plus 1 min 2 max instructors for Dance/Pilates Room
8 participants plus 2 max. Instructors for Personal Training Room
5 max. employees at one time
8 Classes per day plus Personal Training and Drop ins

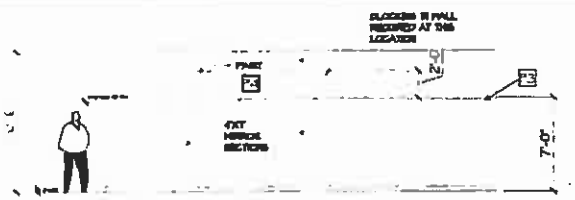
Parking :
On-Street Parking in the Down Town Area



FLOOR PLAN



1 ELEVATION @ DANCE PILATES



2 ELEVATION @ GYM/PERSONAL TRAINING

FINISH SCHEDULE

	LOCATION/MATERIAL	MFG/SOURCE	STYLE	COLOR	SIZE
F1	MAIN FLOORING: HIGH PRESSURE LAMINATE	WILSONART	FORMICA PERUVIAN CHERRY	C23	3"
B1	4" RUBBER BASE	BURKE	# 103	[illegible]	4" COVE SHOULDER
F2	ACCENT FLOORING HIGH PRESSURE LAMINATE	WILSONART	SATTLEDS MAPLE	C08	3"
F3	FITNESS FLOORING	ROPPE FLOOR.	0/32" GAUGE	10% #603 SUNFLOWER	ROLL GOODS
P1	WALL PAINT	SHERWIN WILLIAMS	SW 6372	WAITING IVORY	FLAT
P2	WALL PAINT	SHERWIN WILLIAMS	SW 6277	SPECIAL GRAY	FLAT
P3	WALL PAINT	SHERWIN WILLIAMS	SW 6375	HONEYCOMB	FLAT
P4	WALL PAINT	SHERWIN WILLIAMS	SW 6334	FLOWER POT	FLAT
L1	LAMINATE COUNTERTOP	ABET LAMINATI	3439	DAFFO	3/4" CURVED SURFACE
V1	VINYL FOR RESTROOMS	ARMSTRONG	CONNECTION CORNER	55701 GRANITE CHAT	WITH 6" COVE BASE
F4	LOBBY, HALL AND OFFICE FLOORING	CENTIVA	VICTORY MARINE	LEAD WG6020-V 33	18 X 18 VINYL

SYMBOLS LEGEND

EXISTING CONSTRUCTION TO REMAIN

NEW INTERIOR WALL CONSTRUCTION

(E) EXISTING

(R) RELOCATED

GENERAL NOTES

A. [illegible]

B. [illegible]

C. [illegible]

D. [illegible]

E. [illegible]

FLOOR PLAN SHEET NOTES

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]
5. [illegible]
6. [illegible]
7. [illegible]
8. [illegible]
9. [illegible]
10. [illegible]

CDG CARTER DESIGN GROUP

SPACE PLANNING & INTERIOR DESIGN

[illegible]

LEVITY-LONGEVITY FITNESS STUDIO

OAK CENTER
CLAYTON, CA. 94517

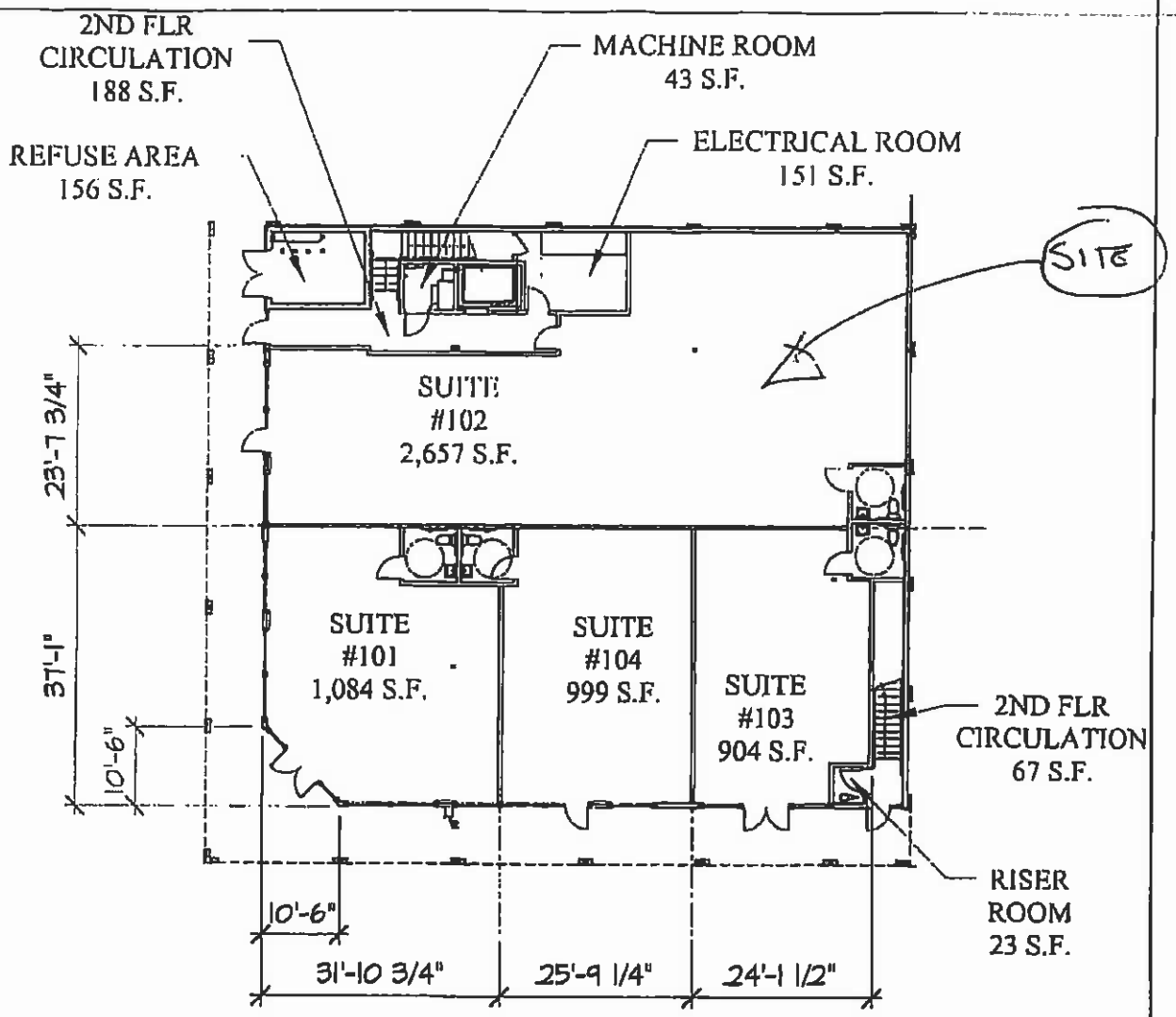
REVISIONS

NO.	DATE	DESCRIPTION	BY

FLOOR PLAN

SCALE [illegible]

A-1



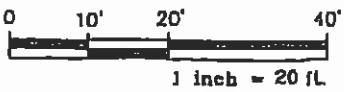
REFERENCE
NORTH

OAK CENTER

CLAYTON, CALIFORNIA

1st FLOOR

07.23.10



17.04.150 Open Space.

A. "Active open space" means an outdoor area on the ground, roof, balcony, deck, or porch which is designed and used for outdoor living, recreation, pedestrian access, or landscaping. The area shall not be for the use of parking, vehicular movements, or storage.

