CITY OF CLAYTON

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Agenda
Planning Commission Meeting
7:00 P.M. on Tuesday, September 25, 2012

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. Vice Chair Manning to report at the City Council meeting on October 2, 2012.

Public Comment

Approval of Minutes

2. Approval of minutes from the meeting of September 11, 2012.

Public Hearing

3. **DP 01-05, Development Plan Amendment, Mitchell Creek Place Homeowners Association,** Mitchell Creek Place residential subdivision located at the southeast corner of High Street and Oak Street in Clayton's Town Center. An amendment to the Mitchell Creek Place Development Plan Permit landscaping and irrigation conditions of approval (Conditions of Approval 23 – 29) in City Council Resolution No. 48-2006 to allow for on-site replacement trees to be a minimum of 15-gallons instead of 24-inch box in size. ***Continued from the meeting of September 11, 2012.***

   Recommended Action: Approve, with conditions.

Old Business

4. None.

New Business

5. Clayton Club recommendation to modify the City's Noise Regulations (Information Only).

Communications

6A. Staff.

6B. Commission.

Adjournment

7. The next meeting of the Planning Commission is scheduled for **October 9, 2012.**

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, September 11, 2012

Call to Order
Chair Keith Haydon called the meeting to order at 7:00 p.m. at Hoyer Hall, 6125 Clayton Road, Clayton.

Present:	Chair Haydon, Vice Chair Gregg Manning, Commissioner David Bruzzone, Commissioner Sandra Johnson, Commissioner Dan Richardson
Absent:	None
Staff:	Community Development Director David Woltering Assistant Planner Milan Sikela, Jr.

Commissioner Johnson requested that the Commission observe a moment of silence to honor those that lost their lives eleven years ago on September 11, 2001.

Administrative
1A. Review of agenda items.
1B. Vice Chair Manning to report at the City Council meeting on September 18, 2012.

Public Comment
None.

Approval of Minutes
2. Approval of minutes from the meeting of August 28, 2012.

Vice Chair Manning moved and Commissioner Bruzzone seconded a motion to approve the minutes, as amended. The motion passed 4-1 (Commissioner Richardson abstained since he did not attend the August 28, 2012 Planning Commission meeting).

Public Hearing
3A. **UP 01-12, Use Permit, AT&T,** 68 Nottingham Circle, APN 120-025-003. A Use Permit to consider amending a previously-approved Use Permit for an existing wireless communications facility, including analysis of an acoustical study conducted for the project. The currently-proposed modifications involve removal of six existing antennas located at the top of an existing 125-foot PG&E lattice tower and replacement of those antennas with six new antennas as well as installation of three new cabinets within the existing ground-level equipment enclosure. The purpose of the alterations are to upgrade the existing site with new technology that will allow for faster wireless data transfers and overall improved wireless service. ***Continued from the meeting of July 10, 2012.***

Chair Haydon recused himself from participating in the consideration and action on this agenda item as he is an employee of AT&T. He then left the meeting chambers.

Assistant Planner Sikela presented the staff report.

Vice Chair Manning inquired how do the results of the acoustical study compare with the Clayton General Plan Noise Element Goals, Objectives, and Policies? *Assistant Planner Sikela responded that the acoustical study indicated the noise levels generated from the subject wireless communications enclosure site did not exceed 44 decibels at the property owner's residence and 41 decibels at a concerned neighbor's residence across the street from the enclosure; as a result, the acoustical study concluded that the wireless communications enclosure generated noise levels in compliance with the Clayton General Plan Noise Element Policy 3c which allows a maximum noise level generation of 55 decibels at the property line.*

The continued public hearing was re-opened.

Vice Chair Manning asked Tom Johnson, representative of applicant, AT&T, if he wanted to provide any information in addition to what staff had presented. *Mr. Johnson indicated that he agreed with staff's analysis and recommendation and had nothing further to add.*

Commissioner Johnson inquired whether the property owner and concerned neighbor are satisfied with the results of the acoustical study. *Director Woltering indicated that the property owner and the concerned neighbor across the street were satisfied with the outcome. He added, though, that the property owner indicated after the new cabinets and sound hoods are installed in the equipment enclosure, and if the noise generated, although compliant with City standards, has an impact on the property owner, the property owner will return to the City to discuss with staff the possibility of increasing the fence height in order to further mitigate the noise.*

Commissioner Bruzzone and Commissioner Richardson inquired about the methodology used to conduct the acoustical study. *Director Woltering indicated that, since determining the existing noise conditions was a concern, the acoustical consultant—William Hammet representing Hammet & Edison Inc.—used a noise meter to measure the noise, adjusting the noise meter to varying elevations around the enclosure to capture all possible noise generated from the site. The readings taken by the consultant were done while staff, the property owner, and the concerned neighbor were watching. The resulting noise measurements at all locations requested by the property owner and neighbor were well below the City's maximum thresholds.*

There were no further comments. The continued public hearing was closed.

Commissioner Richardson moved and Commissioner Johnson seconded the motion to approve Use Permit UP 01-12, with the findings on conditions recommended by staff. The motion passed 4-0.

Chair Haydon returned to the meeting chambers.

3B. **DP 01-05, Development Plan Amendment, Mitchell Creek Place Homeowners Association,** Mitchell Creek Place residential subdivision located at the southeast corner of High Street and Oak Street in Clayton's Town Center. An amendment to the Mitchell Creek Place Development Plan Permit landscaping and irrigation conditions of approval (Conditions of Approval 23 – 29) in City Council Resolution No. 48-2006 to allow for on-site replacement trees to be a minimum of 15-gallons instead of 24-inch box in size.

Director Woltering presented the staff report.

Commissioner Richardson suggested that the Planning Commission also review the type of replacement trees to be planted in addition to the size of the replacement trees.

Vice Chair Manning indicated that the replacement trees should not be of a blight-inducing type such as the ornamental pear trees were.

Commissioner Bruzzone indicated that it may be good to use the same type of tree, whichever type is decided upon, for all the replacement trees.

The public hearing was opened.

Karen Haas, representative of the applicant, the Mitchell Creek Homeowners Association (HOA), indicated that the HOA does not want to have to come back before the Planning Commission to decide what types of replacement trees should be used. The HOA can work with staff directly on this issue.

Director Woltering indicated that the original approval included a landscape plan which specified the tree types.

Chair Haydon asked the applicant would the HOA be agreeable to working with staff? *Ms. Haas responded "Yes."*

Commissioner Richardson indicated the following:

- I agree with the need to remove the ornamental pear trees.
- Given the type and size of the ornamental pears, fire blight and size issues were inevitable.
- As we review the replacement trees, this is an opportunity for the Planning Commission to become more versed in trees.

Commissioner Johnson and Chair Haydon supported bringing the item back before the Planning Commission for further review.

By consensus, the Planning Commission indicated that the public hearing should be continued to a date certain for further review.

There were no further comments. The public hearing was closed.

Commissioner Richardson moved and Vice Chair Manning seconded a motion to continue Development Plan Amendment DP 01-05 to the Planning Commission meeting of September 25, 2011. The motion passed 5-0.

3C. **SP 02-12, Sign Permit, West Coast Sign and Install,** 5441 – 5443 Clayton Road, APN 119-031-051. A sign permit to consider proposed installations of two "Sherwin Williams" building signs (one 17 square-foot sign on the north elevation and one 24 square-foot sign on the west elevation) on the existing building at 5441 – 5443 Clayton Road in the Clayton Station shopping center.

Assistant Planner Sikela presented the staff report.

The public hearing was opened.

Ken Carter, representative of the applicant, West Coast Sign and Install, indicated he agreed with staff's analysis and interpretation.

Chair Haydon indicated he supported approving the project.

Commissioner Johnson moved and Vice Chair Manning seconded the motion to approve Use Permit UP 01-12, with the findings on conditions recommended by staff. The motion passed 5-0.

Old Business

4. None.

New Business

5. None.

Communications

6A. Staff.

Director Woltering provided a power point presentation reviewing the geomorphology of cities he and his wife visited on their July 2012 trip to Germany and Denmark, including an analysis of the incentives in these cities for solar panels and wind turbines, maintaining traditional architectural styles, and permeability related to drainage and water runoff. Director Woltering indicated that he was an exchange student in 1975 and 1976, and, during portions of those years abroad, lived in Ebern, Germany, a town founded in the year 1232. He mentioned that he and his wife observed large fields of solar collectors interspersed the wheat farms that are common in the German countryside they visited. While in Ebern in July 2012, he and his wife attended a City Council meeting where, among the various issues discussed, a proposed plan for LED lighting was reviewed as an alternative to traditional street lighting as a long-term cost-saving measure.

6B. Commission

Commission Richardson indicated the following:

- The 50th anniversary celebration for the Benicia Bridge will be taking place soon.
- At the September 13, 2012 TRANSPAC meeting, the first thing on the agenda is a recognition in honor of former Planning Commissioner Bob Armstrong.

Adjournment

7. The meeting was adjourned at 8:56 p.m. to the regularly-scheduled meeting of September 25, 2012.

Submitted by
David Woltering, AICP
Community Development Director

Approved by
Keith Haydon
Chair

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PLANNING COMMISSION
STAFF REPORT

Meeting Date: **September 25, 2012**

From: **David Woltering, Community Development Director** DW

Subject: **Mitchell Creek Place Residential Subdivision**
Development Plan Amendment (DP 01-05)

REQUEST

The applicant is requesting ***(Continued from the September 11, 2012 Planning Commission meeting)*** to amend conditions of approval of this now-constructed project that require trees, both at the time of original installation and replacement trees, to be 24-inch box in size. The originally installed trees were 24-inch box in size; the applicant is requesting the option to install replacement trees that are 15-gallon in size (See **Attachment 1**). ***Since the September 11, 2012 meeting, the applicant has submitted suggested replacement tree types for consideration and approval, as requested by the Planning Commission.***

PROJECT INFORMATION

Applicant:	Mitchell Creek Place Homeowners Association (HOA)
Location/Acreage:	High Street at Oak Street/1.22 Acres
General Plan Designation Existing:	Multi-Family Low Density Residential (7.6 - 10 units per acre)
Zoning District Existing:	Planned Development (PD)
Surrounding General Plan Designations:	North: Town Center Commercial South: Single Family Low Density Residential East: Single Family Low Density Residential West: Medium Low Density Residential
Surrounding Zoning and Land Uses:	North: Planned Development District/Residential; Parking Lot South: Single Family Residential R-15 and R-40-H District/ Residential East: Single Family Residential R-40-H District / Residential West: Planned Development/Vacant
Environmental Review:	Initial Environmental Study/Negative Declaration (ENV 01-05)

Public Notice:	On August 30, 2012, a public hearing notice was mailed to interested parties and property owners within 300 feet of the project site.
Authority:	Section 17.28.140 of the Zoning Ordinance authorizes the Planning Commission to make a recommendation to the City Council regarding a development plan permit.

