



AGENDA

REGULAR JOINT MEETINGS

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CLAYTON CITY COUNCIL and OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (GHAD)

* * *

TUESDAY, December 6, 2016

7:00 P.M.

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

Mayor: Howard Geller

Vice Mayor: Jim Diaz

Council Members

Keith Haydon

Julie K. Pierce

David T. Shuey

Tuija Catalano, Council Member-Elect

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

*** CITY COUNCIL ***

December 6, 2016

1. **CALL TO ORDER THE CITY COUNCIL** – Mayor Geller.

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

3. **CONSENT CALENDAR**

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

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

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

[\(View Here\)](#)

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

(b) Approve the minutes of the regular meeting of November 15, 2016. [\(View Here\)](#)

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

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

[\(View Here\)](#)

(e) Adopt a Resolution certifying the results of canvass of returns in the November 2016 General Municipal Election and declaring Julie Pierce, Jim Diaz, and Tuija Catalano elected to 4-year terms of public office on the City Council of the City of Clayton, California. [\(View Here\)](#)

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

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

Mayor Howard Geller

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

Julie Pierce, Jim Diaz, and Tuija Catalano
(City Clerk)

*** SOCIAL BREAK ***

7. ANNUAL REORGANIZATION OF CLAYTON CITY COUNCIL

- (a) Election of Mayor by the City Council [Vice Mayor Diaz to conduct the election].
([View Here](#))
- (b) Election of Vice Mayor by the City Council [Newly-elected Mayor to conduct the election].
- (c) Recognitions and comments by Mayor and Council Members.

8. REPORTS

- (a) Planning Commission – No meeting held.
- (b) Trails and Landscaping Committee – No meeting held.
- (c) City Manager/Staff
- (d) City Council - Reports from Council liaisons to Regional Committees,
Commissions and Boards.
- (e) Other

9. PUBLIC COMMENT ON NON - AGENDA ITEMS

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

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

10. PUBLIC HEARINGS

- (a) Continued Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022): ([View Here](#))
- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
 - 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
 - 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and
 - 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).
(Assistant Planner)

Staff recommendations: **1)** Receive the staff report; **2)** Re-Open the Public Hearing and receive public comments; **3)** Close the Public Hearing; **4)** Following Council discussion or any amendments, approve various actions by separate motions listed below:

1. Adopt the Resolution adopting the Final Initial Study/Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
2. Adopt the Resolution approving a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
3. Approve a motion to have the City Clerk read Ordinance 471 (ZOA-03-15) by title and number only and waive further reading; and then following the City Clerk's reading, by motion approve Ordinance 471 for Introduction; and
4. Adopt the Resolution approving the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project.

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

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comment; **3)** Motion to have the City Clerk read Urgency Ordinance No. 472 by title and number only and waive further reading; and **4)** Following the City Clerk's reading, approve a motion to adopt Urgency Ordinance No. 472 with the finding the adoption of this Ordinance is not subject to the California Environmental Quality Act (CEQA) because CEQA only applies to projects which have the potential for causing a significant effect on the environment and this activity is not considered to be a project and can be seen with certainty that it will not have a significant effect or physical change to the environment.
(Requires 4/5ths affirmative vote)

11. **ACTION ITEMS**

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

Staff recommendations: **1)** Receive the staff report; **2)** Receive public comments; **3)** Following Council discussion of or any amendments to the proposed Ordinance, approve a motion to have the City Clerk read Ordinance No. 470 by title and number only and waive further reading; and **5)** Following the City Clerk's reading, by motion adopt Ordinance No. 470 with the finding the action does not constitute a project under CEQA.

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

13. **CLOSED SESSION** - None.

14. **ADJOURNMENT**– the next regularly scheduled City Council meeting is December 20, 2016.

#

*** OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT ***
December 6, 2016

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

2. **PUBLIC COMMENTS**

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

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

3. **CONSENT CALENDAR**

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

(a) Approve the Board of Directors' minutes for its regular meeting October 4, 2016.
([View Here](#))

4. **ANNUAL REORGANIZATION OF THE BOARD OF DIRECTORS**

(a) Nominations and election of Chair (Chairman Haydon to conduct the election).
([View Here](#))

(b) Nominations and election of Vice Chair (New Chair to conduct the election).

5. **PUBLIC HEARINGS** - None.

6. **ACTION ITEMS** – None.

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

8. **ADJOURNMENT** – the next meeting of the GHAD Board of Directors will be scheduled as needed.

#



Agenda Date: 12-06-2016

Agenda Item: 3a 1.

Bette Boatman
Constance Holdaway

General Manager
Jerry Brown

November 17, 2016

Subject: Water Rate Proposal for 2017

Dear Valued Water Customer,

First and foremost, I want to thank all of our customers for not only meeting but exceeding the mandatory conservation targets established by the state in 2015 and continuing efficiency measures in 2016. Your efforts ensured we had enough water to use during a historic drought while keeping sufficient water reserves in our Los Vaqueros Reservoir for this year.

Contra Costa Water District (District) is undergoing its annual review of our regular rates and charges that support the delivery of safe and reliable water to your home or business. Looking forward, the District faces lower water use and increasing costs to purchase, treat and deliver water. While we've been able to absorb or offset some of these additional costs, we're proposing a revenue increase to help us continue providing the reliable service you've come to expect from your public water system. On the reverse side of this letter, you will find information about the proposed increases that will be presented to the Board of Directors later this year, and the public hearing planned for January 4, 2017.

Our water rate proposal for 2017 focuses on the following priorities:

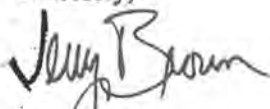
- **Replace aging water infrastructure:** Our agency celebrated its 80th anniversary this year, but some of our facilities are even older. Reliable water service requires major investment in the maintenance and replacement of this aging infrastructure.
- **Drought recovery:** To offset multi-year drought impacts, the District had to draw down both our financial reserves and water storage levels. It's important we rebuild these safety nets to ensure reliable service during future challenging drought years.
- **Customer service enhancements:** We're working on new and improved ways to provide information and service to help you manage your water use, pay your water bill and get what you need from your water system.

The result is that, after considering all non-rate revenue sources, a revenue increase of up to 6% (approximately \$3.50 per month for an average single-family residential customer) will be needed. The District takes pride in being a leading water agency. This requires investment to keep the system functioning properly and continued cost-savings through improvements and innovations.

Please take some time to understand the details of this proposal. You may find more information on our website (www.ccwater.com/rates) or by calling us at 925-688-8044 during normal business hours.

Thanks for your time and your support in improving our public water system.

Sincerely,


Jerry Brown
General Manager

NOTICE OF PUBLIC HEARING

Contra Costa Water District (CCWD) wishes to notify you of a Public Hearing where treated water rate increases will be considered. **The Public Hearing will be held on Wednesday, January 4, 2017 at 6:30 p.m. at 1331 Concord Avenue, Concord, CA in the Board Room.** Public comments and written protests may be submitted to CCWD prior to and at the Public Hearing. Following the Public Hearing, the Board will consider the adoption of the proposed rate increases. **Any changes to rates and charges will become effective February 1, 2017.**

Water rates pay for the safe, high quality, and reliable delivery of water to all CCWD customers. CCWD continues to absorb the financial impacts of reduced water sales and increased costs by limiting expenditures, implementing efficiencies, drawing down financial reserves, and refinancing debt. Revenue requirements are evaluated annually to determine the increases needed to meet planned operational and maintenance requirements, fund planned capital improvements to aging infrastructure, and offset increased source water, electricity, and chemical costs associated with purchasing, treating and delivering water supplies.

The rate increases being proposed are intended to yield a revenue increase of up to 6%. There are several reasons for the proposed revenue increase. The cost to purchase source water from the U.S. Bureau of Reclamation Central Valley Water Project increased by 30% last year and is anticipated to continue to rise. During water shortage conditions last year, water stored in Los Vaqueros Reservoir was drawn down to meet water demands. CCWD needs to rebuild its stored water supplies in a timely manner to prepare for the next dry period. Finally, the revenue increase helps pay for repair and replacement of critical infrastructure.

CCWD is proposing increases to the quantity charge and the daily service and demand charge as shown in the table below. The proposed changes would equate to an increase of approximately **\$3.50 per month** for the average single-family residential customer in the CCWD service area using 260 gallons per day.

Quantity and Service Charges	Current Charge	Potential Change	Potential Charge
Quantity Charge per hundred cubic feet (748 gallons)	\$3.6081	\$0.2993	\$3.9074
Daily Service and Demand Charge*	\$0.5822	\$0.0116	\$0.5938
Excess Use Charge per hundred cubic feet**	\$3.6081	\$0.2993	\$3.9074

* Represents the charge for a 5/8-inch meter; charges for larger meters are proportionate to size as generally described in Section 5.12.010 of CCWD's Code of Regulations.

** Only applied to the quantity of water that exceeds 1,000 gallons per day or 2013 baseline usage, whichever is higher. This charge is in addition to the Quantity Charge.

For further information on the proposed revenue increases or to review the CCWD's Code of Regulations regarding rates, please visit www.ccwater.com/rates or call Customer Service at (925) 688-8044.



441 North Buchanan Circle Pacheco, CA 94553
o 925.685.4711 f 925.685.4735 republicservices.com

Agenda Date: 12-06-2016

Agenda Item: 3a 2.0

November 29, 2016

Mr. Gary Napper
City Manager
6000 Heritage Trail
Clayton, CA 94517

Received
DEC 01 2016
City of Clayton

Dear Gary:

Republic Services is providing notification of our intention to adjust the residential and commercial refuse collection rates by the corresponding percentage change in the Consumer Price Index (CPI) – All Urban Consumers – for San Francisco-Oakland-San Jose Bay Area through October 2016. I have attached a copy of the U.S. Department of Labor Statistics CPI calculations. The CPI increase is 3.56 %.

We are allowed 90% of the CPI for 2017 so the rate increase will be 3.20%. The rate adjustment will take effect on January 1, 2017.

A copy of the historic data is attached for verification purposes. A bill message will be on the December invoice.

Feel free to contact me at (925) 822-1537 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Travis Armstrong".


Travis Armstrong
GENERAL MANAGER

Consumer Price Index - All Urban Consumers
Original Data Value

Series Id: CUURA422SA0
 Not Seasonally Adjusted
 Area: San Francisco-Oakland-San Jose, CA
 Item: All Items
 Base Period: 1982-84=100
 Years: 2006 to 2016

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2006		207.1		208.9		209.1		210.7		211.0		210.4	209.2	207.9	210.6
2007		213.688		215.842		216.123		216.240		217.949		218.485	216.048	214.736	217.361
2008		219.612		222.074		225.181		225.411		225.824		218.528	222.767	221.730	223.804
2009		222.166		223.854		225.692		225.801		228.051		224.239	224.395	223.305	225.484
2010		226.145		227.697		228.110		227.954		228.107		227.858	227.469	226.994	227.944
2011		229.981		234.121		233.646		234.608		235.331		234.327	233.390	232.082	234.698
2012		236.880		238.985		239.806		241.170		242.834		239.533	239.650	238.099	241.201
2013		242.677		244.675		245.935		246.072		246.617		245.711	245.023	243.894	246.152
2014		248.615		251.495		253.317		253.354		254.503		252.273	251.985	250.507	253.463
2015		254.910		257.822		259.117		259.917		261.019		260.289	258.572	256.723	260.421
2016		262.600		264.565		266.041		267.853		270.306					263.911
										3.56%					
									90%	3.20%					

Received
 DEC 01 2016
 City of Clayton

CPI Dec. 2016: 270.306
 Dec. 2015: -261.019
 Δ 9.287
 ÷ 261.019
 = 3.5579785 %
 X 90% = 3.202 %


2. Section 4 of the Agreement is amended in its entirety effective immediately to read as follows:

Administrative Services and Franchise Fees; Community Enhancement Fee. Effective the next collector billing cycle for customer services in Clayton following approval of this amended Agreement, and as consideration for this franchise granted by City for use of its public rights of way, and to partially reimburse the City for its costs in overseeing this agreement and for services and programs pertaining thereto, Collector shall pay to the City a total annual franchise fee of ten percent (10%) of Collector's gross receipts from customer services provided under this Agreement to residential, commercial and industrial customers within the City limits of Clayton. The franchise fee shall be paid quarterly within 30 thirty (30) days after the end of each calendar quarter and shall be based upon actual gross receipts of Collector for the proceeding calendar quarter.

As further consideration for the extension of the Term of the Agreement, Collector shall, by January 15, 2013, pay to the City a Community Enhancement Fee in the amount of \$100,000.

3. Section 6 of the Agreement is amended to insert the following new paragraph at the end of 6.A.:

Effective the next collector billing cycle for customer services in Clayton following approval of this amended Agreement, Collector will charge up to the maximum service rates as set forth in Exhibit A attached hereto. Commencing effective on January 1, 2013, and every January 1st thereafter during the Term, the Collector's maximum monthly collection rates inclusive of landfill fees shall be increased automatically by an amount equal to ninety percent (90%) of the percentage increase in the Consumer Price Index for the San Francisco Bay Area- All Urban Consumers (base year: 1982-84) during the most recent twelve month period prior to the January 1 rate adjustment date for which such data is available ("CPI"), subject to the following minimum guaranteed rate increase and the maximum rate cap: regardless of the actual applicable change in the CPI, Collector shall receive at least a one percent (1%) increase in its rates every January 1st and Contractor's rates shall not increase more than five percent (5%) at any such annual CPI adjustment.

4. Section 7 of the Agreement is replaced and amended to read in its entirety:

7. **Landfill Capacity.** Collector agrees to reserve and provide disposal capacity at the Keller Canyon Landfill for all Solid Waste and Yard Waste collected within the franchise area during the term of this Agreement.

5. Section 9 of the Agreement shall be amended to add a new sentence at the end as follows:

Any collection vehicles that are replaced during the term of the Agreement shall be replaced with collection vehicles that use Natural Gas fuel.

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

Agenda Date: 12-06-2016

Agenda Item: 3b

TUESDAY, November 15, 2016

1. **CALL TO ORDER & ROLL CALL** – The meeting was called to order at 7:01 p.m. by Mayor Geller in Hoyer Hall, Clayton Community Library, 6125 Clayton Road, Clayton, CA. Councilmembers present: Mayor Geller, Vice Mayor Diaz and Councilmembers Haydon, Pierce and Shuey. Councilmembers absent: None. Staff present: City Manager Gary Napper, City Attorney Mala Subramanian, Community Development Director Mindy Gentry, Assistant Planner Milan Sikela, and City Clerk/HR Manager Janet Brown.

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

3. **CONSENT CALENDAR**

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

- (a) Approved the minutes of the regular meeting of November 1, 2016.
- (b) Approved the Financial Demands and Obligations of the City.
- (c) Approved the City Council cancellation of its regularly scheduled Council meeting of January 3, 2017.
- (d) Adopted Resolution No. 53-2016 approving a one-time discretionary pay for performance award to the City Manager for calendar year 2016.

4. **RECOGNITIONS AND PRESENTATIONS**

- (a) Proclamation declaring November 17, 2016 as "Laurie Parker Day."

Mayor Geller presented Ms. Parker a Proclamation declaring November 17, 2016 as "Laurie Parker" day in Clayton in recognition of her regional selection as a Warren W. Eukel "Teacher of the Year" awardee. Ms. Parker thanked the Mayor for the acknowledgement and Proclamation.

- (b) Certificates of Recognition to "Do the Right Thing" public school students selected for exemplifying the character trait of "Respect" for October 2016.

Mayor Geller and Diablo View Middle School Principal Patti Bannister presented Certificates to students Xander Friedman, Alysa Pelosi, and Vince Pelosi.

5. **REPORTS**

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

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

Vice Mayor Diaz thanked the community for its support of his re-election and he is looking forward to another 4 years of serving the Clayton community. Mr. Diaz attended the One Hundred Club of Contra Costa County's 32nd Annual Dinner, the Contra Costa County Mayors' Conference, and the Veterans of Foreign Wars Post 1525 Veterans Day celebration in Concord.

Councilmember Pierce also thanked the community for its support of her re-election for another 4-year term on the Clayton City Council. Ms. Pierce attended the Contra Costa Transportation Board meeting, the Associated Bay Area Governments Executive Board meeting, the Metropolitan Transportation Commission meeting, the Transportation Partnership and Cooperation (TRANSPAC) meeting, four joint meetings of the Associated Bay Area Governments and Metropolitan Transportation Commission meeting, and the Contra Costa County Mayors' Conference.

Councilmember Shuey congratulated Jim Diaz, Julie Pierce, and Tuija Catalano for their election to the Clayton City Council. He also thanked Howard Geller for his service on the Clayton City Council.

Councilmember Haydon also congratulated Jim Diaz, Julie Pierce, and Tuija Catalano for their election to the Clayton City Council. He invited the community to attend the City Council meeting of December 6th where Howard Geller will be recognized for his service on the Clayton City Council. Mr. Haydon attended the Contra Costa County Mayors' Conference, the Clayton Bocce Summer League finals, and the Veterans of Foreign Wars Post 1525 Veteran's Day celebration in Concord.

Mayor Geller advised that he voted in the recent election and congratulated Jim Diaz, Julie Pierce, and Tuija Catalano for their election to the Clayton City Council. Mayor Geller attended the Contra Costa County Mayors' Conference hosted by Clayton in November, the Veterans of Foreign Wars Post 1525 Veteran's Day celebration in Concord, and the Chapter 20 Blue Star Moms granite memorial dedication at Concord High School honoring former students killed in action during Operation Iraqi Freedom and Operation Enduring Freedom. Mayor Geller also advised he will be in attendance at the Warren W. Eukel Teacher Trust award dinner where Laurie Parker will be recognized for her accomplishments.

- (e) Other – None.

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

7. **PUBLIC HEARINGS**

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 470 updating the *Clayton Municipal Code*, Title 17 Zoning, Section 17.80 – Water Conserving Landscape Guidelines, concerning City Water Efficient Landscaping standards and regulations, per state mandate.

Community Development Director Mindy Gentry presented the staff report noting back in September 2010 the City adopted an updated water conservation ordinance in response to the State Water Conservation in Landscaping Act of 2006 (AB 1881). The state law required all new and rehabilitated landscapes be designed and installed to meet the latest best practices for water efficiency. All cities and counties in California were required to adopt the state's model ordinance as written or develop their own ordinance that is at least as effective in conserving water. Clayton, in conjunction with other area cities, adopted an ordinance of its own. Generally, the thresholds established by the State applied to irrigated landscaped areas of 2,500 square feet or greater for developer-initiated projects and public projects, and 5,000 square feet or greater for owner-initiated single-family residential projects.

Governor Jerry Brown then proclaimed a State of Emergency throughout the State of California due to severe drought conditions and issued Executive Order B-29-15 calling for further revision of its Model Ordinance to increase water efficiency standards for new retrofitted landscapes, graywater usage, onsite storm water capture, and limiting the portion of landscapes that could be covered in turf. There is also jurisdictional requirement to report on the implementation and enforcement of local ordinances.

Ms. Gentry reviewed the significant proposed changes to Clayton's Ordinance by establishing lower thresholds on new landscaped areas associated with commercial, multifamily and single family projects from 2,500 square feet to 500 square feet, and on new owner-directed single family projects from 5,000 square feet to 500 square feet and rehabilitated owner-directed single family projects from 5,000 square feet to 2,500 square feet. She also indicated graywater irrigation systems are now allowed. Local jurisdictions are required to report on the implementation and enforcement of its local ordinance, noting the reduction of maximum-applied water allowances reduce the usage of high water-consumption plants such as turf. New landscape design requirements do not allow for more than 25% of the landscape used for residential turf and no turf is allowed in non-residential landscape areas, medians, or in areas narrower than 10 feet; compost must be incorporated in the soil prior to planting at a rate of 4 yards per 1,000 square feet and mulch depth has increased from 2 inches to 3 inches. Ms. Gentry advised the new laws incorporate irrigation requirements for dedicated water meters or submeters, pressure regulators, flow sensors that detect high flow, and master shut off valves in case of failures.

Councilmember Pierce inquired who is designated as the Landscape Auditor? Is that a staff member or somebody else?

Ms. Gentry responded the designated Landscape Auditor depends on the project. If it is a City-initiated project staff would have the ability to do that; if it is a developer-initiated project or single family homeowner, they must possibly hire someone, if it is warranted, who is certified as a Landscape Auditor to perform the actual audit.

Councilmember Pierce inquired if the City will charge a fee for compliance to make sure the Audit is completed? Ms. Gentry advised the homeowner must provide the City with that information. Councilmember Pierce asked about the Public Education and Signage water conservation requirement on model homes: will that be permanent or temporary signage? Ms. Gentry advised the intent is to have the signage displayed during the sale of the homes only, not permanent signage.

Mayor Geller opened the Public Hearing for comments; no public comments were offered, and Mayor Geller closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to have the City Clerk read Ordinance No. 470, by title and number only and waive further reading. (Passed; 5-0 vote).

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

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to approve Ordinance No. 470 for Introduction with the finding the action will not result in a significant adverse impact on the environment. (Passed; 5-0 vote).

- (b) Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022):
- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
 - 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
 - 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and
 - 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).

City Assistant Planner Milan Sikela presented the staff report noting several entitlements are required for approval of this project including an Environmental Review, General Plan Amendment, Rezone, Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit. Mr. Sikela provided a description of the site location with Clayton Road bordering the project site on the south and Southbrook Drive bordering the project site on the north; he further gave a brief description of the buildings on the existing parcel. Mr. Sikela then outlined the steps needed to complete the Environmental Review including the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared in accordance with the California Environmental Quality Act (CEQA). The General Plan Amendment is a related request to change the undeveloped land use designation of 0.41 acres from Institutional Density (ID) to Single Family Medium Density (MD) to accommodate two proposed single-family residential lots. The Rezone will change the entire project site from Agricultural (A) District to Planned Development (PD) District to allow a mixed use Planned Development project consisting of the existing church and the 2 proposed single-family parcels.

The Development Plan will establish the development standards for the site, thereby allowing the proposed uses on the site. The Tentative Parcel Map will subdivide the existing 2.77-acre church property into 3 parcels consisting of the existing church parcel and, if approved, the 2 single family residential lots. The Site Plan Review Permit allows the review of the architecture and design of the 2 proposed residences, as well as the landscaping, fencing and retaining walls. The Tree Removal Permit allows the removal of 7 of the existing 10 trees to be replaced with newly planted trees, shrubs and groundcover.

Mr. Sikela reviewed the detailed maps of the proposed sites, the proposed 2 single-family residences, the elevation map, the proposed exterior single-family residences, the proposed floor plans of the residences, the house colors and materials, a photo of the

current site and a photo of the site with the 2 proposed single-family residences. Mr. Sikela also advised staff has provided a condition that trees shall be planted a minimum of 10 feet away from water, sewer, and storm drain lines. He further advised the City Engineer has inserted written conditions addressing safety issues relating to line-of-sight for vehicles entering and exiting the shared driveway and public right-of-way improvements. Mr. Sikela also received written determinations the proposed project complies with Contra Costa County Fire Protection District standards; the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan is not applicable to this project. And finally, he noted staff received one email expressing opposition to the project as a public comment.

Councilmember Pierce asked about the stormwater plans, knowing that C3 requires bio-retention areas and she was unable to find them on the map. Mr. Sikela advised the bio-retention areas are found on the upper right and left corners in the front of the lots down by Southbrook Drive as water will naturally drain to the north of the lots. The developer will have a layer of percolation materials laid down to prevent the water from flowing offsite.

Councilmember Haydon asked about the height of the retaining wall in the back of the property. Mr. Sikela responded the wall is 6' to 6 ½' tall at its highest point in the middle of the back, then it tapers downward.

Councilmember Haydon also asked about the public comment email staff received concerned with potential traffic impact to the neighborhood. Mr. Sikela advised the potential traffic impact was analyzed in the environmental documents and City Engineer is working with the applicant to comply with line-of-sight regulations, which standard is 12' back from the edge of the driveway.

Mayor Geller inquired about the 2' fence at the back of the lot bordering the church parking lot; he thought it should be taller for privacy and security reasons between the adjacent property owners. He also asked if there is enough room in the extra two parking spots at the end of the shared driveway to park and turn around a vehicle? Mr. Sikela responded at the Council's pleasure a condition can be added to increase the height of the fence bordering the church parking lot. He added there still needs discussion to occur between the applicant and the Fire Protection District regarding the private driveway bulb as there was some confusion as to the area being a shared residential driveway and not a fire access road.

Councilmember Pierce suggested a possible condition of keeping the area between the garage doors clear as these requirements are a part of areas of Oakhurst with shared driveways. Councilmember Shuey recommended the City leave that matter to be worked out between the property owners.

Mayor Geller opened the Public Hearing for comments.

Vidal Elzam, 5550 Southbrook Circle, inquired which trees are designated for removal? Mr. Sikela advised the three Valley Oak trees will remain on the property.

Mr. Elzam asked about the slope; since grading will need to occur, will the applicant take into account impacts to the adjoining properties? He also indicated there is a lot of wildlife on those lands presently and inquired if that wildlife will be relocated? Mayor Geller responded usually the wildlife will naturally re-locate when grading occurs.

Joe Rhodes, 33 Marquette Court, expressed concerns regarding the second story window location, noting the line of sight will eliminate the privacy of his backyard, bedroom, living room and office. Councilmember Pierce offered a possible solution of raising the windows above eye level so the surrounding neighbors would still have their

privacy. Such good neighbor features are incorporated all the time and she would like it added to the condition of approval on both sites. Councilmember Shuey inquired if such a condition was acceptable to the developer.

Armand Butticci, developer of the proposed project, advised he met with the neighbors regarding this project about 2 ½ years ago and recalls there was a different window proposed. Mr. Butticci advised he can take another look at the window and other options such as adding a tree for privacy purposes; his concern is restricting the size and height of a window in that large open room would detract from its overall ambience. Mr. Butticci indicated he will work with the neighbors to come up with a solution.

Mayor Geller closed the Public Hearing. City Council discussion ensued regarding site and design matters noted; there was general consensus with giving the developer and the existing neighbors additional time to work out agreeable solutions to the raised issues.

Mayor Geller re-opened the Public Hearing.

It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to continue the Public Hearing to the next regular City Council meeting of Tuesday, December 6, 2016. (Passed; 5-0 vote).

8. ACTION ITEMS – None.

9. COUNCIL ITEMS – None.

10. CLOSED SESSION

Mayor Geller announced the City Council will adjourn into a closed session to discuss the subject matter listed below [8:27 p.m.]:

- (a) *Government Code Section 54956.9(d)(2)* – Significant Exposure to Litigation.
Conference with Legal Counsel: Anticipated Litigation (1 case).

Report out from Closed Session (8:33 p.m.)

Mayor Geller reported the City Council received information from its legal counsel regarding this matter but no reportable action was taken.

11. ACTION ITEM

- (a) Consider authorizing the Mayor to execute an amendment to the Oak Creek Canyon Tolling Agreement between the City of Clayton and West Coast Homebuilders to extend the limitations period to file a legal challenge.

City Attorney Mala Subramanian advised a request was received from West Coast Home Builders asking for a time extension for another six months to the Tolling Agreement which is set to expire tomorrow. The developer submitted an application pursuant to the Tolling Agreement but it has not been deemed complete by the City; they believe they can submit additional surveys and information within the next sixty days to deem their application as complete and considered within the proposed 180 day time

extension period. The request is to have the City Council approve and authorize the Mayor to sign the 6-month time extension of the Tolling Agreement.

Mayor Geller opened the matter to receive public comments.

Kevin English, Advance Planner for West Coast Home Builders, advised he is working with Clayton staff in regards to the required supplemental application documents and Ms. Gentry advised she felt they were enough documents submitted to keep the process going forward. One of the additional documents requiring submittal is the planning surveyor report which documents the types of wildlife (i.e., critters and insects) which must be avoided for impact during certain seasons.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve extending the existing Tolling Agreement for an additional six months as requested by West Coast Home Builders, and authorize the Mayor to sign on behalf of the City. (Passed; 5-0 vote).

12. **ADJOURNMENT**– on call by Mayor Geller, the City Council adjourned its meeting at 8:38 p.m.

The next regularly scheduled meeting of the City Council will be December 6, 2016.

#

Respectfully submitted,

Janet Brown, City Clerk

APPROVED BY THE CLAYTON CITY COUNCIL

Howard Geller, Mayor

#



Agenda Date 12/6/2016

Agenda Item: 3c

STAFF REPORT

Approved: 

Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Kevin Mizuno, FINANCE MANAGER

DATE: 12/06/16

SUBJECT: INVOICE SUMMARY

RECOMMENDATION:

Approve the following invoices:

12/02/2016	Cash Requirements	\$ 393,073.01
11/22/2016	ADP Payroll week 47, PPE 11/20/2016	\$ 81,777.23

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			<u>Total \$474,850.24</u>
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Attachments:
 Cash Requirements Report dated 12/2/2016 (6 pages)
 ADP payroll report for week 47 (1 page)

City of Clayton

Cash Requirer ts Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
ADP, LLC								
ADP, LLC	12/6/2016	12/6/2016	482974440	Payroll fees PPE 11/6/16	\$167.61	\$0.00		\$167.61
ADP, LLC	12/6/2016	12/6/2016	483761852	Payroll fees PPE 11/20/16	\$149.55	\$0.00		\$149.55
				<i>Totals for ADP, LLC:</i>	<u>\$317.16</u>	<u>\$0.00</u>		<u>\$317.16</u>
All City Management Services, Inc.								
All City Management Services, Inc.	12/6/2016	12/6/2016	45718	School crossing guard services 10/23/16-11/5/	\$509.10	\$0.00		\$509.10
				<i>Totals for All City Management Services, Inc.:</i>	<u>\$509.10</u>	<u>\$0.00</u>		<u>\$509.10</u>
AT&T (CalNet3)								
AT&T (CalNet3)	12/6/2016	12/6/2016	8909978	Phone service 10/22/16-11/21/16	\$1,749.55	\$0.00		\$1,749.55
				<i>Totals for AT&T (CalNet3):</i>	<u>\$1,749.55</u>	<u>\$0.00</u>		<u>\$1,749.55</u>
Bay Area Barricade Serv.								
Bay Area Barricade Serv.	12/6/2016	12/6/2016	0341225-IN	Seasonal & volunteer lime vests	\$865.83	\$0.00		\$865.83
Bay Area Barricade Serv.	12/6/2016	12/6/2016	0341226-IN	Vests, shirts, brooms	\$719.56	\$0.00		\$719.56
				<i>Totals for Bay Area Barricade Serv.:</i>	<u>\$1,585.39</u>	<u>\$0.00</u>		<u>\$1,585.39</u>
Best Best & Kreiger LLP								
Best Best & Kreiger LLP	12/6/2016	12/6/2016	783917	October Legal Retainer	\$8,500.00	\$0.00		\$8,500.00
Best Best & Kreiger LLP	12/6/2016	12/6/2016	783918	Legal services, October -Adv. Guerra-Pitchess	\$32.00	\$0.00		\$32.00
Best Best & Kreiger LLP	12/6/2016	12/6/2016	783919	Legal services, October, Successor Housing A	\$3,540.00	\$0.00		\$3,540.00
Best Best & Kreiger LLP	12/6/2016	12/6/2016	783920	Legal services, October, Property Damage Rec	\$118.00	\$0.00		\$118.00
				<i>Totals for Best Best & Kreiger LLP:</i>	<u>\$12,190.00</u>	<u>\$0.00</u>		<u>\$12,190.00</u>
CalPERS Health								
CalPERS Health	12/6/2016	12/6/2016	2163	December Medical	\$32,236.95	\$0.00		\$32,236.95
				<i>Totals for CalPERS Health:</i>	<u>\$32,236.95</u>	<u>\$0.00</u>		<u>\$32,236.95</u>
CalPERS Retirement								
CalPERS Retirement	12/6/2016	12/6/2016	112016	Retirement PPE 11/20/16	\$13,899.26	\$0.00		\$13,899.26
				<i>Totals for CalPERS Retirement:</i>	<u>\$13,899.26</u>	<u>\$0.00</u>		<u>\$13,899.26</u>
Caltronics Business Systems, Inc								
Caltronics Business Systems, Inc	12/6/2016	12/6/2016	2145015	Copier contract 10/17/16-11/16/16	\$498.39	\$0.00		\$498.39
				<i>Totals for Caltronics Business Systems, Inc:</i>	<u>\$498.39</u>	<u>\$0.00</u>		<u>\$498.39</u>
CCWD								
CCWD	12/6/2016	12/6/2016	E302583	Irrigation 9/14/16-11/10/16	\$187.84	\$0.00		\$187.84
				<i>Totals for CCWD:</i>	<u>\$187.84</u>	<u>\$0.00</u>		<u>\$187.84</u>
City of Concord								
City of Concord	12/6/2016	12/6/2016	54954	Vehicle Maintenance #1734	\$784.87	\$0.00		\$784.87
City of Concord	12/6/2016	12/6/2016	54961	Printing of the 2016 CAFR	\$407.20	\$0.00		\$407.20
				<i>Totals for City of Concord:</i>	<u>\$1,192.07</u>	<u>\$0.00</u>		<u>\$1,192.07</u>
City of Walnut Creek								

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
City of Walnut Creek	12/6/2016	12/6/2016	2017 Dues	2017 Annual pre-paid lunch dues, Public Man	\$180.00	\$0.00		\$180.00
				<i>Totals for City of Walnut Creek:</i>	<i>\$180.00</i>	<i>\$0.00</i>		<i>\$180.00</i>
CLEARs, Inc.								
CLEARs, Inc.	12/6/2016	12/6/2016	Dues	Active membership dues	\$50.00	\$0.00		\$50.00
				<i>Totals for CLEARs, Inc.:</i>	<i>\$50.00</i>	<i>\$0.00</i>		<i>\$50.00</i>
Rebecca Close								
Rebecca Close	12/6/2016	12/6/2016	11/12/16	Deposit refund for Gazebo rental 11/12/16	\$250.00	\$0.00		\$250.00
				<i>Totals for Rebecca Close:</i>	<i>\$250.00</i>	<i>\$0.00</i>		<i>\$250.00</i>
Concord Garden Equipment								
Concord Garden Equipment	12/6/2016	12/6/2016	535472	Service on Stihl chainsaw	\$145.37	\$0.00		\$145.37
Concord Garden Equipment	12/6/2016	12/6/2016	535471	Service for Shindaiwa	\$276.94	\$0.00		\$276.94
				<i>Totals for Concord Garden Equipment:</i>	<i>\$422.31</i>	<i>\$0.00</i>		<i>\$422.31</i>
Concord Uniforms								
Concord Uniforms	12/6/2016	12/6/2016	11709	Armor for Enea	\$1,057.25	\$0.00		\$1,057.25
Concord Uniforms	12/6/2016	12/6/2016	11705	Armor for Shaw	\$1,057.25	\$0.00		\$1,057.25
Concord Uniforms	12/6/2016	12/6/2016	11708	Armor for Pike	\$1,057.25	\$0.00		\$1,057.25
				<i>Totals for Concord Uniforms:</i>	<i>\$3,171.75</i>	<i>\$0.00</i>		<i>\$3,171.75</i>
Contra Costa County Public Works Dept								
Contra Costa County Public Works Dept	12/6/2016	12/6/2016	700776	September Traffic signal maintenance	\$2,534.85	\$0.00		\$2,534.85
Contra Costa County Public Works Dept	12/6/2016	12/6/2016	700800	October Traffic signal maintenance	\$168.21	\$0.00		\$168.21
				<i>Totals for Contra Costa County Public Works Dept:</i>	<i>\$2,703.06</i>	<i>\$0.00</i>		<i>\$2,703.06</i>
Contra Costa County Sheriff - Forensic Svc Div (Lab)								
Contra Costa County Sheriff - Forensic S	12/6/2016	12/6/2016	CLPD-1610	October Alcohol breath tests	\$200.00	\$0.00		\$200.00
				<i>Totals for Contra Costa County Sheriff - Forensic Svc Div (Lab):</i>	<i>\$200.00</i>	<i>\$0.00</i>		<i>\$200.00</i>
CR Fireline, Inc								
CR Fireline, Inc	12/6/2016	12/6/2016	107075	Service call to replace batteries at City Hall	\$775.00	\$0.00		\$775.00
				<i>Totals for CR Fireline, Inc:</i>	<i>\$775.00</i>	<i>\$0.00</i>		<i>\$775.00</i>
CSI Forensic Supply								
CSI Forensic Supply	12/6/2016	12/6/2016	57205A	Evidence supplies	\$313.57	\$0.00		\$313.57
				<i>Totals for CSI Forensic Supply:</i>	<i>\$313.57</i>	<i>\$0.00</i>		<i>\$313.57</i>
De Lage Landen Financial Services, Inc.								
De Lage Landen Financial Services, Inc.	12/6/2016	12/6/2016	52329521	October Copier lease	\$342.17	\$0.00		\$342.17
				<i>Totals for De Lage Landen Financial Services, Inc.:</i>	<i>\$342.17</i>	<i>\$0.00</i>		<i>\$342.17</i>
Dig & Demo								
Dig & Demo	12/6/2016	12/6/2016	CAP0223	Deposit refund for 27 Petar Ct	\$1,880.69	\$0.00		\$1,880.69
				<i>Totals for Dig & Demo:</i>	<i>\$1,880.69</i>	<i>\$0.00</i>		<i>\$1,880.69</i>

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Landscape Pest Control Services, Inc	12/6/2016	12/6/2016	94715	October Gopher maintenance	\$700.00	\$0.00		\$700.00
				<i>Totals for Landscape Pest Control Services, Inc:</i>	<i>\$700.00</i>	<i>\$0.00</i>		<i>\$700.00</i>
LarryLogic Productions								
LarryLogic Productions	12/6/2016	12/6/2016	1618	City Council meeting production 11/15/16	\$325.00	\$0.00		\$325.00
				<i>Totals for LarryLogic Productions:</i>	<i>\$325.00</i>	<i>\$0.00</i>		<i>\$325.00</i>
Ray Metrock								
Ray Metrock	12/6/2016	12/6/2016	042217	Cancellation refund for Endeavor Hall	\$375.00	\$0.00		\$375.00
				<i>Totals for Ray Metrock:</i>	<i>\$375.00</i>	<i>\$0.00</i>		<i>\$375.00</i>
MPA								
MPA	12/6/2016	12/6/2016	December	December Life/LTD	\$1,729.27	\$0.00		\$1,729.27
				<i>Totals for MPA:</i>	<i>\$1,729.27</i>	<i>\$0.00</i>		<i>\$1,729.27</i>
NBS Govt. Finance Group								
NBS Govt. Finance Group	12/6/2016	12/6/2016	111600061	Continuing disclosure reporting services 2007	\$1,803.02	\$0.00		\$1,803.02
				<i>Totals for NBS Govt. Finance Group:</i>	<i>\$1,803.02</i>	<i>\$0.00</i>		<i>\$1,803.02</i>
Neopost (add postage)								
Neopost (add postage)	12/6/2016	12/6/2016	111016	Postage added 11/10/16	\$300.00	\$0.00		\$300.00
				<i>Totals for Neopost (add postage):</i>	<i>\$300.00</i>	<i>\$0.00</i>		<i>\$300.00</i>
Neopost Northwest								
Neopost Northwest	12/6/2016	12/6/2016	N6225825	Postage meter lease 12/7/16-1/6/17	\$158.20	\$0.00		\$158.20
				<i>Totals for Neopost Northwest:</i>	<i>\$158.20</i>	<i>\$0.00</i>		<i>\$158.20</i>
Todd Oliver								
Todd Oliver	12/6/2016	12/6/2016	BP135-15	C&D refund for 9 Rolen Ct	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Todd Oliver:</i>	<i>\$2,000.00</i>	<i>\$0.00</i>		<i>\$2,000.00</i>
Pacific Telemangement Svc								
Pacific Telemangement Svc	12/6/2016	12/6/2016	883514	December courtyard payphone	\$73.00	\$0.00		\$73.00
				<i>Totals for Pacific Telemangement Svc:</i>	<i>\$73.00</i>	<i>\$0.00</i>		<i>\$73.00</i>
PERMCO, Inc.								
PERMCO, Inc.	12/6/2016	12/6/2016	10658	General Engineering services 11/5/16-11/25/16	\$4,080.00	\$0.00		\$4,080.00
PERMCO, Inc.	12/6/2016	12/6/2016	10659	SW inspection- Flora Square	\$76.25	\$0.00		\$76.25
PERMCO, Inc.	12/6/2016	12/6/2016	10660	CAP Inspections 11/5/16-11/25/16	\$456.50	\$0.00		\$456.50
PERMCO, Inc.	12/6/2016	12/6/2016	10661	Prep final plans/bidding 11/5/16-11/25/16	\$300.00	\$0.00		\$300.00
PERMCO, Inc.	12/6/2016	12/6/2016	10662	Prep final plans/bidding 11/5/16-11/25/16	\$1,050.00	\$0.00		\$1,050.00
PERMCO, Inc.	12/6/2016	12/6/2016	10665	Oak Creek Canyon, new submittal	\$150.00	\$0.00		\$150.00
PERMCO, Inc.	12/6/2016	12/6/2016	10666	Grand Jury response #2	\$116.75	\$0.00		\$116.75
PERMCO, Inc.	12/6/2016	12/6/2016	10663	Prep bid pkg, Pine Hollow Rd	\$1,863.50	\$0.00		\$1,863.50
				<i>Totals for PERMCO, Inc.:</i>	<i>\$8,093.00</i>	<i>\$0.00</i>		<i>\$8,093.00</i>
PG&E								

City of Clayton

Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
PG&E	12/6/2016	12/6/2016	11/16/16	Electricity 10/18/16-11/16/16	\$3,412.50	\$0.00		\$3,412.50
PG&E	12/6/2016	12/6/2016	111516	Electricity/Gas 10/14/16-11/14/16	\$18,570.23	\$0.00		\$18,570.23
				<i>Totals for PG&E:</i>	<u>\$21,982.73</u>	<u>\$0.00</u>		<u>\$21,982.73</u>
pmsigns								
pmsigns	12/6/2016	12/6/2016	18232	Sign for CCP/Gym	\$217.00	\$0.00		\$217.00
				<i>Totals for pmsigns:</i>	<u>\$217.00</u>	<u>\$0.00</u>		<u>\$217.00</u>
Pond M Solutions								
Pond M Solutions	12/6/2016	12/6/2016	52	Fountain maintenance	\$650.00	\$0.00		\$650.00
				<i>Totals for Pond M Solutions:</i>	<u>\$650.00</u>	<u>\$0.00</u>		<u>\$650.00</u>
Psychological Resources Inc.								
Psychological Resources Inc.	12/6/2016	12/6/2016	7179	Critical Incident Debriefing	\$730.00	\$0.00		\$730.00
				<i>Totals for Psychological Resources Inc.:</i>	<u>\$730.00</u>	<u>\$0.00</u>		<u>\$730.00</u>
Raney Planning & Management, Inc.								
Raney Planning & Management, Inc.	12/6/2016	12/6/2016	1607E-7	October Labor - Prepare MMRP	\$412.50	\$0.00		\$412.50
				<i>Totals for Raney Planning & Management, Inc.:</i>	<u>\$412.50</u>	<u>\$0.00</u>		<u>\$412.50</u>
Reliable Automotive, LLC								
Reliable Automotive, LLC	12/6/2016	12/6/2016	21129	Service on 05 Ranger	\$446.63	\$0.00		\$446.63
				<i>Totals for Reliable Automotive, LLC:</i>	<u>\$446.63</u>	<u>\$0.00</u>		<u>\$446.63</u>
Riso Products of Sacramento								
Riso Products of Sacramento	12/6/2016	12/6/2016	163842	Copier contract 11/18/16-12/17/16	\$94.86	\$0.00		\$94.86
				<i>Totals for Riso Products of Sacramento:</i>	<u>\$94.86</u>	<u>\$0.00</u>		<u>\$94.86</u>
Roto-Rooter Sewer/Drain Service								
Roto-Rooter Sewer/Drain Service	12/6/2016	12/6/2016	K-831-16	5 Hours Vac truck	\$2,035.00	\$0.00		\$2,035.00
				<i>Totals for Roto-Rooter Sewer/Drain Service:</i>	<u>\$2,035.00</u>	<u>\$0.00</u>		<u>\$2,035.00</u>
Stericycle Inc								
Stericycle Inc	12/6/2016	12/6/2016	3003650409	December Medical waste service	\$96.07	\$0.00		\$96.07
				<i>Totals for Stericycle Inc:</i>	<u>\$96.07</u>	<u>\$0.00</u>		<u>\$96.07</u>
Swan Pools								
Swan Pools	12/6/2016	12/6/2016	cap0147	C&D refund for 51 Mt Olympus PI	\$2,000.00	\$0.00		\$2,000.00
				<i>Totals for Swan Pools:</i>	<u>\$2,000.00</u>	<u>\$0.00</u>		<u>\$2,000.00</u>
Uretek USA, Inc								
Uretek USA, Inc	12/6/2016	12/6/2016	18824	Work on Clayton Rd & Oakhurst Dr	\$247,243.91	\$0.00		\$247,243.91
				<i>Totals for Uretek USA, Inc:</i>	<u>\$247,243.91</u>	<u>\$0.00</u>		<u>\$247,243.91</u>
Verizon Wireless								
Verizon Wireless	12/6/2016	12/6/2016	9774555463	October cell service	\$271.11	\$0.00		\$271.11
				<i>Totals for Verizon Wireless:</i>	<u>\$271.11</u>	<u>\$0.00</u>		<u>\$271.11</u>

City of Clayton Cash Requirements Report

Vendor Name	Due Date	Invoice Date	Invoice Number	Invoice Description	Invoice Balance	Potential Discount	Discount Expires On	Net Amount Due
Workers.com								
Workers.com	12/6/2016	12/6/2016	117195	Seasonal workers week end 11/6/16	\$3,178.30	\$0.00		\$3,178.30
Workers.com	12/6/2016	12/6/2016	117117	Seasonal workers week end 10/30/16	\$1,886.56	\$0.00		\$1,886.56
				<i>Totals for Workers.com:</i>	<u>\$5,064.86</u>	<u>\$0.00</u>		<u>\$5,064.86</u>
Zee Medical Company								
Zee Medical Company	12/6/2016	12/6/2016	724601426	Update first aid cabinet	\$48.43	\$0.00		\$48.43
				<i>Totals for Zee Medical Company:</i>	<u>\$48.43</u>	<u>\$0.00</u>		<u>\$48.43</u>
				GRAND TOTALS:	\$393,073.01	\$0.00		\$393,073.01

WEEK 47 BATCH 6771 29 PAYS
0 Employees With Overflow Statement
0 Overflow Statement 1 Total Statement
Tot Cks/Vchrs:00000000029 Tot Docs in all:00000000032
First No. Last No. Total
Checks: ADPCHECK ADPCHECK 00000000004
chers: 00000470001 00000470025 00000000025

Earnings Statement

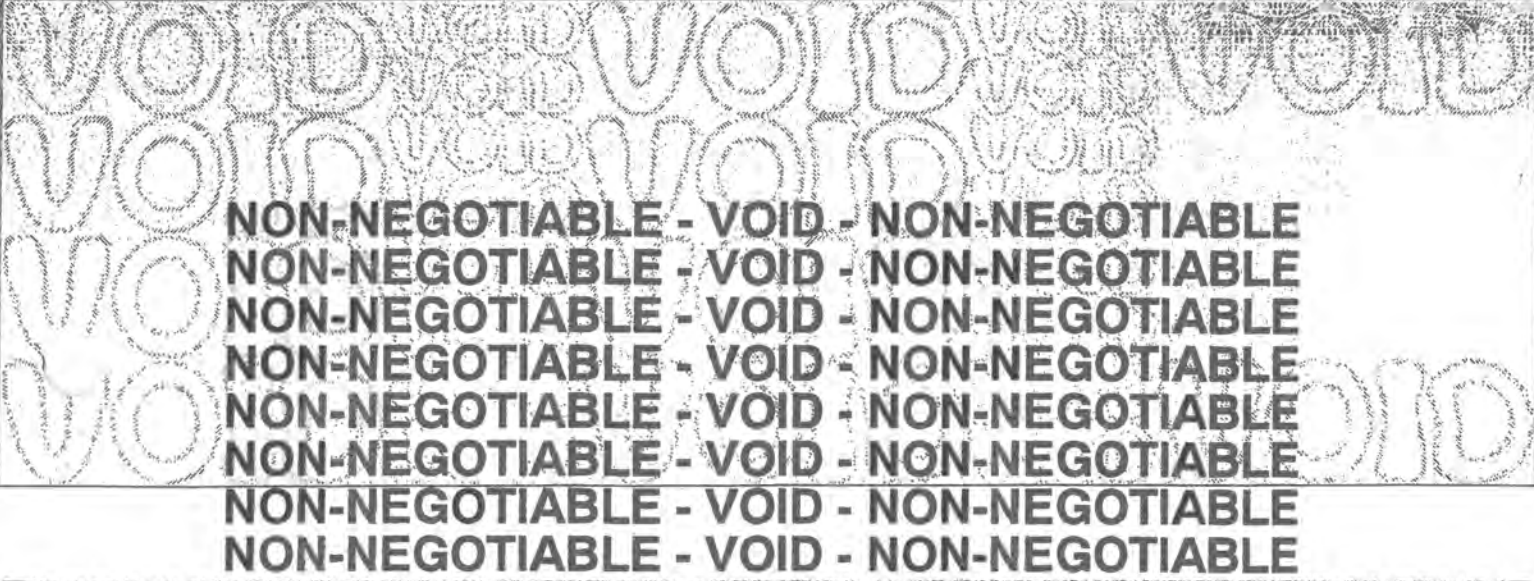
Z7L TOTAL DOCUMENT
CITY OF CLAYTON
LOCATION 0001

CHECK STUFFING, RECONCILIATION

81777.23 GROSS
58188.84 NET PAY (INCLUDING ALL DEPOSITS)
10344.47 FEDERAL TAX
31.08 SOCIAL SECURITY
1130.70 MEDICARE
60.57 MEDICARE SURTAX
.00 SUI TAX
3319.35 STATE TAX
.00 LOCAL TAX
63542.64 DEDUCTIONS
3348.42 NET CHECK

COMPANY CODE Z7L
CITY OF CLAYTON
TOTAL DOCUMENT
LOCATION 0001

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



NON-NEGOTIABLE - VOID - NON-NEGOTIABLE
NON-NEGOTIABLE - VOID - NON-NEGOTIABLE
NON-NEGOTIABLE - VOID - NON-NEGOTIABLE
NON-NEGOTIABLE - VOID - NON-NEGOTIABLE
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NON-NEGOTIABLE - VOID - NON-NEGOTIABLE
NON-NEGOTIABLE - VOID - NON-NEGOTIABLE

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



Agenda Date: 12-06-2016

Agenda Item: 3d

STAFF REPORT

Approved: 
Gary A. Napper
City Manager

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: RICK ANGRISANI, CITY ENGINEER

DATE: DECEMBER 6, 2016

SUBJECT: CONSIDERATION OF A RESOLUTION AWARDING A CONTRACT TO INTERMOUNTAIN SLURRY SEAL, INC., IN THE AMOUNT OF \$556,203.97 FOR THE CONSTRUCTION OF THE SURFACE TREATMENT PORTION OF THE 2016 ARTERIAL REHABILITATION PROJECT (CIP PROJECT NO. 10437) PLUS THE SURFACE TREATMENT OF THE PRIVATE PORTION OF OAK STREET.

RECOMMENDATION

By minute motion, adopt a Resolution awarding a lowest bid construction contract to Intermountain Slurry Seal, Inc., ("Intermountain") in the amount of \$556,203.97 and transferring \$12,000 from the Oak Street Permanent Road Division maintenance account into the 2016 Arterial Rehabilitation Project (CIP Project No. 10437) fund.

BACKGROUND

With the polymer fill pavement lifting portion of the arterial road work nearly complete, staff advertised for bids for the surface treatment portion of the 2016 Arterial Rehabilitation Project ("Project"). Wanting to perform similar roadway work on the private portion of Oak Street for several years, staff included that work as an additional bid item in the bid.

On November 9th, staff opened bids for the project. Three bids were received as follows:

#	Bidder*	2016 Arterial Rehabilitation	Oak Street	Total Bid
1	Intermountain Slurry Seal Inc.	\$545,454.00	\$10,747.97	\$556,201.97
2	Pavement Coatings Co.	\$652,072.93	\$42,595.05	\$694,667.98
3	Telfer Pavement Technologies, LLC	\$726,231.42	\$17,465.94	\$743,697.36

Note: Low bidder determined by base bid (w/o Oak Street).

Date: December 6, 2016

Page 2 of 2

The low bid was significantly lower than anticipated (originally estimated at \$1,000,000). The available funds from our Measure J grant (\$1,200,000) will easily cover the entire cost of the work and will allow us to expand the project limits to the east side of Diablo Parkway on Marsh Creek Road and further expand the limits of base failure repairs which we originally tried to minimize in order to stay within budget. The bid for the Oak Street work will be covered by existing funds assessed and set-aside in the Permanent Road Division account (balance of approximately \$23,800 available).

Staff has already spoken to CCTA and confirmed the City will be allowed to utilize remaining funds from this grant on another arterial roadway project (e.g. Pine Hollow Road).

PROJECT SCHEDULE

Assuming the City Council awards the contract at this meeting as recommended, staff anticipates construction commencing (barring weather) by the middle of January and being completed by the end of March 2017.

FISCAL IMPACT

Based on the low bid received, the project will be within the previously approved budget and will have no impact on the City's General Fund.

CONCLUSION

Staff recommends the City Council approve the attached Resolution awarding a lowest bid construction contract to Intermountain Slurry Seal, Inc. and authorize the transfer of \$12,000 from the Oak Street Permanent Road Division maintenance fund to fully fund this project (CIP No. 10437).

Attachments: 1) Resolution
 2) Bids Results
 3) Intermountain Slurry Seal, Inc. Contract

RESOLUTION NO. - 2016

A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A LOW-BID CONTRACT IN THE AMOUNT OF \$556,201.97 WITH INTERMOUNTAIN SLURRY SEAL, INC. FOR THE SURFACE TREATMENT PORTION OF THE 2016 ARTERIAL REHABILITATION PROJECT (CIP PROJECT NO. 10437) PLUS THE SURFACE TREATMENT OF THE PRIVATE PORTION OF OAK STREET.

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

WHEREAS, the City Council approved a Capital Improvement Program (CIP) for FY 2015/16 which included a 2016 Arterial Rehabilitation Project (No. 10437); and

WHEREAS, the City is also obligated to perform a surface treatment project for the private portion of Oak Street in accordance with the agreement with the private property owners in the Oak Permanent Road Division;

WHEREAS, the City Engineer prepared plans and specifications and advertised an invitation for bids as required by the Public Contract Code; and

WHEREAS, sealed bids were publicly opened on November 9, 2016; and

WHEREAS, Intermountain Slurry Seal, Inc. submitted the low bid of \$556,201.97; and

WHEREAS, the City Engineer has reviewed Intermountain Slurry Seal, Inc.'s bid, found it to be responsive in all respects, and has recommended awarding the contract to Intermountain Slurry Seal, Inc.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Clayton, California does hereby name Intermountain Slurry Seal, Inc., as the responsible low bidder, and authorizes the City Manager to execute the contract for the 2016 Arterial Rehabilitation Project (CIP Project No. 10437) and the Surface Treatment of the private portion of Oak Street on behalf of the City. The City Council further authorizes the transfer of \$12,000 from the Oak Street Permanent Road Division maintenance fund to CIP Project No. 10437.

PASSED, APPROVED and ADOPTED by the City Council of Clayton, California at a regular public meeting thereof held on the 6th day of December 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

(TBD) , Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton at a regular meeting held on December 6, 2016.

Janet Brown, City Clerk

CITY OF CLAYTON				Intermountain Slurry Seal		Telfer Pavement Technologies, LLC		Pavement Coatings Co.	
Surface Treatment Portion of the 2016 Arterial Rehabilitation				9062 Union Park Way		4522 Parker Ave., Ste. 350		2290 E. Main Street	
Bid Opening: Wed, November 9, 2016 & 2:30 p.m.				Elk Grove, CA 95624		McClellan, CA 9562		Woodland, CA 95776	
CONTRACTORS BID TOTALS									
No.	Item Description	Quantity	Unit	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount
2016 Arterial Rehabilitation Project CIP# 10437									
1	Mobilization	1	LS	\$ 40,037.16	\$ 40,037.16	\$ 29,000.00	\$ 29,000.00	\$ 44,001.59	\$ 44,001.59
2	Project Funding Signs	3	EA	\$ 1,500.00	\$ 4,500.00	\$ 1,850.00	\$ 5,550.00	\$ 1,500.00	\$ 4,500.00
3	Surface Preparation	1,296,314	SF	\$ 0.02	\$ 25,926.28	\$ 0.05	\$ 64,815.70	\$ 0.01	\$ 12,963.14
4	Crack Sealing	48,000	LF	\$ 0.83	\$ 39,840.00	\$ 2.10	\$ 100,800.00	\$ 2.45	\$ 117,600.00
5	Base Failure Repair	10,116	SF	\$ 7.48	\$ 75,667.68	\$ 15.25	\$ 154,269.00	\$ 7.48	\$ 75,667.68
6	Microsurfacing	1,296,314	SF	\$ 0.20	\$ 259,262.80	\$ 0.23	\$ 298,152.22	\$ 0.23	\$ 298,152.22
7	Blue Pavement Markers	13	EA	\$ 16.50	\$ 214.50	\$ 20.00	\$ 260.00	\$ 16.00	\$ 208.00
8	Detail 10	39,285	LF	\$ 0.53	\$ 20,821.05	\$ 0.30	\$ 11,785.50	\$ 0.51	\$ 20,035.35
9	Detail 38C	4,761	LF	\$ 1.95	\$ 9,283.95	\$ 0.80	\$ 3,808.80	\$ 1.90	\$ 9,045.90
10	Detail 39	32,124	LF	\$ 0.62	\$ 19,916.88	\$ 0.60	\$ 19,274.40	\$ 0.60	\$ 19,274.40
11	Detail 39A	3,545	LF	\$ 0.66	\$ 2,339.70	\$ 0.60	\$ 2,127.00	\$ 0.65	\$ 2,304.25
12	Dots @ 6' o.c. (left turn thru intersection)	1,008	LF	\$ 2.20	\$ 2,217.60	\$ 0.60	\$ 604.80	\$ 2.20	\$ 2,217.60
13	12" White Line	3,637	LF	\$ 3.60	\$ 13,093.20	\$ 3.00	\$ 10,911.00	\$ 3.60	\$ 13,093.20
14	12" Yellow Line	686	LF	\$ 3.70	\$ 2,538.20	\$ 3.00	\$ 2,058.00	\$ 3.60	\$ 2,469.60
15	Turn Arrow- Type IV	109	LF	\$ 65.00	\$ 7,085.00	\$ 60.00	\$ 6,540.00	\$ 65.00	\$ 7,085.00
16	Turn Arrow- Type I	18	LF	\$ 66.00	\$ 1,188.00	\$ 55.00	\$ 990.00	\$ 65.00	\$ 1,170.00
17	Turn Arrow- Type VII	3	EA	\$ 121.00	\$ 363.00	\$ 90.00	\$ 270.00	\$ 120.00	\$ 360.00
18	Bike Lane Symbol w/ arrow	55	EA	\$ 77.00	\$ 4,235.00	\$ 45.00	\$ 2,475.00	\$ 80.00	\$ 4,400.00
19	"SIGNAL" Marking	32	EA	\$ 160.00	\$ 5,120.00	\$ 115.00	\$ 3,680.00	\$ 160.00	\$ 5,120.00
20	"AHEAD" Marking	32	EA	\$ 154.00	\$ 4,928.00	\$ 110.00	\$ 3,520.00	\$ 150.00	\$ 4,800.00
21	"KEEP" Marking	2	EA	\$ 132.00	\$ 264.00	\$ 90.00	\$ 180.00	\$ 130.00	\$ 260.00
22	"CLEAR" Marking	2	EA	\$ 154.00	\$ 308.00	\$ 95.00	\$ 190.00	\$ 155.00	\$ 310.00
23	"YIELD" Marking	1	EA	\$ 154.00	\$ 154.00	\$ 85.00	\$ 85.00	\$ 155.00	\$ 155.00
24	"ONE WAY" Marking	1	EA	\$ 275.00	\$ 275.00	\$ 40.00	\$ 40.00	\$ 280.00	\$ 280.00
25	"GOLF CARTS ONLY" Marking	1	EA	\$ 415.00	\$ 415.00	\$ 60.00	\$ 60.00	\$ 500.00	\$ 500.00
26	"DO NOT ENTER" Marking	1	EA	\$ 385.00	\$ 385.00	\$ 60.00	\$ 60.00	\$ 500.00	\$ 500.00
27	Detector Loop Replacement	7	EA	\$ 725.00	\$ 5,075.00	\$ 675.00	\$ 4,725.00	\$ 800.00	\$ 5,600.00
TOTAL - BASE BID >>>>>>					\$ 545,454.00		\$ 726,231.42		\$ 652,072.93
No.	Item Description	Quantity	Unit	Unit Cost	Amount	Unit Cost	Amount	Unit Cost	Amount
Oak Street (private) Surface Treatment									
1A	Surface Preparation	22,187	SF	\$ 0.05	\$ 1,109.35	\$ 0.05	\$ 1,109.35	\$ 0.25	\$ 5,546.75
2A	Crack Sealing	130	LF	\$ 9.00	\$ 1,170.00	\$ 9.50	\$ 1,235.00	\$ 112.00	\$ 14,560.00
3A	Base Failure Repair	180	SF	\$ 15.00	\$ 2,700.00	\$ 13.75	\$ 2,475.00	\$ 14.00	\$ 2,520.00
4A	Microsurfacing	22,187	SF	\$ 0.26	\$ 5,768.62	\$ 0.57	\$ 12,646.59	\$ 0.90	\$ 19,968.30
TOTAL- ADDITIONAL BID					\$ 10,747.97		\$ 17,465.94		\$ 42,595.05
					\$ 556,201.97		\$ 743,697.36		\$ 694,667.98

**CITY OF CLAYTON
CONSTRUCTION CONTRACT**

**SURFACE TREATMENT PORTION OF THE
2016 ARTERIAL REHABILITATION PROJECT (CIP 10437)**

1. PARTIES AND DATE.

This Contract is made and entered into this ____ day of _____, 20__ by and between the City of Clayton, a municipal corporation organized under the laws of the State of California ("City") and Intermountain Slurry Seal, Inc., a Wyoming corporation, with its principal place of business at 1900 Glendale Avenue, Sparks, NV 89431 ("Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Contract.

2. RECITALS.

2.1 City. City is a municipal corporation organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose.

2.2 Contractor. Contractor desires to perform and assume responsibility for the provision of certain construction services required by the City on the terms and conditions set forth in this Contract. Contractor represents that it is duly licensed and experienced in providing construction services to public clients, that it and its employees or subcontractors have all necessary licenses and permits to perform the Services in the State of California, and that is familiar with the plans of City. The following license classification is required for this Project: Class A (General Engineering).

2.3 Project. City desires to engage Contractor to render such services to complete the **2016 ARTERIAL REHABILITATION PROJECT (CIP 10437)** ("Project") as set forth in this Contract.

2.4 Project Documents & Certifications. Contractor has obtained, and delivers concurrently herewith, performance bond, payment bond, public works contractor registration certification and insurance documents as required by the Contract.

3. TERMS

3.1 Incorporation of Documents. This Contract includes and hereby incorporates in full by reference the following documents, including all exhibits, drawings, specifications and documents therein, and attachments and addenda thereto:

- a) This Contract
- b) Notice Inviting Sealed Proposals
- c) Contractor's Proposal
- d) Faithful Performance Bond
- e) Labor and Material (Payment) Bond
- f) General Conditions
- g) Special Provisions
- h) Standard Specifications
- i) Standard Plans
- j) Plans and Detailed Drawings

3.2 Contractor's Basic Obligation; Scope of Work. Contractor promises and agrees, at its own cost and expense, to furnish to the Owner all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately complete the Project, including all structures and facilities necessary for the Project or described in the Contract (hereinafter sometimes referred to as the "Work"), for a Total Contract Price as specified pursuant to this Contract. All Work shall be subject to, and performed in accordance with the above referenced documents, as well as the exhibits attached hereto and incorporated herein by reference

3.2.1 Change in Scope of Work. Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition or deletion is approved in writing by a valid change order executed by the City. Should Contractor request a change order due to unforeseen circumstances affecting the performance of the Work, such request shall be made within five (5) business days of the date such circumstances are discovered or shall waive its right to request a change order due to such circumstances. If the Parties cannot agree on any change in price required by such change in the Work, the City may direct the Contractor to proceed with the performance of the change on a time and materials basis.

3.2.2 Substitutions/"Or Equal". Pursuant to Public Contract Code Section 3400(b), the City may make a finding that designates certain products, things, or services by specific brand or trade name. Unless specifically designated in this Contract, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such Specifications shall be deemed to be used for the purpose of facilitating the description of the material, process or article desired and shall be deemed to be followed by the words "or equal."

Contractor may, unless otherwise stated, offer for substitution any material, process or article which shall be substantially equal or better in every respect to that so indicated or specified in this Contract. However, the City may have adopted certain uniform standards for certain materials, processes and articles. Contractor shall submit requests, together with substantiating data, for substitution of any "or equal" material, process or article no later than thirty-five (35) days after award of the Contract. To facilitate the construction schedule and sequencing, some requests may need to be submitted before thirty-five (35) days after award of Contract. Provisions regarding submission of "or equal" requests shall not in any way authorize an extension of time for performance of this Contract. If a proposed "or equal" substitution request is rejected, Contractor shall be responsible for providing the specified material, process or article. The burden of proof as to the equality of any material, process or article shall rest with Contractor.

The City has the complete and sole discretion to determine if a material, process or article is an "or equal" material, process or article that may be substituted. Data required to substantiate requests for substitutions of an "or equal" material, process or article data shall include a signed affidavit from Contractor stating that, and describing how, the substituted "or equal" material, process or article is equivalent to that specified in every way except as listed on the affidavit. Substantiating data shall include any and all illustrations, specifications, and other relevant data including catalog information which describes the requested substituted "or equal" material, process or article, and substantiates that it is an "or equal" to the material, process or article. The substantiating data must also include information regarding the durability and lifecycle cost of the requested substituted "or equal" material, process or article. Failure to submit all the required

substantiating data, including the signed affidavit, to the City in a timely fashion will result in the rejection of the proposed substitution.

Contractor shall bear all of the City's costs associated with the review of substitution requests. Contractor shall be responsible for all costs related to a substituted "or equal" material, process or article. Contractor is directed to the Special Conditions (if any) to review any findings made pursuant to Public Contract Code section 3400.

3.3 Period of Performance and Liquidated Damages. Contractor shall perform and complete all Work under this Contract within sixty (60) Calendar days, beginning the effective date of the Notice to Proceed ("Contract Time"). Contractor shall perform its Work in strict accordance with any completion schedule, construction schedule or project milestones developed by the City. Contractor agrees that if such Work is not completed within the aforementioned Contract Time and/or pursuant to any such completion schedule, construction schedule or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged and agreed that the City will suffer damage. Pursuant to Government Code Section 53069.85, Contractor shall pay to the City as fixed and liquidated damages the sum of Five Hundred dollars (\$500.00) per day for each and every calendar day of delay beyond the Contract Time or beyond any completion schedule, construction schedule or Project milestones established pursuant to the Contract.

3.4 Standard of Performance; Performance of Employees. Contractor shall perform all Work under this Contract in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Contract. As provided for in the indemnification provisions of this Contract, Contractor shall perform, at its own cost and expense and without reimbursement from the City, any work necessary to correct errors or omissions which are caused by Contractor's failure to comply with the standard of care provided for herein. Any employee who is determined by the City to be uncooperative, incompetent, a threat to the safety of persons or the Work, or any employee who fails or refuses to perform the Work in a manner acceptable to the City, shall be promptly removed from the Project by Contractor and shall not be re-employed on the Work.

3.5 Control and Payment of Subordinates; Contractual Relationship. City retains Contractor on an independent contractor basis and Contractor is not an employee of City. Any additional personnel performing the work governed by this Contract on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance under this Contract and as required by law. Contractor shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

3.6 City's Basic Obligation. City agrees to engage and does hereby engage Contractor as an independent contractor to furnish all materials and to perform all Work according to the terms and conditions herein contained for the sum set forth above. Except as otherwise provided in the

Contract, the City shall pay to Contractor, as full consideration for the satisfactory performance by Contractor of the services and obligations required by this Contract, the below-referenced compensation in accordance with compensation provisions set forth in the Contract.

3.7 Compensation and Payment.

3.7.1 Amount of Compensation. As consideration for performance of the Work required herein and based upon the unit prices set forth in the Contractor's proposal, City agrees to pay Contractor a total contract price of Five Hundred Fifty Six Thousand Two Hundred One and 97/100 Dollars (\$556,201.97) ("Total Contract Price") provided that such amount shall be subject to adjustment pursuant to the applicable terms of this Contract or written change orders approved and signed in advance by the City.

3.7.2 Payment of Compensation. Since the Work is scheduled for completion in more than thirty (30) calendar days, City will pay Contractor on a monthly basis as provided for herein. On or before the fifth (5th) day of each month, Contractor shall submit to the City an itemized application for payment in the format supplied by the City indicating the amount of Work completed since commencement of the Work or since the last progress payment. These applications shall be supported by evidence which is required by this Contract and such other documentation as the City may require. The Contractor shall certify that the Work for which payment is requested has been done and that the materials listed are stored where indicated. Contractor may be required to furnish a detailed schedule of values upon request of the City and in such detail and form as the City shall request, showing the quantities, unit prices, overhead, profit, and all other expenses involved in order to provide a basis for determining the amount of progress payments.

3.7.3 Prompt Payment. City shall review and pay all progress payment requests in accordance with the provisions set forth in Section 20104.50 of the California Public Contract Code. However, no progress payments will be made for Work not completed in accordance with this Contract. Contractor shall comply with all applicable laws, rules and regulations relating to the proper payment of its employees, subcontractors, suppliers or others.

3.7.4 Contract Retentions. From each approved progress estimate, five percent (5%) will be deducted and retained by the City, and the remainder will be paid to Contractor. All Contract retention shall be released and paid to Contractor and subcontractors pursuant to California Public Contract Code Section 7107.

3.7.5 Other Retentions. In addition to Contract retentions, the City may deduct from each progress payment an amount necessary to protect City from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the City in performing any of Contractor's obligations under the Contract which Contractor has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop notices as allowed by state law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract Price or within the scheduled completion date; (6) unsatisfactory prosecution of the Work by Contractor; (7) unauthorized deviations from the Contract; (8) failure of Contractor to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by City during the prosecution of the Work; (9) erroneous or false estimates by Contractor of the value of the Work performed; (10) any sums representing expenses, losses, or damages as determined by the City, incurred by the City for which Contractor is liable under the Contract; and (11) any other sums which the City is entitled to recover

from Contractor under the terms of the Contract or pursuant to state law, including Section 1727 of the California Labor Code. The failure by the City to deduct any of these sums from a progress payment shall not constitute a waiver of the City's right to such sums.

3.7.6 Substitutions for Contract Retentions. In accordance with California Public Contract Code Section 22300, the City will permit the substitution of securities for any monies withheld by the City to ensure performance under the Contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the City, or with a state or federally chartered bank in California as the escrow agent, and thereafter the City shall then pay such monies to Contractor as they come due. Upon satisfactory completion of the Contract, the securities shall be returned to Contractor. For purposes of this Section and Section 22300 of the Public Contract Code, the term "satisfactory completion of the contract" shall mean the time the City has issued written final acceptance of the Work and filed a Notice of Completion as required by law and provisions of this Contract. Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. The escrow agreement used for the purposes of this Section shall be in the form provided by the City.

3.7.7 Title to Work. As security for partial, progress, or other payments, title to Work for which such payments are made shall pass to the City at the time of payment. To the extent that title has not previously been vested in the City by reason of payments, full title shall pass to the City at delivery of the Work at the destination and time specified in this Contract. Such transferred title shall in each case be good, free and clear from any and all security interests, liens, or other encumbrances. Contractor promises and agrees that it will not pledge, hypothecate, or otherwise encumber the items in any manner that would result in any lien, security interest, charge, or claim upon or against said items. Such transfer of title shall not imply acceptance by the City, nor relieve Contractor from the responsibility to strictly comply with the Contract, and shall not relieve Contractor of responsibility for any loss of or damage to items.

3.7.8 Labor and Material Releases. Contractor shall furnish City with labor and material releases from all subcontractors performing work on, or furnishing materials for, the Work governed by this Contract prior to final payment by City.

3.7.9 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, *et seq.*, and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 16000, *et seq.*, ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Contract. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at Contractor's principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Contractor and any subcontractor shall forfeit a penalty of up to \$200 per calendar day or portion thereof for each worker paid less than the prevailing wage rates.

3.7.10 Apprenticeable Crafts. When Contractor employs workmen in an apprenticeable craft or trade, Contractor shall comply with the provisions of Section 1777.5 of the California Labor Code with respect to the employment of properly registered apprentices upon public works. The primary responsibility for compliance with said section for all apprenticeable occupations shall be with Contractor. The Contractor or any subcontractor that is determined by the Labor Commissioner to have knowingly violated Section 1777.5 shall forfeit as a civil penalty an amount not exceeding \$100 for each full calendar day of noncompliance, or such greater amount as provided by law.

3.7.11 Hours of Work. Contractor is advised that eight (8) hours labor constitutes a legal day's work. Pursuant to Section 1813 of the California Labor Code, Contractor shall forfeit a penalty of \$25.00 per worker for each day that each worker is permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, except when payment for overtime is made at not less than one and one-half (1-1/2) times the basic rate for that worker.

3.7.12 Payroll Records. Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. The payroll records shall be certified and shall be available for inspection at all reasonable hours at the principal office of Contractor in the manner provided in Labor Code section 1776. In the event of noncompliance with the requirements of this section, Contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such Contractor must comply with this section. Should noncompliance still be evident after such 10-day period, Contractor shall, as a penalty to City, forfeit not more than \$100.00 for each calendar day or portion thereof, for each worker, until strict compliance is effectuated. The amount of the forfeiture is to be determined by the Labor Commissioner. A contractor who is found to have violated the provisions of law regarding wages on Public Works with the intent to defraud shall be ineligible to bid on Public Works contracts for a period of one to three years as determined by the Labor Commissioner. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due. The responsibility for compliance with this section is on Contractor.

3.7.13 Contractor and Subcontractor Registration. Effective March 1, 2015, pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. Contractor shall complete and submit the Public Works Contractor Registration Certification to the City prior to Contract execution.

3.7.14 Labor Compliance: This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be the Contractor's sole responsibility to evaluate and pay the cost of complying with all labor compliance requirements under this Contract and applicable law.

3.8 Performance of Work; Jobsite Obligations.

3.8.1 Reservation of Right to Defend. City reserves the right to defend any enforcement action brought against the City for Contractor's failure to comply with the Permit or

any other relevant water quality law, regulation, or policy. Pursuant to the indemnification provisions of this Contract, Contractor hereby agrees to be bound by, and to reimburse the City for the costs (including the City's attorney's fees) associated with, any settlement reached between the City and the relevant enforcement entity.

3.8.2 Training. In addition to the standard of performance requirements set forth in paragraph 3.4, Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them without impacting water quality in violation of the laws, regulations and policies described in paragraph 3.8.1. Consultant further warrants that it, its employees and subcontractors will receive adequate training, as determined by City, regarding the requirements of the laws, regulations and policies described in paragraph 3.8.1 as they may relate to the Work provided under this Agreement. Upon request, City will provide the Contractor with a list of training programs that meet the requirements of this paragraph.

3.8.3 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work. In carrying out its Work, Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which the Work is to be performed. Safety precautions as applicable shall include, but shall not be limited to, adequate life protection and life saving equipment; adequate illumination for underground and night operations; instructions in accident prevention for all employees, such as machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and adequate facilities for the proper inspection and maintenance of all safety measures. Furthermore, Contractor shall prominently display the names and telephone numbers of at least two medical doctors practicing in the vicinity of the Project, as well as the telephone number of the local ambulance service, adjacent to all telephones at the Project site.

3.8.4 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Contract or the Work, including all Cal/OSHA requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Work. If Contractor observes that the drawings or specifications are at variance with any law, rule or regulation, it shall promptly notify the City in writing. Any necessary changes shall be made by written change order. If Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Contractor shall be solely responsible for all costs arising therefrom. City is a public entity of the State of California subject to certain provisions of the Health & Safety Code, Government Code, Public Contract Code, and Labor Code of the State. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a municipality are a part of this Contract to the same extent as though set forth herein and will be complied with. Contractor shall defend, indemnify and hold City and its officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.8.5 Permits and Licenses. Contractor shall be responsible for securing City permits and licenses necessary to perform the Work described herein, including, but not limited to, a City Business License. While Contractor will not be charged a fee for any City permits, Contractor shall pay the City's applicable business license fee. Any ineligible contractor or subcontractor pursuant to Labor Code Sections 1777.1 and 1777.7 may not perform work on this Project.

3.8.6 Underground Utility Facilities. To the extent required by Section 4215 of the California Government Code, City shall compensate Contractor for the costs of: (1) locating and repairing damage to underground utility facilities not caused by the failure of Contractor to exercise reasonable care; (2) removing or relocating underground utility facilities not indicated in the construction drawings; and (3) equipment necessarily idled during such work. Contractor shall not be assessed liquidated damages for delay caused by failure of City to provide for removal or relocation of such utility facilities.

3.8.7 Air Quality. Contractor must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the California Air Resources Board (CARB). Contractor shall indemnify City against any fines or penalties imposed by CARB or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Contractor, its subcontractors, or others for whom Contractor is responsible under its indemnity obligations provided for in this Agreement.

3.8.8 City and State Recycling Mandates. Contractor shall comply with City and State Recycling Mandates. Prior to commencement of the work, Contractor shall provide the City with a list of recycling facilities he intends to use for the work. Prior to completion of the work and acceptance by the City, the Contractor shall provide proof of delivery of such materials from the recycling facilities, including actual quantities delivered and recycled. Any recyclable materials/debris collected by the contractor that can be feasibly diverted via reuse or recycling must be hauled by the appropriate handler for reuse or recycling.

3.9 Completion of Work. When Contractor determines that it has completed the Work required herein, Contractor shall so notify City in writing and shall furnish all labor and material releases required by this Contract. City shall thereupon inspect the Work. If the Work is not acceptable to the City, the City shall indicate to Contractor in writing the specific portions or items of Work which are unsatisfactory or incomplete. Once Contractor determines that it has completed the incomplete or unsatisfactory Work, Contractor may request a reinspection by the City. Once the Work is acceptable to City, City shall pay to Contractor the Total Contract Price remaining to be paid, less any amount which City may be authorized or directed by law to retain. Payment of retention proceeds due to Contractor shall be made in accordance with Section 7107 of the California Public Contract Code.

3.10 Loss and Damage. Except as may otherwise be limited by law, Contractor shall be responsible for all loss and damage which may arise out of the nature of the Work agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Work until the same is fully completed and accepted by City. In the event of damage proximately caused by an Act of God, as defined by Section 7105 of the Public Contract Code, the City may terminate this Contract pursuant to Section 3.17.3; provided, however, that the City needs to provide Contractor with only one (1) day advanced written notice.

3.11 Indemnification.

3.11.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City and its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's services, the Project or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorney's fees and other related costs and expenses. Notwithstanding the foregoing, to the extent required by Civil Code section 2782, Contractor's indemnity obligation shall not apply to liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole or active negligence or willful misconduct of the City or the City's agents, servants, or independent contractors who are directly responsible to the City, or for defects in design furnished by those persons.

3.12.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of City's choosing and at Contractor's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against City or its officials, officers, employees, volunteers and agents. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse City for the cost of any settlement paid by City or its officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorneys' fees and costs, including expert witness fees. Contractor shall reimburse City and its officials, officers, employees, volunteers and agents, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City and its officials, officers, employees, volunteers and agents.

3.12 Insurance.

3.12.1 Time for Compliance. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under this section and the City's Standard Specifications. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section and the City's Standard Specifications. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

3.12.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage:

3.12.2.1 Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability:* Insurance Services Office

Commercial General Liability coverage (occurrence form CG 00 01) OR Insurance Services Office Owners and Contractors Protective Liability Coverage Form (CG 00 09 11 88) (coverage for operations of designated contractor); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto); (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.

3.12.2.2 Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Contract/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; (3) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 each accident, policy limit bodily injury or disease, and each employee bodily injury or disease. Defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the parties required to be named as additional insureds pursuant to this Contract.