B. "Passive open space" means an area which provides visual relief to developed areas, exclusive of any area devoted to parking, vehicular movements, storage, private use (unless subject to development restrictions by a conservation easement), or any other area which does not significantly lend itself to the overall benefit of either the particular development or surrounding lands. (Ord 402, 2007)

17.04.160 Permanently Uninhabited Land. "Permanently uninhabited land" is any uninhabited parcel of land dedicated for public use, whether publicly or privately owned, i.e., parks, recreational areas and golf courses. (Ord. 83, 1970; Ord. 52, 1968)

17.04.170 Qualified Applicant. "Qualified applicant" is any person or firm, or authorized agent having written authority to act, having a freehold interest in the subject land; or having a possessory interest entitling him to exclusive possession; or having a contractual interest which may become a freehold or exclusive possessory interest and is specifically enforceable. (Ord. 52, 1968)

17.04.180 Retail Business. "Retail business" means the sale, barter, and exchange of retail goods, wares, merchandise, or other personal property or any interest in them for profit or livelihood. (Ord. 414, 2008)

17.04.185 Setback. "Setback" means a required open space on a lot which is unoccupied by buildings and unobstructed by structures from the ground upward, except for uses and structures allowed by the provisions of this Title. Setbacks shall be measured as the shortest distance between a property line and the nearest vertical support or wall of the building or other structure.

A. "Front setback" means a setback measured into a lot from the front lot line, extending the full width of the lot between the side lot lines intersecting the front lot line.

B. "Rear setback" means a setback measured into a lot from the rear lot line, extending the full width of the lot between the side lot lines intersecting the rear lot line.

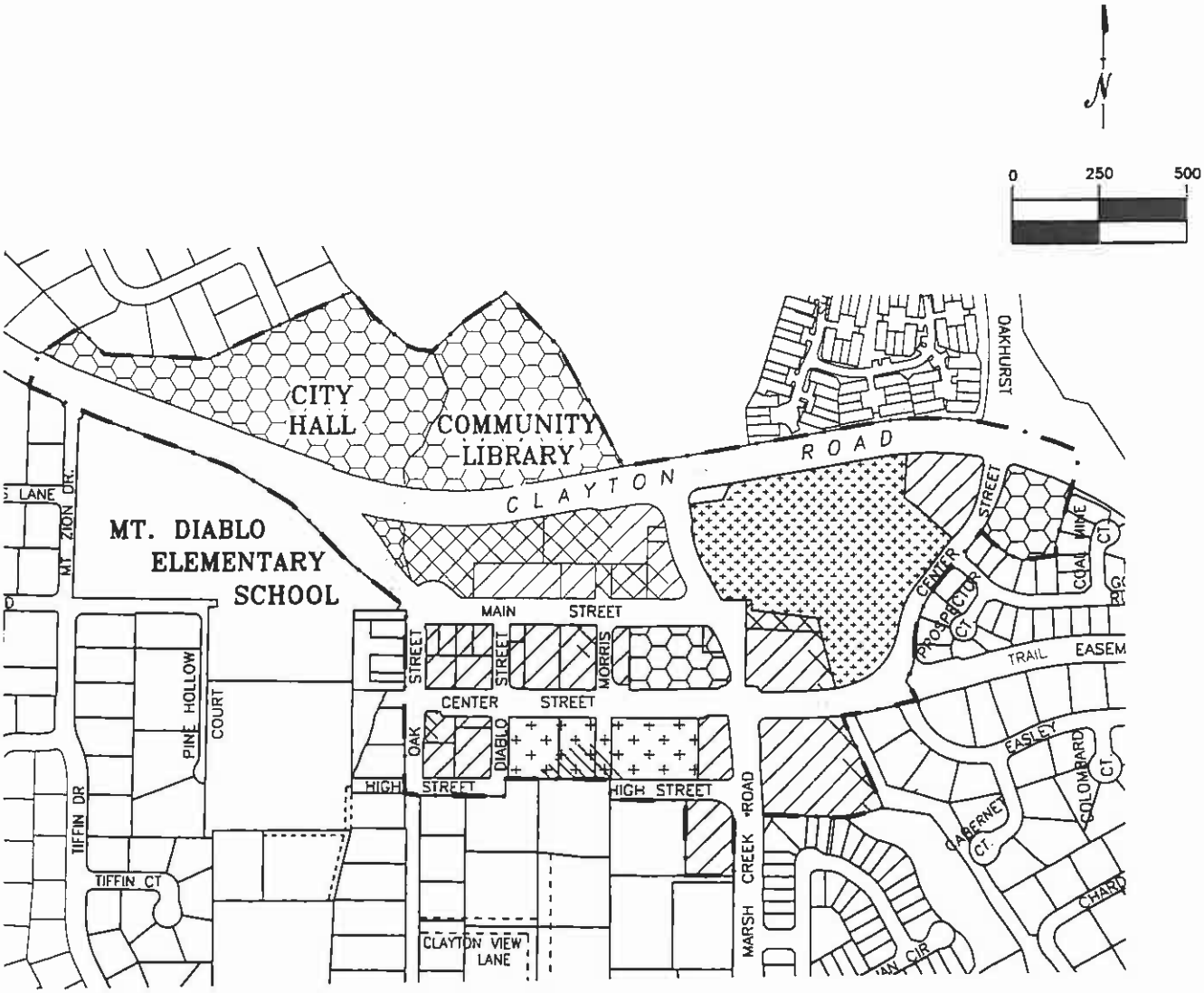
C. "Side setback" means a setback measured into a lot from a side lot line, extending between the front setback (or front lot line where no front setback is required) and the rear setback (or rear lot line where no rear setback is required). An exterior side setback is a side setback measured from an exterior side lot line; an interior side setback is a side setback measured from an interior side lot line. (Ord 375, 2004)