BACKGROUND

The nine-home Mitchell Creek Place single-family residential subdivision on High Street at Oak Street was approved by the City of Clayton in October of 2006 and subsequently constructed in 2007 and 2008. Conditions of project approval, including conditions 1 and 23-29, and specifically condition 23c, require that trees of a 24-inch box size be installed as part of the approved landscape plan (See **Attachment 2**). The objective was to have more mature landscaping within this subdivision earlier than might otherwise occur with smaller initial plantings. The 24-inch box trees were installed in accordance with the conditions of approval.

Recently, it was brought to staff's attention that the 12 ornamental pear trees within this subdivision have "fire blight" and must be removed. These trees were typically planted in locations where there was limited space and, generally, appear oversized for their respective locations. A smaller tree variety would be appropriate. Staff will work with the HOA representative to determine an appropriate replacement tree type. Staff has issued a tree removal permit to the HOA to remove the fire blighted trees. As described in the email (See **Attachment 1**) from the HOA representative, they desire to install smaller, 15-gallon in size, replacement trees. They indicate the smaller trees would result in less disturbance to established planted areas, adapt better to the soils and settings, and be substantially less expensive. Staff agrees with the HOA position on this matter.

At this time, there are established plantings within this subdivision. Therefore, the desire to have more mature landscaping to soften the appearance of the subdivision no longer is a concern. The 15-gallon trees would adapt better to the installation settings and result in less disturbance to the existing landscaping.

SEPTEMBER 11, 2012 MEETING

At the September 11, 2012 Planning Commission meeting, the Commission indicated general support for the smaller (i.e., 15 gallon in size) replacement trees, but requested that staff work with the HOA representatives(s) and bring back to the Commission suggested replacement tree(s) by type for Planning Commission review and approval. Since the September 11th meeting, staff has worked with the HOA representative and received suggestions from that representative on replacement trees (See Attachment 3). Staff has reviewed this information and recommends the following:

- ***The Acer Platanoides Globosum for the "C" and "B" locations on the map submitted by the representative. This tree is slower growing, deciduous (yellow leaves in the Fall), and grows to between 20-25 feet. in height. Staff is recommending this tree from the representative proposed list for the following reasons:***
  - ***There are already Japanese Maple trees (an alternate proposed by the representative) along this frontage.***
  - ***The Magnolia tree (another alternate proposed by the representative) tends to drop a lot of litter (i.e., seed pods, small branches, etc.)***

- *The Globosum is suited for the local growing zone, based on staff's research of the matter.*
- *The Globosum form, height, and leaves would provide an attractive contrast to the other existing trees and plant materials along this frontage and create an overall attractive pattern and mixture of trees and plant materials along this frontage.*

- *The Carpinus Fastigiata Frans Fontaine tree for the "A" locations on the map. This tree grows to about 35 feet. in height and about 15 feet in width. This tree is deciduous and can be pruned to create more of a hedge appearance. In staff's opinion, this tree seems more suited than the alternate Acer Platanoides Crimson Sentry for the relatively narrow planting strip adjacent to an adjoining property for which it is proposed. Further, this tree is suited for the local growing zone, based on staff's research of this matter.*

RECOMMENDATION

Staff recommends the Planning Commission by minute order recommend to the City Council that pertinent conditions of approval in Resolution 48-2006 (See **Attachment 2**) be amended to allow replacement trees in the Mitchell Creek Place subdivision to be 15-gallon in size. ***Additionally, staff recommends that the Commission accept the suggested replacement trees referenced above.***

ATTACHMENTS

1 Email request from Karen Haas, Mitchell Creek Place HOA representative, dated August 27, 2012

2 Excerpt of Resolution No. 48-2006, A Resolution Approving a Development Plan Permit for the Mitchell Creek Place Residential Project (DP 01-05)

3 ***Email from Karen Haas, dated September 14, 2012, with suggested replacement trees.***

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Attachment 1

Milan Sikela

From: Karen Haas <kmhaas@sbcglobal.net>
Sent: Monday, August 27, 2012 11:31 PM
To: msikela@ci.clayton.ca.us
Subject: Mitchell Creek Place HOA-replacement of pear trees

Hi Milan,

Thank you for meeting with me August 17th. I appreciate that the city recognizes that the pear trees are diseased and need to be removed. I further appreciate the promptness in which the city granted the removal permit.

As you know, Mitchell Creek Place HOA has decided that we would like the city of Clayton to amend the original landscaping document to allow us to plant 15 gallon size trees instead of 24" box size.

We are requesting this change for the following reasons:

1) We are a young (only 3 years in development) and small, (only 9 member) association. This places a huge financial burden on our members. We did not expect the need for costly landscape replacement this early in our existence.

2) Our landscape company believes the 15 gallon trees will acclimate to the planting site more quickly than a 24" box tree. Faster root developement means faster top growth. Over a short period of time our 15 gallon
trees will be larger than the 24" box trees. This will supply the canopy and ambiance that a mature tree provides sooner for our HOA and our surrounding neighbors.

3) The larger excavation required for a 24" box tree will cause damage to our maturing landscape plants that surround these tree sites, which will need further restoration and increase the overall cost of the project creating a larger financial burden on us.

We understand we must choose trees that the city of Clayton has approved for this project. We further understand that the original, city approved pear trees, were too large for the designated sites and agree with replacing them with smaller trees. The HOA is waiting for more information from the landscape company for exact names and placement of the 12 new trees. As soon as the HOA comes to agreement, we will give this information to you for final approval.

Please let me know if you need more information and what is our next step for the Planning Commission.

Karen Haas, Treasurer
Mitchell Creek Place HOA

RESOLUTION NO. 48-2006

A RESOLUTION APPROVING A DEVELOPMENT PLAN PERMIT FOR THE MITCHELL CREEK PLACE RESIDENTIAL PROJECT (DP 01-05)

THE CITY COUNCIL
City of Clayton, California

WHEREAS, the Clayton Planning Commission held several duly-noticed public hearings commencing on June 13, 2006 and concluding on August 29, 2006 on the Mitchell Creek Place residential project (including development plan permit DP 01-05) located at the southeast corner of Oak Street and High Street (APN 119-021-067 and 119-021-068); and

WHEREAS, on August 29, 2006, the Clayton Planning Commission recommended Clayton City Council approval of development plan permit DP 01-05 subject to various conditions of approval; and

WHEREAS, on October 3, 2006, the Clayton City Council held a duly-noticed public hearing and gave due consideration to all testimony, comments and documents received; and

WHEREAS, the *Mitchell Creek Place Residential Subdivision Initial Environmental Study/Negative Declaration* and the accompanying Mitigation Monitoring Plan (ENV 01-05), which has been adopted by the City Council, found that the Mitchell Creek Place residential project (including development plan permit DP 01-05) would not result in any significant adverse effects on the environment; and

WHEREAS, there is no evidence that the Mitchell Creek Place residential project will have the potential for any individual or cumulative adverse effect on fish and wildlife resources or their habitat, as defined in Section 711.2 of the Fish and Game Code.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CLAYTON, CALIFORNIA DOES HEREWITH DETERMINE:

SECTION 1. The City Council does hereby find and affirm the above noted Recitals are true and correct facts and information relative to the land use proceedings at hand.

SECTION 2. The City Council determines that the Mitchell Creek Place development plan permit DP 01-05 for the "Preferred Lot Plan," subject to the attached conditions of approval, meets the following findings:

a. Is consistent with the *General Plan* designation and policies for the site.

b. Meets the standards of review in Section 17.28.160 of the *Zoning Ordinance* regarding the protection of natural open spaces and features; vehicular access and

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parking; landscape design; site design for the residences and private yards; architectural design of the residences; and maintenance of common areas such as the project driveway.

c. Will result in a significantly higher quality development than would occur with a traditional residential zoning district.

d. Will be compatible and in harmony with the surrounding neighborhood and the Town Center, as well as the City as a whole.

e. Will not result in any significant effects on the environment since compliance with the project's *Initial Environmental Study/Negative Declaration* will reduce the project's potentially significant impacts to less-than-significant levels.

f. Will be initiated for construction within eighteen months after approval by the City Council, or will have obtained an extension of time in accordance with Section 17.28.090 of the *Zoning Ordinance*.

SECTION 3. The City Council approves development plan permit DP 01-05 for the "Preferred Lot Plan" of the Mitchell Creek Place residential project, subject to the attached conditions of approval.

SECTION 4. The City Council determines that the proposed "Alternative Lot Plan" for the Mitchell Creek Place development plan permit DP 01-05 is unacceptable since it would provide access to an open space parcel that would not be compatible with adjacent residential land uses. The development plan permit DP 01-05 for the "Alternative Lot Plan" of the Mitchell Creek Place residential project is not approved.

Passed, approved, and adopted by the City Council of the City of Clayton, California, at a regular meeting thereof held on October 3, 2006 by the following vote:

AYES: Mayor Shuey, Vice Mayor Walcutt, Councilmember Laurence, Councilmember Manning, and Councilmember Pierce

NOES: None

ABSENT: None

ABSTAIN: None

THE CITY COUNCIL OF CLAYTON

David T. Shuey, Mayor

ATTEST:

Laci J. Jackson, City Clerk

Attachment: Mitchell Creek Place Residential Project Development Plan Permit DP 01-05 Conditions of Approval

DP\2006\05-06-Resolution-1

ATTACHMENT TO RESOLUTION NO. 48 - 2006
MITCHELL CREEK PLACE RESIDENTIAL PROJECT
DEVELOPMENT PLAN PERMIT DP 01-05
CONDITIONS OF APPROVAL

These conditions apply to:

- *Mitchell Creek Place Vesting Tentative Map* [Preferred Lot Plan], *Preliminary Grading Plan, Preliminary Drainage Plan,* and *Development Plan* prepared by Aliquot & Associates Inc., date stamped March 21, 2006
- *Mitchell Creek Place Preliminary Landscape Plan,* prepared by Thomas Baak & Associates, Inc., date stamped June 7, 2006.
- Architectural elevations entitled "Mitchell Creek Place," prepared by Hollman & Bologna, date stamped June 7, 2006.
- Exterior Colors and Materials, date stamped September 1, 2005.

