

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

La Sala Building, Hacienda de las Flores
2100 Donald Drive
Moraga, CA 94556

January 20, 2009

7:30 P.M.

MINUTES

I. CALL TO ORDER

Chairperson Goglia called the regular meeting of the Planning Commission to order at 7:30 P.M.

ROLL CALL

Present: Commissioners Hays, Sayles, Whitley, Chairperson Goglia
Absent: Commissioners Daniels, Driver, Levenfeld
Staff: Richard Chamberlain, Senior Planner

B. Conflict of Interest

There was no reported conflict of interest.

II. ADOPTION OF MEETING AGENDA

On motion by Commissioner Whitley, seconded by Commissioner Sayles and carried unanimously to adopt the meeting agenda, as posted.

III. ANNOUNCEMENTS

Senior Planner Richard Chamberlain advised that a variance application that was to have been on the current agenda would be on the next meeting agenda given that the applicant could not be available at this time.

Chairperson Goglia referenced the two letters that the Commission had received related to the parking modification for the Moraga Barn.

Mr. Chamberlain explained that the Planning Commission had considered the use permit for the Moraga Barn although the parking modification would have to be recommended by the Design Review Board (DRB) for Commission approval. He reported that there had been more interest from the public with respect to the parking modification than the use permit. He stated that the DRB had concurred with the findings that the Commission had made for the parking modification request. The letters had been passed on to the Commission for its information.

Mr. Chamberlain also explained, when asked by the Chair, that the Town Council had considered the appeal of the Hetfield Estates proposal and had determined to require a focused Environmental Impact Report (EIR) on the geotechnical and drainage issues, with the item to be returned to the Town Council.

Having attended the meeting, Chairperson Goglia expressed her understanding that the focused EIR was to include Moraga Open Space Ordinance (MOSO) compliance, General Plan compliance, hydrology and geology. She added that the item was to return to the Planning Commission.

IV. **PUBLIC COMMENTS**

There were no comments.

V. **ADOPTION OF THE CONSENT CALENDAR**

A. **Approval of the December 15, 2008 Minutes**

On motion by Commissioner Hays, seconded by Commissioner Sayles to adopt the Consent Calendar, as submitted. The motion carried by the following vote:

Ayes: Commissioners Hays, Sayles, Whitley, Goglia
Noes: None
Abstain: None
Absent: Commissioners Daniels, Driver, Levenfeld

VI. **CONTINUED PUBLIC HEARINGS**

A. None

VII. **NEW PUBLIC HEARING**

- A. **MSM 2008-01 – Michael Branagh, Camino Pablo LLC (Applicant/ Owner) 1057 Camino Pablo Minor Subdivision:** A public hearing to consider an application for a minor subdivision of a 38,560 square foot property at 1057 Camino Pablo into two single-family residential lots. The subject property is located on the northeast side of Camino Pablo and 1,500 feet southeast of Canyon Road. There is an existing 2,568 square foot home on the property, which is proposed for demolition. The northwest lot (Parcel A) would have 102 feet of frontage on Camino Pablo and a net area of 19,665.6 square feet not including the portion of the record parcel that is within the Camino Pablo right-of-way. The southeast lot (Parcel B) would have 98 feet of frontage on Camino Pablo and a net area of 18,894.4 square feet. The property is zoned 3-DUA (three dwelling units per acre). APN 258-250-019

Mr. Chamberlain presented the staff report dated January 9, 2009, for a public hearing to consider an application for a minor subdivision of a 38,560 square foot property at 1057 Camino Pablo into two single-family residential lots. The project was found to be categorically exempt from the California Environmental Quality Act (CEQA) because it was a minor subdivision located in an urbanized area with the slope of the property less than 20 percent, and the approval of the minor subdivision would allow the construction of one additional single-family home which was categorically exempt under Section 15303 (a) under CEQA.

Mr. Chamberlain reported that public hearing notices had been mailed out to property owners within 300 feet of the project site on January 9, 2009. Public agencies had also been provided with copies of the tentative map, staff report and draft conditions of approval on January 9. The only written correspondence received was from the East Bay Municipal Utility District (EBMUD), which had stated that separate meters would be required for each lot with a notice to plan for shortages in time of drought.

Mr. Chamberlain stated that the applicant requested the minor subdivision of two lots with frontage on Camino Pablo and intended to demolish the existing home on the property and replace it with a new home on Parcel A. He explained that the minor subdivision was located in the old Moraga area between Larch Avenue and Camino Pablo in a very compact area with an average slope of 2 percent where stormwater tended to pond in any low spots and drained away slowly due to the flat slope.