17.04.190 Story. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above the basement or cellar is more than six feet above grade at any point, such basement or cellar shall be considered a story. (Ord. 52, 1968).

17.04.200 Structure. "Structure" means anything constructed or erected and permanently attached to land, other than a building as defined in this chapter, except sidewalks, pipes, meters, meter boxes, manholes, mailboxes, poles and wires and appurtenant parts of all devices for the transmission and transportation of electricity and gas for light, heat or power, devices for the transmission of telephone and telegraphic messages, and devices for the transportation of water. (Ord. 52, 1968)

17.04.210 Used. "Used" includes arranged, designed, constructed, altered, converted, rented, leased, or intended to be used. (Ord. 52, 1968)

65866. Unless otherwise provided by the development agreement, rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent a city, county, or city and county, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor shall a development agreement prevent a city, county, or city and county from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.



LEGEND

- TOWN CENTER COMMERCIAL
- MULTI-FAMILY MEDIUM DENSITY (10.1 - 15 UNITS PER ACRE)
- INSTITUTIONAL RESIDENTIAL
- PUBLIC FACILITY
- RESOURCE PROTECTION OVERLAY
- SPECIFIC PLAN BOUNDARY

Figure 2–1. Land Use Plan

Town Center Specific Plan

As Amended July 2005

- Consider alternative locations for a new City Hall, Library, and Fire Station; and
- Set aside an area for the Black Diamond Trail Head at the intersection of Center Street and Clayton Road.

In proceeding with the design, the consultants were asked to—

- Keep the hill above (south of) Center Street in open space;
- Preserve both creeks, their banks, and their riparian vegetation;
- Preserve the eucalyptus grove on the east side of Marsh Creek Road; and
- Keep the small scale of the existing downtown (one- and two-story buildings with narrow frontages).

