



Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, June 28, 2011

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

CALL TO ORDER, ROLL CALL, PLEDGE TO THE FLAG

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Armstrong to report at the City Council meeting on July 5, 2011.

Public Comment

Approval of Minutes

- 2A. Approval of minutes from the meeting of May 24, 2011.
- 2B. Approval of minutes from the meeting of June 14, 2011.

Public Hearing

- 3. A public hearing pertaining to the proposed Diablo Estates at Clayton residential subdivision involving the construction of 24 single-family residences on the 24-acre former Diablo Pointe property. The applicant is Toll Brothers Home Builders. The project site is located at the northeast corner of Regency Drive and Rialto Drive (APNs 119-630-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, 119-640-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014). The entitlements that will be considered for approval are listed below:
 - **SPR 01-11, Site Plan Review.** A site plan review permit to allow the construction of 24 single-family residences measuring approximately 3,500 to 4,900 square feet in area (includes garage space).
Proposed Action: Approval, with conditions.
 - **LLA 01-11, Lot Line Adjustment.** A lot line adjustment to adjust the lot lines on Lots 1, 2, 20, and 21.
Proposed Action: Approval, with conditions.
 - **VAR 01-11, Variance.** A variance to allow the front and side setbacks on Lots 1, 2, 3, 4, 16 to be less than the required minimum setbacks in the respective Single Family Residential Districts and also to allow only the porches on all residences to project five feet into the front and side setbacks.
Proposed Action: Approval, with conditions.

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Old Business

4. None.

New Business

5. **GPA 02-11, Conformity with General Plan, Capital Improvement Program (CIP).** Review of City of Clayton CIP projects projected to be undertaken in the coming fiscal year (FY 2011 – 2012) for conformity with the General Plan.
Proposed Action: Find CIP projects in conformity with General Plan.

Communications

- 6A. Staff.
6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is scheduled for **Tuesday, July 12, 2011.**

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

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

Minutes
Clayton Planning Commission Meeting
Tuesday, May 24, 2011

Call to Order

Chair Sandra Johnson called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present: Chair Sandra Johnson, Vice Chair Dan Richardson, Commissioner Bob Armstrong, Commissioner Tuija Catalano, Commissioner Ted Meriam
Absent: None
Staff: Community Development Director David Woltering
Assistant Planner Milan Sikela, Jr.

Administrative

- 1A. Review of agenda items.
- 1B. Commissioner Armstrong to report at the City Council meeting on May 17, 2011.

Public Comment

None.

Approval of Minutes

- 2. Approval of minutes from the meeting of May 10, 2011.

Vice Chair Richardson moved and Commissioner Armstrong seconded a motion to approve the minutes, as amended. The motion passed 4-1 (Commissioner Catalano abstained because she did not attend the May 10, 2011 Planning Commission meeting).

Public Hearing

- 3. **ENV 02-09, Environmental Review, Clayton Community Church**, APNs 118-560-010 and 119-011-003. Public review of the Clayton Community Church Project Draft Environmental Impact Report (Draft EIR), prepared in accordance with the California Environmental Quality Act. This document evaluates the potential environmental impacts of the proposed project and recommends mitigation measures to reduce impacts to a less-than-significant level, as feasible. The primary objective of the proposed project is to develop a new church and associated facilities on the subject property to serve the Clayton Community Church congregation and the local community. The project would result in the demolition of the former Pioneer Inn building, which exists on the subject property, and the redevelopment of the site with four buildings, including a 500-seat sanctuary, retail and office space, and associated facilities. The proposed buildings, in total, would comprise approximately 42,000 square feet of interior space.

The proposed buildings include the following:

- Building 1, which would be located in the northwestern portion of the site, would be a two-story 22,244-square-foot sanctuary building containing up to 500 seats.

- Building 2, which would be located slightly southeast of Building 1, would be a two-story building containing a total of 8,516 square feet of interior space, including 2,261 square feet of retail space and 6,255 square feet of office space, church classrooms, and a welcome center.
- Building 3, which would be located on the site of the Pioneer Inn, would be a two-story building containing a total of 10,204 square feet of interior space, including 5,696 square feet of retail space and 4,508 square feet of office space.
- Building 4, which would be located in the northeastern corner of the project site, would be a one-story building containing a total of 1,200 square feet of space and would function as the Church's teen center.

The project would require several entitlements from the City of Clayton: a General Plan Amendment (to allow assembly uses); Specific Plan Amendment (to allow assembly uses and establish lower on-site parking requirements); Zoning Amendments (to allow assembly uses; establish a consistent zoning designation for the site; and establish lower on-site parking requirements); Use Permit Approval; Development Plan Approval; and Tentative Parcel Map Approval (to divide the site into four parcels).

PROPOSED ACTION: Receive public comments on the legal adequacy of the Draft EIR prepared for the Clayton Community Church Project. Comments should be focused on the completeness, accuracy, and clarity of the information provided in the Draft EIR. Comments submitted should be as specific as possible to facilitate responses that accurately address the comments received in a Response to Comments document to be prepared after the close of the comment period on June 25, 2011.

Director Woltering introduced the item and presented the staff report. Mr. Woltering provided written comments to the Planning Commission received on this matter from the following (See Attached):

- George & Kathleen DeBoever
- Peter Laurence
- Sue Choate-Brye
- John Trammell

Adam Weinstein, Project Manager with LSA Associates, Inc., the firm that prepared the Draft EIR, provided an overview of the Draft EIR. He indicated that potentially significant impacts were identified in the following areas: Land Use and Planning Policy; Transportation, Circulation, and Parking; Air Quality; Noise; Cultural Resources; Visual Resources; and Hydrology and Water Quality. He stated that mitigation measures had been identified in the Draft EIR to avoid or reduce the identified potentially significant impacts to a less-than-significant level.

The public hearing was opened.

Dan Foley, 131 Joscolo View, indicated the following:

- It would be helpful to have a comparison of historical membership of the Clayton Community Church, expected increases in the congregation, and anticipated total future membership.

- Would the Clayton Community Church be available for rental to non-denominational organizations such as Planned Parenthood or political action committees?
- Would there be any restrictions on the tenants of the proposed leasable space?

Jeanne Boyd, 308 Mountaire Parkway, indicated the following:

- Even with the story poles it is hard to evaluate the magnitude of the visual impact of the proposed project.
- The proposal incorporates a huge facility that is too large for the Town Center and does not include enough open space.
- More information is needed to evaluate the visual impact of this proposed project.
- Perhaps the size of the proposed buildings could be compared against the size of existing buildings in the Town Center.

Don Boyd, 308 Mountaire Parkway, indicated the following:

- The visual impact of the proposed project needs to be further evaluated.
- The story poles should be photographed.
- The lack of parking proposed as part of the project would be a major impact on the Town Center.
- The order of preferred options should be the Off-site alternative first, the Policy Consistency alternative second, and the Mixed Use/Church alternative third.

Paul Henshaw, 6 Rachel Ranch Court, indicated the following:

- Consider the long-term impact of a building of that size in the Town Center if the Church dissolves.
- Where will the Town Hall originally proposed for the site be relocated?
- The project overwhelms the Town Center and is too large for the property.
- Consider the impacts to current community events, including the Fourth of July Parade, the Art and Wine Festival, and Oktoberfest.
- The project objective pertaining to fulfilling a need for spiritual gatherings cannot be a City-sanctioned objective.

Joyce Atkinson, 282 Mountaire Circle, indicated the following:

- When the Clayton Community Library was built, 63 on-site parking spaces had to be provided.
- Concerned that the Church's parking shortfall would negatively impact the library parking lot.
- How will parking spaces be reserved for library staff and visitors? It should be noted that library staff arrives about 11:00 a.m. for a noon public opening time on Sundays.
- Concerned that the library parking lot may be used for weddings, funerals, and special events of the Church during hours when the library would be open.

Sonja Wilkin, 17 Mount Wilson Way, indicated the following:

- Is the Church self-funding the project?
- What happens if the Church defaults on its construction loan?
- The project is too large for the Town Center site.

Spencer Jackson, 3029 Windmill Canyon Drive, indicated the following:

- We do not want our Town Center area to become yet another high-density urban area.

Bonnie Boswell, 2 Rachel Ranch Court, asked how long the storypoles will remain on the project site. Director Woltering indicated that the storypoles would remain in place until June 19, 2011. Photographs of the storypoles have been taken and local newspapers are aware of the storypoles.

Carol Herington, 411 Mount Tamalpais Drive, asked if the project would be put to a referendum.

Janet Miyashiro, 263 Bigelow Street, indicated the following:

- A comparison should be included in the analysis that compares the size of the main assembly building to other buildings in the Town Center.
- The main assembly building appears much larger than other buildings in the Town Center.

Dan Foley, 131 Joscolo View, asked why the subject property is being subdivided into four parcels.

Richard Hosier, 1272 Easley Drive, indicated that there was concern regarding the traffic impacts caused by the project, including impacts associated with peak traffic volumes, pedestrian traffic, and access to and throughout downtown.