Mr. Chamberlain commented that no drainage infrastructure had been installed in the area when the original homes had been built except for some surface drainage ditches. He noted that three new subdivisions with a total of 23 new single-family homes had been approved in Moraga since incorporation, and the new subdivisions were required to make significant drainage improvements to the area. He added that while only one additional home had been proposed, the project would need to comply with the new stormwater regulations and result in no negative drainage impacts to surrounding homes.

Stating that the two lots conformed to the Town's standards for the required lot area, minimum lot width and minimum lot depth, Mr. Chamberlain added that the subdivision was also compatible with the existing land use in the vicinity which consisted primarily of single-family homes on 10,000 to 20,000 square foot lots. He added that the existing curb, gutter and sidewalk on Camino Pablo did not extend across the full frontage of the property and the applicant would need to complete the frontage improvements in the area.

Mr. Chamberlain explained that there was some question as to the potential dedication of a 25-foot wide strip of property within the right-of-way line of Camino Pablo, which would have to be confirmed or otherwise offered on the final map to the subdivision.

The grading plans submitted with the home plans for Parcel A showed 110 cubic yards of cut and 900 cubic yards of fill to raise the pad elevation for the new home to 485 feet, and Mr. Chamberlain stated that the architect planned to use a post tension slab foundation to avoid drilling piers with the high water table. He stated that the Assistant Town Engineer had met with the project engineer to discuss the drainage issues and potential alternatives to ensure that fill on the property would not increase the stormwater runoff to adjacent properties. The preliminary grading plan would require the import of 790 cubic yards of soil which would require the approval of the Town Council.

Mr. Chamberlain also stated that the Contra Costa Clean Water Program and the Town's National Pollutants Discharge Elimination System (NPDES) permits would require significant changes to the way stormwater was handled by new development projects. Water collected from impervious surfaces could not be piped to streams or the existing storm drain system as it had in the past. All new projects must try to have as much infiltration of stormwater into the soil as possible.

The applicant had submitted a geotechnical report for the soil for the project and the test borings had found silty and sandy clay soils and high water conditions, which would limit the amount of filtration. Final drainage plans would be reviewed by the Assistant Town Engineer to ensure compliance with Best Management Practices for water quality and applicable C-3 guidelines.

Mr. Chamberlain reported that under the Permit Streamlining Act (PSA), a decision on the project must be made by March 8, 2009 unless both the applicant and the Town agreed to a one-time 90-day extension. He clarified that the application was not for the vesting tentative map and additional conditions may apply to the plans for the new homes when reviewed by the DRB.

Mr. Chamberlain advised that a resolution for approval of the minor subdivision had been prepared and had been included in the staff report. He stated that the lot configuration of the proposed subdivision was consistent with Moraga Municipal Code (MMC) requirements. The Assistant Town Engineer had reviewed the project and made general recommendations for all storm drainage improvements and frontage improvements along Camino Pablo. He suggested that any issues with respect to the Assistant Town Engineer's recommendations regarding drainage and street improvements could be resolved with the Subdivision Improvement Plans.

Mr. Chamberlain added that the draft resolution included the findings required by the State Subdivision Map Act. He noted that if the Commission did not agree with the draft findings staff should be informed of any changes to include in the final resolution. He took this time to describe the conditions of approval which also included the required fees to be paid including the Lamorinda Fee and Financing Authority (LFFA) transportation impact fee, the Moraga development impact fees and the fee in-lieu of parkland dedication, all of which were required by ordinance. The conditions also identified when those fees would be due, prior to the approval of the parcel map or prior to the issuance of building permits.

Mr. Chamberlain also advised of the recommendation that the existing home be removed prior to the recordation of the final map because the new property line for Parcels A and B would dissect the existing home. He added that since two redwood trees would be removed on the northwest side of the property, a condition had also been included to mitigate the removal of those trees by planting additional trees that would be considered by the DRB as part of the landscape plan. The landscape plan was required given that the property was located in a scenic corridor.

Mr. Chamberlain pointed out some of the other conditions of approval that had been recommended and noted that the standard conditions contained in the grading operations had not been included because they were now required as part of the Grading Ordinance.