Planning Conditions

1. 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.
   a. Property owners are responsible for the repair and maintenance of the required fences along their respective property lines, except the fence on Lots 1-4 along the south side of the project driveway which shall be responsibility of the homeowners association. The fences shall be maintained in a style consistent with the design approved by the City.
   b. Lots 7, 8, and 9 receive runoff (in the project's pre-development condition) from adjoining private property. The owners of Lots 7, 8, and 9 shall be required to accept such runoff in perpetuity, shall maintain the swales and facilities that collect such runoff, and shall not construct any improvements that could block such runoff.
   c. Parking is prohibited along the project driveway, except for the two guest parallel parking spaces south of Lots 3 and 4.
   d. The homeowners association is solely responsible for replacement, maintenance, weeding, and irrigation of the landscaping in the following areas: the public right-of-way at the southeast corner of High Street and Diablo Street; the public right-of-way along Oak Street; and on Lots 1-4 along the south side of the project driveway.
   e. The homeowners association and property owners shall maintain all landscaped areas in conformity with the approved landscape plans. Any modifications from the approved landscape plans requires the approval of the Community Development Director. The following criteria should be considered in reviewing modifications of the previously-approved plans:
      i. Replacement plantings shall be of similar size, at maturity, to the original plants.
      ii. Plantings may not impede or reduce the function of the on-site drainage swale system.
      iii. Vegetative landscaping may not be replaced with impervious surfaces.

f. The homeowners association is responsible for maintaining in perpetuity certain private improvements including, but not limited to, the project driveway, curb markings, street lights and street signage. In order to maintain a pavement condition comparable to a Pavement Condition Index (PCI) of 70 or better at all times, the homeowners association shall take the following actions:
   i. Perform routine pavement maintenance including crack sealing and patching on an annual basis;
   ii. Repaint the curb markings every second year;
   iii. Slurry seal the pavement no less often than every seven (7) years; and
   iv. Overlay or replace the pavement no less often than every thirty (30) years.

g. Solid waste containers shall be stored out of view and wholly contained in the side yard or garage, except as allowed by the *Municipal Code* (including any amendments) for solid waste collection times.

h. Solid waste containers shall be collected from the project driveway. Placement of solid waste containers along High Street, Diablo Street, or Oak Street is prohibited.

i. Property owners and residents shall park their vehicles in their garages. No garage may be used for any purpose that prevents its use for parking the vehicles it was designed to accommodate. Any property owner or resident who fails to maintain their garage in accordance with these provisions is subject to enforcement by the homeowners association and/or by the City, with costs of any enforcement action to be paid by the property owner. It is the intent of this condition that the City is a third party beneficiary to this condition.

j. A majority of the property owners may impose monetary penalties on any property owner who violates the CC&R's.

k. 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.

2. This tentative map approval is not effective until the Zoning Map designation for the project site has been amended to Planned Development (PD) District [ZOA 01-05].

3. The Developer shall file annual reports each January with the Community Development Department which indicate the number and price of new residences sold in the previous calendar year.

4. The project is subject to development impact fees. At the time of the filing of the final subdivision map, the subdivider shall pay the in-lieu park fees determined by the City (pursuant to Chapter 16.12 of the Subdivision Ordinance).

5. The Developer shall establish a homeowners association with dues. The homeowners association shall be maintained in perpetuity.

6. The Development Plan shall comply with any amendments of Planned Development District open space regulations approved by the City Council (ZOA 01-05).

7. The Developer shall pay a fair share contribution to the City of Clayton for impacts to police staffing directly related to impacts of the Mitchell Creek Place project for a five-year period.

The calculation and payment shall be made at the time of issuance of building permit for each of the Project's units and shall be approved in advance by the Clayton Police Chief and City Manager in accordance with the formula provided in Mitigation Measure 12, based upon eight (8) net additional units. [MM 12][1]

8. Prior to issuance of a demolition permit by the City for any on-site structures, the Developer shall provide a site assessment, which determines whether any structures to be demolished contain asbestos or lead-based paint. If any structures contain these materials or any other hazardous materials, the Developer shall submit an abatement plan consistent with local, state, and federal standards, subject to approval of the Contra Costa County Building Inspection Department. [MM 5]

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 subdivider or any agent thereof) shall defend, indemnify, and hold harmless the City of Clayton and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.

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 attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.

12. All mitigation measures set forth in the *Mitchell Creek Place Residential Subdivision Initial Environmental Study/Negative Declaration* 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.

14. The Developer shall record disclosure statements with the deeds for the project's lots. The disclosure statements shall be reviewed and approved by the City Attorney and the Community Development Director and shall address the following issues.

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[1] Mitigation measures (MM) listed in the *Mitchell Creek Place Initial Environmental Study/ Negative Declaration* are referenced by number (e.g., MM 2 for Mitigation Measure 2).

a. Special events occur throughout the year in the downtown area and at Endeavor Hall, which may temporarily increase noise levels at the residential properties as well as increase traffic and demand for parking.

b. Special events occur throughout the year in the downtown area which result in the closure of adjacent streets except for emergency vehicle access. During these events vehicular access to and from High Street may be prohibited. Vehicular access to and from Oak Street will remain open.

c. Commercial land use and zoning designations on adjacent properties to the north of the project site allow a variety of commercial activities, including parking lots and multi-story commercial buildings. It is the policy of the City of Clayton to encourage commercial development of the commercially-zoned properties in the Town Center.

d. The City of Clayton owns the parcel (APN 119-016-005) at the northwest corner of High Street and Diablo Street. The property will initially be developed as a parking lot for the general public. In the future, the property may be developed as a multi-story parking structure or a multi-story commercial building.

e. Public parking spaces are located on High Street in front of Lots 1 through 7. In the future, the parking spaces on High Street in front of Lots1 through 7 as well as the parking spaces on Diablo Street may be converted to diagonal parking spaces and/or parking spaces with time limits.

15. The development plan and final subdivision map shall show a conservation easement on the upslope portions of Lots 7 and 8. The easement area shall cover the northernmost forty-three (43) feet of Lot 7, as well as the easternmost forty (40) feet of Lots 7 and 8. The easement is intended to preserve an open and attractive visual character to the subject area. Grading (except for site grading by the Developer and drainage improvements) and the construction of all buildings and structures shall be prohibited within the easement area. In addition, landscaping (except existing and project trees) shall not extend above the 6-foot high fence along the eastern property lines of Lots 7 and 8.

16. At least thirty (30) days prior to any demolition or groundbreaking activities, the Developer shall retain an exterminator who shall evaluate the site and make recommendations for the control and/or eradication of any on-site rodents. The recommendations shall be subject to the review and approval of the Community Development Director. The Developer comply with the approved recommendations prior to initiation of any demolition or groundbreaking activities.

17. The project shall comply with the design guidelines of the *Town Center Specific Plan.*

Architectural Conditions

18. The Architectural Elevations shall be revised to include the following changes for the review and approval of the Community Development Director:

    a. The elevations for Lot 6 shall be revised as follows: a door shall be included on the right side of the Lot 6 residence garage allowing access into the side yard; a window shall be added to the garage on Lot 6; and a window shall be added to the left side of the residence on Lot 6 for Bedroom 2.

b. On Lots 1-6, gates shall be provided on the rear fences of the side yards to allow access from the respective side yards to the project driveway. On Lots 7-9, at least one gate shall be provided on each lot to allow access from the respective rear yard to the project driveway. Concrete walkways shall also be provided to connect the trash bin storage pad located in the side yard to the driveway apron.

c. On Lots 1-6, all windows facing the internal side-yards accessible by neighboring residents shall either be obscure or have a sill height of six feet or more above the floor.

d. Architectural ornamentation shall be added above the garage door on Lot 5. The style of ornamentation shall be consistent with the overall theme of the residence.

e. Stone wainscot shall be added on the rear elevations of the garages on Lots 5 and 6 from fence line to one foot from utility meter equipment on utility meter side of residence.

f. Garage doors for the buildings on Lots 1 through 9 shall be of two types, solid raised panel design and raised panel design with windows. The garage door types shall be randomly used on the respective lots. The garage doors shall be painted to match the primary color of the respective residences.

g. The residence on Lot 4 shall utilize either: wainscoting on the front elevation that extends around both side elevations to the fence line; or masonry elements on the columns supporting the front entryway canopy.

h. Fence materials for the fences along the west side of Lot 1, the east side of Lot 6, and the west side of Lot 7 shall be the same horizontal lap siding proposed for the adjacent residences.

I The fence columns on Lots 1, 6, and 7 shall be covered with stone facing.

19. The attached development standards (dated August 30, 2006) shall be listed on the final subdivision map and applicable to future improvements on the project site.

Tree Protection Conditions

20. Prior to the initiation of any construction activities, a tree protection plan shall be submitted to the Community Development Department for review and approval. The tree protection plan shall address trees numbered 3617, 3624, 3626, 3625, 3661, and 3658 as indicated in the Arborist Report prepared for the project by Joseph McNeil.

21. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.

22. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

Landscaping Conditions

23. 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 Community Development Department, Maintenance Department, and City Engineer.

a. Landscaped areas in the public right-of-way shall be planted at the following densities: trees shall be provided at an average density of 1 tree/25 feet; shrubs shall be 5-gallon size and provided at an average density of 1 shrub/5 feet.

b. Landscaped areas in the front yards (except turf areas) shall be planted at the following densities: trees shall be provided at an average density of 1 tree/25 feet; shrubs shall be 5-gallon size and provided at an average density of 1 shrub/5 feet; groundcover plants shall be 1-gallon size and provided at an average density of 1 plant/3 feet.

c. All trees shall be 24-inch box size.

d. Water meters and irrigation systems with automatic controls.

e. All anti-siphon water valves shall be screened.

f. All newly-graded areas in or adjacent to the public right-of-way shall not exceed a 2:1 (horizontal:vertical) ratio.

g. A layer of mulch two to four inches thick shall be applied in all landscape areas.

h. Trees shall be planted along the project's southern property line and on the graded upslope portions of Lots 7 and 8 at a spacing of 1 tree/25 feet. This shall include the area between the southern property line and the two parking spaces proposed within the swale area south of the project driveway and Lots 3 and 4.

24. Three sets of the landscape and irrigation plans shall be submitted with the grading and improvement plans for review and approval by the Community Development Department, Engineering Department, and the Maintenance Department. These plans shall be approved prior to issuance of grading or encroachment permits. The landscape and irrigation plans shall be prepared by a landscape architect; shall have overall dimensions of 24" x 36"; shall contain approval blocks for the Community Development Director, City Engineer, and Maintenance Department; and shall show all existing and proposed public utilities within the project limits.

25. Landscaping shall be installed (or, at the sole discretion of the City, bonded) in conformance with the approved plans prior to occupancy of the individual residences.

26. All trees shall be planted at least ten (10) feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight (8) feet of a sidewalk or driveway shall be installed with root guards.

27. Prior to the issuance of a building permit for the first residence (including model homes), the Developer shall offer the City legally-binding instruments (e.g., licenses, easements, permits) regarding maintenance of the landscaping in the right-of-way on the project's High, Diablo, and Oak Street frontages. The instruments shall obligate the homeowners association to be responsible for the maintenance of the landscaping in the right-of-way. In its sole discretion, the City may revoke the instruments and/or remove any or all landscaping installed following a minimum of ten (10) days notice to homeowners association. The project site will remain in and be assessed for the existing Citywide Landscape Maintenance District, as amended or replaced.

28. The height of fences, including any retaining walls located within three feet, shall conform with the requirements of Section 17.36.075.G of the *Zoning Ordinance* regarding maximum fence heights.

29. The homeowners association and property owners shall maintain all landscaped areas in conformity with the approved landscape plans. Any modifications from the approved landscape plans requires the approval of the Community Development Director. The following criteria should be considered in reviewing modifications of the previously-approved plans:
    a. Replacement plantings shall be of similar size, at maturity, to the original plants.
    b. Plantings may not impede or reduce the function of the on-site drainage swale system.
    c. Vegetative landscaping may not be replaced with impervious surfaces.

Grading Conditions

30. The Grading Plan shall be amended as follows:
    a. Actions listed in the tree protection plan (see Tree Protection Conditions) to retain identified native trees shall be incorporated into the grading plan.
    b. A five-foot (minimum) high temporary chain link fence shall be installed on driven posts prior to any demolition or construction activities. The fence shall be installed at the locations around the trees to be retained (as shown on the preliminary grading plan) and shall remain in place until the project is completed. Weather-proof signs shall be installed on temporary fences indicating that the fences shall not be opened, moved, or removed without authorization of the project arborist. The telephone number of the arborist shall be listed on the signs.
    c. All retaining walls in the project shall be constructed of masonry block or concrete. All retaining walls visible from public street or sidewalk areas shall be covered with a stone fascia. Retaining walls greater than three feet in height (e.g., Lots 7 and 8) shall be designed by a licensed engineer.
    d. All side yards (i.e., side setbacks plus private access easements) shall contain at least five feet of flat, unoccupied area (except for the common side yard between Lots 5 and 6 in which an air conditioner pad may be installed). "Flat" means a cross-slope between 2% and 10%. "Unoccupied" means no encroachments by fireplaces, building pop-outs (with or without a foundation), air conditioner pads, and the like.
    e. Two feet of flat area shall be provided between a property or right of way line and the top of slope.
    f. Signature blocks shall be provided for the Community Development Director and the City Engineer.
    g. The retaining wall on the west side of Lot 1 shall not exceed a height of three feet six inches.

31. The recommendations of the geotechnical report shall be incorporated into the construction plans.

David Woltering

From: Karen Haas <kmhaas@sbcglobal.net>
Sent: Friday, September 14, 2012 10:09 AM
To: dwoltering@ci.clayton.ca.us
Subject: Mitchell Creek Place tree replacement plan
Attachments: mitcreektrees2.pdf

Hi David,

Attached please find a draft plan with tree options that our arborist came up with. Perhaps you could run these by Dan Richardson to make certain these trees are acceptable. If so, the HOA will get back to you with exactly what species will go where. The only homeowner that has a strong opinion is lot number 4-they would like a Japanese Maple Green Leaf. As you can see from Peter's reccomendations, if that tree is chosen the other lots with that letter code would be the same.

On another note, I reported to the HOA the results of our Tuesday meeting. It is the consensus that because the only item we were asking to amend was the box to gallon size, we, the HOA, should not be charged for any extra work that the city has to do to plan/prepare for the September 25th meeting. As it clearly states in the documentation page 7, item 29, "Any modifications from the approved landscape plans requires the approval of the community Development Director", which is you. We are very understanding and appreciative that Dan (and other committee members) are concerned about which trees to plant, but feel that the HOA should not be penalized monetarily.

One member had a question that would like answered: If the newly planted trees don't survive after a year or two would the HOA incur more cost in terms of getting permits, going to council, etc?

Again, I do appreciate the city staff being behind our project. Please let me know as soon as possible if there are other items you need from us.

Thank you,
Karen Haas

----- Forwarded Message ----
From: Peter Vdovin <petervlcc@earthlink.net>
To: Karen Haas <kmhaas@sbcglobal.net>; Norma Caro <nmcaro@gmail.com>
Sent: Thu, September 13, 2012 2:09:15 PM
Subject: More Trees

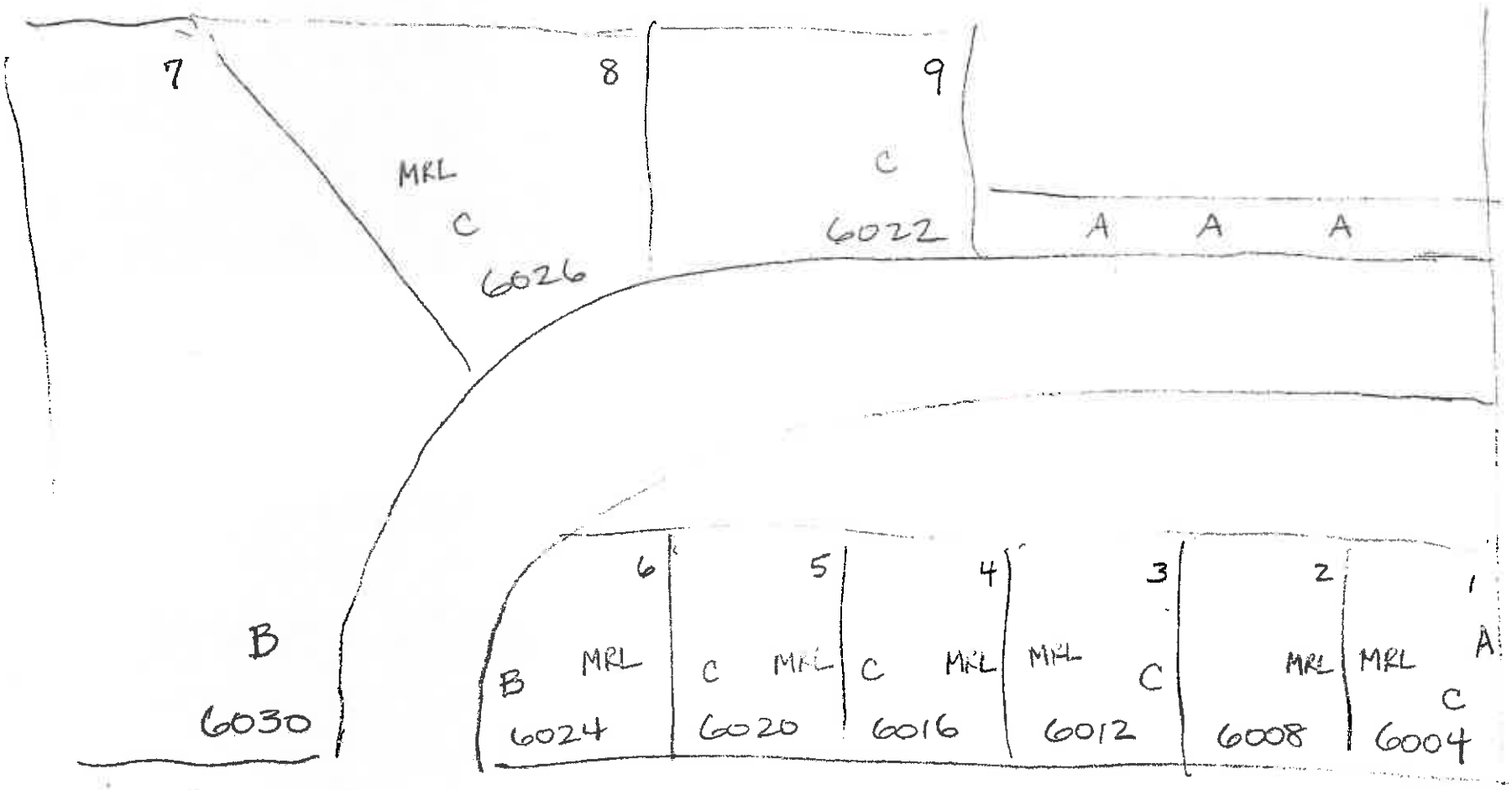
Hi Karen, please see attachments.
I've coded the pear trees A, B, or C.
Then I've given tree choices for each
of those locations. I also added where
the Japanese red leaf maples are now
for reference.

In my opinion, all "A" and all "B" location trees
should be the same.
All "C" location trees should vary.

call me if you have any questions

A,B,C = BRADFORD PEAR TREES
MRL = MAPLE RED LEAF TO REMAIN

A- 4 TREES
B- 2 TREES
C- 6 TREES



MITCHELL CREEK

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Acer platanoides
crimson sentry

Carpinus fastigiata
frans fontaine

tree choices for "A" locations

Acer buegerianum
trident maple

Magnolia
little gem

tree choices for "B" locations

japanese maple
green leaf

magnolia
little gem

Acer platanoides
globosum

tree choices for "C" locations

MEMORANDUM

To: Gary Napper, City Manager
City Council
Planning Commission

From: David Woltering, Community Development Director

Date: September 21, 2012

Re: Clayton Club Recommendation to Modify City's Noise Regulations

---

Over the past six months, Chief Dan Lawrence and I have been meeting with the operators of the Clayton Club, Steve Barton and Dennis Mitchell, to address noise complaints that have been received by the City regarding the operations of the Club. The complaints have been related to amplified music coming from the Club late at night (generally after 10:00 p.m.). During our visits to the Club regarding this matter, the Chief and I noted that a large number of patrons sometimes congregate outside in the rear garden area late at night, effectively expanding the capacity of the Club.

The staff's basis for evaluating the noise complaints were regulations found in Chapter 9.30 Noise of the Clayton Municipal Code (See **Attachment 1**) and the City's General Plan Noise Element. The regulations in Chapter 9.30 and, more specifically, Sections 9.30.030 and 9.30.040 allow for a more qualitative evaluation of circumstances to determine if there is a violation. For example, under Section 9.30.040.A.1, it states that there is a "prima facie violation if the noise is plainly audible at a distance of fifty (50) feet from the nearest property line...." The General Plan Noise Element states as a general goal that "[p]hysically harmful levels of noise [70 Ldn and above] shall be mitigated to below harmful levels and to levels of minimum annoyance [below 60 Ldn] where feasible. Hence, our objective in working with the Club operators was to identify a range of measures that could be readily achievable and without significant cost to the operators, yet effective to reduce noise levels to approximately 60 decibels.

Chief Lawrence and I visited the Club at various times, including after 10:00 p.m., when amplified music was being played and measured the decibel levels inside and outside of the Club. We noticed there was a tendency to keep the door open to the back yard area when the Club was full with patrons and/or indoor temperatures were high to allow the overflow crowd to move inside and outside the Club and to allow increased air flow. We also noticed that, when the door was closed and the amplified music did not exceed 95 decibels inside, the noise levels approximately 50 feet from rear property line did not exceed approximately 60-62 decibels. Consequently, there was general agreement reached between staff and the operators that they would adjust the operations of the Clayton Club as referenced in the attached September 13, 2012 letter (See **Attachment 2**)

from Chief Lawrence and myself to Steve Barton and Dennis Mitchell addressing achievement of those thresholds. These measures included keeping the doors to the Club generally closed after 10:00 p.m., assuring that indoor decibel levels would not exceed 95 decibels, and adding indoor fans for better air circulation. After receiving their agreement to these measures, it was unexpected to then receive the attached letter (See **Attachment 3)** from the operators indicating that the effort had been deficient and their business was being harmed by the agreed to measures.

It should be noted that the Clayton Club's amplified music was the subject of complaints that the staff was reacting to and it is the only business in the Town Center area playing amplified music late at night (after 10:00 p.m.) without containing this noise to an enclosed building as part of regular operations. Chapter 9.30 of the CMC could be modified to include quantitative standards and thresholds, including standards and thresholds for mixed-use environments like the Town Center area. Likewise, the Noise Element of the General Plan could be similarly updated. This type of effort is likely to require at least one year to complete and would require hiring specialized consultants (e.g., acoustical consultants) to assist the City with this effort. Staff estimates the total cost of the effort would be in excess of $25,000.

Attachments:

1 Chapter 9.30 Noise of the Clayton Municipal Code.
2 Letter from Community Development Director David Woltering and Police Chief Dan Lawrence to Steve Barton and Dennis Mitchell, dated September 13, 2012.
3 Letter from Steve Barton and Dennis Mitchell to City of Clayton, Clayton City Council, and Clayton Planning Commission, dated September 15, 2012.

Chapter 9.30

NOISE

SECTIONS:

9.30.010	Definitions
9.30.020	General Noise Regulations
9.30.030	Standards
9.30.040	Prohibitions
9.30.050	Permits
9.30.060	Emergency Exemptions
9.30.070	Enforcement
9.30.080	Police Services Fees
9.30.090	Appeals
9.30.100	Remedies and Penalties

9.30.010 Definitions. For the purpose of this ordinance, the following definitions shall apply:

A. Commercial purpose. This shall mean and include the use, operation, or maintenance of sound-amplifying equipment for the purposes of advertising business, goods, or services; or for the purpose of attracting the attention of the public to, or advertising for, or soliciting patronage to or for a performance, show, entertainment, exhibition, or event; or for the purpose of demonstrating any such sound equipment; or for the purpose of paging employees or customers.

1. This section shall also include the actual performance of such equipment, whether inside or outside a commercial establishment, for purposes of entertainment.

B. Emergency Work. Emergency work means work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger. Emergency work includes the operation of a generator during the time that electrical power service has been interrupted. (Ord. 411, 2007)

C. Motor vehicle. This term shall mean a motor vehicle as defined by the California Vehicle Code.

D. Non-commercial purpose. This term means and includes the use, operation, or maintenance of sound equipment for other than a commercial purpose. Non-commercial purpose includes philanthropic, political, community events, patriotic, and charitable purposes.

E. Sound-amplifying equipment. This term means a machine or device for the amplification of the human voice, music, or any other sound. Sound-amplifying equipment does not include:

1. A standard automobile radio when used and heard only by the occupant of the vehicle in which the radio is installed; or

2. A warning device on authorized emergency vehicle, or horn or other warning device used for traffic safety purposes.

F. Sound truck. This term shall mean a motor vehicle regardless of motive power, whether in motion or stationary, having sound-amplifying equipment mounted or attached to it. (Ord.349, 1999)

9.30.020 General Noise Regulations. Except as otherwise provided by this Chapter and Chapter 15.01 of this code, it is unlawful for a person to willfully make a loud, unnecessary or unusual noise, which disturbs the peace or quiet of a neighborhood or which causes discomfort or annoyance to a reasonable person or normal sensitiveness residing in the area. (Ord. 411, 2007)

9.30.030 Standards. The standards which shall be considered in determining, whether a violation of Section 9.30.020 exists include, but are not limited, to the following:

A. The volume of noise;
B. Whether the nature of the noise is usual or unusual;
C. The proximity of the noise to residential sleeping facilities;
D. The nature and zoning of the area within which the noise emanates;
E. The time of the day or night the noise occurs;
F. The duration of the noise;
G. Whether the noise is continuous, recurrent or intermittent;
H. Whether the noise is produced by a commercial or non-commercial activity
I. The number of persons in the neighborhood who have complained of the noise. (Ord. 349, 1999)

9.30.040 Prohibitions. Except as otherwise provided in this section, it is unlawful for a person to do any of the following acts:

A. Radios, television sets, and similar devices. A person may not operate or play a radio, television set, stereo, phonograph, receiving set, tape or compact disk payer, jukebox, musical instrument, or similar device in such a manner as to disturb the peace, quiet, or comfort of the neighboring inhabitants, or to do so with a louder volume than is necessary for convenient hearing for persons in the room, vehicle, or chamber in which the device is operated.

1. A prima facie violation has occurred if the noise is plainly audible at a distance of fifty *(50)* feet from the nearest property line of any yard, park, or outside activity area, or any building or structure from which the noise is emanating from or vehicle from which it is located, or a distance of fifty *(50)* feet from the device if outside.

B. Schools and churches. Creating noise on a street, sidewalk or public place adjacent to a school or church while in use if the noise unreasonably interferes with the working of the institution.

C. Machinery, Equipment, Fans, Air Conditioning and Power Equipment. It is unlawful to operate machinery, equipment, or a pump, fan, air-conditioner, spa or pool equipment or engine in a manner which causes excessive noise to nearby residents between the hours of 10:00 p.m. and 7:00 a.m. Additionally, the use of power equipment for home use or residential yard maintenance including power tools, lawn mowers and leaf blowers is prohibited except as set forth below in this section:

(1) Weekdays. Monday through Friday between seven a.m. and eight p.m.

(2) Saturdays, Sundays and City-observed Holidays between eight a.m. and eight p.m. (Ord. 411, 2007)

D. Construction or repair work. Such work which creates noise within or adjacent to a residential land use district or planned development is subject to time and other restrictions listed in the Clayton Municipal Code.

E. Loudspeakers or sound-amplifying equipment. A person may not install, use or operate a loudspeaker or sound-amplifying equipment in a fixed or movable position or mounted on a sound truck for the purpose of transmitting sound to a person in or on a street, sidewalk, park or public property without a permit.

F. Animals or birds in residential neighborhoods. No person shall keep or maintain an animal, fowl, or bird (otherwise permitted to be kept) which, by sound, cry, or audible behavior causes annoyance or discomfort or disturbs the repose of a reasonable person.

G. Garbage disposal and street sweeping. Unless otherwise permitted by franchise agreement or other City regulation, it shall be unlawful to perform these activities between 10:00 p.m. and 6:00 a.m. weekdays and 10:00 p.m. and 8:00 a.m. on weekends. (Ord. 349, 1999)

9.30.050 Permits: The Police Chief may grant a permit on an event(s) or seasonable basis allowing an exception to this Chapter for such activities as civic events, civic sponsored events, or youth sports and/or recreational events, or permitting the use of sound-amplification equipment, subject to the requirements of section. An application for either type of exemption must be submitted at least twenty-five (calendar days before the proposed activity and must be accompanied by an application fee in the amount set by Council resolution.

A. Exception permit. The Police Chief may grant a permit, subject to reasonable restrictions, allowing an exception to subsection on 9.30.020 or 9.30.040 for as short a period of time as is reasonable if the permit applicant notices nearby residences and businesses and demonstrates all of the following according to City policy:

1. Compliance with this chapter could be impractical or unreasonable;

2. Which mitigation measures will implemented to minimize the sound disturbance.

B. Permit for Sound-Amplification Equipment. The Police Chief may grant a permit to allow sound-amplification equipment, subject to reasonable restrictions regarding time, place and manner of use for the safety and convenience of the public. If the application is denied, the Police Chief shall advise the applicant in writing of the reasons for denial. The applicant shall submit an application containing the following information:

1. The name, address and telephone number of both the owner and user of the sound-amplifying equipment

2. The maximum wattage to be used, and the approximate distance for which sound will be audible from the sound-amplifying equipment;

3. The license number, if a sound truck is used;

4. A general description of the sound-amplifying equipment to be used;

5. Whether the sound-amplifying equipment will be used for a commercial or non-commercial purpose;

6. Which measures will be implemented to reduce noise to neighbors;

7. Where the equipment will be used; and

8. During which day(s) and hour(s) the equipment will be used.

C. Notwithstanding other provisions of this Chapter, if the City Manager determined that exceptional circumstances exist and the City and a property owner enter into a recordable noise abatement agreement with the land, the provisions of this Chapter shall not be applicable to the uses identified in the agreement. (Ord. 349, 1999, Ord 362, 2001)

9.30.060 Emergency Exemptions. Actions made necessary to protect the health, safety or general welfare of the public or of their property shall not be a violation of this Chapter. (Ord.349, 1999)

9.30.070 Enforcement. The person(s) responsible for the noise will be held liable for the cost of providing police services during a second or follow-up response by police, after a first warning (including an explanation of possible police service fee imposition if a second response is necessary to the person(s) responsible for the noise to control the specified threat to the public peace, health, safety, or general welfare. The second or follow-up response may also result in the arrest and/or citation of violators of the State Penal Code or other provisions of the Municipal Code. (Ord.349, 1999)

9.30.080 Police Services Fees. The police services fee shall include the cost of personnel and equipment, but shall not exceed Five Hundred Dollars ($500.00) for a single incident, provided however that the City does not hereby waive its right to seek reimbursement for actual costs exceeding Five Hundred Dollars ($500.00) through other legal remedies. The amount of the fees shall be deemed a debt owed to the City by the person responsible for the event, and if such person is a minor, the debt shall be the obligation of such minor and his/her parents or guardians. Such fees shall be due upon receipt of billing from the City. Any person owing such fees shall be liable in an action brought in the name of the City for recovery of such fees, including reasonable attorney fees.

A. Automatic adjustment in police services fees. Such fees may be adjusted each year, computing the adjustment on the Official Consumers Price Index published by the United States Department of Labor, Bureau of Labor Statistics, for the San Francisco-Oakland Metropolitan Area. (Ord. 349, 1999)

9.30.090 Appeal of Decision of Police Chief. The decision of the Police Chief may be appealed within 10 calendar days of such decision to the City Manager. The decision of the City Manager shall be final. (Ord. 411, 2007)

9.30.100 Remedies and Penalties for Violation

A. Violation an infraction. A person who violates a provision of this section is guilty of an infraction and subject to the penalty set forth in Chapter 1.20.

B. Violation a public nuisance. A violation of this section is a public nuisance and may be abated by a civil action including a restraining order or injunction. (Ord. 349, 1999)

Attachment 2

CITY OF CLAYTON

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City Council
HOWARD GELLER, *MAYOR*
JOSEPH A. MEDRANO, *VICE MAYOR*
JULIE K. PIERCE
DAVID T. SHUEY
HANK STRATFORD

September 13, 2012

Steve Barton &
Dennis Mitchell
Clayton Club
6096 Main Street
Clayton, CA 94517

Re: Resolution of Noise Complaints at Clayton Club

Dear Mr. Barton and Mr. Mitchell:

Over the past several months, Clayton Police Chief Dan Lawrence and I have met with the two of you on a number of occasions at the Clayton Club at 6096 Main Street to effectively address noise complaints the City had received regarding the operations of the Club. The focus of the complaints had to do primarily with late night (i.e., after 10:00 p.m.) amplified music coming from the Club.

The Chief and I appreciated the time and good faith efforts you both demonstrated in evaluating the operations of the Clayton Club and looking for reasonable, yet effective, adjustments to Club operations to address the noise complaints. We listened to a variety of types of amplified music — juke box, DJ with recorded music, and live musicians — and took noise measurements inside and outside of the Club of the music under different circumstances (e.g., doors open and doors closed). We observed nighttime operations on several occasions, including after 10:00 p.m. We noticed that, at times, there can be loud behavior in the outdoor garden area of the establishment. We noted, based on our observations and noise measurements, that not exceeding an interior nose level of 95 decibels, with doors closed, resulted in general conformance with the City's current noise standards and related provisions described in Chapter 9.30 of the Clayton Municipal Code (CMC) and the City's General Plan Noise Element. We also noted that additional monitoring and mitigation measures are needed in the open, outdoor yard area late at night to address loud behavior to avoid future noise complaints.

In a collaborative manner, staff discussed with the two of you operational adjustments needed to comply with the provisions of Chapter 9.30 and the General Plan Noise Element. These adjustments are listed in the attached Decibel Management document under the Sections titled, "Measures taken to date" and "Additional Measures to be taken." You also included in the schedule a section titled "Recommendations to the city for future consideration." Although

noted, it does not pertain to addressing the subject noise complaints received by the City, given the current, applicable CMC and General Plan provisions.

Important aspects of these two sections of the Decibel Management document cited include closing the doors to the Club after 10:00 p.m.; an interior noise meter (i.e., decibel alarm) will be placed at the bar to help assure that the interior noise level does not exceed 95 decibels; additional fans for improved ventilation will be placed inside the Club; and signage, increased monitoring, and limitations on how late the outside bar can stay open related to mitigating outdoor loud behavior. We understand that you agree to implement all of the measures mentioned in the two currently applicable Sections of the Decibel Management document.

Staff believes that if these agreed upon measures are consistently implemented by you and your staff, the operations of the Clayton Club should conform to the current provisions of Chapter 9.30 and the Noise Element Standards, Goals, and Objectives of the Clayton General Plan.

Again, we thank you for your time, efforts, and agreement to consistently implement the measures in the attached Decibel Management program.

Sincerely,

David Woltering, AICP
Community Development Director

Dan Lawrence
Chief of Police

Attachment: Decibel management – response to city concerns (7) document

c: Gary Napper, City Manager

comdev/Clayton Club/Ltr. To Barton and Mitchell.9.13.12

Measures taken to date		Status
	Temporary "line of sight" sound absorbtion barrier place near rear exit to reduce sound transmission levels toward new housing. Given the limited success of this test, it will be removed.	Aug 1st
	Ventilation window on dance floor sealed with sound absorption material. This closure will be made permanent	Aug 1st
	Signage has been place on entry/exit doors stating that doors must remain closed after 10 pm when musicians are performing	complete
	Bar staff have been provided with handheld Db meter to monitor sound levels during hours of musical performance and advised to instruct musicians when DB levels exceed 95.	complete
Additional Measures to be taken		
	Current 8-1/2x11 signs stating that doors must be closed after 10 pm are deemed inadequate. City would like them readable from 30 feet away. Existing signs will be replaced with signage that is 11x17 with larger font than the 55 point currently used	complete
	Mandatory door closure restrictions will be expanded to seven days a week after 10 pm, and not just on nights when musicians are not performing.	with immediate effect
	Multiple similarly large signs will be placed in the patio area to caution customers to avoid loud behavior. Signs must be visible from all gathering places and large enough to be read from 30 feet away.	complete
	The patio bar may not be operated after 10pm on weekdays unless a Temporary Use Permit has been obtained. Weekdays are defined as Sunday night through Thursday night excluding holiday eves.	with immediate effect
	The patio bar must be closed for business on or before 12:30 am on weekends. Use up to 12:30am on weekends will not require a Temporary Use Permit. For the purpose of this item, weekends are defined as Friday and Saturday nights and holiday eves.	with immediate effect
	When patio bar is in use Clayton Club must ensure that, in addition to the outside bartender, two doormen are present in patio area so one may circulate among patio customers to advise them to refrain from loud behavior.	with Immediate effect
	Additional ventilation will be installed (i.e. portable fan and/or portable air conditioners) to replace lost ventilation arising from door closures and window elimination. City approval is required for types of equipment and measures to be taken.	complete
	Additional surveillance will be provided to ensure door closures do not result in unobserved behavior at front entry. These measures may be installing windowed doors, additional camera monitors, additional doormen to position observers on both sides of closed doors. Final solution to be approved by city.	complete
	A decibel alarm will be placed in view of the bartender to alert them when sound levels exceed 95 decibels inside the building. The bartender will advise musicians to reduce sound to below the 95Db threshhold. 95Db was chosen because it allows a Db reading of 60 at the center street property line when doors are open.	complete
Recommendations to the city for future consideration		
	Allow the Clayton Club to have doors open if they remain in compliance with noise ordinance	
	Allow Clayton Club to keep patio bar open during normal licensing hours if in compliance with noise ordinance.	
	City should determine sound violations solely based on Db level measurements which are specific. A business should not be held in violation of city ordinance for audible sounds which are at or below the acceptable decibel readings. The city noise ordinance should be modified to cite specific acceptable decibel readings rather than subjective audibility.	
	City should consider ambient sound levels in the downtown areas in its determination of noise violations by a single business. Since ambient sound levels when downtown businesses are closed average about 65Db, citing violations between 60Db and 65Db seems impractical. City should consider adopting a standards in line with county standards for the downtown commercial district at 70Db during daytime hours and 65Db between 10pm and 7am. Alternatively, the city should undertake a study of ambient noise conditions at various times of day and evening and establish a noise ordinance which is acheivable based on the study.	
	Review the disclosure signed by residents of Mitchell Canyon Place to determine if it is applicable to sounds eminating from existing downtown businesses.	

Attachment 3

CLAYTON CLUB
1873
SALOON

6096 Main Street, Clayton, CA 94517

September 15, 2012

City of Clayton
Clayton City Council
Clayton Planning Commission

Ref: Clayton Noise Ordinance

Attached is a recommendation to modify Chapter 9.30 of the Clayton Municipal Code and the Noise Element of the City Goals, Objectives, Policies and Implementation Measures document (Section VIII of the Clayton General Plan).

The current ordinance and policies do not reflect the actual conditions which can be achieved given the natural background noise levels that exist in the downtown commercial district. Further, no distinction is made between permissible noise levels in residential neighborhoods and the commercial district.

We at the Clayton Club recently had the opportunity to work closely with city officials to address noise mitigation measures attendant to a recent complaint. We saw this as an opportunity to work out a balanced approach to sound management which could satisfy neighbors, allow us to make informed decisions on sound emanating from the club and save the local Police time in addressing non-critical issues. We felt that we could intelligently manage levels with new equipment and collective understanding regarding those levels that produced too much transmitted sound.

Despite high hopes and diligent efforts on the part of city staff and Clayton Club managers, a balanced solution which addressed both the needs of the Commercial district and complies with the ordinance was not achieved. City staff worked hard to manage to an ordinance that seems reasonable on the surface. Clayton Club managers strived to implement a predictable and reproducible solution. The result was a set of measures taken by the Clayton Club to without regard to ambient conditions which are beyond our control. While we recognize that some sound mitigation measures were necessary, some of those implemented will have a continuing and long term financial impact on the Club. These measures involve curtailment of operations and loss of privileges by the Clayton Club. Despite these views, we continue to have the highest regard for the efforts and good intentions put forth by city staff during this project.

We all look forward to the day when the economy will be sufficiently robust to encourage new investment in our small downtown and the City can move forward with new development. If the City of Clayton is intent on attracting the additional businesses needed to create a vibrant downtown a viable noise ordinance must be devised.

Regards,

Steve Barton
Dennis Mitchell

RECEIVED
SEP 14 2012
CLAYTON COMMUNITY
DEVELOPMENT DEPT

CITY OF CLAYTON NOISE ORDINANCE RECOMMENDATION

INTRODUCTION

This is a recommendation to change to the current Chapter 9.30 of the Clayton Municipal Code, specifically the Noise Ordinance. Based on discussions with city staff, only one set of criteria exists within city code to govern noise management for both commercial and residential applications. It is our position that different criteria should be applied to commercial enterprises than is used for residential areas. The current code is not uniformly enforceable and is, in many respects, unreasonable when applied to the Town Center Commercial District. We offer two reasons for this assertion:

1) It is a violation of the Municipal Code if the sound emanating from a business is audible 50 feet from the property line.
2) It is a violation of the Noise Element of General Plan if property line decibel readings exceed 60Db.

Audibility alone should not be the basis for citing a violation as it is not a measurable criteria and leads to subjective interpretation. It is virtually unattainable to have an outdoor patio conversation area that cannot be detected from 50 feet away.

Second, and of greater importance, we have collected more than 100 decibel measurements at locations throughout the Town Center at various times of day, and it is clear that the decibel level used to determine that a violation has occurred is unachievable even before businesses are open. The ambient level of sound in the downtown area averages around 65Db and within a range between 60 and 75Db.

RECOMMENDATION

We have the following recommendations to city government:

1. Modify Municipal Code to recognize specific decibel levels as the determining factor in citing violations of code. Audibility should be removed as a criterion for citing violations in commercial areas and, if used at all, be used as a trigger to take measurements following a complaint.
2. Modify code for commercially zoned areas to use decibel readings which take into account the ambient sound conditions which form a baseline for the area. Contra Costa County regulations recognize conditionally acceptable levels of 70Db during the day time and 65Db from 10pm to 7am. These could be applied to the commercial areas of Clayton. Alternatively, the city could undertake studies of its own to discover ambient sound levels in various conditions, locations and times to arrive at their own conclusion on appropriate regulatory levels.

The goal must be to achieve a balanced solution which affords businesses the ability to predictably manage noise compliance, to enable city officials to respond to complaints with objective data at their fingertips, and to ensure that we will be successful as the good neighbors we would like to continue to be.

Finally, unamplified voice sound should not be a violation of the ordinance downtown if it falls at or below the regulatory decibel levels.