Beth Scroggs, 21 Mirango Court, indicated the following:

- Concerned about impacts on special events such as the Memorial Day service.
- The seating for the Memorial Day service has traditionally been located partially on the Church property.

Jim Carolan, 1030 Panadero Court, indicated the following:

- There is a possibility that, if the project is approved and the Church becomes successful, the membership may expand.
- What congregational growth rate was assumed in the Draft EIR?

The public hearing was closed.

Vice Chair Richardson indicated the following:

- It appears, given the location of the story poles, that certain trees, e.g., the oak tree across from the City's flag pole, may be adversely impacted by the proposed development, although the tree is indicated to be preserved. Review the arborist report in light of the footprint of the project.
- Concerned about the visual impacts of the proposed project to the Town Center.
- More information needs to be provided regarding the possible impact of the project on views from the west, including from the existing pathway.

Commissioner Armstrong indicated the following:

- We should analyze how this project would impact ongoing vital community culture related to long-standing community events and activities in the Town Center.
- Specifically, impacts to the City's Art and Wine festival, Fourth of July parade, and Oktoberfest events need to be evaluated.
- Concerned about the visual impact because the size of the main assembly building is similar to the size of an older Safeway store.

Commissioner Catalano indicated the following:

- On Figure III-1, the project site appears larger than it may actually be.
- Regarding Figure III-10, what is the project construction schedule, including the overall length of the construction period? What are the anticipated impacts of the proposed phasing related to traffic, parking, and other applicable impact categories?
- On Page 46, Table III-2, anticipated attendance numbers for weddings and funerals should be provided along with a discussion of impacts, as applicable.
- On Page 48, why is the proposed basis for the parking requirement 1 space per 3 fixed seats as opposed to a certain number of parking spaces per a certain number of worshippers?
- On page 74, regarding the compatibility of the project with surrounding land uses, will temporary events require a liquor license? What are the implications?
- Regarding Transportation and Circulation, the traffic analysis should include a discussion of possible queuing impacts related to ingress and egress at the project site due to Church services, events and activities.
- On page 91, what is the Church's current membership number?
- On page 103, need to better address the impacts to the Town Center as a result of the proposed project not satisfying the City's current parking standards.
- Was space other than that encompassing the 500 seats in the sanctuary building factored into the traffic and parking analysis? The analysis should factor in all space and anticipated uses to assure that the conclusions on parking adequacy are accurate.
- Were the 2,000 square feet of children's ministry space factored into the traffic and parking analysis?
- Should the number of fixed seats be the appropriate metric for calculating parking demand?
- The shared parking analysis relies on 90 parking spaces being available at the library. Is this a reasonable assumption that accounts for potential changes in library hours? Representatives at the library should be contacted regarding this assumption.
- How would the City implement and monitor the shared parking mitigation measure (i.e. how would the City require private businesses to share their private parking areas)?
- On Page 131, when evaluating health risks associated with toxic air contaminants, is the 1,000 radius around sensitive receptors consistent with Bay Area Air Quality Management District (BAAQMD) guidelines?
- Does the 10.5 in 1,000,000 cancer risk associated with the 6190 High Street diesel generator represent a significant individual and/or cumulative air quality impact?
- What is exact distance between the project site and the generator located at 6190 High Street?
- Why is the Church or teen center not identified as a "sensitive receptor"?
- Make sure that the BAAQMD thresholds are accurate.
- View #2 (Figure IV.G-3) should be revised to reflect the view of a pedestrian, not a driver in a vehicle.

Commissioner Meriam indicated the following:

- Some of the site plans appear to include the vegetated knoll at the intersection of Clayton Road and the Oak Street off-ramp as part of the project site. The Draft EIR needs to clarify if the vegetated knoll is part of the proposed project.
- How would queuing at the stop sign at the bottom of the Oak Street off-ramp be affected by the proposed project, taking into account that this off-ramp is the major western entrance to the Town Center?
- Why was the Sorenson site identified as an alternative site?

Chair Johnson indicated that the visual simulations need to take into consideration the building materials used and the location of any exterior rooftop mechanical units.

The public hearing was closed.

Director Woltering indicated the following:

- The deadline for providing comments regarding the Draft EIR is June 25, 2011.
- Copies of the Draft EIR are available at City Hall and on the City's website.
- A Response to Comments (RTC) document will be prepared and included with the Draft EIR. The Final EIR will comprise the Draft EIR and the Response to Comments Document.
- Comments can be received via e-mail, normal mail, or be hand-delivered.
- Staff anticipates that the public hearings on the proposed project will occur in the fall of 2011.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff – None.

6B. Commission – None.

Adjournment

7. The meeting was adjourned at 8:25 p.m. to the following regularly-scheduled meeting of **June 14, 2011.**

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Sandra Johnson
Chair

Attachments: Letters from DeBoevers; Laurence; Choate-Brye; and Trammell

Plng Comm\Minutes\2011\0524

GEORGE & KATHLEEN DEBOEVER

**505 Raven Place
Clayton, CA 94517
925-324-0981**

RECEIVED

May 24, 2011

MAY 24 2011

Clayton City Manager
Clayton City Planning Director

**CLAYTON COMMUNITY
DEVELOPMENT DEPT**

Re: Proposed Site for Clayton Community Church

To Whom It May Concern:

We write this letter due to our concern for the continued development and growth of the Clayton commercial/retail district. We feel very strongly that the proposed site of the new Clayton Community Church is not appropriate for the reasons below.

First, the size of the site is completely inadequate. One look at the mock up of the proposed structure and it is obvious that the massive structure is being shoehorned into an inadequately sized space. Its size will literally and figuratively overshadow the downtown area of Clayton. The City of Clayton would transform into the City/Church of Clayton for all appearances.

Second, the City has worked to make Clayton into a wonderful destination location where families can enjoy a small town atmosphere with appropriate restaurants and retail businesses. All of the years of effort toward this goal would be lost. A goal circumvented by a group who knowingly purchased a property not zoned for their intended use.

Third, in a time of fiscal austerity, it is prudent to look forward and plan to maximize retail businesses in downtown Clayton in an effort to increase the long term revenue stream to the City. The planned use by the church runs counter to this.

The Clayton City Council and Planning Commission have done a fine job to this point with the downtown redevelopment. But they must not be strong armed and allow an obvious misuse of space which would cause irreparable and everlasting harm to the Clayton downtown area.

We wish the Clayton Community Church well in their efforts to expand, however their choice for the new church site is not in the best interests of our Clayton community.

Sincerely,

George V. DeBoever

Kathleen S. DeBoever

David Woltering

From: Pete Laurence [pete@palaurence.com]

Sent: Tuesday, May 24, 2011 4:17 AM

To: Gary Napper

Cc: dwoltering@ci.clayton.ca.us; Gregg Manning; Jim & Maryann Lawrence; jim bradt; JoAnn Caspar; Mark Cutler; Sierragirl; UNKTED@aol.com

Subject: Opposition to the City Changing it's existing Commercial/retail Zoning within our Town Center

To: City Planning Commission and Commissioners
City Council and Councilpersons & Mayor

Re: Agenda Item regarding the Church Application & EIR for the 5/24/11 Public Meeting
5/23/2011

MAY 24 2011

**CLAYTON COMMUNITY
DEVELOPMENT DEPT**

Dear Planning Commissioners,

While I will not be able to attend the above referenced Meeting, I send this letter to go on record as a citizen of Clayton and former Mayor, that nothing in this 255 page document makes it in Clayton's and it's citizens interests, to change the General Plan, the Town Center Specific Plan, the long held goals of former Clayton City Councils and Planning Commissions, the architectural requirements or the Parking requirements from the very clear Goals and requirements for our Town Center to have as much Retail/Commercial construction and businesses as we can attract over time.

The City has expended millions of Clayton taxpayer dollars on undergrounding electric wiring, new sewers and water mains, new sidewalks and streets, drainage, diagonal parking, old fashioned streetlights, the new Town Center Park, and the Clayton Road By-pass to make this area able to attract a decent Town Center. And, we've built our City Hall and Library to be close but not within, this crucial small section of land that is meant to be Clayton's true "Town Center", a Downtown that makes Clayton a unique City, not just a collection of neighborhoods next to Concord.

Whether the applicant be a Walmart big store, a veterans VFW Hall, a Masonic Lodge or a Church, this key piece of commercial property, should NOT be sacrificed for any other usage. Small Retail and Commercial, offices and affordable housing are what's needed to give 7 day a week vitality and shoppers to enhance our commercial goal. So to consider then at the appropriate meeting reject this different usage proposal seems to be what's in Clayton's best interests. It's too bad that they are spending so much money and time to try to have their dream of a Church take away Clayton's dream of someday having a bustling Down Town, but the decision should be made on what's best for all Clayton, not what's desired by an applicant.