Mr. Chamberlain stated that after hearing the testimony in the public hearing, the Commission should consider any additional conditions or amendments to the recommended conditions necessary to address concerns at the meeting. With the approval of the minor subdivision, the application for review of the home plans would be scheduled with the DRB. He added that since the proposed grading on Parcel A was in excess of 200 yards, the grading plan would also require the approval of the DRB. Approval of the parcel map by the Town Council was a ministerial action after the Town Engineer had completed the review of the subdivision improvement plans.

When asked, Mr. Chamberlain explained that the redwood trees were quite large. One had a broken top. He noted that the applicant had filed an application for removal of those trees, and while a finding could be made for the tree with the broken top, the other tree was healthy and would have to be mitigated. He reported that there were seven redwood trees on the property. It was noted that the redwood tree in question was 20 inches in diameter.

Mr. Chamberlain also explained, when asked, that the issue of whether or not the 25-foot right-of-way had previously been dedicated had to be clarified since the maps and the Assessor's Map showed the property line at the right-of-way line while the legal description still defined the project 25 feet out into Camino Pablo.

Mr. Chamberlain further explained that any dedication in the past could be remedied by having the legal description of the two parcels conform to that dedication. With no dedication, an offer for dedication would be requested. He noted that Condition B1 under Part 1 – Requirements for the Final Map and Building Permits as shown in the resolution required that clarification.

Commissioner Hays asked why the Town would want the dedication of that 25-foot piece of property rather than having the property owner maintain that land, to which Mr. Chamberlain stated that without a clarification of a previous dedication or a required dedication, there would be a bump-out in that section of the road. He stated that everywhere else along Camino Pablo the right-of-way line followed the property line.

Mr. Chamberlain further clarified that the 25-foot strip in question was not an easement. He referred to a situation with other properties along Camino Pablo which had required the confirmation from the Town Engineer of the 25-foot right-of-way along Camino Pablo. He explained that the part of the storm drain within the right-of-way would be the Town's responsibility while some storm drains not within the public right-of-way would be the responsibility of the property owner or the Homeowners Association (HOA) where applicable.

Commissioner Sayles verified with Mr. Chamberlain that there was a municipal ordinance which required a property owner to be responsible for Town property all the way to the edge of pavement. As such, he suggested that the Town was covered.

Commissioner Sayles asked whether or not there was any off-site drainage required as part of the subdivision, reported by Mr. Chamberlain that if the pipe had to be extended down the rest of the way it would be two lots down connecting to Duarte Court. Currently most of the property drained to a drainage ditch toward the back of the property.

Mr. Chamberlain pointed out where a potential pipe extension would be placed. He stated that preferably the Town Engineer wanted to have all the drainage in infiltration as much as possible.

Chairperson Goglia questioned the viability of an infiltration method since the borings had been done in September, typically a dry month, and ground water had been found at 4 to 4.5 feet during dry conditions. She questioned whether surface drainage would be viable at the site.

Mr. Chamberlain suggested that a large holding capacity such as a detention basin could be considered.

Commissioner Sayles verified with Mr. Chamberlain that the proposal was well within the minimum required lot size.

Chairperson Goglia referred to the draft resolution and the statement that "Conditions of approval will assure that the subdivision improvement plans meet requirements of relevant Town policy." She asked what that meant.

Mr. Chamberlain stated that basically the conditions of approval had been designed to address any discrepancies. He agreed that was a broad finding.

Commissioner Hays suggested that the approval of the map would approve the drainage as well and he questioned the capacity of the bioswales. He asked if the drainage could be excluded until there was assurance that the drainage plan met the Town Engineer's requirements.

Mr. Chamberlain affirmed that could be done and referred to one of the conditions of approval that the Town Engineer had to review the improvement plans and approve them in accordance with the C-3 requirements. He stated that Town Engineer's review at this time had been preliminary in nature. The applicant would have to satisfy the Town Engineer for the improvement plans on drainage and ensure that the drainage would not exacerbate any of the drainage conditions on the adjacent properties.

When asked, Mr. Chamberlain provided the home plans to the Commission at this time.

Mike Branagh, Camino Pablo LLC, Developer and General Contractor, characterized the proposal for the infill development as straightforward. He reported that he was working with some clients to build a home on Parcel A.

Howard Martin, Schell & Martin, Inc. 3377 Mt. Diablo Boulevard, Lafayette, the Civil Engineer, reported that the drainage was site specific. The basic concept was to have surface flow on the front portion of the home and the driveway through the filtration area which would go into a smaller swale and then tie into the system. He stated that bioswales were .04 times the impervious surface and while not large areas would provide infiltration and slow the water down with an underdrain. The underdrain would go into a proposed new inlet that would be linked through an existing gap into the end of the system. He reiterated that the infiltration would be site specific.