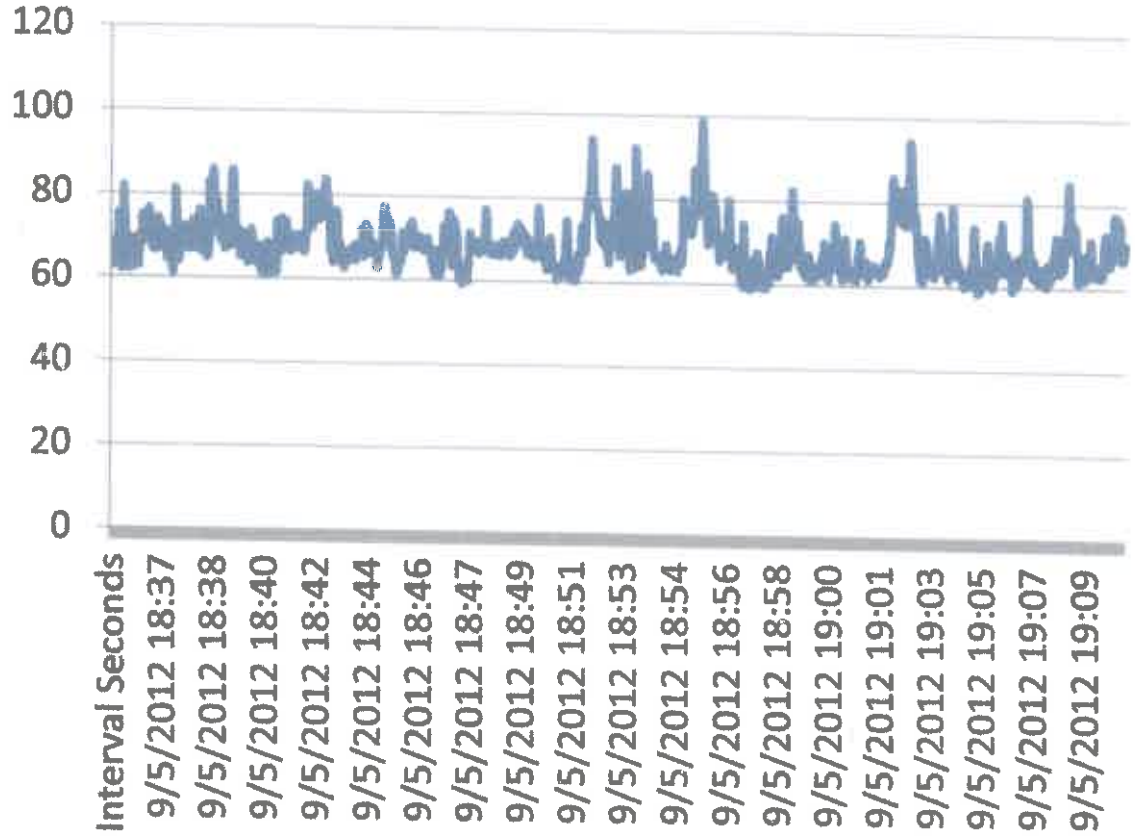
In these austere times, it seems unreasonable to put the city to the sort of expense that sound engineers incur. We would be pleased to provide volunteer time to work at the city's direction to gather data to allow draft criteria to be developed.

Attachments:

1. **Decibel Management – Response to City Concerns**: Final Draft of the working document used to identify and track measures taken to resolve sound issues between City of Clayton and Clayton Club.
2. **Graphs** of recent extended time sound measurements taken at Clayton Club property lines: These graphs reflect sound measurements ranging from one half hour to one and a half hours at points where infractions were noted in recent discussions and represent the normal sound levels of the downtown. No audible sound was coming from the Clayton Club during these recording sessions with the exception of the measurement taken at 22:18 on 9/5. (recorded by Steve Barton)
3. **Clayton Club Noise Test - 6/13/12**: A set of 30 second average sound measurements taken by city staff with participation from owners of the Clayton Club recorded by Dave Woltering
4. **Decibel Readings – Clayton**: A collection of point in time measurements taken at various times of day and locations in the town center as recorded by Steve Barton

Measures taken to date		Status
	Temporary "line of sight" sound absorbtion barrier place near rear exit to reduce sound transmission levels toward new housing. Given the limited success of this test, it will be removed.	complete
	Ventilation window on dance floor sealed with sound absorption material. This closure will be made permanent	complete
	Signage has been place on entry/exit doors stating that doors must remain closed after 10 pm when musicians are performing	complete
	Bar staff have been provided with handheld Db meter to monitor sound levels during hours of musical performance and advised to instruct musicians when DB levels exceed 95.	complete
Additional Measures to be taken		
	Current 8-1/2x11 signs stating that doors must be closed after 10 pm are deemed inadequate. City would like them readable from 30 feet away. Existing signs will be replaced with signage that is 11x17 with larger font than the 55 point currently used	complete
	Mandatory door closure restrictions will be expanded to seven days a week after 10 pm, and not just on nights when musicians are not performing.	with immediate effect
	Multiple similarly large signs will be placed in the patio area to caution customers to avoid loud behavior. Signs must be visible from all gathering places and large enough to be read from 30 feet away.	complete
	The patio bar may not be operated after 10pm on weekdays unless a Temporary Use Permit has been obtained. Weekdays are defined as Sunday night through Thursday night excluding holiday eves.	with immediate effect
	The patio bar must be closed for business on or before 12:30 am on weekends. Use up to 12:30am on weekends will not require a Temporary Use Permit. For the purpose of this item, weekends are defined as Friday and Saturday nights and holiday eves.	with immediate effect
	When patio bar is in use Clayton Club must ensure that, in addition to the outside bartender, two doormen are present in patio area so one may circulate among patio customers to advise them to refrain from loud behavior.	with immediate effect
	Additional ventilation will be installed (i.e. portable fan and/or portable air conditioners) to replace lost ventilation arising from door closures and window elimination. City approval is required for types of equipment and measures to be taken.	complete
	Additional surveillance will be provided to ensure door closures do not result in unobserved behavior at front entry. These measures may be installing windowed doors, additional camera monitors, additional doormen to position observers on both sides of closed doors. Final solution to be approved by city.	complete
	A decibel alarm will be placed in view of the bartender to alert them when sound levels exceed 95 decibels inside the building. The bartender will advise musicians to reduce sound to below the 95Db threshhold. 95Db was chosen because it allows a Db reading of 60 at the center street property line when doors are open.	complete
Recommendations to the city for future consideration		
	Allow the Clayton Club to have doors open if they remain in compliance with noise ordinance	
	Allow Clayton Club to keep patio bar open during normal licensing hours if in compliance with noise ordinance.	
	City should determine sound violations solely based on Db level measurements which are specific. A business should not be held in violation of city ordinance for audible sounds which are at or below the acceptable decibel readings. The city noise ordinance should be modified to cite specific acceptable decibel readings rather than subjective audibility.	
	City should consider ambient sound levels in the downtown areas in its determination of noise violations by a single business. Since ambient sound levels when downtown businesses are closed average about 65Db, citing violations between 60Db and 65Db seems impractical. City should consider adopting a standards in line with county standards for the downtown commercial district at 70Db during daytime hours and 65Db between 10pm and 7am. Alternatively, the city should undertake a study of ambient noise conditions at various times of day and evening and establish a noise ordinance which is acheivable based on the study.	
	Review the disclosure signed by residents of Mitchell Canyon Place to determine if it is applicable to sounds eminating from existing downtown businesses.	

Center Street Property Line
9/5/2012 18:35 0:35:00
Average 68.50

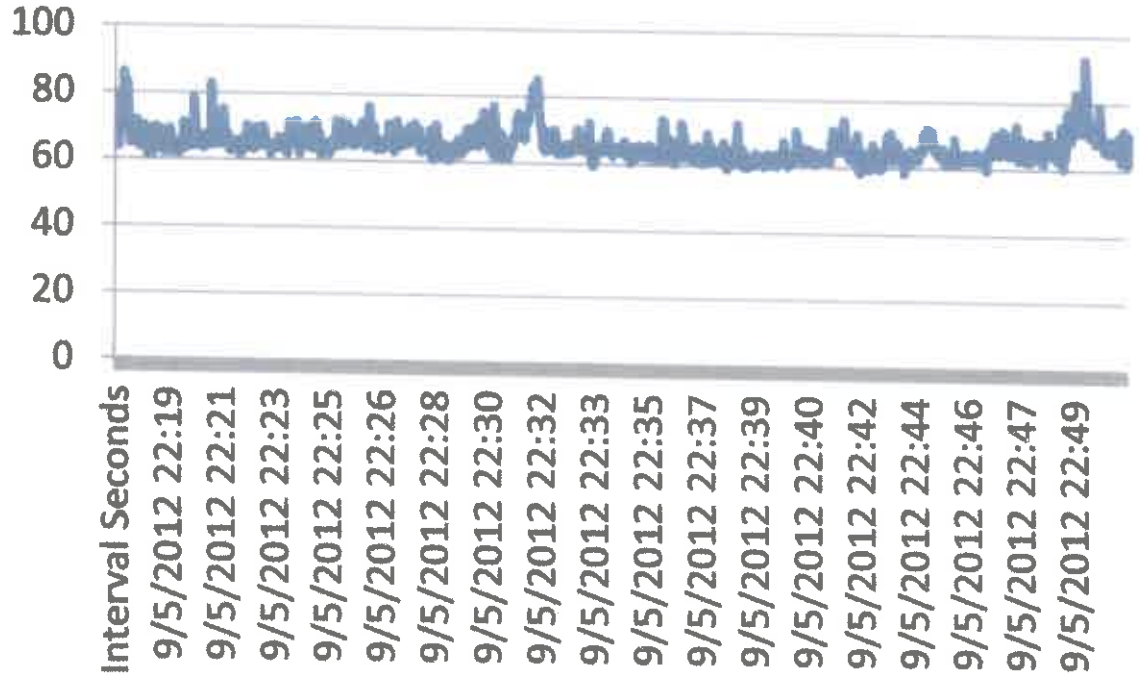


<CEL-242 Data> 035-07 <Run>
9/5/2012 18:35 0:35:00
621950 3 30-100 dB Yes No

CONDITIONS

NO AUDIBLE SOUND
FROM CLAYTON CLUB

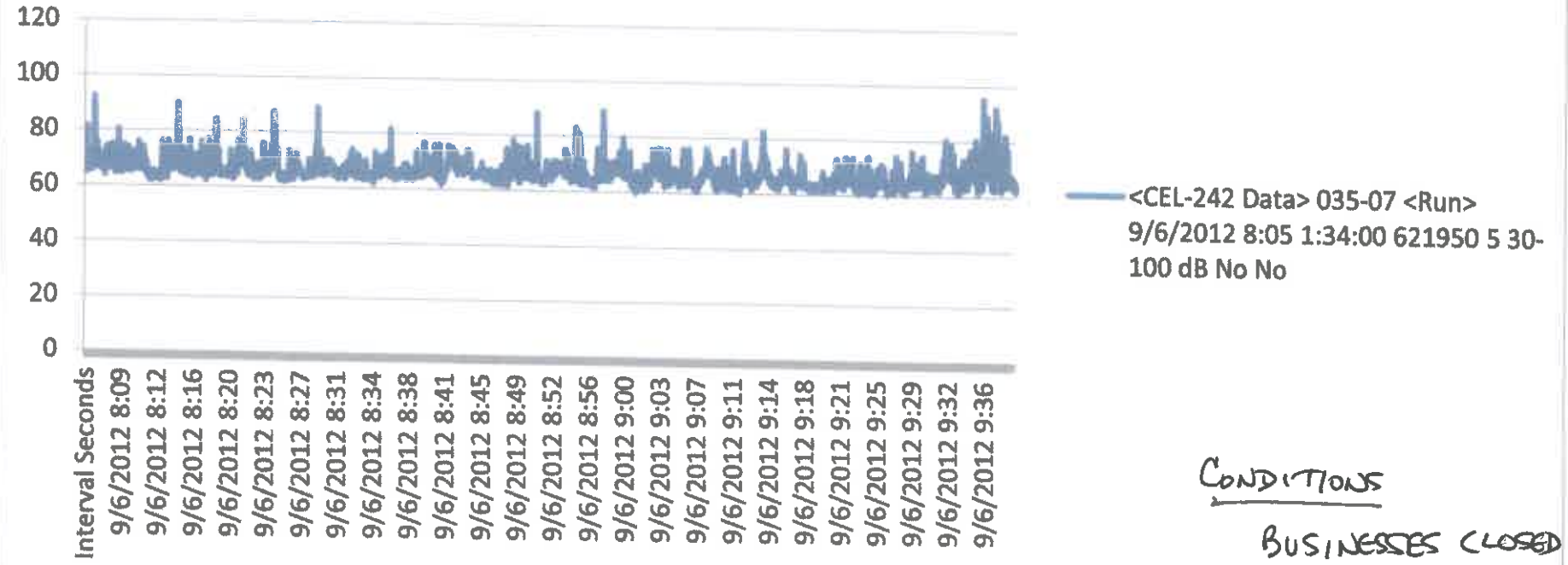
Center Street Property Line
9/5/2012 22:18 0:33:11
Average 65.85