3.12.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions to the insurance policies:

3.12.3.1 General Liability. (1) Such policy shall give the City of Clayton, its officials, officers, employees, volunteers and agents additional insured status using ISO endorsements CG20 10 10 01 plus CG20 37 10 01, or endorsements providing the exact same coverage, with respect to the Work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, officers, employees, volunteers and agents, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, officers, employees, volunteers and agents shall be excess of Contractor's insurance and shall not be called upon to contribute with it.

3.12.3.2 Automobile Liability. (1) Such policy shall give the City of Clayton, its officials, officers, employees, volunteers and agents additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects City, its officials, officers, employees, volunteers and agents, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance

maintained by the City, its officials, officers, employees, volunteers and agents shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

3.12.3.3 Workers' Compensation and Employer's Liability Coverage.

The insurer shall agree to waive all rights of subrogation against the City, its officials, officers, employees, volunteers and agents for losses paid under the terms of the insurance policy which arise from work performed by Contractor. Contractor shall complete and submit the Workers Compensation Certification attached hereto as Exhibit "A" prior to contract execution.

3.12.3.4 Contractor's Pollution Liability Coverage. The contractor's pollution liability policy shall include or be endorsed (amended) to state that: (1) the City, its officials, officers, employees, volunteers and agents shall be covered as additional insureds with respect to the Work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) Consultant agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, officers, employees, volunteers and agents, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, officers, employees, volunteers and agents shall be excess of Contractor's insurance and shall not be called upon to contribute with it.

3.12.3.5 All Coverages. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, officers, employees, volunteers and agents.

3.12.4 Builders'/All Risk Policy Requirements. The builders'/all risk insurance shall provide that the City be named as loss payee. In addition, the insurer shall waive all rights of subrogation against the City.

3.12.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, officers, employees, volunteers and agents.

3.12.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, officers, employees, volunteers and agents; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.12.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

3.12.8 Verification of Coverage. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.12.9 Subcontractors. All subcontractors shall meet the requirements of this Section before commencing Work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, officers, employees, volunteers and agents as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

3.12.10 Reporting of Claims. Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Work under this Contract.

3.13 Bond Requirements.

3.13.1 Payment Bond. Contractor shall execute and provide to City concurrently with this Contract, a Payment Bond in an amount equal to 100% of the Contract and in the form attached hereto as Exhibit "B". No payment will be made to Contractor until the bond has been received and approved by the City.

3.13.2 Performance Bond. Contractor shall execute and provide to City concurrently with this Contract, a Performance Bond in an amount equal to 100% of the Contract and in the form attached hereto as Exhibit "B". No payment will be made to Contractor until the bond has been received and approved by the City.

3.13.3 Bond Provisions. Should, in City's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the effected bond within (ten) 10 days of receiving notice from City. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the City, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Contract until any replacement bonds required by this Section are accepted by the City. To the extent, if any, that the Total Contract Price is increased in accordance with the Contract, Contractor shall, upon request of the City, cause the amount of the bond to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the City. If Contractor fails to furnish any required bond, the City may terminate the Contract for cause.

3.13.4 Surety Qualifications. Only bonds executed by an admitted surety insurer, as defined in California Code of Civil Procedure Section 995.120, shall be accepted. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

3.14 Warranty.

3.14.1 General Warranty. Contractor warrants all Work under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the Work or non-conformance of the Work to the Contract, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act sooner as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

3.14.2 Manufacturer Warranties. Any manufacturer or supplier guaranty provided for any equipment or materials used on the Project shall be extended for such term. Contractor expressly agrees to act as co-guarantor of such equipment and materials and shall supply City with all warranty and guarantee documents relative to equipment and materials incorporated in the Project and guaranteed by their suppliers or manufacturers, which such warranties and guaranties shall be incorporated herein by this referenced and attached hereto following receipt by the City.

3.15 Employee/Labor Certifications.

3.15.1 Contractor's Labor Certification. By its signature hereunder, Contractor certifies that he is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Work. A certification form for this purpose, which is attached to this Contract as Exhibit "C" and incorporated herein by reference, shall be executed simultaneously with this Contract.

3.15.2 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests

protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.15.3 Verification of Employment Eligibility. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

3.16 General Provisions.

3.16.1 City's Representative. The City hereby designates the City Engineer, or his or her designee, to act as its representative for the performance of this Contract ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Contractor shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.16.2 Contractor's Representative. Before starting the Work, Contractor shall submit in writing the name, qualifications and experience of its proposed representative who shall be subject to the review and approval of the City ("Contractor's Representative"). Following approval by the City, Contractor's Representative shall have full authority to represent and act on behalf of Contractor for all purposes under this Contract. Contractor's Representative shall supervise and direct the Work, using his best skill and attention, and shall be responsible for all construction means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Contract. Contractor's Representative shall devote full time to the Project and either he or his designee, who shall be acceptable to the City, shall be present at the Work site at all times that any Work is in progress and at any time that any employee or subcontractor of Contractor is present at the Work site. Arrangements for responsible supervision, acceptable to the City, shall be made for emergency Work which may be required. Should Contractor desire to change its Contractor's Representative, Contractor shall provide the information specified above and obtain the City's written approval.

3.16.3 Termination. This Contract may be terminated by City at any time, either with or without cause, by giving Contractor three (3) days advance written notice. In the event of termination by City for any reason other than the fault of Contractor, City shall pay Contractor for all Work performed up to that time as provided herein. In the event of breach of the Contract by Contractor, City may terminate the Contract immediately without notice, may reduce payment to Contractor in the amount necessary to offset City's resulting damages, and may pursue any other available recourse against Contractor. Contractor may not terminate this Contract except for cause. In the event this Contract is terminated in whole or in part as provided, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated. Further, if this Contract is terminated as provided, City may require Contractor to provide all finished or unfinished documents, data, diagrams, drawings, materials or other matter prepared or built by Contractor in connection with its performance of this Contract.

3.16.4 Contract Interpretation. Should any question arise regarding the meaning or import of any of the provisions of this Contract or written or oral instructions from City, the matter shall be referred to City's Representative, whose decision shall be binding upon Contractor.

3.16.5 Anti-Trust Claims. This provision shall be operative if this Contract is applicable to California Public Contract Code Section 7103.5. In entering into this Contract to supply goods, services or materials, Contractor hereby offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time the City tender final payment to Contractor, without further acknowledgment by the Parties.

3.16.6 Notices. All notices hereunder and communications regarding interpretation of the terms of the Contract or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

CONTRACTOR:

Intermountain Slurry Seal, Inc.
P.O. Box 1841
Sparks, NV 89432
Attn: Derrick Deckwa

CITY:

City of Clayton
6000 Heritage Trail
Clayton, CA 94517
Attn: Rick Angrisani, City Engineer

Any notice so given shall be considered received by the other Party three (3) days after deposit in the U.S. Mail as stated above and addressed to the Party at the above address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.16.7 Time of Essence. Time is of the essence in the performance of this Contract.

3.16.8 Assignment Forbidden. Contractor shall not, either voluntarily or by action of law, assign or transfer this Contract or any obligation, right, title or interest assumed by Contractor herein without the prior written consent of City. If Contractor attempts an assignment or transfer of this Contract or any obligation, right, title or interest herein, City may, at its option, terminate and revoke the Contract and shall thereupon be relieved from any and all obligations to Contractor or its assignee or transferee.

3.16.9 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.16.10 Laws, Venue, and Attorneys' Fees. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or

enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Contra Costa, State of California.

3.16.11 Counterparts. This Contract may be executed in counterparts, each of which shall constitute an original.

3.16.12 Successors. The Parties do for themselves, their heirs, executors, administrators, successors, and assigns agree to the full performance of all of the provisions contained in this Contract.

3.16.13 Solicitation. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City shall have the right to terminate this Contract without liability.

3.16.14 Conflict of Interest. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Contract, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom. In addition, Contractor agrees to file, or to cause its employees or subcontractors to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Work.

3.16.15 Certification of License.

3.16.15.1 General. Contractor certifies that as of the date of execution of this Contract, Contractor has a current contractor's license of the classification indicated below under Contractor's signature.

3.16.15.2 State License Board Notice. Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

3.16.16 Authority to Enter Contract. Each Party warrants that the individuals who have signed this Contract have the legal power, right and authority to make this Contract and bind each respective Party.

3.16.17 Attorneys' Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorneys' fees and all costs of such action.

3.16.18 Entire Contract: Modification. This Contract contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Contract may only be modified by a written document signed by both Parties.

3.16.19 Non-Waiver. None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

3.16.20 City's Right to Employ Other Contractors. City reserves right to employ other contractors in connection with this Project or other projects.

IN WITNESS WHEREOF, each of the Parties has caused this Contract to be executed on the day and year first above written.

[SIGNATURES ON NEXT TWO PAGES]

CONSTRUCTION CONTRACT
SURFACE TREATMENT PORTION OF THE
2016 ARTERIAL REHABILITATION PROJECT (CIP 10437)

CITY'S SIGNATURES

CITY OF CLAYTON

By: _____
Howard Geller
Mayor

Attest:

Janet Brown
City Clerk

Approved as to Form:

Mala Subramanian
City Attorney

[CONTRACTOR'S SIGNATURES NEXT PAGE]

CONSTRUCTION CONTRACT
SURFACE TREATMENT PORTION OF THE
2016 ARTERIAL REHABILITATION PROJECT (CIP 10437)

CONTRACTOR'S SIGNATURES

Intermountain Slurry Seal, Inc.	
By: _____ Signature	By: _____ Signature
_____ Name (Print)	_____ Name (Print)
_____ Title (Print)	_____ Title (Print)

EXHIBIT "A"
WORKERS COMPENSATION CERTIFICATION
LABOR CODE - SECTION 1861

I, the undersigned Contractor, am aware of the provisions of Section 3700, et seq., of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I, the undersigned Contractor, agree to and will comply with such provisions before commencing the performance of the Work on this Contract.

Intermountain Slurry Seal, Inc.

By: _____
Signature

Name (Print)

Title (Print)

By: _____
Signature

Name (Print)

Title (Print)

EXHIBIT "B"

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Clayton (hereinafter referred to as "City") has awarded to _____, (hereinafter referred to as the "Contractor") _____ an agreement for _____ (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of _____ DOLLARS, (\$_____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one-year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its officers and agents, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship, Surety shall undertake and faithfully fulfill all such obligations. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

- (1) Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- (2) Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.
- (3) Permit the City to complete the Project in any manner consistent with local, California and federal law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__).

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

Signatures of those signing for the Contractor and Surety must be notarized and evidence of corporate authority attached.

(Attach Attorney-in-Fact Certificate)

Title _____

The rate of premium on this bond is _____ per thousand. The total amount of premium charges, \$ _____.
(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

Name and Address of Surety: _____

Name and Address of Agent or Representative for service of process in California, if different from above:

Telephone number of Surety and Agent or Representative for service of process in California:

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Notary Acknowledgment

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

STATE OF CALIFORNIA
 COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public _____

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

- Individual
- Corporate Officer

Title(s) _____

- Partner(s)
 - Limited
 - General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other:

Signer is representing:
 Name Of Person(s) Or Entity(ies)

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document _____

Number of Pages _____

Date of Document _____

Signer(s) Other Than Named Above _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the City of Clayton (hereinafter designated as the "City"), by action taken or a resolution passed _____, 20____ has awarded to _____ hereinafter designated as the "Principal," a contract for the work described as follows:

_____ (the "Project"); and

WHEREAS, the work to be performed by the Principal is more particularly set forth in the Contract Documents for the Project dated _____ ("Contract Documents"), the terms and conditions of which are expressly incorporated by reference; and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$_____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Section 9100 of the Civil Code, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the Revenue and Taxation Code, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified.

This bond shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall

Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the Civil Code, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned and the provisions of sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this ____ day of _____, 20__.

(Corporate Seal)

Contractor/ Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____
Attorney-in-Fact

Title _____

Signatures of those signing for the Contractor and Surety must be notified and evidence of corporate authority attached. A Power-of-Attorney authorizing the person signing on behalf of the Surety to do so much be attached hereto.

NOTE: A copy of the Power-of-Attorney authorizing the person signing on behalf of the Surety to do so must be attached hereto.

Notary Acknowledgment

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

STATE OF CALIFORNIA
 COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public _____

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

- _____ Title(s)
- Partner(s) Limited
 - General
 - Attorney-In-Fact
 - Trustee(s)
 - Guardian/Conservator
 - Other:

Signer is representing:
 Name Of Person(s) Or Entity(ies)

_____ Title or Type of Document

_____ Number of Pages

_____ Date of Document

_____ Signer(s) Other Than Named Above

EXHIBIT "C"

LEGAL RELATIONS AND RESPONSIBILITIES

Nothing in the provisions of this agreement is intended to create duties or obligations to or rights in third parties not parties to this contract or affect the legal liability of either party to the contract by imposing any standard of care different from the standard of care imposed by law.

It is understood and agreed that neither the City of Clayton ("City") nor any officer or employee is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Intermountain Slurry Seal, Inc. ("Contractor") under or in connection with any work, authority or jurisdiction delegated to the Contractor under this agreement. It is understood and agreed that pursuant to Government Code Section 895.4 Contractor shall defend, indemnify and save harmless the City, its officers and employees from all claims, suits or actions of every name, kind and description brought for or in account of injuries to or death of any person or damage to property resulting from anything done or omitted to be done by the Contractor under or in connection with any work, authority or jurisdiction delegated to the Contractor under this agreement.

The Contractor waives any and all rights to any type of express and implied indemnity and defense against the City, its officers and employees arising from any work, authority or jurisdiction delegated to the Contractor under this agreement.


Executed on _____, 2016

NAME OF CONTRACTOR

By _____

TITLE



Approved: 

Gary A. Napper
City Manager

AGENDA REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: Janet Brown, City Clerk

DATE: December 6, 2016

SUBJECT: Adopt a Resolution approving the results of canvass of returns in the November 2016 General Municipal Election declaring three citizens elected to the City Council of Clayton, California for full four-year terms of office.

RECOMMENDATION

By minute motion, adopt a Resolution declaring the Contra Costa County Elections Office's results of canvass of returns in the November 2016 General Municipal Election has resulted in the following three persons elected to the City Council of Clayton, California for full four-year terms of office:

Julie Pierce
Jim Diaz
Tuija Catalano

BACKGROUND

Since the 2016 Presidential General Election resulted in a larger and more complex ballot, and greater voter participation; the canvassing process will be completed on December 6, 2016, within 30 days of the election, as required by Election Code 15372(a). The Contra Costa County Elections Department will have the Certification of the Official Results after 2:00 p.m. on December 6th, with those results available for in-person pick-up by the City Clerk. The final official canvas information will be benched at the Council dais for Council approval the evening of December 6th.

The final Canvas of the 2016 Municipal Election is expected to be approved by the Contra Costa County Board of Supervisors at its meeting on December 13, 2016.

FISCAL IMPACT

None.

RESOLUTION NO. -2016

**A RESOLUTION APPROVING THE RESULTS OF CANVASS OF RETURNS IN
THE 2016 GENERAL MUNICIPAL ELECTION AND DECLARING THREE CITIZENS
ELECTED TO THE CITY COUNCIL OF THE CITY OF CLAYTON**

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

WHEREAS, a duly noticed General Municipal Election was held in the City of Clayton on November 8, 2016 for the purpose of voting for candidates for three (3) full-term offices of Council Member on the City Council of the City of Clayton; and

WHEREAS, following the canvass of returns by the Contra Costa County Clerk and receipt of his report by the City Clerk, the City Council met in a regular public meeting on December 6, 2016 to consider the canvassed returns of the election pursuant to and accordance with applicable provisions of the California Elections Code; and

WHEREAS, the City Council finds that there were seven precincts in the City of Clayton established for holding the November 2016 General Municipal Election; and

WHEREAS, the City Council finds that the number of ballots cast in the City of Clayton at the General Municipal Election was and is 6,438, an 81.5% turnout; and

WHEREAS, the City Council finds that the names of the persons voted for and the number of votes given said persons in the General Municipal Election at each of the above noted precincts and by absentee ballot as candidates for the offices of Council Member on the Clayton City Council and the total votes cast for each candidate, are as set forth in the computer printout by the Contra Costa County Election Department, attached hereto as "Exhibit A" and incorporated herein by such reference.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Clayton, California that the following candidates (listed in order of most votes) for the three available elected offices of Council Member of the City Council of the City of Clayton did receive the three highest number of votes as shown on "Exhibit A", and are herewith declared to be the three (3) Council Members duly elected to serve on the Clayton City Council for a four-year term of office and until the results of the November 2020 General Municipal election are canvassed and accepted:

Julie Pierce

Jim Diaz

Tuija Catalano

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

AYES:

NOES:

ABSTAIN:

ABSENT:

THE CITY COUNCIL OF CLAYTON, CA

, Mayor

ATTEST:

Janet Brown, City Clerk

“EXHIBIT A”
TO BE BENCHED
AT COUNCIL DAIS
AND AVAILABLE TO THE PUBLIC
ON
DECEMBER 6, 2016

* NOTE: WAITING RELEASE OF ELECTION DATA BY COUNTY ELECTIONS OFFICE



Agenda Date: 12-06-2016

Agenda Item: 7a

STAFF REPORT

Approved: 

Gary A. Napper
City Manager

TO: HONORABLE COUNCIL MEMBERS
FROM: CITY MANAGER
DATE: 06 DECEMBER 2016
SUBJECT: NOMINATION AND ELECTION OF MAYOR AND VICE MAYOR

RECOMMENDATION

It is recommended the City Council elect its Mayor and Vice Mayor for a one-year term of office (2017) to commence the evening of 06 December 2016.

BACKGROUND

According to Section F.4. – Mayor Selection, of the *Council Guidelines and Practices* (page 4, copy attached), the Mayorship and Vice Mayorship are one-year terms of office in the City of Clayton. The local electorate does not directly elect its mayor or vice mayor. The election of its officers from within the membership of the City Council commences each year at the first regularly-scheduled Council meeting each December.

Mayor Howard Geller and Vice Mayor Jim Diaz were elected to their current Council offices at a City Council regular public meeting held 17 November 2015, to become effective 01 December 2015. The following table lists those serving as mayor over the last sixteen (16) years:

2016	Howard Geller
2015	David Shuey
2014	Hank Stratford
2013	Julie Pierce
2012	Howard Geller
2011	David Shuey
2010	Hank Stratford
2009	Julie Pierce
2008	Gregory Manning
2007	William Walcutt
2006	David Shuey
2005	Gregory Manning
2004	Julie Pierce
2003	Pete Laurence
2002	Gregory Manning
2001	Julie Pierce

NOMINATION AND ELECTION PROCEDURES

Pursuant to Chapter 2.04 – Council Meetings of the *Clayton Municipal Code*, our City uses the most recent version of *Robert's Rules of Order* to govern the conduct of City business meetings. Therefore, to assist in the procedure of nominating and selecting the next mayor and vice mayor at this meeting, the following rules* have been extracted and outlined below:

1. The nomination/election of the next Mayor is to be conducted by Vice Mayor Diaz (note: former Mayor Geller no longer holds public office at the time of this action). Once the new Mayor is elected, that member of City Council immediately presides and conducts the remainder of the business items on the agenda, including the City Council's election of its Vice Mayor to serve a 1-year term of office commencing 06 December 2016.
2. The method of nomination in this respect is an "open nomination" solely by and from within the membership of the presently-seated Clayton City Council. Nominations cannot be accepted from members of the public.
3. No "second" is required for a nomination, although sometimes one or more members will "second" a nomination to indicate endorsement.
4. In no event may any one member nominate more persons than there are offices to fill in the respective selection.
5. When it appears no one else wishes to make a nomination, the chair of the meeting asks one (1) final time if there are additional nominations. If there is no response, the chair then declares..." the nomination for [Mayor; or Vice Mayor, as applicable] is closed."

It is unnecessary to have a motion to officially close the nominations; yet, if such a motion is made, that motion then requires an affirmative 2/3rds vote of the Council present [4 of 5]. After nominations are closed, a majority vote is required to re-open them.

6. Nominees are voted on in the order in which they are nominated. As soon as one of the nominees receives a majority vote [in this case, 3 or more votes], the chair then declares that person elected to that respective office, and no vote is taken on the remaining nominee(s).

MAYOR SELECTION CRITERIA

In accordance with the adopted *Council Guidelines and Procedures* [February 2007], the City Council established six (6) guidelines pertaining to the annual selection of its Mayor. Reference is made to an attachment of this Staff Report for review of those Guidelines.

FISCAL IMPACT

No financial impact. The offices of Mayor and Vice Mayor receive the same monthly stipend as other members of the City Council.

Attachment: Page 4 of *Council Guidelines and Procedures* [1 pg.]

*Reference: Chapter XIV - Nominations and Elections, *Robert's Rules of Order* [RONR, 10th Edition, pp. 418-430]

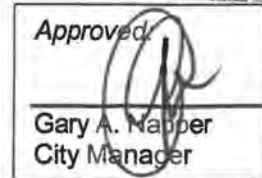
2. Staff in General.
 - a. Council may make reasonable requests for information directly from Department Heads.
 - b. An informal system of direct communication with staff is used but not abused by Council.
 - c. Staff will inform Council immediately when an unusual event occurs that the public would be concerned about [e.g., major vehicular accidents; major police activities; areas cordoned off by police or fire, etc.].
 - d. The Council and staff will not intentionally blind side each other in public; if there is an issue or a question a Council Member has regarding an agenda item, that Member will contact staff prior to the meeting.

E. COUNCIL RESPONSIBILITIES FOR KEEPING INFORMED

1. Read Commission minutes and staff reports to find out issues being addressed.
2. Read documents on planning items.
3. Read City Manager "goal updates" list for Council.
4. Do homework diligently and thoroughly.

F. MAYOR SELECTION

1. Election to Vice Mayor and Mayor requires supporting votes of three (3) Council Members, but in the interest of harmony unanimous consensus is to be sought and encouraged.
2. Any Council Member wanting or not wanting a role has a responsibility to tell all other Members.
3. As far as possible and until otherwise decided, Council Members will take turns as Mayor.
4. Mayorship will be a one-year term, commencing with the first meeting in December.
5. Selection of a Mayor is not a lock-step system. The Vice Mayor is generally expected to ascend to Mayor.
6. All Council Members are peers, and the Mayor and Vice Mayor serve at the pleasure of the Council.



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

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

DATE: DECEMBER 6, 2016

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

RECOMMENDATIONS

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

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

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

BACKGROUND/DISCUSSION

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

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

Revised Window Design

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

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

Fence Installation

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

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

Fire Safety Access

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

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

Stormwater Detention Basin Locations

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

FISCAL IMPACT

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

ATTACHMENTS

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

ATTACHMENT 1

RESOLUTION NO. XX-2016

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

THE CITY COUNCIL City of Clayton, California

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____, Mayor

ATTEST:

Janet Brown, City Clerk

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

Janet Brown, City Clerk

EXHIBIT A

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

October 2016

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

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

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

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

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

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

ATTACHMENT 2

RESOLUTION NO. XX-2016

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____, Mayor

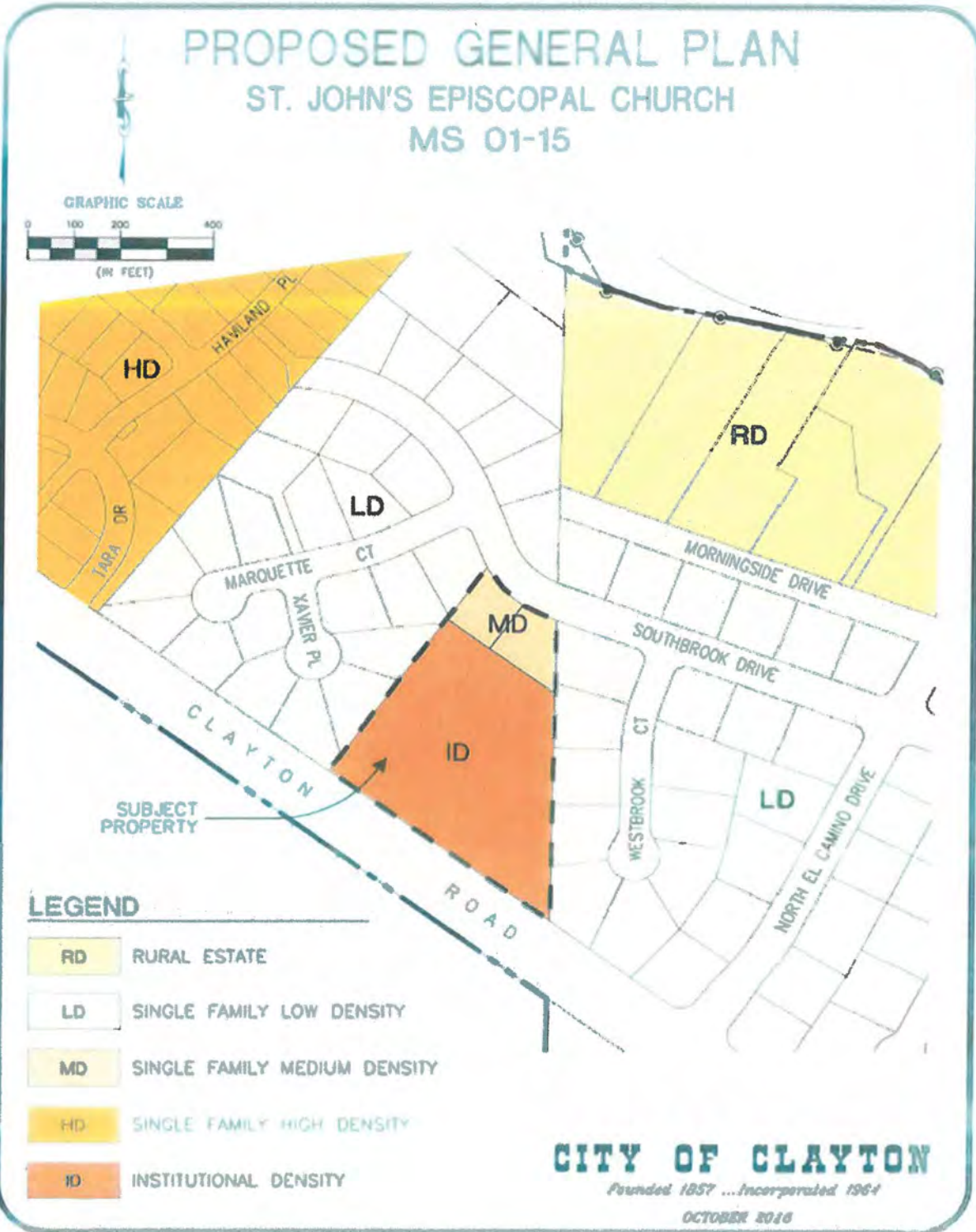
ATTEST:

Janet Brown, City Clerk

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

Janet Brown, City Clerk

Exhibit A



ATTACHMENT 3

ORDINANCE NO. 471

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Severability. If any provisions of this Ordinance, or the application thereof to any person or circumstances, if held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of the Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and, to this end, such provisions and clauses of the Ordinance are declared to be severable.

SECTION 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

SECTION 6. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

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

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____, Mayor

ATTEST:

Janet Brown, City Clerk

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

Janet Brown, City Clerk

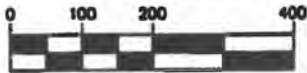
PROPOSED ZONING MAP

ST. JOHN'S EPISCOPAL CHURCH

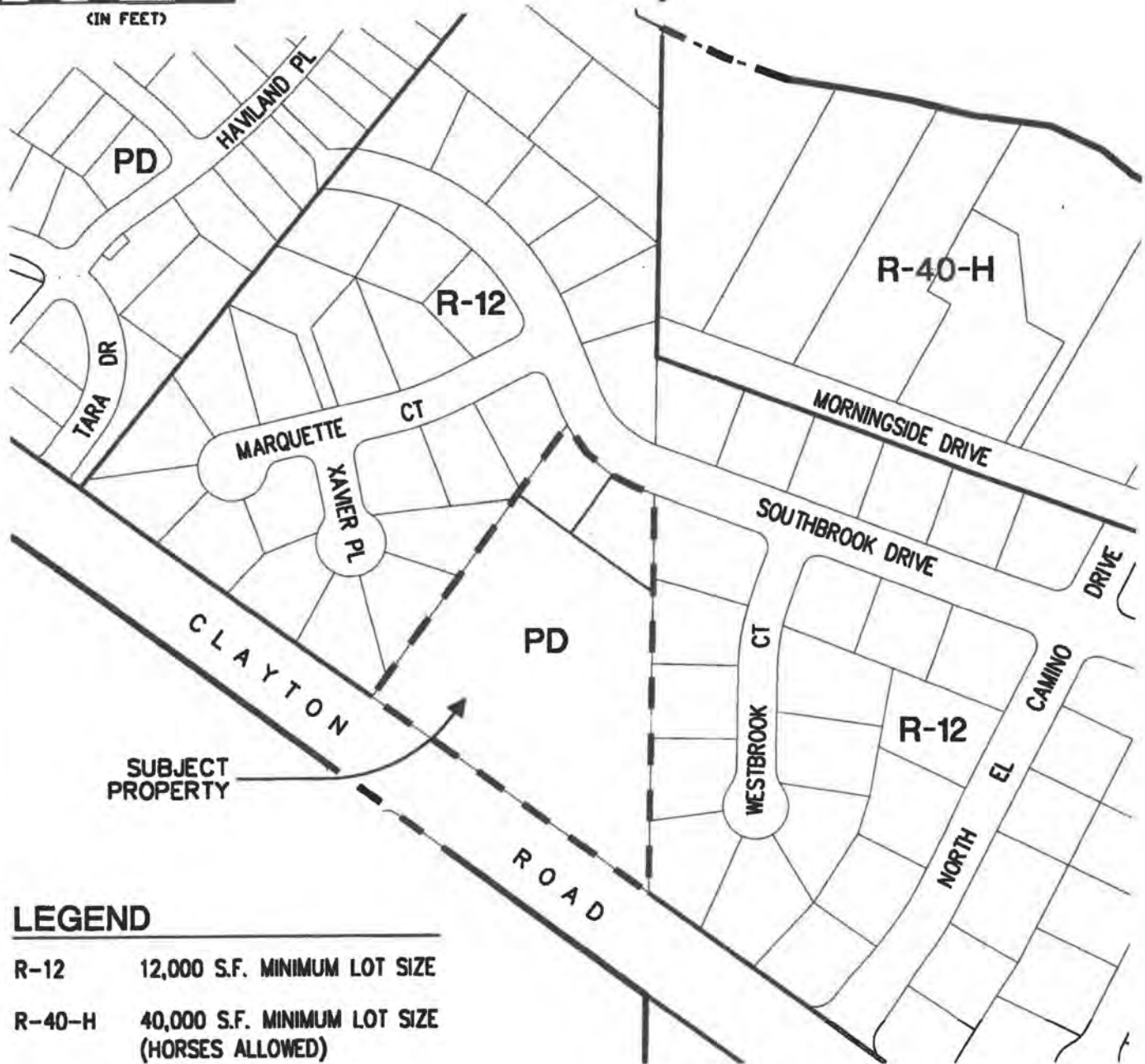
MS 01-15



GRAPHIC SCALE



(IN FEET)



SUBJECT PROPERTY

LEGEND

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

CITY OF CLAYTON

Founded 1857 ...Incorporated 1964

OCTOBER 2016

ATTACHMENT 4

RESOLUTION NO. XX-2016

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PLANNING CONDITIONS

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

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

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

TREE PROTECTION CONDITIONS

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

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

LANDSCAPING CONDITIONS

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

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

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

GRADING CONDITIONS

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

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

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

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

STREET CONDITIONS

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

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

DRAINAGE CONDITIONS

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

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

UTILITY CONDITIONS

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

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

ENGINEERING CONDITIONS

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

PARKING CONDITION

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

EXPIRATION CONDITION

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

ADVISORY NOTES

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

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

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____, Mayor

ATTEST:

Janet Brown, City Clerk

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

Janet Brown, City Clerk

EXHIBIT A

SOUTHBROOK DRIVE PLANNED DEVELOPMENT


DEVELOPMENT STANDARDS

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

ATTACHMENT - 5

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



Approved: 
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

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

DATE: NOVEMBER 15, 2016

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

RECOMMENDATIONS

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

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

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

BACKGROUND/DISCUSSION

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

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

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

ENVIRONMENTAL REVIEW

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

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

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

GENERAL PLAN AMENDMENT

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

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

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

Housing Element

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

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

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

REZONE

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

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

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

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

DEVELOPMENT PLAN

Open Space

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

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

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

Development Standards

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

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

TENTATIVE PARCEL MAP

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

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

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

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

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

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

GRADING

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

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

UTILITIES

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

Water

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

Sewer

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

Stormwater

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

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

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

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

SITE PLAN REVIEW PERMIT

Architecture and Design

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

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

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

Setback Analysis

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

Existing Setbacks Surrounding R-12 District		Proposed Setbacks Plan A		Proposed Setbacks Plan B	
Front Setback	20'	Front Setback (North)	20'	Front Setback (North)	20'
Side Setback	10' minimum	Side Setback		Side Setback	
		West	15'	West	17'
		East	17'	East	15'
	25' aggregate	Aggregate	32'	Aggregate	32'
Rear Setback	15'	Rear Setback (South)	17'	Rear Setback (South)	20'

Residential Floor Area Analysis

Building Footprint

The project meets the applicable building footprint requirements as show below.

Proposed Lot Area Lot A	Proposed Building Footprint	Maximum Building Footprint Allowed	Compliance With Building Footprint Requirements
8,168 sq ft	1,912 sq ft	2,400 sq ft	Yes

Proposed Lot Area Lot B	Proposed Building Footprint	Maximum Building Footprint Allowed	Compliance With Building Footprint Requirements
9,624 sq ft	1,912 sq ft	2,880 sq ft	Yes

Floor Area

The project meets the applicable building footprint requirements as show below.

Proposed Lot Area Lot A	Proposed Floor Area	Maximum Floor Area Allowed	Compliance With Floor Area Requirements
8,168 sq ft	3,168 sq ft	4,133 sq ft	Yes

Proposed Lot Area Lot B	Proposed Floor Area	Maximum Floor Area Allowed	Compliance With Floor Area Requirements
9,624 sq ft	3,168 sq ft	4,640 sq ft	Yes

Landscaping

The applicant has submitted a Landscape Plan for the project (see **Attachment 14**). The applicant is providing a mixture of Japanese maple, eastern redbud, and crape myrtle trees as well as various shrubs, ornamental grasses, and groundcovers. Staff has provided a condition that, prior to a grading permit being issued for the project, a revised Landscape, Irrigation, Fencing, and Retaining Wall Plan shall be submitted along with construction plans for building permit issuance to the Community Development Director for review and approval. Furthermore, landscaping (ornamental grasses and groundcovers) is proposed in front of both residential lots in the public right-of-way along Southbrook Drive. A condition has been provided addressing installation and maintenance of landscaping in the public right-of-way.

Overall, as conditioned, staff is satisfied with the proposed landscape plan as the applicant shows a good use of accent trees and a variety of shrubs and groundcover to provide a mix of heights, vegetative textures, and colors. Furthermore, the applicant has made good use of drought-tolerant landscaping and avoided utilizing turf as part of their landscape proposal. Staff has provided a condition that the landscaping for the project comply with the City's landscape water conservation standards, as listed in Chapter 17.80 of the CMC at the time of plan submittal.

Fencing

Fencing is being proposed from the front porch of the residence on Lot A and the front corner of the residence on Lot B to both respective side property lines as well as in the rear yards of each residential lot. Staff conducted a site inspection of the property and observed that the existing side yard fences of each adjacent residential lot are older good-neighbor fences. As a result, staff has provided a condition that either the applicant work with the neighboring property owners to replace the existing side yard fencing or shall install a new fence along the side property lines of each residential lot abutting the existing adjacent residential properties.

Retaining Walls

The proposed project includes construction of multiple retaining walls. The retaining walls are proposed with brownish-tan coloring using a high-strength pin-connection Basalite Geowall system (see **Attachment 15**). As a point of clarification, **Attachment 15** depicts a three-tiered retaining wall; however, the retaining walls proposed for the project will only be a single tier. The attachment was provided to show the color and style of the proposed retaining wall rather than the number of tiers. As mentioned previously, staff has provided a condition that complete retaining wall plans shall be submitted to the City for review and approval by the Community Development Director to ensure design compliance with the City's approval.

The largest retaining wall would be approximately 6 feet or less in height and would separate the church parking lot from the proposed backyards of each residential lot. The grade would be retained along the property line separating the parcel containing the church from the parcels containing proposed residential units. Additional retaining walls will also be placed on either side of the proposed shared driveway, as well as on either side of the entry stairways leading from each residence to the sidewalk along Southbrook Drive. Currently, a dilapidated wooden retaining wall exists adjacent to the sidewalk along Southbrook Drive that will be removed and replaced with a fill slope as part of the proposed project. Soil displacement between the removal of existing retaining walls and the construction of new retaining walls is expected to be essentially balanced and, as a result, the proposed project is not expected to require soil import or export.

Overall, as conditioned, staff is satisfied with the design of the proposed retaining walls with the natural earth tone colors as it will blend well with surrounding topography, neighborhood, and landscaping.

TREE REMOVAL PERMIT

Currently existing on the project site are ten trees. As part of the project, the applicant is requesting approval of a Tree Removal Permit to remove seven of the ten trees, for which an Arborist Report has been submitted (see **Attachment 16**). Contained within the Arborist Report is a narrative that, in summary, addresses the poor branch structure and stress of the existing trees caused by the lack of maintenance and irrigation.

The applicant has submitted a Landscape Plan showing that six replacement trees will be provided. In analyzing the replacement trees vis-à-vis the removed trees, staff calculated the trunk diameter of the subject trees, which is the method of measurement used by the City to assess the size of a tree related to tree removal and/or tree replanting in accordance with the City's Tree Protection Ordinance. Section 15.70.015.E of the CMC defines the trunk diameter as the diameter of a tree trunk as measured 4 feet 6 inches above natural grade. Of the six replacement trees, three of them are proposed at 24-inch box size and three of them are proposed at 15-gallon size. Depending on the species of tree, a 24-inch box tree generally measures 1 to 2 inches in trunk diameter. For purposes of this analysis, staff averaged the trunk diameter of a 24-inch box tree as 1.5 inches (halfway between the 1- to 2-inch trunk diameter of 24-inch box trees). As for 15-gallon trees, a 15-gallon tree generally measures 0.5 to 1 inch in trunk diameter. Staff averaged the trunk diameter of a 15-gallon tree as 0.75 inches (halfway between the 0.5- to 1-inch trunk diameter). Based on these trunk diameter averages, three replacement 24-inch box trees would amount to a total of 4.5 inches of replacement trunk diameter and three replacement 15-gallon trees would amount to a total of 2.25 inches of replacement trunk diameter. As a result, the applicant is proposing to provide a combined total of 6.75 inches of replacement tree.

Section 15.70.040.A of the CMC provides the following options for tree replacement:

- For every inch of removed tree trunk diameter, a half inch (or 50%) of replacement tree may be provided if the replacement tree *is not* on the City's Protected Tree list; or
- For every inch of removed tree trunk diameter, a third of an inch (or 33%) of replacement tree may be provided if the replacement tree *is* on the City's Protected Tree list.

When evaluating the amount of removed tree diameter against replacement tree diameter, staff notes that four of the seven trees slated for removal have trunk diameters that are below the 6-inch minimum trunk diameter threshold that would trigger the requirement for a Tree Removal Permit. In other words, only three of the seven trees proposed for removal have trunk diameters exceeding the 6-inch trunk diameter threshold requirement. Based on this observation, staff notes that the three trees triggering the Tree Removal Permit requirement amount to a cumulative total of 20 inches of trunk diameter (6, 6, and 8 inches). Since the applicant is proposing to use replacement trees that are not on the City's Protected Tree list, 50% of the 20-inch removed tree trunk diameter would have to be mitigated by 10 inches of replacement tree(s). Given the applicant's proposed 6.75 inches of replacement tree trunk diameter, there is a shortfall of 3.25 inches of replacement tree trunk diameter.

As a result, staff has provided a condition that, prior to issuance of a grading permit for the project, a Tree Replacement Plan be submitted showing either two additional 24-inch box replacement trees or four additional 15-gallon trees to compensate for the 3.25-inch replacement tree trunk diameter shortfall or shall pay the appropriate tree replacement in-lieu fee if the applicant demonstrates there is not adequate space on-site to accommodate the required replacement trees with review and approval by the Community Development Director. Furthermore, a condition is provided that all project-related trees shall be planted a minimum of 10 feet away from water, sewer, and stormdrain lines. In addition, in order to minimize damage to public improvements (i.e. sidewalks), staff has provided a condition that trees planted less than 10 feet away from public improvements shall have root guards installed.

ENGINEERING COMMENTS

As part of the project, the applicant will be providing off-site curb, gutter, and sidewalk modifications and improvements in the public right-of-way along Southbrook Drive as part of the installation of the shared driveway as well as for the removal of an existing unused driveway on the street frontage of Lot A. In order to ensure that improvements done in the public right-of-way are compliant with City regulations, including addressing safety issues relating to line-of-sight for vehicles entering and exiting the shared driveway, conditions have been provided regarding public right-of-way improvements and line-of-sight issues related to the retaining walls adjacent to the shared driveway as well as the shared driveway itself.

COMMENTS RECEIVED

Contra Costa County Fire Protection District

The Contra Costa County Fire Protection district reviewed the proposal and made a determination that the project complies with Fire District standards as related to fire safety access. Staff has provided advisory notes addressing project compliance with Fire District requirements.

East Contra Costa County Habitat Conservancy

The requirements of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), as promulgated by the East Contra Costa County Habitat Conservancy, would not be applicable to this project. According to CMC Section 16.55.030, any development that permanently disturbs less than one acre of land would not be subject to the HCP/NCCP. Since the project to permanently disturb only 0.41 acres of land, the project would not be subject to HCP/NCCP requirements.

Public Comment

Staff received an email expressing opposition to the project. A copy of the email has been provided as **Attachment 17**.

FISCAL IMPACT

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

ATTACHMENTS

1. City Council Resolution No. XX-2016 adopting the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15) [8 pp.]
2. City Council Resolution No. XX-2016 adopting a General Plan Amendment to modify 0.41 acres of the project site from Institutional Density (ID) to Single Family Medium Density (MD) for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project (GPA-01-15) [3 pp.]
3. City Council Ordinance No. 471 approving a rezone of the project site from Agricultural District (A) to Planned Development District (PD) for the St. John's Church/Southbrook Drive Mixed Use Planned Development Project (ZOA-03-15) [3 pp.]
4. City Council Resolution No. XX-2016 approving the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15) for a three-lot subdivision for two single-family homes [16 pp.]
5. Vicinity Map [1 p.]
6. Existing General Plan Land Use Designation [1 p.]
7. Proposed General Plan Land Use Designation [1 p.]
8. Existing Zoning Classification [1 p.]
9. Proposed Zoning Classification [1 p.]
10. Development Plan and Tentative Parcel Map Plan (including Preliminary Grading Plan, Preliminary Stormwater Control Plan, Boundary and Topography Plan, Site Plan, and Site Sections) [7 pp.]
11. Floor Plans and Architectural Elevations [4 pp.]
12. Roof Plans [2 pp.]
13. Exterior Colors and Materials Diagram [2 pp.]
14. Landscape Plan [1 p.]
15. Retaining Wall Example [1 p.]
16. Arborist Report [2 pp.]
17. Email from Michael Mayer-Oakes [1 p.]

ATTACHMENT 1

RESOLUTION NO. XX-2016

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

THE CITY COUNCIL City of Clayton, California

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Clayton, California, at a regular meeting thereof held on the 15th day of November, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Janet Brown, City Clerk

I certify that the foregoing resolution was duly and regularly passed by the City Council of the City of Clayton, California at a regular meeting held on the 15th day of November, 2016.

Janet Brown, City Clerk

EXHIBIT A

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

October 2016

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

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

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

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

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

Mitigation Measure	Monitoring Agency	Implementation Schedule	Compliance Verification (Date / Initials)
<i>submitted to the City Engineer.</i>			
Mitigation Measure 8. <i>The applicant shall submit a Final Stormwater Control Plan (including an Operations and Maintenance Manual) fully addressing the requirements of the City's recently amended Municipal Regional Stormwater NPDES Permit (Permit No. CAS612008, as amended November 19, 2015), and including an alternative to the use of sump pumps, such as dry wells, to the satisfaction of the City Engineer.</i>	City Engineer	Prior to approval of improvement plans	
<p data-bbox="155 501 1129 592">Mitigation Measure 9. <i>During grading and construction, the project contractor shall ensure that the following measures are implemented, consistent with the recommendations in the Environmental Noise and Vibration Analysis:</i></p> <ul data-bbox="210 625 1129 982" style="list-style-type: none"> <li data-bbox="210 625 1129 803">• <i>Grading and construction activities shall be limited to the daytime hours between 7:00 AM to 5:00 PM Monday through Friday, as specified in Section 15.01.101 of the Clayton Municipal Code. Any such work beyond said hours and days is strictly prohibited unless previously specifically authorized in writing by the City Engineer or designee or by project conditions of approval;</i> <li data-bbox="210 810 1129 901">• <i>The distances between on-site construction and demolition staging areas and the nearest surrounding residences shall be maximized to the extent possible; and</i> <li data-bbox="210 907 1129 982">• <i>All construction and demolition equipment that utilizes internal combustion engines shall be fitted with manufacturer's mufflers or equivalent.</i> 	<p data-bbox="1138 501 1381 625">City of Clayton Community Development Department</p> <p data-bbox="1138 649 1381 682">City Engineer</p>	During grading and construction	

ATTACHMENT 2

RESOLUTION NO. XX-2016

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Clayton on the 15th day of November 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing Resolution was passed, approved, and adopted at a regular meeting of the City Council of the City of Clayton held on the 15th day of November, 2016.

Janet Brown, City Clerk

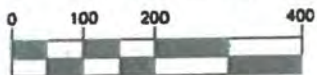
PROPOSED GENERAL PLAN

ST. JOHN'S EPISCOPAL CHURCH

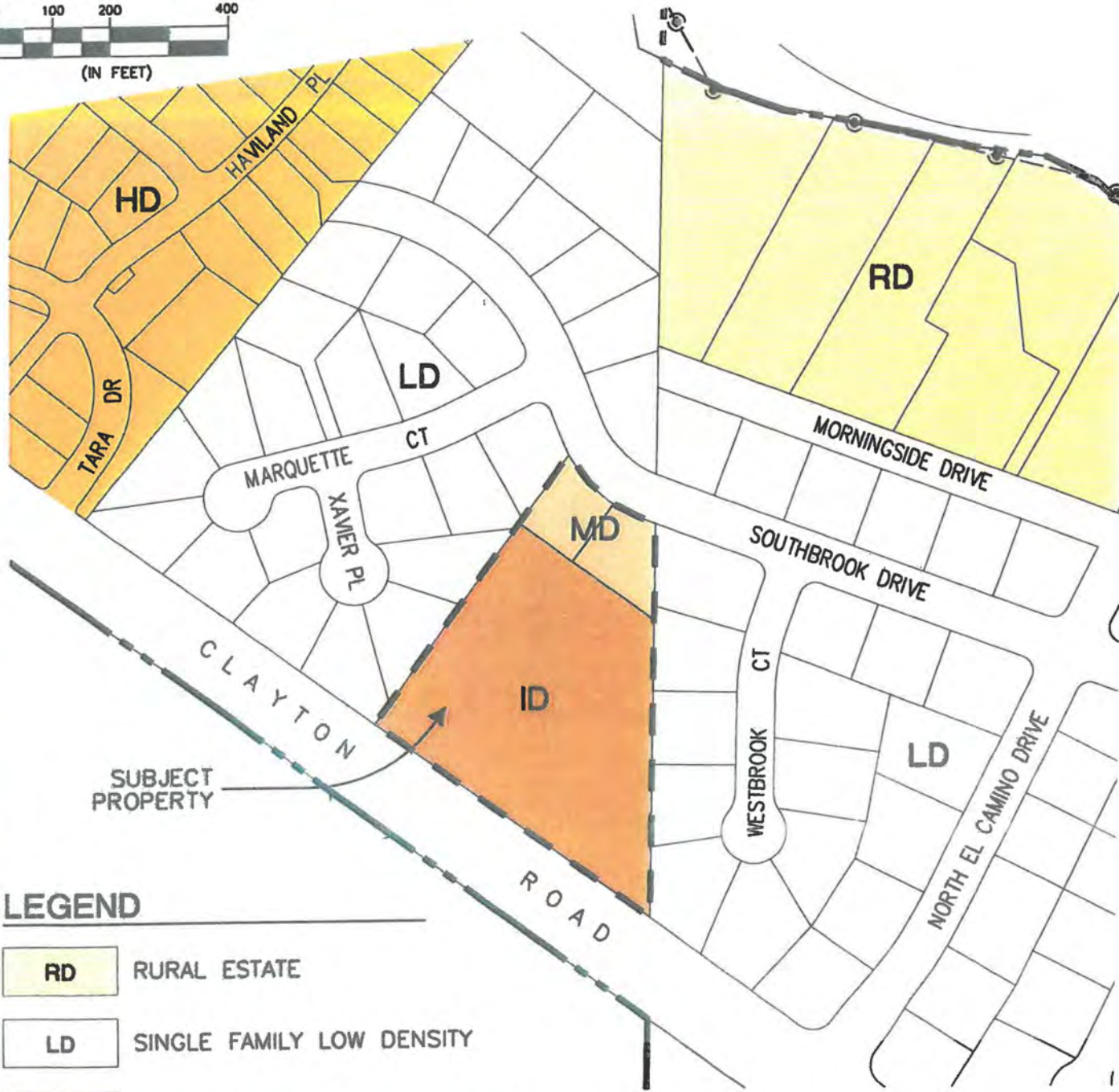
MS 01-15



GRAPHIC SCALE



(IN FEET)



SUBJECT PROPERTY

LEGEND

RD	RURAL ESTATE
LD	SINGLE FAMILY LOW DENSITY
MD	SINGLE FAMILY MEDIUM DENSITY
HD	SINGLE FAMILY HIGH DENSITY
ID	INSTITUTIONAL DENSITY

CITY OF CLAYTON

Founded 1857 ...Incorporated 1964

OCTOBER 2016

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10/16/2016

ATTACHMENT 3

ORDINANCE NO. 471

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. Severability. If any provisions of this Ordinance, or the application thereof to any person or circumstances, if held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses of the Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and, to this end, such provisions and clauses of the Ordinance are declared to be severable.

SECTION 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

SECTION 6. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution of the City Council for the posting of ordinances and public notices.

The foregoing Ordinance was introduced at a regular noticed public meeting of the City Council of the City of Clayton held on the 15th day of November, 2016.

PASSED, ADOPTED, AND ORDERED POSTED at a regular meeting of the City Council of the City of Clayton on December 6, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing Ordinance was duly introduced at a noticed regular meeting of the City Council of the City of Clayton held on November 15, 2016, and was duly adopted, passed, and ordered posted at a regular meeting of the City Council of the City of Clayton held on December 6, 2016.

Janet Brown, City Clerk

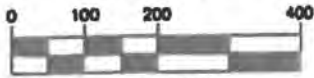
PROPOSED ZONING MAP

ST. JOHN'S EPISCOPAL CHURCH

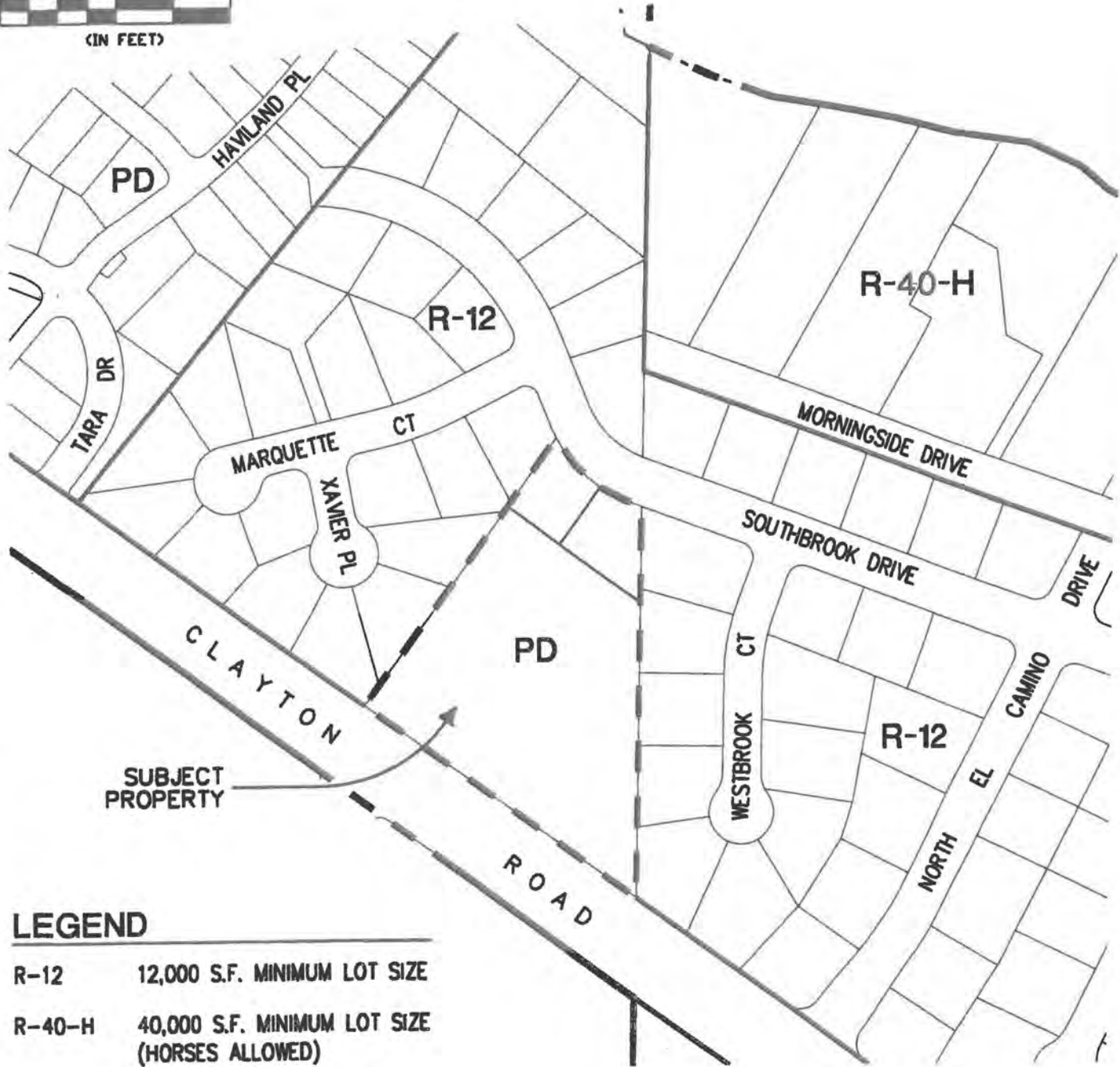
MS 01-15



GRAPHIC SCALE



(IN FEET)



LEGEND

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

CITY OF CLAYTON

Founded 1857 ...Incorporated 1964

OCTOBER 2016

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

ATTACHMENT 4

RESOLUTION NO. XX-2016

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED, the City Council of the City of Clayton, based on the entire record before it and pursuant to its independent review and consideration hereby **APPROVES** a Development Plan to develop two single-family residential lots; a Tentative Parcel Map to subdivide a 2.77-acre property into three parcels; a Site Plan Review Permit for architecture and landscaping; and a Tree Removal Permit to remove seven of the ten existing on-site trees as part of the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project on property located at 5555 Clayton Road located within the City of Clayton and further described by Assessor Parcel Number APN: 118-101-022 and depicted in the Southbrook Drive Planned Development Standards set forth in Exhibit A attached hereto and incorporated herein by reference ("property") subject to the conditions listed below:

PLANNING CONDITIONS

1. Each property owner is responsible for the repair and maintenance of the required fences along their respective property lines. The fences shall be maintained in a style consistent with the design approved by the City.
2. All project-related fencing shall comply with the City's fencing standards including, but not limited to, the City's fencing height regulations.
3. Property owners shall comply with the Tree Protection Conditions.
4. Routine inspection of the stormwater conveyance and treatment facilities, and the corresponding landscaping and irrigation improvements, shall be conducted by the property owner of each residential lot. The property owner of each residential lot shall be responsible for any needed maintenance work or repairs in their entirety.
5. The property owner of each residential lot shall perform and prepare annual inspections and reports for the stormwater conveyance and treatment facilities, which shall be submitted to the City along with payment of the City's required fees. In addition, the property owner of each residential lot shall be responsible to comply with the reports in relation to needed maintenance work or repairs.
6. The property owner of each residential lot shall be responsible to maintain the landscaping and irrigation in the public right-of-way and the stormwater conveyance and treatment facilities.
7. The deeds for all lots shall contain language which prohibits any future land division(s) to create additional home sites.

8. The project is subject to development impact fees. The applicant shall be responsible for all fees and environmental review costs, including those charged by the California Department of Fish and Wildlife.
9. At the time of filing of the final subdivision map, the subdivider shall pay the parkland dedication fees as determined by the City (pursuant to Chapter 16.12 of the Clayton Municipal Code).
10. The developer shall enter into an agreement with the City to satisfy the Open Space requirement as outlined in Section 17.28.100 of the Clayton Municipal Code. This agreement shall be completed prior to the filing of the final subdivision map.
11. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and other fees that are due.
12. Prior to the commencement of grading or construction activities, the applicant shall submit a recycling plan for construction materials to the City for review and approval. The plan shall include that all materials that would not be acceptable for disposal in the sanitary landfill be recycled/reused. Documentation of the material type, amount, where taken, and receipts for verification and certification statements shall be included in the plan. The applicant shall submit deposits to the City to ensure good faith efforts of construction and demolition recycling. A deposit of \$2,000 per residence shall be submitted prior to issuance of the building permit for each residence, or demolition permit. Appropriate documentation regarding recycling shall be provided to the City. All staff costs related to the review, monitoring, and enforcement of this condition shall be charged to the deposit account.
13. All conditions of approval, which are applicable to the construction of the subdivision improvements, shall appear on the improvement drawings.
14. Pursuant to Government Code Section 66474.9, the applicant (including the subdivider or any agent thereof) shall defend, indemnify, and hold harmless the City of Clayton and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.
15. The applicant agrees to indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses

of whatever nature, including attorney's fees and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, or the environmental review conducted under the California Environmental Quality Act for this entitlement and related actions. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.

16. All mitigation measures set forth in the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Study/Mitigated Negative Declaration are hereby incorporated into these Conditions of Approval, as if fully contained herein, except those mitigation measures found infeasible pursuant to Section 15091 of the California Environmental Quality Act Guidelines. The applicant shall implement all mitigation measures set forth in the St. John's Church/Southbrook Drive Mixed Use Planned Development Project Initial Environmental Study/Mitigated Negative Declaration.
17. The applicant shall work with the neighboring property owners to replace the existing side yard fencing or install a new fence along, and just inside of, side property lines of each residential lot abutting existing adjacent residential properties.

TREE PROTECTION CONDITIONS

18. The recommendations listed in the Arborist Report, prepared for the project by Bob Peralta, ISA Certified Arborist, representing Valley Crest Tree Care Services (dated May 28, 2015), shall be implemented to protect trees to be retained on the project site. Specific tree preservation and preservation actions shall be listed on all grading and constructions plans and specifications for the project.
19. Prior to issuance of a grading permit, in accordance with the City's Tree Protection Ordinance, the applicant shall submit to the Community Development Department a Tree Replacement Plan identifying the protected tree that would be removed during project construction. Protected trees rated as being in fair or good health shall be replaced at the ratios specified in Section 15.70.040 of the Clayton Municipal Code. The Tree Replacement Plan shall be submitted for review and approval by the Community Development Director. [Mitigation Measure (MM) 2]
20. The following construction policies and guidelines for tree preservation and protection put forth by the City of Clayton shall be followed during project implementation [MM 3]:
 - a. The applicant shall submit for the review and approval of the Community Development Director a tree protection plan to identify the location of the tree trunk and dripline of all protected oaks subject to Section 15.70.020 of the Clayton Municipal Code.

- b. A protective fence shall be installed around all oaks subject to the tree protection plan. The protective fence shall be installed prior to commencement of any construction activity and shall remain in place for the duration of construction.
 - c. Grading, excavation, deposition of fill, erosion, compaction, and other construction-related activities shall not be permitted within the dripline or at locations which may damage the root system of trees subject to the tree protection plan, unless such activities are specifically allowed by the tree protection plan. Tree wells may be used if specifically allowed by the tree protection plan.
 - d. Oil, gas, chemicals, vehicles, construction equipment, machinery, and other construction materials shall not be allowed within the dripline of trees subject to the tree protection plan.
21. Trees which are identified for preservation, and are subsequently removed during construction, shall be replaced by new trees or shall be required to pay an lieu fee equal to 200% of the value (as established by the International Society of Arboriculture) of the original tree(s) to be preserved.
22. The Community Development Department shall review and approve grading and improvement plans to ensure adequate measures are taken to protect trees.

LANDSCAPING CONDITIONS

23. All plant material to be located in the public right-of-way shall be maintained by the property owner of each residential lot and is subject to inspection by the Maintenance Department and must be guaranteed for one year from the date of final inspection.
24. The applicant shall maintain all landscaped areas in the public right-of-way for a period of ninety (90) days after final acceptance of the subdivision improvements by the City Council. Following acceptance by the City the property owner of each residential lot shall maintain all landscaped areas in the public right-of-way.
25. Installation of all irrigation and landscaping shall be performed by a licensed contractor.
26. All trees shall be planted at least ten (10) feet away from any public water, sewer, or storm drain lines, unless a closer location is approved by the City. All trees shall be installed with support staking. All nursery stakes must be removed from trees. All trees planted within eight (8) feet of a sidewalk or driveway shall be installed with root guards.

27. Prior to a grading permit being issued for the project, a revised Landscape, Irrigation, Fencing, and Retaining Wall Plan shall be submitted, along with construction plans for building permit issuance, to the Community Development Department for review and approval.
28. All project-related landscaping shall comply with the landscape water conservation standards listed in Chapter 17.80 of the Clayton Municipal Code.

GRADING CONDITIONS

29. Removal of trees shall occur between September 1st and January 31st, outside the bird nesting season, to the extent feasible. If tree removal must occur during the avian breeding season (February 1st to August 31st), a qualified biologist shall conduct a survey for nesting birds of all trees and shrubs within 75 feet of the entire project site 14 days prior to the commencement of construction, and submit the findings of the survey to the Community Development Director. If nesting passerines are identified during the survey within 75 feet of the project site, a 75-foot buffer around the nest tree shall be fenced with orange construction fencing. If the nest tree is located off the project site, then the buffer shall be demarcated as per above. The size of the buffer may be altered if a qualified biologist conducts behavioral observations and determines the nesting passerines are well acclimated to disturbance. If acclimation has occurred, the biologist shall prescribe a modified buffer that allows sufficient room to prevent undue disturbance/harassment to the nesting passerines. Construction or earth-moving activity shall not occur within the established buffer until a qualified biologist has determined that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, which typically occurs by July 15th. However, the date may be earlier or later, and would have to be determined by a qualified biologist. If a qualified biologist is not hired to watch the nesting passerines, then the buffers shall be maintained in place through the month of August and work within the buffer may commence September 1st. [MM 1]
30. Prior to the issuance of a grading permit, the grading plan shall include a requirement (via notation) indicating that if cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken. to the issuance of a grading permit, the grading plan shall

include a requirement (via notation) indicating that if cultural resources, or human remains, are encountered during site grading or other site work, all such work shall be halted immediately within 100 feet of the area of discovery and the contractor shall immediately notify the City of the discovery. In such case, the City, at the expense of the project applicant, shall retain the services of a qualified archaeologist for the purpose of recording, protecting, or curating the discovery as appropriate. The archaeologist shall be required to submit to the City for review and approval a report of the findings and method of curation or protection of the resources. Further grading or site work within the vicinity of the discovery, as identified by the qualified archaeologist, shall not be allowed until the preceding steps have been taken. [MM 4]

31. Pursuant to State Health and Safety Code §7050.5(c) State Public Resources Code §5097.98, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Contra Costa County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the Native American Heritage Commission who shall notify the person believed to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for re-internment of the human remains and any associated artifacts. Additional work is not to take place in the immediate vicinity of the find, which shall be identified by the qualified archaeologist at the applicant's expense, until the preceding actions have been implemented. [MM 5]
32. Prior to the issuance of a grading permit, the applicant shall prepare to the satisfaction of the City Engineer, an erosion control plan that utilizes standard construction practices to limit the erosion effects during construction of the proposed project. Actions include, but are not limited to, the following:
 - a. Hydro-seeding;
 - b. Placement of erosion control measures within drainage ways and ahead of drop inlets;
 - c. The temporary lining (during construction activities) of drop inlets with "filter fabric";
 - d. The placement of straw wattles along slope contours;
 - e. Use of designated equipment and vehicle "wash-out" location;
 - f. Use of siltation fences;
 - g. Use of on-site rock/gravel road at construction access points; and
 - h. Use of sediment basins and dust palliatives.
33. During grading and construction, the project contractor shall ensure that the following measures are implemented, consistent with the recommendations in the Environmental Noise and Vibration Analysis:
 - a. Grading and construction activities shall be limited to the daytime hours between 7:00 a.m. to 5:00 p.m. Monday through Friday, as specified in Section 15.01.101 of the Clayton Municipal Code.

Any such work beyond said hours and days is strictly prohibited unless previously specifically authorized in writing by the City Engineer or designee or by project conditions of approval;

- b. The distances between on-site construction and demolition staging areas and the nearest surrounding residences shall be maximized to the greatest extent possible; and
 - c. All construction and demolition equipment that utilizes internal combustion engines shall be fitted with manufacturer's mufflers or equivalent. [MM 9]
34. A licensed surveyor or engineer shall survey the locations, elevations, and limits of the trunk and dripline of all trees to be retained and protected as shown on the tentative map tree retention plan. The locations and limits are to be shown on the grading plans and the construction plans. A licensed arborist shall review the proposed construction operations that may impact the preserved trees and shall provide mitigations that shall be incorporated into the grading and construction plans. The arborist shall review and approve (by signature on the plans) the grading and improvement plans prior to submittal to the City for plan check.
 35. Signature blocks shall be provided for the Community Development Director and City Engineer on the grading and construction plans.
 36. All required setbacks shall contain at least five feet of flat, unoccupied area. "Flat" means a cross-slope between 2% and 10%. "Unoccupied" means no encroachments by fireplaces, building pop-outs (with or without a foundation), air conditioner pads and the like.
 37. Two feet of flat area shall be provided between a property or right-of-way line and the top of slope.
 38. The recommendations of the geotechnical report shall be incorporated into the grading and construction plans.
 39. All grading shall be performed under the direction and inspection of a registered soils or geotechnical engineer and shall be in conformance with the recommendations of the geotechnical report and the requirements of the City Engineer. Prior to the construction of any improvements, the engineer shall submit a testing and observation report to the City Engineer for review and approval.
 40. Grading and stormwater permits shall be obtained from the City Engineer.
 41. The applicant shall implement all of the Bay Area Air Quality Management District's Basic Construction Mitigation Measures, which include the following:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- e. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- f. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- h. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

STREET CONDITIONS

- 42. The existing driveway at Parcel A is to be removed and replaced with standard curb, gutter and sidewalk.
- 43. The proposed driveway shall be constructed in accordance with the City's Standard Plan for driveways with monolithic sidewalks.
- 44. Applicant shall remove and replace any damaged existing curb, gutter and sidewalk as directed by the City Engineer.
- 45. Driveway and retaining walls at Southbrook Drive shall be designed to provide adequate sight distance per the City's Standard Plan.
- 46. The configuration and width of the shared driveway for the two residential lots shall be reviewed and approved by the City Engineer.

47. All mailbox locations shall be constructed and grouped in accordance with United States Postal Service standards and the grouping of mailboxes shall be architecturally treated to reduce massing and visual impact. All mailbox locations and design are subject to review and approval of the Community Development Department and the United States Postal Service.

DRAINAGE CONDITIONS

48. Total storm runoff peak flows from the site shall not exceed pre-development levels. All stormwater runoff from impervious areas shall be treated and contaminants removed prior to discharge from the site. The design of the detention and treatment facilities shall be subject to the approval of the City Engineer.
49. The applicant shall submit a Final Stormwater Control Plan (including an Operations and Maintenance Manual) fully addressing the requirements of the City's recently amended Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (Permit No. CAS612008, as amended November 10, 2015), including the new "Green Streets/Green Infrastructure" requirements, and including an alternative to the use of sump pumps, such as dry wells, to the satisfaction of the City Engineer. [MM 8]
50. Maintenance of all drainage facilities shall be the responsibility of the homeowner on whose lot the facilities are located or adjacent to (including those facilities within the public right-of-way).
51. The improvement plans shall reflect that all on-site storm drain inlets shall be labeled "No Dumping – Drains to Creek" using thermoplastic stenciling or equivalent permanent method, subject to City approval.
52. All roofs shall have rain gutters with rain water leaders that drain into depressed biofiltration treatment beds located within landscaped areas before discharging into the storm drain system or the street.
53. The Mosquito and Vector Control District and its contractors shall have the right of access to conduct inspections and maintenance of all on-site drainage devices.
54. Developer shall, prior to commencement of construction, enter into a recorded covenant and agreement for each lot with the following requirements at a minimum:
 - a. Bioretention planter to be maintained as originally constructed and in accordance with the approved Operations and Maintenance Plan. Planters may not be modified without the approval of the City Engineer.

- b. By September 15th of each year, lot owner is to perform (or have performed by a firm approved by the City) a pre-rainy season inspection and submit a report to the City along with payment of the required fees. Any deficiencies noted shall be remedied within 20 calendar days of completion of the inspection.
- c. City shall have the right of access to inspect the bioretention planter at any time.
- d. Should said City inspection reveal any problems or inadequacies with the bioretention planter or drainage system, Owner shall be notified and must remedy the problems or inadequacies within 30 days of said notice.

UTILITY CONDITIONS

- 55. Sanitary sewer plans shall be submitted to the City of Concord and the City Engineer for review and approval.
- 56. A sewer cleanout shall be provided on each sewer lateral at the front property line of each residential lot.
- 57. The applicant shall connect all residences to the sanitary sewer system, obtain applicable permits and pay applicable fees as required by the City of Concord.
- 58. The applicant shall install two four-inch conduits and pull-boxes with pull lines for City use for future tele-communication purposes. Conduits shall be installed in the public utility easement with termination on residential property lines behind the curbs.
- 59. The width of new access and maintenance easements for underground facilities shall be twice the depth of the facility with a minimum width of ten (10) feet, as determined appropriate and applicable by the City Engineer.
- 60. Underground facilities crossing lots shall be located in flat portions of the lots, not within slope areas.
- 61. Any existing underground facilities, either on-site or adjacent to the site, no longer required shall be either removed or filled, as directed by the City Engineer.
- 62. The applicant shall furnish and install the conduit required by AT&T California for the service connection wires or cables.

ENGINEERING CONDITIONS

- 63. The applicant shall obtain an encroachment permit for all work in the public right-of-way.

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

PARKING CONDITION

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

EXPIRATION CONDITION

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

ADVISORY NOTES

1. The applicant shall obtain the necessary approvals from the Contra Costa County Fire Protection District.
2. The applicant shall provide an adequate and reliable water supply for fire protection as set forth in the Uniform Fire Code.

3. NO PARKING — FIRE LANE signs or red curbs shall be provided throughout both sides of the twenty (20) foot wide access driveway/roadway and turnaround. The applicant shall submit a minimum of two (2) copies of site improvement plans indicating existing hydrant locations and proposed fire apparatus access for your review and approval prior to obtaining building permits.
4. The twenty (20) foot wide access driveway/roadway and turnaround improvements must be completed and inspected by the Contra Costa County Fire Protection District (CCCFFPD) prior to construction on the two residential lots.
5. Development on any parcel in this subdivision shall be subject to review and approval by the CCCFFPD to ensure compliance with minimum CCCFFPD requirements.
6. Any future proposed residences are required to be protected with an approved automatic fire sprinkler system complying with the 2013 edition of NFPA 13D or Section R313.3 of the 2013 California Residential Code. A minimum of two (2) sets of sprinkler plans shall be submitted to the CCCFFPD for both residences for review and approval prior to installation.
7. Additional requirements may be imposed by the Contra Costa County Fire Protection District. Before proceeding with the project, it is advisable to check with the Fire District located at 2010 Geary Road, Pleasant Hill, 925-930-5500.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of Clayton on the 15th day of November 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST:

Janet Brown, City Clerk

I hereby certify that the foregoing Resolution was passed, approved, and adopted at a regular meeting of the City Council of the City of Clayton held on the 15th day of November 2016.

Janet Brown, City Clerk

EXHIBIT A



SOUTHBROOK DRIVE PLANNED DEVELOPMENT

DEVELOPMENT STANDARDS

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



VICINITY MAP

	<p>St. John's Church/Southbrook Drive Mixed Use Planned Development ENV-01-15, GPA-01-15, ZOA-03-15, DP-01-15, MAP-01-15, SPR-07-16, TRP-37-15 5555 Clayton Road APN: 118-101-022</p>	 <p>(Not to Scale)</p>
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ATTACHMENT 6

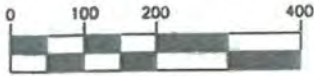
EXISTING GENERAL PLAN

ST. JOHN'S EPISCOPAL CHURCH

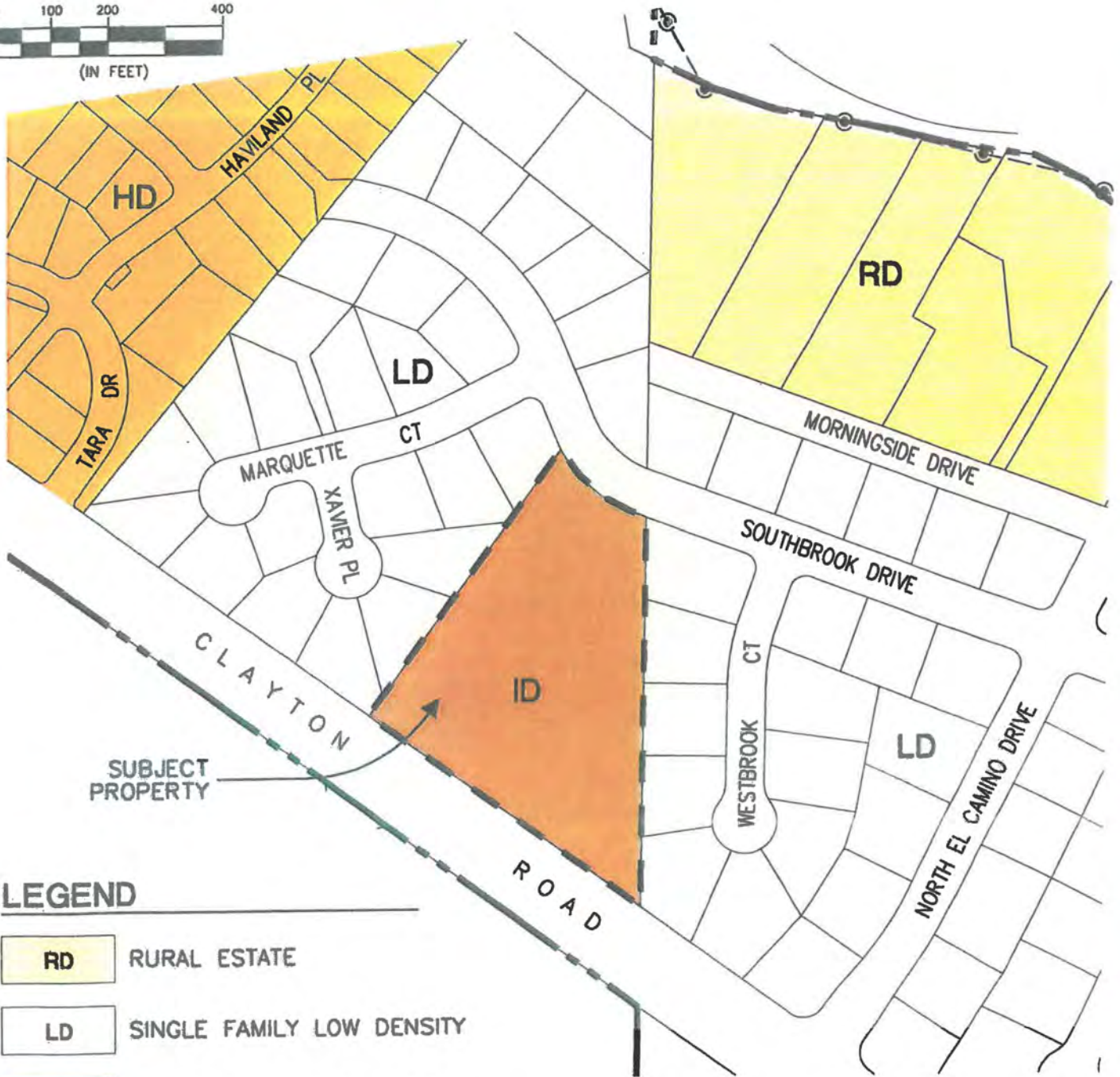
MS 01-15



GRAPHIC SCALE



(IN FEET)



SUBJECT PROPERTY

LEGEND

- RD** RURAL ESTATE
- LD** SINGLE FAMILY LOW DENSITY
- HD** SINGLE FAMILY HIGH DENSITY
- ID** INSTITUTIONAL DENSITY

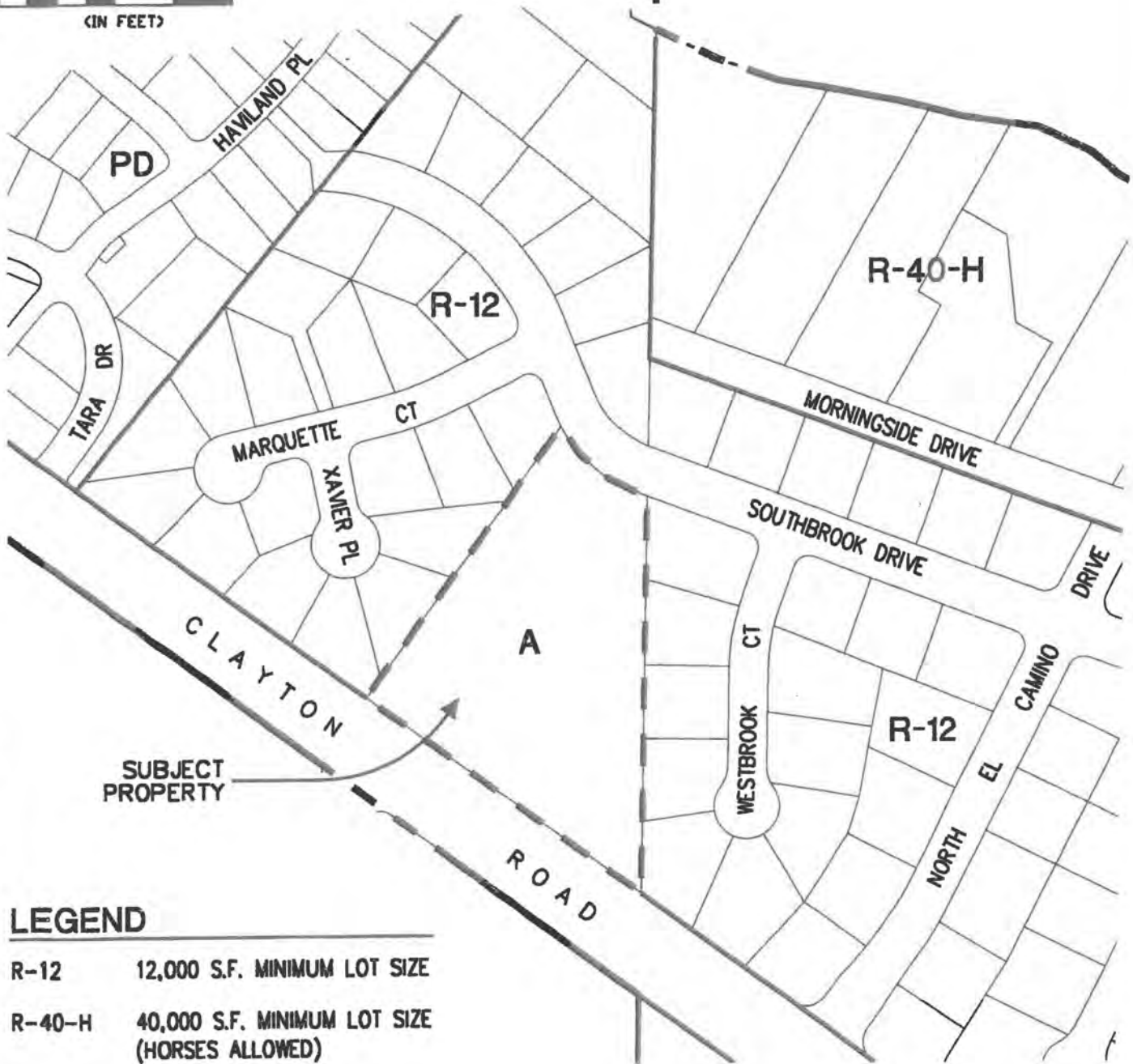
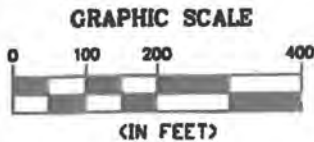
CITY OF CLAYTON

Founded 1857 ... Incorporated 1964

OCTOBER 2016

THU, OCT 20, 2016 10:25 A WARREN GP MS 01-15 Z:\C0010502\EXISTING OF GENERAL PLAN - MS 01-15.DWG

ATTACHMENT 8 EXISTING ZONING MAP ST. JOHN'S EPISCOPAL CHURCH MS 01-15



SUBJECT PROPERTY

LEGEND

- R-12 12,000 S.F. MINIMUM LOT SIZE
- R-40-H 40,000 S.F. MINIMUM LOT SIZE
(HORSES ALLOWED)
- A AGRICULTURAL

CITY OF CLAYTON

Founded 1857 ... (reincorporated 1954)

OCTOBER 2016

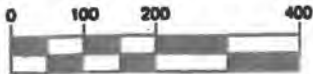
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ATTACHMENT 9 PROPOSED ZONING MAP

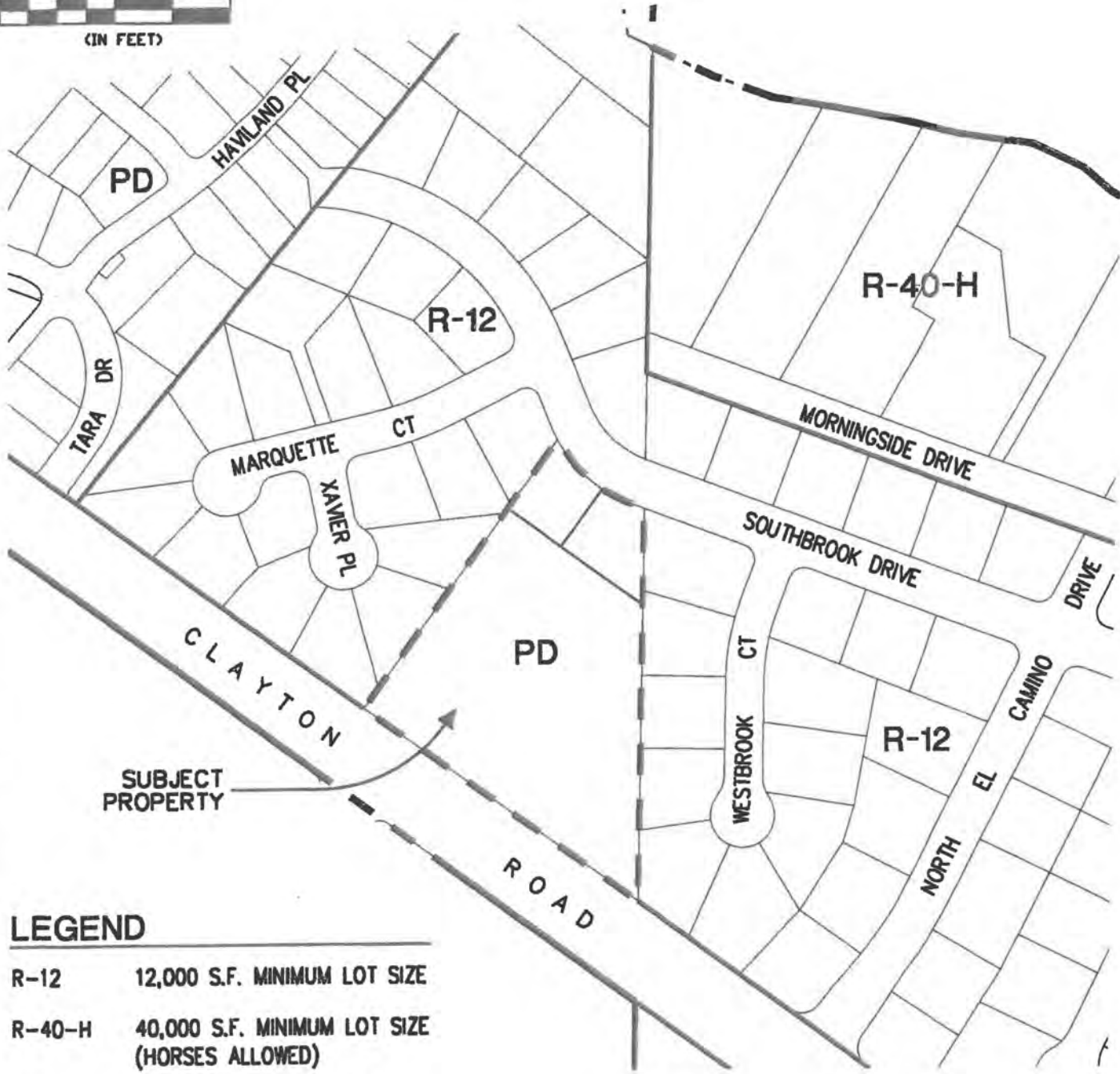
ST. JOHN'S EPISCOPAL CHURCH MS 01-15



GRAPHIC SCALE



(IN FEET)



SUBJECT
PROPERTY

LEGEND

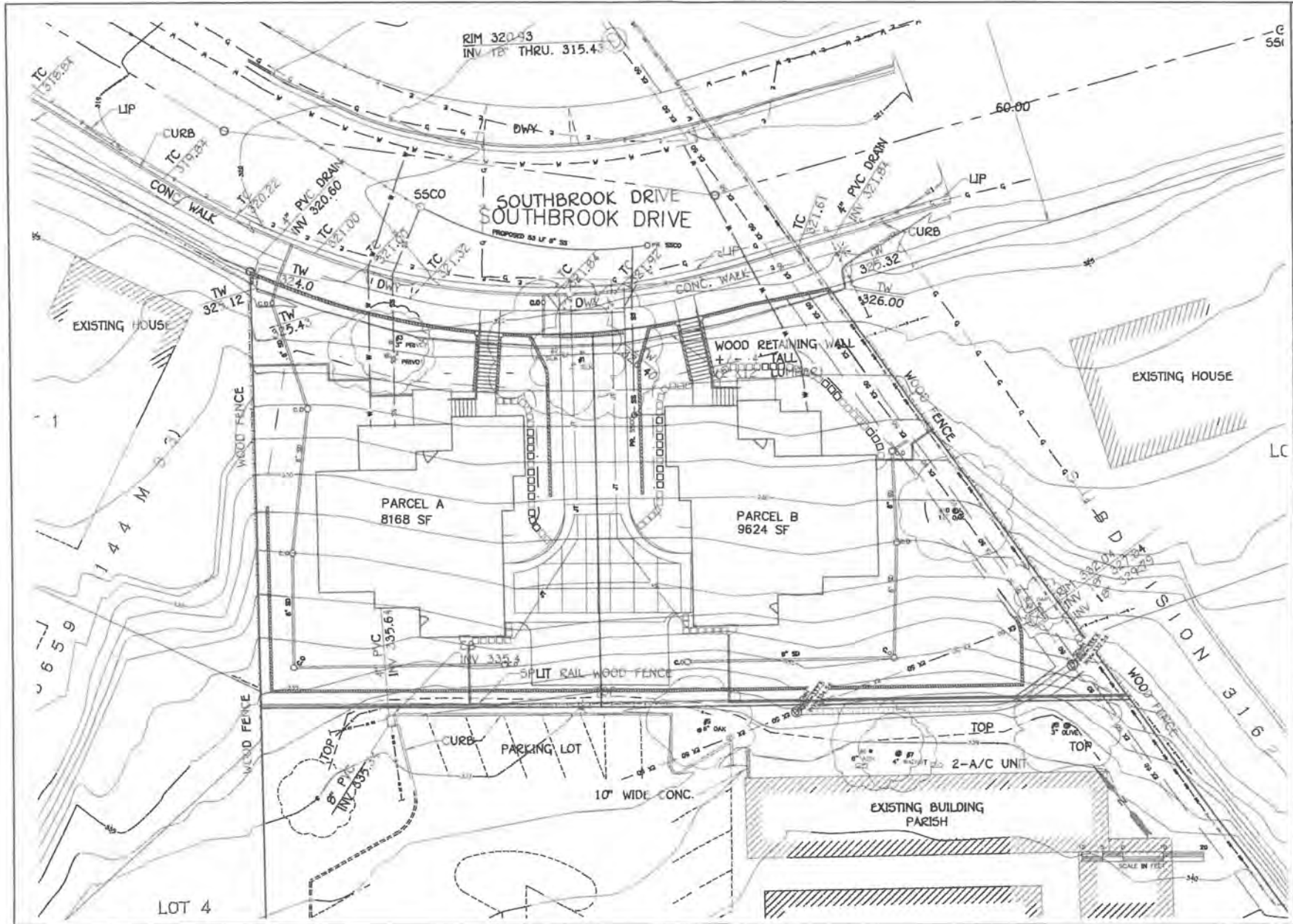
- R-12 12,000 S.F. MINIMUM LOT SIZE
- R-40-H 40,000 S.F. MINIMUM LOT SIZE (HORSES ALLOWED)
- PD PLANNED DEVELOPMENT

CITY OF CLAYTON

Founded 1857 ... Incorporated 1964

OCTOBER 2016

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

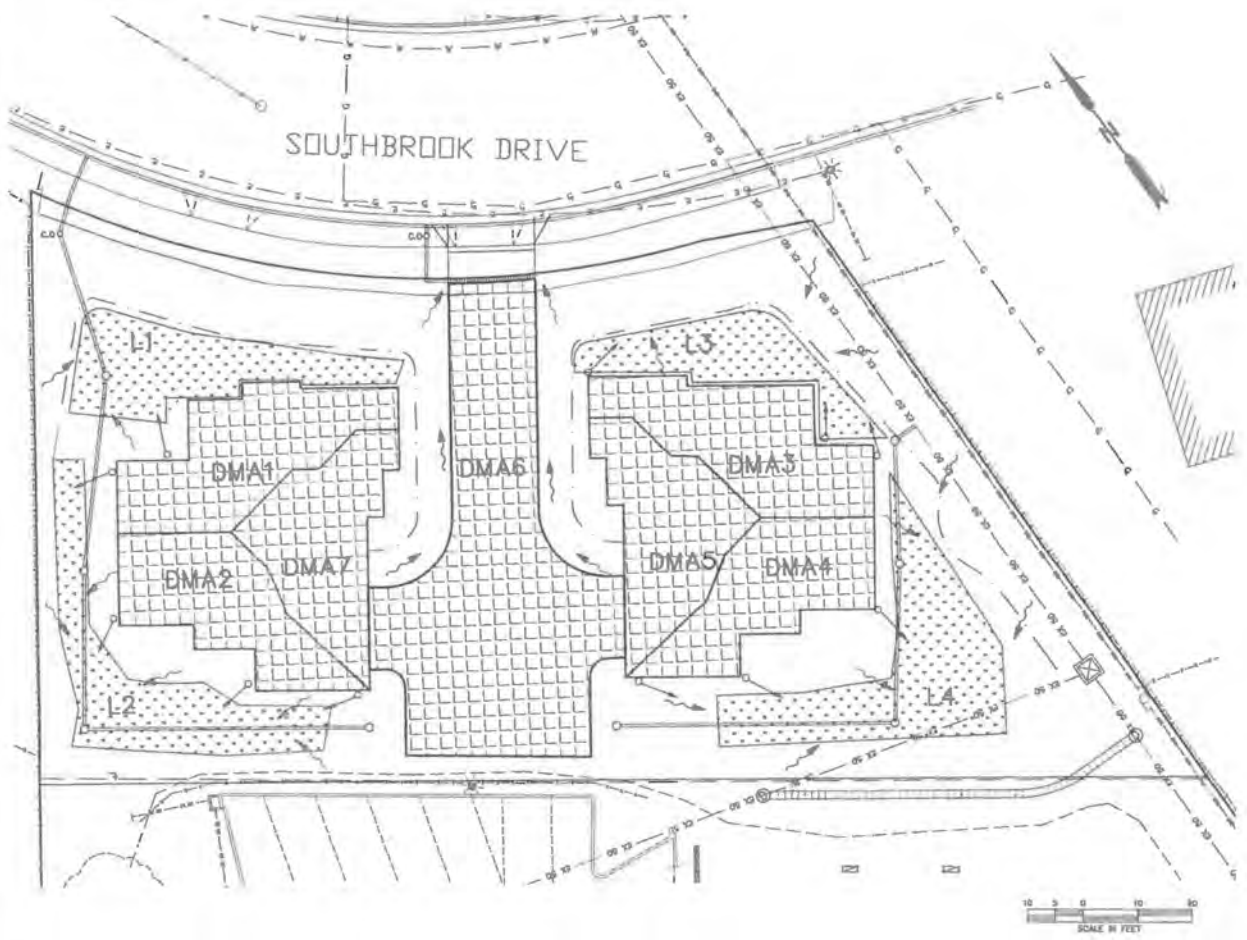


<p>ALIQUOT PLANNERS CIVIL ENGINEERS SURVEYORS 1900 SOUTH MAIN STREET SUITE 310 WALNUT CREEK, CA. 94594 (925) 470-2300 FAX (925) 476-2360</p>		
NO. BY	DATE	REVISIONS
<p>VESTING TENTATIVE MAP - MS 01-15 PRELIMINARY UTILITIES PLAN SOUTHBROOK DRIVE</p>		
CLAYTON		CALIFORNIA
CONTRA COSTA COUNTY		
<p>DATE: 12/20/16 SCALE: 1"=40' DATE: 8/24/16 DRAWN: VAD CHECKED: GJM APPROVED: RCF</p>	<p>TM 3 OF 7</p>	






VESTING TENTATIVE MAP - MS 01-15
 PRELIMINARY STORM WATER CONTROL PLAN
 SOUTHBROOK DRIVE
 CONTRA COSTA COUNTY
 CALIFORNIA
 CLAYTON

JOB NO. 230010.0
 SCALE 1"=10'
 DATE 8/24/18
 DRAWN BY
 CHECKED BY

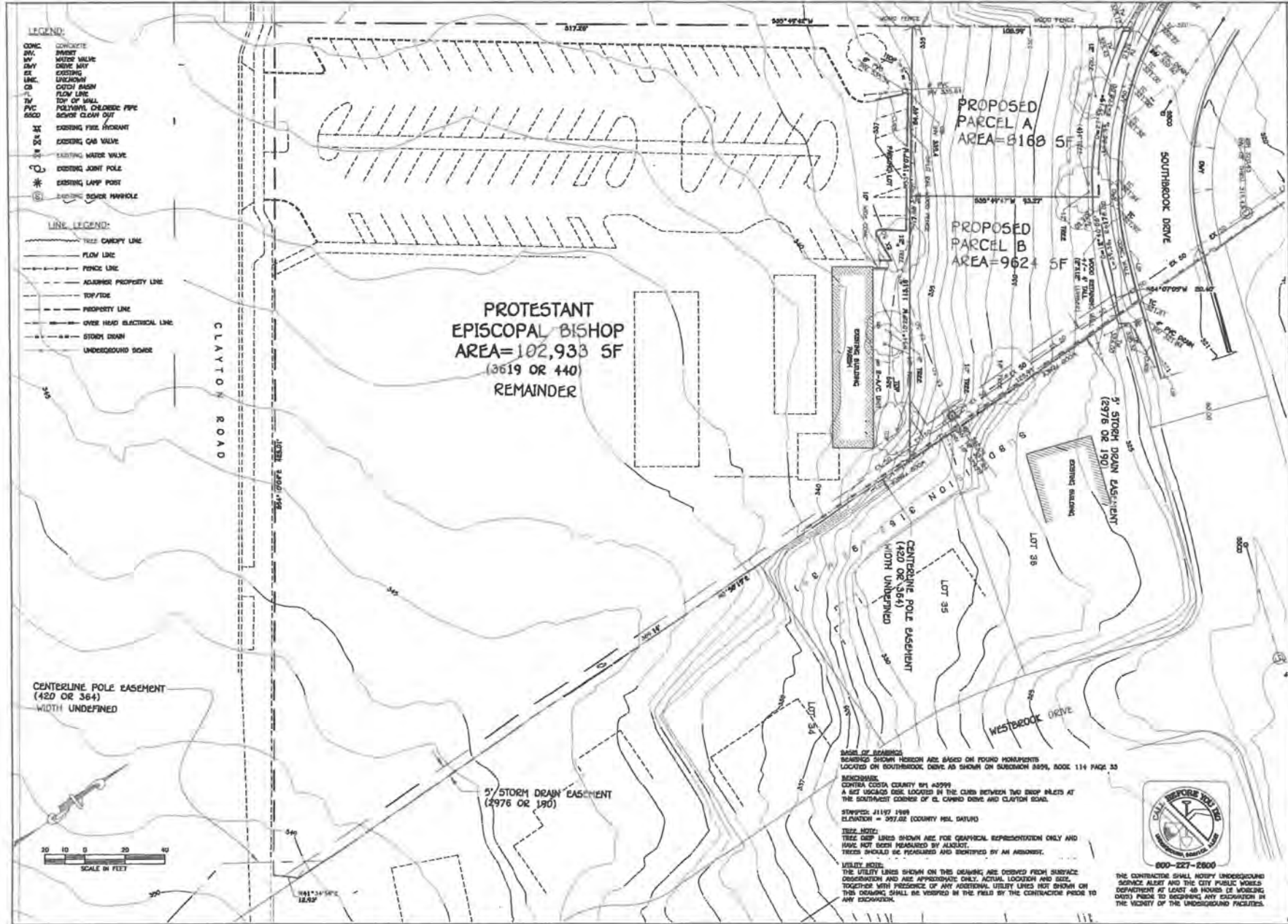


LEGEND

-  LANDSCAPE
-  ROOF/DRIVEWAY
-  ROOFLEADER

AREA ID	IMPERVIOUS AREA (SF)	RECEIVING LANDSCAPE AREA* (SF)	TREATED/NOT TREATED
DMA 1	815	711 (L1)	TREATED (<=1)
DMA 2	638	783 (L2)	TREATED (<=1)
DMA 3	804	492 (L3)	TREATED (<=1)
DMA 4	688	959 (L4)	TREATED (<=1)
DMA 5	718		NOT TREATED
DMA 6	2,227		NOT TREATED
DMA 7	718		NOT TREATED
TOTAL IMPERVIOUS = 6,856 SF			

ROOF LEADERS DIRECTED TO LANDSCAPING!



- LEGEND:**
- CONC. CONCRETE
 - DW. DRAIN
 - WV WATER VALVE
 - DV DRIVE VALVE
 - EX EXISTING
 - UB UNDERGROUND
 - CB CATCH BASIN
 - FL FLOW LINE
 - TV TOP OF WALL
 - PC POLYETHYLENE GLASS REINFORCED CONCRETE PIPE
 - SCD SLOPE CLEAN OUT
 - EX EXISTING FIRE HYDRANT
 - EX EXISTING GAS VALVE
 - EX EXISTING WATER VALVE
 - EX EXISTING JOINT POLE
 - EX EXISTING LAMP POST
 - EX EXISTING SPOKER HOLE

- LINE LEGEND:**
- TREE CANTY LINE
 - FLOW LINE
 - FENCE LINE
 - ADJACENT PROPERTY LINE
 - TOP/IDE
 - PROPERTY LINE
 - OVER HEAD ELECTRICAL LINE
 - STORM DRAIN
 - UNDERGROUND SPOKER

PROTESTANT
EPISCOPAL BISHOP
AREA=102,933 SF
(3619 OR 440)
REMAINDER

PROPOSED
PARCEL A
AREA=6168 SF

PROPOSED
PARCEL B
AREA=9624 SF

CENTERLINE POLE EASEMENT
(420 OR 364)
WIDTH UNDEFINED

5' STORM DRAIN EASEMENT
(2976 OR 190)

BASE OF DRAWING:
SOUTHCOAST REGION ARE BASED ON FOUND MONUMENTS
LOCATED ON SOUTHWEST DRIVE AS SHOWN ON SUBDIVISION 8891, BOOK 114 PAGE 33

RECORDING:
CONTRA COSTA COUNTY BY 43999
A SET USCAED DEED LOCATED IN THE CHIEF BETWEEN TWO DEEP INLETS AT
THE SOUTHWEST CORNER OF CLAYTON DRIVE AND WESTBROOK DRIVE.

STOPPED: 11/17/1988
ELEVATION = 997.02 (COUNTY HIG. DATUM)

NOTE:
TREE DEEP LINES SHOWN ARE FOR GRAPHICAL REPRESENTATION ONLY AND
HAVE NOT BEEN MEASURED BY ALIQUOT.

UTILITY NOTES:
THE UTILITY LINES SHOWN ON THIS DRAWING ARE DERIVED FROM SURFACE
OBSERVATION AND ARE APPROXIMATE ONLY. ACTUAL LOCATION AND SIZE,
TOGETHER WITH PRESENCE OF ANY ADDITIONAL UTILITY LINES NOT SHOWN ON
THIS DRAWING SHALL BE VERIFIED IN THE FIELD BY THE CONTRACTOR PRIOR TO
ANY EXCAVATION.



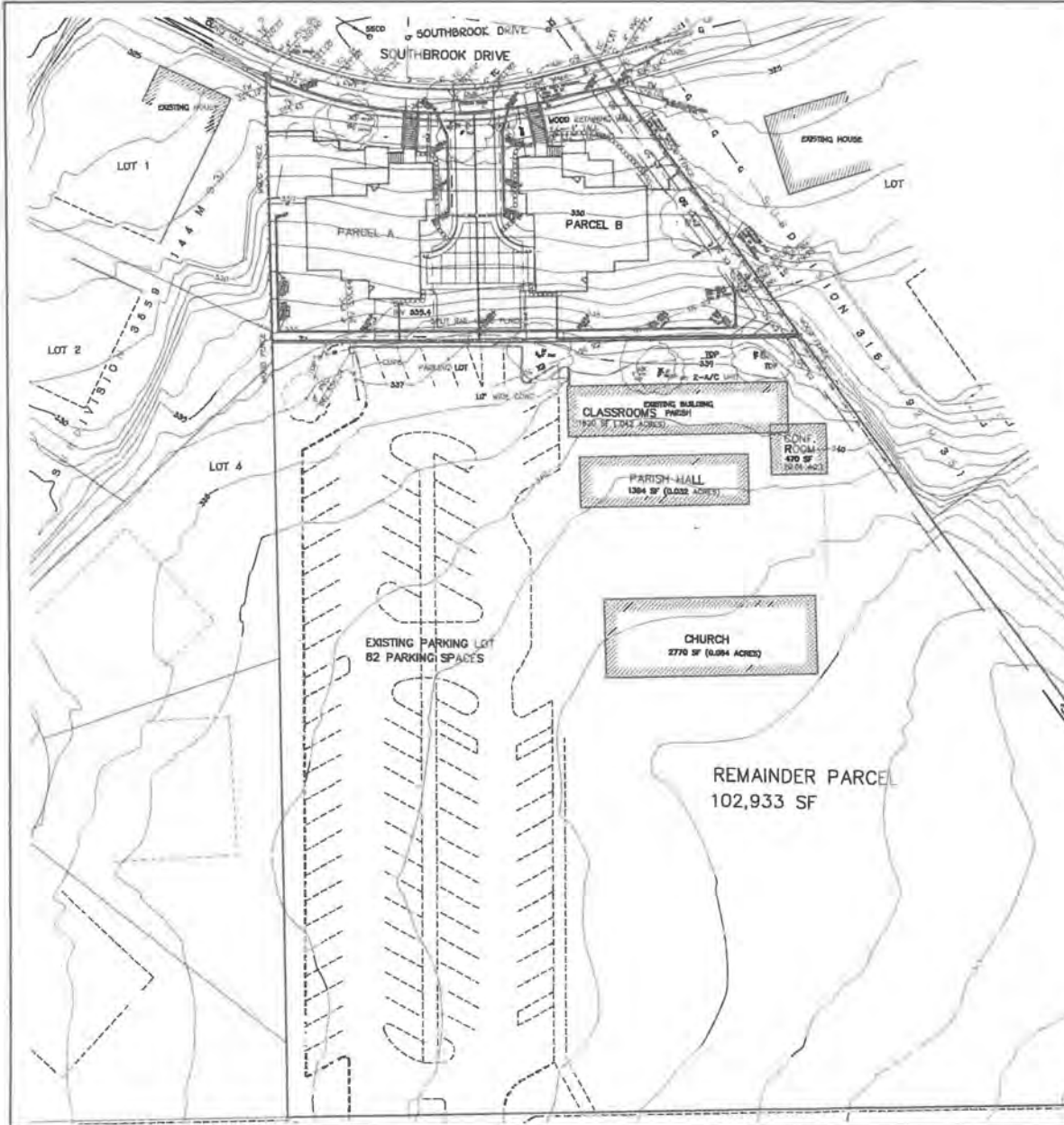
ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
1000 SOUTH PINE STREET
SUITE 300
WALNUT CREEK, CA 94596
PH: 415-474-2200
FAX: 415-474-2202



VESTING TENTATIVE MAP - MB 01-15
BOUNDARY + TOPOGRAPHY
SOUTHWEST DRIVE
CONTRA COSTA COUNTY
CALIFORNIA

DATE: 8/24/15
DRAWN BY: JLN
CHECKED BY: JLN

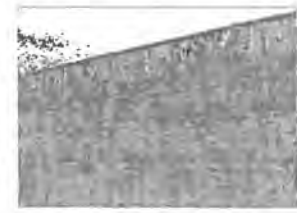
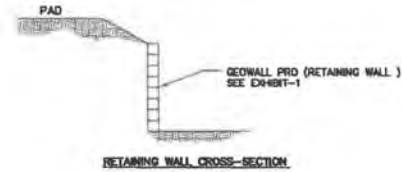
DRAWING NUMBER: TM
3 OF 7



GENERAL PLAN DESIGNATION		
PARCEL	STATUS	
A & B	EXISTING - ID	PROPOSED MD-5
REMAINDER	EXISTING - ID	PROPOSED ID

ZONING DESIGNATION	
EXISTING ZONING	A (AGRICULTURAL)
PROPOSED ZONING	PD

SITE SIZE	
PARCEL A&B	17,792 SF (0.41 ACRES)
PARCEL A	8188 SF (0.19 ACRES)
PARCEL B	9624 SF (0.22 ACRES)
REMAINDER PARCEL	102,933 SF (2.36 ACRES)
PARCEL A&B + REMAINDER PARCEL	120,725 SF (2.77 ACRES)



ALIQUOT
 PLANNERS
 CIVIL ENGINEERS
 SURVEYORS
 1090 SOUTH MAIN STREET
 SUITE 300
 WALNUT CREEK, CA. 94596
 (925) 476-2390
 FAX (925) 476-2390



VESTING TENTATIVE MAP - MS 01-15
 SITE / DEVELOPMENT PLAN
 SOUTHBROOK DRIVE
 CONTRA COSTA COUNTY
 CALIFORNIA

DATE: 12/20/10
 SCALE: 1"=20'
 DATE: 8/24/15
 DRAWN: UO
 CHECK: KE
 APPROVED: RW



Paul D. Frantz

4371 Sayers Valley Way
Fayetteville, GA 30428
Tel: 404-295-7664
www.PDFDesigns.com

Revisions

Southbrook Drive
@ St. Johns
Custom Residences

Portion of APN 119-101-022

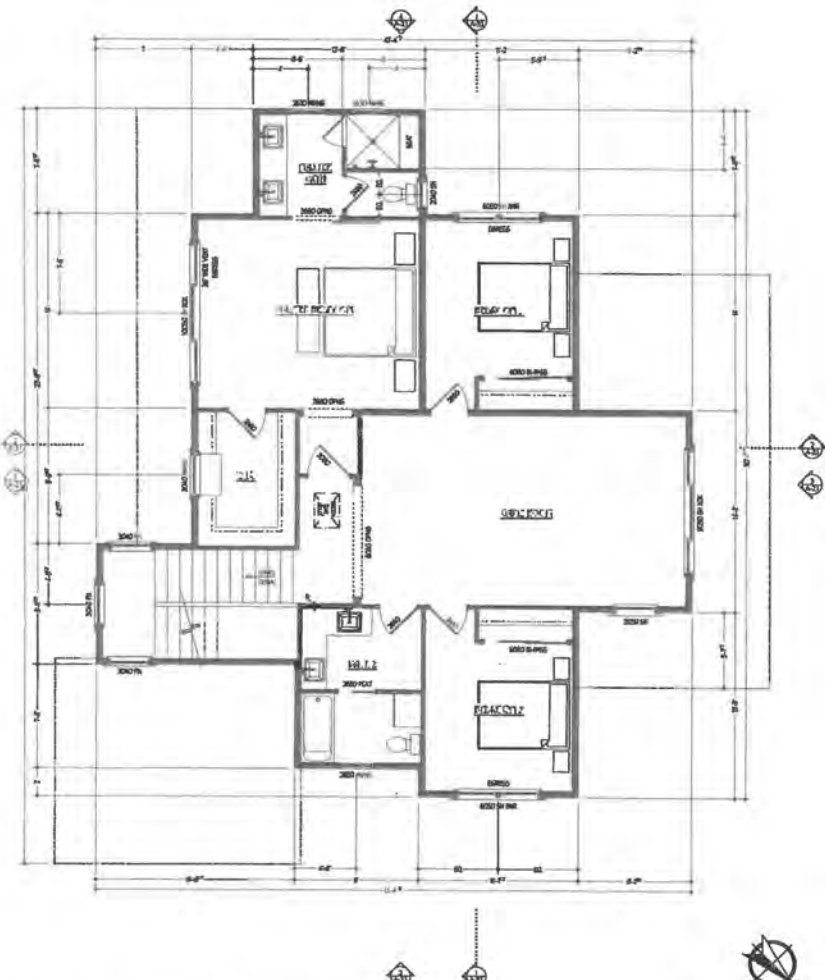


Plan 'A' Floor
Plans

Scale: As Noted
September 2015

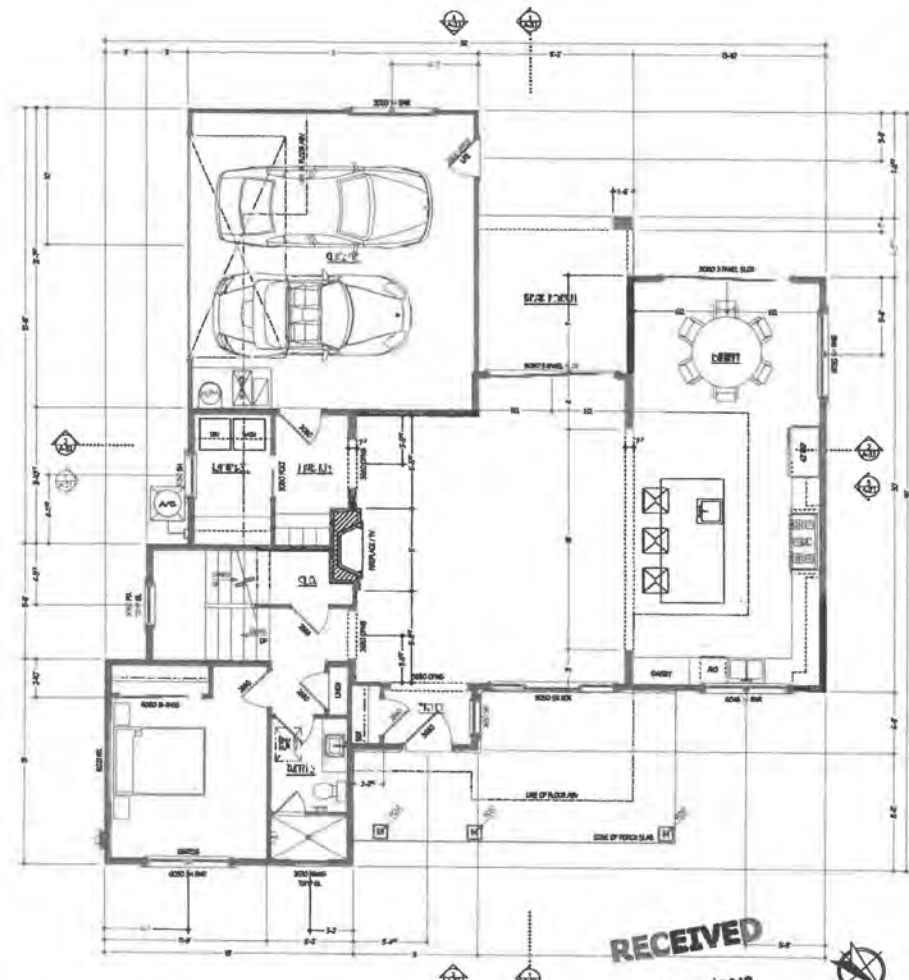
SHEET NUMBER
A-1.1

ATTACHMENT 11



Upper Floor Plan
Scale: 1/4" = 1'-0"

PLAN "A"
1,250 SF



Main Floor Plan
Scale: 1/4" = 1'-0"

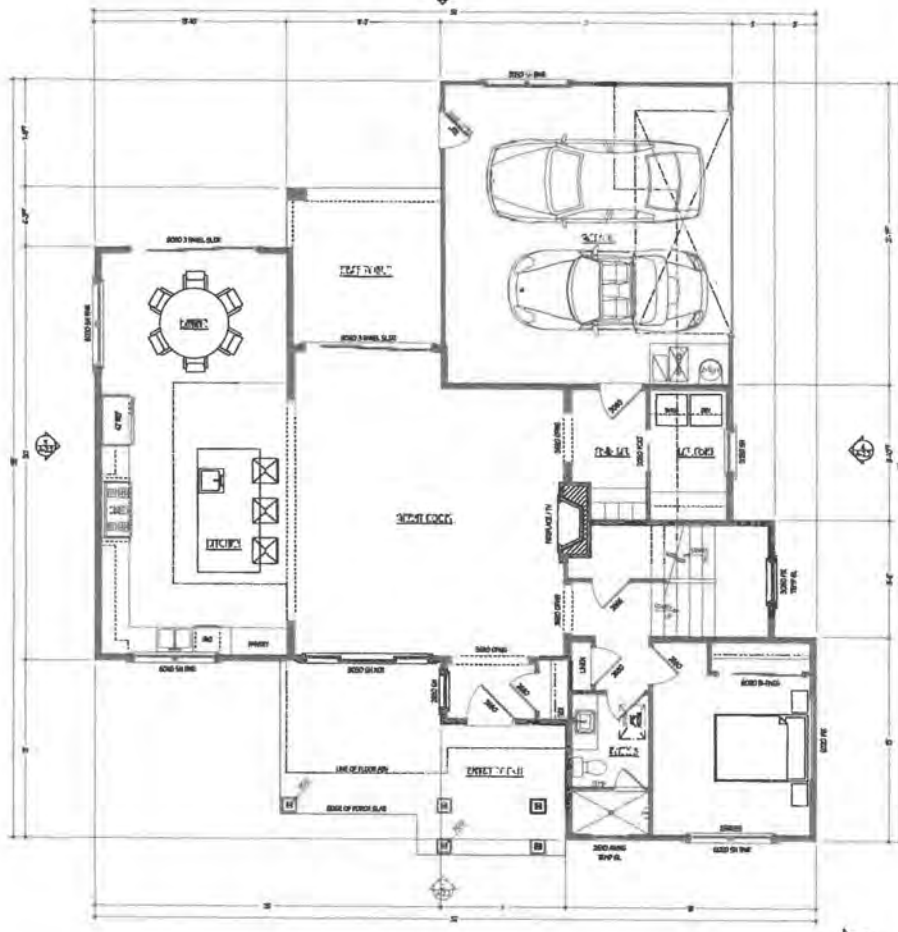
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JAN 13 2018

CITY OF CLAYTON PLAN "A"
COMMUNITY DEVELOPMENT DEPT. 1,459 SF



Upper Floor Plan
Scale: 1/4" = 1'-0"

PLAN "B"
1,256 SF



Main Floor Plan
Scale: 1/4" = 1'-0"

PLAN "B"
1,458 SF



Paul D. Patrick
August

4177 Jasper Valley Road
Fairfield, CA 94534
707-424-2220 Fax: 924-6223
www.PDI-Designs.com

Revisions	

**Southbrook Drive
@ St. Johns**
Custom Residences Portion of APN 118-101-022



Plan "B" Floor Plans
Scale: 1/4" = 1'-0"
September 2015

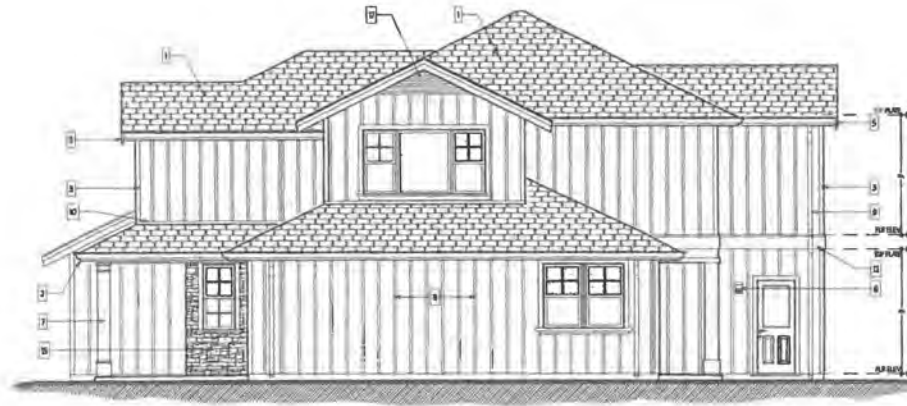
Sheet Number
A-1.2



1 Left Exterior Elevation [East]
A-2.1



2 Front Exterior Elevation [North]
A-2.1



3 Right Exterior Elevation [West]
A-2.1



4 Rear Exterior Elevation [South]
A-2.1

- EXTERIOR ELEVATION NOTES:**
- | | | |
|---|---|---|
| <p>1 CONCRETE WALKWAYS NEEDED TO BE CC, COARSELY FINISHED AND SHALL BE INSTALLED PER FINISH SCHEDULE WITH COMPLETION OF GRADEWORK. FLAGGING, ACCESSORIES, ETC. SHALL CONFORM WITH CHAPTER 8 OF IBC 2006 (EXTERIOR AND DOORWAY NOTES) - FLAGGING SHALL MATCH TO CONCRETE TO THE LEAST FUNCTIONAL/INDUSTRIAL SHEET PAPER. FINISH SHALL BE CC SLABING UNDERLAYMENT.</p> <p>2 7/8" FINISH BOARD REFER TO 2X7 GUMMED FENCE BOARD BUTTER 2X7 DIMENSIONS. DIMENSIONS IN PARENTHESIS INDICATE FINISH SPACING. FINISH BOARD - SEE ROOF ANCHORAGE SYSTEM - FINISH BOARDING.</p> <p>3 3/4" FINISH BOARD REFER TO 2X6 BOARD FINISH AND FINISH CONCRETE TO MATCH FOR COLOR, BLENDS FOR FINISH/COLORS. SPECIFICATIONS.</p> <p>4 LOW PROFILE ROOFING ATIC WAYS - NEED TO KEEP VENT PLAN FOR SEE AND LOCATIONS - SEE ALL VENTS SHOWN ON BLUEPRINTS.</p> | <p>5 FINISHED GROUND SURFACE LIGHT FINISH - CONFORM TO DIMENSIONS AND TOLERANCES IN REQUIREMENTS.</p> <p>6 STRUCTURAL FLOOR FINISH SHALL DECORATIVE GRAY OF COLOR IN W/ BOLD AND CHARCOAL FINISH - FINISH.</p> <p>7 ADJUSTED GROUND VENEER FINISHING GUM WALKWAYS - REFER TO COLOR CHART FOR FINISH SELECTION.</p> <p>8 FINISHED ROOF FINISH REFER TO SPECIFICATIONS - FINISHING COORDINATE LOCATIONS WITH CHAS. PLANS.</p> <p>9 7/8" FINISH BOARD REFER TO 2X6 BOARD FINISH AND FINISH CONCRETE TO MATCH FOR COLOR, BLENDS FOR FINISH/COLORS. SPECIFICATIONS.</p> <p>10 VERTICAL BOARD & BATT GYPSUM - FINISH OVER UNFINISHED VERANDA.</p> | <p>11 7/8" 12" BOLD BOARD FINISHING WITH FINISHING - FINISH.</p> <p>12 FINISHED WITH VERTICAL FINISH OF WOOD FINISHING, BEING OVER UNFINISHED FINISHING - FINISHING OVER FINISHING BELOW - NOT COVERED OVER WALLS.</p> <p>13 FINISHED WOOD - NEED FINISHING OVER FINISHING W/ COLOR.</p> <p>14 FINISHED WITH VERTICAL FINISH FINISH FINISHING, COORDINATE AS PER FINISHING BOARD COLOR - PER COLOR CHART W/ OVER FINISHING FINISHING, PER FINISHING BOARD & BLENDS. FINISHING BOARD & BLENDS.</p> <p>15 FINISHING BOARD & BATT GYPSUM - FINISH OVER UNFINISHED FINISHING.</p> <p>16 FINISHING BOARD & BATT GYPSUM - FINISH OVER UNFINISHED FINISHING.</p> |
|---|---|---|



Paul D. Reed
Architect

4131 Stone Valley Road
P.O. Box 1000
Petaluma, CA 94952
707.464.8888 Fax 707.464.8883
www.pdi-arch.com

Revisions

Southbrook Drive
@ St. Johns
Custom Residences
Portion of APN 118-101-022



Plan 'A'
Exterior Elevations
Issue 1: Not Noted
September 2015

Sheet Number
A-2.1



1 Right Exterior Elevation [West]
A-2.2



2 Front Exterior Elevation [North]
A-2.2

EXTERIOR ELEVATION NOTES

- 1 CONCRETE WALKWAY 12" THICK, 18" WIDE, 4" DEEP AND SHALL BE INSTALLED FOR PERMIT REQUIREMENTS. INSTALLATION OF WALKWAY SHALL BE PERFORMED BY LICENSED CONTRACTOR. FINISH WITH CONCRETE IN ACCORDANCE WITH LOCAL CODES AND STANDARDS. FINISH WITH POLISHED CONCRETE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 2 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 3 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 4 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 5 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 6 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 7 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
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- 11 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 12 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 13 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 14 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 15 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 16 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 17 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 18 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 19 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.
- 20 2" x 4" WOOD BOARD FOR SIDING UP TO 12' CEILING LINE. SEE PLAN FOR FINISH AND COLOR. SEE PLAN FOR FINISH AND COLOR.



3 Left Exterior Elevation [East]
A-2.2



4 Rear Exterior Elevation [South]
A-2.2

PDF
 Phil D. French
 Architect
 4171 Susan Street
 Suite 100
 Fairfax, VA 22031
 703.944.4300
 www.PDFtoCAD.com

Revisions

Southbrook Drive
 @ St. Johns
 Custom Residences
 Portion of APN 118-101-022

Plan B*
 Exterior
 Elevations
 Scale: 1/4" = 1'-0"
 September 2016

Sheet Number
 A-2.2



Paul D. Thiel
Architect

4171 Solano Valley Road
Folsom, CA 95634
Tel: 916.450.7800
www.PDFDesign.com

Revisions

No.	Description



Southbrook Drive
@ St. Johns
Custom Residences

Revision of APN 18-101-022



ATTACHMENT 12

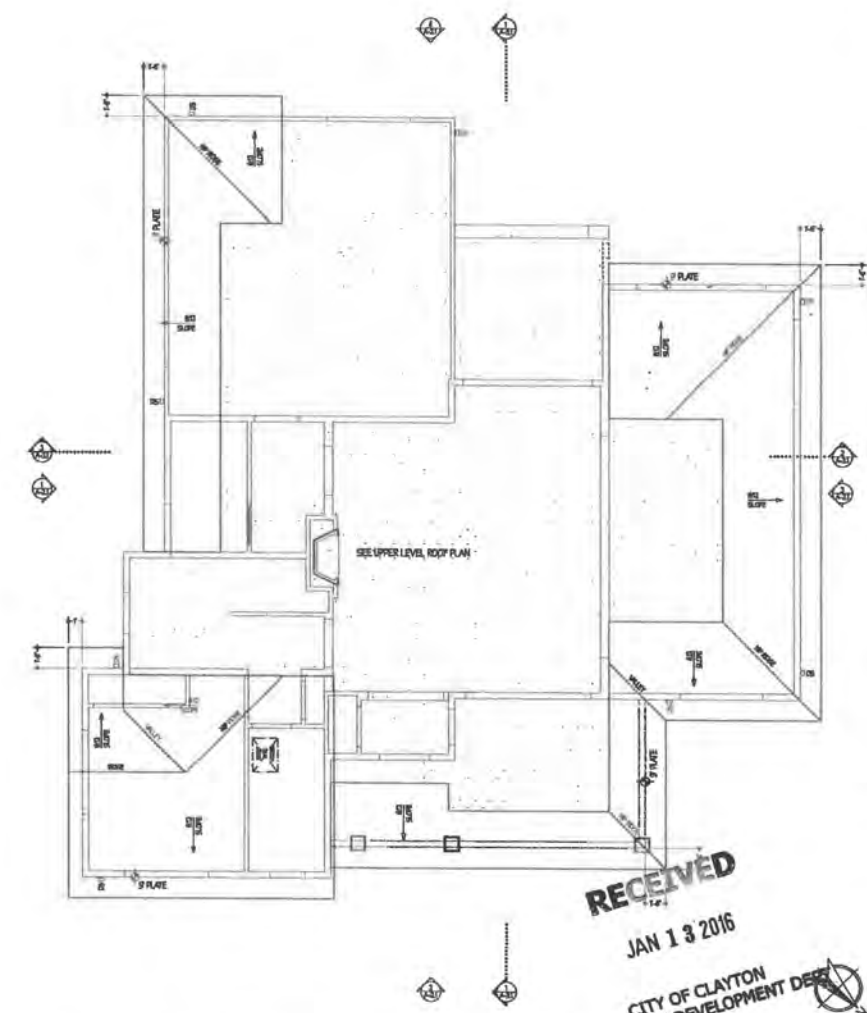
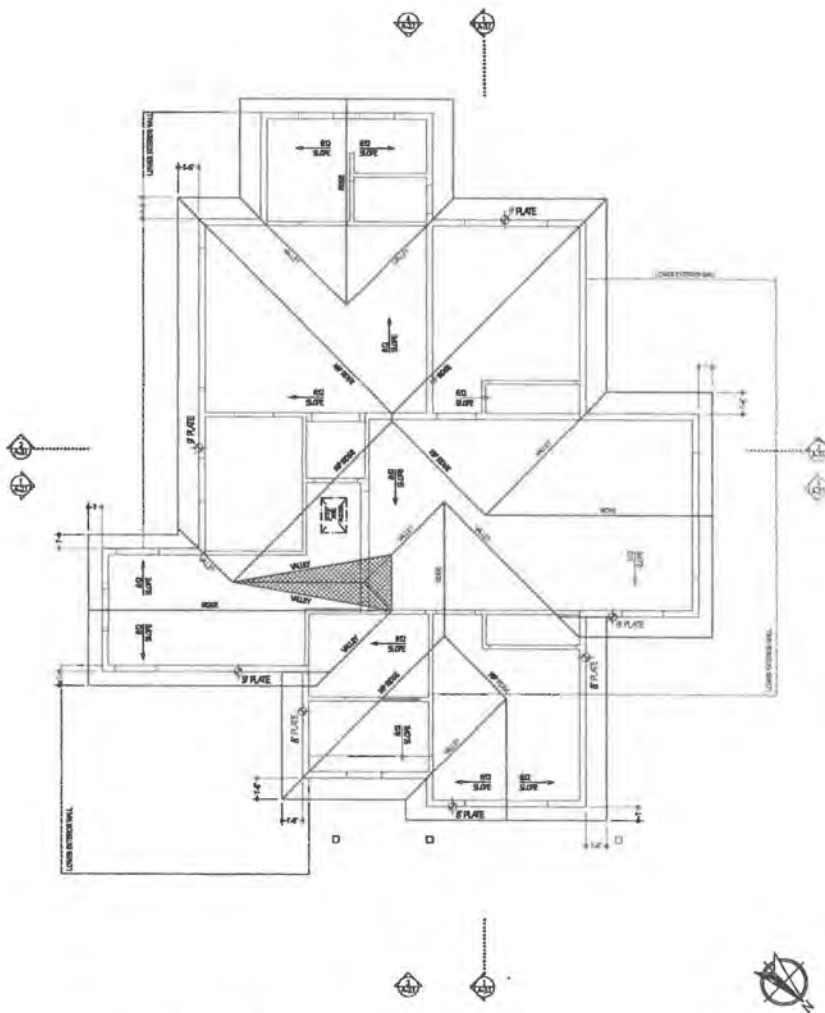
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Plan "A" Roof
Plan

Scale: 1/4" = 1'-0"
September 2015

Sheet Number
A-1.4

Rev. Date: 09/08/15



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COMMUNITY DEVELOPMENT DEPT.



Paul D. Hines
Architect

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Revisions

No.	Description

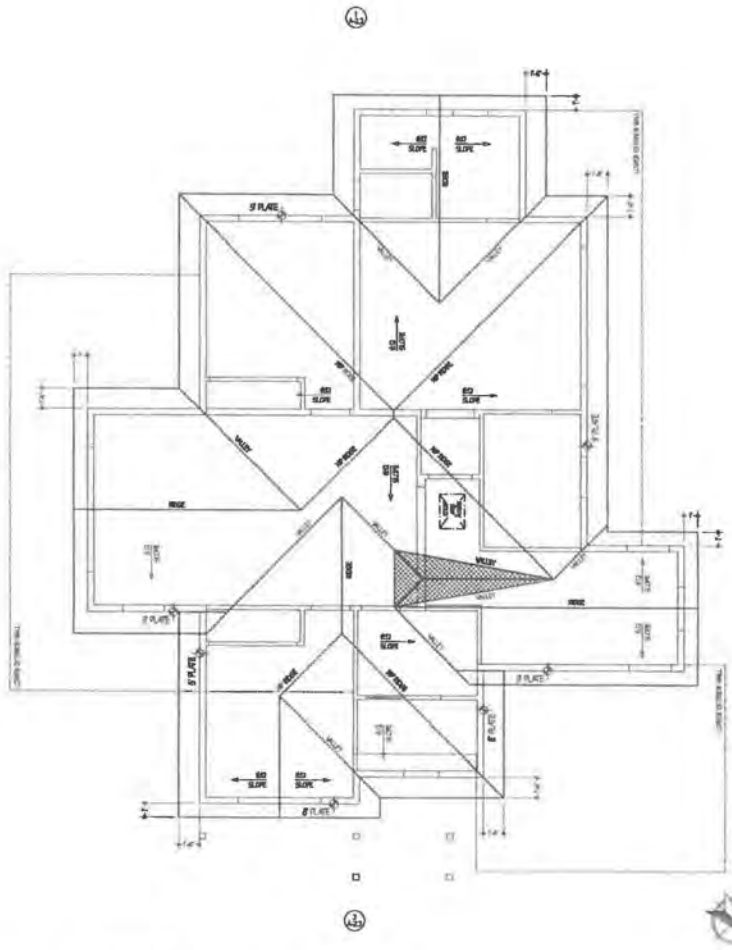
Southbrook Drive
@ St. Johns
Custom Residences
Portion of APN 18-101-022.



Plan 'B' Roof Plan

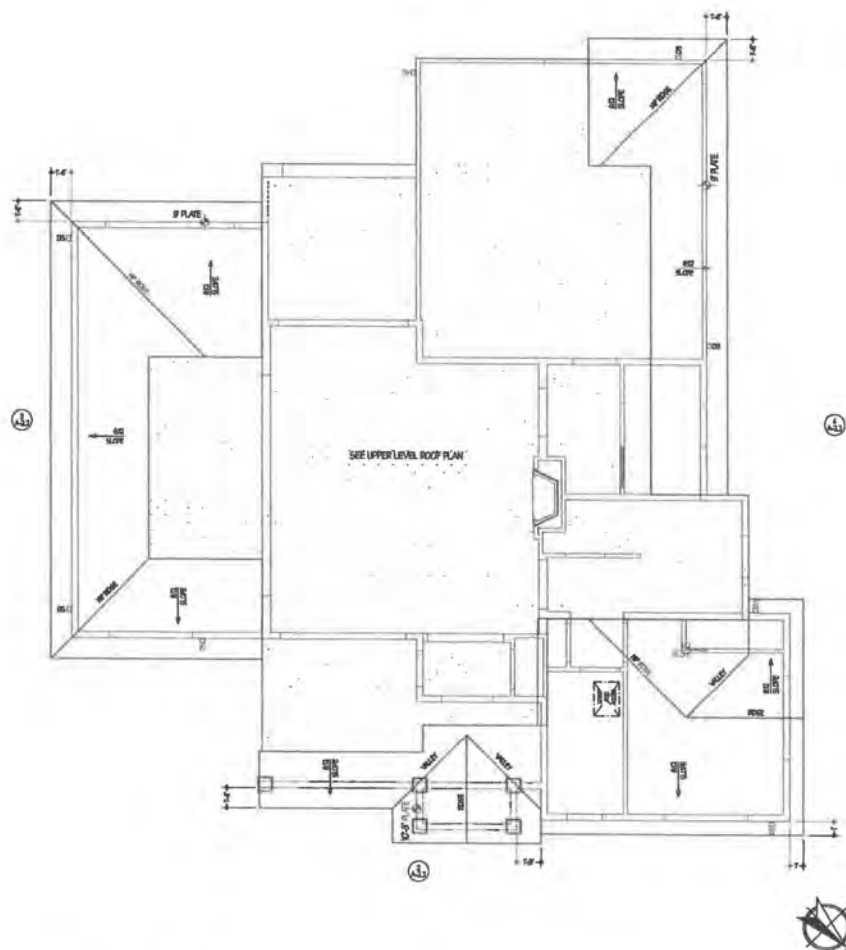
Scale: 1/4" = 1'-0"
September 2006

Sheet Number
A-1.5



Upper Level Roof Plan
Scale: 1/4" = 1'-0"

PLAN "B"



Main Level Roof Plan
Scale: 1/4" = 1'-0"

PLAN "B"

ATTACHMENT 13

SouthBrook Residence Plan "B"

5555 Clayton Road
Clayton, California 94517

House Colors & Materials



Roofing:

Eagle Roofing "Brown Gray Range"
Flat Concrete Roofing Tiles
Color: Bel Air 287



Trim Paint:

Window Trim
Kelly Moore "NOT MY FAULT" KM 5825-3



Trim Paint:

Fascia Boards & Gutters, Columns, Garage Door
Kelly Moore "BONE" KM 27



Siding:

Body
Kelly Moore "ABBEY ROAD" KM 4586-2



Stone Veneer:

El Dorado Stone
Bluffstone Mineret

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CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

PDF Designs, Inc + Paul D. Friend, AIA

4171 Suisun Valley Road, Suite C, Fairfield, CA 94534

707 864-6986

SouthBrook Residence Plan "B"

5555 Clayton Road
Clayton, California 94517

House Colors & Materials



Roofing:

Eagle Roofing "Brown Gray Range"
Flat Concrete Roofing Tiles
Color: Bel Air 287



Trim Paint:

Window Trim
Kelly Moore "NOT MY FAULT" KM 5825-3



Trim Paint:

Fascia Boards & Gutters, Columns, Garage Door
Kelly Moore "BONE" KM 27



Siding:

Body
Kelly Moore "ABBAY ROAD" KM 4586-2



Stone Veneer:

El Dorado Stone
Bluffstone Mineret

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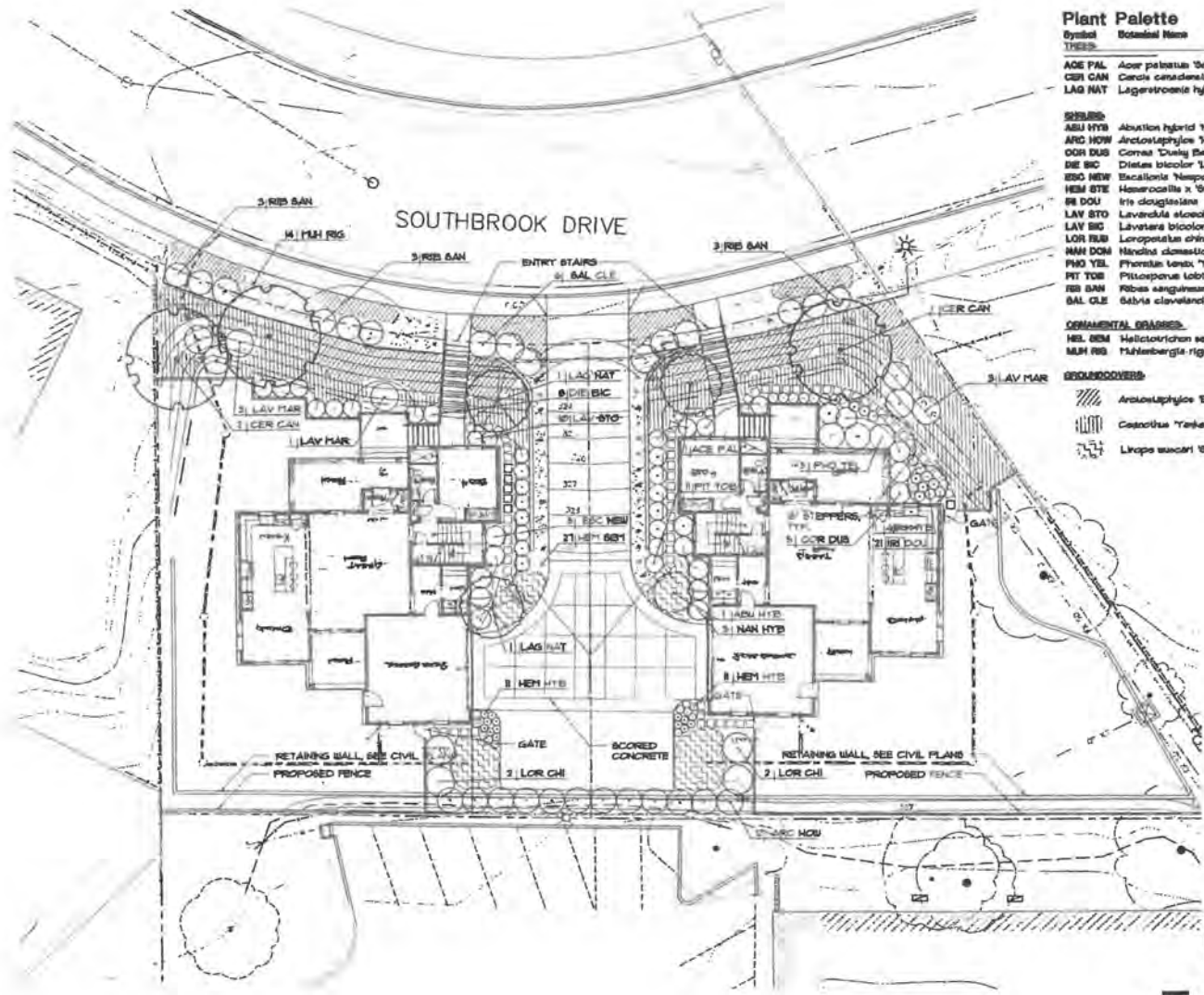
JAN 13 2016

**CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT**

PDF Designs, Inc + Paul D. Friend, AIA

4171 Suisun Valley Road, Suite C, Fairfield, CA 94534

707 864-6986



Plant Palette

Symbol	Botanical Name	Common Name	Size	Volume
TREES:				
AOE PAL	Acer palmatum 'Sango Kaku'	SANGO KAKU JAPANESE MAPLE	8 Gal	M
CER CAN	Cercis canadensis	EASTERN REDBUD	24" Box	M
LAG NAT	Lagerstroemia hybrid 'Natchez'	NATCHEZ GRAPE MYRTLE	8 Gal	L
SHRUBS:				
ABU HYB	Abutilon hybrid 'Nabob'	FLOWERING MAPLE	5 gallon	H
ARC HOW	Arctostaphylos 'Howard McMill'	MANZANTA	5 gallon	L
ODR DUB	Cornus 'Dusky Belle'	AUSTRALIAN FUCHSIA	5 gallon	L
DIK BIC	Dietes bicolor 'Liz's Selection'	FORTNIGHT LILY	1 gallon	L
ESD NEW	Escallonia 'Newport Dawn'	NEWPORT DAWN ESCALLONIA	5 gallon	M
HEM STE	Hemerocallis x 'Stella de Oro'	DAWAR DAILLY	1 gallon	M
IRI DOU	Iris douglasiana	DOUGLAS IRIS	1 gallon	L
LAV STO	Lavandula stoechas 'Otto Quast'	SPANISH LAVENDER	5 gallon	L
LAV BIC	Lavatera bicolor 'Bireley'	TREE MALLOW	5 gallon	L
LOR RUB	Loropetalum chinense 'Ruby'	CHINESE FRINGED FLOWER	5 gallon	M
NAN DOM	Nandina domestica 'Finger's Red'	HEAVENLY BARKSCOD	5 gallon	L
PHO YEL	Phoradendron 'Yellow Wave'	ZEALAND FLAX	5 gallon	L
PIE TOR	Pittosporum tobira 'Wheeler's Dwarf'	PINK-FLOWERING CURRANT	5 gallon	L
RIB SAN	Ribes sanguineum	CLEVELAND BAGE	5 gallon	L
SAL GLE	Gabia clavata			
SEMI-PERENNIAL GRASSES:				
HEI DEM	Habenaria sempervirens	BLUE OAT GRASS	1 gallon	L
MUN RB	Muhlenbergia rigens	DEER GRASS	1 gallon	L
GROUNDCOVERS:				
[Symbol]	Arctostaphylos 'Emerald Carpet'	EMERALD CARPET MANZANTA	1 gal = 36" oc.	M
[Symbol]	Ceanothus 'Yankee Point'	YANKEE POINT CEANOTHUS	1 gal = 48" oc.	L
[Symbol]	Liraps succulata 'Silver Carpet'	SILVER CARPET LILYTURF	1 gallon = 24" oc.M	



Camp & Camp Associate
Planning & Landscape Arc

2540 CAMINO DIA
SUITE 201
WALNUT CREEK, CA 94598
P. (925) 941-6459
F. (925) 941-6455
EMAIL: cc@campcampa.com

SOUTHBROOK DRIVE
AT ST. JOHN'S
CLAYTON, CA

ATTACHMENT 14

LANDSCAPE PLAN

RECEIVED

JAN 18 2016

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT



WATER EFFICIENT IRRIGATION:
ALL PLANTING AREAS SHALL BE IRRIGATED WITH AUTOMATIC WATER CONSERVING IRRIGATION SYSTEM IN COMPLIANCE WITH THE CITY OF CLAYTON WATER CONSERVATION ORDINANCE. ALL PLANTING AND IRRIGATION SHALL COMPLY WITH THE CITY OF CLAYTON STANDARD LANDSCAPE GUIDELINES.

ENDS
DATE: 01/11/2016
SCALE: 1" = 10'
JOB # 15-018





[Request Basalite Landscape Catalog](#)

GEOWALL PRO BASALITE RETAINING WALL SYSTEM

The Geowall Series by Basalite features an open core design and high strength pin connection system. Each block face measures one square foot for easy calculation

Geowall Pro is the smallest of the series. The lighter weight and shorter tail design make it easy to handle for installers and a perfect choice for residential projects in addition to roadway, residential and commercial projects. It can be used by itself for short gravity walls or in combination with geogrid for taller structural earth walls. The Pro is available in multiple face styles



Lighter weight for easier install

Download PDFs:

Select Category

Links:

- [Ask a Question About Geowall Pro](#)
(<http://www.basalite.com/contact-us/>)
- [Where to Buy Retaining Wall Product](#)
(<http://www.basalite.com/where-to-buy/>)

Product Unit Specifications

Click on any of the sizes below to see more details



Tri Plane



Classic



Straight Bevel



Ashlar Face



Corner Unit



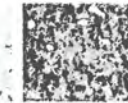
Beveled Corner

Click to Enlarge Swatch

Grey



Tan



Note: We can't guarantee that your monitor's display of color will be accurate. Please contact a dealer or a Basalite Representative to view a sample.

RECEIVED

JAN 13 2016

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

ATTACHMENT 15

ATTACHMENT 16

4677 Pacheco Blvd
Martinez, CA 94553
925-924-8900 tel
925-734-0769fax



ValleyCrest Tree Care Services

April 5, 2015

RECEIVED

MAY 28 2015

Armand Buttici III
2804 Velvet Way
Walnut Creek, CA 94596

CITY OF CLAYTON
COMMUNITY DEVELOPMENT DEPT

RE: 5555 Clayton Road Tree Report

Dear Armand,

Thank you for asking me to provide a Consulting Arborist Report for your proposed housing project located at 5555 Clayton Road in Clayton, California. The site is behind St. John's Episcopal Church on a vacant lot with 10 very small mostly volunteer trees. This report will identify the trees, their size, health and recommendations. I have numbered the trees 1-10 and will be plotted by Aliquot Associates, Inc., by number and size.

Tree Number	Species	Size	canopy	Health	Recommendation
1	Silk tree	6" dbh.	5'	Moderate	Poor condition-recommend removal
2	Silk tree	8" dbh.	5'	Moderate	Poor condition-recommend removal
3	Privot	3" dbh.	3'	Poor	Volunteer-recommend removal
4	Privot	3" dbh.	3'	Poor	Volunteer-recommend removal
5	Valley oak	6" dbh.	4'	Good	Poor branch structure-in good helath
6	Ash tree	6" dbh.	7'	Moderate	Signs of blight/dead branches-removal
7	Walnut	4" dbh.	2'	Poor	Next to building/leaning - removal
8	Olive tree	3" dbh.	2'	Poor	Next to building/poor health-removal
9	Valley Oak	6"dbh.	4'	Good	Small oak with poor branch structure
10	Valley Oak	12" dbh.	8'	Good	Small oak with good branch structure

4677 Pacheco Blvd
Martinez, CA 94553
925-924-8900 tel
925-734-0769 fax

The trees that I evaluated are all very small and have never been properly maintained or irrigated. As a result most of the trees have poor branch structure and will need to be removed. The Valley oaks have adapted much better without water but still show signs of stress. I believe replacing these trees with nursery grown trees properly installed and irrigated will have longer term impact on the property.

If any trees do remain during construction I recommend placing orange protective fencing to protect the root zone. Due to the size of the trees most of the protection will be less than 7' from the root flare.

Please give me a call if you need additional information or have any questions, 925-525-3795.

Sincerely,

Bob Peralta
Registered Consulting Arborist #505
American Society of Consulting Arborist
ISA Certified Arborist WE-7150A

Milan Sikela

ATTACHMENT 17

From: Michael <mikejbwhoo@yahoo.com>
Sent: Tuesday, November 08, 2016 5:51 PM
To: Milan Sikela
Subject: St. John's Church/Southbrook Drive Mixed Use Project

Dear Milan-

I would like to voice my concerns about this project.

I have been unable to attend these meetings but as I reside in the immediate area I wish to express my concern about the impact on our neighborhood. I have to say that this all seems like a very poorly considered idea when the area in question is viewed. It is a very small parcel of land and has only limited access to the street which will be shared by both homes. This means parking problems for the hypothetical dwellers as well as for those who already live here. As well as over all traffic which can be very bad at times for our small street. We get kids, I assume, racing up and down the road way on the blind turn right where this new driveway will be. It will be a prime spot for an accident. As well as over all noise in the area, coming from the church. There are many evening when the church has functions which seem to get loud, so I cannot imagine anyone wanting to live in homes that are so close to it.

I have only been here for five year but I have to say this is a bad idea, please do not go forward with this project.

Sincerely,
Michael Mayer-Oakes
(number withheld) Southbrook Drive

ATTACHMENT 6

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

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to approve Ordinance No. 470 for Introduction with the finding the action will not result in a significant adverse impact on the environment. (Passed; 5-0 vote).

- (b) Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022):
- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
 - 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
 - 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and
 - 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).

City Assistant Planner Milan Sikela presented the staff report noting several entitlements are required for approval of this project including an Environmental Review, General Plan Amendment, Rezone, Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit. Mr. Sikela provided a description of the site location with Clayton Road bordering the project site on the south and Southbrook Drive bordering the project site on the north; he further gave a brief description of the buildings on the existing parcel. Mr. Sikela then outlined the steps needed to complete the Environmental Review including the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared in accordance with the California Environmental Quality Act (CEQA). The General Plan Amendment is a related request to change the undeveloped land use designation of 0.41 acres from Institutional Density (ID) to Single Family Medium Density (MD) to accommodate two proposed single-family residential lots. The Rezone will change the entire project site from Agricultural (A) District to Planned Development (PD) District to allow a mixed use Planned Development project consisting of the existing church and the 2 proposed single-family parcels.

The Development Plan will establish the development standards for the site, thereby allowing the proposed uses on the site. The Tentative Parcel Map will subdivide the existing 2.77-acre church property into 3 parcels consisting of the existing church parcel and, if approved, the 2 single family residential lots. The Site Plan Review Permit allows the review of the architecture and design of the 2 proposed residences, as well as the landscaping, fencing and retaining walls. The Tree Removal Permit allows the removal of 7 of the existing 10 trees to be replaced with newly planted trees, shrubs and groundcover.

Mr. Sikela reviewed the detailed maps of the proposed sites, the proposed 2 single-family residences, the elevation map, the proposed exterior single-family residences, the proposed floor plans of the residences, the house colors and materials, a photo of the

current site and a photo of the site with the 2 proposed single-family residences. Mr. Sikela also advised staff has provided a condition that trees shall be planted a minimum of 10 feet away from water, sewer, and storm drain lines. He further advised the City Engineer has inserted written conditions addressing safety issues relating to line-of-sight for vehicles entering and exiting the shared driveway and public right-of-way improvements. Mr. Sikela also received written determinations the proposed project complies with Contra Costa County Fire Protection District standards; the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan is not applicable to this project. And finally, he noted staff received one email expressing opposition to the project as a public comment.

Councilmember Pierce asked about the stormwater plans, knowing that C3 requires bio-retention areas and she was unable to find them on the map. Mr. Sikela advised the bio-retention areas are found on the upper right and left corners in the front of the lots down by Southbrook Drive as water will naturally drain to the north of the lots. The developer will have a layer of percolation materials laid down to prevent the water from flowing offsite.

Councilmember Haydon asked about the height of the retaining wall in the back of the property. Mr. Sikela responded the wall is 6' to 6 ½' tall at its highest point in the middle of the back, then it tapers downward.

Councilmember Haydon also asked about the public comment email staff received concerned with potential traffic impact to the neighborhood. Mr. Sikela advised the potential traffic impact was analyzed in the environmental documents and City Engineer is working with the applicant to comply with line-of-sight regulations, which standard is 12' back from the edge of the driveway.

Mayor Geller inquired about the 2' fence at the back of the lot bordering the church parking lot; he thought it should be taller for privacy and security reasons between the adjacent property owners. He also asked if there is enough room in the extra two parking spots at the end of the shared driveway to park and turn around a vehicle? Mr. Sikela responded at the Council's pleasure a condition can be added to increase the height of the fence bordering the church parking lot. He added there still needs discussion to occur between the applicant and the Fire Protection District regarding the private driveway bulb as there was some confusion as to the area being a shared residential driveway and not a fire access road.

Councilmember Pierce suggested a possible condition of keeping the area between the garage doors clear as these requirements are a part of areas of Oakhurst with shared driveways. Councilmember Shuey recommended the City leave that matter to be worked out between the property owners.

Mayor Geller opened the Public Hearing for comments.

Vidal Elzam, 5550 Southbrook Circle, inquired which trees are designated for removal? Mr. Sikela advised the three Valley Oak trees will remain on the property.

Mr. Elzam asked about the slope; since grading will need to occur, will the applicant take into account impacts to the adjoining properties? He also indicated there is a lot of wildlife on those lands presently and inquired if that wildlife will be relocated? Mayor Geller responded usually the wildlife will naturally re-locate when grading occurs.

Joe Rhodes, 33 Marquette Court, expressed concerns regarding the second story window location, noting the line of sight will eliminate the privacy of his backyard, bedroom, living room and office. Councilmember Pierce offered a possible solution of raising the windows above eye level so the surrounding neighbors would still have their

privacy. Such good neighbor features are incorporated all the time and she would like it added to the condition of approval on both sites. Councilmember Shuey inquired if such a condition was acceptable to the developer.

Armand Butticci, developer of the proposed project, advised he met with the neighbors regarding this project about 2 ½ years ago and recalls there was a different window proposed. Mr. Butticci advised he can take another look at the window and other options such as adding a tree for privacy purposes; his concern is restricting the size and height of a window in that large open room would detract from its overall ambience. Mr. Butticci indicated he will work with the neighbors to come up with a solution.

Mayor Geller closed the Public Hearing. City Council discussion ensued regarding site and design matters noted; there was general consensus with giving the developer and the existing neighbors additional time to work out agreeable solutions to the raised issues.

Mayor Geller re-opened the Public Hearing.

It was moved by Councilmember Shuey, seconded by Councilmember Haydon, to continue the Public Hearing to the next regular City Council meeting of Tuesday, December 6, 2016. (Passed; 5-0 vote).

8. **ACTION ITEMS** – None.

9. **COUNCIL ITEMS** – None.

10. **CLOSED SESSION**

Mayor Geller announced the City Council will adjourn into a closed session to discuss the subject matter listed below [8:27 p.m.]:

- (a) *Government Code Section 54956.9(d)(2)* – Significant Exposure to Litigation.
Conference with Legal Counsel: Anticipated Litigation (1 case).

Report out from Closed Session (8:33 p.m.)

Mayor Geller reported the City Council received information from its legal counsel regarding this matter but no reportable action was taken.

11. **ACTION ITEM**

- (a) Consider authorizing the Mayor to execute an amendment to the Oak Creek Canyon Tolling Agreement between the City of Clayton and West Coast Homebuilders to extend the limitations period to file a legal challenge.

City Attorney Mala Subramanian advised a request was received from West Coast Home Builders asking for a time extension for another six months to the Tolling Agreement which is set to expire tomorrow. The developer submitted an application pursuant to the Tolling Agreement but it has not been deemed complete by the City; they believe they can submit additional surveys and information within the next sixty days to deem their application as complete and considered within the proposed 180 day time

ATTACHMENT 7



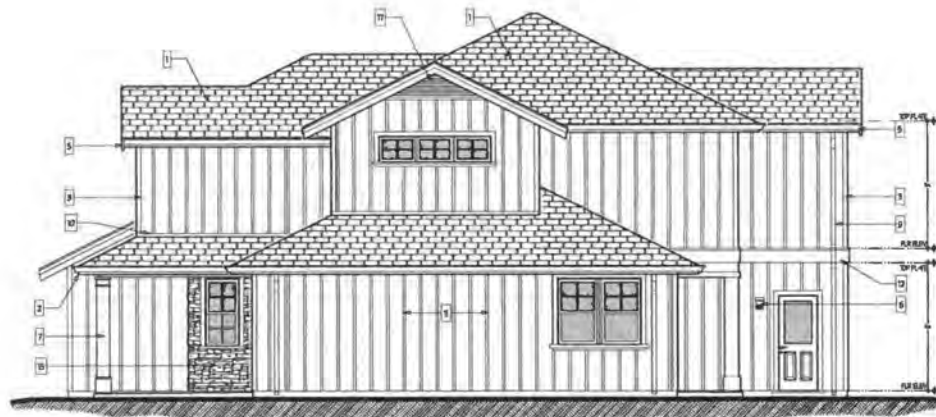
1
A-21
Left Exterior Elevation [East]



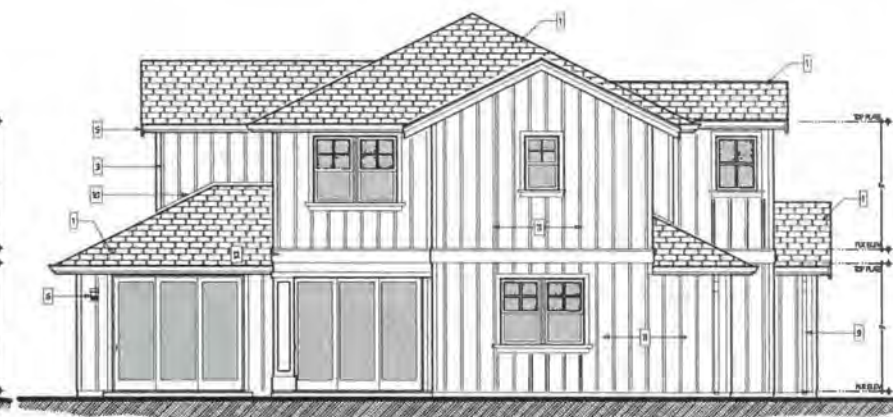
2
A-21
Front Exterior Elevation [North]

EXTERIOR ELEVATION NOTES

1. CONCRETE FOUNDATION SHALL BE SET TO FINISH GRADE (FINISH GRADE SHALL BE INDICATED BY DIMENSIONS). ALL EXTERIOR WALLS SHALL BE CONCRETE BLOCK OR CMU. ALL EXTERIOR WALLS SHALL BE FINISHED WITH STUCCO OR SIMILAR FINISH. ALL EXTERIOR WALLS SHALL BE FINISHED WITH STUCCO OR SIMILAR FINISH.	2. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	3. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	4. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	5. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	6. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	7. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	8. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	9. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.	10. ALL ROOFING SHALL BE ASPHALT/FLT SHINGLES. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE. ALL ROOFING SHALL BE INSTALLED OVER A 1/2" GYP BOARD OR SIMILAR SUBSTRATE.
---	---	---	---	---	---	---	---	---	--



3
A-21
Right Exterior Elevation [West]



4
A-21
Rear Exterior Elevation [South]



Paul D. Hines
Architect
4171 Sutter Valley Road
Fairfield, CA 94534
Tel: 925-432-1111
www.PDFArchitect.com

Revisions

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

Southbrook Drive
 @ St. Johns
 Custom Residences
 Portion of APN 118-101-022

Plan "A"
 Exterior
 Elevations
 Scale: As Noted
 September 2016

Sheet Number
 A-2.1

ATTACHMENT 8

Milan Sikela

From: Armand Butticci III <ab3design@comcast.net>
Sent: Tuesday, November 22, 2016 12:37 PM
To: Milan Sikela; Mindy Gentry
Subject: FW: Window Height at southbrook

Fyi

Thank You,
Armand Butticci III
AB3 Design
510-697-6060 (Cell)

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

From: Joe Rhodes [<mailto:joerhodes44@gmail.com>]
Sent: Tuesday, November 22, 2016 12:20 PM
To: Ab3design@comcast.net
Cc: Jeannie Rhodes
Subject: Window Height

Armand, regarding your text concerning the bedroom window height of the house you are planning to build:
A window beginning at 6 feet off the bedroom floor would settle the matter of the window height for my wife and I.
Thank you for getting back to us so quickly on this matter.

Joe Rhodes
925-628-6101
33 Market Court
Clayton, CA

Sent from my iPhone=



Clayton, California

ATTACHMENT 9

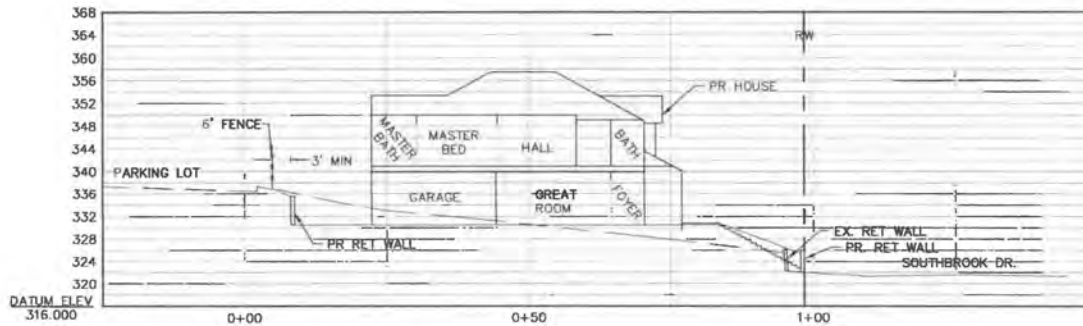
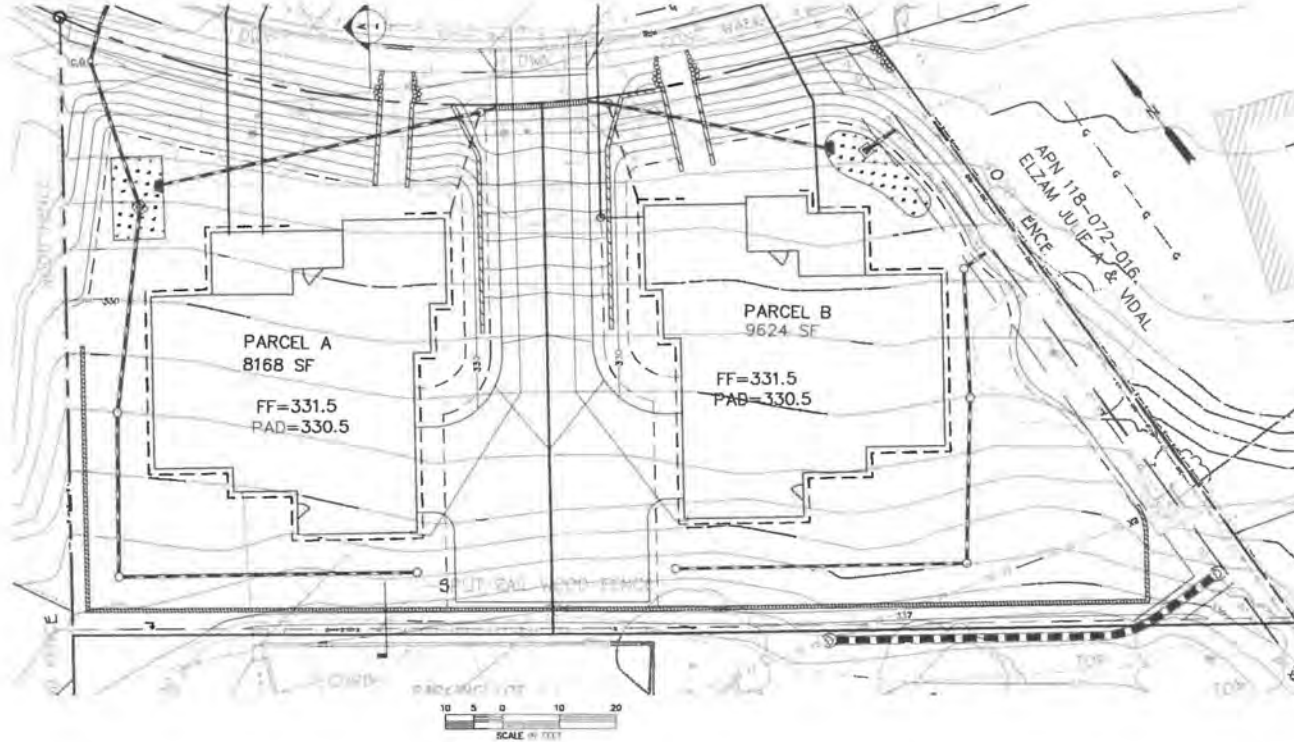


Image capture: Jul 2015 © 2016 Google

Street View - Jul 2015



ATTACHMENT 10



ALIQUOT
PLANNERS
CIVIL ENGINEERS
SURVEYORS
104 SOUTH HARRIS STREET
SUITE 200
WALNUT CREEK, CA 94596
TEL: 925-436-3300
FAX: (925) 476-1300

NO.	BY	DATE	REVISIONS



VESTING TENTATIVE MAP - MS 07-15
SITE SECTIONS
SOUTHBROOK DRIVE
CONTRA COSTA COUNTY
CALIFORNIA

CLAYTON

P:\2103051\07\Drawings\Tentative Map\TM-7 SITE SECTIONS.dwg, 11/28/2015 10:12:13 AM, Adobe PDF

ATTACHMENT 11



Contra Costa County

Fire Protection District

P-2016-07420 LD
F.D. Permit Number

11/28/16

Date

Description of Work: Access Review 5555 Clayton Rd. (Lot split)

Project Name: St. Johns, Southbrook Address: 5555 Clayton Rd. Suite _____

City: Clayton, Ca. Zip _____ Additional Info. _____

Company: Aliquot Engineers Address: 1390 S. Main St - Suite 310

Contact Person: Vince D'Alo Phone No. () _____ Lic # / Type _____

City: Walnut Creek State: Ca Zip: 94596 Email: vdalo@aliquot.com

APPLICATION SECTION: DO NOT MARK BELOW THIS LINE

We have reviewed the proposed *land development plans* for the project facility. Our review is to insure compliance with the minimum code requirements related to fire and life safety as set forth in the California Fire Code. The following selected comments shall apply to this project:

- The applicant shall provide an adequate and reliable water supply for fire protection with a minimum fire flow of _____ GPM. Required flow shall be delivered from not more than _____ hydrants flowing simultaneously while maintaining 20 pounds residual pressure in the water main. CFC 507.1 (2013)
- The applicant shall provide _____ hydrant(s) of the East Bay type. Hydrant location(s) are as
 - Determined by this office
 - As submitted. CFC 507.5 (2013)
- Provide emergency apparatus access roadways with all-weather driving surfaces of not less than _____ feet unobstructed width, and not less than 13 feet 6 inches of vertical clearances, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access roads shall not exceed _____ % grade, shall have a minimum outside turning radius of _____ feet, and shall be capable of supporting the imposed loads of fire apparatus. (i.e., _____ tons) CFC 503.2 (2013)
- Dead end emergency apparatus access roadways in excess of 150 feet in length shall be provided with approved provisions for the turning around of Fire District apparatus. CFC 503.2.5 (2013)
- Access road(s) and hydrant(s) shall be installed and in service prior to construction. CFC 2013 (501.4)
- Paint red curbs and mark curbs with white lettering "**NO PARKING - FIRE LANE**" a minimum of three inches tall with a 1/2 inch wide minimum stroke. The interval between stenciled lettering shall be adequate to inform the public of the existence of a fire lane but in no event shall the interval exceed 25 feet.
- Submit two (2) copies of automatic fire sprinkler system plans and specifications, as prepared by a C-16 licensed fire sprinkler contractor, which conform to NFPA 13 D - 2013, for review and approval prior to installation. CFC 903.2 (2013) FOR EACH HOME.

(CONTINUED OVER)

Fee computed by: MJP

Amount Due: \$3600

Received by: MJP

Amount Received: \$3600

Cash Credit Check No. _____

Invoice No. 16-0703

Additional comments: DRAWING "EXH" HAS ONLY BEEN REVIEWED FOR WATER SUPPLY & ACCESS.

ACCESS FROM THE STREET (SOUTHBROOK DRIVE) MEETS MINIMUM FIRE CODE REQUIREMENTS. COMMON DRIVEWAY IS NOT REQUIRED FOR FIRE DEPT. USE.

Approved plans, including calculations, shall be onsite at time of inspection. Failure to have approved plans onsite may result in the cancellation of the inspection, and a reinspection fee being assessed.

Contact the Fire District at 925-941-3323 (minimum two working days notice required) to schedule an onsite inspection. No inspections will be scheduled on Fridays.

On the morning of the inspection, a confirmation telephone call made to the Fire District at 925-941-3300 is necessary between 8:00 and 8:30 AM. Otherwise, the inspection will be cancelled.

Final acceptance is subject to field inspections and tests.

Approval does not relieve the designer / contractor from complying with all applicable fire code requirements, nor does it abrogate the requirements of other authorities having jurisdiction.

Approved as submitted. Approved with Comments. Denied, Resubmittal Required.

Reviewed by: JOHNNY CH YOUNG Date: 11/28/2016



	JOB NO 213081.0 SCALE 1"=10' DATE 11/22/10 DESIGN VJD DRAWN MC APPROVED ROW	FIRE DEPARTMENT EXHIBIT 5555 CLAYTON ROAD APN: 118-101-022		No. BY DATE REVISIONS	
	CLAYTON CONTRA COSTA COUNTY CALIFORNIA	RECEIVED 11/23/10	ALPLOT CIVIL ENGINEERING 3000 S. MAIN ST. SUITE 100 SAN FRANCISCO, CA 94114 TEL: 415.774.1111 FAX: 415.774.1112	Alan J. Lot CIVIL ENGINEER No. 4278 State of California	[Empty grid for revisions]

IMPROVEMENT PLAN
Reviewed and Approved

By JOHNNY CH YOUNG

Date 11/28/2016

Approval is for ~~access~~ access roads, as required. Approval does not include structural requirements nor does it abrogate requirements by other agencies having responsibility. Final Fire District Acceptance of hydrant fire flow performance is subject to field inspection and testing.

Contra Costa County
Fire Protection District
2010 Geary Road
Pleasant Hill, CA 94523
Phone # (925) 941-3300
Fax # (925) 941-3309

FIRE DEPARTMENT EXH
5555 CLAYTON ROA



Approved: 
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS
FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MAG*
DATE: DECEMBER 6, 2016
SUBJECT: ADOPTION OF AN INTERIM URGENCY ORDINANCE EXTENDING THE PROHIBITION OF THE ESTABLISHMENT AND OPERATION OF COMMUNITY SUPERVISION PROGRAMS AND PAROLEE HOMES

RECOMMENDATIONS

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

1. Motion to have the City Clerk read the Ordinance No. 472 by title and number only and waive further reading; and
2. Following the City Clerk's reading; by motion adopt Ordinance No. 472 to prohibit the establishment, construction, and operation of Community Supervision Programs and parolee homes for ten (10) months and fifteen (15) days. (ZOA-08-16) (**Attachment 1**).

BACKGROUND/DISCUSSION

On November 1, 2016, following a public hearing and pursuant to Government Code Section 65858, the City Council adopted an interim urgency ordinance prohibiting the establishment, construction, and operation of Community Supervision Programs and parolee homes for a period of forty-five (45) days (**Attachment 2 and 3**). Due to the uses associated with the County's Community Supervision Program, including parolee homes, not being defined within the Clayton Municipal Code, the City Council adopted Ordinance No. 469 because of concerns regarding the potential for negative impacts to public health, safety, and welfare, particularly if there were a dense concentration of parolee homes or service providers or these uses were to be located near sensitive uses such as parks, schools, or day care centers.

REQUESTED ACTION

Ordinance No. 469 is an interim ordinance and is in effect for forty-five (45) days and will expire on December 15, 2016. California Government Code Section 65858(a) allows the City of Clayton to adopt an interim urgency ordinance for forty-five days and then may extend the urgency ordinance for ten (10) months and fifteen (15) days with a possible third extension of up to one year. The additional time, ten (10) months and fifteen (15) days, provided by the subject Ordinance, allows for extra time for City staff to research, study, and draft regulations. It is not anticipated an extension beyond the ten (10) months and fifteen (15) days will be required in order to research, analyze and draft proposed regulations for both the Planning Commission's and City Council's consideration.

ENVIRONMENTAL

Adoption of the urgency Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because this activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT

There is no direct fiscal impact; however there will be staff time associated with the preparation of the ordinance to address recent state law regarding the Community Supervision Program and parolee homes.

ATTACHMENTS

1. Ordinance No. 472 [5 pp.]
2. Staff Report from the November 1, 2016 City Council Meeting [92 pp.]
3. Excerpt of the Minutes from the November 1, 2016 City Council [1 pp.]

ATTACHMENT 1

ORDINANCE NO. 472

**AN URGENCY ORDINANCE MAKING FINDINGS AND EXTENDING
A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION
OF PAROLEE HOMES AND COMMUNITY SUPERVISION PROGRAMS
FOR A PERIOD OF TEN (10) MONTHS AND FIFTEEN (15) DAYS
THE CITY COUNCIL**

City of Clayton, California

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

WHEREAS, Government Code Section 65858 provides that for the purpose of protecting the public safety, health and welfare, a City Council may adopt, without following the procedures otherwise required prior to the adoption of a zoning ordinance, as an urgency measure, an interim ordinance, by a vote of four-fifths (4/5) majority, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, the City of Clayton ("City") and surrounding communities have seen an increased interest in the establishment of group homes and community supervision programs for parolees and probationers; and

WHEREAS, this interest is due, in part, to AB 109 and the increased number of parolees, probationers and others subject to post-release supervision. Specifically, the *2015 Outlook Evaluation Report – An Examination of Offenders Released in Fiscal Year 2010-11 Report* by the California Department of Corrections and Rehabilitation (CDCR), indicates that the statewide recidivism rate of offenders is 44.6 percent with 80 percent of those offenders returning to prison within the first year of release. The CDCR report indicates the percentage of recidivism after one, two, and three-year periods within Contra Costa County are 43.4, 46.7, and 48.8 respectively; and

WHEREAS, citizens of the City have expressed significant concerns regarding the impacts that a proliferation of parolee/probationer homes may have on the community, including, but not limited to, impacts on traffic and parking, excessive delivery times and durations, commercial and/or institutional services offered in private residences, more frequent trash collection, daily arrival of staff who live off-site, loss of affordable rental housing, violations of boardinghouse and illegal dwelling unit regulations, obvious business operations, secondhand smoke, and nuisance behaviors such as excessive noise, litter, and loud offensive language; and

WHEREAS, the City anticipates receiving requests for the construction, establishment and operation of Community Supervision Programs (as defined below) within the City. However, this use is not defined in the Clayton Municipal Code and applying current commercial zoning regulations may not take into account potential impacts of Community

Supervision Programs on the surrounding community such as loitering and increased calls for service and particularly impacts on sensitive uses such as schools and parks; and

WHEREAS, the City has commenced a study of appropriate regulations for these uses, but additional planning and research are necessary before the City can adopt any permanent regulation; and

WHEREAS, any parolee/probationer homes or community supervision programs established prior to the adoption of comprehensive regulations may do so in areas that would be inconsistent with surrounding uses and would be immediately detrimental to the public peace, health, safety, and welfare; and

WHEREAS, should those uses be allowed to proceed, such uses could conflict with, and defeat the purpose of, the proposal to study and adopt new regulations regarding these uses; and

WHEREAS, the City Council at its regularly scheduled meeting on November 1, 2016 adopted Ordinance No. 469, pursuant to California Government Code 65858, establishing a forty-five (45) day moratorium on the establishment and operation of Parolee Homes and Community Supervision Programs; and

WHEREAS, the circumstances and conditions that led to the adoption of Ordinance No. 469 have not been alleviated and continue to create concerns; and

WHEREAS, the City has complied with the public hearing noticing requirements of Government Code Section 65858(a) for the extension of urgency Ordinance No. 472; and

WHEREAS, Government Code Section 65858(a) allows an interim urgency ordinance to be extended for ten (10) months and fifteen (15) days after meeting the notice requirements pursuant to Government Code Section 65090 and a public hearing.

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

Section 1. Recitals and Findings. The above recitals are true and correct and are hereby incorporated into this Ordinance. The Council further finds and determines that the staff report for this Ordinance describes the measures taken to alleviate the conditions that led to the adoption of the Ordinance No. 472. This staff report is hereby adopted and approved by the Council as required by Government Code section 65858(d).

Section 2. Moratorium. In accordance with the authority granted to the City Council of Clayton under Government Code Section 65858, from and after the date of this Ordinance, no use permit, variance, building permit, business license or other applicable entitlement for use or expansion of an existing use shall be approved or issued by the City for the establishment or operation of a Parolee Home or Community Supervision Program for a period of ten (10) months and fifteen (15) days. For purposes of this ordinance, Parolee Home

shall be defined as "any residential or commercial building, structure, unit or use, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses between two or more parolees, unrelated by blood, marriage, or legal adoption, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee. Parolee Home shall not mean any state-licensed residential care facility."

For purposes herein, Community Supervision Program shall be defined as "any facility, building, structure or location, where an organization, whether private, public, institutions of education, not for-profit, or for-profit, provide re-entry services, excepting housing, to previously incarcerated persons or persons who are attending programs in-lieu of incarceration including, but not limited to: employment support and placement services, peer and mentoring services, and resource centers. Included in this definition are services provided to Parolees."

Parolee shall include probationer, and shall mean any of the following: "(1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (2) an individual who is serving a period of supervised community custody, as defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division; (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer. As used herein, the term parolee includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future."

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. CEQA. The City Council finds, under CEQA Guidelines section 15061(b)(3), that this Ordinance is exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa in accordance with the CEQA Guidelines.

Section 5. Effective Date and Publication. This Ordinance shall become effective immediately upon adoption if adopted by at least a four-fifths vote of the City Council and shall be in effect for ten (10) months and fifteen (15) days (i.e., through October 21, 2016) from the date of adoption unless extended by the City Council as provided for in the Government Code. This Ordinance shall be published or posted as required by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton, California at a regular public meeting thereof held on the 6th day of December, 2016, by the following four-fifths affirmative vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

_____, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly adopted and passed at a regular public meeting of the City Council held on December 6, 2016.

Janet Brown, City Clerk

Agenda Item: *8a*

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



STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS

FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MG*

DATE: NOVEMBER 1, 2016

SUBJECT: ADOPTION OF AN URGENCY ORDINANCE PROHIBITING THE ESTABLISHMENT AND OPERATION OF COMMUNITY SUPERVISION PROGRAMS AND PAROLEE HOMES

RECOMMENDATIONS

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

- 1a. Motion to have the City Clerk read the Ordinance No. 469 by title and number only and waive further reading; and
- 2b. Following the City Clerk's reading; by motion approve Ordinance No. 469 to prohibit the establishment, construction, and operation of Community Supervision Programs and parolee homes for 45 days. (ZOA-08-16) (Attachment 1).

BACKGROUND/DISCUSSION

On October 1, 2011, the Public Safety Realignment Act (Assembly Bill 109) went into effect transferring responsibility for supervising specified inmates and parolees from the California Department of Correction and Rehabilitation to counties. The Contra Costa County Board of Supervisors adopted the Contra Costa County Realignment Plan on October 4, 2011. The County's Realignment Plan called for the establishment of community programs for employment support and placement services, mentoring and family reunification services, short and long-term housing access, and civil legal services.

Currently, the type of support services being provided by the County's Community Supervision Program, which are provided to parolees and probationers, are not defined in the Clayton Municipal Code. As such some of these services (similar to family counseling) could be characterized as Professional Office, which are permitted by right in the Limited Commercial (LC) District and are allowable on the second story of buildings in the Town Center Specific Plan.

Recently, the City received an inquiry from a County contractor/grantee that is a service provider for the County's Community Supervision Program. The inquiry was regarding the City's regulations for establishing residences for those that have been previously incarcerated. While the intent of the Community Supervision Program is laudable by providing support programs to parolees and probationers to reduce recidivism and assist these individuals in becoming productive members of society, recidivism rates however indicate that these types of services and homes raise the potential for negative impacts to public health, safety, and welfare, particularly if there were a dense concentration of parolee homes or service providers or these uses were to be located near sensitive uses such as parks, schools, or day care centers.

The California Department of Correction and Rehabilitation in its *2015 Outcome Evaluation Report – An Examination of Offenders Released in Fiscal Year 2011-2012 (Attachment 2)* indicates the recidivism rate in Contra Costa County for years one, two and three following release is 43.4 percent, 46.7 percent, and 48.8 percent respectively. These rates raise public safety concerns regarding the operation or establishment of the Community Supervision Program and parolee homes within the City of Clayton without examining their potential impacts.

REQUESTED ACTION

By adoption of a local moratorium via urgency Ordinance, the prohibition for these Community Supervision Program uses and parolee homes would last for 45 days unless extended further, pursuant to California Government Code. The intent is not to permanently ban these uses but rather to allow the City the opportunity to study appropriate locations, concentrations, distances from sensitive uses such as school, parks, and day care facilities, and adopt operational requirements such as hours of operations. This prohibition would not apply to any existing social service provider that may be currently operating within the City; however this moratorium would not allow for an expansion of the use. To staff's knowledge there are no known operators currently within the city limits.

It is foreseen the moratorium will require further time extension by the City Council as it is unlikely staff will complete its analyses and preparation of new draft law to address this matter; plus additional time is necessary for submittal of the proposed ordinance to the Planning Commission for its hearing and recommendation to the City Council.

ENVIRONMENTAL

Adoption of the urgency Ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because this activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question will have a significant effect on the environment, the activity is not subject to CEQA.

FISCAL IMPACT

There is no direct fiscal impact; however there will be staff time associated with the preparation of the ordinance to address the Community Supervision Program and parolee homes.

ATTACHMENTS

1. Ordinance No. 469 [4 pp.]
2. *2015 Outcome Evaluation Report – An Examination of Offenders Released in Fiscal Year 2011-2012* [87 pp.]

ATTACHMENT 1

ORDINANCE NO. 469

AN URGENCY ORDINANCE MAKING FINDINGS AND ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF PAROLEE HOMES AND COMMUNITY SUPERVISION PROGRAMS

THE CITY COUNCIL

City of Clayton, California

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

WHEREAS, Government Code Section 65858 provides that for the purpose of protecting the public safety, health and welfare, a City Council may adopt, without following the procedures otherwise required prior to the adoption of a zoning ordinance, as an urgency measure, an interim ordinance, by a vote of four-fifths (4/5) majority, prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time; and

WHEREAS, the City of Clayton ("City") and surrounding communities have seen an increased interest in the establishment of group homes and community supervision programs for parolees and probationers; and

WHEREAS, this interest is due, in part, to AB 109 and the increased number of parolees, probationers and others subject to post-release supervision. Specifically, the *2015 Outlook Evaluation Report – An Examination of Offenders Released in Fiscal Year 2010-11 Report* by the California Department of Corrections and Rehabilitation (CDCR), indicates that the statewide recidivism rate of offenders is 44.6 percent with 80 percent of those offenders returning to prison within the first year of release. The CDCR report indicates the percentage of recidivism after one, two, and three-year periods within Contra Costa County are 43.4, 46.7, and 48.8 respectively; and

WHEREAS, citizens of the City have expressed significant concerns regarding the impacts that a proliferation of parolee/probationer homes may have on the community, including, but not limited to, impacts on traffic and parking, excessive delivery times and durations, commercial and/or institutional services offered in private residences, more frequent trash collection, daily arrival of staff who live off-site, loss of affordable rental housing, violations of boardinghouse and illegal dwelling unit regulations, obvious business operations, secondhand smoke, and nuisance behaviors such as excessive noise, litter, and loud offensive language; and

WHEREAS, the City anticipates receiving requests for the construction, establishment and operation of Community Supervision Programs (as defined below) within the City. However, this use is not defined in the Clayton Municipal Code and applying current commercial zoning regulations may not take into account potential impacts of Community

Supervision Programs on the surrounding community such as loitering and increased calls for service and particularly impacts on sensitive uses such as schools and parks; and

WHEREAS, the City has commenced a study of appropriate regulations for these uses, but additional planning and research are necessary before the City can adopt any permanent regulation; and

WHEREAS, any parolee/probationer homes or community supervision programs established prior to the adoption of comprehensive regulations may do so in areas that would be inconsistent with surrounding uses and would be immediately detrimental to the public peace, health, safety, and welfare; and

WHEREAS, should those uses be allowed to proceed, such uses could conflict with, and defeat the purpose of, the proposal to study and adopt new regulations regarding these uses.

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

Section 1. Recitals and Findings. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Moratorium. In accordance with the authority granted to the City Council of Clayton under Government Code Section 65858, from and after the date of this Ordinance, no use permit, variance, building permit, business license or other applicable entitlement for use or expansion of an existing use shall be approved or issued by the City for the establishment or operation of a Parolee Home or Community Supervision Program for a period of forty-five (45) days. For purposes of this ordinance, Parolee Home shall be defined as "any residential or commercial building, structure, unit or use, whether owned and/or operated by an individual or for-profit or non-profit entity, which houses between two or more parolees, unrelated by blood, marriage, or legal adoption, in exchange for monetary or non-monetary consideration given and/or paid by the parolee and/or any individual or public/private entity on behalf of the parolee. Parolee Home shall not mean any state-licensed residential care facility."

For purposes herein, Community Supervision Program shall be defined as "any facility, building, structure or location, where an organization, whether private, public, institutions of education, not for-profit, or for-profit, provide re-entry services, excepting housing, to previously incarcerated persons or persons who are attending programs in-lieu of incarceration including, but not limited to: employment support and placement services, peer and mentoring services, and resource centers. Included in this definition are services provided to Parolees."

Parolee shall include probationer, and shall mean any of the following: "(1) an individual convicted of a federal crime, sentenced to a United States Federal Prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (2) an individual who is serving a period of supervised community custody, as defined in Penal Code Section 3000, following a term of imprisonment in a State prison, and is

under the jurisdiction of the California Department of Correction, Parole and Community Services Division; (3) a person convicted of a felony who has received a suspension of the imposition or execution of a sentence and an order of conditional and revocable release in the community under the supervision of a probation officer; and (4) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional revocable release in the community under the supervision of a Youth Authority parole officer. As used herein, the term parolee includes parolees, probationers, and/or persons released to post-release community supervision under the "Post-release Community Supervision Act of 2011" (Penal Code Section 3450 et seq.) as amended or amended in the future."

Section 3. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 4. CEQA. The City Council finds, under CEQA Guidelines section 15061(b)(3), that this Ordinance is exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Contra Costa in accordance with the CEQA Guidelines.

Section 5. Effective Date and Publication. This Ordinance shall become effective immediately upon adoption if adopted by at least a four-fifths vote of the City Council and shall be in effect for 45 days from the date of adoption unless extended by the City Council as provided for in the Government Code. This Ordinance shall be published or posted as required by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Clayton, California at a regular public meeting thereof held on the 1st day of November, 2016, by the following four-fifths vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA

Howard Geller, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly adopted and passed at a regular meeting of the City Council held on November 1, 2016.

Janet Brown, City Clerk



**California Department of
Corrections and Rehabilitation**

2015 Outcome Evaluation Report
An Examination of Offenders Released in
Fiscal Year 2010-11

Office of Research
August 2016

You can obtain reports by contacting the Department of Corrections and Rehabilitation at the following address:

California Department of Corrections and Rehabilitation
Office of Research, Research and Evaluation Branch
1515 S Street, Suite 221N
Sacramento, California 95811
916.323.2919

Or

On the internet at:

http://www.cdcr.ca.gov/adult_research_branch/

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Produced by

Scott Kernan, Secretary
Kenneth Pogue, Undersecretary
Bryan Beyer, Director
Office of Research
Wayne Babby, Deputy Director
Denise Allen, Chief of Research
Kevin Grassel, Systems Software Specialist III
Matthew Nakao, Section Chief (A)
Kendra Jensen, Research Program Specialist II
Christopher Nguyen, Assistant Information Systems Analyst

This report would not have been possible without the generous support of others. Specifically, the Office of Research would like to thank the following: the Department of Justice for the data-sharing agreement that allows us to examine arrests and convictions; and Ursula Sanchez from the Office of Research for providing data quality assurance and the tables and charts provided in this report.

Permission is granted to reproduce reports.
For questions regarding the contents of this report, please contact
Denise Allen, Chief of Research

OFFICE OF THE SECRETARY

P. O. Box 942883
Sacramento, CA 94288-0001



Dear Colleagues:

The mission of the California Department of Corrections and Rehabilitation (CDCR) is to protect the public by safely and securely supervising adult and juvenile offenders, providing effective rehabilitation and treatment, and integrating offenders successfully into the community. Consistent with this purpose, we hold ourselves accountable for data-driven policies informed by the latest research on what works in corrections and rehabilitation.

As a part of this commitment, I am pleased to present the sixth in a series of annual reports on the outcomes of offenders released from CDCR correctional institutions. This report features measures of recidivism, which we can use to track improvement and compare our performance with that of other states that are similarly situated.

This report is a tangible result of our commitment to transparency and accountability. My hope is that this information will provide new insights to policy-makers and correctional stakeholders that will be useful in moving the State forward with regard to efforts that increase public safety through the reduction of recidivism.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Kernan", written over a large, sweeping horizontal line.

SCOTT KERNAN
Secretary

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Executive Summary

Between July 1, 2010 and June 30, 2011 (Fiscal Year 2010-11), 95,690 offenders were released from a California Department of Corrections and Rehabilitation (CDCR) adult institution and tracked for three years following the date of their release. The three-year return-to-prison rate for the 95,690 offenders who comprise the Fiscal Year 2010-11 release cohort is 44.6 percent, which is a 9.7 percentage point decrease from the Fiscal Year 2009-10 rate of 54.3 percent. Fiscal Year 2010-11 marks the fifth consecutive year the three-year return-to-prison rate has declined and is the most substantial decrease to-date. As shown in Figure A, Fiscal Year 2010-11 also marks the first cohort of offenders where more offenders did not return to prison during the three-year follow-up period (55.4 percent or 53,029 offenders) than returned to State prison (44.6 percent or 42,661 offenders).

Figure A. Three-Year Outcomes for Offenders Released from State Prison in Fiscal Year 2010-11

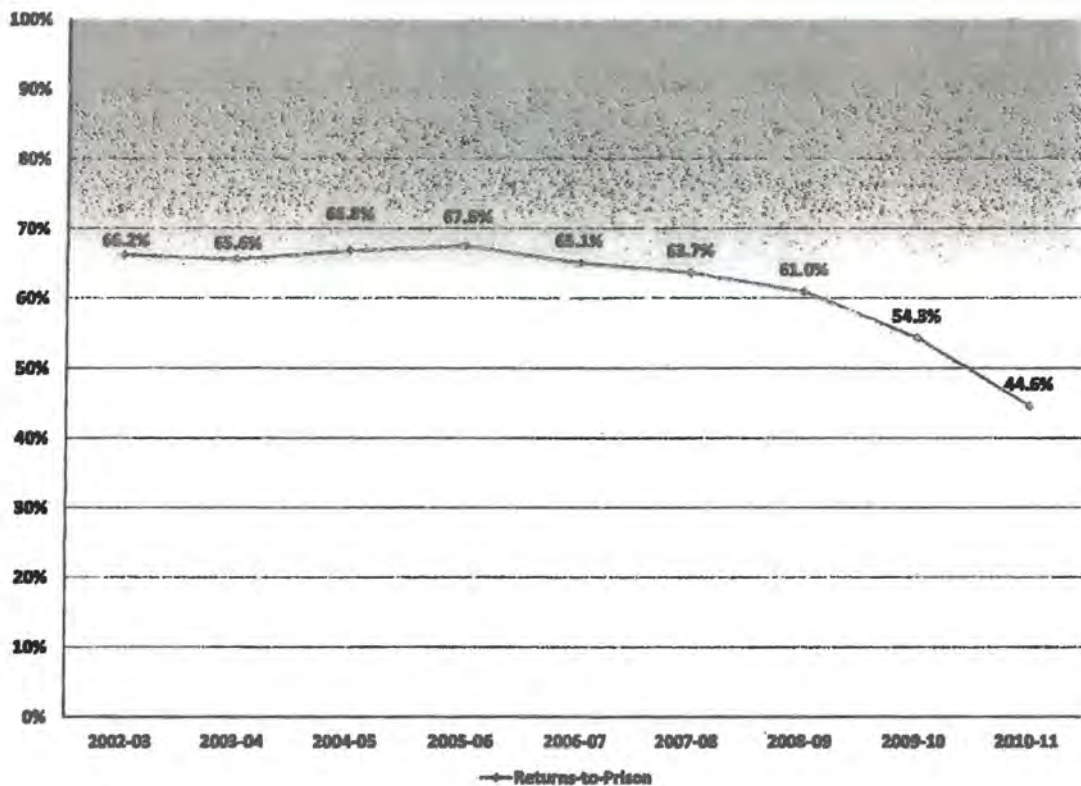


As shown in Figure B, the three-year return-to-prison rate decreased by 6.7 percentage points between Fiscal Years 2008-09 and 2009-10, followed by a drastic decline between Fiscal Years 2009-10 and 2010-11 (9.7 percentage points). Some of the decrease in the three-year return-to-prison rate is attributed to the implementation of the Public Safety Realignment Act (Realignment) in October 2011. Although each of the offenders in the Fiscal Year 2010-11 cohort were released pre-Realignment, Realignment was in effect for varying amounts of time during each offender's three-year follow-up period, contributing to a decline in the number of offenders returning for parole violations, which decreased by 7.6 percentage points between the Fiscal Year 2009-10 and 2010-11 release cohorts (37.9 percent and 30.3 percent of the total releases in each cohort, respectively), and accounted for some of the decrease in the three-year return-to-prison rate.

Impacts of Realignment were also observed in other types of return categories: returns for property crimes decreased 1.5 percentage points between Fiscal Years 2009-10 and 2010-11 (6.2 percent and 4.7 percent of the release cohorts, respectively) and returns for drug crimes decreased 1.1 percentage

points (4.5 percent and 3.4 percent of the release cohorts, respectively). Crimes against persons, which tend to be more serious and/or violent, increased slightly (0.4 of a percentage point) from 3.6 percent of the release cohort in Fiscal Year 2009-10 to 4 percent of the release cohort in Fiscal Year 2010-11. Realignment's impact on the number of offenders returning for parole violations and property and drug crimes is largely expected, as many parole violators and non-serious, non-violent, and non-sex registrant offenders now serve their sentences in county jail, rather than State prison. In future years, the number of offenders returning for property and drug crimes is expected to decline further due to the impacts of Proposition 47, which was passed in November 2014 and mandates a misdemeanor sentence, instead of a felony for some property and drug offenses.¹

Figure B. Three-Year Return-to-Prison Rate for Offenders Released in Fiscal Year 2002-03 through Fiscal Year 2010-11



In addition to returns to prison, Appendix A examines arrests and convictions at one-, two-, and three-year intervals. With the implementation of Realignment and subsequent decreases in returns to prison for parole violations, a potentially offsetting increase in arrests and convictions was anticipated by some criminal justice experts. As shown in Appendix A, a slight increase in both arrests and convictions was observed following the immediate implementation of Realignment, however, the initial uptick in the one-year arrest and conviction rate was followed by a more substantial decrease. A further examination

¹ The Safe Neighborhoods and Schools Act full text version: [https://oag.ca.gov/system/files/initiatives/pdfs/130060%20\(130060%20\(Neighborhood%20and%20School%20Funding\)\).pdf](https://oag.ca.gov/system/files/initiatives/pdfs/130060%20(130060%20(Neighborhood%20and%20School%20Funding)).pdf)

of arrests and convictions among the Fiscal Year 2009-10 and Fiscal Year 2010-11 release cohorts (Appendix B) shows little change in the number of offenders arrested or convicted during the three-year follow-up period for drug crimes, property crimes, and crimes against persons. Although a longer follow-up period is needed to examine the full impact of Realignment, preliminary findings show that decreases in parole violations and the three-year return-to-prison rate have not been offset by a spike in arrests and convictions.

Similar to other cohorts examined by the CDCR, most offenders in the Fiscal Year 2010-11 release cohort returned to State prison within the first year of their release. Of the 42,661 offenders who returned to prison during the three-year follow-up period, 33 percent (14,093 offenders) returned within the first three months of their release and over half (58.8 percent or 25,085 offenders) returned within the first six months of their release. After one year of follow-up, 81.6 percent (34,810 offenders) of the 42,661 offenders who returned to prison during the three-year follow-up period, had returned.

The three-year return-to-prison rate for the 37,568 re-releases, offenders released after a parole violation, is substantially higher (60.9 percent or 22,884 offenders) than the 58,122 first releases, offenders released for the first time on their current term (34 percent or 19,777 offenders). Offenders with a serious offense also returned to State prison at a higher rate than other offenders; offenders with a serious offense had a three-year return-to-prison rate of 48.4 percent (6,418 offenders), violent offenders had a rate of 38.4 percent (4,091 offenders), and offenders without a serious or violent offense had a rate of 44.8 percent (32,152 offenders).

While a large portion of the release cohort was paroled to Los Angeles County (26 percent of the cohort or 24,904 offenders), Los Angeles County has one of the lowest three-year return-to-prison rates (32.3 percent) among all California counties. Los Angeles County also has the lowest rate among the top 12 counties with the largest number of CDCR releases. Three-year return-to-prison rates for each of California's counties are provided in Appendix D of this report.

An examination of the three-year return-to-prison rate based on offender demographics shows younger offenders return to State prison at higher rates than older offenders. In general, as the age of the offender increases, their likelihood of completing the three-year follow-up period without returning to prison also increases. Offenders ages 18 – 19 returned to prison at the highest rate (59.1 percent or 440 offenders) of all age groups, while offenders 60 and over returned to State prison at the lowest rate (31.1 percent or 573 offenders) of all age groups, a difference of 28 percentage points.

The Bureau of Justice Statistics (BJS) estimates that 69.2 percent of offenders in state prisons regularly used drugs prior to their incarceration and 56 percent used drugs in the month before committing their offense.² According to BJS, 53 percent of offenders in state prisons in the United States are estimated to meet the criteria for drug dependence or abuse, but only 15 percent of those offenders were reported to participate in drug treatment programs with a trained professional.³ Empirical research shows that

² U.S. Department of Justice, Bureau of Justice Statistics "Special Report: Drug Use and Dependence, State and Federal Prisoners, 2004". p. 2, <http://www.bjs.gov/content/pub/pdf/dudsfp04.pdf>

³ U.S. Department of Justice, Bureau of Justice Statistics "Special Report: Drug Use and Dependence, State and Federal Prisoners, 2004". p. 1 and p. 9, <http://www.bjs.gov/content/pub/pdf/dudsfp04.pdf>

participation in substance use treatment is associated with lower rates of future drug use and reoffending, demonstrating the importance of both in-prison substance abuse treatment and post-release aftercare.

The CDCR offenders who received in-prison substance abuse treatment (SAT) and/or aftercare demonstrate positive outcomes when compared to offenders who do not receive in-prison SAT or aftercare. Offenders who received in-prison SAT and completed aftercare (919 offenders) returned to State prison at a rate of 15.3 percent (or 141 offenders), while offenders who did not receive any form of in-prison SAT or aftercare (81,743 offenders) returned to prison at a rate of 46.5 percent (or 38,030 offenders), slightly above (1.9 percentage points) the overall three-year return-to-prison rate of 44.6 percent. The 31.2 percentage point difference between the two groups of offenders is one of the most remarkable differences observed in this report and suggests participation in SAT and completion of aftercare has a positive effect on the outcomes of offenders. As shown in the following sections of this report, offenders who received some form of in-prison SAT or aftercare, consistently returned to prison at lower rates (15.3 percent for offenders who participate in SAT and complete aftercare and 34.4 percent for offenders who participate in SAT and receive some aftercare) than the overall three-year return-to-prison rate of 44.6 percent and at a substantially lower rate than offenders who do not receive any form of in-prison SAT or aftercare (46.5 percent).

To enable comparison of reoffending rates among CDCR offenders over time, one-, two-, and three-year arrest, conviction, and return-to-prison rates are provided in Appendix A of this report. Appendix C contains the three-year return-to-prison rate by offender demographics and characteristics for the Fiscal Year 2009-10 and Fiscal Year 2010-11 release cohorts and finally, Appendix D contains the three-year return-to-prison rate by county of parole. The CDCR will continue to update and report arrest, conviction, and return-to-prison data with the goal of spurring discussion around the best possible ways to reduce returns to prison and better protect public safety.

Key Findings

Three-Year Return-to-Prison Rate

- Between July 1, 2010 and June 30, 2011 (Fiscal Year 2010-11), 95,690 offenders were released from California's State prisons. Of these offenders, 42,661 offenders returned to State prison within three years of their release for a three-year return-to-prison rate of 44.6 percent.
- The Fiscal Year 2010-11 rate (44.6 percent) is a 9.7 percentage point decrease from the Fiscal Year 2009-10 rate of 54.3 percent.
- Fiscal Year 2010-11 marks the fifth year in a row the three-year return-to-prison rate has decreased and also marks the most substantial decrease over the last five fiscal years.

Type of Return and the Impact of Realignment

- Although all of the 95,690 offenders released in Fiscal Year 2010-11 were released pre-Realignment, Realignment was in effect for varying amounts of time during an offender's three-year follow-up period depending on their date of release.
- Some of the 9.7 percentage point decrease in the three-year return-to-prison rate between Fiscal Years 2009-10 and 2010-11 is attributed to a decrease in parole violations, which decreased 7.6 percentage points between Fiscal Years 2009-10 and 2010-11 (37.9 percent and 30.3 percent of the release cohorts, respectively).
- Returns for property crimes decreased 1.5 percentage points between Fiscal Years 2009-10 and 2010-11 (6.2 percent and 4.7 percent of the release cohorts, respectively) and returns for drug crimes decreased 1.1 percentage points (4.5 percent and 3.4 percent of the release cohorts, respectively). Crimes against persons, which tend to be more serious and/or violent, increased slightly (0.4 of a percentage point) from 3.6 percent of the release cohort in Fiscal Year 2009-10 to 4 percent of the release cohort in Fiscal Year 2010-11.
- As Realignment is in effect for longer amounts of time during each offender's follow-up period and as offenders continue to be released post-Realignment, the number of returns for parole violations is expected to decrease with future cohorts studied by the CDCR. With the passage of Proposition 47 in November 2014, continued decreases in drug and property crimes are also expected in future cohorts examined by the CDCR.

Offender Outcomes by Offender Demographics

- Male offenders comprised over 90 percent of the release cohort (90.5 percent or 86,571 offenders) and their three-year return-to-prison rate (46.4 percent) is 19.3 percentage points higher than female offenders (27.1 percent), who comprised 9.5 percent (9,119 female offenders) of the release cohort.
- Younger offenders returned to prison at higher rates than older offenders. Offenders ages 18 – 19 (0.8 percent of the release cohort or 744 offenders) returned to prison at the highest rate (59.1 percent) of any age group and offenders 60 and over (1.9 percent of the release cohort or 1,844 offenders) returned to prison at the lowest rate (31.1 percent) of any age group.
- Nearly 80 percent of the release cohort was released to 12 California counties. Los Angeles County had the largest number of releases (26 percent of the release cohort or 24,904 offenders) and had the lowest three-year return-to-prison rate (32.3 percent) among the 12 counties with the largest number of releases.

Offender Outcomes by Offender Characteristics

- Offenders committed for property crimes (33.2 percent of the release cohort or 31,756 offenders) have the highest three-year return-to-prison rate (47.4 percent) of any commitment offense category, while offenders committed for drug crimes (25.5 percent of the release cohort or 24,445 offenders) have the lowest rate (40 percent) of any commitment offense category.
- Although the majority of offenders released (86.1 percent of the release cohort or 82,392 offenders) served a determinate sentence, offenders sentenced to an indeterminate sentence (lifers), who comprised less than one percent of the release cohort (398 offenders), have a substantially lower return-to-prison rate (6.3 percent) than those serving a determinate sentence (43.6 percent).
- Of the 392 lifers released by the Board of Parole Hearings (BPH), 0.8 percent returned to prison with a new term.
- The 8,989 offenders (9.4 percent of the release cohort) required to register as sex offenders (sex registrants) have a higher three-year return-to-prison rate (56.1 percent) than non-sex registrants (43.4 percent). Over 90 percent (4,579 returns) of the total returns to prison for sex registrants (5,041 returns) were for parole violations (90.8 percent).
- Offenders committed for an offense that was serious (13.9 percent of the release cohort or 13,268 offenders) returned to prison at a higher rate (48.4 percent), than offenders without a serious or violent offense (75 percent of the release cohort or 71,769 offenders) with a rate of 44.8 percent. Offenders committed for a violent offense (11.1 percent of the release cohort or 10,653 offenders) returned to prison at a rate of 38.4 percent.

- **Offenders with a California Static Risk Score (CSRA) score of high (54.7 percent of the release cohort or 52,331 offenders) returned to prison at a higher rate (55.9 percent), than offenders with a score of moderate (26.2 percent of the release cohort or 25,108 offenders) with a rate of 35.9 percent, and offenders with a score of low (18.2 percent of the release cohort or 17,421 offenders) with a rate of 23.6 percent.**
- **For the second year in a row, offenders who received in-prison substance abuse treatment and completed aftercare (919 offenders), returned to prison at a substantially lower rate (15.3 percent) than the 81,743 offenders who did not receive substance abuse treatment (46.5 percent). Three-year return-to-prison rates show that offenders who receive in-prison substance abuse treatment and some form of aftercare consistently have lower rates of return than offenders who do not receive substance abuse treatment.**

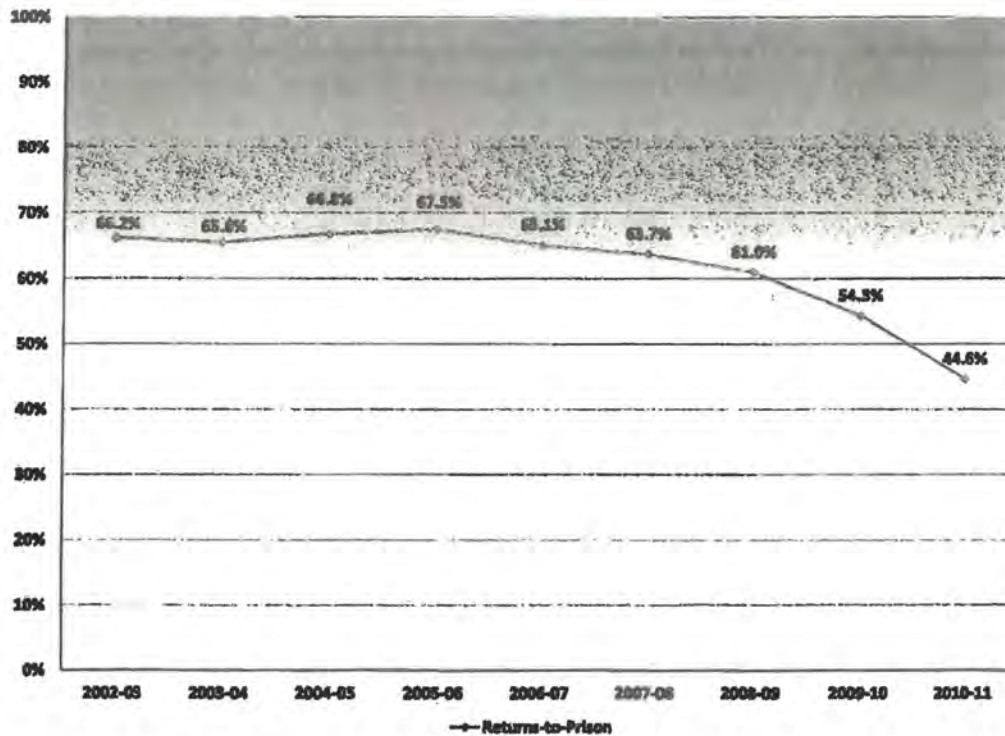
California Department of Corrections and Rehabilitation 2015 Outcome Evaluation Report

1 Introduction

The California Department of Corrections and Rehabilitation (CDCR) presents the 2015 Outcome Evaluation Report, our sixth report in an annual series, which examines the return-to-prison rate of offenders released from California adult institutions during a given fiscal year. This year's report presents the three-year return-to-prison rate for the 95,690 offenders released from CDCR adult institutions between July 1, 2010 and June 30, 2011 (Fiscal Year 2010-11), in addition to arrest and conviction data. This report also provides return-to-prison rates by offender demographics (e.g. age, gender) and characteristics (e.g. commitment offense category, sentence type) to CDCR executives, lawmakers, and other correctional stakeholders with an interest in reoffending behavior and reducing recidivism among California's offender population.

The three-year return-to-prison rate for the 95,690 offenders released in Fiscal Year 2010-11 is 44.6 percent, a 9.7 percentage point decrease from the Fiscal Year 2009-10 rate of 54.3 percent. As shown in Figure A, the three-year return-to-prison rate has trended downward since the Fiscal Year 2005-06 release cohort, with the most substantial decreases occurring between Fiscal Years 2008-09 and 2009-10 (6.7 percentage points) and Fiscal Years 2009-10 and 2010-11 (9.7 percentage points).

Figure A. Three-Year Return-to-Prison Rates for Offenders Released in Fiscal Year 2002-03 through Fiscal Year 2010-11



For the first time since the CDCR began reporting the rate in Fiscal Year 2002-03, more offenders did not return to prison during the three-year follow-up period (55.4 percent of the release cohort or 53,029 offenders) than returned to State prison (44.6 percent of the release cohort or 42,661 offenders). The substantial decreases in the three-year return-to-prison rates over the last two fiscal years are largely attributed to Assembly Bill (AB) 109, California's Public Safety Realignment Act (Realignment), which requires most non-serious, non-violent, and non-sex registrant offenders be sentenced to county jail, rather than State prison. Realignment also changed the parole revocation process so that only offenders previously sentenced to a life-term can be revoked to prison and all other parole revocations are served in county jails. Returns to State prison for parole violations decreased 7.6 percentage points between Fiscal Year 2009-10 (37.9 percent of the release cohort) and Fiscal Year 2010-11 (30.3 percent of the release cohort), contributing to the decrease in the three-year return-to-prison rate of 44.6 percent.

Impacts of Realignment were also observed in other types of return categories: returns for property crimes decreased 1.5 percentage points between Fiscal Years 2009-10 and 2010-11 (6.2 percent and 4.7 percent of the release cohorts, respectively) and returns for drug crimes decreased 1.1 percentage points (4.5 percent and 3.4 percent of the release cohorts, respectively). Crimes against persons, which tend to be more serious and violent, increased slightly (0.4 of a percentage point) from 3.6 percent of the release cohort in Fiscal Year 2009-10 to 4 percent of the release cohort in Fiscal Year 2010-11. As intended by Realignment, decreases in parole violations and slight decreases in drug crimes and property crimes are expected, as many parole violators and non-serious, non-violent, and non-sex registrant offenders will serve their sentences in county jail, rather than State prison. Slight increases in crimes against persons may be observed as more serious and violent offenders are sentenced to and returned to State prison. The impact of Realignment on the types of returns to State prison are discussed in greater detail in the following sections of this report.

All of the offenders in the Fiscal Year 2010-11 cohort were released pre-Realignment and depending on their date of release, Realignment was in effect for varying amounts of time during the offenders' three-year follow-up period. Although the majority of the Fiscal Year 2011-12 cohort will be released post-Realignment, the Fiscal Year 2012-13 release cohort will be the first cohort where all offenders are released post-Realignment and a full three-year follow-up period will occur. At this time, the CDCR will be able to fully examine the impact of Realignment on CDCR offenders.

Figure B. Three-Year Outcomes for Offenders Released from State Prison in Fiscal Year 2010-11



2 Evaluation Design

2.1 Return-to-Prison Definition

The Board of State and Community Corrections (BSCC) defines recidivism as “conviction of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction”. The BSCC definition allows for other measures of recidivism, including supplemental measures. Supplemental measures of recidivism may include new arrests, returns to custody, criminal filings, or supervision violations. While arrest and conviction data are provided in the appendices of this report, the CDCR continues to use a supplemental measure, the three-year return-to-prison rate, as its primary measure of recidivism.

The three-year return-to-prison rate is defined as follows:

“An individual convicted of a felony⁴ and incarcerated in a CDCR adult institution who was released to parole, discharged after being paroled, or directly discharged during Fiscal Year (FY) 2010-11 and subsequently returned to State prison⁵ within three years of their release date.”

The return-to-prison rate is calculated using the ratio of the number of offenders in the release cohort who returned to prison during the follow-up period, to the total number of offenders in the release cohort, multiplied by 100.

$$\text{Return-to-Prison Rate} = \frac{\text{Number Returned}}{\text{Release Cohort}} \times 100$$

Appendix A of this report provides supplemental recidivism rates using arrest and conviction data, in addition to returns to prison. Three-year rates for each of these supplemental measures are available for FY 2002-03 through 2010-11. One-year and two-year rates are available for FY 2011-12 and one-year rates for FY 2012-13.

2.2 Methods

This report provides return-to-prison rates at one-, two-, and three-year intervals for the 95,690 offenders released from CDCR’s Division of Adult Institutions (DAI) between July 1, 2010 and June 30, 2011 (FY 2010-11). The release cohort includes; 1) Offenders who were directly discharged from CDCR; 2) Offenders who were released to parole for the first time on their current term; and 3) Offenders who were released to parole on their current term prior to FY 2010-11, returned to prison on this term, and were then re-released during FY 2010-11. Rates of return are further examined according to offender demographics (e.g. gender, age, race/ethnicity) and offender characteristics (e.g. commitment offense, sentence type).

⁴ Due to reporting limitations, civil addicts are excluded.

⁵ This may include individuals who returned to prison pending revocation, but whose cases are “continued on parole” or dismissed.

2.3 Data Sources

Data were extracted from the CDCR Strategic Offender Management System (SOMS), CDCR's system of record, to identify offenders released between July 1, 2010 and June 30, 2011 and to determine which released offenders returned to State prison during the three-year follow-up period.

Arrest and conviction data, included in the appendices of this report, were obtained from the Department of Justice (DOJ) Criminal Justice Information System (CJIS) and the California Law Enforcement Telecommunications System (CLETS).

2.4 Data Limitations

Data quality is important with all analyses performed by the CDCR's Office of Research. The intent of this report is to provide summary (aggregate) information, rather than individual information. The aggregate data are strong when a large number of records (releases) are available for analysis, but are less robust as subgroups are influenced by nuances associated with each case. Therefore, caution should be exercised when interpreting results associated with fewer records. Return-to-prison rates are only presented for offender releases (i.e. denominators) that are equal to or greater than 30.

Return-to-prison rates are fixed at three years, meaning the follow-up period is considered complete and no further analyses are performed. Arrests and conviction data presented in the appendices of this report may see slight fluctuations, particularly as the one-year and two-year rates are updated in subsequent reporting years. These data are routinely updated in accordance with criminal justice system processing. As data become available, subsequent reports will be updated.

The CDCR transitioned to SOMS in 2013 from CDCR's legacy system of record Offender Based Information Systems (OBIS), which included the integration of paper files into one automated system. As a result, CDCR data are more reliable and reporting is more comprehensive. As with any data system, data entry issues may cause data quality issues. The CDCR has implemented remedy processes and business rules to enhance the data contained within SOMS.

3 Description of FY 2010-11 Release Cohort

Between July 1, 2010 and June 30, 2011, 95,690 offenders were released from CDCR adult institutions. Of these offenders, 58,122 offenders (60.7 percent) were first releases and 37,568 offenders (39.3 percent) were re-releases. A first release refers to the first release on the current term for offenders with a new admission or offenders who returned for a parole violation with a new term. Any subsequent release on the same (current) term is a re-release. The following sections provide demographics and characteristics of the 95,690 offenders released during FY 2010-11 and comprise the 2015 Outcome Evaluation cohort.

3.1 Offender Demographics

Gender

Of the 95,690 offenders released in FY 2010-11, 86,571 offenders were male (90.5 percent) and 9,119 offenders were female (9.5 percent).

Age at Release

Offenders ages 25 – 29 comprised the largest number of releases (19.4 percent or 18,550 offenders) in FY 2010-11, followed by offenders ages 30 – 34 (17.1 percent or 16,401 offenders) and offenders ages 35 – 39 (13.1 percent or 12,528 offenders). Offenders ages 18 – 19 comprised the smallest number of releases (0.8 percent or 744 offenders), followed by offenders ages 60 and over (1.9 percent or 1,844 offenders). Nearly 90 percent of the releases (87 percent) were between the ages of 20 to 49.

Race/Ethnicity

Nearly 40 percent of the FY 2010-11 release cohort (38.9 percent or 37,190 offenders) were Hispanic/Latino, followed by White (29.6 percent or 28,323 offenders), and Black/African American (26.4 percent or 25,238 offenders). Over 3 percent (3.1 percent or 3,008 offenders) belonged to the other race/ethnicity category, 1.1 percent (1,063 offenders) were American Indian/Alaskan Native, and 0.9 percent (868 offenders) were Asian/Pacific Islander.

County of Parole

Twenty-six percent (24,904 offenders) of the FY 2010-11 cohort were released to Los Angeles County, followed by San Bernardino County (8.4 percent or 8,018 offenders), and Orange County (7.1 percent or 6,804 offenders). Nearly 80 percent (79.6 percent or 76,215 offenders) were released to the 12 counties presented in Table 1, 19.2 percent (18,367 offenders) were released to all other California counties, and 1.2 percent (1,108 offenders) were directly discharged.

Table 1. Demographics of Offenders Released in Fiscal Year 2010-11

Demographics	Number	Percent
Total	95,690	100.0%
Release Type		
First Release	58,122	60.7%
Re-Release	37,568	39.3%
Gender		
Male	86,571	90.5%
Female	9,119	9.5%
Age at Release		
18 - 19	744	0.8%
20 - 24	12,666	13.2%
25 - 29	18,550	19.4%
30 - 34	15,401	17.1%
35 - 39	12,528	19.1%
40 - 44	12,390	12.9%
45 - 49	10,716	11.2%
50 - 54	6,865	7.2%
55 - 59	2,986	3.1%
60 and over	1,844	1.9%
Race/Ethnicity		
Hispanic/Latino	37,190	38.9%
White	28,923	29.6%
Black/African American	25,238	26.4%
American Indian/Alaskan Native	1,063	1.1%
Asian/Pacific Islander	888	0.9%
Other	3,008	3.1%
County of Parole		
Los Angeles County	24,904	26.0%
San Bernardino County	8,018	8.4%
Orange County	6,804	7.1%
San Diego County	6,431	6.7%
Riverside County	6,201	6.5%
Sacramento County	5,698	6.0%
Alameda County	4,022	4.2%
Fresno County	3,699	3.9%
Kern County	3,681	3.8%
San Joaquin County	2,363	2.5%
Santa Clara County	2,776	2.9%
Stanislaus County	1,618	1.7%
All Others	19,475	20.4%
None (Direct Discharge)	1,108	1.2%

3.2 Offender Characteristics

Commitment Offense

Nearly a third (33.2 percent or 31,756 offenders) of the FY 2010-11 release cohort were committed for property crimes, followed by crimes against persons (30 percent or 28,732 offenders), and drug crimes (25.5 percent or 24,445 offenders). Over 10 percent (11.2 percent or 10,757 offenders) were committed for other crimes.

Sentence Type

The majority of offenders released (86.1 percent or 82,392 offenders) served a determinate sentence. An additional 13.5 percent (12,900 offenders) served a determinate sentence as second strikers. A small portion of the release cohort (0.4 percent or 398 offenders) served an indeterminate sentence (lifers).

Sex Registration Requirement

Less than 10 percent of the release cohort (9.4 percent or 8,989 offenders) were required to register as sex offenders. Over 90 percent (90.6 percent or 86,701 offenders) did not have a sex registration requirement.

Serious/Violent Offenders

The majority of offenders released (75 percent or 71,769 offenders) do not have a serious or violent offense, 13.9 percent (13,268 offenders) had a serious offense, and 11.1 percent (10,653 offenders) had a violent offense.

Mental Health Status

Most offenders (82.2 percent or 78,705 offenders) did not have a mental health designation. Of those with a mental health designation, 15 percent (14,385 offenders) were assigned to the Correctional Clinical Case Management System, and 2.5 percent (2,422 offenders) were assigned to the Enhanced Outpatient Program. Less than one percent of offenders were assigned to a Mental Health Crisis Bed (119 offenders) or the Department of Mental Health (59 offenders).

CSRA Risk Score

The majority of offenders (54.7 percent or 52,331 offenders) had a California Static Risk Score (CSRA) score of high, followed by 26.2 percent (25,108 offenders) with a score of moderate, and 18.2 percent (17,421 offenders) with a score of low. Less than one percent of the release cohort (0.9 percent or 830 offenders) did not have a CSRA score.

Length of Stay

Of the 95,690 offenders released, 43.9 percent (42,018 offenders) had a length of stay of six months or less, 26.7 percent (25,592 offenders) had a stay of 7 – 12 months, and 9.5 percent (9,056 offenders) had a stay of 13 – 18 months. The number of offenders in each length of stay category decreases (with the exception of 5 – 10 years) as the length of stay increases. Less than one percent (0.5 percent or 474 offenders) had a length of stay of 15 years or longer.

Prior Returns to Custody

Of the total offenders released, 60.7 percent (58,057 offenders) did not have a prior return to custody on their current term, prior to release. Over 16 percent (16.1 percent or 15,431 offenders) had one prior return to custody on their current term, followed by 8.4 percent (7,997 offenders) with two prior returns on their current term. In general, the number of offenders decreases as the number of prior returns to custody increases.

Number of CDCR Stays Ever

Of the 95,690 offenders released, 27.6 percent (26,426 offenders) had one stay at a CDCR institution, followed by 13.4 percent (12,837 offenders) with two stays at a CDCR institution, and 9.6 percent (9,182 offenders) with three stays. The number of offenders in each category decreases as the number of stays increases, with the exception of 15 or more stays (6.6 percent or 6,338 offenders).

Table 2. Characteristics of Offenders Released in Fiscal Year 2010-11

Characteristics	Number	Percent
Commitment Offense Category		
Property Crimes	31,756	33.2%
Crimes Against Persons	28,732	30.0%
Drug Crimes	24,445	25.5%
Other Crimes	10,757	11.2%
Sentence Type		
Determinate Sentencing Law	82,392	86.1%
Second Strikers (Determinate Sentencing Law)	12,900	13.5%
Lifers (Indeterminate Sentencing Law)	398	0.4%
Sex Registration Requirement		
No	86,701	90.6%
Yes	8,989	9.4%
Serious and/or Violent Offenders		
Serious	13,268	13.9%
Violent	10,653	11.1%
Non-Serious/Non-Violent	71,769	75.0%
Mental Health Status		
Correctional Clinical Case Management System	14,385	15.0%
Enhanced Outpatient Program	2,422	2.5%
Department of Mental Health	59	0.1%
Mental Health Crisis Bed	119	0.1%
None/No Mental Health Code	78,705	82.2%
CSRA Risk Score		
Low	17,421	18.2%
Moderate	25,108	26.2%
High	52,331	54.7%
N/A	830	0.9%
Length of Stay		
Less than 6 Months	42,018	43.9%
7 - 12 months	25,592	26.7%
13 - 18 months	9,056	9.5%
19 - 24 months	5,579	5.8%
2 - 3 years	5,350	5.6%
3 - 4 years	2,567	2.7%
4 - 5 years	1,583	1.7%
5 - 10 years	2,552	2.7%
10 - 15 years	919	1.0%
15 + years	474	0.5%

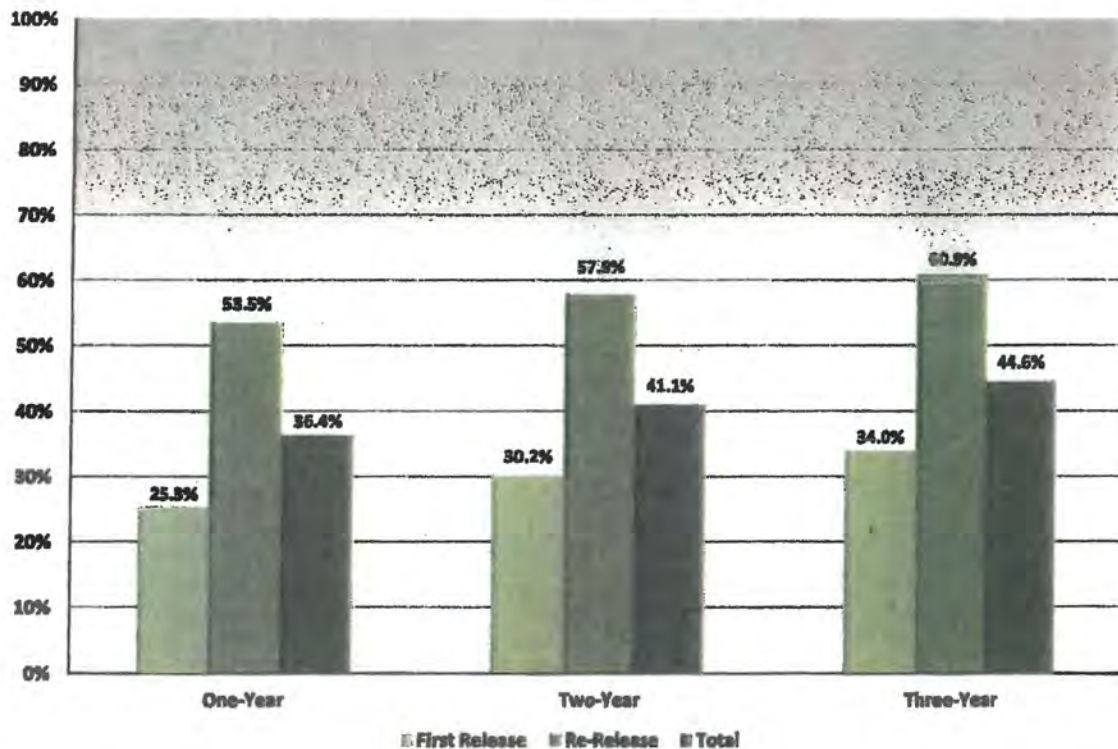
Table 2. Characteristics of Offenders Released in FY 2010-11 (continued)

Characteristics	Number	Percent
Prior Returns to Custody		
0	58,057	60.7%
1	15,431	16.1%
2	7,997	8.4%
3	5,116	5.3%
4	3,412	3.6%
5	2,230	2.3%
6	1,380	1.4%
7	889	0.9%
8	538	0.6%
9	265	0.3%
10+	375	0.4%
Number of CDCR Stays Ever		
1	26,426	27.6%
2	12,837	13.4%
3	9,182	9.6%
4	7,658	8.0%
5	6,376	6.7%
6	5,303	5.5%
7	4,432	4.6%
8	3,734	3.9%
9	3,188	3.3%
10	2,826	3.0%
11	2,296	2.4%
12	2,072	2.2%
13	1,613	1.7%
14	1,409	1.5%
15 +	6,338	6.6%

4 Three-Year Return-to-Prison Rate

4.1 Overall Return-to-Prison Rates for the FY 2010-11 Release Cohort

Figure 1. Return-to-Prison Rates for First Releases, Re-Releases, and the Total FY 2010-11 Release Cohort



The three-year return-to-prison rate for the 95,690 offenders released in FY 2010-11 is 44.6 percent. The largest number of offenders were returned within the first year following their release from State prison (34,810 offenders or 36.4 percent). In the second year of follow-up, an additional 4,521 offenders returned to State prison for a total of 39,331 offenders or 41.1 percent of the release cohort. In the third and final year of follow-up, an additional 3,330 offenders returned to State prison for a total of 42,661 offenders and a three-year return-to-prison rate of 44.6 percent.

As shown in the above figure and below table, re-releases return to State prison at substantially higher rates than first releases. Of the 37,568 re-releases, 60.9 percent returned to State prison within three years of their release. Of the 58,122 first releases, 34 percent returned to State prison within three years of their release. This pattern is consistent with other release cohorts examined by the CDCR. The three-year return-to-prison rate for the FY 2009-10 release cohort was 69 percent for re-releases and 44.1 percent for first releases (Appendix C).

Table 3. Return-to-Prison Rates for First-Releases, Re-Releases, and the Total FY 2010-11 Release Cohort

Release Type	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
First Release	58,122	14,702	25.3%	17,575	30.2%	19,777	34.0%
Re-Release	37,568	20,108	53.5%	21,756	57.9%	22,884	60.9%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

4.2 Time to Return

Figure 2. Three-Year Quarterly and Cumulative Rate of Return for the 42,661 Offenders Returning to Prison during the Three-Year Follow-Up Period

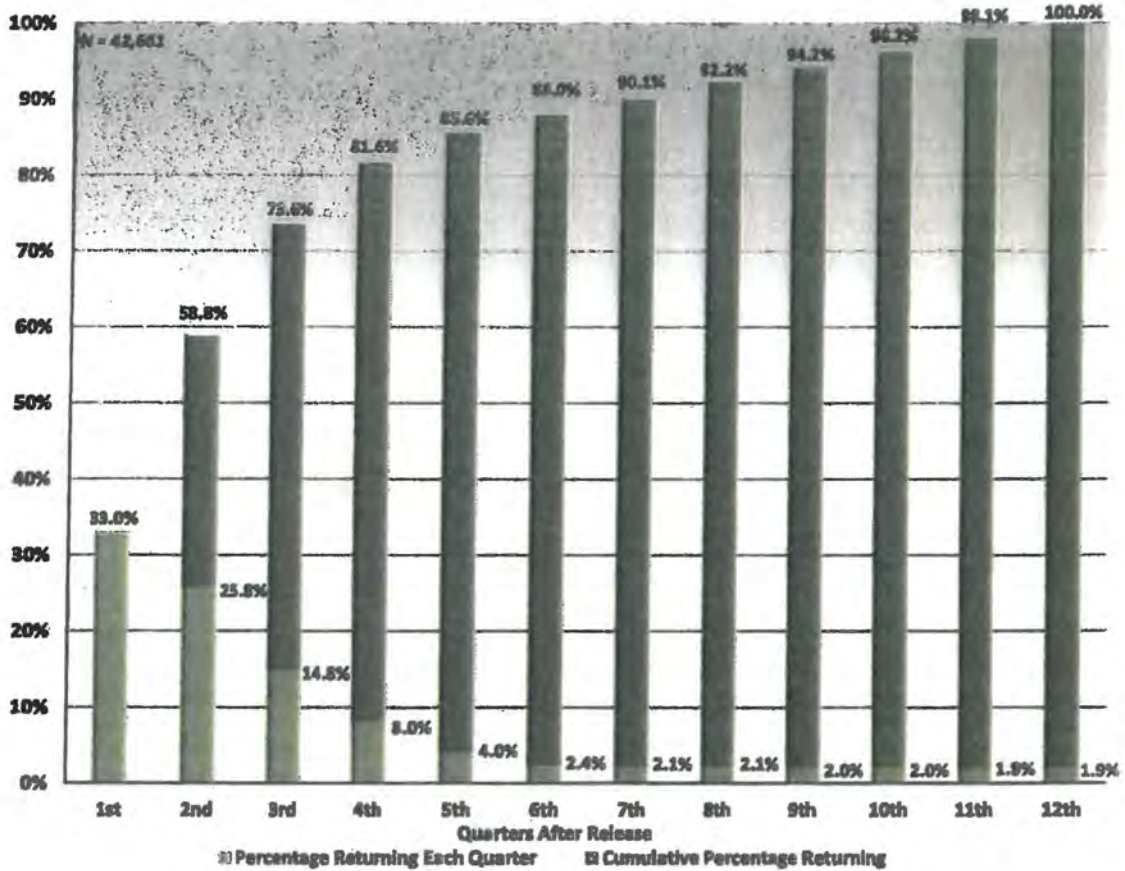


Figure 2 and Table 4 show the percentage of offenders who returned to prison during each quarter (three month period) over the three-year follow-up period, as well as the cumulative percentage of offenders who returned to prison each quarter over the three-year follow-up period. In order to examine how long offenders are in the community before recidivating, only the 42,661 offenders who returned to prison are represented in this section. The 12th quarter represents the final, cumulative results (i.e. 100 percent) of the 42,661 offenders that returned to prison.

Of the 42,661 offenders who returned to prison during the three-year follow-up period, nearly a third (33 percent) returned to prison during the first quarter following their release. Following the first quarter, the percentage of offenders returned during any subsequent quarter decreases. Over half (58.8 percent) of those who returned to prison were returned after being in the community for six or fewer months. Together, 81.6 percent of the offenders who returned to prison during the three-year follow-up period were returned within 12 months of release. Very few offenders (less than 2 percent of those returned) were returned during the final two quarters of the three-year follow-up period. These results

are consistent with other release cohorts examined by the Department; the majority of offenders who return to State prison are returned within the first year of their release.

Table 4. Three-Year Quarterly and Cumulative Rate of Return for the 42,661 Offenders Returning to Prison during the Three-Year Follow-Up Period

Quarters After Release	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th
Percentage Returning	33.0%	25.8%	14.8%	8.0%	4.0%	2.4%	2.1%	2.1%	2.0%	2.0%	1.9%	1.9%
Cumulative Percentage	33.0%	58.8%	73.6%	81.6%	85.6%	88.0%	90.1%	92.2%	94.2%	96.2%	98.1%	100.0%

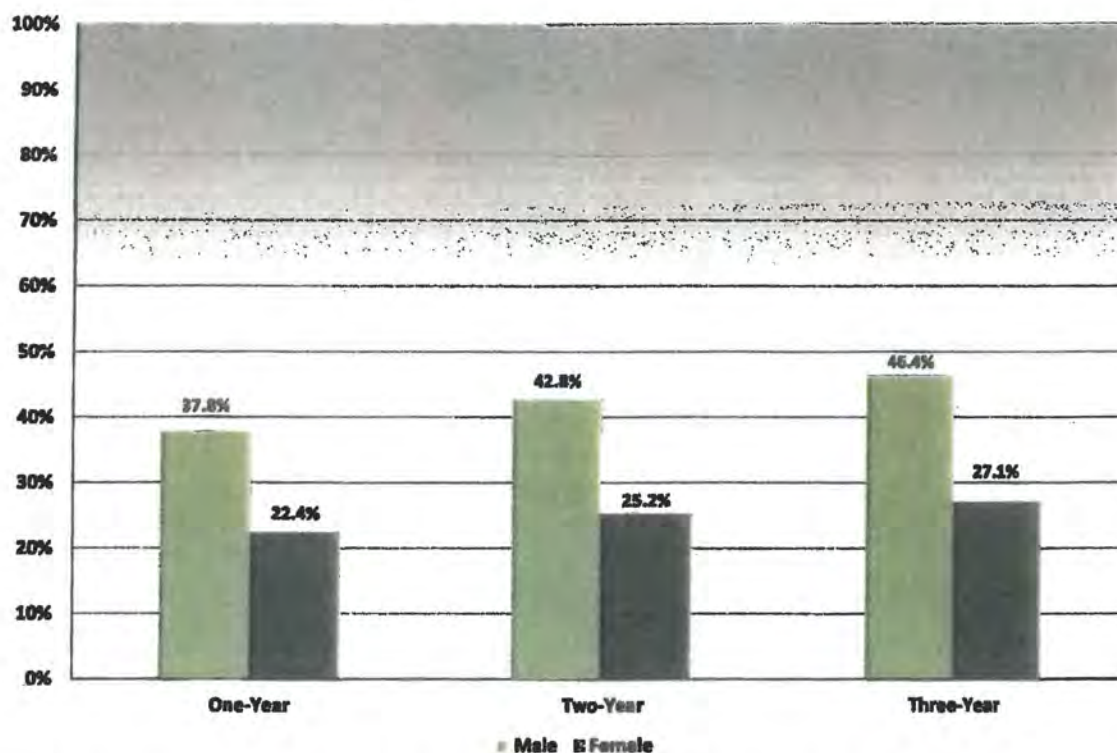
5 Return-to-Prison Rates by Offender Demographics and Characteristics

The following section presents one-year, two-year, and three-year return-to-prison rates for the 95,690 offenders released during FY 2010-11, by offender demographics (e.g. gender, age, race/ethnicity) and offender characteristics (e.g. release type, commitment offense category, mental health designation). Appendix C provides a comparison of the three-year return-to-prison rate by offender demographics and characteristics for the FY 2009-10 and the FY 2010-11 release cohorts.

5.1 Return-to-Prison Rates by Offender Demographics

5.1.1 Gender

Figure 3. Return-to-Prison Rates by Gender



Of the 95,690 offenders released in FY 2010-11, the vast majority (86,571 offenders or 90.5 percent) were male and 9,119 offenders (9.5 percent) were female. Male offenders returned to State prison at a substantially higher rate after three years of follow-up than female offenders (46.4 percent and 27.1 percent, respectively). As shown in the above figure and below table, the three-year return-to-prison rate for male offenders is 19.3 percentage points higher than the rate of female offenders.

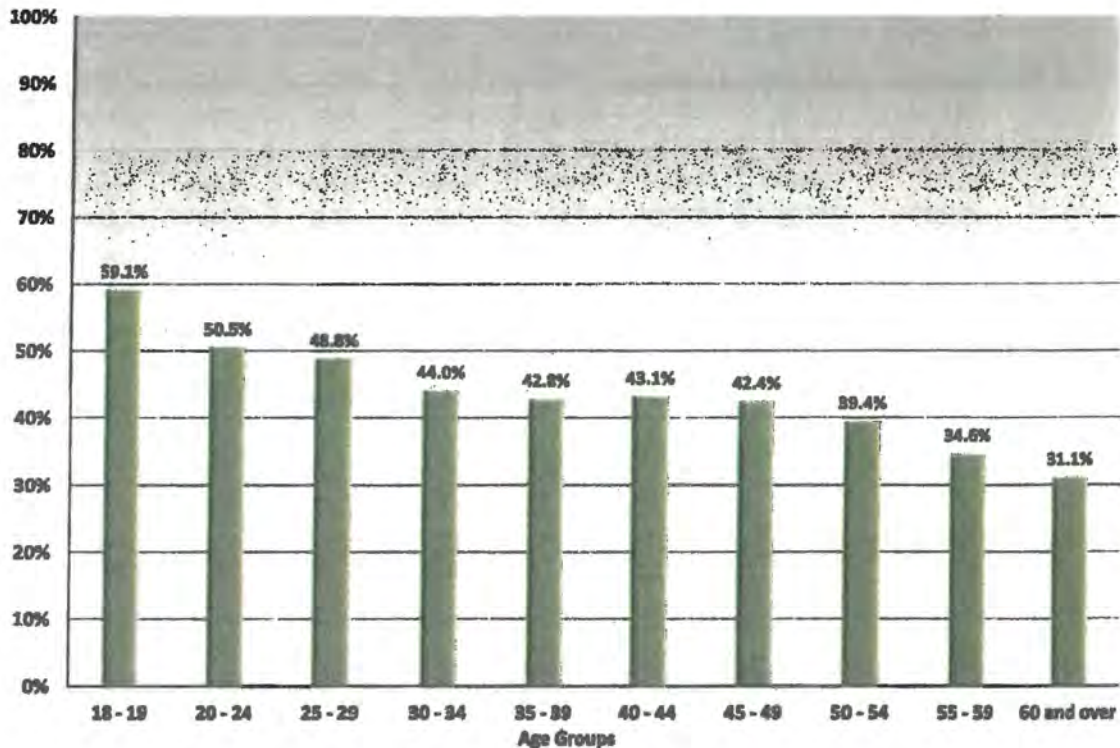
Both male and female offenders experienced a decline in their three-year return-to-prison rate between FY 2009-10 and FY 2010-11. As shown in Appendix C, the three-year return-to-prison rate decreased by 9.9 percentage points for male offenders between FY 2009-10 and FY 2010-11 (56.3 percent and 46.4 percent, respectively) and for female offenders, the three-year return-to-prison rate decreased by 10.3 percentage points (37.4 percent and 27.1 percent, respectively) between FY 2009-10 and FY 2010-11.

Table 5. Return-to-Prison Rates by Gender

Gender	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Male	86,571	32,766	37.8%	37,029	42.8%	40,193	46.4%
Female	9,119	2,044	22.4%	2,302	25.2%	2,468	27.1%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.1.2 Age at Release

Figure 4. Three-Year Return-to-Prison Rate by Age at Release



Similar to other release cohorts observed by the CDCR, younger offenders (ages 18 – 24) returned to prison at higher rates than other age groups. While offenders ages 18 – 19 comprised a small portion of the release cohort (744 offenders or 0.8 percent), their three-year return-to-prison rate (59.1 percent) is higher than any other age group. Offenders ages 20 – 24 had a three-year return-to-prison rate of 50.5 percent and offenders ages 25 – 29 had a three-year return-to-prison rate of 48.8 percent. The return-to-prison rate continues to decrease as the age of the offender increases, with the exception of offenders ages 40 – 44, when the rate increases by 0.3 of a percentage point. Offenders ages 60 and over had the lowest return-to-prison rate among all age groups at 31.1 percent (or 573 offenders).

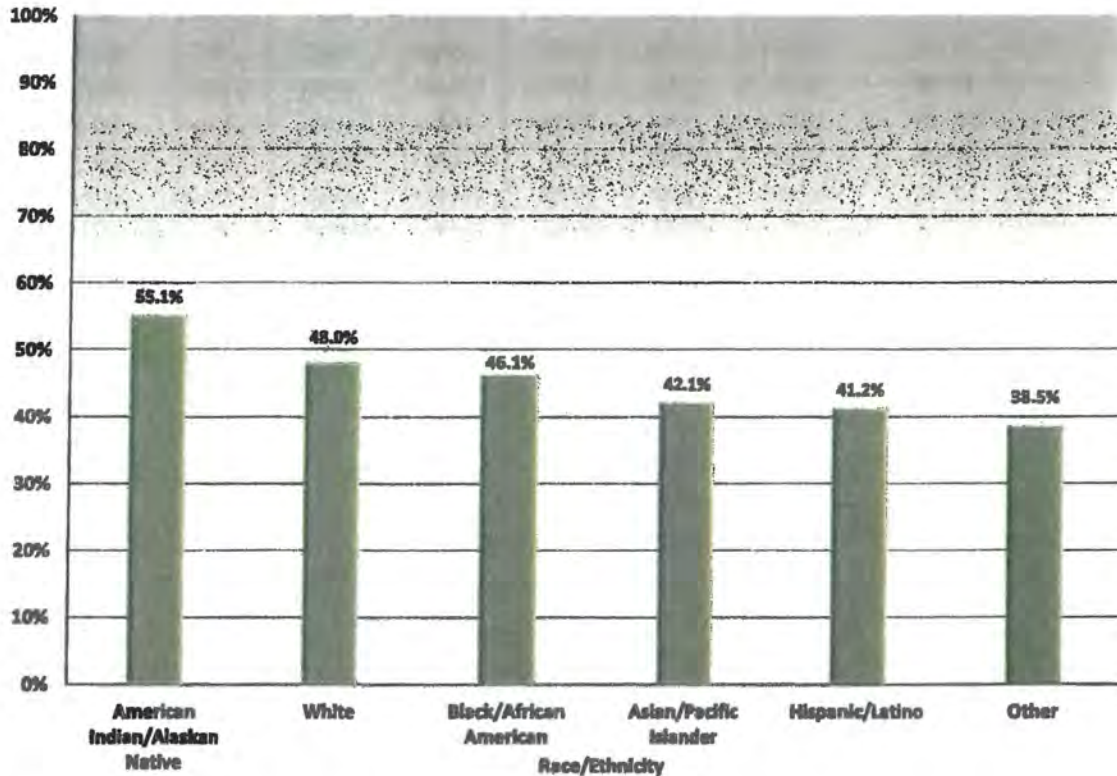
When compared to the FY 2009-10 release cohort, each age group saw a decline in the three-year return-to-prison rate. Offenders ages 20 – 24 saw the largest decrease in the three-year return-to-prison rate (10.8 percentage points) among any age group between FY 2009-10 and FY 2010-11 (61.3 percent and 50.5 percent, respectively). The smallest decrease (7 percentage points) in the three-year return-to-prison rate was observed in offenders ages 60 and over (38.1 percent and 31.1 percent, respectively) between FY 2009-10 and FY 2010-11 (Appendix C).

Table 6. Return-to-Prison Rates by Age at Release

Age Groups	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
18 - 19	744	336	45.2%	401	53.9%	440	59.1%
20 - 24	12,666	5,044	39.8%	5,841	46.1%	6,400	50.5%
25 - 29	18,550	7,304	39.4%	8,315	44.8%	9,052	48.8%
30 - 34	16,401	5,764	35.1%	6,616	40.3%	7,217	44.0%
35 - 39	12,528	4,429	35.4%	4,931	39.4%	5,357	42.8%
40 - 44	12,390	4,467	36.1%	4,967	40.1%	5,342	43.1%
45 - 49	10,716	3,802	35.5%	4,237	39.5%	4,543	42.4%
50 - 54	6,865	2,291	33.4%	2,524	36.8%	2,705	39.4%
55 - 59	2,986	867	29.0%	955	32.0%	1,032	34.6%
60 and over	1,844	506	27.4%	544	29.5%	573	31.1%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.1.3 Race/Ethnicity

Figure 5. Return-to-Prison Rates by Race/Ethnicity



The above figure and below table show return-to-prison rates by race/ethnicity. Although American Indian/Alaskan Native offenders comprised a small number of releases (1,063 offenders or 1.1 percent of the release cohort) their three-year return-to-prison rate is the highest (55.1 percent) among all race/ethnicity categories. The rate for American Indian/Alaskan Native offenders (55.1 percent) was followed by White offenders (48 percent), Black/African American offenders (46.1 percent), Asian or Pacific Islander offenders (42.1 percent), and Hispanic offenders (41.2 percent). The three-year return-to-prison rate for other offenders was 38.5 percent.

The three-year return-to-prison rate decreased for each race/ethnicity category between FY 2009-10 and FY 2010-11. Black/African American offenders saw the largest decrease at 12.3 percentage points (58.5 percent and 46.1 percent, respectively) and Asian/Pacific Islander offenders saw the smallest decrease at 3.9 percentage points (46 percent and 42.1 percent, respectively) between FY 2009-10 and FY 2010-11 (Appendix C).

Table 7. Return-to-Prison Rates by Race/Ethnicity

Race/Ethnicity	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
American Indian/Alaskan Native	1,063	495	46.6%	552	51.9%	586	55.1%
White	28,323	11,535	40.7%	12,728	44.9%	13,586	48.0%
Black/African American	25,238	9,370	37.1%	10,693	42.4%	11,644	46.1%
Asian/Pacific Islander	868	293	33.8%	327	37.7%	365	42.1%
Hispanic/Latino	37,190	12,115	32.6%	13,956	37.5%	15,321	41.2%
Other	3,008	1,002	33.3%	1,075	35.7%	1,159	38.5%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.1.4 County of Parole

Figure 6. Return-to-Prison Rates by County of Parole

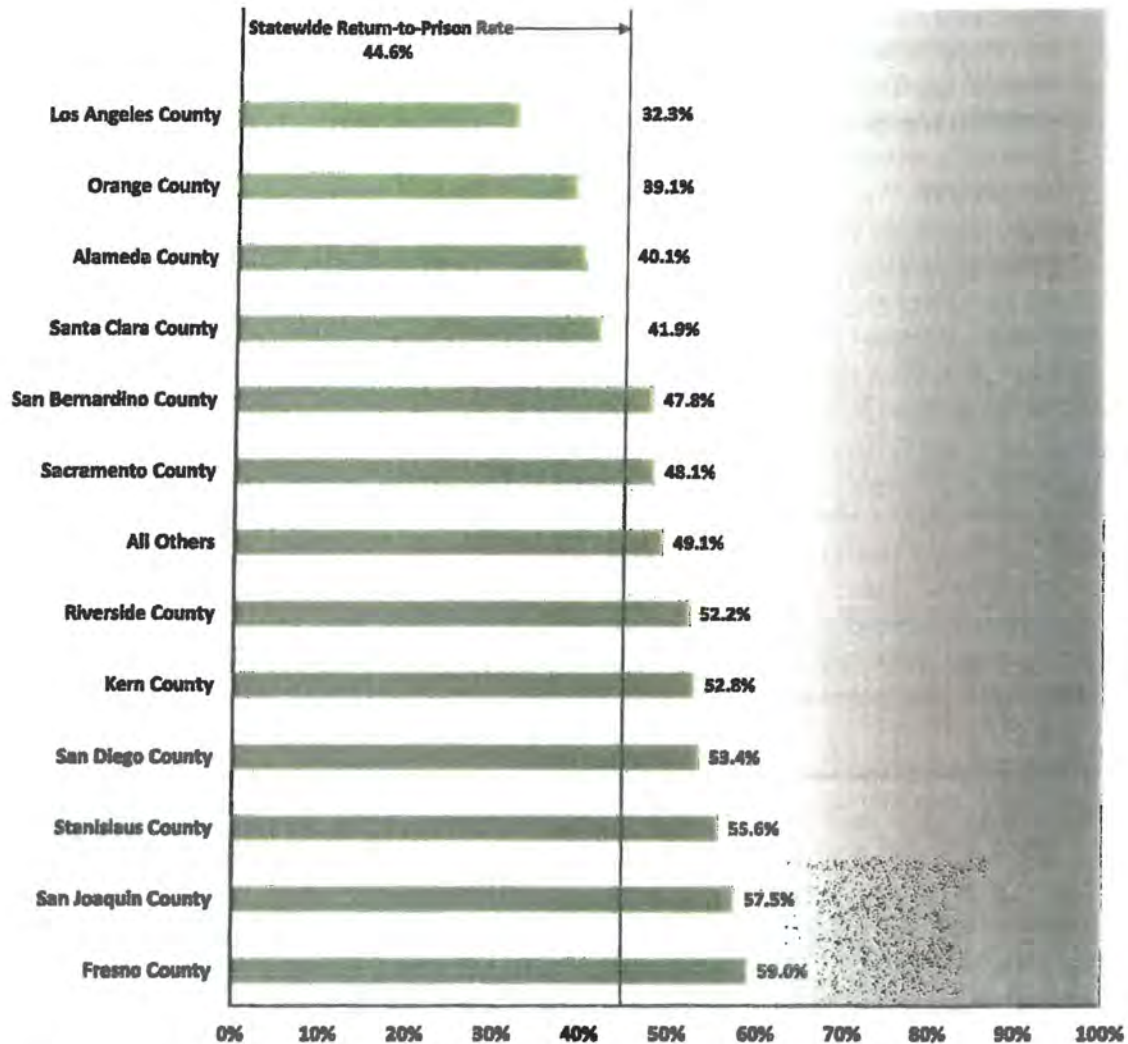


Figure 6 and Table 8 show return-to-prison rates for the 12 counties with the largest number of releases. Together, these 12 counties account for nearly 80 percent (79.6 percent or 76,215 offenders) of the offenders released in FY 2010-11. Approximately 20 percent (20.4 percent) were released to the remaining 46 California counties (all others) or were directly discharged. Three-year return-to-prison data for all other counties are presented in Appendix D of this report.

Los Angeles County had the largest number of releases (24,904 offenders) in FY 2010-11, accounting for 26 percent of the total releases. Los Angeles County also has the lowest three-year return-to-prison rate (32.3 percent) among the top 12 counties with the largest number of releases, followed by Orange County (39.1 percent), and Alameda County (40.1 percent). Among the top 12 counties with the largest

number of releases, Fresno County has the highest return-to-prison rate (59 percent) among the top 12 counties, followed by San Joaquin County (57.5 percent), and Stanislaus County at (55.6 percent).

The number of offenders released to Los Angeles County (24,904 offenders or 20.4 percent of the release cohort) and the low three-year return-to-prison rate (32.3 percent) are factors which drive the overall three-year return-to-prison rate downward. When Los Angeles County is excluded from the examination, the State's three-year return-to-prison rate is 48.9 percent or 4.3 percentage points higher than the State's actual three-year return-to-prison rate of 44.6 percent.

Between FY 2009-10 and FY 2010-11 each of the top 12 counties with the largest number of releases saw a decrease in the three-year return-to-prison rate. Santa Clara County saw the largest decrease (13.1 percentage points), followed by San Bernardino County (12 percentage points), and Alameda County (11.5 percentage points). Orange County had the smallest decrease among the top 12 counties (5.6 percentage points), followed by Sacramento (5.7 percentage points), and Fresno (7.4 percentage points). A comparison of the three-year return-to-prison rate between the two fiscal years for each county is provided in Appendix C of this report.

The above data should be interpreted with caution because offenders may leave the county to which they were paroled, or offenders may be returned to prison in a county other than their county of parole. When an offender returns to prison in a county other than their county of parole, the return is still counted in the county to which they were paroled. Additionally, a small number of offenders (1,108 offenders or 1.2 percent of the release cohort) were directly discharged from State prison and have a low three-year return-to-prison rate (22.3 percent). One-year, two-year, and three-year return-to-prison rates for direct discharges and all California counties may be found in Appendix D of this report.

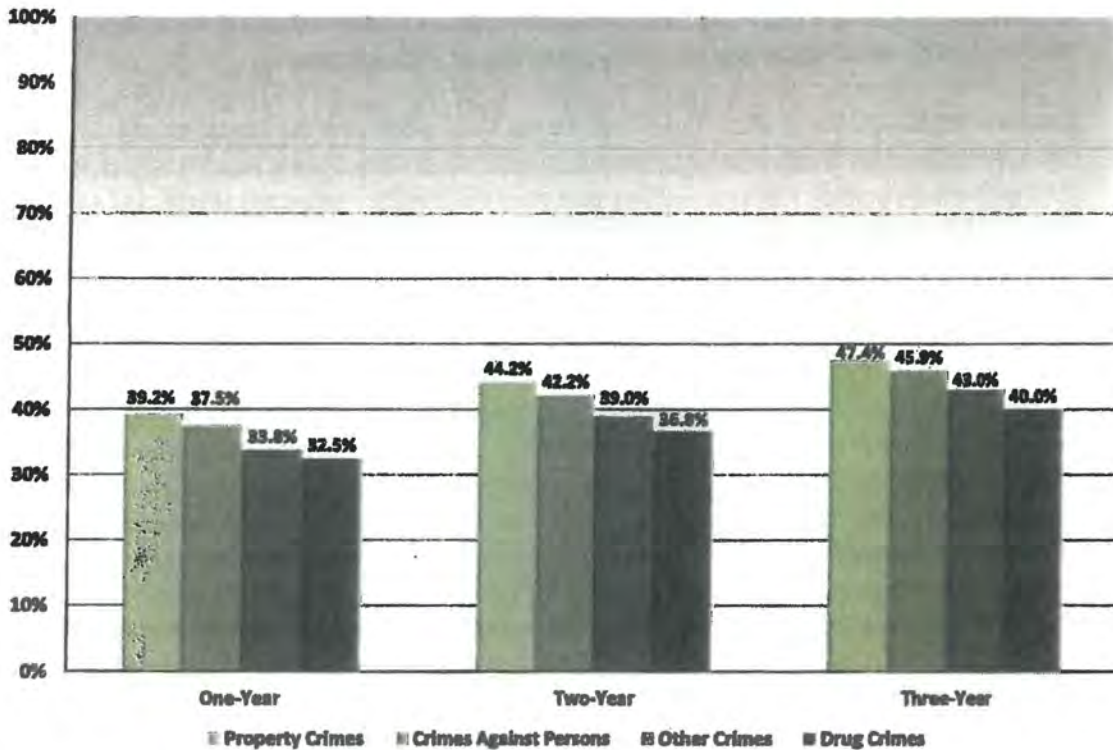
Table 8. Return-to-Prison Rates by County of Parole

County of Parole	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Fresno County	3,699	1,958	52.9%	2,086	56.4%	2,184	59.0%
San Joaquin County	2,363	1,191	50.4%	1,280	54.2%	1,358	57.5%
Stanislaus County	1,618	778	48.1%	846	52.3%	900	55.6%
San Diego County	6,431	2,956	46.0%	3,240	50.4%	3,434	53.4%
Kern County	3,681	1,620	44.0%	1,805	49.0%	1,944	52.8%
Riverside County	6,201	2,721	43.9%	2,997	48.3%	3,297	52.2%
Sacramento County	5,698	2,388	41.9%	2,584	45.3%	2,739	48.1%
San Bernardino County	8,018	3,123	38.9%	3,548	44.3%	3,836	47.8%
Santa Clara County	2,776	977	35.2%	1,093	39.4%	1,164	41.9%
Alameda County	4,022	1,448	36.0%	1,549	38.5%	1,612	40.1%
Orange County	6,804	2,253	33.1%	2,498	36.7%	2,658	39.1%
Los Angeles County	24,904	5,229	21.0%	6,807	27.3%	8,032	32.3%
All Others	19,475	8,168	41.9%	8,998	46.2%	9,563	49.1%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2 Return-to-Prison Rates by Offender Characteristics

5.2.1 Commitment Offense Category

Figure 7. Return-to-Prison Rates by Commitment Offense Category



The above figure and below table show the three-year return-to-prison rate by the offense an offender was committed to prison for (commitment offense category). Offenders committed for property crimes have the highest three-year return-to-prison rate of all commitment offense categories at 47.4 percent, followed by crimes against persons (45.9 percent), other crimes (43 percent), and drug crimes (40 percent). Offenders committing property crimes and crimes against persons comprise the largest number of releases (31,756 offenders and 28,732 offenders, respectively), followed by drug crimes (24,445 offenders), and other crimes (10,757 offenders).

The three-year return-to-prison rate decreased for each commitment offense category between FY 2009-10 and FY 2010-11 (Appendix C). Property crimes saw the largest decrease (10.7 percentage points), between the two fiscal years (58.1 percent and 47.4 percent, respectively). Between FY 2009-10 and FY 2010-11, crimes against persons decreased by 9.5 percentage points (55.5 percent and 45.9 percent, respectively), as did drug crimes (49.5 percent and 40 percent, respectively). Between the two fiscal years, other crimes decreased by 9.3 percentage points (52.4 percent and 43 percent, respectively).

Table 9. Return-to-Prison Rates by Commitment Offense Category

Commitment Offense Category	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Property Crimes	31,756	12,455	39.2%	14,030	44.2%	15,048	47.4%
Crimes Against Persons	28,732	10,782	37.5%	12,126	42.2%	13,196	45.9%
Other Crimes	10,757	3,632	33.8%	4,191	39.0%	4,630	43.0%
Drug Crimes	24,445	7,941	32.5%	8,984	36.8%	9,787	40.0%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.2 Commitment Offense

Figure 8. Three-Year Return-to-Prison Rate by Commitment Offense⁶



⁶ "Marijuana Other" offenses include planting, cultivating, harvesting, or possessing marijuana; hiring, employing, using a minor in the unlawful transportation, sale, or peddling of marijuana to another minor, furnishing, giving, and/or offering marijuana to a minor. "CS Other" offenses include possession of a controlled substance in prison; soliciting, encouraging, inducing a minor to furnish, sell, offer a controlled substance; agreeing, consenting, offering to sell, furnish, and/or transport a CS. "Other Offenses" include false imprisonment, accessory, and/or malicious harassment. "Other Sex Offenses" including failing to register as a sex offender, unlawful sex with a minor, and/or indecent exposure.

As shown in Figure 8, the three-year return-to-prison rate varies substantially when examined by commitment offense. Offenders with a commitment offense of escape and other sex offenses returned to prison at the highest rates after three years of follow-up (each at 64.4 percent), followed by vehicle theft (56.1 percent or 2,475 offenders), and sodomy (55.9 percent or 19 offenders). Rates for offenders required to register as sex offenders (sex registrants) are provided later in this report.

Offenders with a commitment offense of first degree murder returned to prison at the lowest rate among all commitment offenses after three years of follow-up (2.6 percent or two offenders), followed by second degree murder (7.6 percent or 20 offenders), vehicular manslaughter (20.4 percent or 45 offenders), and driving under the influence (21.6 percent or 485 offenders). Return-to-prison rates were not calculated for categories with fewer than 30 releases.

Between FY 2009-10 and FY 2010-11, the three-year return-to-prison rate decreased across all commitment offense groups, with the exception of two; escape increased by 2.9 percentage points (from 61.5 percent to 64.4 percent) and vehicular manslaughter increased by 1.3 percentage points (from 19.1 percent to 20.4 percent). The largest decrease in the three-year return-to-prison rate was for hashish possession, which decreased 24.5 percentage points (from 55.9 percent to 31.4 percent) between FY 2009-10 and FY 2010-11 (Appendix C).

Table 10. Return-to-Prison Rates by Commitment Offense

Offense	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Escape	45	25	55.6%	27	60.0%	29	64.4%
Other Sex	2,736	1,648	60.2%	1,712	62.6%	1,763	64.4%
Vehicle Theft	4,413	2,107	47.7%	2,357	53.4%	2,475	56.1%
Sodomy	34	17	50.0%	18	52.9%	19	55.9%
Oral Copulation	215	103	47.9%	107	49.8%	111	51.6%
Receiving Stolen Property	4,344	1,910	44.0%	2,111	48.6%	2,234	51.4%
Burglary 1st	3,345	1,229	36.7%	1,497	44.8%	1,690	50.5%
Possession Weapon	5,183	2,012	38.8%	2,318	44.7%	2,546	49.1%
Petty Theft With Prior	4,672	1,957	41.9%	2,155	46.1%	2,289	49.0%
CS Possession	12,439	4,999	40.2%	5,570	44.8%	6,032	48.5%
Other Offenses	3,075	1,188	38.6%	1,354	44.0%	1,474	47.9%
Other Assault/Battery	9,060	3,458	38.2%	3,902	43.1%	4,253	46.9%
Other Property	1,282	483	37.7%	550	42.9%	599	46.7%
Assault w/ Deadly Weapon	6,469	2,437	37.7%	2,770	42.8%	3,018	46.7%
Arson	210	83	39.5%	88	41.9%	96	45.7%
Robbery	5,847	1,902	32.5%	2,299	39.3%	2,635	45.1%
Burglary 2nd	7,943	2,936	37.0%	3,307	41.6%	3,548	44.7%
Penetration With Object	100	43	43.0%	43	43.0%	44	44.0%
Grand Theft	3,993	1,206	30.5%	1,342	33.6%	1,438	36.0%
CS Other	478	164	34.3%	186	38.9%	202	42.3%
Rape	432	161	37.3%	171	39.6%	176	40.7%
Lewd Act With Child	2,272	765	33.7%	796	35.0%	820	36.1%
CS Sales	2,337	621	26.6%	720	30.8%	786	33.6%
Marijuana Sale	384	102	26.6%	115	29.9%	128	33.3%
Forgery/Fraud	2,364	627	26.5%	711	30.1%	775	32.8%
Kidnapping	173	37	21.4%	50	28.9%	56	32.4%
Hashish Possession	70	17	24.3%	20	28.6%	22	31.4%
Marij. Possess For Sale	1,061	259	24.4%	300	28.3%	326	30.7%
CS Possession For Sale	7,412	1,735	23.4%	2,022	27.3%	2,230	30.1%
Attempted Murder 2nd	335	74	22.1%	86	25.7%	99	29.6%
Manslaughter	473	97	20.5%	115	24.3%	132	27.9%
CS Manufacturing	134	24	17.9%	29	21.6%	32	23.9%
Marijuana Other	130	20	15.4%	22	16.9%	29	22.3%
Driving Under Influence	2,244	324	14.4%	404	18.0%	485	21.6%
Vehicular Manslaughter	221	28	12.7%	37	16.7%	45	20.4%
Attempted Murder 1st	25	3	N/A	3	N/A	3	N/A
Murder 2nd	264	8	3.0%	15	5.7%	20	7.6%
Murder 1st	76	1	1.3%	2	2.6%	2	2.6%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.3 Sentence Type

Figure 9. Return-to-Prison Rates by Sentence Type

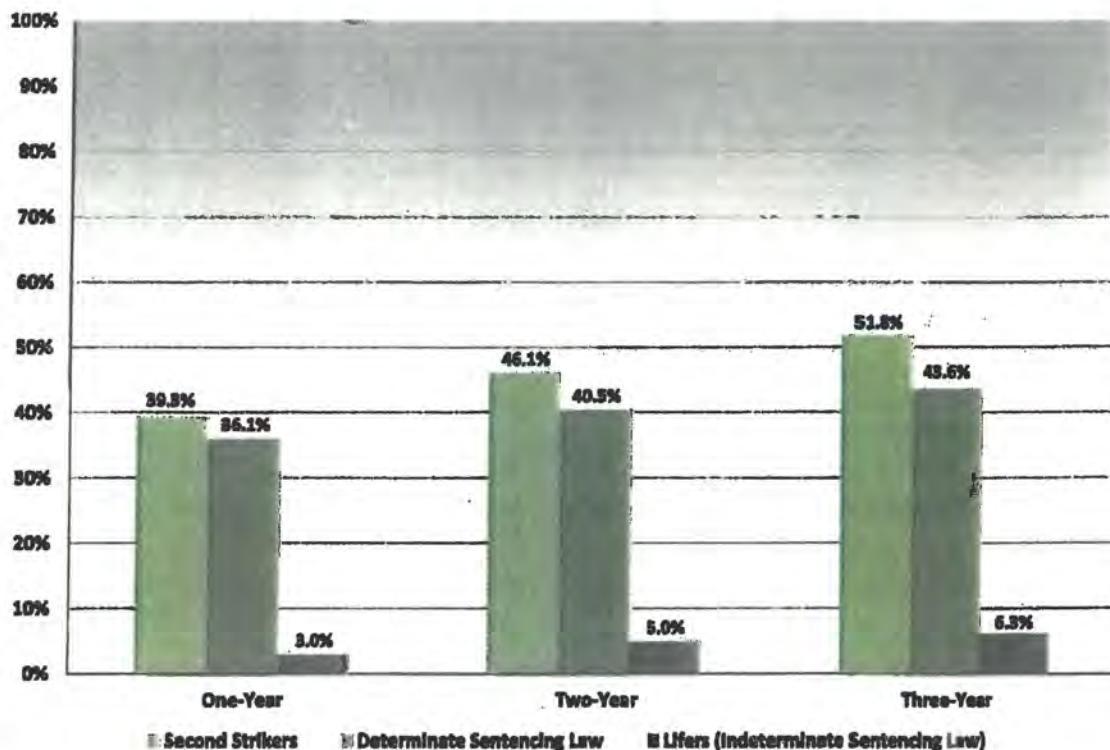


Figure 9 and Table 11 show return-to-prison rates by sentence type. Prior to this report, sentence type was categorized by offenders sentenced under Determinate Sentencing Law (DSL) and Indeterminate Sentencing Law (ISL). The majority of offenders sentenced in California serve a determinate term (a specified sentence length) and are released once they have served their sentence. Generally, offenders sentenced to an indeterminate term (lifers) are released only after the Board of Parole Hearings (BPH) has found them suitable for parole or the court orders their release. The above figure and below table show the number of offenders who served an indeterminate term, a determinate term, and the number of offenders that served a determinate term as second strikers.

Second strikers serving a determinate sentence returned to State prison after three years of follow-up at the highest rate (51.8 percent) of any sentence type. Second strikers comprised 13.5 percent of the release cohort (12,900 offenders). Other offenders who served a determinate sentence comprised 86.1 percent of the release cohort (82,392 offenders) and had a three-year return-to-prison rate of 43.6 percent. Lifers serving an indeterminate sentence comprised less than one percent of the release cohort (398 offenders) and had a three-year return-to-prison rate of 6.3 percent.

Each sentence type saw a decline in the three-year return-to-prison rate between FY 2009-10 and FY 2010-11 (Appendix C). Offenders serving a determinate term saw the largest decrease at 9.9 percentage points between FY 2009-10 and FY 2010-11 (53.5 percent and 43.6 percent, respectively), followed by

second strikers at 8.9 percentage points (60.7 percent and 51.8 percent, respectively) and lifers at 3.1 percentage points (9.4 percent and 6.3 percent, respectively).

Table 11. Return-to-Prison Rates by Sentence Type

Sentence Type	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Second Strikers (Determinate Sentencing Law)	12,900	5,072	39.3%	5,950	46.1%	6,681	51.8%
Determinate Sentencing Law	82,392	29,726	36.1%	33,361	40.5%	35,955	43.6%
Lifers (Indeterminate Sentencing Law)	398	12	3.0%	20	5.0%	25	6.3%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

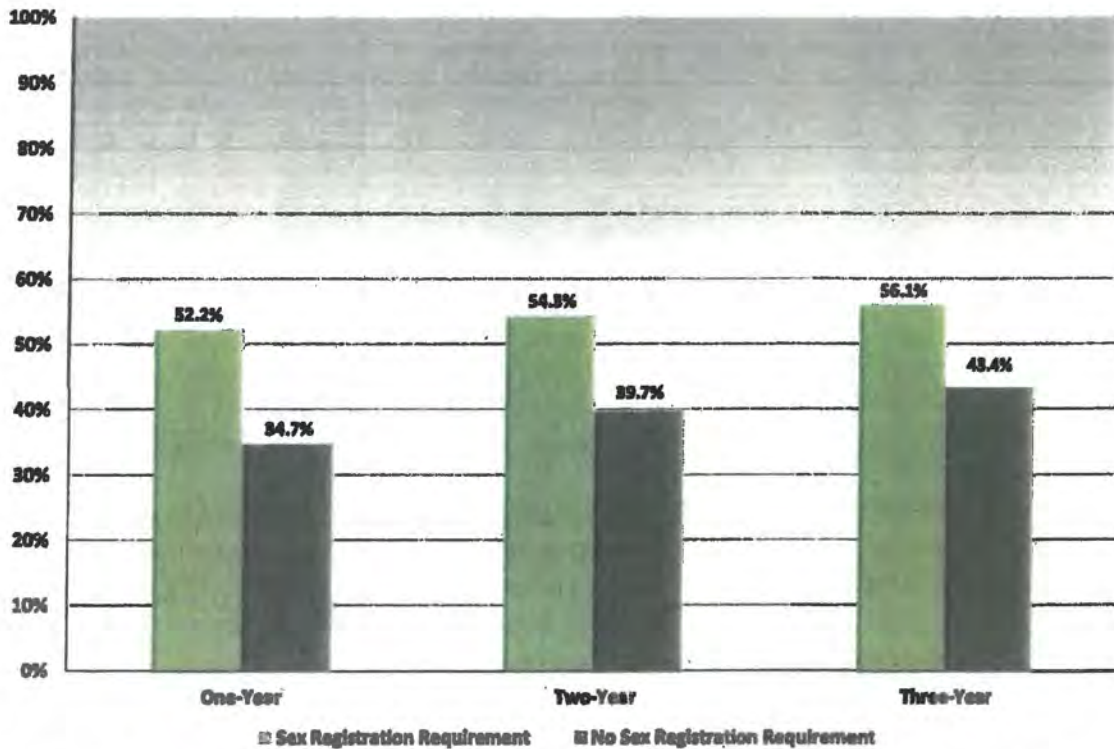
Offenders serving an indeterminate term may be released when the BPH has found them suitable for parole or after the court orders their release. Table 12 shows the number of lifers released by the BPH and by court order. Of the 398 offenders who served an indeterminate term and were released in FY 2010-11, six offenders were released due to a court order and 392 were released by BPH. All six of the offenders released due to a court order returned to prison for a parole violation within three years of their release. Of the 392 offenders released by the BPH, three offenders were returned with a new term, and 16 offenders were returned for a parole violation. Together, 19 offenders or 4.8 percent of the offenders released by the BPH returned to State prison in the three years following their release.

Table 12. Number Returned by Sentence Type and Release Type

Reason for Release	Number Released	Returned with a New Term		Parole Violation Return		Total Number of Returns	
		Number	Percent	Number	Percent	Number	Percent
Court Ordered	6	0	0.0%	6	100.0%	6	100.0%
Board of Parole Hearings (BPH)	392	3	0.8%	16	4.1%	19	4.8%
Total	398	3	0.8%	22	5.5%	25	6.3%

5.2.4 Sex Registrants

Figure 10. Return-to-Prison Rates by Sex Registration Requirement



The above figure and below table show the return-to-prison rates for offenders required to register as sex offenders (sex registrants). The three-year return-to-prison rate is 12.7 percentage points higher for sex registrants (56.1 percent) than non-sex registrants (43.4 percent). Between FY 2009-10 and FY 2010-11, the three-year return-to-prison rate for sex registrants decreased by 9.1 percentage points (65.2 percent and 56.1 percent, respectively) and the rate for non-sex registrants decreased by 10 percentage points (53.4 percent and 43.4 percent, respectively) as shown in Appendix C of this report.

Table 13. Return-to-Prison Rates by Sex Registration Flag

Sex Registration Requirement	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Yes	8,989	4,694	52.2%	4,881	54.3%	5,041	56.1%
No	86,701	30,116	34.7%	34,450	39.7%	37,620	43.4%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.5 Recidivism Offense for Sex Registrants

Figure 11. Recidivism Offense for Sex Registrants

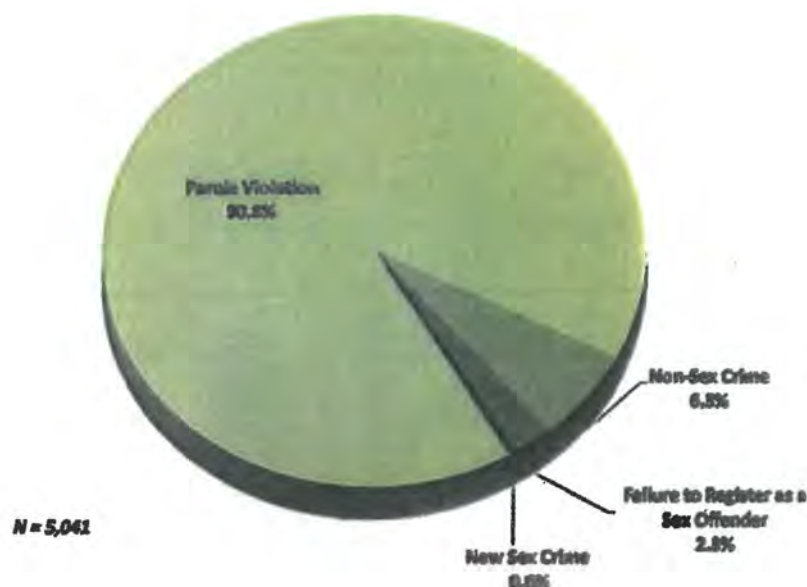


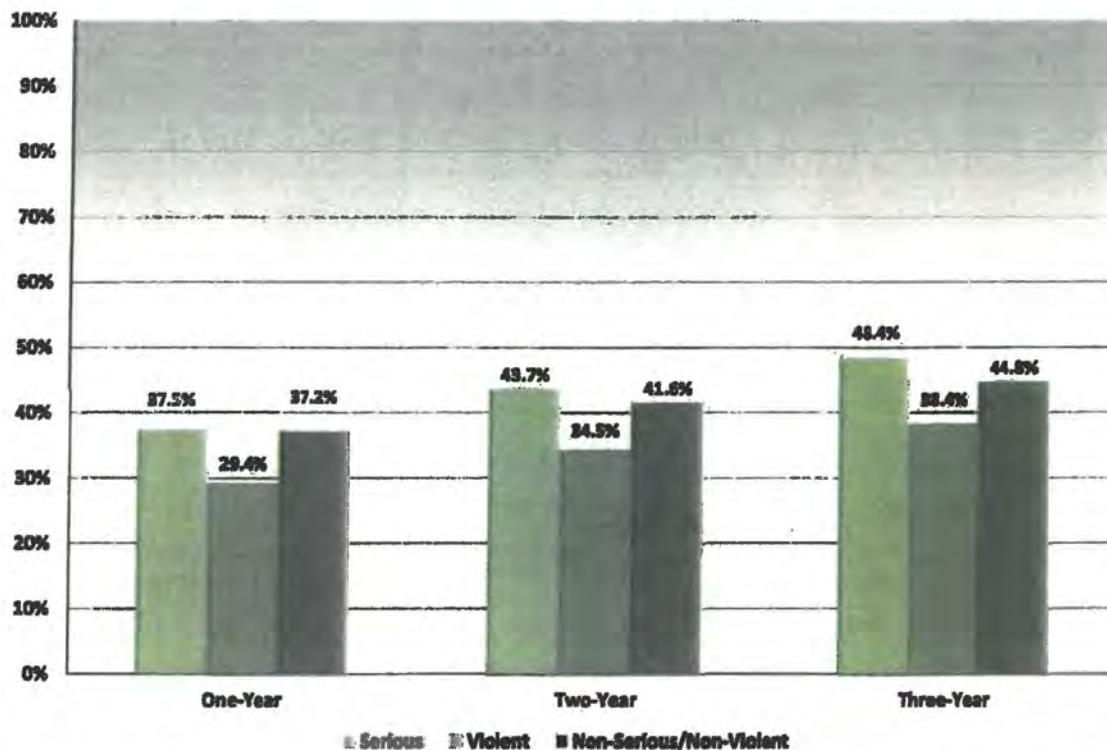
Figure 11 and Table 14 show the recidivism offense for the 5,041 sex registrants that returned to prison during the three-year follow-up period. Of the 5,041 sex registrants, the majority (4,579 offenders or 90.8 percent) returned for a parole violation, followed by 316 offenders (6.3 percent) with a new non-sex crime, and 115 offenders (2.3 percent) for failing to register as a sex offender. Thirty-one offenders (0.6 percent) were returned for a new sex crime.

Table 14. Recidivism Offense for Sex Registrants

Reason for Return-to-Prison	Returned	
	Number	Percent
Parole Violation	4,579	90.8%
New Non-Sex Crime	316	6.3%
Failure to Register as a Sex Offender	115	2.3%
New Sex Crime	31	0.6%
Total	5,041	100.0%

5.2.6 Serious and Violent Offenses

Figure 12. Return-to-Prison Rates for Offenders with a Serious or Violent Offense



The above figure and below table show return-to-prison rates for offenders with a serious offense or violent offense, and offenders with a non-serious and non-violent offense. In previous reports, serious and violent offenses were grouped together, rather than treated separately.

Of the 95,690 offenders released, the majority released (71,769 offenders) did not have a serious or violent offense, followed by 13,268 offenders with a serious offense, and 10,653 offenders with a violent offense. Offenders whose offense was serious returned to prison after three years of follow-up at a higher rate (48.4 percent) than offenders whose offense was not serious or violent (44.8 percent), and offenders whose offense was violent (38.4 percent).

Between FY 2009-10 and FY 2010-11 the three-year return-to-prison rate decreased among offenders committing each type of offense. The rate for offenders committing a violent offense had the most substantial decrease (10.7 percentage points) between the two fiscal years (49.1 percent and 38.4 percent, respectively). The rate for offenders committing a non-serious/non-violent offense decreased by 9.7 percentage points (54.5 percent and 44.8 percent, respectively) between the two fiscal years and the rate for offenders committing a violent offense decreased by 8.6 percentage points (57 percent and 48.4 percent, respectively) between FY 2009-10 and FY 2010-11 (Appendix C).

Table 15. Return-to-Prison Rates for Offenders with a Serious or Violent Offense

Serious/Violent Offense	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Serious	13,268	4,979	37.5%	5,800	43.7%	6,418	48.4%
Violent	10,653	3,133	29.4%	3,672	34.5%	4,091	38.4%
Non-Serious/Non-Violent	71,769	26,698	37.2%	29,859	41.6%	32,152	44.8%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.7 Mental Health Status

Figure 13. Return-to-Prison Rates by Mental Health Status

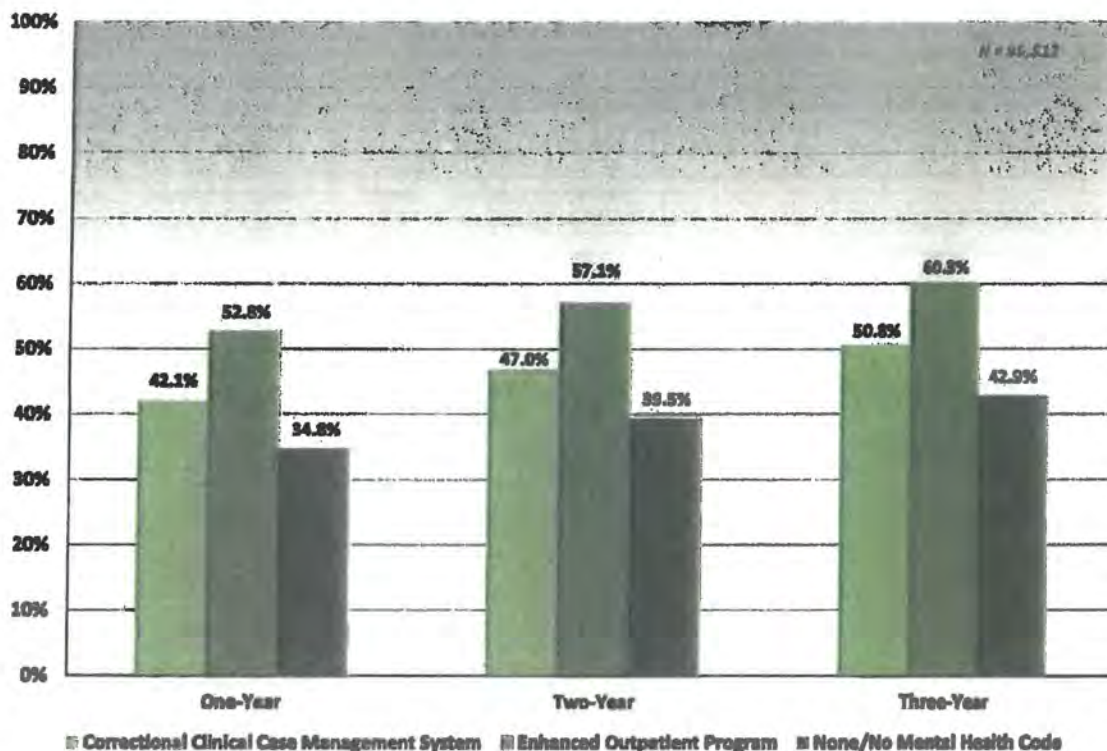


Figure 13 and Table 16 present return-to-prison rates by mental health designation for the three mental health categories with the largest number of releases. The majority of offenders (78,705 offenders or 82.2 percent) did not have a mental health designation and 17.8 percent (16,985 offenders) had a mental health designation. Fifteen percent of the release cohort was assigned to the Correctional Clinical Case Management System (CCCMS), 2.5 percent were assigned to the Enhanced Outpatient Program (EOP), and less than one percent were assigned to a Mental Health Crisis Bed (119 offenders or 0.1 percent) and the Department of State Hospitals (59 offenders or 0.1 percent).

Offenders assigned to the Department of State Hospitals returned to prison at the highest rate (62.7 percent) among all mental health designations after three years of follow-up. Over sixty percent (60.3 percent) of EOP offenders returned to prison, followed by 58 percent of offenders assigned to a Mental Health Crisis Bed, and 50.8 percent of CCCMS offenders. Offenders without a mental health designation returned at a rate of 42.9 percent after three years of follow-up.

As shown in Appendix C, between FY 2009-10 and FY 2010-11, the three-year return-to-prison rate decreased among each mental health category, with the exception of offenders assigned to the Department of State Hospitals because a rate was not calculated for these offenders in FY 2009-10 (only three offenders assigned to the Department of State Hospitals were released). Offenders assigned to a Mental Health Crisis Bed saw the largest decrease (15 percentage points) in the three-year return-to-

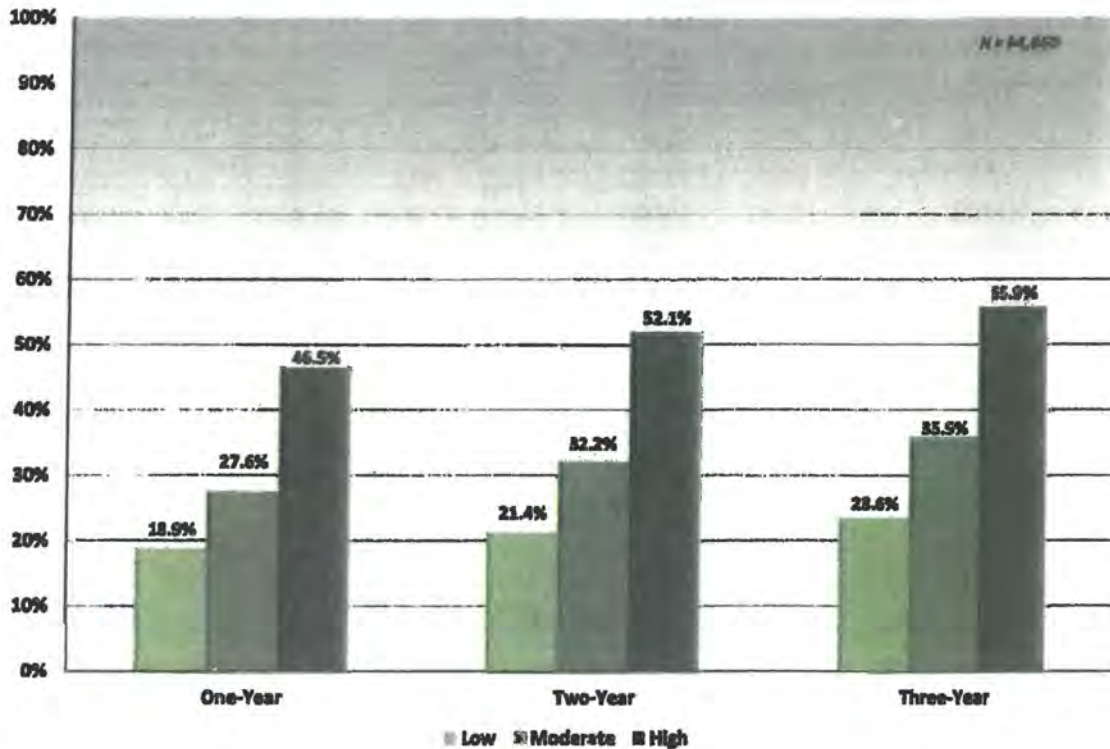
prison rate between FY 2009-10 and FY 2010-11 (73 percent and 58 percent, respectively), followed by EOP offenders with a 9.4 percentage point decrease (69.6 percent and 60.3 percent, respectively), and CCCMS offenders with an 8.6 percentage point decrease (59.3 percent and 50.8 percent, respectively). The three-year return-to-prison rate for offenders without a mental health designation decreased by 9.5 percentage points between the two fiscal years (52.4 percent and 42.9 percent, respectively).

Table 16. Return-to-Prison Rates by Mental Health Status

Mental Health Code	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Department of State Hospitals	59	27	45.8%	33	55.9%	37	62.7%
Enhanced Outpatient Program	2,422	1,278	52.8%	1,384	57.1%	1,460	60.3%
Mental Health Crisis Bed	119	59	49.6%	68	57.1%	69	58.0%
Correctional Clinical Case Management System	14,385	6,054	42.1%	6,764	47.0%	7,301	50.8%
None/No Mental Health Code	78,705	27,392	34.8%	31,082	39.5%	33,794	42.9%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.8 Risk of Return to State Prison

Figure 14. Return-to-Prison Rates by Risk of Return



The California Static Risk Assessment (CSRA) is a tool used to calculate an offender's risk of being convicted of a new offense after release from prison. Based on their criminal history and demographics, offenders are designated as having a low, moderate, or high risk of being convicted of a new offense after release. High risk is further delineated into three sub-categories (high drug, high property, and high violence).

Nearly half of the offenders released in FY 2010-11 (54.7 percent or 52,331 offenders) had a CSRA score of high risk, followed by moderate risk (26.2 percent or 25,108 offenders), and low risk (18.2 percent or 17,421 offenders). Less than one percent (0.8 percent or 830 offenders) did not have a CSRA score. The three-year return-to-prison rates for each risk category show the CSRA tool is predictive of reoffending; offenders with a score of high returned to State prison at the highest rate (55.9 percent) among all CSRA categories, followed by moderate risk (35.9 percent), and low risk (23.6 percent). Offenders without a CSRA score returned to prison at a rate of 34.5 percent after three years of follow-up.

Between FY 2009-10 and FY 2010-11, the three-year return-to-prison rate decreased for each CSRA category (Appendix C). High risk decreased by 11.5 percentage points between FY 2009-10 and FY 2010-11 (67.4 percent and 55.9 percent, respectively), moderate risk decreased by 8.8 percentage points (44.7 percent and 35.9 percent, respectively), and low risk decreased by 6.7 percentage points (30.4

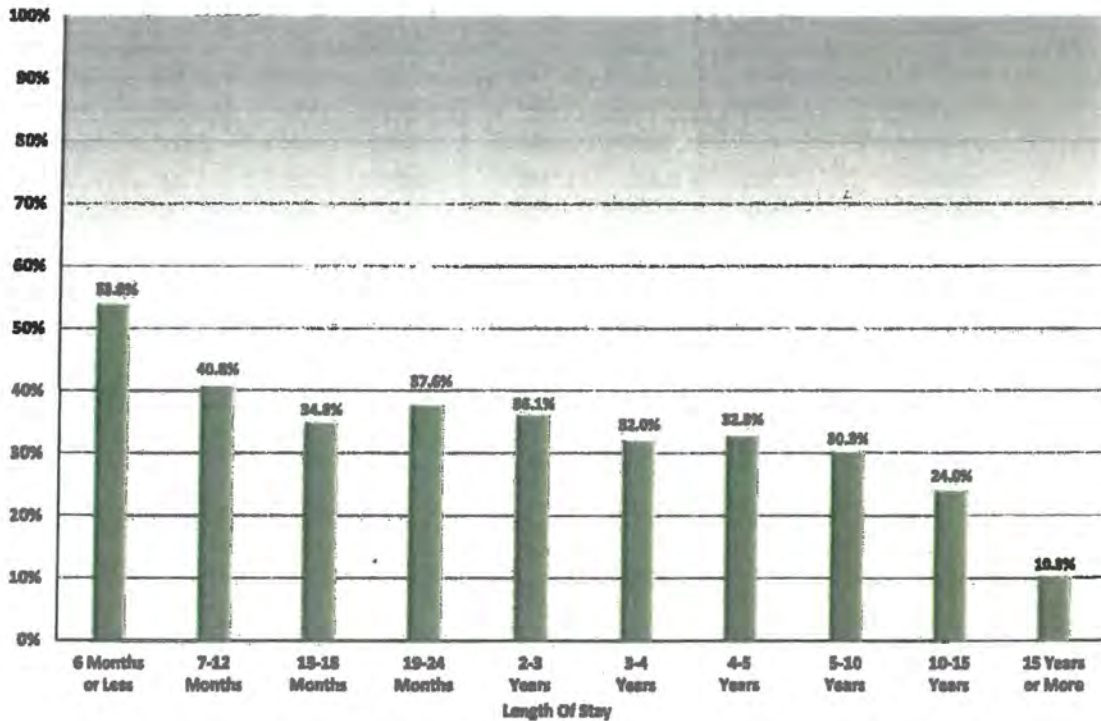
percent and 23.6 percent, respectively). The rate for offenders without a CSRA score decreased by 8.6 percentage points between FY 2009-10 and FY 2010-11 (43.1 percent and 34.5 percent, respectively).

Table 17. Return-to-Prison Rates by Risk of Return

CSRA Score	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Low	17,421	3,287	18.9%	3,724	21.4%	4,117	23.6%
Moderate	25,108	6,941	27.6%	8,087	32.2%	9,023	35.9%
High	52,331	24,351	46.5%	27,258	52.1%	29,235	55.9%
N/A	830	231	27.8%	262	31.6%	286	34.5%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.9 Length of Stay

Figure 15. Three-Year Return-to-Prison Rate by Length of Stay



The above figure and below table show offenders' length of stay for their current term. The three-year return-to-prison rate is highest (53.9 percent or 22,653 offenders) for offenders who stayed six months or less. The rate drops 13.1 percentage points for offenders who stay between seven months to a year (40.8 percent or 10,441 offenders). After one year, the rate ranges from 37.6 percent (19 to 24 months) to 10.3 percent for offenders who stay 15 years or longer.

As shown in Appendix C, the three-year return-to-prison rate decreased for each length of stay category between FY 2009-10 and FY 2010-11. The largest decrease between the two fiscal years (14.5 percentage points) was seen for offenders staying between three to four years (46.5 percent and 32 percent, respectively). Although offenders who stay 15 years or longer had the lowest three-year return-to-prison rate (10.3 percent) among all length of stay categories, the decrease between FY 2009-10 and FY 2010-11 was the smallest at 6.8 percentage points.

Table 18. Return-to-Prison Rates by Length of Stay

Length of Stay	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
6 months or less	42,018	19,810	47.1%	21,489	51.1%	22,653	53.9%
7 - 12 months	25,592	8,332	32.6%	9,566	37.4%	10,441	40.8%
13 - 18 months	9,056	2,322	25.6%	2,803	31.0%	3,155	34.8%
19 - 24 months	5,579	1,464	26.2%	1,803	32.3%	2,099	37.6%
2 - 3 years	5,350	1,325	24.8%	1,668	31.2%	1,931	36.1%
3 - 4 years	2,567	539	21.0%	690	26.9%	821	32.0%
4 - 5 years	1,583	344	21.7%	437	27.6%	519	32.8%
5 - 10 years	2,552	507	19.9%	645	25.3%	772	30.3%
10 - 15 years	919	134	14.6%	187	20.3%	221	24.0%
15 years or more	474	33	7.0%	43	9.1%	49	10.3%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.10 Number of Returns to Custody Prior to Release

Figure 16. Three-Year Return-to-Prison Rate by Number of Returns to Custody on the Current Term Prior to Release

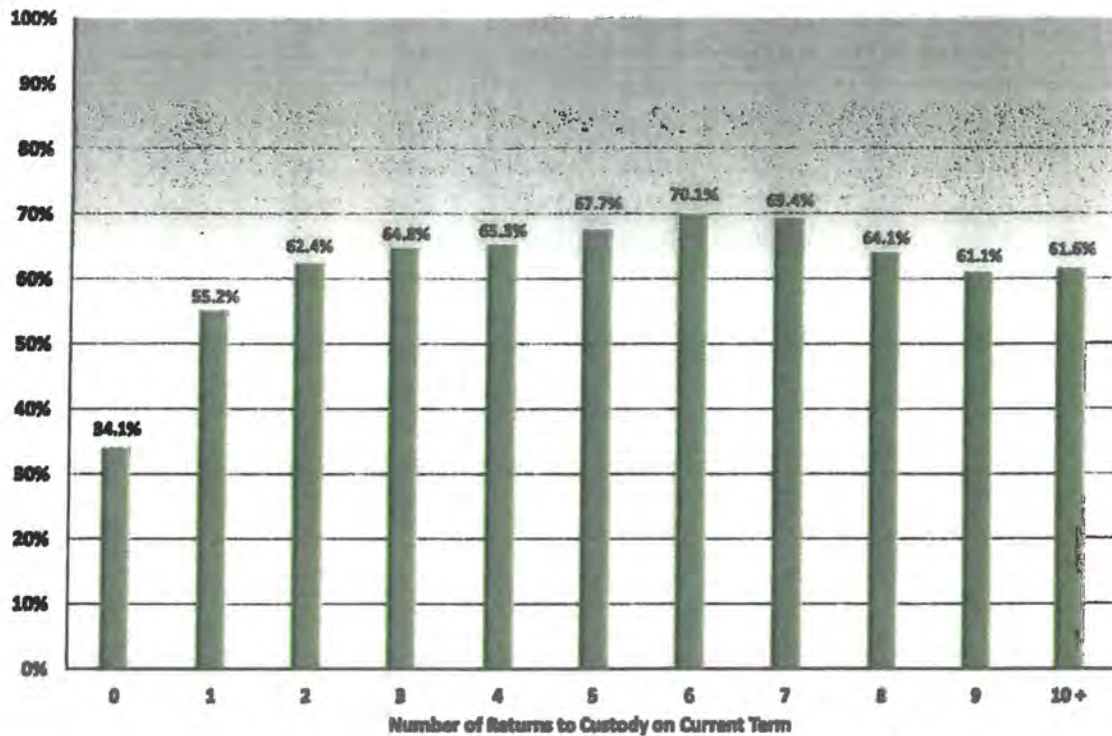


Figure 16 and Table 19 show return-to-prison rates by the number of times an offender returned to a CDCR adult institution on their current term, prior to their release. Offenders with no returns (zero returns), represent offenders released for the first time (i.e. these individuals have no prior returns for their current term). An offender with one return to custody (RTC) was previously released from CDCR on the current term and returned once on their current term.

Offenders without an RTC (zero RTCs) have the lowest three-year return-to-prison rate (34.1 percent or 19,778 offenders) of all RTC categories, followed by offenders with one return (55.2 percent or 8,513 offenders). The increase in the three-year return-to-prison rate between no RTCs and one RTC is substantial; 21.1 percentage points. From this point, the three-year return-to-prison rate is relatively stable and increased slightly with each return to custody, until the seventh return to custody. Offenders with six RTCs return at a rate of 70.1 percent and those with seven RTCs return at a rate of 69.4 percent. The rate decreases until a slight increase is observed between nine RTCs (61.1 percent) and 10 or more RTCs (61.6 percent).

With the exception of seven RTCs (69.4 percent), the three-year return-to-prison rate decreased across all RTC categories between FY 2009-10 and FY 2010-11 (Appendix C). The largest decrease was observed at one RTC (11.3 percentage points) and the smallest decrease was at six or more RTCs (1.6 percentage

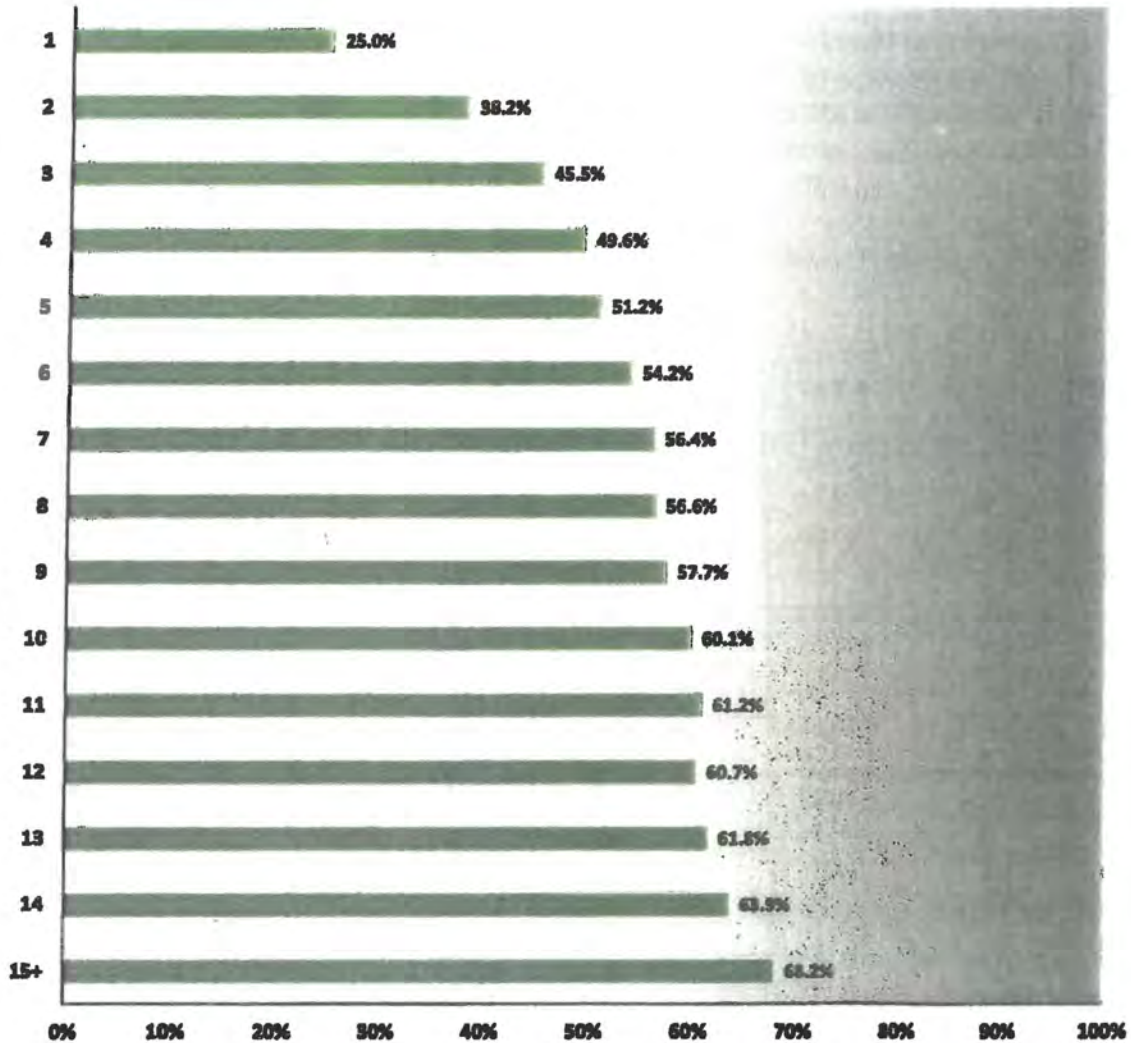
points). The three-year return-to-prison rate remained the same at 69.4 percent for offenders with seven RTCs.

Table 19. Return-to-Prison Rates by Number of Returns to Custody on the Current Term Prior to Release

Returns to Custody on Current Term	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
0	58,057	14,708	25.3%	17,580	30.3%	19,778	34.1%
1	15,431	7,299	47.3%	8,031	52.0%	8,513	55.2%
2	7,997	4,352	54.4%	4,739	59.3%	4,994	62.4%
3	5,116	2,993	58.5%	3,170	62.0%	3,316	64.8%
4	3,412	2,001	58.6%	2,133	62.5%	2,229	65.3%
5	2,230	1,345	60.3%	1,439	64.5%	1,509	67.7%
6	1,380	871	63.1%	927	67.2%	967	70.1%
7	889	562	63.2%	600	67.5%	617	69.4%
8	538	319	59.3%	334	62.1%	345	64.1%
9	265	152	57.4%	158	59.6%	162	61.1%
10 +	375	208	55.5%	220	58.7%	231	61.6%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.11 Number of CDCR Stays Ever

Figure 17. Three-Year Return-to-Prison Rate by Total Number of Stays



A stay is defined as any period of time an offender is housed in a CDCR adult institution. Each time an offender returns to prison, it is considered a new stay, regardless of whether the return represents a new admission, a parole violation with a new term, or a return-to-prison following a parole violation. The number of stays is cumulative over any number of convictions or terms in an offender's criminal history.

Figure 17 and Table 20 show the three-year return-to-prison rate by the number of stays ever at a CDCR Institution. As the number of stays increases, the three-year return-to-prison rate also increases, with the exception of 12 stays when the rate slightly decreases. The most substantial increase (13.2 percentage points) in the three-year return-to-prison rate occurs between one stay (25 percent) and

two stays (38.2 percent). In general, the return-to-prison rate increases slightly with each stay, with the exception of 12 stays (60.7), where the rate decreases by half of a percentage point from 11 stays (61.2 percent). Offenders with one stay have the lowest three-year return-to-prison rate of all number of stay categories at 25 percent, while offenders with 15 or more stays have the highest rate at 68.2 percent.

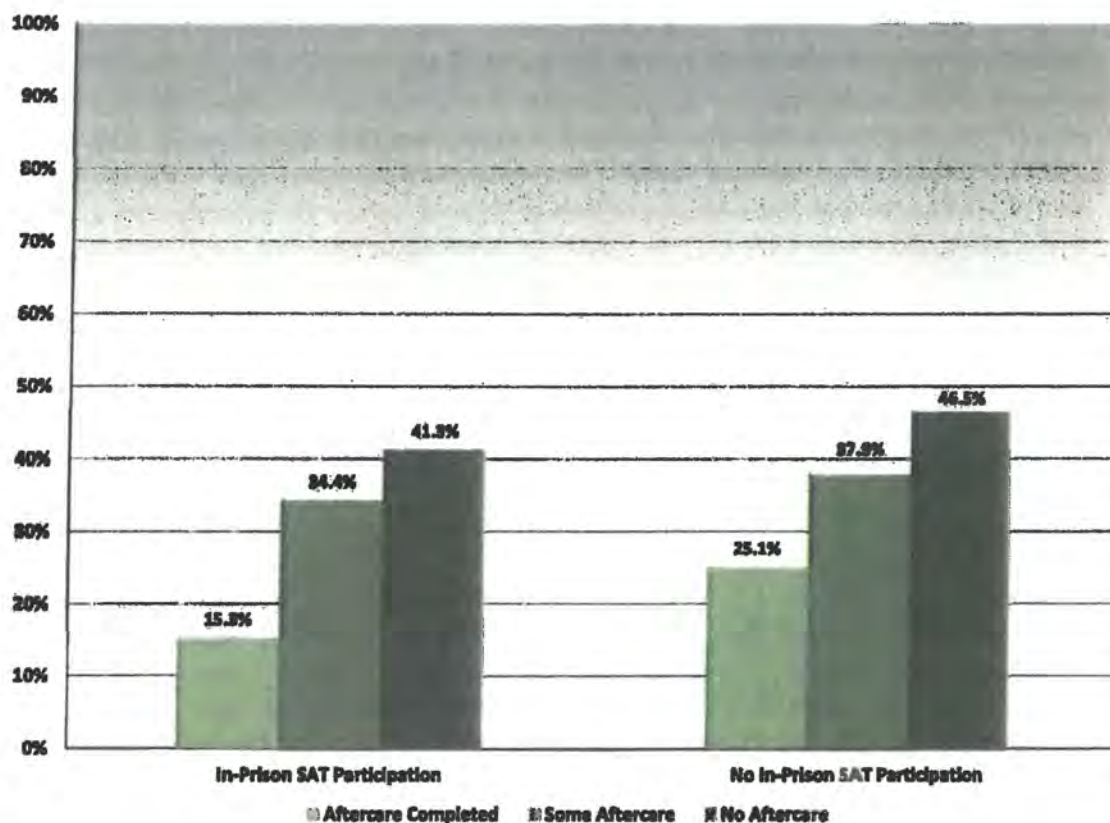
Between FY 2009-10 and FY 2010-11, the three-year return-to-prison rate decreased across every category of stays (Appendix C). The largest decrease (12.5 percentage points) between the two fiscal years was observed at offenders with 14 stays (76.4 percent and 63.9 percent, respectively). The smallest decrease (8.4 percent) was observed at offenders with one stay between FY 2009-10 and FY 2010-11 (33.5 percent and 25 percent, respectively).

Table 20. Return-to-Prison Rates by Total Number of Stays

Stays	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
1	26,426	4,843	18.3%	5,814	22.0%	6,615	25.0%
2	12,837	3,844	29.9%	4,464	34.8%	4,903	38.2%
3	9,182	3,305	36.0%	3,811	41.5%	4,174	45.5%
4	7,658	3,065	40.0%	3,504	45.8%	3,800	49.6%
5	6,376	2,673	41.9%	3,011	47.2%	3,265	51.2%
6	5,303	2,394	45.1%	2,667	50.3%	2,872	54.2%
7	4,432	2,057	46.4%	2,304	52.0%	2,501	56.4%
8	3,734	1,781	47.7%	1,975	52.9%	2,113	56.6%
9	3,188	1,556	48.8%	1,718	53.9%	1,840	57.7%
10	2,826	1,446	51.2%	1,587	56.2%	1,699	60.1%
11	2,296	1,216	53.0%	1,325	57.7%	1,405	61.2%
12	2,072	1,093	52.8%	1,199	57.9%	1,257	60.7%
13	1,613	861	53.4%	945	58.6%	997	61.8%
14	1,409	787	55.9%	855	60.7%	900	63.9%
15 +	6,338	3,889	61.4%	4,152	65.5%	4,320	68.2%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.12 In-Prison and Community-Based Substance Abuse Treatment Programs

Figure 18. Three-Year Return-to-Prison Rate by Substance Abuse Treatment Participation



In-prison substance abuse treatment (SAT) and community-based SAT programs are designed to expose offenders to a continuum of services during incarceration and facilitate successful re-entry into community living. Services include: substance abuse treatment, recovery services, social, cognitive and behavioral counseling, life skills training, health-related education, and relapse prevention services. Community-based substance abuse treatment programs (also referred to as “continuing care” or “aftercare”) provide post-release substance abuse treatment services through Substance Abuse Services Coordination Agencies (SASCA). SASCA are responsible for referring, placing, and tracking parolees in appropriate SAT programs.

Return-to-prison rates by participation in SAT and aftercare programs are presented in Figure 18 and Table 21. As shown in Table 21, offenders who received in-prison SAT and complete aftercare (919 offenders) have the lowest return-to-prison rate (15.3 percent or 141 offenders). The three-year return-to-prison rate increases by nearly 20 percentage points (from 15.3 percent to 34.4 percent) if an offender only receives some aftercare. Among offenders who received in-prison SAT, offenders who do not receive aftercare return-to-prison at the highest rate (41.3 percent). Overall, offenders who received in-prison SAT, regardless of aftercare, return-to-prison at a rate of 36.2 percent after three years of follow-up, which is 8.4 percentage points below the state-wide rate of 44.6 percent.

Participation in aftercare or community-based SAT, without in-prison SAT, is also associated with lower rates of return. Offenders who did not receive in-prison SAT, but completed aftercare have a three-year return-to-prison rate of 25.1 percent and offenders who complete some aftercare have a three-year return-to-prison rate of 37.9 percent. Offenders who do not receive in-prison SAT or aftercare return-to-prison at a rate of 46.5 percent, which is substantially higher than offenders who receive some form of in-prison SAT or aftercare, and is 1.9 percentage points higher than the state-wide rate of 44.6 percent.

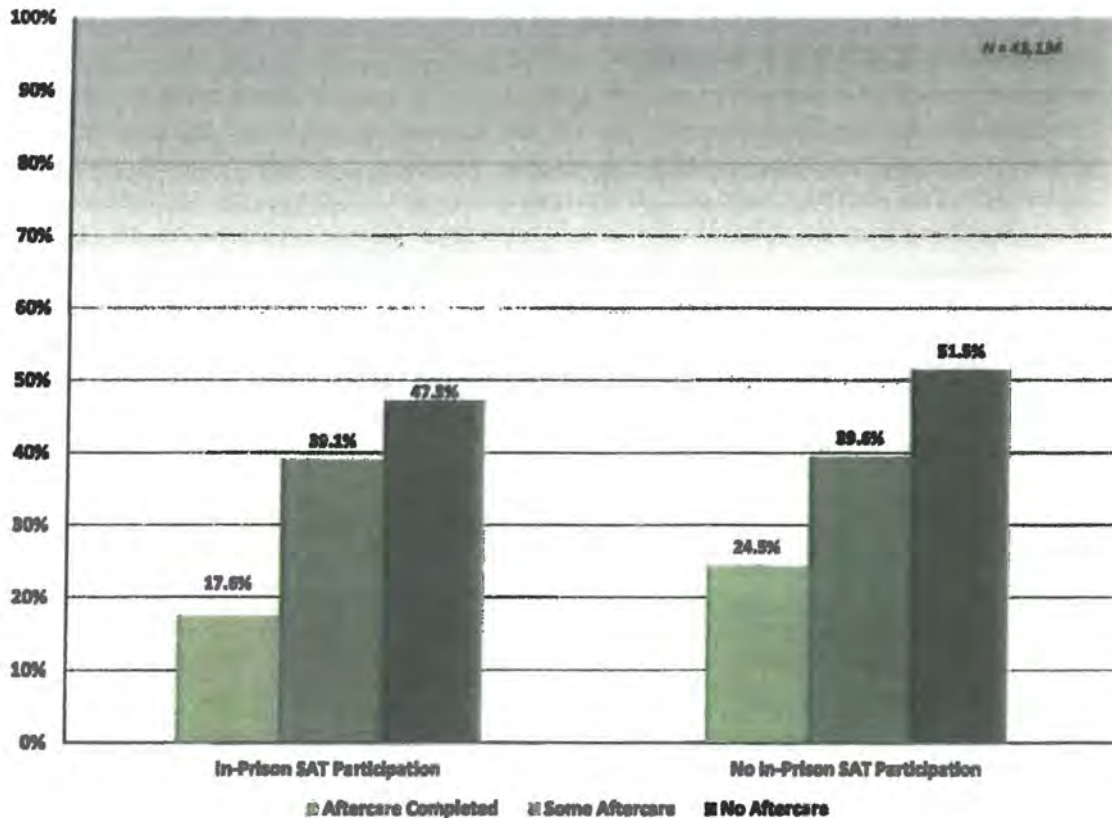
Lower return-to-prison rates among offenders who receive any form of in-prison SAT or aftercare demonstrates the value of these programs. The most substantial impact of SAT on reoffending is seen in offenders who receive in-prison SAT and complete aftercare; the rate for these offenders (15.3 percent) is 29.3 percentage points lower than the state-wide rate (44.6 percent) and 31.2 percentage points lower than the rate for offenders who do not participate in SAT or aftercare (46.5 percent).

Table 21. Return-to-Prison Rates by Substance Abuse Treatment Participation

Substance Abuse Treatment Participation	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
In-Prison SAT Participation							
Completed Aftercare	919	58	6.3%	98	10.7%	141	15.3%
Some Aftercare	858	210	24.5%	250	29.1%	295	34.4%
No Aftercare	4,064	1,280	31.5%	1,500	36.9%	1,678	41.3%
Subtotal	5,841	1,548	26.5%	1,848	31.6%	2,114	36.2%
No In-Prison SAT Participation							
Completed Aftercare	4,348	770	17.7%	957	22.0%	1,092	25.1%
Some Aftercare	3,758	1,044	27.8%	1,251	33.3%	1,425	37.9%
No Aftercare	81,743	31,448	38.5%	35,275	43.2%	38,030	46.5%
Subtotal	89,849	33,262	37.0%	37,483	41.7%	40,547	45.1%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

5.2.13 Return-to-Prison Rates by Substance Abuse Treatment Participation for Offenders with an Identified Treatment Need

Figure 19. Three-Year Return-to-Prison Rate by Substance Abuse Treatment Participation and Substance Abuse Need



The Correctional Offender Management and Profiling Alternative Sanctions (COMPAS) is an automated tool designed to assess offenders' criminogenic needs. The COMPAS is used by criminal justice agencies across the nation to inform decisions regarding placement, supervision, and case management of offenders. The needs assessment categorizes offenders as having no need, probable need, or a highly probable need for services and treatment in areas such as substance abuse, criminal thinking, and education. The COMPAS is used by CDCR and has been validated on its population. However, the COMPAS alone cannot reduce reoffending. The COMPAS is a tool that provides CDCR with information regarding an offender's individual needs. Information from the assessment can be used to place offenders in programming that can meet an offender's specific criminogenic needs. Use of the COMPAS, along with an appropriate (and well-implemented) evidence-based program should reduce reoffending.

Figure 19 and Table 22 show return-to-prison rates by COMPAS assessment and participation in SAT. Of the 95,690 offenders released in FY 2010-11, 72.1 percent of the release cohort (69,014 offenders) had a COMPAS assessment. Of those offenders, 45.1 percent (43,136 offenders) either had a probable need or

a highly probable need for services and treatment, and 27.9 percent (26,676 offenders) did not have a need for treatment services.

Offenders with an identified treatment need and who received in-prison SAT and completed aftercare returned to prison at the lowest rate (17.6 percent) after three years of follow-up, followed by offenders who completed some aftercare (39.1 percent), and offenders who completed no aftercare (47.3 percent). Overall, offenders with a treatment need who received in-prison SAT, regardless of aftercare, returned to prison at a rate of 40.5 percent.

Offenders with an identified treatment need who did not receive in-prison SAT, but received some sort of aftercare, returned to prison at slightly higher rates than those who received in-prison SAT. Offenders with an identified treatment need who did not receive in-prison SAT but completed aftercare returned to prison at the lowest rate (24.5 percent) after three years of follow-up, followed by offenders who completed some aftercare (39.6 percent), and offenders who did not receive aftercare (51.5 percent). Offenders with an identified treatment need who did not receive in-prison SAT or aftercare are expected to return to State prison at higher rates. Their rate of return (51.5 percent) is 10.4 percentage points higher than offenders with no assessment/no treatment need (41.1 percent) and 6.9 percentage points higher than the state-wide rate (44.6 percent), demonstrating the importance of treatment for those with an identified treatment need.

Table 22. Return-to-Prison Rates by Substance Abuse Treatment Participation and Substance Abuse Need

Substance Abuse Treatment Participation and Substance Abuse Need	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
In-Prison SAT Participation/Had Substance Abuse Need							
Completed Aftercare	564	38	6.7%	68	12.1%	99	17.6%
Some Aftercare	537	157	29.2%	185	34.5%	210	39.1%
No Aftercare	2,027	748	36.9%	866	42.7%	959	47.3%
Subtotal	3,128	943	30.1%	1,119	35.8%	1,268	40.5%
No In-Prison SAT Participation/Had Substance Abuse Need							
Completed Aftercare	2,248	891	17.4%	482	21.4%	550	24.5%
Some Aftercare	1,886	559	29.6%	661	35.0%	746	39.6%
No Aftercare	35,874	15,406	42.9%	17,179	47.9%	18,473	51.5%
Subtotal	40,008	16,356	40.9%	18,322	45.8%	19,769	49.4%
No Assessment/No Substance Abuse Need Identified							
	52,554	17,511	33.3%	19,890	37.8%	21,624	41.1%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

6 Offender Outcomes and Type of Return to CDCR

6.1 Three-Year Outcomes for the Fiscal Year 2010-11 Release Cohort

Figure 20. Three-Year Outcomes for Fiscal Year 2010-11 Release Cohort

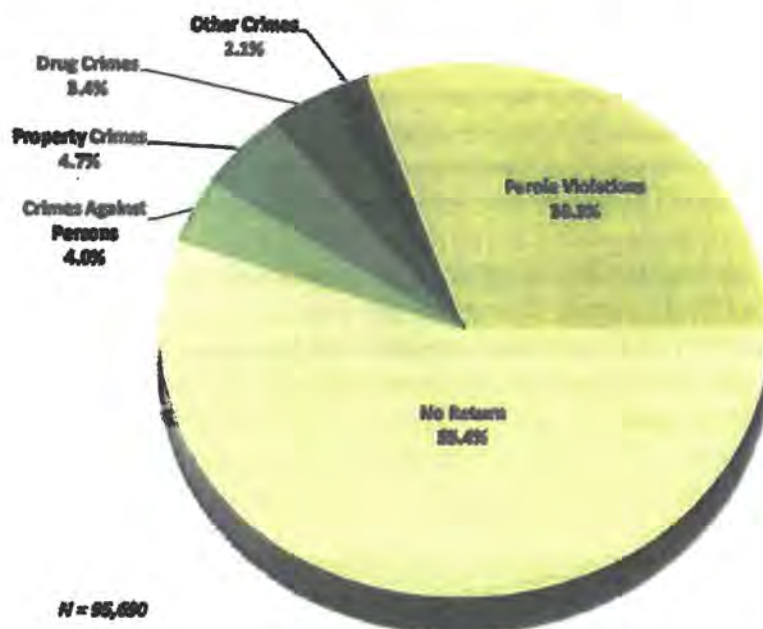


Figure 20 and Table 23 present outcomes for the 95,690 offenders released from prison during FY 2010-11. Of the 95,690 offenders released, 30.3 percent of the release cohort (29,028 offenders) returned to prison for parole violations and nearly 15 percent of the release cohort (14.2 percent or 13,633 offenders) returned to prison after conviction of a new criminal offense. Of the 13,633 offenders that returned after conviction of a new criminal offense, 4.7 percent of the release cohort (4,520 offenders) were returned for property crimes, followed by 4 percent of the release cohort (3,834 offenders) for crimes against persons, and 3.4 percent of the release cohort (3,279 offenders) for drug crimes. Over two percent of the release cohort (2.1 percent or 2,000 offenders) were convicted of other crimes and over 55 percent of the release cohort (55.4 percent or 53,029 offenders) completed the three-year follow-up period without returning to prison.

When examining the 95,690 offenders released in FY 2010-11, changes in the type/reason for returning to CDCR can largely be attributed to the implementation of Realignment in October 2011. Although each of the 95,690 offenders were released pre-Realignment, depending on their date of release, Realignment was in effect for various amounts of time during an offender's three-year follow-up period. Realignment changed the parole revocation process so that only offenders previously sentenced to a

life-term can be revoked to prison and all other parole revocations are served in county jail, instead of State prison.

An examination of returns to State prison for the last three release cohorts studied by the CDCR (FY 2008-09, FY 2009-10, and FY 2010-11) shows substantial decreases in returns to prison for parole violations. As shown in Table 23, 42.3 percent of the FY 2008-09 release cohort returned for parole violations. In FY 2008-09 there were more offenders returned for parole violations (42.3 percent of the release cohort or 47,793 offenders) than offenders who did not return to State prison during the three-year follow-up period (39 percent of the release cohort or 44,074 offenders). The percentage of offenders returned for parole violations decreased by 4.4 percentage points between FY 2008-09 (42.3 percent of the release cohort) and FY 2009-10 (37.9 percent of the release cohort) and the number of offenders who did not return to State prison during the three-year follow-up period increased by 6.7 percentage points (39 percent to 45.7 percent of the release cohorts, respectively).

The most substantial decrease in parole violations is noted between FY 2009-10 and FY 2010-11. While 37.9 percent of the FY 2009-10 release cohort returned for parole violations, the percentage decreased by 7.6 percentage points in FY 2010-11 to 30.3 percent of the release cohort. The number of offenders who completed the three-year follow-up period without returning to prison also saw a substantial increase; in FY 2009-10, 45.7 percent of the release cohort completed the three-year follow-up period without returning to prison and the number increased by 9.7 percentage points to 55.4 percent of the release cohort in FY 2010-11.

Realignment intended for offenders committing more serious and violent crimes, such as crimes against persons, to serve sentences in State prison, while low-level offenders who cycled in and out of prison, would serve their sentences in county jail. The percentage of offenders returning to State prison has changed according to Realignment's intent; the number of offenders returned for crimes against persons, which tend to be more serious and violent, have slowly increased over the last three release cohorts and the number of offenders returning for property and drug crimes have decreased.

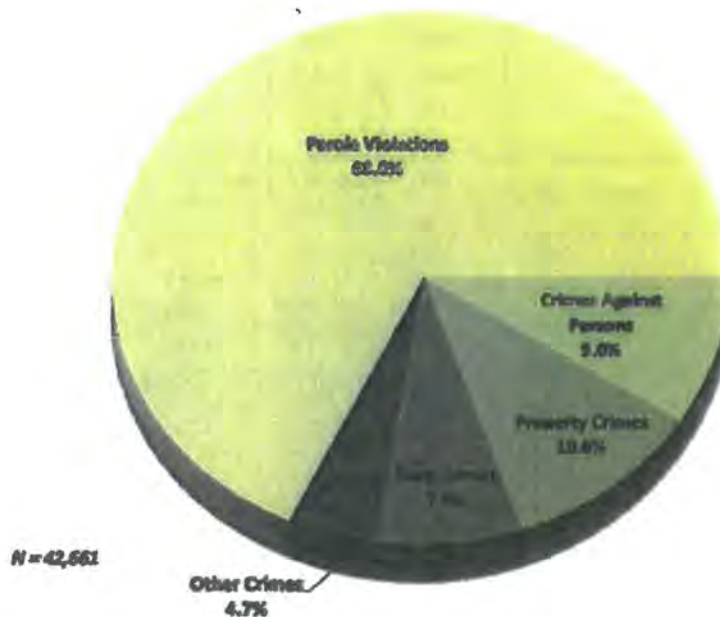
Between FY 2008-09 and FY 2009-10, crimes against persons increased by less than one percentage point (from 3.5 percent to 3.6 percent of the release cohorts, respectively). The increase between FY 2009-10 and FY 2010-11 was also slight; from 3.6 percent to 4 percent of the release cohorts. The decrease in property crimes and drug crimes were more substantial across the three release cohorts. Property crimes decreased from 7.1 percent to 6.2 percent of the release cohorts between FY 2008-09 and FY 2009-10 and from 6.2 percent to 4.7 percent of the release cohorts between FY 2009-10 and FY 2010-11. Drug crimes decreased from 5.6 percent of the release cohort in FY 2008-09 to 4.5 percent of the release cohort in FY 2009-10 and from 4.5 percent of the release cohort to 3.4 percent of the release cohort between FY 2009-10 and FY 2010-11. Other crimes have remained fairly consistent; 2.4 percent of the release cohort was returned for other crimes in FY 2008-09, 2.1 percent of the release cohort in FY 2009-10, and again, 2.1 percent of the release cohort in FY 2010-11.

Table 23. Three-Year Outcomes for Fiscal Year 2008-09, 2009-10, and 2010-11 Release Cohorts

Type of Return	FY 2008-09		FY 2009-10		FY 2010-11	
	Number	Percent	Number	Percent	Number	Percent
No Return to Prison	44,074	39.0%	47,959	45.7%	53,029	55.4%
Crimes Against Persons	3,925	3.5%	3,771	3.6%	3,834	4.0%
Property Crimes	8,055	7.1%	6,541	6.2%	4,520	4.7%
Drug Crimes	6,299	5.6%	4,730	4.5%	3,279	3.4%
Other Crimes	2,781	2.4%	2,233	2.1%	2,000	2.1%
Parole Violations	47,793	42.3%	39,747	37.9%	29,028	30.3%
Total	112,877	100.0%	104,981	100.0%	95,690	100.0%

6.2 Type of Return for the Fiscal Year 2010-11 Offenders Returning to State Prison

Figure 21. Type of Return for the 42,661 Offenders Returned to State Prison Following Release in FY 2010-11



Of the 95,690 offenders released in FY 2010-11, 42,661 offenders (44.6 percent of the release cohort) returned to State prison within three years of their release. This section provides further analysis of the 42,661 returns to prison (excluding the 53,029 offenders that did not return to prison), in order to more closely examine the return types of offenders released in FY 2010-11. Of the total returns (42,661 offenders), parole violations (68 percent of all returns or 29,028 offenders) accounted for the largest number of returns, followed by property crimes (10.6 percent of all returns or 4,520 offenders), crimes against persons (9 percent of all returns or 3,834 offenders), and drug crimes (7.7 percent of all returns or 3,279 offenders). Other crimes comprised 4.7 percent (2,000 offenders) of all returns.

As intended under Realignment, most parole violators serve their sentences in county jail, rather than State prison, thus, decreases in parole violations have been observed since Realignment's passage in October 2011. However, due to the timing in which the FY 2010-11 cohort was released and the passage of Realignment in October 2011, parole violations still comprise a large number of the returns for the FY 2010-11 release cohort (68 percent of all returns). Each of the 95,690 offenders released in FY 2010-11 were released pre-Realignment, but Realignment was in effect for varying amounts of time during each offender's three-year follow-up period and many offenders were released into the community for a year or more when Realignment was implemented. An examination of the FY 2010-11 release cohort, as well as other CDCR cohorts, shows most offenders who return to State prison, return within the first year of their release. Over eighty percent (81.6 percent of the release cohort or 34,810 offenders) of the 42,661 offenders who were released in FY 2010-11 and returned to prison, returned within the first year of

their release. For most of these offenders, returns to prison for parole violations, rather than county jail, was possible because Realignment had not yet been implemented. As Realignment continues to be in place during a larger portion of future release cohorts' follow-up period, further decreases in returns to prison for parole violations are expected.

Table 24. Type of Return for the 42,661 Offenders Returned to State Prison Following Release in FY 2010-11

Type of Return	Returned	
	Number	Percent
Parole Violations	29,028	68.0%
Property Crimes	4,520	10.6%
Crime Against Persons	3,834	9.0%
Drug Crimes	3,279	7.7%
Other Crimes	2,000	4.7%
Total	42,661	100.0%

6.3 Impact of Realignment

Realignment became law on October 1, 2011 and requires most non-serious, non-violent, and non-sex registrant offenders be sentenced to and serve parole revocations in county jails, rather than State prison, with the intent of reducing the number of low-level offenders cycling in and out of California's prisons. Realignment also changed the State's system of post-release supervision so that most non-serious, non-violent, and non-sex registrant offenders are released to Post-Release Community Supervision (PRCS), which is administered by county probation departments; whereas most high-risk sex offenders, lifers, and offenders committing a serious or violent crime are released to parole and supervised by State parole agents. Realignment changed the parole revocation process so that only offenders previously sentenced to a life-term can be revoked to prison and all other parole revocations are served in county jails.

As shown in the time to return section of this report, a large number of offenders who return to State prison, return during the first and second quarters following their release, meaning that a large number of offenders had already returned to prison when Realignment was implemented in October 2011. Of the 95,690 offenders released during FY 2010-11, 33,666 offenders (35.2 percent) had returned to prison prior to the implementation of Realignment and 62,024 offenders (64.8 percent) had not returned to prison. The 33,666 offenders who returned to prison prior to the implementation of Realignment have been removed from this analysis in order to further examine the impacts of Realignment by analyzing only those offenders who did not return to prison prior to the implementation of Realignment (62,024 offenders). The 62,024 offenders were followed for a period ranging from one day to approximately 33 months, post-Realignment, before they were either returned to prison or completed the three-year follow-up period without returning to prison. Although each of the 95,690 offenders were followed for a full three-year follow-up period, regardless of whether they returned to prison prior to or after the implementation of Realignment, this section further examines the 62,024 offenders that did not return to prison prior to the implementation of Realignment.

Of the 62,024 offenders not returned to prison prior to the implementation of Realignment, 18.7 percent (11,598 offenders) were discharged from parole prior to the implementation of Realignment and 25.9 percent (16,051 offenders) remained on parole post-Realignment. Over half (55.4 percent or 34,375 offenders) were on parole when Realignment was implemented, but were later discharged from parole after Realignment was implemented.

Of the 11,598 offenders discharged from parole prior to the implementation of Realignment, 92.2 percent (10,696 offenders) completed the three-year follow-up period without returning to State prison and 7.8 percent (902 offenders) were returned to State prison with a new term. Of the 16,051 offenders who remained on parole post-Realignment, 63.2 percent (10,147 offenders) completed the three-year follow-up period without returning to State prison, 31.9 percent (5,122 offenders) were returned to CDCR with a new term, and 4.9 percent (782 offenders) were returned for parole violations. Of the 34,375 offenders who were on parole prior to the implementation of Realignment and were later discharged, 93.6 percent (32,186 offenders) completed the follow-up period without returning to State prison and 6.4 percent (2,189 offenders) were returned with a new term.

Until a CDCR cohort is released post-Realignment and an entire three-year follow-up period occurs, the full impact of Realignment on the State's return-to-prison rate will be unknown. It is expected the State's three-year return-to-prison will continue to decrease through the next two fiscal years of releases (FY 2011-12 and FY 2012-13 release cohorts). As the rate continues to be impacted by Realignment, the make-up of CDCR's offender population will be impacted as well. The CDCR will continue to examine changes to the State's three-year return-to-prison rate, the offender population, and arrest and conviction data when available.

Appendix A

Supplemental Recidivism Rates: Arrests, Convictions, and Returns to Prison

The below figures and tables present supplemental recidivism rates (arrests, convictions, and returns to prison) for adult offenders released from CDCR adult institutions. One-year rates are provided for FY 2002-03 through FY 2012-13 and provide the most years of comparative data.⁷ Although only a one-year rate is provided for these years, it is a good indicator of recidivism (as previously indicated in this report) because over 80 percent of offenders who returned to prison, returned within the first year of release. In order to provide the most comprehensive data available, one-year rates are followed by two- and three-year supplemental recidivism rates.⁸ Two-year supplemental recidivism rates are available for Fiscal Year 2002-03 through Fiscal Year 2011-12 and three-year rates are available for Fiscal Year 2002-03 through Fiscal Year 2010-11.

An examination of one-year return-to-prison rates by fiscal year, shows a substantial difference (26.6 percentage points) between the FY 2010-11 (36.4 percent) and FY 2011-12 release cohorts (9.8 percent). The decrease between the two rates was preceded and followed by less substantial decreases; the one-year return-to-prison rate decreased 5.6 percentage points between the FY 2009-10 and FY 2010-11 release cohorts and 3.2 percentage points between the FY 2011-12 and FY 2012-13 release cohorts. The one-year arrest and conviction rate remained relatively stable through the FY 2010-11 release cohort and both rates saw a slight increase with the FY 2011-12 release cohort; arrests increased 2.2 percentage points and convictions 3.5 percentage points. Following the increase in the arrest and convictions rates among the FY 2011-12 release cohort, both rates decreased with the FY 2012-13 release cohort. The FY 2012-13 one-year arrest rate (50.5 percent) was the lowest among all release cohorts examined. Similarly, the one-year conviction rate for the FY 2012-13 release cohort was 20.3 percent, which is the lowest one-year conviction rate since the FY 2002-03 rate of 19.7 percent. The FY 2011-12 time period (July 1, 2011 through June 30, 2012) encompassed the start of Realignment (October 2011) and may account for the increase in arrests and convictions, and the substantial decrease in returns to State prison, as the state and counties adjusted to the new system.

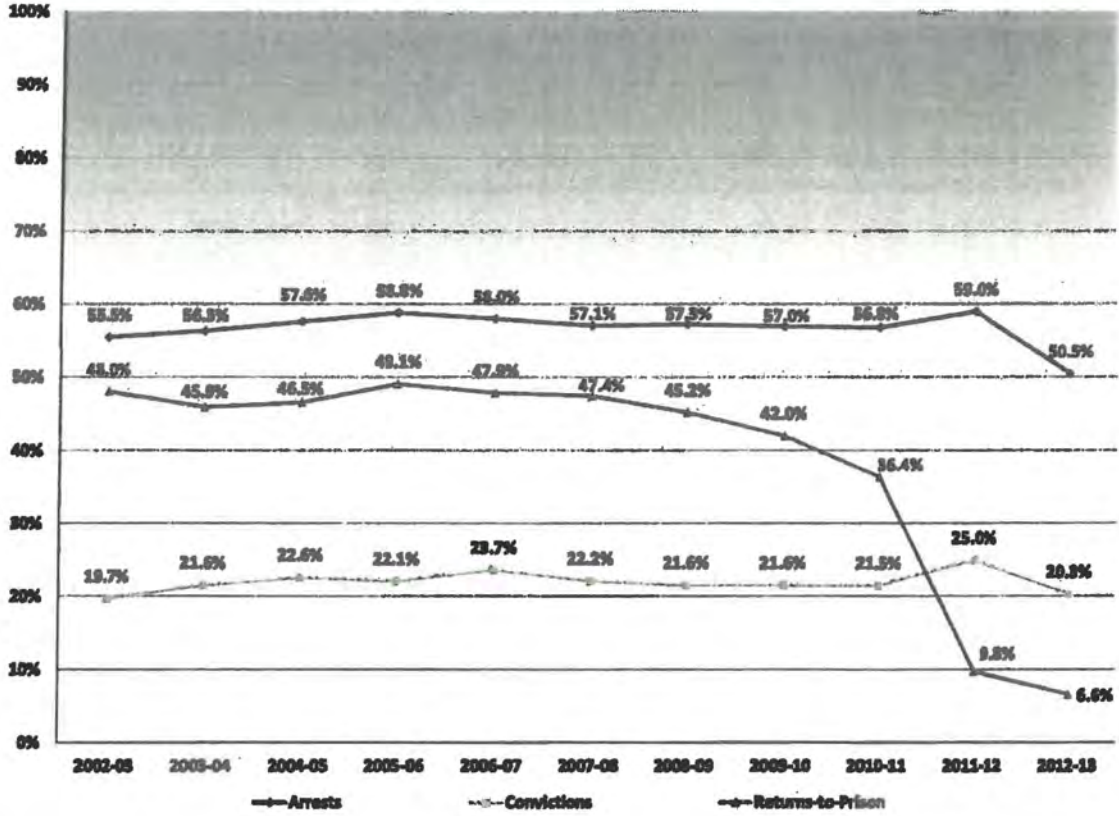
Similar patterns are found in the two-year arrest, conviction, and return-to-prison rates, although less pronounced. Between the FY 2009-10 and FY 2010-11 release cohorts, the two-year return-to-prison rate decreased 11 percentage points, while the two-year arrest and conviction rates slightly increased (0.8 of a percentage point and 1.3 percentage points, respectively). Between FY 2010-11 and FY 2011-12, the two-year return-to-prison rate decreased 22.9 percentage points, while the two-year arrest and conviction rates saw another slight increase (0.5 of a percentage point and 2.3 percentage points, respectively). When examining the three-year arrest, conviction, and return-to-prison rates, arrests and convictions remained relatively stable between the FY 2009-10 and 2010-11 release cohorts (arrests

⁷ The arrest, conviction, and return-to-prison data contained in these figures and charts were extracted in April 2016 to minimize the effects of the time lag of data entry into the State's systems.

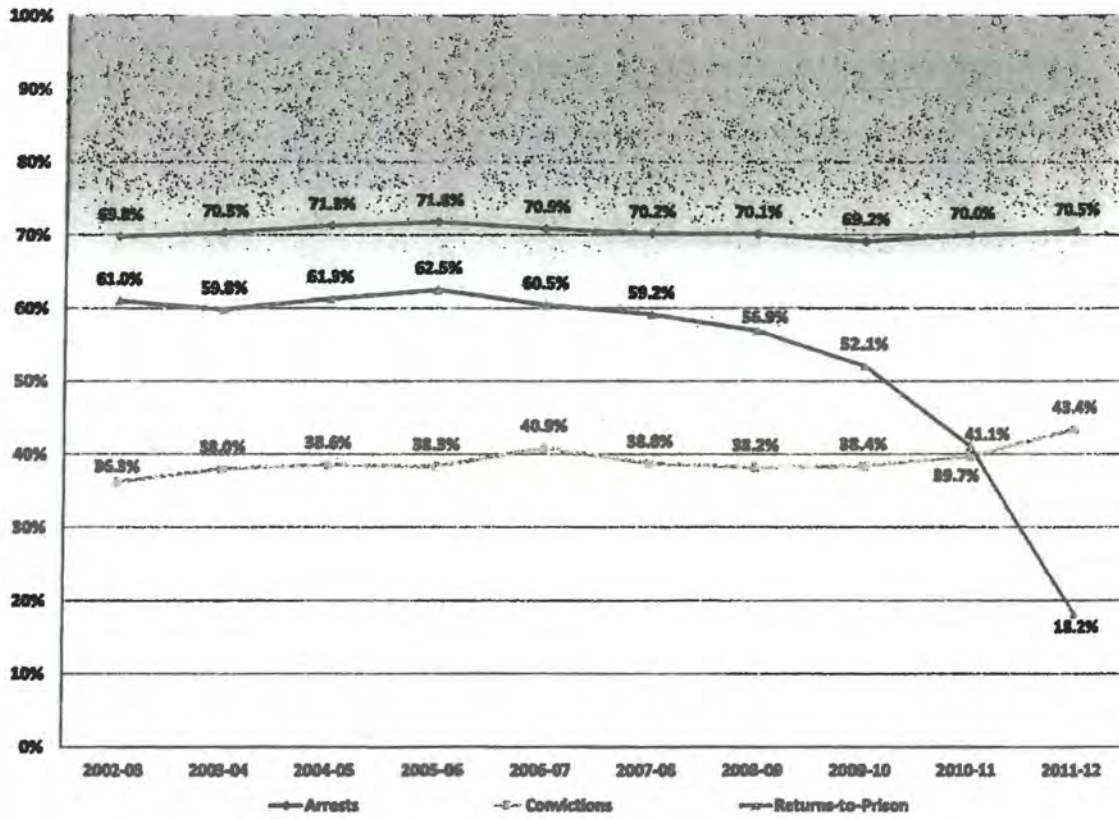
⁸ Supplemental recidivism rates are "frozen" at three years, meaning the three-year follow-up period is complete and no further analyses are performed. Reported one-year and two-year rates may fluctuate slightly, as the data used in subsequent reporting years will likely increase, particularly for arrests and convictions since these data are routinely updated in accordance with criminal justice processing.

increased 0.5 of a percentage point and convictions increased 1.8 percentage points), while the decrease in the three-year return-to-prison rate was more substantial (9.7 percentage points).

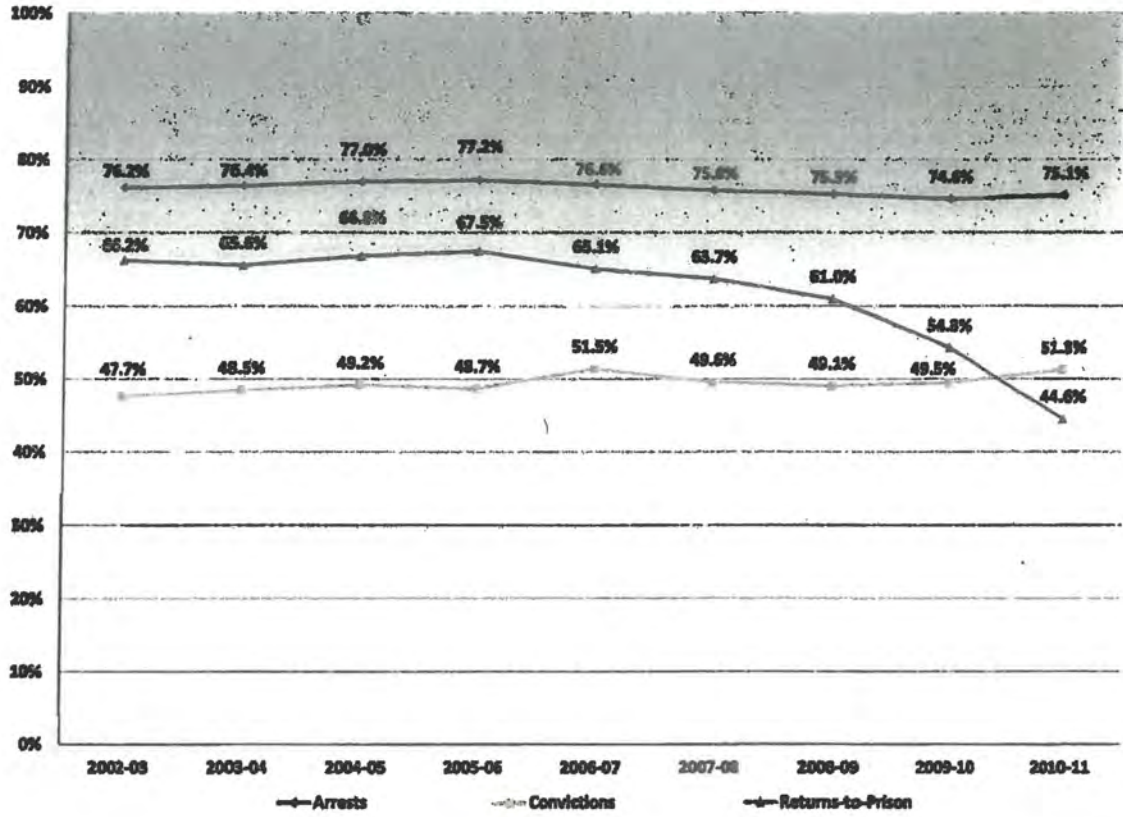
One-Year Supplemental Recidivism Rates by Fiscal Year



Two-Year Supplemental Recidivism Rates by Fiscal Year



Three-Year Supplemental Recidivism Rates by Fiscal Year



Appendix A

Supplemental Recidivism Rates: Arrests, Convictions, and Returns to Prison
(continued)

		Arrests*					
		One-Year		Two-Year		Three-Year	
Fiscal Year*	Number Released	Number Arrested	Arrest Rate	Number Arrested	Arrest Rate	Number Arrested	Arrest Rate
2002-03	99,482	55,204	55.5%	69,449	69.8%	75,765	76.2%
2003-04	99,635	56,127	56.3%	70,070	70.3%	76,135	76.4%
2004-05	103,647	59,703	57.6%	73,881	71.3%	79,819	77.0%
2005-06	105,974	62,331	58.8%	76,079	71.8%	81,786	77.2%
2006-07	112,665	65,369	58.0%	79,893	70.9%	86,330	76.6%
2007-08	113,888	64,981	57.1%	79,978	70.2%	86,309	75.8%
2008-09	110,356	63,193	57.3%	77,412	70.1%	83,080	75.3%
2009-10	103,867	59,159	57.0%	71,837	69.2%	77,495	74.6%
2010-11	94,888	53,911	56.8%	66,399	70.0%	71,284	75.1%
2011-12	75,172	44,345	59.0%	52,974	70.5%	N/A	N/A
2012-13	35,910	18,131	50.5%	N/A	N/A	N/A	N/A

		Convictions*					
		One-Year		Two-Year		Three-Year	
Fiscal Year	Number Released	Number Convicted	Conviction Rate	Number Convicted	Conviction Rate	Number Convicted	Conviction Rate
2002-03	99,482	19,643	19.7%	36,087	36.3%	47,443	47.7%
2003-04	99,635	21,509	21.6%	37,881	38.0%	48,350	48.5%
2004-05	103,647	23,464	22.6%	40,022	38.6%	51,026	49.2%
2005-06	105,974	23,428	22.1%	40,635	38.3%	51,650	48.7%
2006-07	112,665	26,657	23.7%	46,106	40.9%	57,980	51.5%
2007-08	113,888	25,233	22.2%	44,164	38.8%	56,525	49.6%
2008-09	110,356	23,831	21.6%	42,181	38.2%	54,175	49.1%
2009-10	103,867	22,410	21.6%	39,908	38.4%	51,456	49.5%
2010-11	94,888	20,403	21.5%	37,710	39.7%	48,689	51.3%
2011-12	75,172	18,778	25.0%	32,651	43.4%	N/A	N/A
2012-13	35,910	7,303	20.3%	N/A	N/A	N/A	N/A

*Arrests and convictions are only included for offenders with an automated criminal history record available from the California Department of Justice. Fiscal years without enough follow-up time to capture recidivism are reported as "N/A".

Appendix A

Supplemental Recidivism Rates: Arrests, Convictions, and Returns to Prison
(continued)

Fiscal Year	Number Released	Returns to State Prison					
		One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
2002-03	103,934	49,924	48.0%	63,415	61.0%	68,810	66.2%
2003-04	103,296	47,423	45.9%	61,788	59.8%	67,734	65.6%
2004-05	106,920	49,761	46.5%	65,559	61.3%	71,444	66.8%
2005-06	108,662	53,330	49.1%	67,958	62.5%	73,350	67.5%
2006-07	115,254	55,167	47.9%	69,691	60.5%	75,018	65.1%
2007-08	116,015	55,049	47.4%	68,643	59.2%	73,885	63.7%
2008-09	112,877	51,010	45.2%	64,244	56.9%	68,803	61.0%
2009-10	104,981	44,104	42.0%	54,713	52.1%	57,022	54.3%
2010-11	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%
2011-12	76,102	7,447	9.8%	13,838	18.2%	N/A	N/A
2012-13	36,899	2,436	6.6%	N/A	N/A	N/A	N/A

Fiscal years without enough follow-up time to capture recidivism are reported as "N/A".

Appendix B

Type of Arrest and Conviction for Fiscal Year 2009-10 and Fiscal Year 2010-11 Release Cohorts

The below tables show the type of arrest and type of conviction for the FY 2009-10 and 2010-11 release cohorts. Data represent the first arrest or conviction episode and only the most serious offense in the arrest or conviction cycle is presented. At the time of this report, the type of arrest or conviction for some offenders was unknown.

In FY 2009-10, 25.4 percent of the offenders completed the three-year follow-up period without an arrest. In FY 2010-11, 24.9 percent of the offenders completed the three-year follow-up period (a decrease of 0.5 of a percentage point from the previous release cohort) without an arrest. Supervision violations, which account for the largest number of arrests, increased by 1.8 percentage points between FY 2009-10 and FY 2010-11 (22.3 percent and 24.1 percent, respectively), while arrests for crimes against persons (11.6 percent) and other crimes (4.8 percent) remained unchanged. Between FY 2009-10 and FY 2010-11, arrests for drug/alcohol crimes decreased 1.2 percentage points (20.5 percent and 19.3 percent, respectively) and property crimes decreased by 0.2 of a percentage point (11.5 percent and 11.3 percent, respectively).

The portion of the release cohort arrested for each offense category remained static across the two fiscal years; arrests for supervision violations comprised the largest number of arrests, followed by drug/alcohol crimes, crimes against persons, property crimes, and other crimes.

Type of Arrest for Fiscal Year 2009-10 and Fiscal Year 2010-11 Release Cohorts

Type of Arrest	FY 2009-10		FY 2010-11	
	Number	Percent	Number	Percent
No Arrests	26,372	25.4%	23,604	24.9%
Crimes Against Persons	12,035	11.6%	11,035	11.6%
Property Crimes	11,969	11.5%	10,692	11.3%
Drug/Alcohol Crimes	21,321	20.5%	18,356	19.3%
Other Crimes	5,010	4.8%	4,545	4.8%
Supervision Violations	23,195	22.3%	22,829	24.1%
Unknown	3,965	3.8%	3,827	4.0%
Total	103,867	100.0%	94,888	100.0%

The percentage of offenders without a conviction during the three-year follow-up period decreased by 1.8 percentage points between FY 2009-10 and FY 2010-11 (50.5 percent and 48.7 percent, respectively). With the exception of drug/alcohol crimes, which decreased by 0.5 of a percentage point between the two fiscal years (19 percent and 18.5 percent, respectively), all other conviction types increased slightly. Crimes against persons increased by 1 percentage point (10.3 percent and 11.3 percent, respectively), property crimes increased by 0.6 of a percentage point (12.9 percent and 13.5

percent, respectively) and other crimes increased by 0.5 of a percentage point (4 percent and 4.5 percent, respectively).

The portion of the release cohort convicted for each offense category also remained relatively static across the two fiscal years; convictions for drug/alcohol crimes comprised the largest number of convictions, followed by property crimes, crimes against persons, and other crimes.

Type of Conviction for Fiscal Year 2009-10 and Fiscal Year 2010-11 Release Cohorts

Type of Conviction	FY 2009-10		FY 2010-11	
	Number	Percent	Number	Percent
No Convictions	52,411	50.5%	46,199	48.7%
Crimes Against Persons	10,659	10.3%	10,741	11.3%
Property Crimes	13,368	12.9%	12,765	13.5%
Drug/Alcohol Crimes	19,683	19.0%	17,573	18.5%
Other Crimes	4,162	4.0%	4,296	4.5%
Unknown	3,584	3.5%	3,314	3.5%
Total	108,867	100.0%	94,888	100.0%

Appendix C

Offender Demographics and Characteristics by Fiscal Year

	FY 2009-10 Number Released	FY 2010-11 Number Released	Number Released Difference	FY 2009-10 Number Returned	FY 2010-11 Number Returned	Number Returned Difference	FY 2009-10 Three-Year Return Rate	FY 2010-11 Three-Year Return Rate	Three-Year Rate Difference
Release Type									
First Release	61,810	58,122	(3,688)	27,254	19,777	(7,477)	44.1%	34.0%	(10.1)
Re-Release	43,171	37,568	(5,603)	29,768	22,884	(6,884)	69.0%	60.9%	(8.0)
Gender									
Male	93,937	86,571	(7,366)	52,891	40,193	(12,698)	56.3%	46.4%	(9.9)
Female	11,044	9,119	(1,925)	4,131	2,468	(1,663)	37.4%	27.1%	(10.3)
Age at Release									
18 - 19	643	744	101	437	440	3	68.0%	59.1%	(8.9)
20 - 24	14,061	12,666	(1,395)	8,621	6,400	(2,221)	61.3%	50.5%	(10.8)
25 - 29	20,861	18,550	(2,311)	12,190	9,052	(3,138)	58.0%	48.8%	(10.2)
30 - 34	17,436	16,401	(1,035)	9,452	7,217	(2,235)	54.2%	44.0%	(10.2)
35 - 39	14,184	12,528	(1,656)	7,542	5,357	(2,185)	53.2%	42.8%	(10.4)
40 - 44	13,940	12,390	(1,550)	7,343	5,342	(2,001)	52.7%	43.1%	(9.6)
45 - 49	12,010	10,716	(1,294)	6,127	4,543	(1,584)	51.0%	42.4%	(8.6)
50 - 54	7,177	6,865	(312)	3,337	2,705	(632)	46.5%	39.4%	(7.1)
55 - 59	3,132	2,986	(146)	1,311	1,092	(219)	41.9%	34.6%	(7.3)
60 and over	1,737	1,844	107	662	573	(89)	38.1%	31.1%	(7.0)
Race/Ethnicity									
American Indian/Alaskan Native	1,105	1,063	(42)	729	586	(143)	66.0%	55.1%	(10.8)
White	31,786	28,323	(3,463)	18,128	13,586	(4,542)	57.0%	48.0%	(9.1)
Black/African American	27,607	25,238	(2,369)	16,145	11,644	(4,501)	58.5%	46.1%	(12.3)
Asian/Pacific Islander	859	868	9	395	365	(30)	46.0%	42.1%	(3.9)
Hispanic/Latino	40,407	37,190	(3,217)	20,080	15,321	(4,759)	49.6%	41.2%	(8.4)
Other	3,217	3,008	(209)	1,565	1,158	(406)	48.6%	38.5%	(10.1)
County of Release									
Fresno	4,382	3,699	(683)	2,911	2,184	(727)	66.4%	59.0%	(7.4)
San Joaquin	2,655	2,363	(292)	1,794	1,358	(436)	67.6%	57.5%	(10.1)
Stanislaus	1,840	1,618	(222)	1,200	900	(300)	65.2%	55.6%	(9.6)
San Diego	5,801	6,431	(370)	4,239	3,434	(805)	62.3%	53.4%	(8.9)
Kern	3,953	3,681	(272)	2,509	1,944	(565)	63.5%	52.8%	(10.7)
Riverside	6,718	6,201	(517)	4,127	3,237	(890)	61.4%	52.2%	(9.2)
Sacramento	6,248	5,608	(550)	3,359	2,739	(620)	53.8%	48.1%	(5.7)
San Bernardino	8,505	8,038	(467)	5,087	3,836	(1,251)	59.8%	47.8%	(12.0)
Santa Clara	3,161	2,776	(385)	1,741	1,164	(577)	55.1%	41.9%	(13.1)
Alameda	4,788	4,022	(766)	2,468	1,612	(856)	51.5%	40.1%	(11.5)
Orange	8,169	6,804	(1,365)	3,652	2,658	(994)	44.7%	39.1%	(5.6)
Los Angeles	26,358	24,904	(1,454)	11,288	8,052	(3,236)	42.8%	32.5%	(10.6)
All Others	21,403	19,475	(1,928)	12,647	9,563	(3,084)	59.1%	49.1%	(10.0)
Commitment Offense Categories									
Property Crimes	34,899	31,756	(3,143)	20,278	15,048	(5,230)	58.1%	47.4%	(10.7)
Crimes Against Persons	28,260	28,732	472	15,672	13,196	(2,476)	55.5%	45.9%	(9.5)
Other Crimes	12,461	10,757	(1,704)	6,525	4,680	(1,845)	52.4%	43.0%	(9.3)
Drug Crimes	29,361	24,445	(4,916)	14,547	9,787	(4,760)	49.5%	40.0%	(9.5)

Appendix C

Offender Demographics and Characteristics by Fiscal Year (continued)

	FY 2009-10 Number Released	FY 2010-11 Number Released	Number Released Difference	FY 2009-10 Number Returned	FY 2010-11 Number Returned	Number Returned Difference	FY 2009-10 Three-Year Return Rate	FY 2010-11 Three-Year Return Rate	Three-Year Rate Difference
Offense									
Escape	78	45	(33)	48	29	(19)	61.5%	64.4%	2.9
Other Sex	2,683	2,786	103	1,867	1,763	(104)	69.6%	64.4%	(5.1)
Vehicle Theft	5,511	4,413	(1,098)	3,782	2,475	(1,287)	68.9%	56.1%	(12.2)
Sodomy	33	84	51	21	19	(2)	63.6%	56.9%	(7.8)
Oral Copulation	205	215	10	113	111	(4)	55.1%	51.6%	(4.5)
Receiving Stolen Property	4,837	4,344	(493)	2,988	2,234	(754)	61.4%	51.4%	(9.9)
Burglary 1st	3,468	3,345	(123)	2,042	1,680	(352)	58.9%	50.5%	(8.4)
Possession Weapon	5,892	5,183	(709)	3,544	2,546	(998)	60.1%	49.1%	(11.0)
Petty Theft With Prior	5,135	4,672	(463)	3,063	2,289	(774)	59.6%	48.0%	(10.7)
Controlled Substance Possession	13,319	12,439	(880)	8,651	6,982	(1,619)	56.5%	48.5%	(8.0)
Other Offenses	3,517	3,075	(442)	2,020	1,474	(546)	57.4%	47.9%	(9.5)
Other Assault/Battery	8,234	8,060	(174)	5,224	4,253	(971)	56.6%	46.9%	(9.6)
Other Property	1,368	1,282	(86)	748	589	(149)	54.7%	46.7%	(8.0)
Assault w/ Deadly Weapon	6,344	6,489	125	3,556	3,813	258	56.1%	46.7%	(9.4)
Arson	267	210	(57)	138	96	(42)	51.7%	45.7%	(6.0)
Robbery	5,504	5,847	343	3,115	2,835	(480)	56.6%	45.1%	(11.5)
Burglary 2nd	8,033	7,943	(80)	4,542	3,548	(994)	56.9%	44.7%	(11.9)
Penetration With Object	120	100	(20)	55	44	(11)	45.8%	44.0%	(1.8)
Grand Theft	3,689	3,389	(306)	1,886	1,438	(448)	51.0%	42.4%	(8.6)
Controlled Substance Other	634	478	(156)	358	202	(151)	55.7%	42.9%	(12.4)
Rape	450	482	32	245	176	(69)	54.4%	40.7%	(13.7)
Lewd Act With Child	2,104	2,272	168	977	820	(157)	46.4%	36.1%	(10.3)
Controlled Substance Sales	2,786	2,357	(419)	1,231	786	(445)	44.2%	33.6%	(10.6)
Marijuana Sale	446	384	(62)	189	123	(61)	42.4%	33.3%	(9.0)
Forgery/Fraud	2,348	2,364	16	1,267	775	(492)	44.5%	32.8%	(11.7)
Kidnapping	225	173	(52)	86	56	(30)	38.2%	32.4%	(5.9)
Hashish Possession	88	70	(18)	38	22	(16)	55.9%	31.4%	(24.5)
Marij. Possess For Sale	1,172	1,061	(111)	485	326	(159)	41.4%	30.7%	(10.7)
Controlled Substance Possession For Sale	9,466	7,432	(1,054)	3,461	2,230	(1,231)	40.9%	30.1%	(10.8)
Attempted Murder 2nd	337	336	(1)	150	99	(51)	44.5%	29.6%	(15.0)
Manslaughter	543	473	(70)	195	132	(63)	35.9%	27.9%	(8.0)
Controlled Substance Manufacturing	321	184	(137)	93	32	(61)	29.0%	23.9%	(5.1)
Marijuana Other	149	150	1	46	29	(17)	30.9%	22.3%	(8.6)
Driving Under Influence	2,707	2,244	(463)	775	485	(290)	28.6%	21.6%	(7.0)
Vehicular Manslaughter	241	221	(20)	46	45	(1)	19.1%	20.4%	1.3
Attempted Murder 1st	25	25	0	3	3	0	N/A	N/A	N/A
Murder 2nd	145	264	119	13	20	7	9.0%	7.8%	(1.4)
Murder 1st	67	76	9	4	2	(2)	6.0%	2.6%	(3.3)
Sentence Type									
Second Strikers (Determinate Sentencing Law)	13,853	12,900	(453)	8,107	6,681	(1,428)	60.7%	51.8%	(8.9)
Determinate Sentencing Law	91,350	82,922	(8,958)	49,889	35,955	(12,934)	53.5%	43.6%	(9.9)
Life (Indeterminate Sentencing Law)	278	398	120	26	25	(1)	9.4%	6.3%	(3.1)
Sex Registration Requirement									
Yes	8,471	8,988	518	5,522	5,041	(481)	65.2%	56.1%	(9.1)
No	96,510	86,701	(9,809)	51,500	37,620	(13,880)	53.4%	43.4%	(10.0)

Appendix C

Offender Demographics and Characteristics by Fiscal Year (continued)

	FY 2009-10 Number Released	FY 2010-11 Number Released	Number Released Difference	FY 2009-10 Number Returned	FY 2010-11 Number Returned	Number Returned Difference	FY 2009-10 Three-Year Return Rate	FY 2010-11 Three-Year Return Rate	Three-Year Rate Difference
Serious and/or Violent Offense									
Serious	13,804	13,268	(536)	7,869	6,418	(1,451)	57.0%	48.4%	(8.6)
Violent	9,978	10,653	675	4,902	4,091	(811)	49.1%	38.4%	(10.7)
Non-Serious/Non-Violent	81,159	71,769	(9,430)	44,251	32,152	(12,099)	54.5%	44.8%	(9.7)
Mental Health Status									
Department of Mental Health	3	59	56	3	37	34	N/A	62.7%	N/A
Enhanced Outpatient Program	5,908	2,422	(3,486)	4,114	1,460	(2,654)	69.6%	60.3%	(9.4)
Mental Health Crisis Bed	37	119	82	27	69	42	73.0%	58.0%	(15.0)
Correctional Clinical Case Management System	14,332	14,385	53	8,505	7,801	(1,204)	59.3%	50.8%	(8.6)
None/No Mental Health Code	84,701	78,705	(5,996)	44,373	33,794	(10,579)	52.4%	42.9%	(9.5)
CSRA Risk Score									
Low	18,700	17,421	(1,279)	5,679	4,117	(1,562)	30.4%	23.6%	(6.7)
Moderate	28,688	25,108	(3,580)	12,833	9,023	(3,810)	44.7%	35.9%	(8.8)
High	56,442	52,331	(4,111)	38,014	29,235	(8,779)	67.4%	55.9%	(11.5)
N/A	1,151	830	(321)	496	286	(210)	43.1%	34.5%	(8.6)
Length of Stay									
0 - 6 Months	45,041	42,018	(4,023)	28,932	22,653	(6,279)	62.8%	53.9%	(8.9)
7 - 12 Months	29,384	25,592	(3,792)	14,968	10,441	(4,527)	50.9%	40.8%	(10.1)
13 - 18 Months	9,792	9,056	(736)	4,429	3,155	(1,274)	45.2%	36.8%	(10.4)
19 - 24 Months	5,972	5,579	(393)	2,803	2,099	(704)	46.9%	37.6%	(9.3)
2 - 3 Years	5,567	5,350	(217)	2,565	1,981	(634)	46.1%	36.1%	(10.0)
3 - 4 Years	2,519	2,567	48	1,172	821	(351)	46.5%	32.0%	(14.5)
4 - 5 Years	1,709	1,583	(126)	758	519	(239)	44.4%	32.8%	(11.6)
5 - 10 Years	2,677	2,552	(125)	1,028	772	(256)	38.4%	30.3%	(8.2)
10 -15 Years	941	919	(22)	302	221	(81)	32.1%	24.0%	(8.0)
15+ Years	379	474	95	65	49	(16)	17.2%	10.3%	(6.8)
Prior Returns to Custody on Current Term									
None	61,806	58,057	(3,749)	27,251	19,778	(7,473)	44.1%	34.1%	(10.0)
1	17,072	15,431	(1,641)	11,341	8,513	(2,828)	66.4%	55.2%	(11.3)
2	9,612	7,997	(1,615)	6,723	4,994	(1,729)	69.9%	62.4%	(7.5)
3	6,358	5,116	(1,242)	4,521	3,316	(1,205)	71.1%	64.8%	(6.3)
4	4,055	3,412	(643)	2,915	2,229	(686)	71.9%	65.3%	(6.6)
5	2,484	2,230	(254)	1,770	1,509	(261)	71.3%	67.7%	(3.6)
6	1,541	1,380	(161)	1,105	967	(138)	71.7%	70.1%	(1.6)
7	909	889	(20)	631	617	(14)	69.4%	69.4%	0.0
8	525	538	13	351	345	(6)	66.9%	64.1%	(2.7)
9	300	265	(35)	208	162	(46)	69.3%	61.1%	(8.2)
10 +	319	375	56	206	231	25	64.6%	61.6%	(3.0)

Appendix C

Offender Demographics and Characteristics by Fiscal Year (continued)

	FY 2009-10 Number Released	FY 2010-11 Number Released	Number Released Difference	FY 2009-10 Number Returned	FY 2010-11 Number Returned	Number Returned Difference	FY 2009-10 Three-Year Return Rate	FY 2010-11 Three-Year Return Rate	Three-Year Rate Difference
Number of CCRJ Stays Ever									
1	29,136	26,426	(2,710)	9,746	6,615	(3,131)	33.5%	25.0%	(8.4)
2	14,282	12,857	(1,445)	7,049	4,903	(2,146)	49.4%	38.2%	(11.2)
3	10,775	9,182	(1,593)	6,121	4,174	(1,947)	56.8%	45.5%	(11.3)
4	8,583	7,658	(925)	5,129	3,800	(1,329)	59.7%	49.6%	(10.1)
5	7,048	6,376	(672)	4,359	3,265	(1,094)	61.8%	51.2%	(10.6)
6	5,992	5,303	(689)	3,851	2,872	(979)	64.3%	54.2%	(10.1)
7	4,897	4,432	(465)	3,282	2,501	(781)	67.0%	56.4%	(10.6)
8	3,999	3,734	(265)	2,701	2,113	(588)	67.5%	56.6%	(11.0)
9	3,530	3,188	(342)	2,981	1,840	(1,141)	67.5%	57.7%	(9.7)
10	2,906	2,826	(80)	2,039	1,889	(140)	70.2%	60.1%	(10.0)
11	2,433	2,296	(137)	1,741	1,405	(336)	71.6%	61.2%	(10.4)
12	2,056	1,072	16	1,464	1,257	(207)	71.2%	60.7%	(10.5)
13	1,697	1,613	(84)	1,340	997	(343)	73.1%	61.8%	(11.3)
14	1,344	1,409	65	1,027	900	(127)	76.4%	63.9%	(12.5)
15 +	6,308	6,338	35	4,998	4,320	(678)	77.7%	68.2%	(9.5)
Total	184,881	165,680	(19,201)	57,882	42,661	(15,221)	64.3%	44.6%	(19.7)

Appendix D

Three-Year Return-to-Prison Rates by County of Parole

County of Parole	Number Released	One-Year		Two-Year		Three-Year	
		Number Returned	Return Rate	Number Returned	Return Rate	Number Returned	Return Rate
Alameda County	4,022	1,448	36.0%	1,549	38.5%	1,612	40.1%
Alpine County	4	3	N/A	3	N/A	3	N/A
Amador County	95	36	37.9%	39	41.1%	41	43.2%
Butte County	751	318	42.3%	351	46.7%	376	50.1%
Calaveras County	32	10	31.3%	10	31.3%	10	31.3%
Colusa County	36	16	44.4%	16	44.4%	16	44.4%
Contra Costa County	1,091	474	43.4%	509	46.7%	532	48.8%
Del Norte County	81	39	48.1%	41	50.6%	41	50.6%
El Dorado County	268	108	40.3%	117	43.7%	127	47.4%
Fresno County	3,699	1,958	52.9%	2,086	56.4%	2,184	59.0%
Glenn County	59	20	33.9%	23	39.0%	24	40.7%
Humboldt County	471	215	45.6%	233	49.5%	243	51.6%
Imperial County	262	107	40.8%	123	46.9%	132	50.4%
Inyo County	25	11	N/A	12	N/A	13	N/A
Kern County	3,681	1,620	44.0%	1,805	49.0%	1,944	52.8%
Kings County	753	343	45.6%	383	50.9%	407	54.1%
Lake County	219	98	44.7%	107	48.9%	112	51.1%
Lassen County	73	22	30.1%	25	34.2%	26	35.6%
Los Angeles County	24,904	5,229	21.0%	6,807	27.3%	8,032	32.3%
Madera County	395	180	45.6%	195	49.4%	211	53.4%
Marin County	104	43	41.3%	53	51.0%	54	51.9%
Mariposa County	12	3	N/A	4	N/A	4	N/A
Mendocino County	232	119	51.3%	124	53.4%	128	55.2%
Merced County	762	342	44.9%	376	49.3%	402	52.8%
Modoc County	18	7	N/A	7	N/A	7	N/A
Mono County	9	3	N/A	3	N/A	3	N/A
Monterey County	1,015	381	37.5%	440	43.3%	481	47.4%
Napa County	126	50	39.7%	56	44.4%	59	46.8%
Nevada County	60	24	40.0%	25	41.7%	25	41.7%
Orange County	6,804	2,253	33.1%	2,498	36.7%	2,658	39.1%
Placer County	464	223	48.1%	235	50.6%	243	52.4%
Plumas County	32	6	18.8%	6	18.8%	6	18.8%
Riverside County	6,201	2,721	43.9%	2,997	48.3%	3,237	52.2%

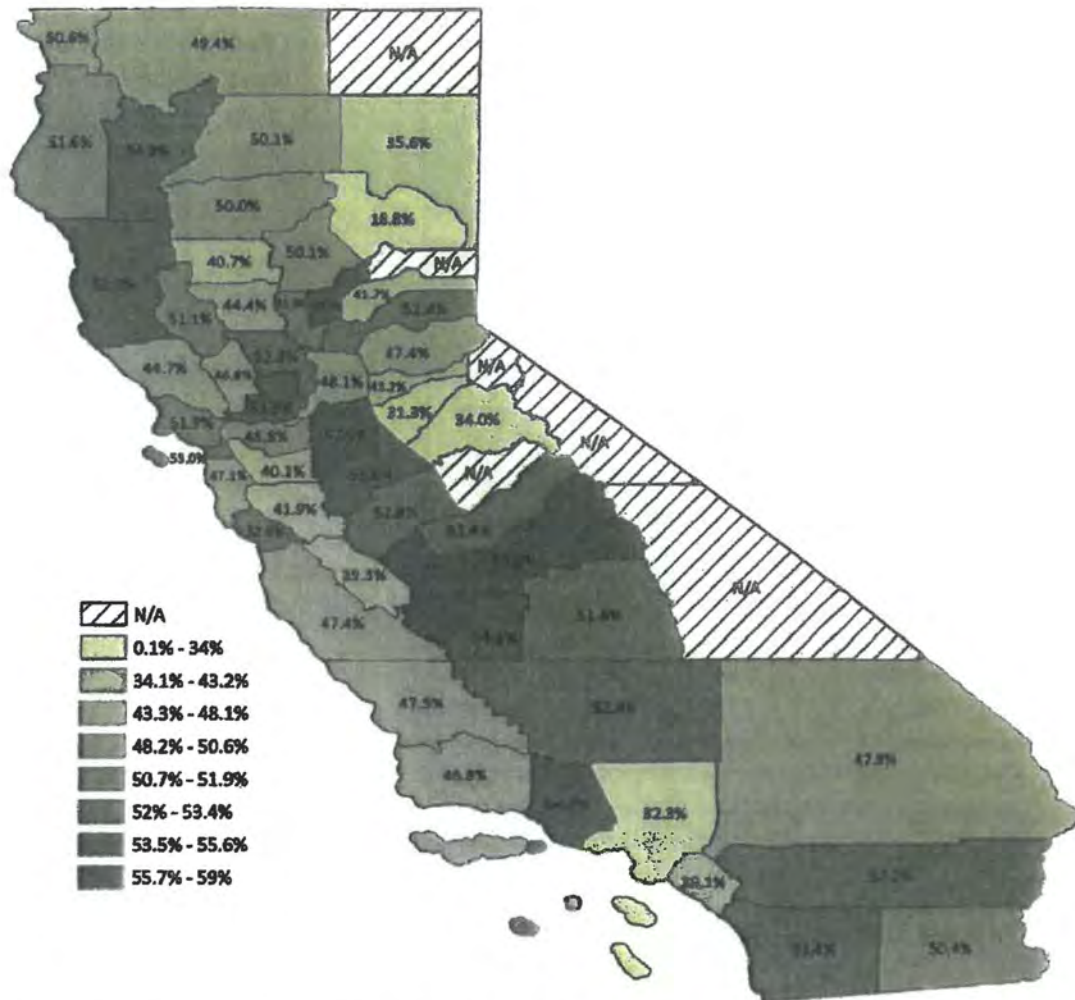
Appendix D

Three-Year Return-to-Prison Rates by County of Parole

County of Parole	Released	One-Year		Two-Year		Three-Year	
		Returned	Rate	Returned	Rate	Returned	Rate
Sacramento County	5,698	2,388	41.9%	2,584	45.3%	2,739	48.1%
San Benito County	56	19	33.9%	21	37.5%	22	39.3%
San Bernardino County	8,018	3,123	38.9%	3,548	44.3%	3,836	47.8%
San Diego County	6,431	2,956	46.0%	3,240	50.4%	3,434	53.4%
San Francisco County	1,281	643	50.2%	667	52.1%	679	53.0%
San Joaquin County	2,363	1,191	50.4%	1,280	54.2%	1,358	57.5%
San Luis Obispo County	465	178	38.3%	201	43.2%	221	47.5%
San Mateo County	803	326	40.6%	361	45.0%	378	47.1%
Santa Barbara County	728	271	37.2%	313	43.0%	341	46.8%
Santa Clara County	2,776	977	35.2%	1,093	39.4%	1,164	41.9%
Santa Cruz County	350	153	43.7%	167	47.7%	184	52.6%
Shasta County	782	336	43.0%	372	47.6%	392	50.1%
Sierra County	9	5	N/A	5	N/A	5	N/A
Siskiyou County	77	30	39.0%	32	41.6%	38	49.4%
Solano County	1,280	638	49.8%	672	52.5%	690	53.9%
Sonoma County	635	251	39.5%	274	43.1%	284	44.7%
Stanislaus County	1,618	778	48.1%	846	52.3%	900	55.6%
Sutter County	297	126	42.4%	142	47.8%	153	51.5%
Tehama County	252	111	44.0%	117	46.4%	126	50.0%
Trinity County	31	14	45.2%	16	51.6%	17	54.8%
Tulare County	1,378	618	44.8%	672	48.8%	708	51.4%
Tuolumne County	50	14	28.0%	14	28.0%	17	34.0%
Ventura County	1,450	687	47.4%	749	51.7%	791	54.6%
Yolo County	547	256	46.8%	271	49.5%	286	52.3%
Yuba County	447	224	50.1%	244	54.6%	258	57.7%
Discharged	1,108	67	6.0%	172	15.5%	247	22.3%
Total	95,690	34,810	36.4%	39,331	41.1%	42,661	44.6%

Appendix D

Three-Year Return-to-Prison Rates by County of Parole



*County names and rates are provided on pages 64 and 65 of this report.

Appendix E

Definitions of Key Terms

California Static Risk Assessment (CSRA)

The CSRA is an actuarial tool that utilizes demographic and criminal history data to predict an offender's risk of returning-to-prison at the time they are released from CDCR. Offenders are categorized as low, moderate or high risk of incurring a new criminal conviction.

Cohort

A group of individuals who share a common characteristic, such as all inmates who were released during a given year.

Controlling Crime or Commitment Offense

The most serious offense on the conviction for which the inmate was sentenced to prison on that term.

Correctional Clinical Case Management System (CCCMS)

The CCCMS facilitates mental health care by linking inmate/patients to needed services and providing sustained support while accessing such services. CCCMS services are provided as outpatient services within the general population setting at all institutions.

Determinate Sentencing Law (DSL)

Established by Penal Code Section 1170 in 1977, Determinate Sentencing Law identifies a specified sentence length for convicted felons who are remanded to State prison. Essentially, three specific terms of imprisonment (low, middle, and high) are assigned for crimes, as well as enhancements (specific case factors that allow judges to add time to a sentence). Opportunities to earn "credits" can reduce the length of incarceration.

Enhanced Outpatient Program (EOP)

A mental health services designation applied to a severely mentally ill inmate receiving treatment at a level similar to day treatment services.

First Release

The first release on the current term for felons with new admissions and parole violators returning with a new term (PV-WNT).

Indeterminate Sentencing Law (ISL)

Established by Penal Code Section 1168 in 1917, the Indeterminate Sentencing Law allowed judges to determine a range of time (minimum and maximum) a convicted felon would serve. Different felons convicted for the same crimes could spend varying lengths of time in prison; release depended on many factors, including each prisoner's individual conduct in prison. After the minimum sentence passed, felons were brought to a parole board that would identify the actual date of release. Indeterminate Sentencing was replaced by Determinate Sentencing (Penal Code Section 1170) in 1977. After the implementation of Determinate Sentencing, only individuals with life sentences and third strikers are considered "indeterminately" sentenced, since the parole board determines their release.

Manual California Static Risk Assessment (CSRA)

Inmates who do not have automated criminal history data available from the Department of Justice (DOJ) must have their CSRA score calculated manually. This is done with a review of a paper copy of the inmate's rap sheet. Manual scores calculated in Fiscal Year 2008-09 are not readily available for some inmates included in this report.

Parole

A period of conditional supervised release following a prison term.

Parole Violation (Law)

A law violation occurs when a parolee commits a crime while on parole and returns to CDCR custody (RTC) by action of the Board of Parole Hearings rather than by prosecution in the courts.

Parole Violation (Technical)

A technical violation occurs when a parolee violates a condition of his/her parole that is not considered a new crime and returns to CDCR custody (RTC).

Parole Violator Returning With a New Term (PV-WNT)

A parolee who receives a court sentence for a new crime committed while under parole supervision and returned-to-prison.

Recidivism

Conviction of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction.

Registered Sex Offender

An inmate is designated as a registered sex offender if CDCR records show that the inmate has at some point been convicted of an offense that requires registration as a sex offender under Penal Code Section 290. This designation is permanent in CDCR records.

Re-Release

After a return-to-prison for a parole violation, any subsequent release on the same (current) term is a re-release.

Return-to-Prison

An individual convicted of a felony and incarcerated in a CDCR adult institution who was released to parole, discharged after being paroled, or directly discharged during Fiscal Year 2010-11 and subsequently returned to prison within three years of their release date.

Serious Felony Offenses

Serious felony offenses are specified in Penal Code Section 1192.7(c) and Penal Code Section 1192.8

Stay

A stay is any period of time an inmate is housed in a CDCR institution. Each time an inmate returns to prison it is considered a new stay, regardless of the reason for returning.

Term

A term is a sentence an inmate receives from a court to be committed to CDCR for a length-of-time. If an inmate is released after serving a term and is later returned-to-prison for a parole violation, the inmate returns and continues serving the original (current) term. If that inmate returns for committing a new crime, the inmate begins serving a new term.

Violent Felony Offenses

Violent felony offenses are specified in Penal Code Section 667.5(c).

ATTACHMENT - 3

the location needs of larger retailers. We are working on having a vibrant downtown that can accommodate the preferred low-traffic downtown area. Ms. Pierce indicated she is active with the Clayton Historical Society, CBCA, and Boy Scouts. Ms. Pierce advised she is much honored to receive an official endorsement by the *East Bay Times* and she would appreciate one's vote by next Tuesday.

Mayor Geller advised that he plans to continue to bring the Concert in The Grove series even when he is not on the City Council but is always looking for volunteers to help out.

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

7. **PUBLIC HEARINGS** – None.

8. **ACTION ITEMS**

- (a) Consider the adoption of an interim Urgency Ordinance No. 469 placing a local moratorium on the operation or establishment of parolee homes and community supervision programs within the city of Clayton.

Community Development Director Mindy Gentry provided a summary of the staff report advising this item arises from the Public Safety Realignment Act (AB109) from October 2011. The County Realignment Plan called for the establishment of community programs for employment support and placement services, mentoring and family reunification services, short and long-term housing access, and civil legal services. These services are currently not defined within the Clayton Municipal Code; some services could be characterized as Professional Office which would then be permitted by right in the Limited Commercial District and allowable on a second story in the Town Center Specific Plan.

An inquiry was recently made regarding the City's regulations for establishing residences for parolees that have been previously incarcerated. An adoption of a local moratorium would prohibit Community Supervision Program uses and parolee homes in Clayton for 45 days. It is foreseen that further time extension will be needed for staff to complete its analysis of the land use situation and then draft its proposed ordinance for a Planning Commission hearing and ultimate recommendation to the City Council.

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

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to have the City Clerk read Urgency Ordinance No. 469, by title and number only and waive further reading. (Passed; 5-0 vote).

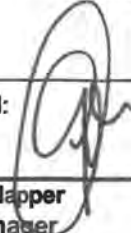
The City Clerk read Ordinance No. 469 by title and number only.

It was moved by Councilmember Pierce, seconded by Councilmember Shuey, to approve Urgency Ordinance No. 469 for Introduction with findings the Ordinance is not subject to the California Environmental Quality Act because this activity is not considered to be a project and it can be seen with certainty that it will not have a significant effect or physical change to the environment. (Passed 5-0 vote).



Agenda Date: 12-06-2016

Agenda Item: 11a

Approved: 

Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR
DATE: DECEMBER 6, 2016 *MS*
SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING THE LANDSCAPE WATER CONSERVATION STANDARDS (ZOA-07-16)

RECOMMENDATIONS

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

1. Motion to have a Second Reading of Ordinance No. 470 by title and number only and waive further reading; and
2. Following the Clerk's reading; by motion adopt Ordinance No. 470 to amend the Clayton Municipal Code's landscape water conservation standards in order to comply with State law (**Attachment 1**).

BACKGROUND

On November 15, 2016, the City Council introduced the subject ordinance, which proposes to amend Chapter 17.80 of the Clayton Municipal Code for the purpose of amending the City's landscape water conservation standards to comply with State law (**Attachment 2**). No changes were made to the Ordinance at the November 15, 2016 hearing.

ENVIRONMENTAL DETERMINATIONS

The Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15307 (14 Cal. Code Regs., § 15307), this Ordinance is covered by the CEQA Categorical Exemption for actions taken to assure the maintenance, restoration, enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment. The adoption of this Ordinance will result in the enhancement and protection of water resources, and will not result in

cumulative adverse environmental impacts or any other potentially significant impacts described in State CEQA Guidelines section 15300.2. It is therefore exempt from the provisions of CEQA.

FISCAL IMPACT

There is no direct fiscal impact; however there will be staff time associated with the preparation of the mandatory annual report to the State Department of Water Resources, and increased cost of City landscape projects may occur as the new regulations require greater preparation and more efficient irrigation systems.

ATTACHMENTS

1. Ordinance No. 470 [17 pp.]
2. Excerpt of the Staff Report and the Minutes from the November 15, 2016 City Council [46 pp.]

ATTACHMENT 1

ORDINANCE NO. 470

AN ORDINANCE AMENDING THE CLAYTON MUNICIPAL CODE CHAPTER 17.80 LANDSCAPE WATER CONSERVATION STANDARDS

THE CITY COUNCIL City of Clayton, California

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

WHEREAS, California Government Code Section 65595 required that local agencies adopt a water efficient landscape ordinance on or before January 1, 2010 that is at least as effective in conserving water as the updated State Model Water Efficient Landscape Ordinance; and

WHEREAS, on April 1, 2015, the California Governor's Executive Order B-29-15 directed the Department of Water Resources to update the State Model Water Efficient Landscape Ordinance through expedited regulation; and

WHEREAS, Executive Order B-29-15 and the revised State Model Water Efficient Landscape Ordinance require that local agencies report on their implementation and enforcement of their local water efficient landscape ordinances to the State each year; and

WHEREAS, to meet State law the City wishes to amend its existing Water Conserving Landscape Guidelines; and

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

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

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

Section 1. The above recitals are true and correct and are hereby incorporated into this Ordinance.

Section 2. Chapter 17.80 of the Clayton Municipal Code is hereby amended and restated in its entirety as provided in Exhibit "A" attached hereto and incorporated herein by reference.

Section 3. **CEQA.** The City Council hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15307 (14 Cal. Code Regs., § 15307), this Ordinance is covered by the CEQA Categorical Exemption for actions taken to assure the maintenance, restoration, enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the

environment. The adoption of this Ordinance will result in the enhancement and protection of water resources, and will not result in cumulative adverse environment impacts or any other potentially significant impact described in State CEQA Guidelines section 15300.2. It is therefore exempt from the provisions of CEQA. The City Council hereby directs the City Manager or his designee to prepare and file a Notice of Exemption within five business days following adoption of this Ordinance.

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the application thereof to any person or circumstances, is held to be unconstitutional or to be otherwise invalid by any court competent jurisdiction, such invalidity shall not affect other provisions or clauses of this Ordinance or application thereof which can be implemented without the invalid provisions, clause, or application, and to this end such provisions and clauses of the Ordinance are declared to be severable.

Section 5. Conflicting Ordinances Repealed. Any ordinance or part thereof, or regulations in conflict with the provisions of this Ordinance, are hereby repealed. The provisions of this Ordinance shall control with regard to any provision of the Clayton Municipal Code that may be inconsistent with the provisions of this Ordinance.

Section 6. Effective Date and Publication. This Ordinance shall become effective thirty (30) days from and after its passage. Within fifteen (15) days after the passage of the Ordinance, the City Clerk shall cause it to be posted in three (3) public places heretofore designated by resolution by the City Council for the posting of ordinances and public notices. Further, the City Clerk is directed to cause the amendments adopted in Section 2 of this Ordinance to be entered into the City of Clayton Municipal Code.

The foregoing Ordinance was introduced at a regular noticed public meeting of the City Council of the City of Clayton held on November 15, 2016.

Passed, adopted, and ordered posted by the City Council of the City of Clayton at a regular public meeting thereof held on December 6, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

THE CITY COUNCIL OF CLAYTON, CA.

_____, Mayor

ATTEST

Janet Brown, City Clerk

APPROVED AS TO FORM

APPROVED BY ADMINISTRATION

Malathy Subramanian, City Attorney

Gary A. Napper, City Manager

I hereby certify that the foregoing Ordinance was duly introduced at a noticed regular meeting of the City Council of the City of Clayton held on November 15, 2016 and was duly adopted, passed, and ordered posted at a regular meeting of the City Council held on December 6, 2016.

Janet Brown, City Clerk

EXHIBIT A

Chapter 17.80

LANDSCAPE WATER CONSERVATION STANDARDS

Sections:

- 17.80.010 Title and Purpose
- 17.80.020 Definitions
- 17.80.030 Applicability
- 17.80.040 Landscape Project Application (LPA) Requirements
- 17.80.050 Water Efficient Landscape Standards
- 17.80.060 Landscape Plan Requirements
- 17.80.070 Landscape Water Audit Requirements
- 17.80.080 Certifications
- 17.80.090 Landscape and Irrigation Maintenance Schedule
- 17.80.100 Stormwater Management
- 17.80.110 Provisions for Existing Landscapes
- 17.80.120 Public Education
- 17.80.130 Reporting

17.80.010 Title and Purpose. This Chapter shall be known and may be cited as the Landscape Water Conservation Standards Ordinance of the City of Clayton for the purpose of implementing within Clayton the Water Conservation in Landscaping Act of 2006 and the implementation of Executive Order B-29-15.

17.80.020 Definitions. Certain words and phrases are defined within this Chapter and the definitions herein apply to this Chapter only. Where it appears from the context of such words, phrases, or provisions that a different meaning is intended, the definition shall be determined by the Community Development Director.

- A. "Applicant" means the individual or entity submitting a Landscape Project Application (LPA) required under Section 17.80.040 of this Chapter to request a permit, plan check, or design review from the City of Clayton, or

requesting new or expanded water service from the local water district. A project applicant may be the property owner or his or her designee.

- B. "Applied water" means the portion of water supplied by the irrigation system to the landscape.
- C. "Backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from an irrigation system.
- D. "Certified irrigation system auditor" means a person certified by the U.S. Environmental Protection Agency's WaterSense Irrigation Partners Program.
- E. "Control valve manifold" a series of control valves plumbed together in one central spot for distribution to sprinkler heads.
- F. "Conversion factor (0.62)" means the number that converts acre-inches per acre per year to gallons per square foot per year.
- G. "Emission Device" means any device that is contained within an irrigation system that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, bubblers, and drip irrigation emitters.
- H. "Estimated Total Water Use (ETWU)" means the estimated total water used for the landscape, as described in the City of Clayton Water Allowance Work Sheet.
- I. "ET adjustment factor (ETAF)" means a factor of 0.55 for residential areas and 0.45 for non-residential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency which are two major influences upon the amount of water that needs to be applied to the landscape. ETAF for a Special Landscape Area shall be 1.0.
- J. "ETo" stands for Reference Evapotranspiration, and means the water loss from a large field of 4-7 inch-tall, cool-season grass that is not water stressed. Local ETo numbers can be found through the California Irrigation Management Information System (CIMIS).
- K. "Evapotranspiration" means the combination of water transpired from plants and evaporated from the soil and plant surfaces.
- L. "Flow rate" means the rate at which water flows through pipes, valves, and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.
- M. "Flow sensors" means an inline device installed at the supply point of the irrigation system that produces a repeatable signal proportional to flow rate. Flow sensors must be connected to an automatic irrigation controller, or

flow monitor capable of receiving flow signals and operating master valves. This combination flow sensor/controller may also function as a landscape water meter or submeter.

- N. “Graywater” means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy body wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes.
- O. “Geometry” means the size, shape, and angles of an area.
- P. “Hardscape” means any durable material (pervious and non-pervious).
- Q. “Hydrozone” means a portion of the landscaped area having plants with similar water needs. This ordinance uses the publication *Water Use Classification of Landscape Species* (WUCOLS) to determine a plant’s water needs. A hydrozone may be irrigated or non-irrigated.
- R. “Irrigation audit” means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in such a manner with the Irrigation Association’s Landscape Auditor Certification program or other U.S. Environmental Protection Agency “Watersense” labeled auditing program.
- S. “Irrigation efficiency (IE)” means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiency for purposes of this Chapter is 75% for overhead spray devices and 81% for drip or bubbler systems. Greater irrigation efficiency can be expected from well-designed and well-maintained systems.
- T. “Irrigation survey” means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to, inspection, system test, and recommendations to improve performance of the irrigation system.
- U. “Irrigation water use analysis” means an analysis of water use data based on meter readings and billing data.
- V. “Landscape area” means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel, or stone walks, or other pervious or non-pervious hardscapes, and

other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

- W. "Landscape contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.
- X. "Landscape water audit" means an in-depth evaluation of the installed landscape to verify the landscape complies with the Water-Efficient Landscape Standards of the City of Clayton Landscape Water Conservation Standards Ordinance, and completes the Certificate of Compliance for a landscape water audit.
- Y. "Lateral line" means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.
- Z. "Master Shut-Off Valve" means an automatic valve installed at the irrigation supply point which controls water flow into the irrigation system. When this valve is closed water will not be supplied to the irrigation system.
- AA. "Maximum Applied Water Allowance (MAWA)" means the upper limit of annual applied water for the established landscaped area, as specified in the City of Clayton Water Allowance Work Sheets.
- BB. "Medians" mean any planting area that separates traffic lanes on streets and parking areas in parking lots.
- CC. "Mulch" means any organic material, such as leaves, bark, straw, or compost; or inorganic mineral materials, such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.
- DD. "Non-Permeable" means any surface or material that will not allow the passage of water through that surface or material and into the underlying soil at a rate that ensures run-off will not occur.
- EE. "Operating pressure" means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.
- FF. "Overhead irrigation" means systems that deliver water through the air (e.g., sprayheads and rotors).
- GG. "Overspray" means the irrigation water that is delivered beyond the target area.
- HH. "Permit" means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

- II. “Plant factor” or “plant water use factor” is a factor that, when multiplied by ETo, estimates the amount of water needed by plants. The plant factors for this Chapter are from the WUCOLS publication.
- JJ. “Precipitation rate” for this Chapter means the rate of application of water measured in inches per hour.
- KK. “Project” means the total area comprising the landscape area, as defined in this Chapter.
- LL. “Rain switch” or “rain sensing shutoff device” means a component that automatically suspends an irrigation event when it rains.
- MM. “Reference evapotranspiration” or “ETo” means a standard measurement of environmental parameters that affect the water use of plants.
- NN. “Rehabilitated landscape” means any re-landscaping project that requires a permit, plan check, or design review, or requires a new or expanded water service application.
- OO. “Retail water supplier” means any entity, including a public agency, city, county, district or private water company that provides retail water service.
- PP. “Runoff” means water that is not absorbed by the soil or landscape to which it is applied and that flows from the landscape area.
- QQ. “Smart irrigation controllers” means controllers using weather information or soil moisture readings along with site information to automatically adjust the irrigation schedule on a daily basis.
- RR. “Soil moisture sensor” or “soil moisture sensing device” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.
- SS. “Special Landscape Area (SLA)” means an area of the landscape dedicated solely to edible plants, such as vegetable gardens or orchards, areas irrigated with recycled water, water features using recycled water, cemeteries, and areas dedicated to active play, such as parks, sports fields, and golf courses where turf provides a playing surface.
- TT. “Sprinkler head” means a device that delivers water through a nozzle.
- UU. “Station” means an area served by one valve or by a set of valves that operate simultaneously.
- VV. “Turf” means a ground cover surface of mowed grass. Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are examples of cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are examples of warm-season grasses.

- WW. "Valve" means a device used to control the flow of water in the irrigation system.
- XX. "Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied).
- YY. "WUCOLS" means the Water Use Classification of Landscape Species, published by the University of California Cooperative Extension, the Department of Water Resources, and the Bureau of Reclamation, 2000. (WUCOLS) report is available at: <http://www.water.ca.gov/wateruseefficiency/publications/>. Search for WUCOLS, and then go to Part 2 WUCOLS III* 1999 Edition.

17.80.030 Applicability. After January 5, 2017, the indicated provisions of this Chapter shall apply to landscape projects as follows:

- A. Developer Projects: New landscape development for commercial, multi-family, and single family projects with irrigated landscape areas cumulatively equal to or greater than 500 square feet and rehabilitated landscape development for commercial, multi-family, and single family projects with irrigated landscape areas cumulatively equal to or greater than 2,500 square feet, requiring a building permit, grading permit, plan check, or design review shall complete the Landscape Project Application (LPA) described in Section 17.80.040, and comply with all other Sections of this Chapter.
- B. Municipality and Public Agency Projects: New projects designed and installed by the City of Clayton with irrigated landscape areas cumulatively equal to or greater than 500 square feet and rehabilitated projects designed and installed by the City of Clayton with irrigated landscape areas cumulatively equal to or greater than and 2,500 square feet shall comply with Sections 17.80.050, 17.80.060, 17.80.070, 17.80.080, 17.80.090, and 17.80.100.
- C. Owner-Directed Single Family Projects: New owner-directed single family projects with irrigated landscape areas cumulatively equal to or greater than 500 square feet and rehabilitated owner-directed single family projects with irrigated landscape areas cumulatively equal to or greater than 2,500, requiring a building permit, grading permit, plan check, or design review shall complete the Landscape Project Application (LPA) described in Section 17.80.040, and comply with all other Sections, except Section 17.80.090, of this Chapter.
- D. Existing Landscapes: Existing landscapes are only subject to the provisions in Section 17.80.110, "Provisions for Existing Landscapes" and Section 17.80.120, "Public Education".
- E. The provisions of this Chapter shall not apply to:

1. Landscapes that are only temporarily irrigated for establishment purposes and landscapes that are not irrigated with a permanent irrigation system.
2. Registered local, state or federal historical sites, or as may otherwise be determined by the City Council.
3. Community gardens, botanical gardens and arboretums open to the public.

17.80.040 Landscape Project Application (LPA) Requirements. Applicant shall choose one of the two options below to comply with this Chapter:

A. Option A: Proposed landscape project does not include any:

1. Water features with more than 100 square feet of total surface area; or
2. Turf or other high water use plants, unless they qualify as a “Special Landscape Area”. High water use plants are those designated as ‘high water use’ in the Water Use Classification of Landscape Species (WUCOLS) report¹.

For this option, the applicant shall complete the following:

1. Project Application Sheet.
2. Certification Sheets.
3. Landscape Plans (See Section 17.80.060);
4. Maintenance Schedule (See Section 17.80.090).

B. Option B: Proposed landscape project does include:

1. Water features with more than 100 square feet of total surface area; or
2. Turf or other high water use plants not qualifying as a “Special Landscape Area”. The Estimated Total Water Use (ETWU) for the proposed landscape shall not exceed the Maximum Applied Water Allowance (MAWA) for the site. The MAWA formula will use an ET Adjustment Factor of .50 for residential projects and an ET Adjustment Factor of .45 for non-residential projects.

For this option, the applicant shall complete the following:

1. Project Application Sheet.
2. Certification Sheets.

¹ Water Use Classification of Landscape Species (WUCOLS) report which is available at <http://www.walser.ca.gov/wateruseefficiency/publications/> A Guide to Estimating, Part 2.

3. Water Allowance Work Sheets.
4. Landscape Plans (See Section 17.80.060).
5. Maintenance Schedule (See Section 17.80.090).

An applicant requesting design review approval shall submit, at a minimum, a preliminary landscaping plan with the design review application; however, the applicant must submit all components of the Landscape Project Application (LPA) concurrently with the application for building permit or grading permit for the project.

The Community Development Director or his/her designee shall review each LPA for compliance with the provisions of this Chapter and may withhold issuance of a building permit or grading permit for which its corresponding LPA does not comply with this Chapter.

17.80.050 Water Efficient Landscape Standards. The proposed landscape design shall incorporate the most recent acceptable best management practices as determined by the City of Clayton for water-efficient landscape design and shall comply with the following standards:

A. Plant Design:

1. Plants selected shall be well suited to the area's climate and the site's soil conditions.
2. For residential areas, install climate adapted plants with an average WUCOLS plant factor of 0.3 for 75% of the plant area excluding edibles.
3. For non-residential areas, install climate adapted plants with an average WUCOLS plant factor of 0.3 for 100% of the plant area excluding edibles.
4. The proposed landscape shall be designed so that distinct hydrozones are irrigated separately by one or more irrigation valves. A hydrozone is an area with similar sun exposure, irrigation precipitation rate, soil conditions, slope, and plant material with similar water needs. Refer to the WUCOLS report for plant water needs.
5. Plants shall be spaced appropriately based on their expected mature spread.
6. If the geometry of the planting area does not conform to the spray pattern of the sprinkler, resulting in overspray onto the adjacent pavement, then overhead irrigation shall not be used.
7. Plants shall be spaced so that at mature size they do not block sprinklers.
8. Turf shall not be planted on slopes steeper than 15%.

9. Turf shall not exceed 25% of the landscape area for residential areas and there shall be no turf in non-residential areas.
10. Turf shall not be planted in any medians or in areas narrower than 10'0".
11. High water use plants with a WUCOLS plant factor of 0.7 to 1.0 are prohibited in street medians.

B. Irrigation System:

The irrigation system design shall comply with the following requirements:

1. Smart irrigation controller(s) utilizing all the features listed below shall be required on all irrigation systems:
 - a. Daily evapotranspiration data or daily soil moisture sensor utilizing a rain sensor.
 - b. Ability to maintain all data in the event of a power shortage.
2. Specify a dedicated landscape water meter for residential landscapes with an irrigated area greater than 5,000 square feet, and a dedicated water meter for non-residential landscapes with an irrigated area greater than 1,000 square feet, or per retail water supplier regulations.
3. Pressure regulators shall be install on the irrigation system to assure dynamic pressure is within the manufacturers recommended range.
4. Manual shut-off valve shall be installed as close as possible to water supply connection.
5. Manual shutoff valves shall be installed before each control valve manifold for residential irrigation systems.
6. Manual shut-off valves shall be installed before each control valve manifold or individual control valve on non-residential irrigation systems.
7. Recycled water shall be used for landscape irrigation if it is available at the project site.
8. Landscapes using recycled water are considered Special Landscape Areas. The ET Adjustment Factor for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.
9. All graywater systems shall conform to the California Plumbing Code (Title 24, Part 5, Chapter 16) and any applicable local ordinance standards.
10. Specify technology and practices to prevent runoff, low head drainage, overspray, or other water waste.

11. Overhead irrigation shall not be permitted within 12" of any non-permeable surface.
12. Specify sprinkler heads and other emission devices that have matched precipitation rates within each irrigation zone. No irrigation zone shall specify a precipitation rate greater than 1.2 inches per hour. On slopes steeper than 25%, the specified precipitation rate shall not exceed 0.75 inches per hour.
13. Specify irrigation controls so the dynamic water pressure at sprinkler head or other emission device is within manufacturer's recommended optimal operating range.
14. No overhead irrigation shall be specified in planting areas less than 10'0" wide in any dimension, unless demonstrated that water waste will not occur.
15. Specify a manual shut-off valve for each point of connection and specify that each shut-off valve be identified on the controller map.
16. Prepare a controller map and programming table and specify that this be stored in the controller cabinet. The controller map shall visually differentiate each controller zone. For each irrigation valve, the controller programming table shall list the plant water requirement (high, medium, low, or very low), the sun exposure, irrigation emission device type, precipitation rate, station flow rate, optimal pressure, soil type, infiltration rate, square foot area, and degree of slope.
17. Each irrigation valve shall control irrigation to only one distinct hydrozone. A hydrozone is an area with similar sun exposure, irrigation precipitation rate, soil conditions, slope, and plant material with similar water needs. Refer to the WUCOLS report for plant water needs.
18. Specify a separate irrigation valve and hydrozone for the top of a slope and the bottom of a slope.
19. Master shut-off valves are required on all projects except landscapes that make use of technologies that allow for the individual control of sprinklers that are individually pressurized in a system equipped with low pressure shut down features.
20. Flow sensors that detect high flow conditions created by system damage or malfunction are required for all non-residential landscapes and residential landscapes over 5,000 square feet or larger.

C. Water Features:

1. All water features shall have re-circulating water systems.
2. Fountain(s) shall be designed so that no wind drift or overspray occurs.

D. Grading and Soil Preparation:

The landscape design shall:

1. Include a soils management report for large landscape projects and multiple landscape installations (for production home developments a soil sampling of 1 in 7 lots or approximately 15% will satisfy this requirement).
2. Comply with Storm Water Control Plan requirements (C.3), if applicable.
3. Be designed to improve or maintain the infiltration rate of landscape soils typical of their soil texture and minimize soil erosion.
4. Be designed to avoid drainage onto non-permeable hardscapes within the property lines and prevent runoff of all irrigation and natural rainfall outside property lines.
5. Soil amendments shall be incorporated according to recommendations of the soils report and what is appropriate for the plants selected.
6. For landscape installations that require rototilling, compost at a rate of a minimum of 4 cubic yards per 1,000 square feet of permeable area, to a depth of 6 inches into the soil.
7. Specify a minimum three inch layer of mulch shall be applied on all exposed soil surfaces of planting areas unless there is a horticultural reason not to use mulch in a portion of the planting area. Mulch, such as shredded bark, shall be specified in bio-retention areas and slopes, so that the material will stay in place during rain events.

17.80.060 Landscape Plan Requirements. The Landscape plans shall demonstrate that all the water-efficient landscape standards have been met:

A. The planting plan shall:

1. Identify Special Landscape Areas. Special Landscape Areas include: landscape dedicated solely to edible plants, such as vegetable gardens or orchards, areas irrigated with recycled water, water features using recycled water, cemeteries, and areas dedicated to active play, such as parks, sports fields, and golf courses where turf provides a playing surface.
2. Identify plants by their common and botanical names.
3. Identify type and surface area of water features.

B. The irrigation plan shall:

1. Show the location and size of the landscape irrigation water meter.

2. Show the location, type and size of all components of the irrigation system, including, but not limited to, controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices.
 3. Identify the static water pressure at the point of connection to the public water supply.
 4. Identify the flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station.
 5. Identify any applicable graywater discharge piping, system components, and areas of distribution.
- C. Landscape plans shall include details and specifications reflecting the most recent acceptable best management practices as determined by the City of Clayton for water-efficient landscape design.

17.80.070 **Landscape Water Audit Requirements.** A landscape water audit shall be performed to ensure that the installed landscape meets the requirements of this Chapter.

- A. A landscape water audit shall be conducted within thirty (30) days of the start of the landscape maintenance period or, if no maintenance period, then, immediately, upon completion of the landscape installation. An EPA WaterSense certified Irrigation System Auditor shall conduct the landscape water audit and submit a Certificate of Compliance, Landscape Water Audit sheet.
- B. The Landscape Auditor shall inform the applicant of all non-compliance issues with the Ordinance. This shall include, but not be limited to, all items listed on the Certificate of Compliance, Landscape Water Audit sheet.
- C. All non-compliance issues shall be repaired and the site shall be re-audited for compliance with the criteria of this Chapter prior to final inspection/permit and final sign off.

17.80.080 **Certifications.** Water Efficiency Landscape Checklist/Certification sheets will be part of the Landscape Project Application (LPA) requirements.

- A. The person(s) creating the landscape design shall complete the Certificate of Compliance, Landscape Design sheet certifying the landscape has been designed to comply with the criteria of this Chapter.
- B. The Landscape Contractor/Installer shall complete the Certificate of Compliance, Landscape Installation sheet certifying the landscape has been installed, as specified in the Landscape Plans, and complies with the criteria of this Chapter.
- C. The Landscape Auditor shall complete the Landscape Certificate of Compliance, Water Audit sheet certifying the landscape and irrigation system have been

installed, as specified in the Landscape Plans, and comply with the criteria of this Chapter.

- D. The Maintenance Contractor/Person shall complete the Certificate of Compliance, Landscape Maintenance sheet certifying the landscape maintenance contractor agrees to manage the property using less water than the Maximum Applied Water Allowance.
- E. Standard applications are not required for Municipality and Public Agency Projects involving "City" projects conducted by City staff or City hired consultants and where certifications (i.e., Design, Installation, Maintenance, and Auditing) are needed, the City's Maintenance Supervisors may sign-off on them.

17.80.090 Landscape and Irrigation Maintenance Schedule. The landscape designer or installer shall develop a landscape maintenance specification and schedule for the landscape project that is consistent with the most recent acceptable best management practices as determined by the City of Clayton for landscape maintenance. Schedules shall be submitted with the Certification of Completion.

- A. An annual landscape maintenance schedule shall include at least the following: routine inspection; adjustment and repair of the irrigation system and its components; aerating turf areas; replenishing mulch; seasonal pruning; weeding in all landscape areas; and removing obstructions to emission devices;
- B. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents;
- C. Project shall be irrigated so that total annual water applied is less than or equal to the Maximum Applied Water Allowance (MAWA) (if applicable).

17.80.100 Stormwater Management. All applicable projects shall comply with the requirements of the National Pollutant Discharge Elimination System intended to implement storm water best management practices into the planting, irrigation, and grading plans to minimize runoff and to increase on-site retention and infiltration.

17.80.110 Provisions for Existing Landscapes. This section applies to existing landscapes that were installed before January 5, 2017.

- A. Irrigation Survey and Irrigation Water Use Analysis

To ensure the efficient use of landscape water, each owner of property in the City of Clayton is encouraged to utilize resources and services, such as irrigation surveys and landscape water use analyses that are offered by the local retail or wholesale water utility.

- B. Water Waste Prevention

Each owner of property in the City of Clayton shall prevent water waste resulting from inefficient landscape irrigation by prohibiting runoff from the target landscape areas due to excessive irrigation or inappropriate run times related to

time of day, seasonal and/or variable weather conditions, low head drainage, overspray, or other similar conditions where water flows onto an adjacent property, walks, roadways, parking lots, or structures.

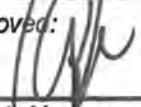
17.80.120 Public Education.

- A. All new model homes that are landscaped shall use signs, brochures and other written information to demonstrate the principles of water-efficient landscapes that are described in this Chapter. Signage shall include information about the site water use as designed per the local ordinance; specify who designed and installed the water efficient landscape; and demonstrate low water use approaches to landscaping such as using native plants, graywater systems, and rainwater catchment systems.
- B. The architectural guidelines of a common interest development, which include homeowner associations, community apartment projects, condominiums, planned developments, and stock cooperatives, shall not prohibit activities or conditions that have the effect of allowing the use of low water use plants as a group.
- C. For new homes/commercial developments, applicant/owner is required to provide the irrigation controller map and programming table and annual maintenance schedules to new tenants or owners at transfer of ownership/maintenance responsibility.
- D. The City of Clayton shall provide on its website links to resources that offer information about the principals of designing, installing, and maintaining water-efficient landscapes. An example of a link is to the local water utility, the Contra Costa Water District, and the landscape water conservation information that Agency offers.

17.80.130 Reporting

- A. The City of Clayton shall submit annual reports to the Department of Water Resources using the Water Efficient Landscape Ordinance Reporting Form, which can be accessed through the Department of Water Resources website. All reports are due by January 31st of each year.



Approved: 
Gary A. Napper
City Manager

STAFF REPORT

TO: HONORABLE MAYOR AND COUNCIL MEMBERS
FROM: MINDY GENTRY, COMMUNITY DEVELOPMENT DIRECTOR *MG*
DATE: NOVEMBER 15, 2016
SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING THE LANDSCAPE WATER CONSERVATION STANDARDS (ZOA-07-16)

RECOMMENDATIONS

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

1. Motion to have the City Clerk read the Ordinance No. 470 by title and number only and waive further reading; and
2. Following the City Clerk's reading; by motion approve Ordinance No. 470 for Introduction to amend the Clayton Municipal Code's landscape water conservation standards to comply with State law (ZOA-07-16) (**Attachment 1**).

BACKGROUND

In 1990, the California State Legislature passed the Water Conservation in Landscaping Act, AB 325, requiring all local agencies to adopt a Water Efficient Landscape Ordinance (WELO).

In September of 2010, the City of Clayton adopted an updated water conservation ordinance in response to the State Water Conservation in Landscaping Act of 2006 (AB 1881). AB 1881 directed the Department of Water Resources to develop a new State Landscape Water Conservation Ordinance, which became effective January 1, 2010. The State Ordinance required all new and rehabilitated landscapes be designed and installed to meet the latest best practices for water use efficiency. All cities and counties in California were required to adopt the State Ordinance as written or develop their own ordinance that is at least as effective in conserving water.

Generally, the thresholds established in the State Ordinance applied to irrigated landscaped areas of 2,500 square feet or greater for developer-initiated projects and public projects, and 5,000 square feet or greater for owner-initiated single-family residential projects. The Planning Commission found the State Ordinance to be too cumbersome and directed staff to participate in drafting an alternative ordinance that was equally as effective as the State Ordinance, but less complicated. The City of Clayton, along with other jurisdictions in the area, worked to draft a Regional Ordinance in order to improve the administration and implementation of the required standards by simplifying the process for design and review. Minor changes were made to the Regional Ordinance which was adopted by the City in 2010, and that Ordinance and those water conservation standards have been in effect locally until recently, due to further state action to regulate this matter.

NEW LAW DISCUSSION

On January 14, 2014, Governor Jerry Brown proclaimed a State of Emergency throughout the State of California due to severe drought conditions. Subsequently on April 1, 2015, the Governor issued Executive Order B-29-15 (EO-29-15) directing the State Water Resources Board to update its State Model Water Efficient Landscape Ordinance (**Attachment 2**). The Executive Order called for revising the Model Ordinance to increase water efficiency standards for new retrofitted landscapes through more efficient irrigation systems, graywater usage, onsite stormwater capture, and by limiting the portion of landscapes that can be covered in turf. The Model Ordinance also requires jurisdictions to report on the implementation and enforcement of local ordinances (**Attachment 3**).

All jurisdictions throughout the state are now required to adopt the State model ordinance or alternatively jurisdictions can adopt their own ordinance as long as it is equally as effective in conserving water as the State's Model Ordinance. The City's existing ordinance does not comply with the State's Model Ordinance as it is not equally as effective in conserving water. Therefore, the City is now under the State's updated Ordinance which is in compliance with Executive Order 29-15; however similar to the update in 2010, the State's Ordinance is cumbersome and the City's proposed ordinance will simplify the process.

SIGNIFICANT PROPOSED CHANGES TO CITY'S ORDINANCE

The major changes to the City's model ordinance, in conformance with the State Ordinance, are as follows (**Attachment 4**):

Projects Subject to the Ordinance

- The size of new landscape areas associated with commercial, multifamily, and single family projects subject to the Ordinance has been lowered from 2,500 square feet to 500 square feet. The threshold for new owner-directed single family projects has been lowered from 5,000 square feet to 500 square feet and rehabilitated owner-directed single family projects has been lowered from 5,000 square feet to 2,500 square feet.

Water Efficient Worksheet and Water Budget

- The maximum applied water allowance (MAWA) has been lowered from 70% of the reference evapotranspiration (ET_o) to 55% for residential landscape projects, and to 45% of ET_o for non-residential projects. This water allowance reduces the landscape area that can be planted with high water use plants such as cool season turf. The water budget approach allows for areas of high water use plants if the water use is reduced in other areas, provided the overall landscape area stays within budget.

Landscape Design

- Turf cannot exceed 25 percent of the landscape area for residential uses and no turf is allowed in non-residential uses (note: only for new or re-landscaped projects that meet or exceed the square footage thresholds).
- Turf cannot be planted in medians or in areas narrower than ten feet.
- Compost must be incorporated into the soil prior to planting at a rate of four yards per 1,000 square feet.
- Mulch depth has been increased to three inches from two.

Irrigation

- Dedicated landscape water meters or submeters are required for residential landscapes over 5,000 square feet and non-residential landscapes over 1,000 square feet.
- Irrigation systems are required to have pressure regulation to ensure correct and efficient operation.
- Flow sensors that detect and report high flow conditions due to broken pipes and/or popped sprinkler heads are required for landscape areas greater than 5,000 square feet.
- Master shut-off valves are now required in case of large irrigation system failures.
- Minimum width of area that can be overhead irrigated was increased to ten feet.

Graywater

- Graywater systems are allowed.

Reporting

- The City is required to report annually to the Department of Water Resources on the implementation and enforcement of its Water Efficient Landscape Ordinance.

The Planning Commission, at its regularly scheduled meeting of October 25, 2016 reviewed and considered the proposed adoption of the subject Ordinance (**Attachment 5**). The Planning Commission did not express any concerns and determined the Ordinance was in line with the State's regulations regarding landscape water conservation; therefore it recommended the City Council adopt the Ordinance.

ENVIRONMENTAL

The Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000 et seq.). Pursuant to State CEQA Guidelines section 15307 (14 Cal. Code Regs., § 15307), this Ordinance is covered by the CEQA Categorical Exemption for actions taken to assure the maintenance, restoration, enhancement, or protection of a natural resource where the regulatory process involves procedures for protection of the environment. The adoption of this Ordinance will result in the enhancement and protection of water resources, and will not result in cumulative adverse environmental impacts or any other potentially significant impacts described in State CEQA Guidelines section 15300.2. It is therefore exempt from the provisions of CEQA.

FISCAL IMPACT

There is no direct fiscal impact; however there will be staff time associated with the preparation of the mandatory annual report to the State Department of Water Resources, and increased cost of City landscape projects may occur as the new regulations require greater preparation and more efficient irrigation systems.

ATTACHMENTS

1. Ordinance No. 470 [17 pp.]
2. Executive Order B-29-15 [7 pp.]
3. Department of Water Resources Model Water Efficient Landscape Ordinance [24 pp.]
4. Clayton Municipal Code Section 17.80 with Redline Changes [15 pp.]
5. Excerpt from the October 25, 2016 Planning Commission Meeting Staff Report [3 pp.]

entering into the loan contract. For investor-owned utilities, meetings or hearings held by the Public Utilities Commission may serve as Project Feasibility Meetings.

(b) Before a Project Feasibility Meeting, the supplier shall:

(1) Make available information describing the project in a form and location that will enable the water users to review it and to make appropriate comments. The information must be made available for a period of at least fifteen days before the Project Feasibility Meeting.

(2) Establish a date for the meeting agreeable to the Department and Department of Health Services.

(3) Notify the Department, the Department of Health Services and appropriate county health agencies in writing at least twenty calendar days before the meeting, and notify all water users and the local news media in writing at least fifteen calendar days before the meeting. The notice shall state: the date, time, location, and purpose of the meeting and the location of information describing the project for review by the water users. Sample notice forms will be provided by the Department.

(4) Obtain a meeting place of sufficient size and at a convenient location to accommodate the anticipated attendance.

(c) The agenda of the meeting shall include the following matters: (1) A discussion of applicable public health and water works standards, existing and potential health hazards associated with the water system, how the proposed project will bring the system to minimum health standards, and alternative solutions to the problem. (2) The supplier shall describe the proposed project in detail, using maps, charts, and other illustrative devices, if appropriate. The discussion shall include the costs, sources of funds, the amount of the loan-grant commitment, and changes in water costs resulting from the project.

(3) A representative of the State may describe the Act, the State's role in its administration and the Department's recommendation regarding the supplier's loan application. Persons present at the meeting shall be permitted to ask questions regarding all subjects discussed at the meeting.

(d) If no representative of the Department is present at the meeting, the supplier shall submit an official written report to the Department describing the meeting and its outcome including the results of any vote taken. NOTE: Authority cited: Section 13834, Water Code. Reference: Section 13834, Water Code.

§ 489.1. Plans and Specifications.

Before commencing construction, each Supplier shall provide detailed plans and specifications to the Department of Health Services for review and approval by a registered Civil Engineer employed by the Department of Health Services. Unless otherwise authorized in writing by the Department of Health Services, the supplier shall not commence construction without written notification from the Department of Health Services that the plans and specifications have been approved.

NOTE: Authority cited: Section 13834, Water Code. Reference: Section 13837, Water Code.

§ 489.2. Certification of Completion.

Department of Health Services shall inspect the completed project and if satisfied that the project has been completed in accordance with approved plans and specifications, shall provide the supplier and the Department with written certification to that effect.

NOTE: Authority cited: Section 13834, Water Code. Reference: Section 13834, Water Code.

Chapter 2.6. Weather Resources Management [Repealed]

NOTE: Authority cited: Sections 161, 401, 403 and 6078, Water Code. Reference: Sections 401, 402 and 403, Water Code and Sections 21000 et seq., Public Resources Code.

HISTORY

1. New Subchapter 2.6 (Articles 1-5, Sections 490-495.03, not consecutive) filed 9-28-79; effective thirtieth day thereafter (Register 79, No. 39).
2. Repealer of Subchapter 2.6 (Articles 1-5, Sections 490-495.03, not consecutive, not previously repealed by OAL Order of Repeal) filed 6-5-86; effective

thirtieth day thereafter (Register 86, No. 23). For prior history, see Register 85, No. 26; 81, Nos. 40 and 38; and 80, No. 7.

Chapter 2.7. Model Water Efficient Landscape Ordinance

§ 490. Purpose.

(a) The State Legislature has found:

(1) that the waters of the state are of limited supply and are subject to ever increasing demands;

(2) that the continuation of California's economic prosperity is dependent on the availability of adequate supplies of water for future uses;

(3) that it is the policy of the State to promote the conservation and efficient use of water and to prevent the waste of this valuable resource;

(4) that landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development;

(5) that landscape design, installation, maintenance and management can and should be water efficient;

(6) that Section 2 of Article X of the California Constitution specifies that the right to use water is limited to the amount reasonably required for the beneficial use to be served and the right does not and shall not extend to waste or unreasonable method of use.

(b) Consistent with the legislative findings, the purpose of this model ordinance is to:

(1) promote the values and benefits of landscaping practices that integrate and go beyond the conservation and efficient use of water;

(2) establish a structure for planning, designing, installing, maintaining and managing water efficient landscapes in new construction and rehabilitated projects by encouraging the use of a watershed approach that requires cross-sector collaboration of industry, government and property owners to achieve the many benefits possible;

(3) establish provisions for water management practices and water waste prevention for existing landscapes;

(4) use water efficiently without waste by setting a Maximum Applied Water Allowance as an upper limit for water use and reduce water use to the lowest practical amount;

(5) promote the benefits of consistent landscape ordinances with neighboring local and regional agencies;

(6) encourage local agencies and water purveyors to use economic incentives that promote the efficient use of water, such as implementing a tiered-rate structure; and

(7) encourage local agencies to designate the necessary authority that implements and enforces the provisions of the Model Water Efficient Landscape Ordinance or its local landscape ordinance.

(c) Landscapes that are planned, designed, installed, managed and maintained with the watershed based approach can improve California's environmental conditions and provide benefits and realize sustainability goals. Such landscapes will make the urban environment resilient in the face of climatic extremes. Consistent with the legislative findings and purpose of the Ordinance, conditions in the urban setting will be improved by:

(1) Creating the conditions to support life in the soil by reducing compaction, incorporating organic matter that increases water retention, and promoting productive plant growth that leads to more carbon storage, oxygen production, shade, habitat and esthetic benefits.

(2) Minimizing energy use by reducing irrigation water requirements, reducing reliance on petroleum based fertilizers and pesticides, and planting climate appropriate shade trees in urban areas.

(3) Conserving water by capturing and reusing rainwater and graywater wherever possible and selecting climate appropriate plants that need minimal supplemental water after establishment.

(4) Protecting air and water quality by reducing power equipment use and landfill disposal trips, selecting recycled and locally sourced materi-

als, and using compost, mulch and efficient irrigation equipment to prevent erosion.

(5) Protecting existing habitat and creating new habitat by choosing local native plants, climate adapted non-natives and avoiding invasive plants. Utilizing integrated pest management with least toxic methods as the first course of action.

NOTE: Authority cited: Section 65593, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Sections 65591, 65593 and 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New chapter 2.7 (sections 490-495) filed 7-31-92; operative 7-31-92 (Register 92, No. 32).
2. Amendment of section and NOTE filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
3. Amendment of subsections (a)(4) and (b)(1)-(2), new subsections (c)-(c)(5) and amendment of NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 490.1. Applicability.

(a) After December 1, 2015, and consistent with Executive Order No. B-29-15, this ordinance shall apply to all of the following landscape projects:

(1) new construction projects with an aggregate landscape area equal to or greater than 500 square feet requiring a building or landscape permit, plan check or design review;

(2) rehabilitated landscape projects with an aggregate landscape area equal to or greater than 2,500 square feet requiring a building or landscape permit, plan check, or design review;

(3) existing landscapes limited to Sections 493, 493.1 and 493.2; and

(4) cemeteries. Recognizing the special landscape management needs of cemeteries, new and rehabilitated cemeteries are limited to Sections 492.4, 492.11, and 492.12; and existing cemeteries are limited to Sections 493, 493.1, and 493.2.

(b) For local land use agencies working together to develop a regional water efficient landscape ordinance, the reporting requirements of this ordinance shall become effective December 1, 2015 and the remainder of this ordinance shall be effective no later than February 1, 2016.

(c) Any project with an aggregate landscape area of 2,500 square feet or less may comply with the performance requirements of this ordinance or conform to the prescriptive measures contained in Appendix D.

(d) For projects using treated or untreated graywater or rainwater captured on site, any lot or parcel within the project that has less than 2500 sq. ft. of landscape and meets the lot or parcel's landscape water requirement (Estimated Total Water Use) entirely with treated or untreated graywater or through stored rainwater captured on site is subject only to Appendix D section (5).

(e) This ordinance does not apply to:

(1) registered local, state or federal historical sites;

(2) ecological restoration projects that do not require a permanent irrigation system;

(3) mined-land reclamation projects that do not require a permanent irrigation system; or

(4) existing plant collections, as part of botanical gardens and arboreturns open to the public.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 491. Definitions.

The terms used in this ordinance have the meaning set forth below:

(a) "applied water" means the portion of water supplied by the irrigation system to the landscape.

(b) "automatic irrigation controller" means a timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers are able to self-adjust and schedule irrigation events using either evapotranspiration (weather-based) or soil moisture data.

(c) "backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

(d) "Certificate of Completion" means the document required under Section 492.9.

(e) "certified irrigation designer" means a person certified to design irrigation systems by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency's WaterSense irrigation designer certification program and Irrigation Association's Certified Irrigation Designer program.

(f) "certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other program such as the US Environmental Protection Agency's WaterSense irrigation auditor certification program and Irrigation Association's Certified Landscape Irrigation Auditor program.

(g) "check valve" or "anti-drain valve" means a valve located under a sprinkler head, or other location in the irrigation system, to hold water in the system to prevent drainage from sprinkler heads when the sprinkler is off.

(h) "common interest developments" means community apartment projects, condominium projects, planned developments, and stock cooperatives per Civil Code Section 1351.

(i) "compost" means the safe and stable product of controlled biologic decomposition of organic materials that is beneficial to plant growth.

(j) "conversion factor (0.62)" means the number that converts acre-inches per acre per year to gallons per square foot per year.

(k) "distribution uniformity" means the measure of the uniformity of irrigation water over a defined area.

(l) "drip irrigation" means any non-spray low volume irrigation system utilizing emission devices with a flow rate measured in gallons per hour. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

(m) "ecological restoration project" means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

(n) "effective precipitation" or "usable rainfall" (Eppt) means the portion of total precipitation which becomes available for plant growth.

(o) "emitter" means a drip irrigation emission device that delivers water slowly from the system to the soil.

(p) "established landscape" means the point at which plants in the landscape have developed significant root growth into the soil. Typically, most plants are established after one or two years of growth.

(q) "establishment period of the plants" means the first year after installing the plant in the landscape or the first two years if irrigation will be terminated after establishment. Typically, most plants are established after one or two years of growth. Native habitat mitigation areas and trees may need three to five years for establishment.

(r) "Estimated Total Water Use" (ETWU) means the total water used for the landscape as described in Section 492.4.

(s) "ET adjustment factor" (ETAF) means a factor of 0.55 for residential areas and 0.45 for non-residential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water that needs to be applied to the landscape. The ETAF for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0. The ETAF for existing non-rehabilitated landscapes is 0.8.

(t) "evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time.

(u) "flow rate" means the rate at which water flows through pipes, valves and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.

(v) "flow sensor" means an inline device installed at the supply point of the irrigation system that produces a repeatable signal proportional to flow rate. Flow sensors must be connected to an automatic irrigation controller, or flow monitor capable of receiving flow signals and operating master valves. This combination flow sensor/controller may also function as a landscape water meter or submeter.

(w) "friable" means a soil condition that is easily crumbled or loosely compacted down to a minimum depth per planting material requirements, whereby the root structure of newly planted material will be allowed to spread unimpeded.

(x) "Fuel Modification Plan Guideline" means guidelines from a local fire authority to assist residents and businesses that are developing land or building structures in a fire hazard severity zone.

(y) "graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy bodily wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes. "Graywater" includes, but is not limited to, wastewater from bathtubs, showers, bathroom washbasins, clothes washing machines, and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers. Health and Safety Code Section 17922.12.

(z) "hardscapes" means any durable material (pervious and non-pervious).

(aa) "hydrozone" means a portion of the landscaped area having plants with similar water needs and rooting depth. A hydrozone may be irrigated or non-irrigated.

(bb) "infiltration rate" means the rate of water entry into the soil expressed as a depth of water per unit of time (e.g., inches per hour).

(cc) "invasive plant species" means species of plants not historically found in California that spread outside cultivated areas and can damage environmental or economic resources. Invasive species may be regulated by county agricultural agencies as noxious species. Lists of invasive plants are maintained at the California Invasive Plant Inventory and USDA invasive and noxious weeds database.

(dd) "irrigation audit" means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in a manner consistent with the Irrigation Association's Landscape Irrigation Auditor Certification program or other U.S. Environmental Protection Agency "Watersense" labeled auditing program.

(ee) "irrigation efficiency" (IE) means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiency for purposes of this ordinance are 0.75 for overhead spray devices and 0.81 for drip systems.

(ff) "irrigation survey" means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to: inspection, system test, and written recommendations to improve performance of the irrigation system.

(gg) "irrigation water use analysis" means an analysis of water use data based on meter readings and billing data.

(hh) "landscape architect" means a person who holds a license to practice landscape architecture in the state of California Business and Professions Code, Section 5615.

(ii) "landscape area" means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Wa-

ter Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-perviousment (e.g., open spaces and existing native vegetation).

(jj) "landscape contractor" means a person licensed by the state of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

(kk) "Landscape Documentation Package" means the documents required under Section 492.3.

(ll) "landscape project" means total area of landscape in a project as defined in "landscape area" for the purposes of this ordinance, meeting requirements under Section 490.1.

(mm) "landscape water meter" means an inline device installed at the irrigation supply point that measures the flow of water into the irrigation system and is connected to a totalizer to record water use.

(nn) "lateral line" means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.

(oo) "local agency" means a city or county, including a charter city or charter county, that is responsible for adopting and implementing the ordinance. The local agency is also responsible for the enforcement of this ordinance, including but not limited to, approval of a permit and plan check or design review of a project.

(pp) "local water purveyor" means any entity, including a public agency, city, county, or private water company that provides retail water service.

(qq) "low volume irrigation" means the application of irrigation water at low pressure through a system of tubing or lateral lines and low-volume emitters such as drip, drip lines, and bubblers. Low volume irrigation systems are specifically designed to apply small volumes of water slowly at or near the root zone of plants.

(rr) "main line" means the pressurized pipeline that delivers water from the water source to the valve or outlet.

(ss) "master shut-off valve" is an automatic valve installed at the irrigation supply point which controls water flow into the irrigation system. When this valve is closed water will not be supplied to the irrigation system. A master valve will greatly reduce any water loss due to a leaky station valve.

(tt) "Maximum Applied Water Allowance" (MAWA) means the upper limit of annual applied water for the established landscaped area as specified in Section 492.4. It is based upon the area's reference evapotranspiration, the ET Adjustment Factor, and the size of the landscape area. The Estimated Total Water Use shall not exceed the Maximum Applied Water Allowance. Special Landscape Areas, including recreation areas, areas permanently and solely dedicated to edible plants such as orchards and vegetable gardens, and areas irrigated with recycled water are subject to the MAWA with an ETAF not to exceed 1.0. $MAWA = (ET_0) (0.62) [(ETAF \times LA) + ((1-ETAF) \times SLA)]$

(uu) "median" is an area between opposing lanes of traffic that may be unplanted or planted with trees, shrubs, perennials, and ornamental grasses.

(vv) "microclimate" means the climate of a small, specific area that may contrast with the climate of the overall landscape area due to factors such as wind, sun exposure, plant density, or proximity to reflective surfaces.

(ww) "mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

(xx) "mulch" means any organic material such as leaves, bark, straw, compost, or inorganic mineral materials such as rocks, gravel, or decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.

(yy) "new construction" means, for the purposes of this ordinance, a new building with a landscape or other new landscape, such as a park, playground, or greenbelt without an associated building.

(zz) “non-residential landscape” means landscapes in commercial, institutional, industrial and public settings that may have areas designated for recreation or public assembly. It also includes portions of common areas of common interest developments with designated recreational areas.

(aaa) “operating pressure” means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.

(bbb) “overhead sprinkler irrigation systems” or “overhead spray irrigation systems” means systems that deliver water through the air (e.g., spray heads and rotors).

(ccc) “overspray” means the irrigation water which is delivered beyond the target area.

(ddd) “parkway” means the area between a sidewalk and the curb or traffic lane. It may be planted or unplanted, and with or without pedestrian egress.

(eee) “permit” means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.

(fff) “pervious” means any surface or material that allows the passage of water through the material and into the underlying soil.

(ggg) “plant factor” or “plant water use factor” is a factor, when multiplied by ETo, estimates the amount of water needed by plants. For purposes of this ordinance, the plant factor range for very low water use plants is 0 to 0.1, the plant factor range for low water use plants is 0.1 to 0.3, the plant factor range for moderate water use plants is 0.4 to 0.6, and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this ordinance are derived from the publication “Water Use Classification of Landscape Species”. Plant factors may also be obtained from horticultural researchers from academic institutions or professional associations as approved by the California Department of Water Resources (DWR).

(hhh) “project applicant” means the individual or entity submitting a Landscape Documentation Package required under Section 492.3, to request a permit, plan check, or design review from the local agency. A project applicant may be the property owner or his or her designee.

(iii) “rain sensor” or “rain sensing shutoff device” means a component which automatically suspends an irrigation event when it rains.

(iii) “record drawing” or “as-builts” means a set of reproducible drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor.

(kdk) “recreational area” means areas, excluding private single family residential areas, designated for active play, recreation or public assembly in parks, sports fields, picnic grounds, amphitheaters or golf course tees, fairways, roughs, surrounds and greens.

(iii) “recycled water,” “reclaimed water,” or “treated sewage effluent water” means treated or recycled waste water of a quality suitable for nonpotable uses such as landscape irrigation and water features. This water is not intended for human consumption.

(mmm) “reference evapotranspiration” or “ETo” means a standard measurement of environmental parameters which affect the water use of plants. ETo is expressed in inches per day, month, or year as represented in Appendix A, and is an estimate of the evapotranspiration of a large field of four- to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances so that regional differences in climate can be accommodated.

(nnn) “Regional Water Efficient Landscape Ordinance” means a local Ordinance adopted by two or more local agencies, water suppliers and other stakeholders for implementing a consistent set of landscape provisions throughout a geographical region. Regional ordinances are strongly encouraged to provide a consistent framework for the landscape industry and applicants to adhere to.

(ooo) “rehabilitated landscape” means any relandscaping project that requires a permit, plan check, or design review, meets the requirements of Section 490.1, and the modified landscape area is equal to or greater than 2,500 square feet.

(ppp) “residential landscape” means landscapes surrounding single or multifamily homes.

(qqq) “run off” means water which is not absorbed by the soil or landscape to which it is applied and flows from the landscape area. For example, run off may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or when there is a slope.

(rrr) “soil moisture sensing device” or “soil moisture sensor” means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.

(sss) “soil texture” means the classification of soil based on its percentage of sand, silt, and clay.

(ttt) “Special Landscape Area” (SLA) means an area of the landscape dedicated solely to edible plants, recreational areas, areas irrigated with recycled water, or water features using recycled water.

(uuu) “sprinkler head” or “spray head” means a device which delivers water through a nozzle.

(vvv) “static water pressure” means the pipeline or municipal water supply pressure when water is not flowing.

(www) “station” means an area served by one valve or by a set of valves that operate simultaneously.

(xxx) “swing joint” means an irrigation component that provides a flexible, leak-free connection between the emission device and lateral pipeline to allow movement in any direction and to prevent equipment damage.

(yyy) “submeter” means a metering device to measure water applied to the landscape that is installed after the primary utility water meter.

(zzz) “turf” means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermudagrass, Kikuyugrass, Seashore Paspalum, St. Augustinegrass, Zoysiagrass, and Buffalo grass are warm-season grasses.

(aaa) “valve” means a device used to control the flow of water in the irrigation system.

(bbbb) “water conserving plant species” means a plant species identified as having a very low or low plant factor.

(cccc) “water feature” means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscape area. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices that are not irrigated and used solely for water treatment or stormwater retention are not water features and, therefore, are not subject to the water budget calculation.

(dddd) “watering window” means the time of day irrigation is allowed.

(eeee) “WUCOLS” means the Water Use Classification of Landscape Species published by the University of California Cooperative Extension and the Department of Water Resources 2014.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor’s Exec. Order No. B-29-15 (April 1, 2015). Reference: Sections 65592 and 65596, Government Code; and section 11, Governor’s Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 7-31-92; operative 7-31-92 (Register 92, No. 32).
2. Amendment of section and NOTE filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
3. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor’s Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492. Provisions for New Construction or Rehabilitated Landscapes.

(a) A local agency may designate by mutual agreement, another agency, such as a water purveyor, to implement some or all of the requirements contained in this ordinance. Local agencies may collaborate with water purveyors to define each entity’s specific responsibilities relating to this ordinance.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor’s Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596,

Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 7-31-92; operative 7-31-92 (Register 92, No. 32).
2. Amendment of section heading, repealer and new section and amendment of NOTE filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
3. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.1. Compliance with Landscape Documentation Package.

- (a) Prior to construction, the local agency shall:
- (1) provide the project applicant with the ordinance and procedures for permits, plan checks or design reviews;
 - (2) review the Landscape Documentation Package submitted by the project applicant;
 - (3) approve or deny the Landscape Documentation Package;
 - (4) issue a permit or approve the plan check or design review for the project applicant; and
 - (5) upon approval of the Landscape Documentation Package, submit a copy of the Water Efficient Landscape Worksheet to the local water purveyor.
- (b) Prior to construction, the project applicant shall:
- (1) submit a Landscape Documentation Package to the local agency.
 - (c) Upon approval of the Landscape Documentation Package by the local agency, the project applicant shall:
 - (1) receive a permit or approval of the plan check or design review and record the date of the permit in the Certificate of Completion;
 - (2) submit a copy of the approved Landscape Documentation Package along with the record drawings, and any other information to the property owner or his/her designee; and
 - (3) submit a copy of the Water Efficient Landscape Worksheet to the local water purveyor.

NOTE: Authority cited: Section 65595, Government Code. Reference: Section 65596, Government Code.

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

§ 492.2. Penalties.

- (a) A local agency may establish and administer penalties to the project applicant for non-compliance with the ordinance to the extent permitted by law.

NOTE: Authority cited: Section 65595, Government Code. Reference: Section 65596, Government Code.

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

§ 492.3. Elements of the Landscape Documentation Package.

- (a) The Landscape Documentation Package shall include the following six (6) elements:
- (1) project information;
 - (A) date
 - (B) project applicant
 - (C) project address (if available, parcel and/or lot number(s))
 - (D) total landscape area (square feet)
 - (E) project type (e.g., new, rehabilitated, public, private, cemetery, homeowner-installed)
 - (F) water supply type (e.g., potable, recycled, well) and identify the local retail water purveyor if the applicant is not served by a private well
 - (G) checklist of all documents in Landscape Documentation Package
 - (H) project contacts to include contact information for the project applicant and property owner
 - (I) applicant signature and date with statement, "I agree to comply with the requirements of the water efficient landscape ordinance and submit a complete Landscape Documentation Package".

- (2) Water Efficient Landscape Worksheet;
 - (A) hydrozone information table
 - (B) water budget calculations
1. Maximum Applied Water Allowance (MAWA)
2. Estimated Total Water Use (ETWU)
- (3) soil management report;
- (4) landscape design plan;
- (5) irrigation design plan; and
- (6) grading design plan.

NOTE: Authority cited: Section 65595, Government Code. Reference: Section 65596, Government Code.

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

§ 492.4. Water Efficient Landscape Worksheet.

(a) A project applicant shall complete the Water Efficient Landscape Worksheet in Appendix B which contains information on the plant factor, irrigation method, irrigation efficiency, and area associated with each hydrozone. Calculations are then made to show that the evapotranspiration adjustment factor (ETAF) for the landscape project does not exceed a factor of 0.55 for residential areas and 0.45 for non-residential areas, exclusive of Special Landscape Areas. The ETAF for a landscape project is based on the plant factors and irrigation methods selected. The Maximum Applied Water Allowance is calculated based on the maximum ETAF allowed (0.55 for residential areas and 0.45 for non-residential areas) and expressed as annual gallons required. The Estimated Total Water Use (ETWU) is calculated based on the plants used and irrigation method selected for the landscape design. ETWU must be below the MAWA.

(1) In calculating the Maximum Applied Water Allowance and Estimated Total Water Use, a project applicant shall use the ET_o values from the Reference Evapotranspiration Table in Appendix A. For geographic areas not covered in Appendix A, use data from other cities located nearby in the same reference evapotranspiration zone, as found in the CIMIS Reference Evapotranspiration Zones Map, Department of Water Resources, 1999.

(b) Water budget calculations shall adhere to the following requirements:

(1) The plant factor used shall be from WUCOLS or from horticultural researchers with academic institutions or professional associations as approved by the California Department of Water Resources (DWR). The plant factor ranges from 0 to 0.1 for very low water using plants, 0.1 to 0.3 for low water use plants, from 0.4 to 0.6 for moderate water use plants, and from 0.7 to 1.0 for high water use plants.

(2) All water features shall be included in the high water use hydrozone and temporarily irrigated areas shall be included in the low water use hydrozone.

(3) All Special Landscape Areas shall be identified and their water use calculated as shown in Appendix B.

(4) ETAF for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.5. Soil Management Report.

(a) In order to reduce runoff and encourage healthy plant growth, a soil management report shall be completed by the project applicant, or his/her designee, as follows:

- (1) Submit soil samples to a laboratory for analysis and recommendations.

(A) Soil sampling shall be conducted in accordance with laboratory protocol, including protocols regarding adequate sampling depth for the intended plants.

(B) The soil analysis shall include:

1. soil texture;
2. infiltration rate determined by laboratory test or soil texture infiltration rate table;
3. pH;
4. total soluble salts;
5. sodium;
6. percent organic matter; and
7. recommendations.

(C) In projects with multiple landscape installations (i.e. production home developments) a soil sampling rate of 1 in 7 lots or approximately 15% will satisfy this requirement. Large landscape projects shall sample at a rate equivalent to 1 in 7 lots.

(2) The project applicant, or his/her designee, shall comply with one of the following:

(A) If significant mass grading is not planned, the soil analysis report shall be submitted to the local agency as part of the Landscape Documentation Package; or

(B) If significant mass grading is planned, the soil analysis report shall be submitted to the local agency as part of the Certificate of Completion.

(3) The soil analysis report shall be made available, in a timely manner, to the professionals preparing the landscape design plans and irrigation design plans to make any necessary adjustments to the design plans.

(4) The project applicant, or his/her designee, shall submit documentation verifying implementation of soil analysis report recommendations to the local agency with Certificate of Completion.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of subsection (a)(1)(B), new subsection (a)(1)(C) and amendment of NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.6. Landscape Design Plan.

(a) For the efficient use of water, a landscape shall be carefully designed and planned for the intended function of the project. A landscape design plan meeting the following design criteria shall be submitted as part of the Landscape Documentation Package.

(1) Plant Material

(A) Any plant may be selected for the landscape, providing the Estimated Total Water Use in the landscape area does not exceed the Maximum Applied Water Allowance. Methods to achieve water efficiency shall include one or more of the following:

1. protection and preservation of native species and natural vegetation;
2. selection of water-conserving plant, tree and turf species, especially local native plants;
3. selection of plants based on local climate suitability, disease and pest resistance;
4. selection of trees based on applicable local tree ordinances or tree shading guidelines, and size at maturity as appropriate for the planting area; and
5. selection of plants from local and regional landscape program plant lists.
6. selection of plants from local Fuel Modification Plan Guidelines.

(B) Each hydrozone shall have plant materials with similar water use, with the exception of hydrozones with plants of mixed water use, as specified in Section 492.7(a)(2)(D).

(C) Plants shall be selected and planted appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the

project site. Methods to achieve water efficiency shall include one or more of the following:

1. use the Sunset Western Climate Zone System which takes into account temperature, humidity, elevation, terrain, latitude, and varying degrees of continental and marine influence on local climate;

2. recognize the horticultural attributes of plants (i.e., mature plant size, invasive surface roots) to minimize damage to property or infrastructure [e.g., buildings, sidewalks, power lines]; allow for adequate soil volume for healthy root growth; and

3. consider the solar orientation for plant placement to maximize summer shade and winter solar gain.

(D) Turf is not allowed on slopes greater than 25% where the toe of the slope is adjacent to an impermeable hardscape and where 25% means 1 foot of vertical elevation change for every 4 feet of horizontal length (rise divided by run x 100 = slope percent).

(E) High water use plants, characterized by a plant factor of 0.7 to 1.0, are prohibited in street medians.

(F) A landscape design plan for projects in fire-prone areas shall address fire safety and prevention. A defensible space or zone around a building or structure is required per Public Resources Code Section 4291(a) and (b). Avoid fire-prone plant materials and highly flammable mulches. Refer to the local Fuel Modification Plan guidelines.

(G) The use of invasive plant species, such as those listed by the California Invasive Plant Council, is strongly discouraged.

(H) The architectural guidelines of a common interest development, which include community apartment projects, condominiums, planned developments, and stock cooperatives, shall not prohibit or include conditions that have the effect of prohibiting the use of low-water use plants as a group.

(2) Water Features

(A) Recirculating water systems shall be used for water features.

(B) Where available, recycled water shall be used as a source for decorative water features.

(C) Surface area of a water feature shall be included in the high water use hydrozone area of the water budget calculation.

(D) Pool and spa covers are highly recommended.

(3) Soil Preparation, Mulch and Amendments

(A) Prior to the planting of any materials, compacted soils shall be transformed to a friable condition. On engineered slopes, only amended planting holes need meet this requirement.

(B) Soil amendments shall be incorporated according to recommendations of the soil report and what is appropriate for the plants selected (see Section 492.5).

(C) For landscape installations, compost at a rate of a minimum of four cubic yards per 1,000 square feet of permeable area shall be incorporated to a depth of six inches into the soil. Soils with greater than 6% organic matter in the top 6 inches of soil are exempt from adding compost and tilling.

(D) A minimum three inch (3") layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated. To provide habitat for beneficial insects and other wildlife, up to 5 % of the landscape area may be left without mulch. Designated insect habitat must be included in the landscape design plan as such.

(E) Stabilizing mulching products shall be used on slopes that meet current engineering standards.

(F) The mulching portion of the seed/mulch slurry in hydro-seeded applications shall meet the mulching requirement.

(G) Organic mulch materials made from recycled or post-consumer shall take precedence over inorganic materials or virgin forest products unless the recycled post-consumer organic products are not locally available. Organic mulches are not required where prohibited by local Fuel Modification Plan Guidelines or other applicable local ordinances.

(b) The landscape design plan, at a minimum, shall:

(1) delineate and label each hydrozone by number, letter, or other method;

(2) identify each hydrozone as low, moderate, high water, or mixed water use. Temporarily irrigated areas of the landscape shall be included in the low water use hydrozone for the water budget calculation;

(3) identify recreational areas;

(4) identify areas permanently and solely dedicated to edible plants;

(5) identify areas irrigated with recycled water;

(6) identify type of mulch and application depth;

(7) identify soil amendments, type, and quantity;

(8) identify type and surface area of water features;

(9) identify hardscapes (pervious and non-pervious);

(10) identify location, installation details, and 24-hour retention or infiltration capacity of any applicable stormwater best management practices that encourage on-site retention and infiltration of stormwater. Project applicants shall refer to the local agency or regional Water Quality Control Board for information on any applicable stormwater technical requirements. Stormwater best management practices are encouraged in the landscape design plan and examples are provided in Section 492.16.

(11) identify any applicable rain harvesting or catchment technologies as discussed in Section 492.16 and their 24-hour retention or infiltration capacity;

(12) identify any applicable graywater discharge piping, system components and area(s) of distribution;

(13) contain the following statement: "I have complied with the criteria of the ordinance and applied them for the efficient use of water in the landscape design plan"; and

(14) bear the signature of a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape. (See Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the Food and Agriculture Code.)

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; Section 1351, Civil Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.7. Irrigation Design Plan.

(a) This section applies to landscaped areas requiring permanent irrigation, not areas that require temporary irrigation solely for the plant establishment period. For the efficient use of water, an irrigation system shall meet all the requirements listed in this section and the manufacturers' recommendations. The irrigation system and its related components shall be planned and designed to allow for proper installation, management, and maintenance. An irrigation design plan meeting the following design criteria shall be submitted as part of the Landscape Documentation Package.

(1) System

(A) Landscape water meters, defined as either a dedicated water service meter or private submeter, shall be installed for all non-residential irrigated landscapes of 1,000 sq. ft. but not more than 5,000 sq. ft. (the level at which Water Code 535 applies) and residential irrigated landscapes of 5,000 sq. ft. or greater. A landscape water meter may be either:

1. a customer service meter dedicated to landscape use provided by the local water purveyor; or

2. a privately owned meter or submeter.

(B) Automatic irrigation controllers utilizing either evapotranspiration or soil moisture sensor data utilizing non-volatile memory shall be required for irrigation scheduling in all irrigation systems.

(C) If the water pressure is below or exceeds the recommended pressure of the specified irrigation devices, the installation of a pressure regu-

lating device is required to ensure that the dynamic pressure at each emission device is within the manufacturer's recommended pressure range for optimal performance.

1. If the static pressure is above or below the required dynamic pressure of the irrigation system, pressure-regulating devices such as inline pressure regulators, booster pumps, or other devices shall be installed to meet the required dynamic pressure of the irrigation system.

2. Static water pressure, dynamic or operating pressure, and flow reading of the water supply shall be measured at the point of connection. These pressure and flow measurements shall be conducted at the design stage. If the measurements are not available at the design stage, the measurements shall be conducted at installation.

(D) Sensors (rain, freeze, wind, etc.), either integral or auxiliary, that suspend or alter irrigation operation during unfavorable weather conditions shall be required on all irrigation systems, as appropriate for local climatic conditions. Irrigation should be avoided during windy or freezing weather or during rain.

(E) Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be required, as close as possible to the point of connection of the water supply, to minimize water loss in case of an emergency (such as a main line break) or routine repair.

(F) Backflow prevention devices shall be required to protect the water supply from contamination by the irrigation system. A project applicant shall refer to the applicable local agency code (i.e., public health) for additional backflow prevention requirements.

(G) Flow sensors that detect high flow conditions created by system damage or malfunction are required for all on non-residential landscapes and residential landscapes of 5000 sq. ft. or larger.

(H) Master shut-off valves are required on all projects except landscapes that make use of technologies that allow for the individual control of sprinklers that are individually pressurized in a system equipped with low pressure shut down features.

(I) The irrigation system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.

(J) Relevant information from the soil management plan, such as soil type and infiltration rate, shall be utilized when designing irrigation systems.

(K) The design of the irrigation system shall conform to the hydrozones of the landscape design plan.

(L) The irrigation system must be designed and installed to meet, at a minimum, the irrigation efficiency criteria as described in Section 492.4 regarding the Maximum Applied Water Allowance.

(M) All irrigation emission devices must meet the requirements set in the American National Standards Institute (ANSI) standard, American Society of Agricultural and Biological Engineers/International Code Council's (ASABE/ICC) 802-2014 "Landscape Irrigation Sprinkler and Emitter Standard. All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.

(N) It is highly recommended that the project applicant or local agency inquire with the local water purveyor about peak water operating demands (on the water supply system) or water restrictions that may impact the effectiveness of the irrigation system.

(O) In mulched planting areas, the use of low volume irrigation is required to maximize water infiltration into the root zone.

(P) Sprinkler heads and other emission devices shall have matched precipitation rates, unless otherwise directed by the manufacturer's recommendations.

(Q) Head to head coverage is recommended. However, sprinkler spacing shall be designed to achieve the highest possible distribution uniformity using the manufacturer's recommendations.

(R) Swing joints or other riser-protection components are required on all risers subject to damage that are adjacent to hardscapes or in high traffic areas of turfgrass.

(S) Check valves or anti-drain valves are required on all sprinkler heads where low point drainage could occur.

(T) Areas less than ten (10) feet in width in any direction shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.

(U) Overhead irrigation shall not be permitted within 24 inches of any non-permeable surface. Allowable irrigation within the setback from non-permeable surfaces may include drip, drip line, or other low flow non-spray technology. The setback area may be planted or unplanted. The surfacing of the setback may be mulch, gravel, or other porous material. These restrictions may be modified if:

1. the landscape area is adjacent to permeable surfacing and no runoff occurs; or
2. the adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping; or
3. the irrigation designer specifies an alternative design or technology, as part of the Landscape Documentation Package and clearly demonstrates strict adherence to irrigation system design criteria in Section 492.7 (a)(1)(I). Prevention of overspray and runoff must be confirmed during the irrigation audit.

(V) Slopes greater than 25% shall not be irrigated with an irrigation system with a application rate exceeding 0.75 inches per hour. This restriction may be modified if the landscape designer specifies an alternative design or technology, as part of the Landscape Documentation Package, and clearly demonstrates no runoff or erosion will occur. Prevention of runoff and erosion must be confirmed during the irrigation audit.

(2) Hydrozone

(A) Each valve shall irrigate a hydrozone with similar site, slope, sun exposure, soil conditions, and plant materials with similar water use.

(B) Sprinkler heads and other emission devices shall be selected based on what is appropriate for the plant type within that hydrozone.

(C) Where feasible, trees shall be placed on separate valves from shrubs, groundcovers, and turf to facilitate the appropriate irrigation of trees. The mature size and extent of the root zone shall be considered when designing irrigation for the tree.

(D) Individual hydrozones that mix plants of moderate and low water use, or moderate and high water use, may be allowed if:

1. plant factor calculation is based on the proportions of the respective plant water uses and their plant factor; or
2. the plant factor of the higher water using plant is used for calculations.

(E) Individual hydrozones that mix high and low water use plants shall not be permitted.

(F) On the landscape design plan and irrigation design plan, hydrozone areas shall be designated by number, letter, or other designation. On the irrigation design plan, designate the areas irrigated by each valve, and assign a number to each valve. Use this valve number in the Hydrozone Information Table (see Appendix B Section A). This table can also assist with the irrigation audit and programming the controller.

(b) The irrigation design plan, at a minimum, shall contain:

- (1) location and size of separate water meters for landscape;
- (2) location, type and size of all components of the irrigation system, including controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices;
- (3) static water pressure at the point of connection to the public water supply;
- (4) flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station;
- (5) recycled water irrigation systems as specified in Section 492.14;
- (6) the following statement: "I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the irrigation design plan"; and
- (7) the signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized

to design an irrigation system. (See Sections 5500.1, 5615, 5641, 5641.1, 5641.2, 5641.3, 5641.4, 5641.5, 5641.6, 6701, 7027.5 of the Business and Professions Code, Section 832.27 of Title 16 of the California Code of Regulations, and Section 6721 of the Food and Agricultural Code.)

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.8. Grading Design Plan.

(a) For the efficient use of water, grading of a project site shall be designed to minimize soil erosion, runoff, and water waste. A grading plan shall be submitted as part of the Landscape Documentation Package. A comprehensive grading plan prepared by a civil engineer for other local agency permits satisfies this requirement.

(1) The project applicant shall submit a landscape grading plan that indicates finished configurations and elevations of the landscape area including:

- (A) height of graded slopes;
- (B) drainage patterns;
- (C) pad elevations;
- (D) finish grade; and
- (E) stormwater retention improvements, if applicable.

(2) To prevent excessive erosion and runoff, it is highly recommended that project applicants:

- (A) grade so that all irrigation and normal rainfall remains within property lines and does not drain on to non-permeable hardscapes;
- (B) avoid disruption of natural drainage patterns and undisturbed soil; and
- (C) avoid soil compaction in landscape areas.

(3) The grading design plan shall contain the following statement: "I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the grading design plan" and shall bear the signature of a licensed professional as authorized by law.

NOTE: Authority cited: Section 65595, Government Code. Reference: Section 65596, Government Code.

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

§ 492.9. Certificate of Completion.

(a) The Certificate of Completion (see Appendix C for a sample certificate) shall include the following six (6) elements:

- (1) project information sheet that contains:
 - (A) date;
 - (B) project name;
 - (C) project applicant name, telephone, and mailing address;
 - (D) project address and location; and
 - (E) property owner name, telephone, and mailing address;
- (2) certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that the landscape project has been installed per the approved Landscape Documentation Package;
 - (A) where there have been significant changes made in the field during construction, these "as-built" or record drawings shall be included with the certification;
 - (B) A diagram of the irrigation plan showing hydrozones shall be kept with the irrigation controller for subsequent management purposes.
- (3) irrigation scheduling parameters used to set the controller (see Section 492.10);
- (4) landscape and irrigation maintenance schedule (see Section 492.11);
- (5) irrigation audit report (see Section 492.12); and

(6) soil analysis report, if not submitted with Landscape Documentation Package, and documentation verifying implementation of soil report recommendations (see Section 492.5).

(b) The project applicant shall:

(1) submit the signed Certificate of Completion to the local agency for review;

(2) ensure that copies of the approved Certificate of Completion are submitted to the local water purveyor and property owner or his or her designee.

(c) The local agency shall:

(1) receive the signed Certificate of Completion from the project applicant;

(2) approve or deny the Certificate of Completion. If the Certificate of Completion is denied, the local agency shall provide information to the project applicant regarding reapplication, appeal, or other assistance.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

2. New subsection (a)(2)(B) and amendment of NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.10. Irrigation Scheduling.

(a) For the efficient use of water, all irrigation schedules shall be developed, managed, and evaluated to utilize the minimum amount of water required to maintain plant health. Irrigation schedules shall meet the following criteria:

(1) Irrigation scheduling shall be regulated by automatic irrigation controllers.

(2) Overhead irrigation shall be scheduled between 8:00 p.m. and 10:00 a.m. unless weather conditions prevent it. If allowable hours of irrigation differ from the local water purveyor, the stricter of the two shall apply. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.

(3) For implementation of the irrigation schedule, particular attention must be paid to irrigation run times, emission device, flow rate, and current reference evapotranspiration, so that applied water meets the Estimated Total Water Use. Total annual applied water shall be less than or equal to Maximum Applied Water Allowance (MAWA). Actual irrigation schedules shall be regulated by automatic irrigation controllers using current reference evapotranspiration data (e.g., CIMIS) or soil moisture sensor data.

(4) Parameters used to set the automatic controller shall be developed and submitted for each of the following:

(A) the plant establishment period;

(B) the established landscape; and

(C) temporarily irrigated areas.

(5) Each irrigation schedule shall consider for each station all of the following that apply:

(A) irrigation interval (days between irrigation);

(B) irrigation run times (hours or minutes per irrigation event to avoid runoff);

(C) number of cycle starts required for each irrigation event to avoid runoff;

(D) amount of applied water scheduled to be applied on a monthly basis;

(E) application rate setting;

(F) root depth setting;

(G) plant type setting;

(H) soil type;

(I) slope factor setting;

(J) shade factor setting; and

(K) irrigation uniformity or efficiency setting.

NOTE: Authority cited: Section 65595, Government Code. Reference: Section 65596, Government Code.

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

§ 492.11. Landscape and Irrigation Maintenance Schedule.

(a) Landscapes shall be maintained to ensure water use efficiency. A regular maintenance schedule shall be submitted with the Certificate of Completion.

(b) A regular maintenance schedule shall include, but not be limited to, routine inspection; auditing, adjustment and repair of the irrigation system and its components; aerating and dethatching turf areas; topdressing with compost, replenishing mulch; fertilizing; pruning; weeding in all landscape areas, and removing obstructions to emission devices. Operation of the irrigation system outside the normal watering window is allowed for auditing and system maintenance.

(c) Repair of all irrigation equipment shall be done with the originally installed components or their equivalents or with components with greater efficiency.

(d) A project applicant is encouraged to implement established landscape industry sustainable Best Practices for all landscape maintenance activities.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.12. Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.

(a) All landscape irrigation audits shall be conducted by a local agency landscape irrigation auditor or a third party certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape.

(b) In large projects or projects with multiple landscape installations (i.e. production home developments) an auditing rate of 1 in 7 lots or approximately 15% will satisfy this requirement.

(c) For new construction and rehabilitated landscape projects installed after December 1, 2015, as described in Section 490.1:

(1) the project applicant shall submit an irrigation audit report with the Certificate of Completion to the local agency that may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or run off that causes overland flow, and preparation of an irrigation schedule, including configuring irrigation controllers with application rate, soil types, plant factors, slope, exposure and any other factors necessary for accurate programming;

(2) the local agency shall administer programs that may include, but not be limited to, irrigation water use analysis, irrigation audits, and irrigation surveys for compliance with the Maximum Applied Water Allowance.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.13. Irrigation Efficiency.

(a) For the purpose of determining Estimated Total Water Use, average irrigation efficiency is assumed to be 0.75 for overhead spray devices and 0.81 for drip system devices.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596,

Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.14. Recycled Water.

(a) The installation of recycled water irrigation systems shall allow for the current and future use of recycled water.

(b) All recycled water irrigation systems shall be designed and operated in accordance with all applicable local and State laws.

(c) Landscapes using recycled water are considered Special Landscape Areas. The ET Adjustment Factor for new and existing (non-rehabilitated) Special Landscape Areas shall not exceed 1.0.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.15. Graywater Systems.

(a) Graywater systems promote the efficient use of water and are encouraged to assist in on-site landscape irrigation. All graywater systems shall conform to the California Plumbing Code (Title 24, Part 5, Chapter 16) and any applicable local ordinance standards. Refer to § 490.1 (d) for the applicability of this ordinance to landscape areas less than 2,500 square feet with the Estimated Total Water Use met entirely by graywater.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Renumbering of former section 492.15 to 492.16, new section 492.15 and amendment of NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.16. Stormwater Management and Rainwater Retention.

(a) Stormwater management practices minimize runoff and increase infiltration which recharges groundwater and improves water quality. Implementing stormwater best management practices into the landscape and grading design plans to minimize runoff and to increase on-site rainwater retention and infiltration are encouraged.

(b) Project applicants shall refer to the local agency or Regional Water Quality Control Board for information on any applicable stormwater technical requirements.

(c) All planted landscape areas are required to have friable soil to maximize water retention and infiltration. Refer to § 492.6(a)(3).

(d) It is strongly recommended that landscape areas be designed for capture and infiltration capacity that is sufficient to prevent runoff from impervious surfaces (i.e. roof and paved areas) from either: the one inch, 24-hour rain event or (2) the 85th percentile, 24-hour rain event, and/or additional capacity as required by any applicable local, regional, state or federal regulation.

(e) It is recommended that storm water projects incorporate any of the following elements to improve on-site storm water and dry weather runoff capture and use:

- Grade impervious surfaces, such as driveways, during construction to drain to vegetated areas.

- Minimize the area of impervious surfaces such as paved areas, roof and concrete driveways.
- Incorporate pervious or porous surfaces (e.g., gravel, permeable pavers or blocks, pervious or porous concrete) that minimize runoff.
- Direct runoff from paved surfaces and roof areas into planting beds or landscaped areas to maximize site water capture and reuse.
- Incorporate rain gardens, cisterns, and other rain harvesting or catchment systems.
- Incorporate infiltration beds, swales, basins and drywells to capture storm water and dry weather runoff and increase percolation into the soil.
- Consider constructed wetlands and ponds that retain water, equalize excess flow, and filter pollutants.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Renumbering of former section 492.16 to section 492.17 and renumbering of former section 492.15 to new section 492.16, including amendment of section heading, section and NOTE, filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.17. Public Education.

(a) Publications. Education is a critical component to promote the efficient use of water in landscapes. The use of appropriate principles of design, installation, management and maintenance that save water is encouraged in the community.

(1) A local agency or water supplier/purveyor shall provide information to owners of permitted renovations and new, single-family residential homes regarding the design, installation, management, and maintenance of water efficient landscapes based on a water budget.

(b) Model Homes. All model homes that are landscaped shall use signs and written information to demonstrate the principles of water efficient landscapes described in this ordinance.

(1) Signs shall be used to identify the model as an example of a water efficient landscape featuring elements such as hydrozones, irrigation equipment, and others that contribute to the overall water efficient theme. Signage shall include information about the site water use as designed per the local ordinance; specify who designed and installed the water efficient landscape; and demonstrate low water use approaches to landscaping such as using native plants, graywater systems, and rainwater catchment systems.

(2) Information shall be provided about designing, installing, managing, and maintaining water efficient landscapes.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Renumbering of former section 492.17 to new section 492.18 and renumbering of former section 492.16 to new section 492.17, including amendment of section and NOTE, filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 492.18. Environmental Review.

(a) The local agency must comply with the California Environmental Quality Act (CEQA), as appropriate.

NOTE: Authority cited: Section 21082, Public Resources Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Sections 21080 and 21082, Public Resources Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. Renumbering of former section 492.17 to new section 492.18, including amendment of NOTE, filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 493. Provisions for Existing Landscapes.

(a) A local agency may by mutual agreement, designate another agency, such as a water purveyor, to implement some or all of the requirements contained in this ordinance. Local agencies may collaborate with water purveyors to define each entity's specific responsibilities relating to this ordinance.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 7-31-92; operative 7-31-92 (Register 92, No. 32).
2. Repealer and new section and amendment of NOTE filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
3. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 493.1. Irrigation Audit, Irrigation Survey, and Irrigation Water Use Analysis.

(a) This section, 493.1, shall apply to all existing landscapes that were installed before December 1, 2015 and are over one acre in size.

(1) For all landscapes in 493.1 (a) that have a water meter, the local agency shall administer programs that may include, but not be limited to, irrigation water use analyses, irrigation surveys, and irrigation audits to evaluate water use and provide recommendations as necessary to reduce landscape water use to a level that does not exceed the Maximum Applied Water Allowance for existing landscapes. The Maximum Applied Water Allowance for existing landscapes shall be calculated as: $MAWA = (0.8)(ET_o)(LA)(0.62)$.

(2) For all landscapes in 493.1(a), that do not have a meter, the local agency shall administer programs that may include, but not be limited to, irrigation surveys and irrigation audits to evaluate water use and provide recommendations as necessary in order to prevent water waste.

(b) All landscape irrigation audits shall be conducted by a certified landscape irrigation auditor.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of subsection (a) and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 493.2. Water Waste Prevention.

(a) Local agencies shall prevent water waste resulting from inefficient landscape irrigation by prohibiting runoff from leaving the target landscape due to low head drainage, overspray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, parking lots, or structures. Penalties for violation of these prohibitions shall be established locally.

(b) Restrictions regarding overspray and runoff may be modified if:

(1) the landscape area is adjacent to permeable surfacing and no runoff occurs; or

(2) the adjacent non-permeable surfaces are designed and constructed to drain entirely to landscaping.

NOTE: Authority cited: Section 65594, Government Code. Reference: Section 65596, Government Code.

HISTORY

1. New section filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

§ 494. Effective Precipitation.

(a) A local agency may consider Effective Precipitation (25% of annual precipitation) in tracking water use and may use the following equation to calculate Maximum Applied Water Allowance:

$MAWA = (ET_o - E_{ppt})(0.62)[(0.55 \times LA) + (0.45 \times SLA)]$ for residential areas.

$MAWA = (ET_o - EPPT)(0.62)[(0.45 \times LA) + (0.55 \times SLA)]$ for non-residential areas.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. Repealer and new section; new NOTE and new Appendices A-C filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).
2. Amendment of section and NOTE filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

§ 495. Reporting.

(a) Local agencies shall report on implementation and enforcement by December 31, 2015. Local agencies responsible for administering individual ordinances shall report on their updated ordinance, while those agencies developing a regional ordinance shall report on their existing ordinance. Those agencies crafting a regional ordinance shall also report on their new ordinance by March 1, 2016. Subsequently, reporting for all agencies will be due by January 31st of each year. Reports shall be submitted to the Department of Water Resources.

(b) Local agencies are to address the following:

(1) State whether you are adopting a single agency ordinance or a regional agency alliance ordinance, and the date of adoption or anticipated date of adoption.

(2) Define the reporting period. The reporting period shall commence on December 1, 2015 and the end on December 28, 2015. For local agencies crafting regional ordinances with other agencies, there shall be an additional reporting period commencing on February 1, 2016 and ending on February 28, 2016. In subsequent years, all local agency reporting will be for the calendar year.

(3) State if using a locally modified Water Efficient Landscape Ordinance (WELO) or the MWELo. If using a locally modified WELO, how is it different than MWELo, is it at least as efficient as MWELo, and are there any exemptions specified?

(4) State the entity responsible for implementing the ordinance.

(5) State number and types of projects subject to the ordinance during the specified reporting period.

(6) State the total area (in square feet or acres) subject to the ordinance over the reporting period, if available.

(7) Provide the number of new housing starts, new commercial projects, and landscape retrofits during the reporting period.

(8) Describe the procedure for review of projects subject to the ordinance.

(9) Describe actions taken to verify compliance. Is a plan check performed; if so, by what entity? Is a site inspection performed; if so, by what entity? Is a post-installation audit required; if so, by whom?

(10) Describe enforcement measures.

(11) Explain challenges to implementing and enforcing the ordinance.

(12) Describe educational and other needs to properly apply the ordinance.

NOTE: Authority cited: Section 65595, Government Code; and sections 11 and 30, Governor's Exec. Order No. B-29-15 (April 1, 2015). Reference: Section 65596, Government Code; and section 11, Governor's Exec. Order No. B-29-15 (April 1, 2015).

HISTORY

1. New section filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38). For prior history, see Register 2009, No. 37.

Appendix A. Reference Evapotranspiration (ET_o) Table

Appendix A - Reference Evapotranspiration (ET _o) Table*													
County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ET _o
ALAMEDA													
Fremont	1.5	1.9	3.4	4.7	5.4	6.3	6.7	6.0	4.5	3.4	1.8	1.5	47.0
Livermore	1.2	1.5	2.9	4.4	5.9	6.6	7.4	6.4	5.3	3.2	1.5	0.9	47.2
Oakland	1.5	1.5	2.8	3.9	5.1	5.3	6.0	5.5	4.8	3.1	1.4	0.9	41.8
Oakland Foothills	1.1	1.4	2.7	3.7	5.1	6.4	5.8	4.9	3.6	2.6	1.4	1.0	39.6
Pleasanton	0.8	1.5	2.9	4.4	5.6	6.7	7.4	6.4	4.7	3.3	1.5	1.0	46.2
Union City	1.4	1.8	3.1	4.2	5.4	5.9	6.4	5.7	4.4	3.1	1.5	1.2	44.2
ALPINE													
Markleeville	0.7	0.9	2.0	3.5	5.0	6.1	7.3	6.4	4.4	2.6	1.2	0.5	40.6
AMADOR													
Jackson	1.2	1.5	2.8	4.4	6.0	7.2	7.9	7.2	5.3	3.2	1.4	0.9	48.9
Shanandoah Valley	1.0	1.7	2.9	4.4	5.6	6.8	7.9	7.1	5.2	3.6	1.7	1.0	48.8
BUTTE													
Chico	1.2	1.8	2.9	4.7	6.1	7.4	8.5	7.3	5.4	3.7	1.7	1.0	51.7
Durham	1.1	1.8	3.2	5.0	6.5	7.4	7.8	6.9	5.3	3.6	1.7	1.0	51.1
Gridley	1.2	1.8	3.0	4.7	6.1	7.7	8.5	7.1	5.4	3.7	1.7	1.0	51.9
Oroville	1.2	1.7	2.8	4.7	6.1	7.6	8.5	7.3	5.3	3.7	1.7	1.0	51.5
CALAVERAS													
San Andreas	1.2	1.5	2.8	4.4	6.0	7.3	7.9	7.0	5.3	3.2	1.4	0.7	48.8
COLUSA													
Colusa	1.0	1.7	3.4	5.0	6.4	7.6	8.3	7.2	5.4	3.8	1.8	1.1	52.8
Williams	1.2	1.7	2.9	4.5	6.1	7.2	8.5	7.3	5.3	3.4	1.6	1.0	50.8
CONTRA COSTA													
Brentwood	1.0	1.5	2.9	4.5	6.1	7.1	7.9	6.7	5.2	3.2	1.4	0.7	48.3
Concord	1.1	1.4	2.4	4.0	5.5	5.9	7.0	6.0	4.8	3.2	1.3	0.7	43.4
Courtland	0.9	1.5	2.9	4.4	6.1	6.9	7.9	6.7	5.3	3.2	1.4	0.7	48.0
Martinez	1.2	1.4	2.4	3.9	5.3	5.6	6.7	5.6	4.7	3.1	1.2	0.7	41.8
Moraga	1.2	1.5	3.4	4.2	5.5	6.1	6.7	5.9	4.6	3.2	1.6	1.0	44.9
Pittsburg	1.0	1.5	2.8	4.1	5.6	6.4	7.4	6.4	5.0	3.2	1.3	0.7	45.4
Walnut Creek	0.8	1.5	2.9	4.4	5.6	6.7	7.4	6.4	4.7	3.3	1.5	1.0	46.2
DEL NORTE													
Crescent City	0.5	0.9	2.0	3.0	3.7	3.5	4.3	3.7	3.0	2.0	0.9	0.5	27.7
EL DORADO													
Camino	0.9	1.7	2.5	3.9	5.9	7.2	7.8	6.8	5.1	3.1	1.5	0.9	47.3
FRESNO													
Clovis	1.0	1.5	3.2	4.8	6.4	7.7	8.5	7.3	5.3	3.4	1.4	0.7	51.4
Coalinga	1.2	1.7	3.1	4.6	6.2	7.2	8.5	7.3	5.3	3.4	1.6	0.7	50.9
Firebaugh	1.0	1.8	3.7	5.7	7.3	8.1	8.2	7.2	5.5	3.9	2.0	1.1	55.4
FivePoints	1.3	2.0	4.0	6.1	7.7	8.5	8.7	8.0	6.2	4.5	2.4	1.2	60.4
Fresno	0.9	1.7	3.3	4.8	6.7	7.8	8.4	7.1	5.2	3.2	1.4	0.6	51.1
Fresno State	0.9	1.6	3.2	5.2	7.0	8.0	8.7	7.6	5.4	3.6	1.7	0.9	53.7
Friant	1.2	1.5	3.1	4.7	6.4	7.7	8.5	7.3	5.3	3.4	1.4	0.7	51.3
Kerman	0.9	1.5	3.2	4.8	6.6	7.7	8.4	7.2	5.3	3.4	1.4	0.7	51.2
Kingsburg	1.0	1.5	3.4	4.8	6.6	7.7	8.4	7.2	5.3	3.4	1.4	0.7	51.6
Mendota	1.5	2.5	4.6	6.2	7.9	8.6	8.8	7.5	5.9	4.5	2.4	1.5	61.7
Orange Cove	1.2	1.9	3.5	4.7	7.4	8.5	8.9	7.9	5.9	3.7	1.8	1.2	56.7
Panoche	1.1	2.0	4.0	5.6	7.8	8.5	8.3	7.3	5.6	3.9	1.8	1.2	57.2
Parlier	1.0	1.9	3.6	5.2	6.8	7.6	8.1	7.0	5.1	3.4	1.7	0.9	52.0

Appendix A - Reference Evapotranspiration (ETo) Table*

County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ETo
FRESNO													
Reedley	1.1	1.5	3.2	4.7	6.4	7.7	8.5	7.3	5.3	3.4	1.4	0.7	51.3
Westlands	0.9	1.7	3.8	6.3	8.0	8.6	8.6	7.8	5.9	4.3	2.1	1.1	58.8
GLENN													
Orland	1.1	1.8	3.4	5.0	6.4	7.5	7.9	6.7	5.3	3.9	1.8	1.4	52.1
Willows	1.2	1.7	2.9	4.7	6.1	7.2	8.5	7.3	5.3	3.6	1.7	1.0	51.3
HUMBOLDT													
Eureka	0.5	1.1	2.0	3.0	3.7	3.7	3.7	3.7	3.0	2.0	0.9	0.5	27.5
Ferndale	0.5	1.1	2.0	3.0	3.7	3.7	3.7	3.7	3.0	2.0	0.9	0.5	27.5
Garberville	0.6	1.2	2.2	3.1	4.5	5.0	5.5	4.9	3.8	2.4	1.0	0.7	34.9
Hoopa	0.5	1.1	2.1	3.0	4.4	5.4	6.1	5.1	3.8	2.4	0.9	0.7	35.6
IMPERIAL													
Brawley	2.8	3.8	5.9	8.0	10.4	11.5	11.7	10.0	8.4	6.2	3.5	2.1	84.2
Calipatria/Mulberry	2.4	3.2	5.1	6.8	8.6	9.2	9.2	8.6	7.0	5.2	3.1	2.3	70.7
El Centro	2.7	3.5	5.6	7.9	10.1	11.1	11.6	9.5	8.3	6.1	3.3	2.0	81.7
Holtville	2.8	3.8	5.9	7.9	10.4	11.6	12.0	10.0	8.6	6.2	3.5	2.1	84.7
Meloland	2.5	3.2	5.5	7.5	8.9	9.2	9.0	8.5	6.8	5.3	3.1	2.2	71.6
Palo Verde II	2.5	3.3	5.7	6.9	8.5	8.9	8.6	7.9	6.2	4.5	2.9	2.3	68.2
Seeley	2.7	3.5	5.9	7.7	9.7	10.1	9.3	8.3	6.9	5.5	3.4	2.2	75.4
Westmoreland	2.4	3.3	5.3	6.9	8.7	9.6	9.6	8.7	6.9	5.0	3.0	2.2	71.4
Yuma	2.5	3.4	5.3	6.9	8.7	9.6	9.6	8.7	6.9	5.0	3.0	2.2	71.6
INYO													
Bishop	1.7	2.7	4.8	6.7	8.2	10.9	7.4	9.6	7.4	4.8	2.5	1.6	68.3
Death Valley Jct	2.2	3.3	5.4	7.7	9.8	11.1	11.4	10.1	8.3	5.4	2.9	1.7	79.1
Independence	1.7	2.7	3.4	6.6	8.5	9.5	9.8	8.5	7.1	3.9	2.0	1.5	65.2
Lower Haiwee Res.	1.8	2.7	4.4	7.1	8.5	9.5	9.8	8.5	7.1	4.2	2.6	1.5	67.6
Oasis	2.7	2.8	5.9	8.0	10.4	11.7	11.6	10.0	8.4	6.2	3.4	2.1	83.1
KERN													
Arvin	1.2	1.8	3.5	4.7	6.6	7.4	8.1	7.3	5.3	3.4	1.7	1.0	51.9
Bakersfield	1.0	1.8	3.5	4.7	6.6	7.7	8.5	7.3	5.3	3.5	1.6	0.9	52.4
Bakersfield/Bonanza	1.2	2.2	3.7	5.7	7.4	8.2	8.7	7.8	5.7	4.0	2.1	1.2	57.9
Bakersfield/Greenlee	1.2	2.2	3.7	5.7	7.4	8.2	8.7	7.8	5.7	4.0	2.1	1.2	57.9
Belridge	1.4	2.2	4.1	5.5	7.7	8.5	8.6	7.8	6.0	3.8	2.0	1.5	59.2
Blackwells Corner	1.4	2.1	3.8	5.4	7.0	7.8	8.5	7.7	5.8	3.9	1.9	1.2	56.6
Buttonwillow	1.0	1.8	3.2	4.7	6.6	7.7	8.5	7.3	5.4	3.4	1.5	0.9	52.0
China Lake	2.1	3.2	5.3	7.7	9.2	10.0	11.0	9.8	7.3	4.9	2.7	1.7	74.8
Delano	0.9	1.8	3.4	4.7	6.6	7.7	8.5	7.3	5.4	3.4	1.4	0.7	52.0
Famoso	1.3	1.9	3.5	4.8	6.7	7.6	8.0	7.3	5.5	3.5	1.7	1.3	53.1
Grapevine	1.3	1.8	3.1	4.4	5.6	6.8	7.6	6.8	5.9	3.4	1.9	1.0	49.5
Inyokern	2.0	3.1	4.9	7.3	8.5	9.7	11.0	9.4	7.1	5.1	2.6	1.7	72.4
Isabella Dam	1.2	1.4	2.8	4.4	5.8	7.3	7.9	7.0	5.0	3.2	1.7	0.9	48.4
Lamont	1.3	2.4	4.4	4.6	6.5	7.0	8.8	7.6	5.7	3.7	1.6	0.8	54.4
Lost Hills	1.6	2.2	3.7	5.1	6.8	7.8	8.7	7.8	5.7	4.0	2.1	1.6	57.1
McFarland/Kern	1.2	2.1	3.7	5.6	7.3	8.0	8.3	7.4	5.6	4.1	2.0	1.2	56.5
Shafter	1.0	1.7	3.4	5.0	6.6	7.7	8.3	7.3	5.4	3.4	1.5	0.9	52.1
Taft	1.3	1.8	3.1	4.3	6.2	7.3	8.5	7.3	5.4	3.4	1.7	1.0	51.2
Tehachapi	1.4	1.8	3.2	5.0	6.1	7.7	7.9	7.3	5.9	3.4	2.1	1.2	52.9
KINGS													
Caruthers	1.6	2.5	4.0	5.7	7.8	8.7	9.3	8.4	6.3	4.4	2.4	1.6	62.7

Appendix A - Reference Evapotranspiration (ETo) Table*													
County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ETo
KINGS													
Corcoran	1.6	2.2	3.7	5.1	6.8	7.8	8.7	7.8	5.7	4.0	2.1	1.6	57.1
Hanford	0.9	1.5	3.4	5.0	6.6	7.7	8.3	7.2	5.4	3.4	1.4	0.7	51.5
Kettleman	1.1	2.0	4.0	6.0	7.5	8.5	9.1	8.2	6.1	4.5	2.2	1.1	60.2
Lemoore	0.9	1.5	3.4	5.0	6.6	7.7	8.3	7.3	5.4	3.4	1.4	0.7	51.7
Stratford	0.9	1.9	3.9	6.1	7.8	8.6	8.8	7.7	5.9	4.1	2.1	1.0	58.7
LAKE													
Lakeport	1.1	1.3	2.6	3.5	5.1	6.0	7.3	6.1	4.7	2.9	1.2	0.9	42.8
Lower Lake	1.2	1.4	2.7	4.5	5.3	6.3	7.4	6.4	5.0	3.1	1.3	0.9	45.4
LASSEN													
Buntingville	1.0	1.7	3.5	4.9	6.2	7.3	8.4	7.5	5.4	3.4	1.5	0.9	51.8
Ravendale	0.6	1.1	2.3	4.1	5.6	6.7	7.9	7.3	4.7	2.8	1.2	0.5	44.9
Susanville	0.7	1.0	2.2	4.1	5.6	6.5	7.8	7.0	4.6	2.8	1.2	0.5	44.0
LOS ANGELES													
Burbank	2.1	2.8	3.7	4.7	5.1	6.0	6.6	6.7	5.4	4.0	2.6	2.0	51.7
Claremont	2.0	2.3	3.4	4.6	5.0	6.0	7.0	7.0	5.3	4.0	2.7	2.1	51.3
El Dorado	1.7	2.2	3.6	4.8	5.1	5.7	5.9	5.9	4.4	3.2	2.2	1.7	46.3
Glendale	2.0	2.2	3.3	3.8	4.7	4.8	5.7	5.6	4.3	3.3	2.2	1.8	43.7
Glendora	2.0	2.5	3.6	4.9	5.4	6.1	7.3	6.8	5.7	4.2	2.6	2.0	53.1
Gorman	1.6	2.2	3.4	4.6	5.5	7.4	7.7	7.1	5.9	3.6	2.4	1.1	52.4
Hollywood Hills	2.1	2.2	3.8	5.4	6.0	6.5	6.7	6.4	5.2	3.7	2.8	2.1	52.8
Lancaster	2.1	3.0	4.6	5.9	8.5	9.7	11.0	9.8	7.3	4.6	2.8	1.7	71.1
Long Beach	1.8	2.1	3.3	3.9	4.5	4.3	5.3	4.7	3.7	2.8	1.8	1.5	39.7
Los Angeles	2.2	2.7	3.7	4.7	5.5	5.8	6.2	5.9	5.0	3.9	2.6	1.9	50.1
Monrovia	2.2	2.3	3.8	4.3	5.5	5.9	6.9	6.4	5.1	3.2	2.5	2.0	50.2
Palmdale	2.0	2.6	4.6	6.2	7.3	8.9	9.8	9.0	6.5	4.7	2.7	2.1	66.2
Pasadena	2.1	2.7	3.7	4.7	5.1	6.0	7.1	6.7	5.6	4.2	2.6	2.0	52.3
Pearblossom	1.7	2.4	3.7	4.7	7.3	7.7	9.9	7.9	6.4	4.0	2.6	1.6	59.9
Pomona	1.7	2.0	3.4	4.5	5.0	5.8	6.5	6.4	4.7	3.5	2.3	1.7	47.5
Redondo Beach	2.2	2.4	3.3	3.8	4.5	4.7	5.4	4.8	4.4	2.8	2.4	2.0	42.6
San Fernando	2.0	2.7	3.5	4.6	5.5	5.9	7.3	6.7	5.3	3.9	2.6	2.0	52.0
Santa Clarita	2.8	2.8	4.1	5.6	6.0	6.8	7.6	7.8	5.8	5.2	3.7	3.2	61.5
Santa Monica	1.8	2.1	3.3	4.5	4.7	5.0	5.4	5.4	3.9	3.4	2.4	2.2	44.2
MADERA													
Chowchilla	1.0	1.4	3.2	4.7	6.6	7.8	8.5	7.3	5.3	3.4	1.4	0.7	51.4
Madera	0.9	1.4	3.2	4.8	6.6	7.8	8.5	7.3	5.3	3.4	1.4	0.7	51.5
Raymond	1.2	1.5	3.0	4.6	6.1	7.6	8.4	7.3	5.2	3.4	1.4	0.7	50.5
MARIN													
Black Point	1.1	1.7	3.0	4.2	5.2	6.2	6.6	5.8	4.3	2.8	1.3	0.9	43.0
Novato	1.3	1.5	2.4	3.5	4.4	6.0	5.9	5.4	4.4	2.8	1.4	0.7	39.8
Point San Pedro	1.1	1.7	3.0	4.2	5.2	6.2	6.6	5.8	4.3	2.8	1.3	0.9	43.0
San Rafael	1.2	1.3	2.4	3.3	4.0	4.8	4.8	4.9	4.3	2.7	1.3	0.7	35.8
MARIPOSA													
Coulterville	1.1	1.5	2.8	4.4	5.9	7.3	8.1	7.0	5.3	3.4	1.4	0.7	48.8
Mariposa	1.1	1.5	2.8	4.4	5.9	7.4	8.2	7.1	5.0	3.4	1.4	0.7	49.0
Yosemite Village	0.7	1.0	2.3	3.7	5.1	6.5	7.1	6.1	4.4	2.9	1.1	0.6	41.4
MENDOCINO													
Fort Bragg	0.9	1.3	2.2	3.0	3.7	3.5	3.7	3.7	3.0	2.3	1.2	0.7	29.0
Hopland	1.1	1.3	2.6	3.4	5.0	5.9	6.5	5.7	4.5	2.8	1.3	0.7	40.9

Appendix A - Reference Evapotranspiration (ETo) Table*													
County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ETo
MENDOCINO													
Point Arena	1.0	1.3	2.3	3.0	3.7	3.9	3.7	3.7	3.0	2.3	1.2	0.7	29.6
Sanel Valley	1.0	1.6	3.0	4.6	6.0	7.0	8.0	7.0	5.2	3.4	1.4	0.9	49.1
Ukiah	1.0	1.3	2.6	3.3	5.0	5.8	6.7	5.9	4.5	2.8	1.3	0.7	40.9
MERCED													
Kesterson	0.9	1.7	3.4	5.5	7.3	8.2	8.6	7.4	5.5	3.8	1.8	0.9	55.1
Los Banos	1.0	1.5	3.2	4.7	6.1	7.4	8.2	7.0	5.3	3.4	1.4	0.7	50.0
Merced	1.0	1.5	3.2	4.7	6.6	7.9	8.5	7.2	5.3	3.4	1.4	0.7	51.5
MODOC													
Modoc/Alturas	0.9	1.4	2.8	3.7	5.1	6.2	7.5	6.6	4.6	2.8	1.2	0.7	43.2
MONO													
Bridgeport	0.7	0.9	2.2	3.8	5.5	6.6	7.4	6.7	4.7	2.7	1.2	0.5	43.0
MONTEREY													
Arroyo Seco	1.5	2.0	3.7	5.4	6.3	7.3	7.2	6.7	5.0	3.9	2.0	1.6	52.6
Castroville	1.4	1.7	3.0	4.2	4.6	4.8	4.0	3.8	3.0	2.6	1.6	1.4	36.2
Gonzales	1.3	1.7	3.4	4.7	5.4	6.3	6.3	5.9	4.4	3.4	1.9	1.3	45.7
Greenfield	1.8	2.2	3.4	4.8	5.6	6.3	6.5	6.2	4.8	3.7	2.4	1.8	49.5
King City	1.7	2.0	3.4	4.4	4.4	5.6	6.1	6.7	6.5	5.2	2.2	1.3	49.6
King City-Oasis Rd.	1.4	1.9	3.6	5.3	6.5	7.3	7.4	6.8	5.1	4.0	2.0	1.5	52.7
Long Valley	1.5	1.9	3.2	4.1	5.8	6.5	7.3	6.7	5.3	3.6	2.0	1.2	49.1
Monterey	1.7	1.8	2.7	3.5	4.0	4.1	4.3	4.2	3.5	2.8	1.9	1.5	36.0
Pajaro	1.8	2.2	3.7	4.8	5.3	5.7	5.6	5.3	4.3	3.4	2.4	1.8	46.1
Salinas	1.6	1.9	2.7	3.8	4.8	4.7	5.0	4.5	4.0	2.9	1.9	1.3	39.1
Salinas North	1.2	1.5	2.9	4.1	4.6	5.2	4.5	4.3	3.2	2.8	1.5	1.2	36.9
San Ardo	1.0	1.7	3.1	4.5	5.9	7.2	8.1	7.1	5.1	3.1	1.5	1.0	49.0
San Juan	1.8	2.1	3.4	4.6	5.3	5.7	5.5	4.9	3.8	3.2	2.2	1.9	44.2
Soledad	1.7	2.0	3.4	4.4	5.5	5.4	6.5	6.2	5.2	3.7	2.2	1.5	47.7
NAPA													
Angwin	1.8	1.9	3.2	4.7	5.8	7.3	8.1	7.1	5.5	4.5	2.9	2.1	54.9
Carneros	0.8	1.5	3.1	4.6	5.5	6.6	6.9	6.2	4.7	3.5	1.4	1.0	45.8
Oakville	1.0	1.5	2.9	4.7	5.8	6.9	7.2	6.4	4.9	3.5	1.6	1.2	47.7
St Helena	1.2	1.5	2.8	3.9	5.1	6.1	7.0	6.2	4.8	3.1	1.4	0.9	44.1
Yountville	1.3	1.7	2.8	3.9	5.1	6.0	7.1	6.1	4.8	3.1	1.5	0.9	44.3
NEVADA													
Grass Valley	1.1	1.5	2.6	4.0	5.7	7.1	7.9	7.1	5.3	3.2	1.5	0.9	48.0
Nevada City	1.1	1.5	2.6	3.9	5.8	6.9	7.9	7.0	5.3	3.2	1.4	0.9	47.4
ORANGE													
Irvine	2.2	2.5	3.7	4.7	5.2	5.9	6.3	6.2	4.6	3.7	2.6	2.3	49.6
Laguna Beach	2.2	2.7	3.4	3.8	4.6	4.6	4.9	4.9	4.4	3.4	2.4	2.0	43.2
Santa Ana	2.2	2.7	3.7	4.5	4.6	5.4	6.2	6.1	4.7	3.7	2.5	2.0	48.2
PLACER													
Auburn	1.2	1.7	2.8	4.4	6.1	7.4	8.3	7.3	5.4	3.4	1.6	1.0	50.6
Blue Canyon	0.7	1.1	2.1	3.4	4.8	6.0	7.2	6.1	4.6	2.9	0.9	0.6	40.5
Colfax	1.1	1.5	2.6	4.0	5.8	7.1	7.9	7.0	5.3	3.2	1.4	0.9	47.9
Roseville	1.1	1.7	3.1	4.7	6.2	7.7	8.5	7.3	5.6	3.7	1.7	1.0	52.2
Soda Springs	0.7	0.7	1.8	3.0	4.3	5.3	6.2	5.5	4.1	2.5	0.7	0.7	35.4
Tahoe City	0.7	0.7	1.7	3.0	4.3	5.4	6.1	5.6	4.1	2.4	0.8	0.6	35.5
Truckee	0.7	0.7	1.7	3.2	4.4	5.4	6.4	5.7	4.1	2.4	0.8	0.6	36.2

Appendix A - Reference Evapotranspiration (ET _o) Table*													
County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ET _o
PLUMAS													
Portola	0.7	0.9	1.9	3.5	4.9	5.9	7.3	5.9	4.3	2.7	0.9	0.5	39.4
Quincy	0.7	0.9	2.2	3.5	4.9	5.9	7.3	5.9	4.4	2.8	1.2	0.5	40.2
RIVERSIDE													
Beaumont	2.0	2.3	3.4	4.4	6.1	7.1	7.6	7.9	6.0	3.9	2.6	1.7	55.0
Blythe	2.4	3.3	5.3	6.9	8.7	9.6	9.6	8.7	6.9	5.0	3.0	2.2	71.4
Cathedral City	1.6	2.2	3.7	5.1	6.8	7.8	8.7	7.8	5.7	4.0	2.1	1.6	57.1
Coachella	2.9	4.4	6.2	8.4	10.5	11.9	12.3	10.1	8.9	6.2	3.8	2.4	88.1
Desert Center	2.9	4.1	6.4	8.5	11.0	12.1	12.2	11.1	9.0	6.4	3.9	2.6	90.0
Elsinore	2.1	2.8	3.9	4.4	5.9	7.1	7.6	7.0	5.8	3.9	2.6	1.9	55.0
Indio	3.1	3.6	6.5	8.3	10.5	11.0	10.8	9.7	8.3	5.9	3.7	2.7	83.9
La Quinta	2.4	2.8	5.2	6.5	8.3	8.7	8.5	7.9	6.5	4.5	2.7	2.2	66.2
Mecca	2.6	3.3	5.7	7.2	8.6	9.0	8.8	8.2	6.8	5.0	3.2	2.4	70.8
Oasis	2.9	3.3	5.3	6.1	8.5	8.9	8.7	7.9	6.9	4.8	2.9	2.3	68.4
Palm Desert	2.5	3.4	5.3	6.9	8.7	9.6	9.6	8.7	6.9	5.0	3.0	2.2	71.6
Palm Springs	2.0	2.9	4.9	7.2	8.3	8.5	11.6	8.3	7.2	5.9	2.7	1.7	71.1
Rancho California	1.8	2.2	3.4	4.8	5.6	6.3	6.5	6.2	4.8	3.7	2.4	1.8	49.5
Rancho Mirage	2.4	3.3	5.3	6.9	8.7	9.6	9.6	8.7	6.9	5.0	3.0	2.2	71.4
Ripley	2.7	3.3	5.6	7.2	8.7	8.7	8.4	7.6	6.2	4.6	2.8	2.2	67.8
Salton Sea North	2.5	3.3	5.5	7.2	8.8	9.3	9.2	8.5	6.8	5.2	3.1	2.3	71.7
Temecula East II	2.3	2.4	4.1	4.9	6.4	7.0	7.8	7.4	5.7	4.1	2.6	2.2	56.7
Thermal	2.4	3.3	5.5	7.6	9.1	9.6	9.3	8.6	7.1	5.2	3.1	2.1	72.8
Riverside UC	2.5	2.9	4.2	5.3	5.9	6.6	7.2	6.9	5.4	4.1	2.9	2.6	56.4
Winchester	2.3	2.4	4.1	4.9	6.4	6.9	7.7	7.5	6.0	3.9	2.6	2.1	56.8
SACRAMENTO													
Fair Oaks	1.0	1.6	3.4	4.1	6.5	7.5	8.1	7.1	5.2	3.4	1.5	1.0	50.5
Sacramento	1.0	1.8	3.2	4.7	6.4	7.7	8.4	7.2	5.4	3.7	1.7	0.9	51.9
Twitchell Island	1.2	1.8	3.9	5.3	7.4	8.8	9.1	7.8	5.9	3.8	1.7	1.2	57.9
SAN BENITO													
Hollister	1.5	1.8	3.1	4.3	5.5	5.7	6.4	5.9	5.0	3.5	1.7	1.1	45.1
San Benito	1.2	1.6	3.1	4.6	5.6	6.4	6.9	6.5	4.8	3.7	1.7	1.2	47.2
San Juan Valley	1.4	1.8	3.4	4.5	6.0	6.7	7.1	6.4	5.0	3.5	1.8	1.4	49.1
SAN BERNARDINO													
Baker	2.7	3.9	6.1	8.3	10.4	11.8	12.2	11.0	8.9	6.1	3.3	2.1	86.6
Barstow NE	2.2	2.9	5.3	6.9	9.0	10.1	9.9	8.9	6.8	4.8	2.7	2.1	71.7
Big Bear Lake	1.8	2.6	4.6	6.0	7.0	7.6	8.1	7.4	5.4	4.1	2.4	1.8	58.6
Chino	2.1	2.9	3.9	4.5	5.7	6.5	7.3	7.1	5.9	4.2	2.6	2.0	54.6
Crestline	1.5	1.9	3.3	4.4	5.5	6.6	7.8	7.1	5.4	3.5	2.2	1.6	50.8
Lake Arrowhead	1.8	2.6	4.6	6.0	7.0	7.6	8.1	7.4	5.4	4.1	2.4	1.8	58.6
Lucerne Valley	2.2	2.9	5.1	6.5	9.1	11.0	11.4	9.9	7.4	5.0	3.0	1.8	75.3
Needles	3.2	4.2	6.6	8.9	11.0	12.4	12.8	11.0	8.9	6.6	4.0	2.7	92.1
Newberry Springs	2.1	2.9	5.3	8.4	9.8	10.9	11.1	9.9	7.6	5.2	3.1	2.0	78.2
San Bernardino	2.0	2.7	3.8	4.6	5.7	6.9	7.9	7.4	5.9	4.2	2.6	2.0	55.6
Twentynine Palms	2.6	3.6	5.9	7.9	10.1	11.2	11.2	10.3	8.6	5.9	3.4	2.2	82.9
Victorville	2.0	2.6	4.6	6.2	7.3	8.9	9.8	9.0	6.5	4.7	2.7	2.1	66.2
SAN DIEGO													
Chula Vista	2.2	2.7	3.4	3.8	4.9	4.7	5.5	4.9	4.5	3.4	2.4	2.0	44.2
Escondido SPV	2.4	2.6	3.9	4.7	5.9	6.5	7.1	6.7	5.3	3.9	2.8	2.3	54.2
Miramar	2.3	2.5	3.7	4.1	5.1	5.4	6.1	5.8	4.5	3.3	2.4	2.1	47.1

Appendix A - Reference Evapotranspiration (ET _o) Table*													
County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ET _o
SAN DIEGO													
Oceanside	2.2	2.7	3.4	3.7	4.9	4.6	4.6	5.1	4.1	3.3	2.4	2.0	42.9
Otay Lake	2.3	2.7	3.9	4.6	5.6	5.9	6.2	6.1	4.8	3.7	2.6	2.2	50.4
Pine Valley	1.5	2.4	3.8	5.1	6.0	7.0	7.8	7.3	6.0	4.0	2.2	1.7	54.8
Ramona	2.1	2.1	3.4	4.6	5.2	6.3	6.7	6.8	5.3	4.1	2.8	2.1	51.6
San Diego	2.1	2.4	3.4	4.6	5.1	5.3	5.7	5.6	4.3	3.6	2.4	2.0	46.5
Santee	2.1	2.7	3.7	4.5	5.5	6.1	6.6	6.2	5.4	3.8	2.6	2.0	51.1
Torrey Pines	2.2	2.3	3.4	3.9	4.0	4.1	4.6	4.7	3.8	2.8	2.0	2.0	39.8
Warner Springs	1.6	2.7	3.7	4.7	5.7	7.6	8.3	7.7	6.3	4.0	2.5	1.3	56.0
SAN FRANCISCO													
San Francisco	1.5	1.3	2.4	3.0	3.7	4.6	4.9	4.8	4.1	2.8	1.3	0.7	35.1
SAN JOAQUIN													
Farmington	1.5	1.5	2.9	4.7	6.2	7.6	8.1	6.8	5.3	3.3	1.4	0.7	50.0
Lodi West	1.0	1.6	3.3	4.3	6.3	6.9	7.3	6.4	4.5	3.0	1.4	0.8	46.7
Manteca	0.9	1.7	3.4	5.0	6.5	7.5	8.0	7.1	5.2	3.3	1.6	0.9	51.2
Stockton	0.8	1.5	2.9	4.7	6.2	7.4	8.1	6.8	5.3	3.2	1.4	0.6	49.1
Tracy	1.0	1.5	2.9	4.5	6.1	7.3	7.9	6.7	5.3	3.2	1.3	0.7	48.5
SAN LUIS OBISPO													
Arroyo Grande	2.0	2.2	3.2	3.8	4.3	4.7	4.3	4.6	3.8	3.2	2.4	1.7	40.0
Atascadero	1.2	1.5	2.8	3.9	4.5	6.0	6.7	6.2	5.0	3.2	1.7	1.0	43.7
Morro Bay	2.0	2.2	3.1	3.5	4.3	4.5	4.6	4.6	3.8	3.5	2.1	1.7	39.9
Nipomo	2.2	2.5	3.8	5.1	5.7	6.2	6.4	6.1	4.9	4.1	2.9	2.3	52.1
Paso Robles	1.6	2.0	3.2	4.3	5.5	6.3	7.3	6.7	5.1	3.7	2.1	1.4	49.0
San Luis Obispo	2.0	2.2	3.2	4.1	4.9	5.3	4.6	5.5	4.4	3.5	2.4	1.7	43.8
San Miguel	1.6	2.0	3.2	4.3	5.0	6.4	7.4	6.8	5.1	3.7	2.1	1.4	49.0
San Simeon	2.0	2.0	2.9	3.5	4.2	4.4	4.6	4.3	3.5	3.1	2.0	1.7	38.1
SAN MATEO													
Hal Moon Bay	1.5	1.7	2.4	3.0	3.9	4.3	4.3	4.2	3.5	2.8	1.3	1.0	33.7
Redwood City	1.5	1.8	2.9	3.8	5.2	5.3	6.2	5.6	4.8	3.1	1.7	1.0	42.8
Woodside	1.8	2.2	3.4	4.8	5.6	6.3	6.5	6.2	4.8	3.7	2.4	1.8	49.5
SANTA BARBARA													
Betteravia	2.1	2.6	4.0	5.2	6.0	5.9	5.8	5.4	4.1	3.3	2.7	2.1	49.1
Carpenteria	2.0	2.4	3.2	3.9	4.8	5.2	5.5	5.7	4.5	3.4	2.4	2.0	44.9
Cuyama	2.1	2.4	3.8	5.4	6.9	7.9	8.5	7.7	5.9	4.5	2.6	2.0	59.7
Goleta	2.1	2.5	3.9	5.1	5.7	5.7	5.4	5.4	4.2	3.2	2.8	2.2	48.1
Goleta Foothills	2.3	2.6	3.7	5.4	5.3	5.6	5.5	5.7	4.5	3.9	2.8	2.3	49.6
Guadalupe	2.0	2.2	3.2	3.7	4.9	4.6	4.5	4.6	4.1	3.3	2.4	1.7	41.1
Lompoc	2.0	2.2	3.2	3.7	4.8	4.6	4.9	4.8	3.9	3.2	2.4	1.7	41.1
Los Alamos	1.8	2.0	3.2	4.1	4.9	5.3	5.7	5.5	4.4	3.7	2.4	1.6	44.6
Santa Barbara	2.0	2.5	3.2	3.8	4.6	5.1	5.5	4.5	3.4	2.4	1.8	1.8	40.6
Santa Maria	1.8	2.3	3.7	5.1	5.7	5.8	5.6	5.3	4.2	3.5	2.4	1.9	47.4
Santa Ynez	1.7	2.2	3.5	5.0	5.8	6.2	6.4	6.0	4.5	3.6	2.2	1.7	48.7
Sisquoc	2.1	2.5	3.8	4.1	6.1	6.3	6.4	5.8	4.7	3.4	2.3	1.8	49.2
Solvang	2.0	2.0	3.3	4.3	5.0	5.6	6.1	5.6	4.4	3.7	2.2	1.6	45.6
SANTA CLARA													
Gilroy	1.3	1.8	3.1	4.1	5.3	5.6	6.1	5.5	4.7	3.4	1.7	1.1	43.6
Los Gatos	1.5	1.8	2.8	3.9	5.0	5.6	6.2	5.5	4.7	3.2	1.7	1.1	42.9
Morgan Hill	1.5	1.8	3.4	4.2	6.3	7.0	7.1	6.0	5.1	3.7	1.9	1.4	49.5
Palo Alto	1.5	1.8	2.8	3.8	5.2	5.3	6.2	5.6	5.0	3.2	1.7	1.0	43.0

Appendix A - Reference Evapotranspiration (ET_o) Table*

County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ET _o
SANTA CLARA													
San Jose	1.5	1.8	3.1	4.1	5.5	5.8	6.5	5.9	5.2	3.3	1.8	1.0	45.3
SANTA CRUZ													
De Laveaga	1.4	1.9	3.3	4.7	4.9	5.3	5.0	4.8	3.6	3.0	1.6	1.3	40.8
Green Valley Rd	1.2	1.8	3.2	4.5	4.6	5.4	5.2	5.0	3.7	3.1	1.6	1.3	40.6
Santa Cruz	1.5	1.8	2.6	3.5	4.3	4.4	4.8	4.4	3.8	2.8	1.7	1.2	36.6
Watsonville	1.5	1.8	2.7	3.7	4.6	4.5	4.9	4.2	4.0	2.9	1.8	1.2	37.7
Webb	1.8	2.2	3.7	4.8	5.3	5.7	5.6	5.3	4.3	3.4	2.4	1.8	46.2
SHASTA													
Burney	0.7	1.0	2.1	3.5	4.9	5.9	7.4	6.4	4.4	2.9	0.9	0.6	40.9
Fall River Mills	0.6	1.0	2.1	3.7	5.0	6.1	7.8	6.7	4.6	2.8	0.9	0.5	41.8
Glenburn	0.6	1.0	2.1	3.7	5.0	6.3	7.8	6.7	4.7	2.8	0.9	0.6	42.1
McArthur	0.7	1.4	2.9	4.2	5.6	6.9	8.2	7.2	5.0	3.0	1.1	0.6	46.8
Redding	1.2	1.4	2.6	4.1	5.6	7.1	8.5	7.3	5.3	3.2	1.4	0.9	48.8
SIERRA													
Downieville	0.7	1.0	2.3	3.5	5.0	6.0	7.4	6.2	4.7	2.8	0.9	0.6	41.3
Sierraville	0.7	1.1	2.2	3.2	4.5	5.9	7.3	6.4	4.3	2.6	0.9	0.5	39.6
SISKIYOU													
Happy Camp	0.5	0.9	2.0	3.0	4.3	5.2	6.1	5.3	4.1	2.4	0.9	0.5	35.1
MacDoel	1.0	1.7	3.1	4.5	5.9	7.2	8.1	7.1	5.1	3.1	1.5	1.0	49.0
Mt Shasta	0.5	0.9	2.0	3.0	4.5	5.3	6.7	5.7	4.0	2.2	0.7	0.5	36.0
Tule lake FS	0.7	1.3	2.7	4.0	5.4	6.3	7.1	6.4	4.7	2.8	1.0	0.6	42.9
Weed	0.5	0.9	2.0	2.5	4.5	5.3	6.7	5.5	3.7	2.0	0.9	0.5	34.9
Yreka	0.6	0.9	2.1	3.0	4.9	5.8	7.3	6.5	4.3	2.5	0.9	0.5	39.2
SOLANO													
Benicia	1.3	1.4	2.7	3.8	4.9	5.0	6.4	5.5	4.4	2.9	1.2	0.7	40.3
Dixon	0.7	1.4	3.2	5.2	6.3	7.6	8.2	7.2	5.5	4.3	1.6	1.1	52.1
Fairfield	1.1	1.7	2.8	4.0	5.5	6.1	7.8	6.0	4.8	3.1	1.4	0.9	45.2
Hastings Tract	1.6	2.2	3.7	5.1	6.8	7.8	8.7	7.8	5.7	4.0	2.1	1.6	57.1
Putah Creek	1.0	1.6	3.2	4.9	6.1	7.3	7.9	7.0	5.3	3.8	1.8	1.2	51.0
Rio Vista	0.9	1.7	2.8	4.4	5.9	6.7	7.9	6.5	5.1	3.2	1.3	0.7	47.0
Suisun Valley	0.6	1.3	3.0	4.7	5.8	7.0	7.7	6.8	5.3	3.8	1.4	0.9	48.3
Winters	0.9	1.7	3.3	5.0	6.4	7.5	7.9	7.0	5.2	3.5	1.6	1.0	51.0
SONOMA													
Bennett Valley	1.1	1.7	3.2	4.1	5.5	6.5	6.6	5.7	4.5	3.1	1.5	0.9	44.4
Cloverdale	1.1	1.4	2.6	3.4	5.0	5.9	6.2	5.6	4.5	2.8	1.4	0.7	40.7
Fort Ross	1.2	1.4	2.2	3.0	3.7	4.5	4.2	4.3	3.4	2.4	1.2	0.5	31.9
Healdsburg	1.2	1.5	2.4	3.5	5.0	5.9	6.1	5.6	4.5	2.8	1.4	0.7	40.8
Lincoln	1.2	1.7	2.8	4.7	6.1	7.4	8.4	7.3	5.4	3.7	1.9	1.2	51.9
Petaluma	1.2	1.5	2.8	3.7	4.6	5.6	4.6	5.7	4.5	2.9	1.4	0.9	39.6
Santa Rosa	1.2	1.7	2.8	3.7	5.0	6.0	6.1	5.9	4.5	2.9	1.5	0.7	42.0
Valley of the Moon	1.0	1.6	3.0	4.5	5.6	6.6	7.1	6.3	4.7	3.3	1.5	1.0	46.1
Windsor	0.9	1.6	3.0	4.5	5.5	6.5	6.5	5.9	4.4	3.2	1.4	1.0	44.2
STANISLAUS													
Denair	1.0	1.9	3.6	4.7	7.0	7.9	8.0	6.1	5.3	3.4	1.5	1.0	51.4
La Grange	1.2	1.5	3.1	4.7	6.2	7.7	8.5	7.3	5.3	3.4	1.4	0.7	51.2
Modesto	0.9	1.4	3.2	4.7	6.4	7.7	8.1	6.8	5.0	3.4	1.4	0.7	49.7
Newman	1.0	1.5	3.2	4.6	6.2	7.4	8.1	6.7	5.0	3.4	1.4	0.7	49.3
Oakdale	1.2	1.5	3.2	4.7	6.2	7.7	8.1	7.1	5.1	3.4	1.4	0.7	50.3

Appendix A - Reference Evapotranspiration (ET_o) Table*

County and City	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ET _o
STANISLAUS													
Patterson	1.3	2.1	4.2	5.4	7.9	8.6	8.2	6.6	5.8	4.0	1.9	1.3	57.3
Turlock	0.9	1.5	3.2	4.7	6.5	7.7	8.2	7.0	5.1	3.4	1.4	0.7	50.2
SUTTER													
Nicolaus	0.9	1.6	3.2	4.9	6.3	7.5	8.0	6.9	5.2	3.4	1.5	0.9	50.2
Yuba City	1.3	2.1	2.8	4.4	5.7	7.2	7.1	6.1	4.7	3.2	1.2	0.9	46.7
TEHAMA													
Corning	1.2	1.8	2.9	4.5	6.1	7.3	8.1	7.2	5.3	3.7	1.7	1.1	50.7
Gerber	1.0	1.8	3.5	5.0	6.6	7.9	8.7	7.4	5.8	4.1	1.8	1.1	54.7
Gerber Dryland	0.9	1.6	3.2	4.7	6.7	8.4	9.0	7.9	6.0	4.2	2.0	1.0	55.5
Red Bluff	1.2	1.8	2.9	4.4	5.9	7.4	8.5	7.3	5.4	3.5	1.7	1.0	51.1
TRINITY													
Hay Fork	0.5	1.1	2.3	3.5	4.9	5.9	7.0	6.0	4.5	2.8	0.9	0.7	40.1
Weaverville	0.6	1.1	2.2	3.3	4.9	5.9	7.3	6.0	4.4	2.7	0.9	0.7	40.0
TULARE													
Alpaugh	0.9	1.7	3.4	4.8	6.6	7.7	8.2	7.3	5.4	3.4	1.4	0.7	51.6
Badger	1.0	1.3	2.7	4.1	6.0	7.3	7.7	7.0	4.8	3.3	1.4	0.7	47.3
Delano	1.1	1.9	4.0	4.9	7.2	7.9	8.1	7.3	5.4	3.2	1.5	1.2	53.6
Dinuba	1.1	1.5	3.2	4.7	6.2	7.7	8.5	7.3	5.3	3.4	1.4	0.7	51.2
Lindcove	0.9	1.6	3.0	4.8	6.5	7.6	8.1	7.2	5.2	3.4	1.6	0.9	50.6
Porterville	1.2	1.8	3.4	4.7	6.6	7.7	8.5	7.3	5.3	3.4	1.4	0.7	52.1
Visalia	0.9	1.7	3.3	5.1	6.8	7.7	7.9	6.9	4.9	3.2	1.5	0.8	50.7
TUOLUMNE													
Groveland	1.1	1.5	2.8	4.1	5.7	7.2	7.9	6.6	5.1	3.3	1.4	0.7	47.5
Sonora	1.1	1.5	2.8	4.1	5.8	7.2	7.9	6.7	5.1	3.2	1.4	0.7	47.6
VENTURA													
Camarillo	2.2	2.5	3.7	4.3	5.0	5.2	5.9	5.4	4.2	3.0	2.5	2.1	46.1
Oxnard	2.2	2.5	3.2	3.7	4.4	4.6	5.4	4.8	4.0	3.3	2.4	2.0	42.3
Piru	2.8	2.8	4.1	5.6	6.0	6.8	7.6	7.8	5.8	5.2	3.7	3.2	61.5
Port Hueneme	2.0	2.3	3.3	4.6	4.9	4.9	4.9	5.0	3.7	3.2	2.5	2.2	43.5
Thousand Oaks	2.2	2.6	3.4	4.5	5.4	5.9	6.7	6.4	5.4	3.9	2.6	2.0	51.0
Ventura	2.2	2.6	3.2	3.8	4.6	4.7	5.5	4.9	4.1	3.4	2.5	2.0	43.5
YOLO													
Bryte	0.9	1.7	3.3	5.0	6.4	7.5	7.9	7.0	5.2	3.5	1.6	1.0	51.0
Davis	1.0	1.9	3.3	5.0	6.4	7.6	8.2	7.1	5.4	4.0	1.8	1.0	52.5
Esparto	1.0	1.7	3.4	5.5	6.9	8.1	8.5	7.5	5.8	4.2	2.0	1.2	55.8
Winters	1.7	1.7	2.9	4.4	5.8	7.1	7.9	6.7	5.3	3.3	1.6	1.0	49.4
Woodland	1.0	1.8	3.2	4.7	6.1	7.7	8.2	7.2	5.4	3.7	1.7	1.0	51.6
Zamora	1.1	1.9	3.5	5.2	6.4	7.4	7.8	7.0	5.5	4.0	1.9	1.2	52.8
YUBA													
Browns Valley	1.0	1.7	3.1	4.7	6.1	7.5	8.5	7.6	5.7	4.1	2.0	1.1	52.9
Brownsville	1.1	1.4	2.6	4.0	5.7	6.8	7.9	6.8	5.3	3.4	1.5	0.9	47.4

* The values in this table were derived from:

- 1) California Irrigation Management Information System (CIMIS);
- 2) Reference Evapotranspiration Zones Map, UC Dept. of Land, Air & Water Resources and California Dept of Water Resources 1999; and
- 3) Reference Evapotranspiration for California, University of California, Department of Agriculture and Natural Resources (1987) Bulletin 1922;
- 4) Determining Daily Reference Evapotranspiration, Cooperative Extension UC Division of Agriculture and Natural Resources (1987), Publication Leaflet 21426

HISTORY

1. New Appendix A filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

2. Repealer and new Appendix A filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

Appendix B — Sample Water Efficient Landscape Worksheet.

WATER EFFICIENT LANDSCAPE WORKSHEET

This worksheet is filled out by the project applicant and it is a required element of the Landscape Documentation Package.

Reference Evapotranspiration (Eto) _____

Hydrozone # /Planting Description ^a	Plant Factor (PF)	Irrigation Method ^b	Irrigation Efficiency (IE) ^c	ETAF (PF/IE)	Landscape Area (sq. ft.)	ETAF x Area	Estimated Total Water Use (ETWU) ^d
Regular Landscape Areas							
				Totals	(A)	(B)	
Special Landscape Areas							
				1			
				1			
				1			
				Totals	(C)	(D)	
						ETWU Total	
						Maximum Allowed Water Allowance (MAWA)^e	

^aHydrozone #/Planting Description
E.g
1.) front lawn
2.) low water use plantings
3.) medium water use planting

^bIrrigation Method
overhead spray
or drip

^cIrrigation Efficiency
0.75 for spray head
0.81 for drip

^dETWU (Annual Gallons Required) =
Eto x 0.62 x ETAF x Area
where 0.62 is a conversion
factor that converts acre-
inches per acre per year to
gallons per square foot per
year.

^eMAWA (Annual Gallons Allowed) = (Eto) (0.62) [(ETAF x LA)
+ ((1-ETAF) x SLA)]
where 0.62 is a conversion factor that converts acre-
inches per acre per year to gallons per square foot per
year, LA is the total landscape area in square feet, SLA
is the total special landscape area in square feet,
and ETAF is .55 for residential areas and 0.45 for non-
residential areas.

ETAF Calculations

Regular Landscape Areas

Total ETAF x Area	(B)
Total Area	(A)
Average ETAF	B ÷ A

Average ETAF for Regular Landscape Areas must be 0.55 or below for residential areas, and 0.45 or below for non-residential areas.

All Landscape Areas

Total ETAF x Area	(B+D)
Total Area	(A+C)
Sitewide ETAF	(B+D) ÷ (A+C)

HISTORY

1. New Appendix B filed 9-10-2009; operative 9-10-2009 pursuant to Govern-
ment Code section 11343.4 (Register 2009, No. 37).

2. Repealer and new Appendix B filed 9-15-2015; operative 9-15-2015. Exempt
from OAL review and submitted to OAL for printing only pursuant to Govern-
or's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

Appendix C — Sample Certificate of Completion.

CERTIFICATE OF COMPLETION

This certificate is filled out by the project applicant upon completion of the landscape project.

PART 1. PROJECT INFORMATION SHEET

Date		
Project Name		
Name of Project Applicant		Telephones No.
		Fax No.
Title	Email Address	
Company	Street Address	
City	State	Zip Code

Project Address and Location:

Street Address		Parcel, tract or lot number, if available.
City		Latitude/Longitude (optional)
State	Zip Code	

Property Owner or his/her designee:

Name		Telephones No.
		Fax No.
Title	Email Address	
Company	Street Address	
City	State	Zip Code

Property Owner

"I/we certify that I/we have received copies of all the documents within the Landscape Documentation Package and the Certificate of Completion and that it is our responsibility to see that the project is maintained in accordance with the Landscape and Irrigation Maintenance Schedule."

 Property Owner Signature

Date

Please answer the questions below:

1. Date the Landscape Documentation Package was submitted to the local agency _____
2. Date the Landscape Documentation Package was approved by the local agency _____
3. Date that a copy of the Water Efficient Landscape Worksheet (including the Water Budget Calculation) was submitted to the local water purveyor _____

PART 2. CERTIFICATION OF INSTALLATION ACCORDING TO THE LANDSCAPE DOCUMENTATION PACKAGE

"I/we certify that based upon periodic site observations, the work has been completed in accordance with the ordinance and that the landscape planting and irrigation installation conform with the criteria and specifications of the approved Landscape Documentation Package."

Signature*		Date	
Name (print)		Telephone No.	
		Fax No.	
Title		Email Address	
License No. or Certification No.			
Company		Street Address	
City	State	Zip Code	

*Signer of the landscape design plan, signer of the irrigation plan, or a licensed landscape contractor.

PART 3. IRRIGATION SCHEDULING

Attach parameters for setting the irrigation schedule on controller per ordinance Section 492.10.

PART 4. SCHEDULE OF LANDSCAPE AND IRRIGATION MAINTENANCE

Attach schedule of Landscape and Irrigation Maintenance per ordinance Section 492.11.

PART 5. LANDSCAPE IRRIGATION AUDIT REPORT

Attach Landscape Irrigation Audit Report per ordinance Section 492.12.

PART 6. SOIL MANAGEMENT REPORT

Attach soil analysis report, if not previously submitted with the Landscape Documentation Package per ordinance Section 492.6.

Attach documentation verifying implementation of recommendations from soil analysis report per ordinance Section 492.6.

HISTORY

1. New Appendix C filed 9-10-2009; operative 9-10-2009 pursuant to Government Code section 11343.4 (Register 2009, No. 37).

2. Repealer and new Appendix C filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

Appendix D — Prescriptive Compliance Option.

(a) This appendix contains prescriptive requirements which may be used as a compliance option to the Model Water Efficient Landscape Ordinance.

(b) Compliance with the following items is mandatory and must be documented on a landscape plan in order to use the prescriptive compliance option:

(1) Submit a Landscape Documentation Package which includes the following elements:

- (A) date
- (B) project applicant
- (C) project address (if available, parcel and/or lot number(s))
- (D) total landscape area (square feet), including a breakdown of turf and plant material
- (E) project type (e.g., new, rehabilitated, public, private, cemetery, homeowner-installed)
- (F) water supply type (e.g., potable, recycled, well) and identify the local retail water purveyor if the applicant is not served by a private well
- (G) contact information for the project applicant and property owner
- (H) applicant signature and date with statement, "I agree to comply with the requirements of the prescriptive compliance option to the MWELO".

(2) Incorporate compost at a rate of at least four cubic yards per 1,000 square feet to a depth of six inches into landscape area (unless contra-indicated by a soil test);

(3) Plant material shall comply with all of the following:

(A) For residential areas, install climate adapted plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for 75% of the plant area excluding edibles and areas using recycled water; For non-residential areas, install climate adapted plants that require occasional, little or no summer water (average WUCOLS plant factor 0.3) for 100% of the plant area excluding edibles and areas using recycled water;

(B) A minimum three inch (3") layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.

(4) Turf shall comply with all of the following:

(A) Turf shall not exceed 25% of the landscape area in residential areas, and there shall be no turf in non-residential areas;

(B) Turf shall not be planted on sloped areas which exceed a slope of 1 foot vertical elevation change for every 4 feet of horizontal length;

(C) Turf is prohibited in parkways less than 10 feet wide, unless the parkway is adjacent to a parking strip and used to enter and exit vehicles. Any turf in parkways must be irrigated by sub-surface irrigation or by other technology that creates no overspray or runoff.

(5) Irrigation systems shall comply with the following:

(A) Automatic irrigation controllers are required and must use evapotranspiration or soil moisture sensor data and utilize a rain sensor.

(B) Irrigation controllers shall be of a type which does not lose programming data in the event the primary power source is interrupted.

(C) Pressure regulators shall be installed on the irrigation system to ensure the dynamic pressure of the system is within the manufacturers recommended pressure range.

(D) Manual shut-off valves (such as a gate valve, ball valve, or butterfly valve) shall be installed as close as possible to the point of connection of the water supply.

(E) All irrigation emission devices must meet the requirements set in the ANSI standard, ASABE/ICC 802-2014. "Landscape Irrigation Sprinkler and Emitter Standard." All sprinkler heads installed in the landscape must document a distribution uniformity low quarter of 0.65 or higher using the protocol defined in ASABE/ICC 802-2014.

(F) Areas less than ten (10) feet in width in any direction shall be irrigated with subsurface irrigation or other means that produces no runoff or overspray.

(6) For non-residential projects with landscape areas of 1,000 sq. ft. or more, a private submeter(s) to measure landscape water use shall be installed.

(c) At the time of final inspection, the permit applicant must provide the owner of the property with a certificate of completion, certificate of installation, irrigation schedule and a schedule of landscape and irrigation maintenance.

HISTORY

1. New Appendix D filed 9-15-2015; operative 9-15-2015. Exempt from OAL review and submitted to OAL for printing only pursuant to Governor's Executive Order No. B-29-15 (4-1-2015) (Register 2015, No. 38).

Chapter 2.7.1. Flood Protection Corridor Program of the Costa-Machado Water Act of 2000

§ 497.1. Scope.

(a) These regulations implement Sections 79035 through 79044, and 79044.9 in Article 2.5 of Chapter 5 of Division 26 of the Water Code, which Division is the Costa-Machado Water Act of 2000. They establish a process for funding acquisition of property rights and related activities for flood protection corridor projects undertaken by the Department of Water Resources directly or through grants to local public agencies or nonprofit organizations.

(b) The Flood Protection Corridor Program is statewide in scope. Within the geographic scope of the CALFED Bay-Delta Program, funds in the subaccount for this program shall be used for projects that, to the greatest extent possible, are consistent with the CALFED long-term plan identified in the Programmatic Record of Decision of August 28, 2000.

NOTE: Authority cited: Sections 8300, 12580 and 79044.9, Water Code; 2000 Cal. Stat. Ch. 52, Item No. 3860-101-6005; 2001 Cal. Stat. Ch. 106, Item No. 3860-001-0001, Provision 3; and 2002 Cal. Stat. Ch. 379, Item No. 3860-101-6005. Reference: Sections 79037, 79043, 79044 and 79044.9, Water Code

HISTORY

1. New chapter 2.7.1 (sections 497.1-497.12) and section filed 8-19-2003; operative 8-19-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 34).

§ 497.2. Definitions.

The words used in this chapter have meanings set forth as follows:

(a) "A List" means the preferred priority list of projects described in Section 497.6.

(b) "Applicant" means an entity that is acting as the principal party making an application for funding under the provisions of the Costa-Machado Water Act of 2000.

(c) "B List" means the reserve priority list of projects described in Section 497.6.

(d) "CEQA" means the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.*

(e) "Department" means the California Department of Water Resources.

(f) "Director" means the Director of the Department of Water Resources.

(g) "FEMA" means the Federal Emergency Management Agency.

(h) "Fully funded" with respect to a grant project means funded to the full amount of the requested funds or to the funding limit, whichever is less.

(i) "Grant application form" means the Department's form entitled "Flood Protection Corridor Program Project Evaluation Criteria and Competitive Grant Application Form" dated April 9, 2003 and incorporated herein by this reference.

(j) "Local public agency" means any political subdivision of the State of California, including but not limited to any county, city, city and county, district, joint powers agency, or council of governments.

(k) "Milestone" means a time when a significant portion of a project is completed, as defined in the contract as a time for disbursement of grant funds.

(l) "Nonprofit organization" means an organization that does not operate for profit and has no official governmental status, including but not limited to clubs, societies, neighborhood organizations, advisory councils, conservation organizations and privately run local community conservation corps.

(m) "Program" means the Flood Protection Corridor Program established by Water Code Division 26, Chapter 5, Article 2.5.

(n) "Property interest" means any right in real property, including easement, fee title, and any other kind of right acquired by legally binding means.

(o) "Project" means all planning, engineering, acquisition of real property interests, construction and related activities undertaken to implement a discrete action undertaken under the program pursuant to Water Code Section 79037.

(p) "Sponsor" means an applicant who has received grant funding through the application process described in these regulations.

(q) "Subaccount" means the Flood Protection Corridor Subaccount created by Water Code Section 79035(a).

NOTE: Authority cited: Sections 8300, 12580 and 79044.9, Water Code. Reference: Sections 79035, 70937, 79038(a) and 79043, Water Code; and Sections 21000 *et seq.*, Public Resources Code.

HISTORY

1. New section filed 8-19-2003; operative 8-19-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 34).

§ 497.3. Program Management Process.

The Department selects, approves, funds, and monitors projects funded by grants under the program. The process of managing the program includes these steps:

(a) The Department shall appoint and maintain a Project Evaluation Team composed of Department staff and other consulting governmental agencies. The Department may request consultation with any appropriate government agency, including but not limited to the Department of Conservation, the Department of Fish and Game, the Department of Food and Agriculture, the Office of Emergency Services, and the CALFED Bay-Delta Program.

(b) Local public agencies or nonprofit organizations qualified under Section 497.4 may apply for program grants for projects at such times as

the Department may designate. Applications for proposed projects shall be submitted in response to a solicitation issued by the Department. As long as uncommitted funds remain available to fund new projects, the Department shall solicit proposals at least once per calendar year. The time period for submitting applications shall be 90 days from the date notice is given by the Department that project proposals are being solicited. Notices shall be provided to cities, counties, flood control districts, reclamation districts, and other local government entities that manage flood plains and flood control projects. The Department will also provide notice to nonprofit organizations with interest in flood management issues, and shall send notice to all individuals and organizations that have requested notice of the opportunity to submit applications. Notices may be given by mail, electronic mail, website posting, or any other method that provides easy access and prompt availability. Projects shall meet the requirements of Section 497.5. Applications shall meet the requirements of Section 497.7.

(c) The Project Evaluation Team shall review each application and evaluate the subject project within 60 days of the close of the specified submittal period, or within 60 days of receipt of requested additional information, whichever is later.

(d) The Project Evaluation Team shall notify the Department to request the applicant to provide additional information within 30 days of the Department's request if:

(1) The project appears potentially eligible but is missing information needed to evaluate the merits of the project, or

(2) Additional information is needed to evaluate the merits of the project in comparison to others received.

(e) If the requested additional information cannot be provided in 30 days, the applicant may refile its application with the additional information at the Department's next solicitation of proposals.

(f) When a proposal that meets minimum qualifications is complete and all requested additional information has been supplied, the Project Evaluation Team shall complete the evaluation of the project including recommending its place on a priority list as described in Section 497.6.

(g) After each solicitation of proposals, Department staff, using the evaluations and recommended priorities of the Project Evaluation Team, shall recommend projects, priority, and amounts per project to be funded and submit the recommendations to the Director for approval of the priority lists. Department staff may recommend:

[The next page is 38.15.]

Chapter 17.80LANDSCAPE WATER CONSERVATION STANDARDSSections:

17.80.010	Title and Purpose
17.80.020	Definitions
17.80.030	Applicability
17.80.040	Landscape Project Application (LPA) Requirements
17.80.050	Water Efficient Landscape Standards
17.80.060	Landscape Plan Requirements
17.80.070	Landscape Water Audit Requirements
17.80.080	Certifications
17.80.090	Landscape and Irrigation Maintenance Schedule
17.80.100	Stormwater Management
17.80.110	Provisions for Existing Landscapes
17.80.120	Public Education
<u>17.80.130</u>	<u>Reporting</u>

17.80.010 Title and Purpose. This Chapter shall be known and may be cited as the Landscape Water Conservation Standards Ordinance of the City of Clayton for the purpose of implementing within Clayton the Water Conservation in Landscaping Act of 2006 and the implementation of Executive Order B-29-15.

17.80.020 Definitions. Certain words and phrases are defined within this Chapter and the definitions herein apply to this Chapter only. Where it appears from the context of such words, phrases, or provisions that a different meaning is intended, the definition shall be determined by the Community Development Director.

- A. "Applicant" means the individual or entity submitting a Landscape Project Application (LPA) required under Section 17.80.040 of this Chapter to request a permit, plan check, or design review from the City of Clayton, or

requesting new or expanded water service from the local water district. A project applicant may be the property owner or his or her designee.

- B. "Applied water" means the portion of water supplied by the irrigation system to the landscape.
- C. "Backflow prevention device" means a safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from an irrigation system.
- D. "Certified irrigation system auditor" means a person certified by the U.S. Environmental Protection Agency's WaterSense Irrigation Partners Program.
- E. "Control valve manifold" a series of control valves plumbed together in one central spot for distribution to sprinkler heads.
- F. "Conversion factor (0.62)" means the number that converts acre-inches per acre per year to gallons per square foot per year.
- G. "Emission Device" means any device that is contained within an irrigation system that is used to apply water. Common emission devices in an irrigation system include, but are not limited to, spray and rotary sprinkler heads, bubblers, and drip irrigation emitters.
- H. "Estimated Total Water Use (ETWU)" means the estimated total water used for the landscape, as described in the City of Clayton Water Allowance Work Sheet.
- I. "ET adjustment factor (ETAF)" means a factor of ~~0.7~~, 0.55 for residential areas and 0.45 for non-residential areas, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency which are two major influences upon the amount of water that needs to be applied to the landscape. ETAF for a Special Landscape Area shall be 1.0.
- J. "ETo" stands for Reference Evapotranspiration, and means the water loss from a large field of 4-7 inch-tall, cool-season grass that is not water stressed. Local ETo numbers can be found through the California Irrigation Management Information System (CIMIS).
- K. "Evapotranspiration" means the combination of water transpired from plants and evaporated from the soil and plant surfaces.
- L. "Flow rate" means the rate at which water flows through pipes, valves, and emission devices, measured in gallons per minute, gallons per hour, or cubic feet per second.
- M. "Flow sensors" means an inline device installed at the supply point of the irrigation system that produces a repeatable signal proportional to flow rate. Flow sensors must be connected to an automatic irrigation controller, or

flow monitor capable of receiving flow signals and operating master valves. This combination flow sensor/controller may also function as a landscape water meter or submeter.

M.N. "Graywater" means untreated wastewater that has not been contaminated by any toilet discharge, has not been affected by infectious, contaminated, or unhealthy body wastes, and does not present a threat from contamination by unhealthful processing, manufacturing, or operating wastes.

N.O. "Geometry" means the size, shape, and angles of an area.

O.P. "Hardscape" means any durable material (pervious and non-pervious).

P.Q. "Hydrozone" means a portion of the landscaped area having plants with similar water needs. This ordinance uses the publication *Water Use Classification of Landscape Species* (WUCOLS) to determine a plant's water needs. A hydrozone may be irrigated or non-irrigated.

~~"Landscape water audit" means an in-depth evaluation of the installed landscape to verify the landscape complies with the Water Efficient Landscape Standards of the City of Clayton Landscape Water Conservation Standards Ordinance, and completes the Certificate of Compliance for a Landscape Water Audit.~~

R. "Irrigation audit" means an in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. An irrigation audit includes, but is not limited to: inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule. The audit must be conducted in such a manner with the Irrigation Association's Landscape Auditor Certification program or other U.S. Environmental Protection Agency "Watersense" labeled auditing program.

Q.S. "Irrigation efficiency (IE)" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The irrigation efficiency for purposes of this Chapter is ~~71% or greater~~ 75% for overhead spray devices and 81% for drip or bubbler systems. Greater irrigation efficiency can be expected from well-designed and well-maintained systems.

R.T. "Irrigation survey" means an evaluation of an irrigation system that is less detailed than an irrigation audit. An irrigation survey includes, but is not limited to, inspection, system test, and recommendations to improve performance of the irrigation system.

S.U. "Irrigation water use analysis" means an analysis of water use data based on meter readings and billing data.

- ~~U.V.~~ "Landscape area" means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance calculation. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel, or stone walks, or other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).
- ~~W.~~ "Landscape contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.
- ~~U.X.~~ "Landscape water audit" means an in-depth evaluation of the installed landscape to verify the landscape complies with the Water-Efficient Landscape Standards of the City of Clayton Landscape Water Conservation Standards Ordinance, and completes the Certificate of Compliance for a landscape water audit.
- ~~U.Y.~~ "Lateral line" means the water delivery pipeline that supplies water to the emitters or sprinklers from the valve.
- ~~Z.~~ "Master Shut-Off Valve" means an automatic valve installed at the irrigation supply point which controls water flow into the irrigation system. When this valve is closed water will not be supplied to the irrigation system.
- ~~W-AA.~~ "Maximum Applied Water Allowance (MAWA)" means the upper limit of annual applied water for the established landscaped area, as specified in the City of Clayton "Water Allowance Work Sheets".
- ~~X-BB.~~ "Medians" mean any planting area that separates traffic lanes on streets and parking areas in parking lots.
- ~~Y-CC.~~ "Mulch" means any organic material, such as leaves, bark, straw, or compost; or inorganic mineral materials, such as rocks, gravel, and decomposed granite left loose and applied to the soil surface for the beneficial purposes of reducing evaporation, suppressing weeds, moderating soil temperature, and preventing soil erosion.
- ~~Z-DD.~~ "Non-Permeable" means any surface or material that will not allow the passage of water through that surface or material and into the underlying soil at a rate that ensures run-off will not occur.
- ~~AA-EE.~~ "Operating pressure" means the pressure at which the parts of an irrigation system are designed by the manufacturer to operate.
- ~~BB-FF.~~ "Overhead irrigation" means systems that deliver water through the air (e.g., sprayheads and rotors).
- ~~CC-GG.~~ "Overspray" means the irrigation water that is delivered beyond the target area.

- ~~DD~~JJ. "Permit" means an authorizing document issued by local agencies for new construction or rehabilitated landscapes.
- ~~EE~~II. "Plant factor" or "plant water use factor" is a factor that, when multiplied by ETo, estimates the amount of water needed by plants. The plant factors for this Chapter are from the WUCOLS publication.
- ~~FF~~JJ. "Precipitation rate" for this Chapter means the rate of application of water measured in inches per hour.
- ~~GG~~KK. "Project" means the total area comprising the landscape area, as defined in this Chapter.
- ~~HH~~LL. "Rain switch" or "rain sensing shutoff device" means a component that automatically suspends an irrigation event when it rains.
- ~~HH~~MM. "Reference evapotranspiration" or "ETo" means a standard measurement of environmental parameters that affect the water use of plants.
- ~~JJ~~NN. "Rehabilitated landscape" means any re-landscaping project that requires a permit, plan check, or design review, or requires a new or expanded water service application.
- ~~KK~~OO. "Retail water supplier" means any entity, including a public agency, city, county, district or private water company that provides retail water service.
- ~~LL~~PP. "Runoff" means water that is not absorbed by the soil or landscape to which it is applied and that flows from the landscape area.
- ~~MM~~QQ. "Smart irrigation controllers" means controllers using weather information or soil moisture readings along with site information to automatically adjust the irrigation schedule on a daily basis.
- ~~NN~~RR. "Soil moisture sensor" or "soil moisture sensing device" means a device that measures the amount of water in the soil. The device may also suspend or initiate an irrigation event.
- ~~OO~~SS. "Special Landscape Area (SLA)" means an area of the landscape dedicated solely to edible plants, such as vegetable gardens or orchards, areas irrigated with recycled water, water features using recycled water, cemeteries, and areas dedicated to active play, such as parks, sports fields, and golf courses where turf provides a playing surface.
- ~~PP~~TT. "Sprinkler head" means a device that delivers water through a nozzle.
- ~~QQ~~UU. "Station" means an area served by one valve or by a set of valves that operate simultaneously.
- ~~RR~~VV. "Turf" means a ground cover surface of mowed grass. Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are examples of

cool-season grasses. Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, and Buffalo grass are examples of warm-season grasses.

~~SS.WW.~~ "Valve" means a device used to control the flow of water in the irrigation system.

~~FF.XX.~~ "Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied).

~~VVYY.~~ "WUCOLS" means the Water Use Classification of Landscape Species, published by the University of California Cooperative Extension, the Department of Water Resources, and the Bureau of Reclamation, 2000. (WUCOLS) report is available at <http://www.water.ca.gov/wateruseefficiency/publications/>. Search for WUCOLS, and then go to Part 2 WUCOLS III* 1999 Edition.

17.80.030 Applicability. After January 5, 2017, the indicated provisions of this Chapter shall apply to landscape projects as follows:

- A. Developer Projects: New ~~and rehabilitated~~ landscape development for commercial, multi-family, and single family projects with irrigated landscape areas cumulatively equal to or greater than ~~2,500~~ 500 square feet and ~~rehabilitated landscape development for commercial, multi-family, and single family projects with irrigated landscape areas cumulatively equal to or greater than 2,500 square feet,~~ requiring a building permit, grading permit, plan check, or design review shall complete the Landscape Project Application (LPA) described in Section 17.80.040, and comply with all other Sections of this Chapter.
- B. Municipality and Public Agency Projects: New ~~and rehabilitated~~ projects designed and installed by the City of Clayton with irrigated landscape areas cumulatively equal to or greater than ~~2,500~~ 500 square feet and ~~rehabilitated projects designed and installed by the City of Clayton with irrigated landscape areas cumulatively equal to or greater than and 2,500 square feet~~ shall comply with Sections 17.80.050, 17.80.060, 17.80.070, 17.80.080, 17.80.090, and 17.80.100.
- C. Owner-Directed Single Family Projects: New ~~and rehabilitated~~ owner-directed single family projects with irrigated landscape areas cumulatively equal to or greater than ~~5,000~~ 500 square feet and ~~rehabilitated owner-directed single family projects with irrigated landscape areas cumulatively equal to or greater than 2,500~~ and requiring a building permit, grading permit, plan check, or design review shall complete the Landscape Project Application (LPA) described in Section 17.80.040, and comply with all other Sections, except Section 17.80.090, of this Chapter.

D. Existing Landscapes: Existing landscapes are only subject to the provisions in Section 17.80.110, "Provisions for Existing Landscapes" and Section 17.80.120, "Public Education".

E. The provisions of this Chapter shall not apply to:

1. Landscapes that are only temporarily irrigated for establishment purposes and landscapes that are not irrigated with a permanent irrigation system.
2. Registered local, state or federal historical sites, or as may otherwise be determined by the City Council;⁵
3. Community gardens, botanical gardens and arboretums open to the public.

17.80.040 Landscape Project Application (LPA) Requirements. Applicant shall choose one of the two options below to comply with this Chapter:

A. Option A: Proposed landscape project does not include any:

1. Water features with more than 100 square feet of total surface area; or
2. Turf or other high water use plants, unless they qualify as a "Special Landscape Area". High water use plants are those designated as 'high water use' in the Water Use Classification of Landscape Species (WUCOLS) report¹.

For this option, the applicant shall complete the following:

1. Project Application Sheet.
2. Certification Sheets.
3. Landscape Plans (See Section 17.80.060);
4. Maintenance Schedule (See Section 17.80.090).

B. Option B: Proposed landscape project does include:

1. Water features with more than 100 square feet of total surface area; or
2. Turf or other high water use plants not qualifying as a "Special Landscape Area". The Estimated Total Water Use (ETWU) for the proposed landscape shall not exceed the Maximum Applied Water Allowance (MAWA) for the site. The MAWA formula will use an ET Adjustment Factor of 0.7 .50 for residential projects and an ET Adjustment Factor of .45 for non-residential projects.

¹ Water Use Classification of Landscape Species (WUCOLS) report which is available at <http://www.water.ca.gov/wateruseefficiency/publications/> A Guide to Estimating, Part 2.

For this option, the applicant shall complete the following:

1. Project Application Sheet.
2. Certification Sheets.
3. Water Allowance Work Sheets.
4. Landscape Plans (See Section 17.80.060).
5. Maintenance Schedule (See Section 17.80.090).

An applicant requesting design review approval shall submit, at a minimum, a preliminary landscaping plan with the design review application; however, the applicant must submit all components of the Landscape Project Application (LPA) concurrently with the application for building permit or grading permit for the project.

The Community Development Director or his/her designee shall review each LPA for compliance with the provisions of this Chapter and may withhold issuance of ~~zoning approval~~ for a building permit or grading permit for which its corresponding LPA does not comply with this Chapter.

17.80.050 Water Efficient Landscape Standards. The proposed landscape design shall incorporate the most recent acceptable best management practices as determined by the City of Clayton for water-efficient landscape design and shall comply with the following standards:

A. Plant Design:

1. Plants selected shall be well suited to the area's climate and the site's soil conditions.
2. For residential areas, install climate adapted plants with an average WUCOLS plant factor of 0.3 for 75% of the plant area excluding edibles.
3. For non-residential areas, install climate adapted plants with an average WUCOLS plant factor of 0.3 for 100% of the plant area excluding edibles.
4. The proposed landscape shall be designed so that distinct hydrozones are irrigated separately by one or more irrigation valves. A hydrozone is an area with similar sun exposure, irrigation precipitation rate, soil conditions, slope, and plant material with similar water needs. Refer to the WUCOLS report for plant water needs.
5. Plants shall be spaced appropriately based on their expected mature spread.
6. If the geometry of the planting area does not conform to the spray pattern of the sprinkler, resulting in overspray onto the adjacent pavement, then overhead irrigation shall not be used.

7. Plants shall be spaced so that at mature size they do not block sprinklers.
8. Turf shall not be planted on slopes steeper than 15%.
9. Turf shall not exceed 25% of the landscape area for residential areas and there shall be no turf in non-residential areas.
10. Turf shall not be planted in any medians or in areas narrower than ~~8'0"~~ 10'0".
11. High water use plants with a WUCOLS plant factor of 0.7 to 1.0 are prohibited in street medians.

B. Irrigation System:

The irrigation system design shall comply with the following requirements:

1. Smart irrigation controller(s) utilizing all the features listed below shall be required on all irrigation systems:
 - a. Daily evapotranspiration data, ~~and~~ or daily soil moisture sensor utilizing a rain sensor.
 - ~~b. Daily soil moisture sensor data.~~
 - b. Ability to maintain all data in the event of a power shortage.
2. Specify a dedicated landscape water meter for residential landscapes with an irrigated area greater than 5,000 square feet, and a dedicated water meter for non-residential landscapes with an irrigated area greater than 1,000 square feet, or per retail water supplier regulations.
3. Pressure regulators shall be install on the irrigation system to assure dynamic pressure is within the manufacturers recommended range.
4. Manual shut-off valve shall be installed as close as possible to water supply connection.
5. Manual shut-off valves shall be installed before each control valve manifold for residential irrigation systems.
6. Manual shut-off valves shall be installed before each control valve manifold or individual control valve on non-residential irrigation systems.
7. Recycled water shall be used for landscape irrigation if it is available at the project site.
8. Landscapes using recycled water are considered Special Landscape Areas. The ET Adjustment Factor for new and existing (non-rehabilitated) Special- Landscape Areas shall not exceed 1.0.

9. All graywater systems shall conform to the California Plumbing Code (Title 24, Part 5, Chapter 16) and any applicable local ordinance standards.
10. Specify technology and practices to prevent runoff, low head drainage, overspray, or other water waste.
11. Overhead irrigation shall not be permitted within 12" of any non-permeable surface.
12. Specify sprinkler heads and other emission devices that have matched precipitation rates within each irrigation zone. No irrigation zone shall specify a precipitation rate greater than 1.2 inches per hour. On slopes steeper than 25%, the specified precipitation rate shall not exceed 0.75 inches per hour.
13. Specify irrigation controls so the dynamic water pressure at sprinkler head or other emission device is within manufacturer's recommended optimal operating range.
14. No overhead irrigation shall be specified in planting areas less than ~~8'0"~~ 10'0" wide in any dimension, unless demonstrated that water waste will not occur.
15. Specify a manual shut-off valve for each point of connection and specify that each shut-off valve be identified on the controller map.
16. Prepare a controller map and programming table and specify that this be stored in the controller cabinet. The controller map shall visually differentiate each controller zone. For each irrigation valve, the controller programming table shall list the plant water requirement (high, medium, low, or very low), the sun exposure, irrigation emission device type, precipitation rate, station flow rate, optimal pressure, soil type, infiltration rate, square foot area, and degree of slope.
17. Each irrigation valve shall control irrigation to only one distinct hydrozone. A hydrozone is an area with similar sun exposure, irrigation precipitation rate, soil conditions, slope, and plant material with similar water needs. Refer to the WUCOLS report for plant water needs.
18. Specify a separate irrigation valve and hydrozone for the top of a slope and the bottom of a slope.
19. Master shut-off valves are required on all projects except landscapes that make use of technologies that allow for the individual control of sprinklers that are individually pressurized in a system equipped with low pressure shut down features.

20. Flow sensors that detect high flow conditions created by system damage or malfunction are required for all non-residential landscapes and residential landscapes over 5,000 square feet or larger.

C. Water Features:

1. All water features shall have re-circulating water systems.
2. Fountain(s) shall be designed so that no wind drift or overspray occurs.

D. Grading and Soil Preparation:

The landscape design shall:

1. Include a soils management report for large landscape projects and multiple landscape installations (for production home developments a soil sampling of 1 in 7 lots or approximately 15% will satisfy this requirement).
2. Comply with Storm Water Control Plan requirements (C.3), if applicable.
3. Be designed to improve or maintain the infiltration rate of landscape soils typical of their soil texture and minimize soil erosion.
4. Be designed to avoid drainage onto non-permeable hardscapes within the property lines and prevent runoff of all irrigation and natural rainfall outside property lines.
5. ~~Only specify soil amendments if appropriate for the selected plants.~~ Soil amendments shall be incorporated according to recommendations of the soils report and what is appropriate for the plants selected.
6. For landscape installations that require rototilling, compost at a rate of a minimum of 4 cubic yards per 1,000 square feet of permeable area, to a depth of 6 inches into the soil.
7. Specify a minimum ~~two-inch~~ three inch layer of mulch shall be applied on all exposed soil surfaces of planting areas unless there is a horticultural reason not to use mulch in a portion of the planting area. Mulch, such as shredded bark, shall be specified in bio-retention areas and slopes, so that they material will stay in place during rain events.

17.80.060 Landscape Plan Requirements. The Landscape plans shall demonstrate that all the water-efficient landscape standards have been met:

A. The planting plan shall:

1. Identify Special Landscape Areas. Special Landscape Areas include: landscape dedicated solely to edible plants, such as vegetable gardens or orchards, areas irrigated with recycled water, water features using recycled

water, cemeteries, and areas dedicated to active play, such as parks, sports fields, and golf courses where turf provides a playing surface.

2. Identify plants by their common and botanical names.
3. Identify type and surface area of water features.

B. The irrigation plan shall:

1. Show the location and size of the landscape irrigation water meter.
2. Show the location, type and size of all components of the irrigation system, including, but not limited to, controllers, main and lateral lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators, and backflow prevention devices.
3. Identify the static water pressure at the point of connection to the public water supply.
4. Identify the flow rate (gallons per minute), application rate (inches per hour), and design operating pressure (pressure per square inch) for each station.
5. Identify any applicable groundwater discharge piping, system components, and areas of distribution.

C. Landscape plans shall include details and specifications reflecting the most recent acceptable best management practices as determined by the City of Clayton for water-efficient landscape design.

17.80.070 Landscape Water Audit Requirements. A landscape water audit shall be performed to ensure that the installed landscape meets the requirements of this Chapter.

- A. A landscape water audit shall be conducted within thirty (30) days of the start of the landscape maintenance period or, if no maintenance period, then, immediately, upon completion of the landscape installation. An EPA WaterSense certified Irrigation System Auditor shall conduct the landscape water audit and submit a Certificate of Compliance, Landscape Water Audit sheet.
- B. The Landscape Auditor shall inform the applicant of all non-compliance issues with the Ordinance. This shall include, but not be limited to, all items listed on the Certificate of Compliance, Landscape Water Audit sheet.
- C. All non-compliance issues shall be repaired and the site shall be re-audited for compliance with the criteria of this Chapter prior to final inspection/permit and final sign off.

17.80.080 Certifications. Water Efficiency Landscape Checklist/Certification sheets will be part of the Landscape Project Application (LPA) requirements.

- A. The person(s) creating the landscape design shall complete the Certificate of Compliance, Landscape Design sheet certifying the landscape has been designed to comply with the criteria of this Chapter.
- B. The Landscape Contractor/Installer shall complete the Certificate of Compliance, Landscape Installation sheet certifying the landscape has been installed, as specified in the Landscape Plans, and complies with the criteria of this Chapter.
- C. The Landscape Auditor shall complete the Landscape Certificate of Compliance, Water Audit sheet certifying the landscape and irrigation system have been installed, as specified in the Landscape Plans, and comply with the criteria of this Chapter.
- D. The Maintenance Contractor/Person shall complete the Certificate of Compliance, Landscape Maintenance sheet certifying the landscape maintenance contractor agrees to manage the property using less water than the Maximum Applied Water Allowance.
- E. While standards applications are not required for Municipality and Public Agency Projects involving "City" projects conducted by City staff or City hired consultants, where certifications (i.e., Design, Installation, Maintenance, and Auditing) are needed, and the City's Maintenance Supervisors may sign-off on them.

17.80.090 Landscape and Irrigation Maintenance Schedule. The landscape designer or installer shall develop a landscape maintenance specification and schedule for the landscape project that is consistent with the most recent acceptable best management practices as determined by the City of Clayton for landscape maintenance. Schedules shall be submitted with the Certification of Completion.

- A. An annual landscape maintenance schedule shall include at least the following: routine inspection; adjustment and repair of the irrigation system and its components; aerating turf areas; replenishing mulch; seasonal pruning; weeding in all landscape areas; and removing obstructions to emission devices;
- B. Repair of all irrigation equipment shall be done with the originally installed components or their equivalents;
- C. Project shall be irrigated so that total annual water applied is less than or equal to the Maximum Applied Water Allowance (MAWA) (if applicable).

17.80.100 Stormwater Management. All applicable projects shall comply with the requirements of the National Pollutant Discharge Elimination System intended to implement storm water best management practices into the planting, irrigation, and grading plans to minimize runoff and to increase on-site retention and infiltration.

17.80.110 Provisions for Existing Landscapes. This section applies to existing landscapes that were installed before January 5, 2017.

A. Irrigation Survey and Irrigation Water Use Analysis

To ensure the efficient use of landscape water, each owner of property in the City of Clayton is encouraged to utilize resources and services, such as irrigation surveys and landscape water use analyses that are offered by the local retail or wholesale water utility.

B. Water Waste Prevention

Each owner of property in the City of Clayton shall prevent water waste resulting from inefficient landscape irrigation by prohibiting runoff from the target landscape areas due to excessive irrigation or inappropriate run times related to time of day, seasonal and/or variable weather conditions, low head drainage, overspray, or other similar conditions where water flows onto an adjacent property, walks, roadways, parking lots, or structures.

17.80.120 Public Education.

- A. All new model homes that are landscaped shall use signs, brochures and other written information to demonstrate the principles of water-efficient landscapes that are described in this Chapter. Signage shall include information about the site water use as designed per the local ordinance: specify who designed and installed the water efficient landscape: and demonstrate low water use approaches to landscaping such as using native plants, graywater systems, and rainwater catchment systems.
- B. The architectural guidelines of a common interest development, which include homeowner associations, community apartment projects, condominiums, planned developments, and stock cooperatives, shall not prohibit activities or conditions that have the effect of allowing the use of low water use plants as a group.
- C. For new homes/commercial developments, applicant/owner is required to provide the irrigation controller map and programming table and annual maintenance schedules to new tenants or owners at transfer of ownership/maintenance responsibility.
- D. The City of Clayton shall provide on its website links to resources that offer information about the principals of designing, installing, and maintaining water-efficient landscapes. An example of a link is to the local water utility, the Contra Costa Water District, and the landscape water conservation information that Agency offers.

17.80.130 Reporting

- A. The City of Clayton shall submit annual reports to the Department of Water Resources using the Water Efficient Landscape Ordinance Reporting Form, which

can be accessed through the Department of Water Resources website. All reports are due by January 31st of each year.

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

Vice Mayor Diaz thanked the community for its support of his re-election and he is looking forward to another 4 years of serving the Clayton community. Mr. Diaz attended the One Hundred Club of Contra Costa County's 32nd Annual Dinner, the Contra Costa County Mayors' Conference, and the Veterans of Foreign Wars Post 1525 Veterans Day celebration in Concord.

Councilmember Pierce also thanked the community for its support of her re-election for another 4-year term on the Clayton City Council. Ms. Pierce attended the Contra Costa Transportation Board meeting, the Associated Bay Area Governments Executive Board meeting, the Metropolitan Transportation Commission meeting, the Transportation Partnership and Cooperation (TRANSPAC) meeting, four joint meetings of the Associated Bay Area Governments and Metropolitan Transportation Commission meeting, and the Contra Costa County Mayors' Conference.

Councilmember Shuey congratulated Jim Diaz, Julie Pierce, and Tuija Catalano for their election to the Clayton City Council. He also thanked Howard Geller for his service on the Clayton City Council.

Councilmember Haydon also congratulated Jim Diaz, Julie Pierce, and Tuija Catalano for their election to the Clayton City Council. He invited the community to attend the City Council meeting of December 6th where Howard Geller will be recognized for his service on the Clayton City Council. Mr. Haydon attended the Contra Costa County Mayors' Conference, the Clayton Bocce Summer League finals, and the Veterans of Foreign Wars Post 1525 Veteran's Day celebration in Concord.

Mayor Geller advised that he voted in the recent election and congratulated Jim Diaz, Julie Pierce, and Tuija Catalano for their election to the Clayton City Council. Mayor Geller attended the Contra Costa County Mayors' Conference hosted by Clayton in November, the Veterans of Foreign Wars Post 1525 Veteran's Day celebration in Concord, and the Chapter 20 Blue Star Moms granite memorial dedication at Concord High School honoring former students killed in action during Operation Iraqi Freedom and Operation Enduring Freedom. Mayor Geller also advised he will be in attendance at the Warren W. Eukel Teacher Trust award dinner where Laurie Parker will be recognized for her accomplishments.

- (e) Other – None.

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

7. **PUBLIC HEARINGS**

- (a) Public Hearing to consider the Introduction and First Reading of a proposed City-initiated Ordinance No. 470 updating the *Clayton Municipal Code*, Title 17 Zoning, Section 17.80 – Water Conserving Landscape Guidelines, concerning City Water Efficient Landscaping standards and regulations, per state mandate.

Community Development Director Mindy Gentry presented the staff report noting back in September 2010 the City adopted an updated water conservation ordinance in response to the State Water Conservation in Landscaping Act of 2006 (AB 1881). The state law required all new and rehabilitated landscapes be designed and installed to meet the latest best practices for water efficiency. All cities and counties in California were required to adopt the state's model ordinance as written or develop their own ordinance that is at least as effective in conserving water. Clayton, in conjunction with other area cities, adopted an ordinance of its own. Generally, the thresholds established by the State applied to irrigated landscaped areas of 2,500 square feet or greater for developer-initiated projects and public projects, and 5,000 square feet or greater for owner-initiated single-family residential projects.

Governor Jerry Brown then proclaimed a State of Emergency throughout the State of California due to severe drought conditions and issued Executive Order B-29-15 calling for further revision of its Model Ordinance to increase water efficiency standards for new retrofitted landscapes, graywater usage, onsite storm water capture, and limiting the portion of landscapes that could be covered in turf. There is also jurisdictional requirement to report on the implementation and enforcement of local ordinances.

Ms. Gentry reviewed the significant proposed changes to Clayton's Ordinance by establishing lower thresholds on new landscaped areas associated with commercial, multifamily and single family projects from 2,500 square feet to 500 square feet, and on new owner-directed single family projects from 5,000 square feet to 500 square feet and rehabilitated owner-directed single family projects from 5,000 square feet to 2,500 square feet. She also indicated graywater irrigation systems are now allowed. Local jurisdictions are required to report on the implementation and enforcement of its local ordinance, noting the reduction of maximum-applied water allowances reduce the usage of high water-consumption plants such as turf. New landscape design requirements do not allow for more than 25% of the landscape used for residential turf and no turf is allowed in non-residential landscape areas, medians, or in areas narrower than 10 feet; compost must be incorporated in the soil prior to planting at a rate of 4 yards per 1,000 square feet and mulch depth has increased from 2 inches to 3 inches. Ms. Gentry advised the new laws incorporate irrigation requirements for dedicated water meters or submeters, pressure regulators, flow sensors that detect high flow, and master shut off valves in case of failures.

Councilmember Pierce inquired who is designated as the Landscape Auditor? Is that a staff member or somebody else?

Ms. Gentry responded the designated Landscape Auditor depends on the project. If it is a City-initiated project staff would have the ability to do that; if it is a developer-initiated project or single family homeowner, they must possibly hire someone, if it is warranted, who is certified as a Landscape Auditor to perform the actual audit.

Councilmember Pierce inquired if the City will charge a fee for compliance to make sure the Audit is completed? Ms. Gentry advised the homeowner must provide the City with that information. Councilmember Pierce asked about the Public Education and Signage water conservation requirement on model homes: will that be permanent or temporary signage? Ms. Gentry advised the intent is to have the signage displayed during the sale of the homes only, not permanent signage.

Mayor Geller opened the Public Hearing for comments; no public comments were offered, and Mayor Geller closed the Public Hearing.

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to have the City Clerk read Ordinance No. 470, by title and number only and waive further reading. (Passed; 5-0 vote).

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

It was moved by Councilmember Pierce, seconded by Councilmember Haydon, to approve Ordinance No. 470 for Introduction with the finding the action will not result in a significant adverse impact on the environment. (Passed; 5-0 vote).

- (b) Public Hearing to review and consider the following actions for the St. John's Episcopal Church/Southbrook Drive Mixed Use Planned Development Project, consisting of a three-lot subdivision for two-single family homes (APN: 118-101-022):
- 1) Consider adoption of the Final Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (ENV-01-15);
 - 2) Consider a General Plan Amendment to modify the land use designation of 0.41 acre of the project site from Institutional Density (ID) to Single Family Medium Density (MD) (GPA-01-15);
 - 3) Consider the Introduction and First Reading of an Ordinance to rezone the 2.77-acre project site from Agriculture (A) District to Planned Development District (PD) (ZOA-03-15); and
 - 4) Consider approval of the Development Plan (DP-01-15), Tentative Subdivision Map (MAP-01-15), Site Plan Review Permit (SPR-07-16), and Tree Removal Permit (TRP-37-15).

City Assistant Planner Milan Sikela presented the staff report noting several entitlements are required for approval of this project including an Environmental Review, General Plan Amendment, Rezone, Development Plan, Tentative Parcel Map, Site Plan Review Permit, and Tree Removal Permit. Mr. Sikela provided a description of the site location with Clayton Road bordering the project site on the south and Southbrook Drive bordering the project site on the north; he further gave a brief description of the buildings on the existing parcel. Mr. Sikela then outlined the steps needed to complete the Environmental Review including the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared in accordance with the California Environmental Quality Act (CEQA). The General Plan Amendment is a related request to change the undeveloped land use designation of 0.41 acres from Institutional Density (ID) to Single Family Medium Density (MD) to accommodate two proposed single-family residential lots. The Rezone will change the entire project site from Agricultural (A) District to Planned Development (PD) District to allow a mixed use Planned Development project consisting of the existing church and the 2 proposed single-family parcels.

The Development Plan will establish the development standards for the site, thereby allowing the proposed uses on the site. The Tentative Parcel Map will subdivide the existing 2.77-acre church property into 3 parcels consisting of the existing church parcel and, if approved, the 2 single family residential lots. The Site Plan Review Permit allows the review of the architecture and design of the 2 proposed residences, as well as the landscaping, fencing and retaining walls. The Tree Removal Permit allows the removal of 7 of the existing 10 trees to be replaced with newly planted trees, shrubs and groundcover.

Mr. Sikela reviewed the detailed maps of the proposed sites, the proposed 2 single-family residences, the elevation map, the proposed exterior single-family residences, the proposed floor plans of the residences, the house colors and materials, a photo of the

MINUTES
REGULAR PUBLIC MEETING
OAKHURST GEOLOGICAL HAZARD ABATEMENT DISTRICT (GHAD)

October 4, 2016

1. **CALL TO ORDER AND ROLL CALL** – the meeting was called to order at 7:27 p.m. by Chairman Haydon. Board Members present: Chairman Haydon, Vice Chair Diaz and Board Members Pierce and Shuey. Board Members absent: Board Member Geller. Staff present: City Manager Gary Napper, General Legal Counsel Mala Subramanian, and Secretary Janet Brown.
2. **PUBLIC COMMENTS** – None.
3. **CONSENT CALENDAR** – It was moved by Board Member Shuey, seconded by Board Member Pierce, to approve the Consent Calendar as submitted. (Passed; 4-0 vote).
 - (a) Information Only – No Action Requested.
 1. General Manager Observation Report regarding alleged hillside movement on Crow Place.
 - (b) Approved the Board of Directors' minutes for its regular meeting September 20, 2016.
4. **PUBLIC HEARINGS** – None.
5. **ACTION ITEMS** – None.
6. **BOARD ITEMS** – None.
7. **ADJOURNMENT** - on call by Chairman Haydon, the meeting adjourned at 7:28 p.m.

Respectfully submitted,

Janet Brown, Secretary

Approved by the Board of Directors
Oakhurst Geological Hazard Abatement District

Keith Haydon, Chairman



Agenda Date: 12-06-2016

Agenda Item: 4a GHAD

GHAD REPORT

TO: HONORABLE CHAIRMAN AND BOARDMEMBERS
FROM: GENERAL MANAGER
DATE: DECEMBER 6, 2016
SUBJECT: SELECTION OF CHAIRMAN AND VICE CHAIRMAN FOR 2017

RECOMMENDATION

It is recommended the Board of Directors select a new Chairman and Vice Chairman for next year.

BACKGROUND

Similar to the Clayton City Council's annual reorganization, the Board of Directors of the Oakhurst Geological Hazard Abatement District (GHAD) annually changes its chairman and vice chairman.

Since its December 1, 2015 Board meeting, Board Member Keith Haydon has served as Chairman of GHAD with Board Member Jim Diaz serving as its Vice Chairman. At this time, the Board should conduct the nomination and selection of its chair and vice chair to serve for the next twelve months. In recent years the following individuals have served as officers of GHAD:

	<u>Chair</u>	<u>Vice Chair</u>
2016	Keith Haydon	Jim Diaz
2015	Howard Geller	Keith Haydon
2014	Jim Diaz	Howard Geller
2013	David Shuey	Jim Diaz
2012	Hank Stratford	Joe Medrano
2011	Hank Stratford	Joe Medrano
2010	Howard Geller	David Shuey
2009	Hank Stratford	Howard Geller
2008	Bill Walcutt	Julie Pierce
2007	Julie Pierce	Gregg Manning
2006	Bill Walcutt	Gregg Manning
2005	David Shuey	Bill Walcutt
2004	Bill Walcutt	Gregg Manning
2003	Bill Walcutt	Julie Pierce

FISCAL IMPACT

None. Boardmembers do not receive any stipend for their time and effort expended in these offices.

Respectfully submitted,

Rick Angrisani
General Manager