Description of the Land Use Plan

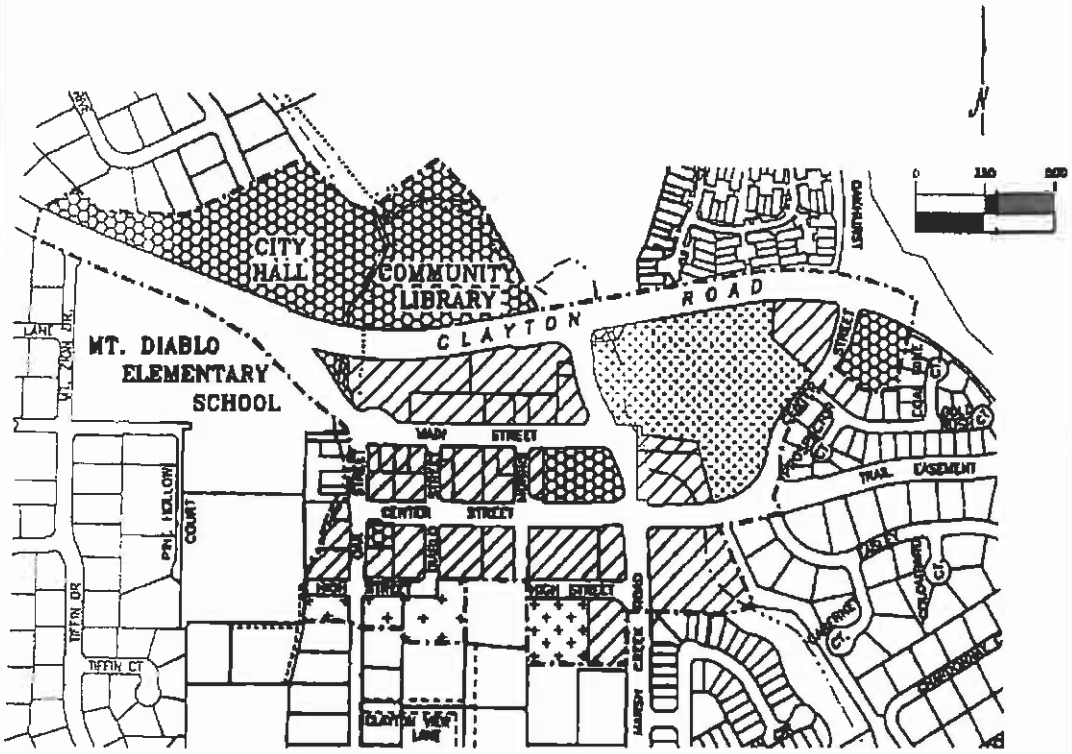
The Clayton General Plan designates the land in the westernmost area of the Specific Plan (West of Mitchell Creek, north of Clayton Road) as "Study Area." The remaining Specific Plan area north of Clayton Road is designated "Cultural Center," and the balance of the Specific Plan area (everything south of Clayton Road) is designated "Commercial."

Figure 2-1, the map following this page, is the Land Use Plan. Following are definitions for the three land use categories employed in the Specific Plan:

Town Center Commercial—Retail sales and services, offices, and places of assembly expressly including, but not limited to the following:

Antiques;
Art and art studios;
Bakery goods stores and bakeries;
Banks and other financial services, including title companies;
Barber and beauty shops and salons;
Bed and breakfast establishments;
Books, new and used, for sale or rent;
Bicycles;
Body, skin, and nail care;
Business and professional offices;
Business office equipment;
Business, professional, trade, and vocational schools;

Camera, and photographic supplies;
Candy and ice cream;
Clothing;
Computers and electronic equipment;
Copying, including blueprinting;
Day care centers;
Delicatessens and cheese shops;
Drapery and yardage;
Drugstores;
Electric appliances;
Exercise equipment, and schools and gymnasia for physical instruction;
Floor coverings;
Flowers and house plants;
Food and groceries;
Frame shops;
Hardware and garden supply;
Hobbies and crafts;
Hotel;
Interior decorating stores;
Jewelry;
Lamps and lighting for homes and offices;
Laundry and dry cleaning pick-up stores, excluding any dry-cleaning on-site;
Liquor, wine, and beer, off-sale;
Locksmiths;
Luggage and leather goods;
Magazines and news stores;
Meeting halls;
Music, including instruments and sheet music;
Optical stores;
Paint and wallpaper;
Parking spaces and loading areas;
Pets, and animal grooming (excluding kennels);
Photography studio;
Private mail and packaging services;
Radio, TV, home sound equipment, and similar appliances and systems;
Records, tapes, and compact discs, audio and video, for sale or rent;
Residential uses except on the ground floor;
Restaurants, bars, cafes, and cocktail lounges;
Saddles and equestrian equipment and supplies;
Shoes;
Smoke and tobacco shops;
Sporting goods (including hiking and mountaineering supplies and equipment);