As the EIR states on page 80, "the project would conflict with the designation of the Town Center as a primarily commercial area and this conflict would result in a substantial adverse physical impact associated with the area's parking supply and the future viability of the Town Center as a commercial hub". And as the EIR further states; "the project on the whole could hinder future commercial development of the Town Center, which is considered a significant physical environmental impact".

There is NO reason to have this usage which has a breakdown on page #29 of 34,207 square feet going to Church and Admin/offices usage, but only 7,957 sq feet going to retail usage. This amount is only about 20% of the project and is about the size of the Pioneer Inn which we already have on that parcel. That is especially a low amount when this Key "anchor site" at this end of Town is needed for the success of our entire Town Center. If the Planning Commission and City Council STAY WITH OUR HISTORIC AND CURRENT PLANS & ZONING it is calculated in the EIR on page #213 as giving Clayton citizens 40,000 sq ft of retail space downstairs, and upstairs 20,000 sq ft of commercial Office Space, and 20,000 sq ft of affordable housing space. And the EIR also shows that the way it is zoned now also would provide ALL OF ITS OWN PARKING ON SITE. These maximum usages would require approximately 140 parking spaces, totally eliminating the

need for any "shared parking" arrangements that would kill the viability for our other parcels.

Also, with the requirement of our Western style buildings to all be up front along Main Street, it leaves the parking lot as a green, landscaped buffer behind, clearly attracting drivers from Clayton Road to a beautiful shopping, dining and exploring experience. This would be much more attractive and inviting for Clayton, rather than the oversized Spirit poles that right now are up against Clayton Road and covering much of what should be this parcel's future Parking Lot. Also on the subject of parking, such a large lot will still be needed if CBCA and our Community are to still have our Weekend celebration events of the Art & Wine, 4th of July, Oktoberfest, Farmers Markets, etc. If this change in zoning were approved, on all Sundays and some Saturdays they'd be using their lot and flooding our Town Center parking with cars, probably stopping these type events from being able to occur.

Added to this, the applicant claims it would benefit our town to have their church take this Town Center parcel, but we already have many Churches serving Clayton just fine, who do so without wanting to take our prime commercially zoned parcel, and this Church itself serves the community just fine, without having it's services where it would take up our Town Center.

And in this EIR on page #234 under "Significant Irreversible Changes" the consultants point out that the "expansion of religious assembly uses into areas designated "Town Center Commercial" would conflict with the policy impetus of the General Plan, Zoning Ordinance, and the Town Center Plan, which seeks to insure that the Town Center will be predominantly commercial in nature". And it states that the proposed project "could hinder future development of retail uses by nature of the location of the project on Main Street and the disproportionate use of public parking." And it further makes the excellent point that "the proposed project would commit the City and future generations to a change in land use that would conflict with the policy impetus of the General Plan, Zoning Ordinance, and Town Center Specific Plan."

To wait for a better project when the economy finally returns takes patience, but we only get ONE Chance to develop our Town Center right so we should stick with our well thought out and high standards. As we've now spent many millions of taxpayer dollars to prepare our Town Center and before the recent downturn had many projects about to occur, they will come back again when the economy comes back. So we shouldn't panic for short term or partial gain, and compromise our wonderful Town Center potential for the rest of time. Whoever would vote that way will probably be remembered for their short sightedness.

As to the zoning and Town Center Plan's requirements affecting all Main Street parcels, they were well known and in the written Plan for many years as to have a viable commercial Town Center that ALL Main Street parcels were to have commercial usage with the buildings up front by the street and the parking lots in the rear. This should not have been any surprise to the people of this church, plus we all tried to tell them that long before they ever Closed Escrow. This whole issue isn't being against churches or even this church, it's just that our tiny Town Center has been zoned for, and needs all the commercial/retail that it can get, especially on our largest and key remaining commercial parcel on Main Street.

So without yet reading the EIR closely, it seems that the large Bulk of the story poles overwhelming the Town Center, the changing of zoning on these parcels for hardly any additional retail, the possibly killing of our Town Center potential with shopping close by for our citizens, the complexity of even trying to mitigate the lack of parking, all seems to pretty clearly favor NOT changing our existing zoning and our Town Center and General Plans. This is NOT anything against churches or this church, it's a "land usage" issue, so we hope they'll find a different parcel.

So I'm sorry I can't attend the Meeting, but hope that this letter will become part of the Record, and part of the EIR Responses whether it is just referred to or read into the record by the Chair, whichever is more appropriate.

Thank-You, - Pete Laurence, a Former Mayor. 1120 Oakwood Circle, Clayton, CA 94517. Cell: 890-6004.

Sue Choate-Brye

(925) 672-1127

Fax: 672-8376

RECEIVED

MAY 24 2011

FAX

**CLAYTON COMMUNITY
DEVELOPMENT DEPT**

To: City of Clayton

Gary Napper

David Wolterring

From:

Sue

Fax: (925) 672-4917

Pages:

2

Phone:

Date:

5/24/2011

**Re: Proposed Clayton Community
Church Site**

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

May 24, 2011

City of Clayton
Gary Napper, City Manager
David Woltering, Community Development Director

RE: Proposed Clayton Community Church Site

Dear Mr. Napper and Mr. Woltering:

I am writing you regarding the proposed site for Clayton Community Church. I am very concerned about the size of the proposed building along with parking problems that will come along with this plan. I wonder what other city services will be taxed with all the traffic and people this will bring to town. Clayton Community Church has grown in leaps and bounds over the last 15 years and has continued to grow. Who's to say that in another 10 years they will outgrow this current proposal. I love the church – but I believe that having such a large project will take more away from our quaint town than enhance it.

I was under the impression that the church purchased land outside our city to build a church. It makes more sense to build a facility of this magnitude in vacant land surrounding our town than right in the heart of it.

I have coffee three times a week at Cup O Joe's and sit outside and enjoy the simplicity and quiet of our town. I don't see many people spending their money in our town – they are all at Starbucks. It will be a sad day for Clayton if the old Pioneer Inn is torn down.

Sincerely,



Gary Chertko, Buyer

Sue Choate-Brye
19 Atchinson Stage Rd
Clayton, Ca. 94517
(925) 672-1127

David Woltering

From: Gary Napper [gnapper@ci.clayton.ca.us]
Sent: Tuesday, May 24, 2011 3:16 PM
To: 'David Shuey (E-mail)'; 'Hank Stratford'; 'Howard Geller'; 'Joe Medrano'; 'Julie Pierce (E-mail)'; 'Bob Armstrong'; 'Dan Richardson'; 'Sandy Johnson'; 'Ted Meriam'; 'Tuija Catalano'
Cc: dwoltering@ci.clayton.ca.us
Subject: Opposition to changing the Town Center Plan

Unsure if each of you received this email message as well, so it is forwarded to its intended audience.

Gary A. Napper
City Manager
6000 Heritage Trail
Clayton, CA 94517
925.673-7300
gnapper@ci.clayton.ca.us



RECEIVED

MAY 24 2011

**CLAYTON COMMUNITY
DEVELOPMENT DEPT**

From: John Trammell [mailto:jptrammell@yahoo.com]
Sent: Tuesday, May 24, 2011 2:30 PM
To: gnapper@ci.clayton.ca.us
Subject: Opposition to changing the Town Center Plan

To: The Planning Commission and the City Council

I would like to add my name to those who oppose the change in the Town Center Plan and the construction of the church structure where the Story Poles now rise.

After all the money and time spent by the city and those who worked to develop the Plan, I think it is ill advised just to toss it aside. After studying the site and the structure's outline, it reminds why we have a term such as "Sore Thumb". It is too big and no matter how far it is moved toward Main Street, it will still be obnoxious from Clayton Road - as well as Main Street - ruining the small-town view to passersby.

I would like you to stick with the plan to have retail and professional spaces only, helping our tax base and making Clayton the town others have so carefully planned.

Thank you for your time.

John Trammell
7 Mt. Eden Place
Clayton, CA 94517
672-3022 hm
207-6889 cell

PLANNING COMMISSION STAFF REPORT

Meeting Date: June 28, 2011

From: David Woltering, AICP
Community Development Director



Subject: Diablo Estates at Clayton Residential Subdivision
Site Plan Review (SPR 01-11)
Lot Line Adjustment (LLA 01-11)
Variance (VAR 01-11)

(This staff report supplements the staff report submitted to and considered by the Planning Commission at its June 14, 2011 meeting)

REQUEST

Approval of the entitlements listed below to allow construction of 24 residences in accordance with the applicant's submitted plans on the already-subdivided 24-acre subject property located at the northeast corner of the intersection of Regency Drive and Rialto Drive:

1. **SPR 01-11, Site Plan Review.** A site plan review permit to allow the construction of the 24 single-family residences measuring approximately 3,500 to 4,900 square feet in area (includes garage space).
2. **LLA 01-11, Lot Line Adjustment.** A lot line adjustment to adjust the existing lot lines on Lots 1, 2, 20, and 21.
3. **VAR 01-11, Variance.** A variance to allow the front and side setbacks on Lots 1, 2, 3, 4, 16 to be less than the required minimum setbacks in the respective Single Family Residential Districts and also to allow only the porches on all residences to project five feet into the front and side setbacks.

PROJECT INFORMATION

Applicant/Location: Toll Brothers Home Builders
Northeast Corner of Regency Drive and Rialto Drive
(APNs 119-630-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, 119-640-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014)
(See **Exhibit A** for Vicinity Map)

General Plan Designation: Single Family Low Density (LD) and Public Park/Open Space/Open Space and Recreation (PU).

Zoning: R-10; R-40; R-40-H; and Public Facility (PF)

Public Notice: On May 26, 2011 public hearing notices were placed on the City's three standard community posting boards, sent to the Contra Costa Times for publication, and mailed to property owners within 300

feet of the site. After receiving a presentation of the staff report and opening and closing the public hearing at their meeting of June 14, 2011, during which public testimony was received, the Planning Commission approved a Use Permit request for a temporary sales trailer on the subject property and continued the public hearing to the Planning Commission meeting of June 28, 2011 to further consider the requests for approvals of a Site Plan Review Permit, Lot Line Adjustments, and Variances to construct 24 proposed homes in the subject subdivision.

Authority: Section 17.44.030 of the *Zoning Ordinance* authorizes the Planning Commission to approve a site plan in accordance with standards in Section 17.44.050.

Section 16.02.030.D. of the *Municipal Code* authorizes the Planning Commission to approve a lot line adjustment in accordance with the requirements stated therein.

Section 17.52.030 of the *Zoning Ordinance* authorizes the Planning Commission to approve a variance in accordance with the findings stated therein.

BACKGROUND AND ANALYSIS

This proposed development application was presented and discussed in detail at the June 14, 2011 Planning Commission meeting. In addition to staff presenting its report on the item, the applicant providing a detailed overview of the proposal, the Commission discussed the matter, and public testimony was received. Staff identified several issues that require further consideration and resolution, based on the discussion and testimony that occurred at the June 14th meeting. These issues are as follows:

1. The need to mitigate the possible visual prominence of the residences located on Lots 16-24 as required by Mitigation Measure 1;
2. The need to ensure the architectural and aesthetic variety and interest of the residences being plotted in the subdivision, particularly given that the applicant is pre-plotting only seven of the residences and asking for flexibility in terms of the particular homes plotted on the remaining lots; and
3. The need to address the possible use and maintenance requirements of the rear portion of specified lots (Lots 1-6, 8, 9, and 11-24) beyond the proposed open view fencing.

1. Visual Prominence of Residences on Lots 16-24

Mitigation Measure 1 of the Project Mitigation Monitoring Program requires that "*Lots 16-24 shall be predominantly single-story dwellings*". This measure indicates further that split-level and partial two-story homes may be included to satisfy this requirement. The applicant is proposing to satisfy this requirement by committing to four full single-story residences in this range of lots and some two-story homes that have a combination of single- and two-story elements. Staff suggests that compliance with the intent of Mitigation Measure #1 could be better assured by adding a condition of approval that stipulates a minimum of four full single-story residences be plotted in this range of lots and that not more than two two-story and/or partial two-story homes be constructed on adjacent lots within this range of lots. The condition recommended by staff is as follows:

“The visual prominence of the residences to be located on Lots 16-24 will be mitigated by assuring that, at minimum, four (4) full single-story residences are constructed in this range of lots, with a maximum of not more than two (2) two-story and/or partial two-story residences are constructed on adjacent lots within this range to the satisfaction of the Community Development Director. (MM 1)” (See Proposed Condition 76)

2. Architectural and Aesthetic Variety and Interest of Residences

The applicant is proposing to pre-plot seven of the proposed 24 residences within this proposed subdivision. On the remaining lots the applicant is requesting some flexibility in terms of the plan types/front elevations/colors and materials that could be offered to prospective buyers. There was general interest indicated at the June 14th Planning Commission meeting to allow the flexibility being sought by the applicant, but to still ensure architectural and aesthetic variety and interest of residences within the subdivision. Staff suggests adding the condition listed below, which is an edited version of one suggested by the applicant, to ensure the variety and interest being sought:

“The following criteria shall be satisfied with the final plotting of residences to ensure architectural and aesthetic variety and interest of the residences within this subdivision to the satisfaction of the Community Development Director:

- No combination of plan type/elevation/exterior materials shall be used more than twice within this development;
- The same exterior materials/color scheme shall not be applied to more than four residences within this development;
- The same plan type and architectural elevation shall not be used on adjacent lots on the same side or opposite sides of the same street; and
- Every effort shall be made to provide an interesting mix of plan types/elevations/materials/color schemes within this development.” (See Proposed Condition 77)

3. Use and Maintenance Requirements of Rear Portions of Lots 1-6, 8, 9, and 11-24

At the June 14th meeting, there was considerable discussion about how the areas in the rear yards of specified lots beyond the open view fencing could be used and would be maintained. Neighbors were concerned that drainage facilities, including j-ditches, be properly maintained, and that weed abatement would be addressed in a timely and uniform manner to address safety and aesthetic concerns. Neighbors were also concerned about how these areas might be used over time. The applicant has indicated a desire to offer some use of these areas to future home owners for some limited improvements; surrounding property owners were generally opposed to this allowance.

As indicated by staff at the June 14th meeting, generally along the rearmost 150 feet of Lots 1-4 there is a recorded conservation easement which precludes the improvement of this area with any structures. Additionally, at the rear of Lots 9, and 11-20, inclusive, there is a recorded scenic easement. Staff did not locate in its research any stated limitations cited for the scenic easement area.

Nevertheless, staff is concerned about assuring that proper maintenance of these areas occurs over time and that legitimate aesthetic and safety concerns are addressed. The subject property is a transition property to the open space found in the adjacent Mount Diablo State Park. Most of the areas in the rear yard areas beyond the open view fencing are fairly steeped sloped. It would

be beneficial to avoid disturbing these areas over time so that both the soil stability and drainage patterns are not adversely altered. Allowing for improvements in these areas could adversely affect both soil stability and drainage patterns. Additionally, keeping these areas open and accessible would facilitate being able to provide effective, timely, and more uniform weed abatement. Allowing for limited improvements in these areas, even with the benefit of a Use Permit or Site Plan Review as suggested by the applicant, allows for a fair amount of subjectivity as to the type, size, and extent improvements that may be allowed. And, over time, these improvements may hinder slope stability, drainage patterns, or adversely affect the aesthetics of the area. Accordingly, staff suggests that these areas be maintained in a natural state assured by the recordation of a conservation easement, and that there be the formation of a benefit assessment district to assure the property owners involved perform the required maintenance over time. Staff is recommending the following condition to address this issue:

The rear yard areas of Lots 1-6, 8, 9, and 11-24 shall comply with the following to the satisfaction of the Community Development Director and the City Engineer:

- “Open wire fencing” shall be installed at the rear of the level portion of the building pads on Lots 1-6, 8, 9, and 11-24, inclusive. No additional fencing shall be permitted between the open wire fencing and the rear lot lines, except for fencing installed as part of the project’s perimeter fencing.
- The areas down slope and beyond the open wire fencing on Lots 1-6, 8, 9, and 11-24 shall remain in a natural condition, with improvements, including any ornamental landscaping, structures, or grading, in these areas prohibited. This limitation shall be stated in the project’s CC&Rs and recorded against the applicable lots prior to the close of escrow of the first residence/lot associated with this limitation.
- To ensure the maintenance of the natural areas at the rear of Lots 1-4, access will need to be provided from the interior street of the subdivision. Accordingly, a 10-foot wide paved access road and easement, along with a 10-foot wide access gate through the open wire fencing, shall be provided on Lots 1 and 4 to provide access to the slope areas east and south of the proposed open wire fencing, prior to the close of escrow of the first residence/lot within the subdivision.
- Repair and maintenance, including, but not limited to, weed abatement and maintenance and repair of the j-ditches for drainage purposes, in the described areas down slope and beyond the open wire fencing on Lots 1-6, 8, 9, and 11-24 shall be the collective responsibility of the subject property owners and subject to the formation of a benefit assessment district prior to the issuance of a certificate of occupancy for the first residence within the subdivision. (See Proposed Condition 78)

RECOMMENDATION

Staff recommends that the Planning Commission approve Site Plan Review (SPR 01-11), Lot Line Adjustment (LLA 01-11), and Variance (VAR 01-11), subject to the proposed findings and conditions in **Exhibit B**.

EXHIBIT

Proposed Findings and Conditions of Approval

SPR\2011\01-11.sr.pc.6.28.11

Exhibit: Proposed Findings and Conditions of Approval

Diablo Estates at Clayton Subdivision (SPR 01-11; LLA 01-11; and VAR 01-11)

PROPOSED FINDINGS FOR APPROVAL

Site Plan Review (SPR 01-11)

Based upon the evidence set forth in the staff reports, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following findings regarding the Site Plan Review Permit for the addition:

1. Is consistent with the General Plan designation and policies.
2. Meets the standards and requirements of the Zoning Ordinance.
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, colors, size, and bulk.
8. Is compatible with the neighborhood and surrounding land uses.