<CEL-242 Data> 035-07
<Run> 9/5/2012 22:18
0:33:11 621950 4 30-100 dB
No No

CONDITIONS
LIGHT AUDIBLE
CONVERSATION FROM
CLAYTON CLUB

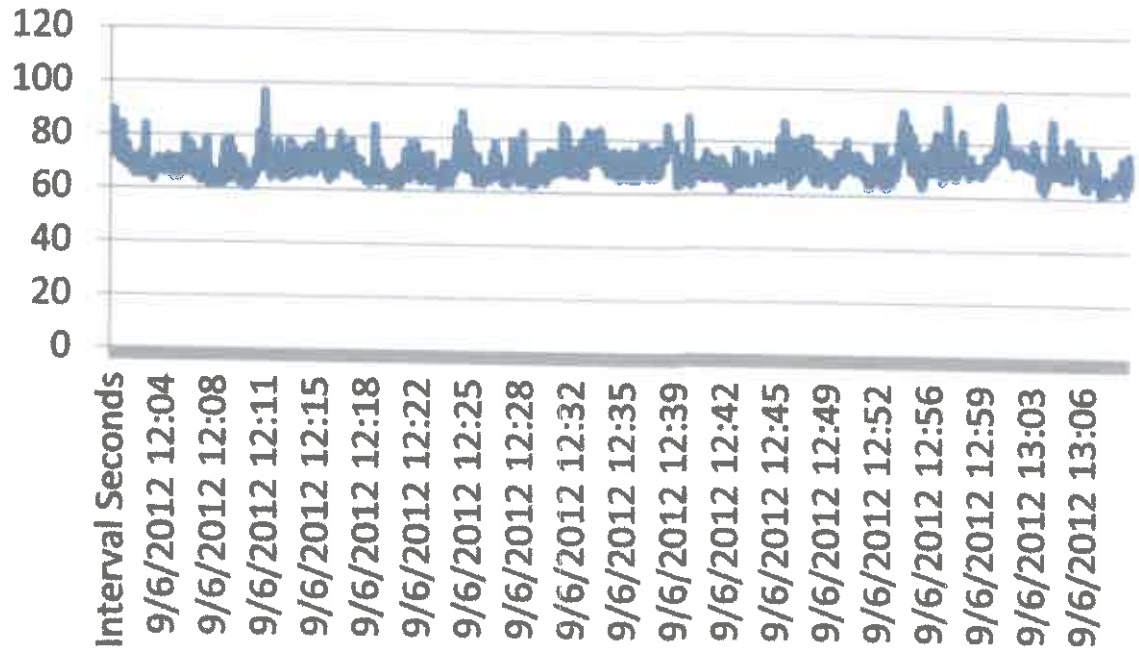
Center Street Property Line
9/6/2012 8:05 a.m.
Duration 1:34:00
Average 66.94



CONDITIONS

BUSINESSES CLOSED

Main Street Property Line
9/6/2012 12:01 1:08:00
Average 70.29



<CEL-242 Data> 035-07 <Run>
9/6/2012 12:01 1:08:00
621950 6 30-100 dB No No

CONDITIONS

NO AUDIBLE SOUND FROM CLAYTON CLUB

Clayton Club Noise Test
(6/13/12)

These noise tests were conducted from approximately 10:20 p.m. until 10:50 p.m. on Wednesday evening, June 13, 2012. These tests were conducted by Clayton Police Chief Dan Lawrence, Clayton Community Development Director David Woltering, Clayton Club Operator Steve Barton, and Clayton Club Operator Dennis Mitchell.

First Set of Tests

1. **Approx. 50' from rear property** line on Center Street:
    - **Door open** (Condition)
    - Interior Noise - 93 dbh (30 Second Weighted Average)
    - Exterior Noise - 65 dbh (30 Second Weighted Average)
2. **Approx. 50' from rear property line** on Center Street:
    - **Door open** (Condition)
    - Interior Noise - 93 dbh (30 Second Weighted Average)
    - Exterior Noise - 62 dbh (30 Second Weighted Average)
3. **At rear property line:**
    - **Door open** (Condition)
    - Interior Noise - 93 dbh (30 Second Weighted Average)
    - Exterior Noise - 60 dbh (30 Second Weighted Average)

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4. **At property line:**
    - **Door closed** (Condition)
    - Interior Noise - 97 dbh (30 Second Weighted Average)
    - Exterior Noise - 60 dbh (30 Second Weighted Average)
5. **Approx. 50' from rear property** line on Center Street:
    - **Door closed** (Condition)
    - Interior Noise - 96 dbh (30 Second Weighted Average)
    - Exterior Noise - 63 dbh (30 Second Weighted Average)

Second Set of Tests

1. **Approx. 50' from rear property** line on Center Street:
    - **Door open** (Condition)
    - Interior Noise - 100 dbh (30 Second Weighted Average)
    - Exterior Noise - 62 dbh (30 Second Weighted Average)
2. **At rear property line:**
    - **Door open** (Condition)
    - Interior Noise - 99 dbh (30 Second Weighted Average)
    - Exterior Noise – 59 dbh (30 Second Weighted Average)

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3. **At property line:**
    - **Door closed** (Condition)
    - Interior Noise - 101 dbh (30 Second Weighted Average)
    - Exterior Noise - 62 dbh (30 Second Weighted Average)
4. **Approx. 50' from rear property** line on Center Street:
    - **Door closed** (Condition)
    - Interior Noise - 101 dbh (30 Second Weighted Average)
    - Exterior Noise - 62 dbh (30 Second Weighted Average)

Decibel readings - Clayton

Time of event					Conditions					Town	Center	Data			Clayton	Club	Property
Date	Time Start	Time End	Device	Settings	CC Cond	Ambient Cond	Main/Mor	Main/Pk	Marsh Crk	Ctr/Mor	Ctr/Diab	Main/Diab	Inside	Patio	Mid Pkg	Pkg at Ctr
Sunday, June 03, 2012	10:46 AM	11:15 AM	Iphone	n/a	CLOSED	calm	58	65	64	60-61	63	60-65		55	60	59-63
Sunday, June 03, 2012	2:22 PM	2:40 PM	Iphone	n/a	No Music	light breeze		63	63-70	60-63	65-80	70-85		65	60-65	70
Sunday, June 03, 2012	9:39 PM	9:49 PM	Iphone	n/a	Music, dr open	modest breeze	67	65	67	68-73	63	65-75			80	75
Sunday, June 03, 2012	10:05 PM	10:16 PM	Iphone	n/a	Music, dr open	modest breeze	70-71	65	63	68-70	62	60			76	68-70
Sunday, June 03, 2012	10:30 PM		Iphone	n/a	Music, dr closed	modest breeze	69		60	58-63	68-70	62			67	63
Sunday, June 03, 2012	11:05 PM		Iphone	n/a	Band off, dr open	modest breeze	61	64-65			58	58			63	57
Sunday, June 03, 2012																
Wednesday, June 06, 2012	2:30 PM	2:45 PM	Db Meter	continuous	no music, dr open	calm	66-72	64-68	64-66	64-67	68-72	65-67	64-65	63		62-67
Wednesday, June 06, 2012	3:00 PM	4:15 PM	Db Meter	2 min avg	5 people	calm	63		67	63	69	66				64
Wednesday, June 06, 2012	4:40 PM		Db Meter	3 min avg										83		
Wednesday, June 06, 2012	9:40 PM	10:15 PM	Db Meter	3 min avg	Kar-2lts, dr open	calm							93	73	63	63
Wednesday, June 06, 2012	10:45 PM	11:15 AM	Db Meter	3 min avg	Kar-3lts, dr open, 65 people in, 41 out	calm							100	82	68	64
Wednesday, June 06, 2012	11:20 PM	11:40 PM	Db Meter	3 min avg	Kar-3/4lts, dr open, 65 people in, 50 out	calm							95	83	71	63
Wednesday, June 06, 2012	11:50 PM		Db Meter	3 min avg	Kar-3/4lts, dr clsd	calm									63	below 50
Thursday, June 07, 2012	9:45 AM		Db Meter	3 min avg	CLOSED	light breeze										65
Wednesday, June 13, 2012	9:00 PM		Db Meter	30 sec avg	10ppl	calm							74	69	66	64
Wednesday, June 13, 2012	9:10 PM		Db Meter	30 sec avg	kar1-2, dr open, 10ppl	calm							87	81	64	61
Wednesday, June 13, 2012	9:30 PM		Db Meter	30 sec avg	kar2, dr open, 12 ppl	calm							88	74	62	66
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door open	official test A					63		93			
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door open	official test B							93			60
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door closed	official test C							97			60
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door closed	official test D					63		96			
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door open	official test E							100			59
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door open	official test F							99			62
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door closed	official test G					62		101			
Wednesday, June 13, 2012	10:00 PM	11:00 PM	Db Meter	30 sec avg	door closed	official test H					62		101			
Saturday, June 30, 2012	9:00 AM	9:15 PM	Db Meter	30 sec avg	door open	farmers mkt	70	67	65	75	79	68				68
Sunday, July 01, 2012	Noon	12:10 PM	Db Meter	30 sec avg	door open	slight breeze, no audible voice	68	79	73	72	85	72	67	58	73	66
Sunday, July 01, 2012	1:00 PM	1:15 PM	Db Meter	30 sec avg	5 cust, do	slight breeze, no audible voice	71	79	73	77	74	70	70	61	66	74
Sunday, July 01, 2012	2:30 PM	2:45 PM	Db Meter	30 sec avg	17 cust, do	slight breeze, no audible voice	74	70	64	71	83	71	73	62	69	70
Sunday, July 01, 2012	10:40 PM	11:00 PM	Db Meter	30 sec avg	14 cust, dc	calm	64	57	55	59	64	64	75	56	58	57
Saturday, July 07, 2012	10:00 PM		Db Meter	30 sec avg	55 out, patio bar	calm	77 door aja	60	72	65	61	63	103	70	63	62
Saturday, July 07, 2012	11:00 PM		Db Meter	30 sec avg	77 out, patio bar	calm	63	62	61	61	67	67	96	85	62	63
Saturday, July 07, 2012	Midnite		Db Meter	30 sec avg	31 out, patio bar	calm	66	58	64	58	58	60	92	81	59	55