LEGEND

- TOWN CENTER COMMERCIAL
- MULTI-FAMILY LOW DENSITY RESIDENTIAL (7.8 - 10 UNITS PER GROSS ACRE)
- MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL (10.1 - 15 UNITS PER GROSS ACRE)
- INSTITUTIONAL RESIDENTIAL (7.8 - 20 UNITS PER GROSS ACRE)
- PUBLIC FACILITY
- SPECIFIC PLAN BOUNDARY

Town Center Specific Plan

Figure 2-1. Land Use Plan

As Amended February 2008

Goal III Establish the Town Center as the City's focus for economic development in the community.

Policy III.1 Nurture and support established, expanded, and new businesses which are permitted uses (including uses permitted with a use permit) in the Town Center.

Policy III.2 Assist existing businesses which are non-conforming uses in the Town Center to re-locate to new locations in the City.

Policy III.3 Encourage and support the operation of small, independent businesses and growing businesses.

Policy III.4 Encourage the renovation and re-use of long-term vacant or under-utilized buildings as well as the development of vacant or under-utilized parcels.

Goal IV Protect historical resources in the Town Center.

Policy IV.1 Ensure historic buildings which retain their historic character are incorporated into commercially-viable uses, re-uses, or adaptations.

Policy IV.2 Ensure renovations of historic buildings and structures retain the building or structure's historic character.

Policy IV.3 Strive to incorporate existing healthy large oaks and historically-significant trees into the open space areas of development plans.

2.3 Land Use Designations

The Land Use Plan is provided in Figure 2-1 and the land use designations are defined below.

Town Center Commercial

Permitted Uses

Retail sales, commercial services, and offices, as well as limited residential and visitor accommodation uses, as listed below. Uses marked by an asterisk (*) are limited to upper floor locations, unless a use permit is granted for a ground floor location as noted in the following section.

Antique shops
Art galleries and frame shops
Art and photography studios*
Audio/video equipment, including home theater systems
Bakery goods stores and bakeries
Banking
Barber shops, beauty shops, and personal care salons*
Books, news stands, and magazines

Business, editorial, and professional offices*
Camera and photographic equipment
Candy and ice cream
Clothing and shoes
Computer, office, and electronic equipment sales
Computer, office, and electronic equipment service*
Copying and printing
Dance, music, exercise, and martial arts studios*
Drapery and yardage
Drugstores
Electric appliances (small appliances only)
Financial services*
Floor coverings
Flowers and house plants
Food and groceries
Hardware and garden supply
Interior decorating stores
Jewelry, watches, and clocks
Lamps and lighting
Laundry and dry cleaning pick-up stores, excluding any dry-cleaning on-site
Liquor, wine, and beer (off-sale)
Locksmiths
Luggage and leather goods
Medical and dental offices*
Museums (upper floors preferred)
Music, including recordings, instruments, and sheet music
Opticians
Parking spaces and loading areas
Pets and animal grooming (excluding kennels)
Private mail and packaging services
Real estate offices and title companies*
Residential uses (upper floors only)
Restaurants (including outdoor dining, on-site service, and take-out service) and associated bars
Saddles and equestrian equipment
Sporting goods and bicycles
Stationery supplies
Tailors and dressmakers*
Tobacco shops
Toys, hobbies, and crafts
Travel agencies*
Variety stores
Video rentals
Accessory buildings, structures, and uses clearly incidental and appurtenant to a permitted use

Temporary and seasonal outdoor uses, subject to the Temporary Use Permit provisions (Chapter 17.70) of the Zoning Ordinance

Other retail, commercial service, or office uses which are determined by the Planning Commission (or the City Council on appeal) to be of the same general character and will not impair the present or potential use of adjacent properties.

USES SUBJECT TO USE PERMIT

The following uses are allowed only after special review and the granting of a use permit. The primary purpose of the review is to assure an appropriate mixture and balance of uses in the Town Center—a mixture and balance that the uses listed below could jeopardize, for a variety of factors including:

- The location would interfere with the pedestrian and retail orientation of the district; or
- The use or its size, in conjunction with existing uses, would overwhelm the Town Center or interfere with the pedestrian and retail orientation of the district.

Further, some of the uses listed below might require building or storage areas that would be too large or otherwise inappropriate in the Town Center:

Bars which are not part of a full-service dining establishment

Bed and breakfast guest facilities

Commercial recreation (including billiards/pool and video arcades with more than three machines);

Establishments with dancing, live entertainment, or live audio/video entertainment

Home appliances, except small electrical appliances

Home furnishings, except lamps and lighting

Massage therapy, unless part of recognized medical office or clinic

Office, commercial service, personal service, or studio uses (listed as Permitted Uses above) in ground floor locations

MULTI-FAMILY LOW DENSITY RESIDENTIAL—Dwelling units at a density of 7.6 to 10 units per gross acre. This designation is intended for and allows cluster units such as townhouses, garden units, and other types of planned developments, including single-family detached dwellings on smaller lots, that provide a development with amenities to balance the increased density. This density must be adequately buffered from adjacent single-family developments. Development intensity can reach 100 percent of individual parcel coverage provided that each unit has access to private outdoor space, use of recreational amenities, and provision of useable open space. Second dwelling units are allowed.

MULTI-FAMILY MEDIUM DENSITY RESIDENTIAL—Dwelling units at a density of 10.1 to 15 units per gross acre. Areas so designated on the Land Use Plan are deemed to have adequate site area—and are located with respect to the Town Center road system—such that the range of density can comfortably be accommodated.

INSTITUTIONAL RESIDENTIAL— Senior housing at a density of 7.6 to 20 units per gross acre. This designation is intended for development of various forms of senior housing under the sponsorship of public or quasi-public agencies. Group dining, limited vehicles, medicine-dispensing services, and other characteristics and amenities make this form of housing unique.

SCHEDULE 17.37.030B OFF-STREET LOADING SPACES REQUIRED	
Gross Floor Area (Sq. Ft.)	**Off-Street Loading Spaces / Size** (Width x Length x **Vertical** Clearance)
Less than 10.000	0
10,000 to 50.000	1 Space (10 ft. x 35 ft. x 14 ft.)
Over 50.000	2 Spaces (12 ft. x 45 ft. x 14 ft.)

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

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

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

Agenda Date: 11-16-10

Agenda Item: 8b

PRESS RELEASE:

City of Clayton – New Year's Eve Celebration
Contact: Laci Jackson, City Clerk
(925) 673-7300
ljackson@ci.clayton.ca.us

"Clayton Counts Down Carnival 2010"- Donations and Volunteers Needed!

The 8th Annual "Clayton Counts Down" New Year's Eve celebration is at risk of not being held this year due to lack of donations.

This great Clayton tradition is scheduled at the Clayton Community Gym from 5:00pm-8:00pm this year on New Year's Eve.

Donations and Volunteers are desperately needed to ensure the continuation of this Clayton tradition. Due to the downturn in the economy donations have now dwindled and prior major donors are unable to help fund the event. Previous donors provided approximately $7,000 each year and no City funds have ever been used to pay for this event. Without continued community and business support, the event is in jeopardy of cancellation. Donations must be received prior to December 1, 2010.

The committee also needs new and energetic volunteers. Volunteers are not expected to attend meetings, just provide a couple of hours that day or evening to help with set up, events such as craft activities, games, sign in, and food, take down-clean up. Volunteers are needed to fill time slots between 12pm and 9pm. Anyone interested in volunteering is asked to call the City Clerk at 925-673-7300, or email to ljackson@ci.clayton.ca.us.

In addition to volunteering at a fun community event, any monetary contribution is fully deductible to the extent provided by law. If the event must be canceled this year, all donations will be refunded. Please send contributions to:

Clayton Counts Down
City of Clayton
6000 Heritage Trail
Clayton, CA 94517

Clayton Counts Down event Budget and Donations

expenses item	year 2008 actual	2009 budget actual	2010 expected	2010 budget actual
food/chips/cookies/condiments	$ 2,436.37	$ 1,439.87	$ 1,500.00	
buns	ed's donation	incl in food		
ice	safeway donat	(safeway donation)		
coffee/tea/apple cider	incl in food	incl in food		
soda	incl in food	incl in food		
water	incl in food	incl in food		
inflatables	$ 395.00	$ 650.00	$ 1,495.00	
karoke	$ 450.00			
carnival games			$ 450.00	
lollipops/mini freesbies	$ 53.95	used from last year	$ 100.00	
school flyers	$ 182.97	$ 40.00	$ 40.00	
poster paper	$ 27.31	$ 28.00	$ 28.00	
prizes	$ 40.00	$ 60.00	$ 60.00	
duct tape/bungie cords/zip ties	$ 1,701.66	$ 98.91	$ 100.00	
patio heaters/bbq rental (2010- Projector Screen)	$ 565.00	$ 590.00	$ 590.00	
banner time change	$ 64.95	$ 87.40	$ 88.00	
rock band electronic		$ 50.00		
decorations/crazy sock/craft supplies		$ 290.36	$ 350.00	
hula hoops		$ 48.57		
Tickets			$ 25.00	
tarps		$ 112.64	$ 115.00	
MDUSD room use	YMCA paid	$ 355.00	$ 355.00	
MDUSD janitorial	$ 584.00	$ 360.00	$ 360.00	
Don Stone/sound tech	$ 250.00	$ 250.00	$ -	
City Maint	$ 1,497.56	$ 1,500.00	$ 1,500.00	
Total	$ 8,248.77	$ 5,960.75	$ 7,156.00	
donations recvd				
Comcast	$ 1,000.00			
Longs	$ 1,000.00			
AD Seeno	$ 1,000.00			
Jim Webb	$ 500.00			
Clayton Pioneer	$ 250.00			
Flora Sq/Korngold	$ 250.00			
Kim and Gary Napper	$ 250.00			
Skip and Lind Ipsen	$ 25.00			
	$ 4,250.00			
Travis Credit Union		$ 1,000.00	$500 Pledged	
CBCA		$ 2,500.00		
Jim Webb		$ 750.00		
Allied		$ 1,000.00		
Clayton Club		$ 250.00		
Julie Pierce		$ 250.00		
Gary Napper		$ 150.00		
Gary Napper		$ 25.00		
Hugurt Turner and Adams		$ 100.00		
Mike Rose Autobody		$ -		
total donations received		$ 6,025.00		
donations at event		$ 468.00		
$ from soda sales		$ 275.00		
total funds received		$ 6,768.00		
tshirt only	pledge	tshirt cost		
		$ 2,337.95		
hank stratford	$150	($150)		
Gary Napper	$150	($150)		
Lynn French	$150	($150)		
David Shuey	$150	($150)		
La Veranda		$0		
Royal Rooster	$150	($150)		
Canessa's	$150	($150)		
Doug Van Wyck	$150	($150)		
Diablo Ford	$150	($150)		
Johnny's International Deli	$150	($150)		
Cathie's Custom Creations		$0		
IMC		($987.95)		
		$0.00		
in kind				
Safeway		ice		
Bills Ace	tarps/water			
Clayton Pioneer	advertizings	advertizing		
Allied Waste	t-shirts			
Carl's Jr	cups			