Lot Line Adjustment (LLA 01-11)

Based upon the evidence set forth in the staff reports, which includes relevant information from the project file, as well as testimony at the public hearing, the Planning Commission makes the following findings regarding the Site Plan Review Permit for the addition:

1. Is consistent with the General Plan designation and policies.
2. Conforms with the Zoning Ordinance.

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

Variance (VAR 01-11)

Based on the evidence in the staff report and project file, as well as testimony at the hearing, the Planning Commission finds that:

Lot 1: This would not be a grant of special privilege since the reduced setback is still greater than the setback distances required on lots 5-24, and maintains at least 30' between the home on Lot 1 and the home on Lot 2.

Strict application of the 20' side yard setback would place the home too close to the slope on the North side of Lot 1, and would deprive the homeowner on Lot 1 of the same size backyard enjoyed by other lots on the property.

Authorizing this variance would meet the intent and purpose of the R-40H District which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

Lot 2: This would not be a grant of special privilege since the reduced setback is still greater than or equal to the setback distances required on lots 5-24, and maintains at least 30' between the home on Lot 2 and the home on Lot 1.

Strict application of the 20' side yard setback and 40' front yard setback would eliminate any usable backyard for this homeowner.

Authorizing this variance would meet the intent and purpose of the R-40H District which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

Lot 3: This would not be a grant of special privilege since the reduced setback is still greater than or equal to the setback distances required on lots 5-24, and maintains at least 30' between the home on Lot 2 and the home on Lot 3.

Strict application of the 20' side yard setback and 40' front yard setback would eliminate any usable backyard for this homeowner.

Authorizing this variance would meet the intent and purpose of the R-40-H District which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

Lot 4: This would not be a grant of special privilege since the reduced setback is equal to the setback distances required on lots 5-24.

Strict application of the 20' side yard setback and 40' front yard setback would eliminate any usable backyard for this homeowner.

Authorizing this variance would meet the intent and purpose of the R-40 District which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

Lot 16: This would not be a grant of special privilege since, due to the access easement on Lots 14 and 15, the reduced setback maintains 20' between the home on Lots 16 and those on Lots 14 and 15, as required on all other lots in the community.

Due to the flag shape of Lot 16, strict application of the 10' side yard setback in this area would push the home back on the lot so far that it would eliminate any usable backyard for this homeowner.

Authorizing this variance would meet the intent and purpose of the R-10 District which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

General: This would not be a grant of special privilege since all homes in the community would adhere to the same restriction.

Strict application of the setbacks in this instance would eliminate front porches, which activate the street for homeowners and pedestrians, and in some cases push homes back on the lot so as to eliminate usable back yard spaces.

Authorizing this variance would meet the intent and purpose of the R-10, R-40, and R-40H Districts which entails allowing a reasonable amount of residential construction as well as preservation of the rural character, natural terrain, and open space within residential neighborhoods.

PROPOSED CONDITIONS OF APPROVAL

Site Plan Review (SPR 01-11)

PLANNING CONDITIONS

1. The final map shall show a conservation easement on Lots 1- 4 along the property lines adjacent to Mt. Diablo State Park. The easement shall be 150 feet wide, as measured from the project site's exterior property lines and is intended to preserve an open and attractive visual character adjacent to the park. Construction of all buildings shall be prohibited within the easement area.
2. The developer shall be responsible for submitting an application for rezoning those lots classified R-40-H to R-40 prior to the sale of those lots to a subsequent buyer to the satisfaction of the Community Development Director.
3. 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 sale of first lot.

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.

- a. Property owners shall comply with the Tree Retention Conditions.
 - b. Property owners shall maintain any gates needed for access to above-ground or under-ground drainage facilities.
 - c. No fencing, grading, or other improvements of any kind will be allowed between the developer-installed open wire fencing and the rear lot lines on Lots 1-6 and Lots 8, 9, and 11-24, inclusive, except for that fencing, landscaping and irrigation installed as part of the project's perimeter landscaping along Regency Drive and Rialto Drive.
 - d. No provision in the CC&R's which is included as a result of these Conditions of Approval may be amended without the prior written approval of the City of Clayton.
4. The Developer agrees to dedicate Lot 25 to the California Department of Parks and Recreation as an addition to Mount Diablo State Park. The Developer shall provide proof of acceptance of Lot 25 by the California Department of Parks and Recreation prior to the issuance of a building permit for the twentieth (20th) dwelling. The Developer shall be responsible for the care and maintenance of Lot 25 until the dedication has been accepted by the State. This responsibility for care and maintenance may not be transferred to any entity, other than the State, without the expressed written approval of the City. The Developer shall provide a performance deposit to the State prior to acceptance of Lot 25 by the State to ensure that at least 75 percent of the plantings installed for remediation survive for five (5) years following installation. In the event that less than 75 percent of

the trees and shrubs survive, the Developer shall (in consultation with the State) install and maintain replacement trees and shrubs.

5. The Developer shall provide one dwelling unit as a very low-income housing unit; one dwelling unit as a low-income housing unit; and one dwelling unit as a moderate-income unit; or an in-lieu fee, as determined by the City Council. Affordability requirements and resale restrictions shall be subject to the review and approval of the City Attorney. Resale of the units shall be subject to recorded restrictions for fifty-five (55) years in order to ensure the units' long-term affordability. The units may be located on- or off-site. If the units are located off-site, the units shall be subject to the review and approval of the Community Development Director. Escrow for sale of the low-income and moderate-income units shall close prior to issuance of the certificate of occupancy for the project's twentieth (20th) unit. Escrow for sale of the very low-income unit shall close prior to issuance of the certificate of occupancy for the project's tenth (10th) unit. If the affordable unit is ready for sale and the potential buyer of the affordable housing unit is not ready to close escrow, the respective certificate of occupancy for the project unit shall not be withheld. (The initial Developer of this proposed project satisfied the requirement for the very low-income residential unit; accordingly, satisfaction of the requirement for the low-income and moderate units remains at this time.)
6. The Developer shall file annual reports in January with the Community Development Department which indicate the number and price of new residences sold in the previous calendar year.
7. The Developer shall pay a fair share contribution to the City for improvement of open space lands. Payments shall be made at the time of issuance of the building permits for each of the project's units. Payments shall be based on an initial amount of \$264,365, as adjusted by the San Francisco-Oakland Consumer Price Index from December 2003 to the time of payment. [MM 29]¹
8. The Developer shall pay a fair share contribution to the City for impacts to police staffing directly related to project's impacts for a five-year period. The calculation and payment shall be made at the time of issuance of building permits for each of the project's units and shall be approved in advance by the City Manager in accordance with the formula provided in Mitigation Measure 26, based upon twenty three (23) net additional units. [MM 26]
9. All conditions of approval, which are applicable to the construction of the subdivision improvements, shall appear on the improvement drawings.
10. Pursuant to Government Code Section 66474.9, the applicant (including the Developer or any agent thereof) shall defend, indemnify, and hold harmless the City of Clayton and its

¹ Mitigation measures (MM) listed in the *Diablo Pointe Residential Subdivision Initial Environmental Study/Negative Declaration* Final Draft, dated September 2004, are referenced by number (e.g., MM 2 for Mitigation Measure 2).

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 provided for in Section 6499.37.

11. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

12. All mitigation measures set forth in the *Diablo Pointe Residential Subdivision Initial Environmental Study/Negative Declaration*, including those updated June 2011, 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.
13. The Developer shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Game.

TREE RETENTION CONDITIONS

14. The tree preservation measures listed in the *Tree Preservation Report - Diablo Pointe Project* prepared by HortScience (dated November 2003) shall be implemented to protect trees to be retained on the site. Specific tree protection and preservation actions shall be listed on all grading and constructions plans and specifications for the Project. [MM 10a]
15. The Developer shall fund the retention of a consulting certified arborist under the direction of the Community Development Department to assist in the review of plans and construction activities for the protection of on-site native trees. The funding shall be provided prior to the approval of the grading plan or improvement plans, whichever occurs first. The consulting arborist shall provide services including, but not limited to those listed in the *Tree Preservation Report*, and the following:
Review project plans, including subdivision improvement plans, grading plans, and residential site plans;
 - a. Identify actions necessary to retain healthy trees and minimize losses from construction impacts;
 - b. Attend meetings involving representatives from the City and Developer;
 - c. Conduct on-site inspections before, during, and after construction;
 - d. Make on-site field determinations regarding minor variations to the approved tree retention actions regarding the retention and removal of additional trees; and
 - e. Establish a value for all "Good" and "Moderate" on-site native trees to be retained.
16. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.
17. All trees greater than six inches in diameter at four feet six inches above ground level on Lots 1 and 25 shall be retained.
18. If, during construction, it is found that it is necessary to remove oaks or other significant trees (as identified by the arborist), 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.

19. Compensation for “Good” and “Moderate” native trees (as identified in the *Tree Preservation Report*) damaged or removed by construction, shall be provided either on or off the project site, by installation of new native trees equal to the value of the trees damaged or removed as approved by the Community Development Director. Replacement native trees shall include oaks with similar genetics if reasonably available. The new trees shall be irrigated, unless the certified arborist indicates that irrigation is not appropriate. [MM 10b]
20. 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 10b]
21. All tree removals are subject to issuance of a tree removal permit by the Community Development Department.

LANDSCAPING CONDITIONS

22. The 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
 - a. Perimeter landscaping along Regency Drive and Rialto Drive in a 25-foot wide strip extending from the back of sidewalk.
 - b. Groundcover and high maintenance landscaping at the Rialto Drive project entry shall be on private property.
 - c. All trees shall be 24-inch box size, except as noted below for Lot 25.
 - d. Native trees, including oaks with genetics similar to native oaks in the Clayton area (if such oaks are reasonably available).
 - e. Perimeter trees shall be provided at an average density of 1 tree/25 feet; perimeter shrubs shall be 5 gallon size and provided at an average density of 1 shrub/5 feet. Perimeter trees and shrubs are not required along the project's El Portal Drive frontage.
 - f. All trees installed pursuant to these conditions of approval shall not be removed or severely pruned without a tree removal permit. Trees planted on Lot 25 are exempt from this stipulation.
 - g. Water meters and irrigation systems with automatic controls.
 - h. All anti-siphon water valves shall be screened.
 - i. All newly-graded areas in or adjacent to the public right-of-way shall not exceed a 3:1 (horizontal:vertical) ratio.
 - j. A layer of mulch two to four inches thick shall be applied in all landscape areas.
 - k. Remediation plantings for all disturbed areas on Lot 25. Native species of trees and shrubs shall be used (e.g., oaks, big leaf maple, California bay, buckeye, California rose, snowberry, coffeeberry, and California blackberry). Trees (D-pot or citrus-pot size) shall be planted at a ratio of 150 trees/acre; shrubs (one gallon size) shall be planted at a ratio of 400 shrubs/acre. A certified arborist with demonstrated experience in riparian

remediation shall supervise the planting and provide specifications to the Developer regarding irrigation and care.

23. 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 irrigation plans shall be prepared by a landscape architect; shall have overall dimensions Engineer, and Maintenance Department; and shall show all existing and proposed public
24. 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).
25. All plant material is subject to inspection by the Maintenance Department and must be guaranteed for one year from the date of final inspection.
26. 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 via a new benefit assessment district) 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.
27. All trees shall be planted at least ten feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight feet of a sidewalk or driveway shall be installed with root guards.
28. Landscape areas improved as a part of this development that are ultimately to be maintained by City Maintenance Department or staff contracted by the City shall be included within a landscape maintenance easement and shall be inspected by representatives of the City Engineer and Maintenance Department prior to turning the area or areas over for City maintenance. This inspection shall include a water audit of the landscape 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. All corrective measures shall be satisfactorily completed prior to turning the area over for City maintenance. Final recommendation for the release of maintenance bonds shall be in writing and signed by the City Engineer.
29. 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.

30. 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 participate in the formation, including the holding of a ballot election, of the new benefit assessment district. Assessments shall be levied to fund the cost of all operating, maintenance, and repair needs for the irrigation and landscaping; periodic inspections; City administrative and reporting costs; City overhead charges; and reserve funds for replacement and major repairs. The benefit assessment district shall include the land area of Lots 1-24. Note: This 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 district. [MM 27]
31. Upon completion of the 90-day maintenance period, maintenance of the irrigation and landscaping installed along Regency Drive and Rialto Drive shall be performed by the City using either City personnel or contracted forces at the City's sole option. The property owners shall pay for such maintenance work through the collection of annual assessments by a new benefit assessment district, alternatively the developer may form a Homeowners Association and include this maintenance as part of the HOA.
32. Final landscape and irrigation plans shall be submitted for review and approval prior to the installation of individual lot front and rear yard landscaping in compliance with the approved Preliminary Landscape Plans and the requirements of Chapter 17.80 of the City's *Zoning Ordinance* to the satisfaction of the Community Development Director.

FENCING CONDITIONS

33. As part of the site plans for the individual residences, the Developer shall provide a fencing plan for the entire subdivision. The fencing plan shall indicate the design, height, materials, and location of all fences. Fencing adjacent to Mount Diablo State Park (including Lot 25) shall be subject to review by the State Park and shall contain no gates or breaks. The fencing plan shall include open-style fences along the following property lines:
- a.. Southern property lines of Lots 1-4;
 - b. Rear property lines adjacent to Rialto Drive and/or Regency Drive on Lots 11-15;
 - c. Common property lines between Lots 1 and 25; Lots 20 and 25; Lots 21 and 25; Lots 22 and 25; Lots 23 and 25; Lots 24 and 25. [MM 25]
34. The covenants, conditions, and restrictions (CC&R's) for the project's subdivision map (MAP 01-03) shall limit fences in the locations listed below to an open-view design and a maximum of six feet in height. The affected areas are the rear yard down slope areas (not flat pad areas) on Lots 11 (exclusive of the

solid fence located on the shared property line with Lot 9), 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24. The CC&R's shall allow the property owners of Lots 15-20 to replace the open view fences originally (1) foot of the rear property lines which Lots 15-20 share with the residential lots on Petar Court.

GRADING CONDITIONS

35. The Grading Plan shall be amended as follows:

- a. An adequate buffer, as determined by the certified arborist, shall be maintained between the toe of the northern fill area and subdrain outlet and the existing "Good" and "Moderate" oak trees on the slopes of Lots 1 and 25 in order to retain all of the oak trees. [MM 9]
- b. Designs and actions listed in the *Tree Preservation Report* to retain identified native trees shall be incorporated into the grading plan.
- c. 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.
- d. Following removal of the existing residence on Lot 25, the former residential pad, Mount Diablo Creek riparian corridor, and associated drainage swale shall be remediated below the 580-foot contour to limit erosion. Specific measures to remediate existing soil erosion in the vicinity of the banks of Mount Diablo Creek on a permanent basis may include installation of fabric mats, planting, rip-rap, and remedial grading. If remedial grading is necessary, such grading shall be field supervised by a biologist and a certified arborist to strictly limit potential impacts to adjacent resources. Remediation plantings shall be provided as stated in the Landscaping Conditions above. A performance deposit shall be provided as stated in Condition 6.
- e. All slopes steeper than 10% (except slopes on Lot 25) 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 11-24 which are visible from off-site locations shall be contoured and feathered so transitions between flat areas and graded slopes, or between graded and ungraded 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 ungraded areas.
- 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 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 (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. A “snake-exclusion fence” shall be erected along the boundary of the construction footprint prior to construction to prevent Alameda whipsnake and California tiger salamanders from venturing onto the site. The exclusion fence shall also be installed along the project site’s boundaries adjacent to existing residences to discourage rattlesnakes from entering the adjacent residential yards. The exclusion fence shall be constructed of an opaque heavy-duty silt fence sufficient to with both wet conditions and extreme sun exposure during the construction season, when snakes are active. [MM 6b]
 - k. Straw waddle to be used on the site shall be “snake friendly”. Waddle with highly degradable jute covering with mesh or net size large enough to prevent snakes from becoming entrapped shall be used. Straw waddle with nylon type netting cover shall not be used. Placement of the waddle should be within the exclusion fence versus on the open space/ State Park side of the exclusion fence. [MM 6c]
 - l. The existing driveway on Lot 25 extending from the Petar Court cul-de-sac shall be removed and replaced with a 10-foot wide rock path or comparable vehicular accessway acceptable to Mount Diablo State Park and the City Engineer. Removable bollards or comparable barricade acceptable to Mount Diablo State Park shall be installed on Lot 25 adjacent to the Petar Court public right-of-way.
 - m. The land area in the vicinity of the existing residence on Lot 25 shall be restored to its natural condition following removal of the residence.
 - n. Signature blocks shall be provided for the Community Development Director and the City Engineer.
36. 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.
37. Grading permits and stormwater permits shall be obtained from the City Engineer.
38. 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 re-commence 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 11]

STREET CONDITIONS

39. A homeowners association or similar mechanism, subject to City approval, shall be established for the purpose of maintaining private, common improvements including, but not limited to, streets, curb markings, and signage, and may include street lighting. Parking shall be prohibited on the cul-de-sacs (if less than 42 feet in radius) and one side of the street. The parking prohibition shall be indicated by painting the face and top of curb red, with the words "Fire Lane" clearly marked.
40. The Developer shall submit a written request for the City to enforce the "No Parking" zones on A Street, B Court, and C Court.
41. 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 off-site, by the Developer or his agents or employees or contractors, shall be repaired by the Developer to the satisfaction of, and in the manner required by, the City Engineer.
42. 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., 31 tons). The connection of A Street to Rialto Drive as shown on the tentative map is not approved as shown and shall be modified as required by the City Engineer.
43. 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.
44. Lots 13 and 15 shall have shared driveway easements with an adjoining lot. The location of said driveway easements shall be subject to the review and approval of the Planning Commission during the site plan review phase.

DRAINAGE CONDITIONS

45. All J-ditches for conveying stormwater runoff shall be constructed of tan-colored reinforced concrete and shall have a maximum longitudinal slope of 10%. Total storm runoff peak flows from the site shall not exceed pre-development levels. All stormwater runoff from impervious areas on the individual lots including driveways/walkways etc. shall comply with stormwater regulations, be treated and contaminants removed, through bio-infiltration landscape methods prior to

discharge out of the site or into a natural water channel. The sign of the detention and treatment facilities shall be subject to the approval of the City Engineer.

46. 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.
47. 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 in accordance with the new 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, of the benefit assessment district. Assessments shall be levied to fund the cost of all operating, maintenance and repair reporting costs, City overhead charges, and reserve funds for replacement and major repairs. The benefit assessment district shall include the land area of Lots 1-24. Alternatively the developer may establish a Homeowners Association for such maintenance responsibility.
48. All drainage collection (J-ditches, V-ditches, storm drains, subdrains, 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 for 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 district. [MM 22]. Alternatively the developer may establish a Homeowners Association to assume responsibility for the subdrains.
49. The deeds for lots 1-24 shall include deed restriction which allows the City and other public agencies (i.e.: Mosquito and Vector Control District) and its contractors ~~shall have~~ the right of access to conduct inspections and maintenance if necessary of all on-site drainage devices; lot owners shall pay any fees related thereto. [MM 22]
50. The deeds for Lots 1-24 shall contain authorization for the City to require the respective property owners to provide monitoring reports of any stormwater discharges and pay any fees related thereto for the on-lot treatment. [MM 21]
51. Secondary outlets shall be provided for storm drain inlets located in sump conditions.
52. Storm drain lines shall have a maximum depth of ten (10) feet from finished grade to invert.

53. All roofs shall have rain gutters with rain water leaders that discharge onto the lot landscaping through sheet flow or into a bio-infiltration planter area.
54. The improvement plans shall reflect that all on-site storm drain inlets shall be labeled "No Dumping – Drains to Creek" using thermoplastic stenciling or comparable method.
55. 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 and as stipulated in the Municipal Regional Permit (MRP).
56. 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, and the State Municipal Regional Permit (MRP), 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 19]

UTILITY CONDITIONS

57. 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.
58. Underground facilities crossing lots shall be located in flat portions of the lots, not within slope areas.
59. Any existing underground facilities, either on-site or adjacent to the site, no longer required shall be either removed or filled, as directed by the City Engineer.
60. 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. Following acceptance by the City Council, the operation and maintenance of the street lighting shall be the responsibility of the homeowners association (or similar mechanism, subject to City approval) unless the Developer opts to include the street lighting in the benefit assessment district for landscape maintenance, as described in the "Landscaping Conditions."
61. Concurrent with acceptance of the subdivision improvements as complete, the subdivision shall be annexed into the existing City of Clayton Street Light

Assessment District, which shall not be responsible for the maintenance or operating costs of the street lights on A Street, B Court, or C Court.

ENGINEERING CONDITIONS

62. All work shall be designed and constructed in accordance with the Municipal Code, as well as the City's Standard Plans and Specifications.
63. 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.
64. Should the construction of any offsite improvements 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 preparation of an appraisal and submittal of a bona fide offer based on the appraisal), the necessary title or interest in accordance with Section 66462.5 of the Subdivision Map costs, involved in the acquisition of the necessary title or interest.

FIRE PROTECTION CONDITIONS

64. The Developer shall obtain the necessary approvals from the Contra Costa County Fire Protection District.
65. The Developer shall provide an adequate and reliable water supply for fire protection as set forth in the Uniform Fire Code.
66. The Developer shall provide fire 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.
67. 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.
68. All open space areas left in their natural state shall meet the Fire Protection District's weed abatement standards.
69. Access roads and hydrants shall be installed and in service prior to construction of residences.

70. The following notification shall be recorded on the deeds for Lots 1-4 and 20-24, "This constitutes notice that the State of California and the Department of Parks and Recreation (Mount Diablo State Park) are not responsible for homeowner fire prevention. Property owners are hereby notified that they are solely responsible for providing their own fire breaks, buffers, and prevention measures, within the boundaries of their own properties, necessary to prevent the spread of fire."
71. Per the approved improvement plans, dated 9/12/07, Seminary Ridge Place shall have ***NO PARKING – FIRE LANE*** signs posted or curbs painted red on both sides to the "T" intersection, and on the south side of Promontory Place and Seminary Ridge Place after the "T" intersection. (503.3) CFC
72. All homes as proposed shall be protected with an approved automatic fire sprinkler system complying with the 2010 Edition of NFPA 13D or Section R313.3 of the 2010 California Residential Code. Submit three (3) sets of plans to the Contra Costa Fire Protection District office for review and approval prior to installation. (903.2) CFC, (R313.3) CRC
73. The developer is responsible for contacting the water district to determine if the existing domestic water services (meters) are adequate for a dual-service application.

WATER DISTRICT CONDITIONS

74. The following requirements shall be satisfaction to the satisfaction of the Contra Costa Water District (CCWD):
 - a. Treated and Untreated water service is governed by CCWD Code of Regulations Section 5 (Reg 5).
 - b. Existing CCWD water infrastructure should be protected during construction.
 - c. The water system has been installed by a previous developer; the line should be pressure tested again. The inspectors report for the previously installed water system should be reviewed to determine any outstanding issues.
 - d. Standard backflow prevention requirements are to be observed.
 - e. Further information and answers to a number of frequently asked questions regarding water services and District regulations can be found on the District's web site at www.ccwater.com.

GENERAL CONDITIONS

75. An easement shall be recorded or amended, as necessary, to address the assigning of rights and responsibilities for the detention basin proposed within an existing public easement adjacent to and for the purpose of serving the stormwater detention requirements for Lot 9 to the satisfaction of the City Engineer.
76. The visual prominence of the residences to be located on Lots 16-24 will be mitigated by assuring that, at minimum, four (4) full single-story residences are

constructed in this range of lots, with a maximum of not more than two (2) two-story and/or partial two-story residences are constructed on adjacent lots within this range to the satisfaction of the Community Development Director. (MM 1)

77. The following criteria shall be satisfied with the final plotting of residences to ensure architectural and aesthetic variety and interest of the residences within this subdivision to the satisfaction of the Community Development Director:
- a. No combination of plan type/elevation/exterior materials shall be used more than twice within this development;
 - b. The same exterior materials/color scheme shall not be applied to more than four residences within this development;
 - c. The same plan type and architectural elevation shall not be used on adjacent lots on the same side or opposite sides of the same street; and
 - d. Every effort shall be made to provide an interesting mix of plan types/elevations/materials/color schemes within this development.
78. The rear yard areas of Lots 1-6, 8, 9, and 11-24 shall comply with the following to the satisfaction of the Community Development Director and the City Engineer:
- a. "Open wire fencing" shall be installed at the rear of the level portion of the building pads on Lots 1-6, 8, 9, and 11-24, inclusive. No additional fencing shall be permitted between the open wire fencing and the rear lot lines, except for fencing installed as part of the project's perimeter fencing.
 - b. The areas down slope and beyond the open wire fencing on Lots 1-6, 8, 9, and 11-24 shall remain in a natural condition, with improvements, including any ornamental landscaping, structures, or grading, in these areas prohibited. This limitation shall be stated in the project's CC&Rs and recorded against the applicable lots prior to the close of escrow of the first residence/lot associated with this limitation.
 - c. To ensure the maintenance of the natural areas at the rear of Lots 1-4, access will need to be provided from the interior street of the subdivision. Accordingly, a 10-foot wide paved access road and easement, along with a 10-foot wide access gate through the open wire fencing, shall be provided on Lots 1 and 4 to provide access to the slope areas east and south of the proposed open wire fencing, prior to the close of escrow of the first residence/lot within the subdivision.
 - d. Repair and maintenance, including, but not limited to, weed abatement and maintenance and repair of the j-ditches for drainage purposes, in the described areas down slope and beyond the open wire fencing on Lots 1-6, 8, 9, and 11-24 shall be the collective responsibility of the subject property owners and subject to the formation of a benefit assessment district prior to the issuance of a certificate of occupancy for the first residence within the subdivision. (See Proposed Condition No. 78)

Lot Line Adjustment (LLA 01-11)

1. A deed or record of survey for the lot line adjustment shall be recorded with proof of recordation submitted to the Community Development Department.
2. For purposes of drainage and access, the applicant agrees to grant additional easements by a separate instrument as may be required by the City Engineer.
3. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

Variance (VAR 01-11)

Language describing the particular setback Variances granted shall be recorded against the individual parcels prior to issuance of a building permit for new residential construction on the respective parcel to the satisfaction of the Community Development Director.

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 state requirements that may be in addition to the conditions of approval.

1. The applicant shall comply with all applicable state, county, and city codes, regulations, and adopted standards, including, but not limited to the City's Landscape Water Conservation Ordinance, state and local stormwater regulations; and the City's Construction and Demolition Recycling Ordinance, as well as pay all associated fees and charges.
2. Prior to obtaining a building permit, the applicant shall prepare an erosion and stormwater control plan for review and approval by the City Engineer (CMC §13.12.050).
3. Prior to the commencement of grading, demolition, or construction activities, the applicant shall obtain City approval of a construction and demolition recycling plan (CMC § 5.80.040).
4. This Site Plan Review Permit shall be used, exercised, or established within twelve months after the granting of the Permit, or a time extension must be obtained from the Planning Commission, otherwise the Permit shall be void (CMC §17.64.010-030).
5. 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 5375 Clayton Road, Concord, 925-363-7433.
6. The applicant shall obtain the necessary building permits from the Contra Costa County Building Inspection Department.

7. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill.
8. If the project site is located within an area subject to covenants, conditions, and restrictions (CC&R's) administered by a homeowners' association, additional requirements and/or Approvals may be required by the homeowners' association. Before proceeding with the project, it is advisable to check with the homeowners' association to ensure any applicable requirements are met.
9. This project shall be subject to all applicable City of Clayton Development Impact Fees as well as parkland dedications and mitigation fees.

SPR\2011\01-11.Exhibit B.Proposed Findings and Conditions of Approval

PLANNING COMMISSION STAFF REPORT

Meeting Date: June 28, 2011

From: David Woltering, AICP
Community Development Director 

Subject: Conformity with General Plan
2011/12 – 2015/16 Capital Improvement Plan (GPA 02-11)

BACKGROUND AND ANALYSIS

Section 65401 of the California Government Code requires that the Planning Commission determine if projects proposed in the City's Capital Improvement Program (CIP) for the upcoming fiscal year are in conformity with the General Plan.

Six projects are proposed to be undertaken during the 2011-2011 fiscal year for the CIP as follows:

- Community Parking Lighting, Resurfacing, and Parking Project (Project Number 10419)
This project involves installation of sports field lighting, removal and replacement of turf, and synthetic surfacing and construction of additional parking spaces at Clayton Community Park. These improvements conform to the General Plan by supporting Objective 3 of the Community Facilities Element to "provide cultural and sports facilities for the community."
- School Bridge and Mitchell Creek Improvement Project (Project Number 10420)
This project involves restoration of the decorative wall, landscaping, and riparian vegetation in the area. These improvements conform to the General Plan by supporting Objective 2 of the Community Design Element to "maintain landscape and natural vegetation found in Clayton as a means to provide greenery, open space, development buffer and rural atmosphere."
- Cardinet Trail Restoration Project (Project Number 10421)
This project involves reinforcement of the creek bank and trail restoration work along Cardinet Trail. These improvements conform to the General Plan by supporting Objective 2 of the Community Design Element "... to maintain landscape and natural vegetation found in Clayton as a means to provide greenery, open space, development buffer and rural atmosphere" and Objective 3 of the Community Design Element to "[p]romote use of the greenbelt system to encourage non-motorized travel throughout the city."

- Sanitary Sewer Main Modification Project (Project Number 10422)
This project involves modifications to existing sanitary sewer mains, including pipe enlargement and construction of a bypass line on El Camino Drive. These improvements conform to the General Plan by supporting the Goal of the Community Facilities Element to “provide for an efficient infrastructure and facility plan and program for improvement of existing infrastructure.”
- Clayton Community Library Improvement Project (Project Number 10423)
This project involves the construction of improvements in the Clayton Community Library. These improvements conform to the General Plan by supporting Policy 1g of the General Plan to “[i]dentify needs for public facilities including...library and cultural facilities.”
- 2011 Pavement Surfacing and Treatment Project (Project Number 10424)
This project involves pavement resurfacing and treatment on various streets throughout the City. The maintenance of Clayton streets conforms to the General Plan by supporting Policy 9c of the Circulation Element to “[p]rovide systematic upgrades of streets and roads to applicable standards” and Policy 9b of the Circulation Element to “[s]eek State and county support for developing and support of through traffic arterials.”

As a result of the above analysis, staff concludes that the projects are consistent with the General Plan.

RECOMMENDATION

Staff recommends that the Planning Commission find that the City’s CIP for the 2011-2012 fiscal year are in conformity with the Clayton General Plan.

ATTACHMENTS

Information sheets for Project Numbers 10419, 10420, 10421, 10422, 10423, and 10424

GPA\2011\02-11.sr.pc-6.28.11

2011/12-2015/16 Capital Improvement Program

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

DESCRIPTION - LOCATION

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

COMMENTS

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



Estimated Cost	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$4,084,000	\$4,084,000
CM/Inspection								
ROW Acquisition								
Other								
TOTAL							\$4,084,000	\$4,084,000

Funding (Sources)	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Unfunded							\$4,084,000	\$4,084,000
Total							\$4,084,000	\$4,084,000

City of Clayton

2011/12-2015/16 Capital Improvement Program

Category	Project Number	Project
Streets	10420	School Bridge Area Improvements

DESCRIPTION - LOCATION

Improve area at Mt. Diablo Elementary School Bridge and Mitchell Creek to enhance Town Center area.



COMMENTS

Includes decorative wall, landscaping and riparian vegetation restoration; funding transferred from CIP No. 10400, Downtown Economic Development

Estimated Cost	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Preliminary Design								
Final Design		\$20,000						\$20,000
Construction		\$160,000						\$160,000
CM/Inspection		\$20,000						\$20,000
ROW Acquisition								
Other								
TOTAL		\$200,000						\$200,000

Funding (Sources)	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
RDA		\$200,000*						\$200,000*
Total		\$200,000*						\$200,000*

*transfer from CIP 10400

2011/12-2015/16 Capital Improvement Program

Category	Project Number	Project
Streets	10421	Cardinet Trail Restoration

DESCRIPTION - LOCATION

Construct creek bank reinforcement and perform trail restoration work along Cardinet Trail locations to repair damage caused by creek erosion.

Various Locations

COMMENTS

Funding from Citywide Landscape Maintenance District; significant permitting requirements

Estimated Cost	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Preliminary Design								
Final Design		\$15,000						\$15,000
Construction		\$50,000						\$50,000
CM/Inspection		\$10,000						\$10,000
ROW Acquisition								
Other								
TOTAL		\$75,000						\$75,000

Funding (Sources)	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
LMD		\$75,000						\$75,000
Total		\$75,000						\$75,000

City of Clayton

2011/12-2015/16 Capital Improvement Program

Category	Project Number	Project
Streets	10422	El Molino Drive Sanitary Sewer Improvements

DESCRIPTION - LOCATION

Construct modifications to existing sanitary sewer mains to prevent potential sewer overflows in areas adjacent to Mt. Diablo Creek.



COMMENTS

Includes pipe enlargement and construction of a bypass line in El Molino Drive; funding from CIP 10400, Downtown Economic Development

Estimated Cost	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Preliminary Design								
Final Design		\$40,000						\$40,000
Construction		\$270,000						\$270,000
CM/Inspection		\$20,000						\$20,000
ROW Acquisition								
Other								
TOTAL		\$330,000						\$330,000

Funding (Sources)	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
RDA		\$330,000*						\$330,000*
Total		\$330,000*						\$330,000*

*transfer from CIP 10400

2011/12-2015/16 Capital Improvement Program

Category	Project Number	Project
Streets	10423	Library Upgrades

DESCRIPTION - LOCATION

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

COMMENTS

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



Estimated Cost	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Preliminary Design								
Final Design								
Construction							\$850,000	\$850,000
CM/Inspection								
ROW Acquisition								
Other							\$150,000	\$150,000
TOTAL							\$1,000,000	\$1,000,000

Funding (Sources)	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Unfunded							\$1,000,000	\$1,000,000
Total								

2011/12-2015/16 Capital Improvement Program

Category	Project Number	Project
Streets	10424	2015 Neighborhood Street Project

DESCRIPTION - LOCATION

Pavement resurfacing and treatment on various streets throughout City.

COMMENTS

Various Locations

Estimated Cost	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Preliminary Design								
Final Design						\$10,000		\$10,000
Construction						\$290,000		\$290,000
CM/Inspection						\$15,000		\$15,000
ROW Acquisition								
Other								
TOTAL						\$315,000		\$315,000

Funding (Sources)	Prior Yrs.	2011-12	2012-13	2013-14	2014-15	2015-16	Future	TOTAL
Gas Tax						\$110,000		\$110,000
Measure J						\$205,000		\$205,000
Total						\$315,000		\$315,000

City of Clayton