Mr. Martin explained that the latest plan showed the back side of the proposed pool with a higher planter and a system with smaller basins to work surface flow into the ditch. He presented a plan to show that system.

Using the plan, Mr. Martin described how the site currently drained and identified how the proposal would work. He added that he had worked with the Assistant Town Engineer to address the flow while avoiding vector problems.

An unidentified member of the audience who lived in the area described the historical drainage flow and stated, when asked, that the only time the ditch overflowed in the last 25 years was when someone had not maintained it. He characterized the dirt ditch as very shallow, which ditch had been in place since the original subdivision of the property in the early 1960's.

Mr. Martin explained that there would be a certain amount of water with or without development. The intent was to slow the water from the proposed impervious surface to equal what it would be in its existing state. He suggested that to take all the historical water to the point he referenced on the map would be a mistake.

When asked by Chairperson Goglia, Mr. Branagh stated that the second property would depend on the market. At this point it would be a speculative vacant lot which would be left as is. He verified that all the structures on the property would be removed.

Mr. Martin presented a stormwater/drainage plan for the site showing the home sites.

PUBLIC HEARING OPENED

Ray Casabonne, 17 El Camino Flores, Moraga, whose home was situated directly behind the property, supported the subdivision of the property but expressed some concern for the ditch and sought assurance that it would be cleared up. He also expressed concern for a well that was partially on his property and partially on the subject property and urged some care in the removal of the building, the filling of the well, and continuing the ditch all the way through. He referred to a pipe on his property which took the water around the concrete pad. He asked that those issues be addressed.

Mr. Branagh expressed a desire to be a good neighbor and to work with the neighborhood. With respect to the well, he stated that he had spoken to a well contractor who had indicated that the well was so shallow that it was more of a holding tank. He suggested that the most economical situation would be for him to remove the well and to patch up the property.

PUBLIC HEARING CLOSED

Commissioner Sayles agreed with the lot line adjustment in the front if it was consistent with the other properties along Camino Pablo and that the land be dedicated to the Town. He expressed concern with the two redwood trees which sat on the setback. He suggested that the design could be adjusted given the lot size to get out of the drip line of the two redwoods. He also noted with respect to the plans submitted that the proposed building was being pushed so hard against the setback that the eaves had been cut back to ensure conformity. When submitted for design review consideration he did not believe that should be approved since it was an inconsistent exterior architectural element. He questioned the need to remove the redwood trees.

Commissioner Sayles suggested that the site drainage was well thought out. He was supportive of the application.

Commissioner Whitley commented that the plan appeared to be a good one that fit into the neighborhood. He suggested it was appropriate to divide the one acre lot into half acre lots. Noting some drainage concerns, he suggested that could be addressed at a later time not necessarily in connection with the subdivision. His greatest concern was the trees and he asked if that issue could be addressed at another time.

Mr. Chamberlain stated that the application for the homes would require a decision on the trees. He affirmed that the DRB could make the decision of whether or not to retain the trees.

Chairperson Goglia suggested that the Commission could give guidance to the DRB on the retention or not of the two redwood trees.

Mr. Chamberlain noted that any removal of the trees could be mitigated by the DRB with the consideration of additional trees as part of the landscaping plan given the need for landscaping along the frontage of the property because of the scenic corridor. When asked, he stated that the grading plan would also be reviewed by the DRB given that there would be more than 200 cubic yards graded. He advised that the mitigation of the tree loss could be part of the design review process or part of the grading plan.

Commissioner Whitley wanted the question of the trees to be taken into consideration in the context of the design and placement of the home on the property itself. He verified that Condition No. 16 under Part 1 – Requirements for the Final Map and Building Permits addressed all trees protected under the Moraga Tree Ordinance where protected trees may not be removed without approval by the DRB. He found that condition to satisfy his concern.

Commissioner Sayles expressed concern as to what would protect the trees during the grading process before the DRB's review of the home plans.

Mr. Chamberlain explained that grading and design review would be considered as one application and would not be considered separately. He verified that there was no arborist report on the trees.

Mr. Branagh explained that one of the trees was not very attractive. He suggested if removing the one tree what was remaining of the other tree would also not be attractive given that they had grown very close together. As such, he suggested that neither would offer an aesthetic contribution to the site. Since the trees were right on the setback line, if there was a requirement to protect the trees the construction would have to be moved inside the property 25 to 30 feet. He stated that the landscaping plan that had been submitted showed the creation of a fairly heavy tree enclosure around the entire property with trees on both sides, in back and along the front. As a result, he stated that 15 to 20 trees would be added to the site more than compensating for the loss of the two redwood trees.

Commissioner Hays had no issue with the subdivision which he suggested conformed to the area around it. He also had no issue with the removal of the two redwood trees given that redwood trees had very shallow roots and removing the concrete in the area without disturbing the roots of those trees would be difficult. He suggested that the removal of one tree only would damage the roots of the other since they were intertwined. He noted that the location of the trees farthest from the scenic corridor was also not an issue to him.

Stating that his only concern was the stormwater issue, Commissioner Hays suggested that could be adequately addressed by the Town Engineer. He referred to the condition requiring the submittal of a geotechnical report and asked if that would be prior to the approval of the grading plan.

Mr. Chamberlain clarified that the applicant had actually submitted a geotechnical report for Parcel A and that there should also be a grading plan for Parcel B as well. While the geotechnical report was probably for the entire parcel, he suggested it had primarily been done as a foundation and soils report for the home on Parcel A.

Chairperson Goglia expressed concern for the high water table and how that might possibly be addressed, particularly with respect to the foundation and any crawl space.

Mr. Chamberlain explained that a post tension slab had been proposed for that reason and suggested that was the reason for placing so much fill on the property to raise the slab, although the Chair suggested there could be the potential for water infiltration through the slab.

Commissioner Hays commented that a vapor barrier could be put down before the slab.

Chairperson Goglia asked what kind of drainage protection had been provided for the homes in other adjacent recent developments.

Mr. Chamberlain was not aware of all of those details.

Commissioner Sayles noted that the finish floor elevation was at elevation 483.9 and that the post tension slab was about a foot thick on what would have been a 479 foot elevation. He verified with Mr. Chamberlain that the site was nowhere near the flood plain.

Chairperson Goglia expressed a concern for the close proximity of the school and sought a condition that the grading and construction would be done with particular consideration for the safety of the students to avoid construction traffic during peak student drop-off and pick-up periods. She also had a concern related to job site safety during demolition and construction and wanted assurance that the site would be properly secured to minimize its use as an attractive nuisance.

Chairperson Goglia also asked about Condition No. 9 under Part 2 – Requirements for Deed Restrictions, where the homes were to be sited to maximize orientation of the long axis within 30 degrees of a true east west orientation.

Mr. Chamberlain characterized that condition as a long-time standard to allow the potential for south facing orientation.

Chairperson Goglia proposed a new Condition 6. under Part 3 – Conditions for Development of the Subdivision, to read as follows:

Grading, construction and other work on the site shall be executed with particular care for the safety of students at the nearby schools.

On motion by Commissioner Whitley, seconded by Commissioner Hays to adopt Resolution No. 03-2009 to approve MSM-2008-01 for Branagh, Camino Pablo LLC, a minor subdivision of a 38,560 square foot property at 1057 Camino Pablo into two single-family residential lots, subject to the findings and conditions as shown and as amended. The motion carried by the following vote:

Ayes: Commissioners Hays, Sayles, Whitley, Goglia
Noes: None
Abstain: None
Absent: Commissioners Daniels, Driver, Levenfeld

Mr. Chamberlain advised that there was a ten day right of appeal for anyone wishing to appeal the decision of the Planning Commission to the Town Council by filing a letter stating the grounds for the appeal and through the payment of an appeal fee, through the Planning Department.

VIII. PUBLIC MEETING

A. None

IX. ROUTINE & OTHER MATTERS

A. None

X. COMMUNICATIONS

A. None

XI. REPORTS

A. Commission

Commissioner Sayles provided a report on the last meeting of the DRB related to the approval of a freestanding sign for the Veterinary Hospital at 1020 Country Club Drive and the concurrence with the Commission's finding for a parking modification for the Moraga Barn at 925 Country Club Drive.

B. Staff

1. Update on Town Council Actions and Future Agenda Items

Mr. Chamberlain reported that the Precise Development Plan for the Palos Colorados project and a variance request would be on the agenda for the February 2 Commission meeting.

XII. ADJOURNMENT

On motion by Commissioner Whitley, seconded by Commissioner Hays to adjourn the meeting at approximately 8:45 P.M. to a regular meeting of the Planning Commission on Monday, February 2, 2009 at 7:30 P.M. in the La Sala Building at the Hacienda de las Flores, 2100 Donald Drive, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission