

**TOWN OF MORAGA PLANNING COMMISSION
MEETING AGENDA
Monday, June 21, 2010
7:30 PM**

**Moraga Library Meeting Room at
1500 Saint Mary's Road, Moraga California 94556**

All documents relating to the following agenda items are available for public review in the Planning Department of the Town of Moraga at 329 Rheem Blvd. between the hours of 9 to 12, Monday, Tuesday and Thursday (other times by appointment). Staff reports will normally be available on the Monday afternoon one week preceding the meeting. It is recommended that you contact the Planning Department at 925-888-7040 for availability.

I. CALL TO ORDER AND ROLL CALL

Planning Commission

- A. Driver, Levenfeld, Obsitnik, Richards, Socolich, Whitley, Wykle
- B. Conflict of Interest

II. ADOPTION OF MEETING AGENDA

III. PUBLIC COMMENTS

This part of the agenda is to receive public comments on matters that are not on this agenda. Comments received will not be acted upon at this meeting and may be referred to a subcommittee for response. Comments should not exceed three minutes.

IV. ADOPTION OF THE CONSENT CALENDAR

Items on the Consent Calendar are believed by staff to be non-controversial. Staff believes that the proposed action is consistent with the commission's instructions. A single motion may adopt all items on the Consent Calendar. If any commissioner or member of the public questions any item, it should be removed from the Consent Calendar and placed in part IX of the Regular Agenda.

- A. March 1, 2010 Minutes

V. PUBLIC HEARINGS –

Opening remarks by an applicant shall not exceed ten minutes. Comments by others shall not exceed three minutes. The purpose of a public hearing is to supply the Planning Commission with information that it cannot otherwise obtain. Because of the length of time that the Planning Commission meetings frequently consume, please limit testimony and presentation to the supplying of factual information. In fairness to the Commission and others in attendance, please avoid redundant, superfluous or otherwise inappropriate questions or testimony. Thank you. Moraga Planning Commission.

- A. **UP 05-10 Moraga Country Club HOA (Applicant and Owner) Conditional Use Permit for Temporary Golf Club and Pro Shop Facility.** An application for approval of a Conditional Use Permit to allow installation of a 2,880 square foot trailer to serve as a temporary golf club and pro shop facility for the Moraga Country Club. The location of the temporary facility will be on the northwest side of St. Andrews Drive opposite the intersection with Cypress Point Way and at the southwest end of the driving range parking lot. On January 4, 2010, the Planning Commission approved a Use Permit to allow the demolition of the existing club house at 1600 Saint Andrews Drive and construction of a new club house in the same location. The purpose of the proposed conditional use permit is to allow the temporary 60-foot by 48-foot trailer to be used for the period of time when the existing clubhouse is demolished and the new clubhouse is under construction. The project also includes a 60-foot by 18-foot exterior deck for casual seating and dining. The facility will have an ADA compliant ramp for disabled access and the parking will be revised to provide disabled parking access. The project site is zoned 3-DUA (Three Dwelling Units per Acre). APN 257-470-004.

VI. ROUTINE & OTHER MATTERS

The following items do not require a public hearing, although the Chair or staff will indicate why each item is on the agenda. Public participation will be limited and the Commission may decide to reschedule the item as a public hearing. Discussion of administrative matters, such as adoption of findings, may be limited to the Planning Commission.

VII, COMMUNICATIONS – None

VIII. REPORTS

A. Planning Commission

1. Jim Obsitnik, Chair
2. Russell Driver, Vice Chair
3. Stacia Levenfeld
4. Dick Socolich
5. Bruce Whitley
6. Tom Richards
7. Roger Wykle

B. Staff

1. Update on Town Council actions and future agenda items.

IX. ADJOURNMENT

To a special meeting of the Planning Commission on **Tuesday, July 6, 2010** at 7:30 P.M. at the Moraga Library Meeting Room, 1500 Saint Mary's Road, Moraga, California. Notices of Planning Commission meetings are posted at 2100 Donald Drive, the Moraga Commons, and the Moraga Public Library.

NOTICE: If you challenge a town's zoning, planning or other decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at or prior, to the public hearing. Judging review of any town administrative decision may be had only if petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The Town of Moraga will provide special assistance for disabled citizens upon at least 24 hours advance notice to the Planning Department (888-7040). If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to disabled.

Copies of all staff reports and documents subject to disclosure that relate to each item of business referred to on the agenda are available for public inspection the 5th day before each regularly scheduled Planning Commission meeting at the Planning Department, located at 329 Rheem Boulevard, Moraga, CA. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the Town Council regarding any item on this agenda after the agenda has been distributed will also be made available for inspection at 329 Rheem Boulevard, Moraga, CA during regular business hours.

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

Moraga Library Meeting Room
1500 Saint Mary's Road
Moraga, CA 94556

March 1, 2010

7:30 P.M.

MINUTES

I. CALL TO ORDER

Chairman Obsitnik called the Regular Meeting of the Planning Commission to order at 7:30 P.M.

ROLL CALL

Present: Commissioners Driver, Levenfeld, Richards, Socolich, Whitley, Wykle, Chairman Obsitnik
Absent: None
Staff: Lori Salamack, Planning Director
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 Levenfeld and carried unanimously to adopt the meeting agenda, as shown.

III. ANNOUNCEMENTS

A. Swearing in of New Planning Commissioners

Planning Director Lori Salamack presented the Oath of Office to newly appointed Planning Commissioners Tom Richards and Roger Wykle

IV. PUBLIC COMMENTS

There were no comments from the public.

V. ADOPTION OF THE CONSENT CALENDAR

A. January 4, 2010 Minutes

On motion by Commissioner Levenfeld, seconded by Commissioner Driver and carried unanimously to adopt the Consent Calendar, as shown.

VI. PUBLIC HEARINGS

Given that the applicant for the first agenda item, UP-02-09 was not yet present, the Commission moved to Public Hearing Item B at this time.

- B. UP-07-09 - AT&T Wireless Transmitter Facility / Shannon McDougall (Applicant) for AT&T, PG&E (Transmission Tower Owner), Rancho Laguna, LLC (Property Owner):** A public hearing to consider a Conditional Use Permit for a new AT&T Telecommunication facility consisting of nine antenna panels to be located on an existing PG&E transmission tower located on the Rancho Laguna property adjacent to the EBMUD Fayhill Reservoir. The equipment associated with the antennas is to be located approximately 53 feet south of the PG&E tower legs and 53 feet southeast of the 4-foot high barbed wire fence enclosure around the Fayhill Reservoir. Each of the nine antennas will be approximately 6 feet high, 1-foot wide and 6 inches deep. The antennas will be mounted 42 feet above the ground near the middle of the 105-foot high PG&E transmission tower. The equipment enclosure will be 36 feet wide and 17 feet deep with a 4-foot high retaining wall behind it and a 6-foot high chain link fence around it. Three cabinets measuring 69 inches high, 51 inches wide and 36 inches deep will be installed initially with splice boxes for two additional cabinets in the future. The purpose of the new transmitter facility is to provide cellular phone service to Rheem Valley and the Campolindo High School areas. The property is zoned OSM-DT (Open Space – MOSO [Moraga Open Space Ordinance] - Density Transfer). APN 256-040-024.

Senior Planner Richard Chamberlain presented the staff report dated February 22, 2010 for a public hearing to consider a conditional use permit for a new AT&T telecommunication facility consisting of nine panel antennas to be located on an existing PG&E transmission tower located adjacent to the East Bay Municipal Utility District (EBMUD) Fayhill Reservoir on the Rancho Laguna property. He reported that a public hearing notice had been mailed to property owners within 300 feet of the project site on February 19. No correspondence had been received from the public either by e-mails, telephone calls or by regular mail.

The wireless telecommunication application was a co-location on a PG&E transmission tower with Verizon Wireless, Inc. The new transmitter facility was intended to provide cellular phone service to Rheem Valley and the Campolindo High School areas.

The PG&E tower was 1005 feet from Rheem Boulevard at the closest point and 2008 feet from the intersection of Rheem Boulevard and Moraga Road. The project was not subject to the Scenic Corridor Ordinance because it was farther than 500 feet from the designated scenic corridor roads.

The nine antennas would be mounted 42 feet above the ground near the middle of the 105-foot high PG&E transmission tower. Each of the antennas would be approximately 6 feet high, 1-foot wide and 6 inches deep. The equipment associated with the antennas would be located 53 feet south of the PG&E tower legs and 53 feet southeast of the 4-foot high barbed wire fence enclosure around the Fayhill Reservoir. The equipment enclosure would be 36 feet wide and 17 feet deep with a 4-foot high retaining wall behind it and a 6-foot high chain link fence around it. Three cabinets measuring 69 inches high, 51 inches wide and 36 inches deep would initially be installed with splice boxes for two additional cabinets in the future. The PG&E tower was located on the crest of the ridge but the equipment enclosure would be located 20 feet below the top of the ridge and 60 feet from the centerline of the ridge.

Mr. Chamberlain explained that the regulations for wireless communication facilities and miscellaneous antennas were included in Moraga Municipal Code (MMC) Chapter 8.144. There were also Open Space MOSO District issues for the Planning Commission to consider. Pursuant to MMC Section 8.144.060-A, he read the exceptions to the prohibition of development within the Town's open space and ridgeline areas for wireless facilities, as follows

1. No wireless communication facility shall be located within 500 feet of a major ridgeline unless it has a conditional or temporary use permit as of April 28, 1999 (the effective date of the wireless ordinance).

Mr. Chamberlain advised that the ridgeline northeast of Rheem Boulevard was not defined as a "major ridgeline" under MMC Section 8.52.080.

2. No wireless communication facility shall be located on the crest of a minor ridge with an elevation of 800 feet or greater as defined in MOSO, nor shall the silhouette of an antenna be visible above the ridge as viewed from a lower elevation perspective generally available to the public, unless it had a conditional or temporary use permit as of April 28, 1999.

Mr. Chamberlain explained that under MMC Section 8.52.140, development is prohibited "on the crests of minor ridgelines" in the MOSO district. The existing PG&E tower straddles the centerline of the minor ridgeline at an elevation of 953.9 feet. The addition of the wireless antennas to the existing tower would not be considered "construction or erection of a structure" under the definition of development in the MOSO guidelines. The addition of the antennas would be a modification of the existing structure. The proposed location for the equipment enclosure is at an elevation of 934.4 feet, which is 20 feet lower than the elevation at the crest of the minor ridgeline. The enclosure is also 53 feet from the base of the tower.

3. No wireless communication facility shall be located in areas where the slope has a grade of 20 percent or greater in MOSO open space unless it has a conditional or temporary use permit as of April 28, 1999.

Mr. Chamberlain stated that the PG&E tower was on a slope of less than two percent. After MOSO had been approved by the voters on April 26, 1986, the Town Council adopted the MOSO Guidelines, which defined slope with a grade of 20 percent or greater as "land which contains an average slope of 20 percent or greater within a "cell" that contains the development. The definition of "cell" in the MOSO Guidelines includes a minimum 10,000 square foot. "polygonal shaped area" with an average slope less than 20 percent. He added that staff had met with both Verizon Wireless and AT&T to suggest that they have an engineer prepare a MOSO cell exhibit containing both of their proposed equipment enclosures. A drawing showing a 10,220 square foot cell with an average slope of 18 percent had been prepared but it had not shown a rectangle at the location for the AT&T equipment. The surveyor who had prepared the drawing was to revise it to include the AT&T enclosure.

Mr. Chamberlain stated that MMC Section 8.144.060-B required wireless facilities to comply with the required development standards unless the applicant establishes and it is determined by the Planning Commission that there were no other optimal location(s) for the carrier to provide adequate coverage, and it is determined that compliance with these standards would violate federal law. He stated that the burden shall be on the applicant to prove to the satisfaction of the Planning Commission that there were no optimal locations where adequate coverage could be provided.

Mr. Chamberlain explained that AT&T had previously submitted use permit applications for a "flagpole" wireless transmitter at 475 Moraga Road and a co-location with T-Mobile at the Rheem Theater. AT&T's radio frequency engineers ultimately rejected both of those sites because they were not at a high enough elevation to bring coverage to a significant portion of the Rheem Valley area or the Campolindo area. At an elevation of approximately 1,000 feet on the PG&E tower, the signal was expected to reach the majority of the properties in the Rheem Valley and Campolindo areas.

Mr. Chamberlain advised that was significant in light of the decision by the Ninth Circuit Court of Appeals in the case of T-Mobile U.S.A., Inc. versus the City of Anacortes. The Ninth Circuit Court concluded that the denial by the city amounted to an effective prohibition in violation of the Federal Telecommunications Act of 1996 because the city failed to establish the existence of alternative sites that were feasible and available to the wireless communications provider. As such, if the Town denied an application for a wireless facility that was needed to fill a significant gap in coverage, the burden would then shift to the Town to establish feasible alternatives and available sites.

Mr. Chamberlain explained that all potential optimal locations for cellular transmission sites were located on ridges within the OS (Open Space) or OS-M (Open Space-MOSO) zoned areas. Most of the significant ridges in the Town were designated as “major ridges.” Since variances were no longer possible to allow installations on any major ridgeline, the choice of optimal locations was very limited.

With regard to MMC Section 8.144.060-C, Mr. Chamberlain stated that the Town had recently learned that the limit of five years for a use permit under MMC Section 8.144.080-B was contrary to State Bill (SB) 1627. The Town Attorney had ruled that Government Code Section 65964(b) prohibited the Town from limiting the Conditional Use Permit (CUP) to less than ten years. As such, the Town Council would consider that change to the wireless ordinance on its next agenda.

Mr. Chamberlain explained that MMC Section 8.144.030 listed the general development standards for wireless communication facilities. Subsection A stated that all ground-mounted wireless communication equipment shall be:

1. Of a minimal functional height or no greater than 20 feet, whichever is less.

Mr. Chamberlain advised that the equipment enclosure would have a six-foot high chain link fence around it. Since the back of the enclosure would have a 4-foot high retaining wall, the effective height of the fence at the back would be 10 feet high. All of the equipment cabinets within the enclosure would be less than 6 feet high. The existing PG&E tower is 103 feet high. The AT&T antennas would be mounted approximately 42 feet above the ground and would not increase the existing height of the tower. Since the project was in MOSO, the development standards such as height would need to be set by the Planning Commission as part of approval of the use permit.

2. The equipment shall have a non-reflective finish and shall be painted or otherwise treated to minimize visual impacts.

The applicant’s statement indicated that the facility was designed to produce minimal visual impact and that no advertizing signage or identifying logos would be installed. However, the color of the fenced enclosure and antennas had not been specified. The applicant had provided color simulations showing the appearance of the antennas on the PG&E tower.

3. The equipment shall be sited to be screened by existing development, topography or vegetation to the extent consistent with proper operation of the wireless communication facility. Additional new vegetation and its proper irrigation where practical or other screening may be required as a condition of approval.

Mr. Chamberlain stated that the application did not include any new landscaping. The southwest side of the equipment enclosure would be the only side that could be visible from offsite. He added that since the southwest side was adjacent to Fayhill Road, any new landscaping to help screen the view of the enclosure would have to be across the road from the enclosure.

Mr. Chamberlain referred to subsection C of MMC Section 8.144.030 and advised that a wireless communication facility shall comply with all applicable Federal Communications Commission (FCC) standards for radio frequency (RF) emissions and shall not adversely affect the public health, safety or welfare. He explained that the applicant's submittal had stated that the facility would comply with all applicable FCC standards for RF emissions. AT&T would measure the actual RF levels once the proposed facility was in operation.

Mr. Chamberlain reported that the requirement under MMC Section 8.144.080-B for annual testing to verify compliance with FCC RF emissions standards had recently been challenged. The Town Attorney's opinion was that a strong legal argument could be made that annual testing was permissible, but the question was still an open issue as to whether a local government could require proof of compliance. He added that as long as the Town did not impose more stringent emissions regulations than those imposed by the FCC, the Town Attorney believed that the Town would not be preempted by federal law. Staff recommended testing every five years rather than every year.

Speaking to subsection D of MMC Section 8.144.030, Mr. Chamberlain stated that all new wireless communication facilities shall be co-located with existing and/or with other planned new facilities whenever feasible and aesthetically desirable. Co-location was discouraged when it would increase visual impacts. Service providers were encouraged to co-locate with other facilities such as water tanks, light standards and other utility structures where the co-location was found to minimize the overall visual impact.

Mr. Chamberlain reported that the proposed project was co-located with the existing PG&E transmission tower and the equipment enclosure would be 53 feet from the EBMUD Fayhill Reservoir site, where the trees around the water tank would help to reduce the visual impact of the enclosure.

Noting that it could be argued that the new antennas on the PG&E tower would increase the visual impacts, Mr. Chamberlain explained that the tower was located more than 1000 feet from the nearest residence. The visual simulations showed that the impact of the new antennas on the PG&E tower would be very minor.

With respect to subsection E, Mr. Chamberlain stated that any exterior lighting shall be manually operated and used only during night maintenance or emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. He explained that the applicant's statement did not address exterior lighting, although the performance standard could be included as a condition of approval.

Mr. Chamberlain spoke with respect to subsection H where all proposals for wireless communication facilities shall include a description of the site selection process undertaken, including coverage objectives and alternative site analysis. He stated that the applicant's statement included the site selection process included as Exhibit B to the staff report on Page 3, alternative location analysis.

Further with respect to subsection I, antennas and equipment buildings shall not be located closer than 300 feet from a residential structure and 100 feet from a residential property line. The proposed antennas and the equipment enclosure were not within 300 feet of any existing or proposed residential structures. The closest existing residential structures were located on Via Barcelona and Buckingham Drive. The home at 3 Via Barcelona was 1,126 feet from the PG&E tower and the home at 98 Buckingham Drive was 1,253 feet from the tower. The RF emissions would not have any measurable effect on any existing housing in Moraga.

Mr. Chamberlain stated it was unlikely that any new housing could be constructed closer than 300 feet to the PG&E tower due to the steep topography at the sides of the ridge and the MOSO restrictions on development.

Pursuant to MMC Section 8.136.040-B, Mr. Chamberlain stated that a Hillside Development Permit (HDP) would be required for the equipment enclosure and construction of the concrete block wall at the back of the enclosure. Hillside land was defined as any land that had a slope of 20 percent or greater and grading, clearing, construction upon or alteration of hillside land required approval of an HDP. Generally, minor work on hillside land, such as landscaping work that did not otherwise require a grading or building permit or post holes for fencing, had been exempt from an HDP. The proposed excavation for the pad of the equipment enclosure might not require a grading permit from the Town depending upon the exact measurements for the excavation.

The amount of soil to be removed for the equipment pad would be approximately 15.8 cubic yards, which would be less than the 50-cubic yard threshold for a permit. If the depth of the cut at the deepest point exceeded 3 feet, then a grading permit would be required. A building permit could be required for the retaining wall at the back of the enclosure because the Building Department measured the height of the retaining wall from the footing, which often increased the overall height, even if the depth of the cut was less than 3 feet.

Since the notice for the use permit hearing did not include any notice of an HDP, Mr. Chamberlain recommended that the HDP be considered by the Design Review Board (DRB) prior to issuance of a building permit for the retaining wall if the use permit was approved.

Mr. Chamberlain recommended that the Planning Commission approve the Conditional Use Permit for the AT&T wireless communication facility on the Rancho Laguna site. The required findings to approve a Conditional Use Permit from MMC Section 8.12.120 had been included in a draft resolution for the project. Applicable general conditions from MMC Section 8.144.070 had also been included in the draft resolution. He advised that the Planning Commission may include conditions of approval deemed necessary to ensure visual and land use compatibility with the surroundings. Approval of the use permit would result in allowing the use and not necessarily the design of the project. If the use permit was approved, the DRB may be asked to review the paint color for the antennas, the design of the equipment enclosure, and the feasibility of installing landscaping to help screen the fenced enclosure.

When asked, Mr. Chamberlain clarified that the homes in Rancho Laguna would not be affected due to the existing minor ridge. Homes in the valley were higher but no closer than Via Barcelona. The homes on the other side near Woodford Drive and the older existing neighborhoods were also sufficiently far enough away. He noted that a home on Buckingham Drive, the closest, was 1,200 feet away from the proposed facility.

Mr. Chamberlain commented that the Town had received an application for Rheem Valley Estates on the Whiterock property with the possibility that some of those homes could be closer than 1,000 feet but not closer than 300 feet to the proposed site.

Chair Obsitnik asked whether or not there were any material differences between the AT&T and Verizon applications, and if not, why the two applications were being considered separately.

Mr. Chamberlain acknowledged that both applications were similar, with both applicants working closely together. Verizon Wireless had filed first with the Town as a separate application. Verizon also had a 12-foot additional extension to the tower with the antennas on what was called the “top hat” on the tower and an emergency backup generator. In addition, the cabinets for Verizon would be 7 feet high inside the enclosure where AT&T’s would be only 6 feet or less in height. He noted that the antennas were almost identical, although AT&T’s antennas must be at least ten feet from the insulators supporting the wires which established their height on the tower.

Commissioner Whitley spoke to the Municipal Code, specifically Section 8.144.060, and the discussion of development restrictions in MOSO related to wireless telecommunication facilities. He clarified with staff that the tower on which the antennas would be placed was situated on a MOSO minor ridge and the elevation of the tower was 800 feet. He noted, however, that the Municipal Code indicated that no wireless communication facility with either a conditional or a temporary use permit shall be located on the crest of a minor ridge with an elevation of 800 feet or greater. As such, he suggested that the staff interpretation of the MMC had defined development under MOSO.

Mr. Chamberlain explained that the prohibition of building on the crest was because of MOSO and had been integrated into the wireless ordinance. The MOSO ordinance would not allow development on a 20 percent slope. In the guidelines, 20 percent meant an average slope of 20 percent within a cell, with the definition of a cell. It had not included modification of an existing structure, but building something new on a ridgeline. He added that co-location of wireless telecommunication facilities was also encouraged.

Commissioner Whitley commented that MOSO was strictly intended to protect ridgelines and viewsheds. In this case, the antennas would be visible from a scenic corridor and viewsheds in the Town. If the use permit was approved by the Planning Commission, he did not want to be in violation of one or more of the Town’s ordinances. With respect to development in the guidelines, specifically related to Section II.A.6 of the development guidelines, he questioned the placement of any material such as a structure, or in this case a freestanding antenna.

Mr. Chamberlain pointed out that no grading would occur on the ridgeline. He clarified that the placement of material had been worked out in the grading ordinance, with fill as opposed to cutting.

Commissioner Whitley remained concerned with the interpretation of the MMC. He added that a silhouette of the antenna was not to be visible above the ridgeline.

Commissioner Whitley commented that the silhouette analysis prohibited the antennas above the minor ridges. If there were antennas above the minor ridges, it would be in violation of the MMC.

Mr. Chamberlain suggested that even if the silhouette was increased, the tower was so far away that a visual impact, per the visual simulations, would be minimal. He added that PG&E was adding the top hat portion of the structure and could do so without Town approval. PG&E could also add more wires to the top hat. He pointed out that the PG&E towers had been in place prior to the Town's incorporation. He also noted that if the antennas were not placed at that location there was a concern with respect to compliance under the FCC regulations.

Commissioner Whitley questioned the adequacy of the alternative location analysis. He referenced the information in the staff report related to the Ninth Circuit Court case with respect to approvals of wireless telecommunication antennas and understood that the Town had the burden to come up with alternative locations if the application was denied. In the case of the AT&T application, the alternative location analysis had shown only two cell sites in the Town which he questioned given that the location on the subject site could be in violation of the MMC. He asked whether or not the Town had conducted an alternative location analysis or had just accepted the carrier's analysis.

Mr. Chamberlain explained that most sites where there would be a signal were located on major ridgelines where such equipment could not be located given the restrictions on major ridgelines, or were within 300 feet of a residence. The subject site would provide coverage down into the Rheem Boulevard area. The other sites that had been considered and attempted unsuccessfully by other wireless location carriers were located within 300 feet of a residence.

Commissioner Whitley reiterated the intent of the alternative location analysis for both the Town and the applications. Verizon and AT&T would both have fenced enclosures with equipment, resulting in grading, pad and equipment placement. The equipment would be visible from the scenic corridor unless it was screened.

Mr. Chamberlain acknowledged that the fenced enclosure would be visible, although that visibility would be very small given the distance.

Commissioner Whitley noted that per the MMC, if the structure was visible from the scenic corridor or the skyline, vegetative screening was required unless there was a hill behind it. Based on the photomontage, there would be a skyline behind it. He asked whether or not landscaping across the road could be required.

Mr. Chamberlain explained that landscaping across the road could be required and would not be a problem since it involved the same property owner, and since in this case vegetation could not be planted right in front of the enclosure.

PUBLIC HEARING OPENED

Shannon McDougall, representing AT&T, agreed with the staff report and conditions of approval. As to the alternative location analysis, she explained that the first application from AT&T had proposed co-location on a new flagpole although their signal could only be 20 feet in height and would not reach anyone. Another co-location opportunity on an existing T-Mobile site had also been found to be unfeasible given the height restrictions and limited coverage. She clarified that the only way to reach coverage in peak and valley areas was to go higher. The closest antenna location for AT&T was off of Alta Mesa.

Chair Obsitnik expressed concern with the photo simulations since they were so far away from the site. He also expressed concern adding bulk to an existing tower.

Ms. McDougall explained that the proposal would add antennas to the existing tower but would not add anything to the tower itself. There would be three separate sectors and no more than three antennas would be visible at any one time. The antennas would be dispersed on the tower evenly. The AT&T equipment cabinet would also be separate from Verizon's. She clarified, when asked, that no new road would be added to the site. The construction of the facility would take four to six weeks, with said work to commence in the spring.

Given that the two applications for wireless telecommunication facilities were similar in nature for both AT&T and Verizon, the Planning Commission decided to hear the next public hearing item prior to taking action on either of the two items. The Chair clarified that each application was separate and distinct.

A. UP-02-09 - Verizon Wireless, Inc. / Charnel James for NSA Wireless, Inc. (Applicant), PG&E (Transmission Tower Owner), Rancho Laguna, LLC (Property Owner): A public hearing to consider a Conditional Use Permit for a new Verizon Wireless telecommunication facility consisting of nine 6-foot high panel antennas to be located on a 12-foot extension of the existing 105-foot high PG&E transmission tower located on the Rancho Laguna property adjacent to the EBMUD Fayhill Reservoir. The equipment associated with the antennas is to be located approximately 53 feet southwest of the PG&E tower legs and five feet south of the 4-foot high barbed wire fence enclosure around the Fayhill Reservoir. The equipment enclosure will be 35 feet wide and 17 feet deep with a 4-foot high retaining wall behind it and a 6-foot high chain link fence around it.

A 30 KVA generator for emergency power will be inside the enclosure, in addition to the cellular transmitter cabinets, battery cabinets and step-down transformer. The purpose of the new transmitter facility is to provide cellular phone service to Rheem Valley and the Campolindo High School areas. The property is zoned OSM-DT (Open Space - MOSO - Density Transfer). APN 256-040-024.

Senior Planner Chamberlain presented the staff report dated February 19, 2010 and reiterated that the application was similar to the AT&T application although the Verizon application involved nine 6-foot high panel antennas to be located on a 12-foot extension of the existing 105-foot high PG&E transmission tower located on the Rancho Laguna property adjacent to the EBMUD Fayhill Reservoir. The equipment associated with the antennas was to be located approximately 53 feet southwest of the PG&E tower legs and five feet south of the 4-foot high barbed wire fence enclosure around the Fayhill Reservoir. The equipment enclosure would be 35 feet wide and 17 feet deep with a 4-foot high retaining wall behind it and a 6-foot high chain link fence around it. A 30 KVA generator for emergency power would be inside the enclosure in addition to the cellular transmitter cabinets, battery cabinets and step-down transformer.

Mr. Chamberlain noted that both applications would bring the tower up through a trench all the way to Rheem Boulevard. He referenced the possibility that there were funds that could be available for repaving Rheem Boulevard and depending on the timing of that work could impact the trenching work.

Mr. Chamberlain explained that all of the issues relating to development on major ridgelines applied to the Verizon application the same as the AT&T application. In terms of alternative locations, Verizon had shown their other facilities, with a site at Saint Mary's College. The subject location would be a major filling in of an area where Verizon did not currently enjoy coverage.

When asked why the Verizon antennas could not be placed lower on the tower, Charnel James, NSA Wireless, Inc. explained that there were requirements for the placement of the antennas in terms of a required 10-foot separation. Placing the antennas lower would not meet their objectives. The antennas needed to be 65 feet off of the ground and they were at 100 feet. The antennas were as close to the PG&E lines as they could get, as were AT&T's antennas. She added that PG&E would be replacing an existing peak at the top of the tower with a top hat, although the top hat would be at the same height as the peak.

Ms. James also clarified the photo simulations that had been presented. She explained that Verizon would not be hanging its antennas in that the work would be done by PG&E which had strict requirements related to access to its towers. The nine antennas would be 6 feet in height within the framework of the top hat.

Ms. James suggested that no more than two of the antennas at a time would be visible unless someone was standing at the water tank.

When asked what measures would be taken to minimize the visual impacts of the antennas, Ms. James advised that the antennas consisted of a baked enamel material to match the existing tower and to minimize the distant lines, gaps, or spacing and would appear more like an extension of the tower. The baked enamel would not fade or change color in the future. The proposed 30 KVA generator would have a capacity of 132 gallons and use diesel fuel. The project would be exempt from the requirements of the California Environmental Quality Act (CEQA) based on the type of installation, although the generators would have to comply with all environmental requirements.

Ms. James referred to the propagation maps used by Verizon noting that the installation would cover much of their outdoor loss but not much of their indoor loss where three or four sites throughout the Town would be required. The installation would create a seam between the cities of Orinda, Lafayette and Moraga, primarily covering the Moraga area. She also clarified the differences between indoor and outdoor coverage and what limited the coverage. She reiterated that a number of alternatives had been considered.

Ms. James added that the Post Office site and a tree near the high school had been considered, although based on the data those two sites would only cover a small percentage to what the subject site would cover. The Rheem Theater site would not offer enough space for the equipment or the antennas. The 24-Hour Fitness site had also been considered but had been vetoed due to interference. A tall antenna tree near the high school would likely not have been supported by the Town. Efforts had also been made to locate on the Water Department building, although the space was found to be inadequate for the placement of the antennas. The PG&E tower site had ultimately been selected and AT&T had already commenced with its application which was the reason that Verizon had to place its antennas higher.

When asked, Ms. James affirmed that Verizon had worked with AT&T and the Town to achieve a design that would impose the least impact to the Town.

Charles Simkins, 16 Via Barcelona, Moraga, commented that the PG&E towers were visible from his property although the impacts would not be that great. He commented on the loss of cellular signal in the area. He suggested that the PG&E tower was an ideal location for the co-location of the antennas. He also suggested there would be few visual impacts since the tower was so far away. He was unaware of any opposition to the applications.

PUBLIC HEARING CLOSED

Chair Obsitnik opened the discussion of the Verizon Wireless application at this time.

When asked about the alternative location analysis, Mr. Chamberlain reiterated that the property was the best location for the co-location of the antennas, as previously discussed. He added that the Wireless Telecommunication Ordinance encouraged co-location of antennas. Other sites would likely have more impacts. The antennas could be placed on a different tower than the subject tower, although that could result in more visual impacts.

Mr. Chamberlain suggested that story poles could be installed when the project was considered by the DRB to better visualize where the equipment would be placed. He reiterated that an HDP would be required for any alteration of more than 20 percent slope. Minor landscaping improvements and the like would not require an HDP although the retaining wall may require an HDP.

Commissioner Levenfeld was comfortable with the applications and supported the Conditional Use Permit for both applications, as proposed.

Commissioner Whitley remained concerned with the language in the ordinance regarding structures on crest lines of minor ridges and the silhouettes of the antennas visible above the ridge as viewed above the ridge. He stated that the silhouette of the antennas would be visible above the ridge for both applications. An antenna could not be located on the crest of a minor ridge, and therefore not on a tower. He agreed with the staff's determination of development within MOSO. As to the AT&T application, he recognized that a structure was not being constructed. In his opinion, the Verizon application involved an extension on the tower, which was building a structure and placing the antennas on that was building a structure. It was his opinion that the placement of the antennas on a minor ridgeline in MOSO above 800 feet was in opposition to the MOSO voter initiative.

Commissioner Whitley referenced the provision in the MMC where the project must comply with the development standards unless the applicant had shown and the Planning Commission had determined that there were no other optimal locations for the carrier to provide adequate coverage. He suggested there was sufficient showing that there were no other optimal locations for the carrier to provide adequate coverage. While weak as to the alternatives, he suggested that both AT&T and Verizon and staff had made significant showing as to their analyses on alternative locations. As a result, the Town should accept that there were no other optimal locations, or the Town should show that there were other optimal locations, and staff had already testified there were not.

Commissioner Whitley commented that in his opinion, the findings in the resolutions could not be made to support the applications, suggesting that the resolutions should be changed to reflect that the applications could potentially be in violation of the MMC and that specific findings must be made that there was no other optimal location.

Mr. Chamberlain advised that he could add an additional WHEREAS clause in the resolutions reflecting that there was no other optimal location.

Commissioner Whitley referenced Section 8.144.060 of the MMC and reiterated that antennas could not be located on the ridgeline and the silhouette could not be viewed from a lower elevation generally visible to the public. In his opinion, both applications failed in terms of views from a public place. The AT&T application did not involve the top hat but the Verizon application in his opinion involved the development of a structure.

Commissioner Richards pointed out that the PG&E tower had been erected long before MOSO. He recognized the need to protect the open space in MOSO. In his opinion, the alteration to the existing structure would be minimal in that the tower was at a distance. In his opinion, the antennas would not scar the hillside and would offer additional cellular coverage to Moraga residents.

Commissioner Socolich commented that with no reasonable alternatives, he was satisfied with the application.

Commissioner Driver was ready to move forward with an important public utility. He recognized that there was no another contender for the site identified by staff. If the Planning Commission were to deny the application, he suggested that the Town could end up with a problem with aesthetic impacts. He was comfortable with the location, and in his opinion the visibility of the antenna was subjective. He did not believe that the antennas would change the view from a public place. He was ready to move forward.

Commissioner Wykle suggested that while the silhouette of the antennas may be visible to the public, the benefits offered would outweigh that concern.

Speaking to the resolutions for both AT&T and Verizon Wireless, Commissioner Socolich requested that the first sentence of Condition 2, be revised to read:

Within thirty (30) days after completion of the new installation, and every five years thereafter, Verizon Wireless shall conduct tests to verify compliance with FCC radio frequency emission standards and provide such test results to the Moraga Planning Department.

Commissioner Whitley clarified that the finish of the antenna to match the tower would be addressed by Condition 4c.

The applicants for both AT&T and Verizon clarified that a chain link fence had been proposed, although wood slats could be used.

Commissioner Whitley wanted to make sure that the fence would blend in with the hillside.

The Commission recommended the following additional modification to Condition 4b for both resolutions:

Plans for the equipment and for fencing of the enclosure, including the color of the fencing and equipment to blend with the natural color of the dried grass as it appears for the majority of the year.

On motion by Commissioner Socolich, seconded by Commissioner Levenfeld to adopt Resolution next in number to approve **UP-02-09** for **Verizon Wireless, Inc.** at the PG&E transmission tower on the Rancho Laguna LLC property, subject to the findings and conditions as shown and as amended, as follows:

i To modify the first sentence of Condition 2, to read:

Within thirty (30) days after completion of the new installation, and every five years thereafter, Verizon Wireless shall conduct tests to verify compliance with FCC radio frequency emission standards and provide such test results to the Moraga Planning Department.

i To modify Condition 4b to read:

Plans for the equipment and for fencing of the enclosure, including the color of the fencing and equipment to blend with the natural color of the dried grass as it appears for the majority of the year.

The motion carried by the following vote:

| | |
|----------|--|
| Ayes: | Commissioners Driver, Levenfeld, Richards, Socolich, Wykle, Obsitnik |
| Noes: | Commissioner Whitley |
| Abstain: | None |
| Absent: | None |

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 submitting a statement and through the payment of an appeal fee, through the Planning Department.

On motion by Commissioner Driver, seconded by Commissioner Socolich to adopt Resolution next in number to approve UP-07-09 for AT&T Wireless Transmitter Facility at the PG&E transmission tower on the Rancho Laguna LLC property, subject to the findings and conditions as shown and as amended, as follows:

- i To modify the first sentence of Condition 2, to read:

Within thirty (30) days after completion of the new installation, and every five years thereafter, Verizon Wireless shall conduct tests to verify compliance with FCC radio frequency emission standards and provide such test results to the Moraga Planning Department.

- i To modify Condition 4b to read:

Plans for the equipment and for fencing of the enclosure, including the color of the fencing and equipment to blend with the natural color of the dried grass as it appears for the majority of the year.

The motion carried by the following vote:

Ayes: Commissioners Driver, Levenfeld, Richards, Socolich, Wykle,
Obsitnik
Noes: Commissioner Whitley
Abstain: None
Absent: None

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 submitting a statement and through the payment of an appeal fee, through the Planning Department.

VII. PUBLIC MEETING

- A. None

VIII. ROUTINE & OTHER MATTERS

- A. None

IX. COMMUNICATIONS

A. None

X. REPORTS

A. Planning Commission

Commissioner Socolich reported that he had been the Commission liaison at the last meeting of the Design Review Board at which time the installation of a vapor recovery system at the gas station at Saint Mary's and Moraga Roads had been approved, as had the conversion of a home at the corner of Woodford and Moraga Road to a senior board and care facility to house up to six persons. The DRB also approved a covered carport for the same application.

Mr. Chamberlain presented the history of the application and clarified that the DRB had only approved the carport, not the use, which was regulated by the State and the County Health Department.

B. Staff

1. Update on Town Council actions and future agenda items.

Mr. Chamberlain reported that the Town Council had not yet completed the appeal of the Rancho Laguna development which would be agendaized for Town Council consideration in April. He also reported that the Planning Commission meeting of April 5 would include an application for another wireless telecommunication facility located on Alta Mesa for Clear Wire Communications. He updated the Commission on the situation with respect to the Jack in the Box restaurant which had experienced significant drainage problems and which was being remodeled.

XII. ADJOURNMENT

On motion by Commissioner Whitley, seconded by Commissioner Levenfeld to adjourn the Planning Commission meeting at approximately 9:45 P.M. to a regular meeting of the Planning Commission on Monday, March 15, 2010 at 7:30 P.M. at the Moraga Library Meeting Room, 1500 Saint Mary's Road, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission



Meeting Date: June 21, 2010

TOWN OF MORAGA

STAFF REPORT

To: Town of Moraga Planning Commission

From: Richard Chamberlain, Senior Planner

Subject: UP 05-10 Moraga Country Club HOA (Applicant and Owner) Conditional Use Permit for Temporary Golf Club and Pro Shop Facility. The proposed 60-foot by 48-foot trailer would be used while the existing clubhouse is demolished and the new clubhouse is under construction. The location of the temporary facility will be at the southwest end of the driving range parking lot. APN 257-470-004

Request

Adopt the attached draft resolution approving the conditional use permit to allow installation of the 2,880 square foot trailer to serve as a temporary golf club and pro shop facility for the Moraga Country Club for a maximum period of two years.

Public Notice and Correspondence

A public hearing notice was mailed to the property owners within 300 feet of the proposed project site on June 11, 2010. A copy of the notice, mailing list and area of notice map is attached as **EXHIBIT A**. No correspondence from the public was received on this project at the time this staff report was written. If any correspondence is received, it will be given to the Commission on the night of the meeting.

Background

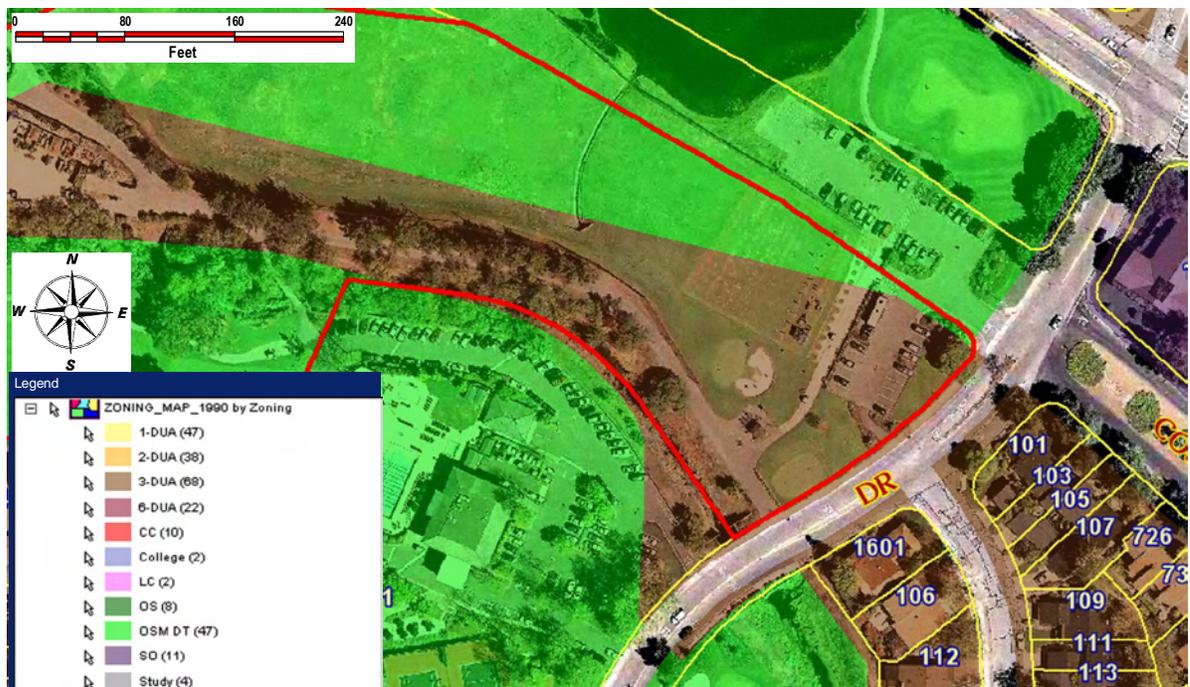
On January 4, 2010, the Planning Commission approved a Use Permit to allow the demolition of the existing club house at 1600 St. Andrews Drive and construction of a new club house in the same location. The use permit also approved a new bathroom facility at the driving range. A copy of the PC Resolution approving the new clubhouse is attached as **EXHIBIT B**. On May 10, 2010, the Design Review Board approved the design of the new clubhouse subject to the conditions listed in **EXHIBIT C**. The intention of the Moraga Country Club is to use the existing clubhouse through the summer of 2010 until the competitive swimming events have been completed. The demolition of the old clubhouse and construction of the new clubhouse is expected to take about one and a half years. The proposed 2,880 square foot trailer would be used as the temporary clubhouse until the new clubhouse is completed. The temporary clubhouse also includes a kitchen, dining room, offices for the homeowners association and a 60-foot by 18-foot exterior deck for casual seating and outside dining. There will be an ADA compliant ramp for disabled access to the trailer deck.

1
2 **CEQA Compliance**

3 The project is categorically exempt from CEQA under Section 15303-(c), which includes
4 a store (pro shop), office (Administrative Office for the MCC Homeowners Association),
5 restaurant (kitchen and dining area), not involving the use of significant amounts of
6 hazardous substances, and not exceeding 10,000 square feet in floor area within an
7 urbanized area where all necessary public services and facilities are available and the
8 surrounding area is not environmentally sensitive.

9
10 **Discussion**

11 Most of the 20.98 acre “driving range” parcel is within the MOSO (Moraga Open Space
12 Ordinance) district, which is shown as a bright green overlay on the aerial photo map
13 below. However, a portion of the parcel, which includes the temporary clubhouse
14 facility, is located in the 3-DUA (Three Dwelling Units per Acre) district. The 3-DUA
15 area is shown as the light brown overlay color on the map.



16
17
18 Under Moraga Municipal Code (MMC) Section 8.24.030-B, a nonprofit private
19 recreational facility is a conditional use in the 3-DUA zoning district. Approval of the
20 conditional use permit should establish the time limits for the temporary use. Staff
21 recommends a two-year time limit. If there are unforeseen delays in the construction of
22 the new clubhouse, the applicant could then make a request for extension of the use
23 permit for the temporary facility. The proposed trailer location complies with the
24 minimum building setbacks and lot coverage requirements for the 3-DUA zoning district;
25 however, the Planning Commission may require larger building setbacks if deemed
26 necessary. Approval of the use permit does not authorize construction or placement of
27 the trailer on site. Prior to construction of any new building the Design Review Board
28 would need to approve the design of the building. Since the proposed temporary
29 structure is within the Moraga Way scenic corridor, the Board may require some
30 additional landscaping to mitigate views of the trailer.
31

1 **Findings**

2 The findings listed under MMC Section 8.12.120 must be made by the Planning
3 Commission in order to approve a conditional use permit. The required findings are
4 listed and discussed below.
5

6 **1. The proposed use is appropriate to the specific location;**

7 *Comment: The proposed location on the west side of St. Andrews Drive opposite the*
8 *intersection with Cypress Point Way is probably the best alternative available for the*
9 *temporary clubhouse building. It will be built over an existing paved area, so it will*
10 *not increase the impervious surface area appreciably. It is relatively close to the*
11 *existing clubhouse at 1600 St. Andrews Drive, while at the same time it is not so*
12 *close that it will interfere with the construction of the new building. It would have*
13 *been nice to have the temporary clubhouse at the northwest end of the driving range*
14 *parking lot with the outdoor dining deck facing the lake in the golf course; however,*
15 *this section of the parking lot is owned by the Town of Moraga.*

16 **2. The proposed use is not detrimental to the health, safety, and general welfare of the**
17 **Town;**

18 *Comment: The proposed kitchen and dining facility will require review and approval*
19 *from the Contra Costa County Health Department. Some details have not been*
20 *included on the plans and will require further review by the Town's Design Review*
21 *Board, such as a location for a dumpster to accommodate waste from the kitchen.*

22 **3. The proposed use will not adversely affect the orderly development of property within**
23 **the Town;**

24 *Comment: The proposed use is temporary and the surrounding properties have*
25 *already been developed.*

26 **4. The proposed use will not adversely affect the preservation of property values and**
27 **the protection of the tax base and other substantial revenue sources within the Town;**

28 *Comment: The proposed use will facilitate the construction of the new clubhouse*
29 *building, which should have a positive impact on property values in the Moraga*
30 *Country Club. During the two-year period when the new clubhouse is under*
31 *construction, the temporary building could have a small negative impact on the*
32 *homes at the west end of Cypress Point Way and Country Club Drive. The Design*
33 *Review Board may be directed to consider additional landscaping to help screen the*
34 *trailer from view of the homes directly across St. Andrews Drive.*
35



36 **View of Project Site from west end of Cypress Point Way**
37

1 **5. The proposed use is consistent with the objectives, policies, general land uses and**
2 **programs specified in the general plan and applicable specific plans;**

3 *Comment: The following General Plan Policies are applicable:*

4 *LU2.6 Buffer commercial uses from adjacent noncommercial uses. Some*
5 *additional landscaping may be necessary to help buffer light and noise from the*
6 *clubhouse to the residential units across St. Andrews Drive.*

7 *CD1.1 To the extent possible, concentrate new development in areas that are*
8 *least sensitive in terms of environmental and visual resources. The proposed*
9 *location for the temporary clubhouse facility is on an existing paved parking lot. No*
10 *grading or alteration of the topography is required and the project will not encroach*
11 *into any riparian or other environmentally sensitive areas.*

12 *CD3.5 Require appropriate landscaping for both public and private developments*
13 *located on designated Scenic Corridors, including pedestrian lighting and street*
14 *trees ... Encourage use of native and drought-tolerant species. The temporary*
15 *clubhouse will be within 500-feet of the Moraga Way scenic corridor. Since the*
16 *trailer will be in use for a period of two years, some additional landscaping may be*
17 *necessary to help soften views of the trailer. The pictures below show views from*
18 *Moraga Way near the intersection with St. Andrews Drive. The existing trees*
19 *provide some screening of the proposed site for the trailer.*
20



21
22 **Pan of Project Site from Moraga Way and 100-feet west of St. Andrews Drive**
23



24
25 **Pan from east side of intersection of Moraga Way and St. Andrews Drive**

26 *C1.2 Require each new development to pay its fair share of the cost of*
27 *improvements for both the local and regional transportation system. The temporary*
28 *clubhouse will not be “new development” since it is simply a relocation of the existing*

1 clubhouse for the interim during construction of the new clubhouse. No local or
2 regional transportation fees should apply.

3 C3.1 Maintain effective and safe vehicle circulation into, out of, and within
4 commercial areas. The location of the entrance driveway to the driving range
5 parking lot should probably have some new temporary signage to identify the
6 clubhouse and Moraga Country Club Homeowners Association offices. The
7 entrance driveway is at the intersection of Country Club Drive and St. Andrews Drive
8 and is show in the photograph below:



9
10 **Pan from median at intersection of Country Club Drive and St. Andrews Drive**

11 PS3.6 Provide access for fire-fighting vehicles to all new developments in
12 accordance with fire access standards of the Moraga-Orinda Fire District (MOFD).
13 The proposed trailer will be relatively close (approx. 30-feet) to St. Andrews Drive
14 and fire trucks should be able to reach the structure without access to the parking
15 lot. Nevertheless, the temporary building will require review and approval from the
16 MOFD. A copy of the plans was sent to the Fire Marshall.

17 PS3.10 Cooperate with the Moraga-Orinda Fire District to enforce requirements
18 for built-in fire protection systems as required by ordinance ... that may be required
19 based upon building size, use or location. The MOFD will need to review the plans
20 and specify the required built-in fire suppression systems necessary.

21 PS4.4 Do not locate community buildings or other structures designed to
22 accommodate large numbers of people near fault lines or any area where
23 seismically induced slides are possible. The project site is not near any active fault
24 lines or hillsides where landslides could impact the proposed trailer.

25 **6. The proposed use will not create a nuisance or enforcement problem within the**
26 **neighborhood;**

27 *Comment: The proposed temporary clubhouse is much smaller than the existing*
28 *clubhouse and it is not intended to meet all the same functional needs. The golf cart*
29 *storage area will be moved to the expanded maintenance facility and the temporary*
30 *clubhouse will not have any locker/dressing rooms related to the swimming pool.*
31 *Nevertheless, the temporary clubhouse will draw more traffic and parking to the*
32 *driving range parking area, which is already used to near capacity during the day*
33 *(see pictures on the next page). The number of seats in the dining area is not*
34 *shown on the plans. There are 50 parking spaces in driving range parking lot, not*
35 *including those that will be covered by the trailer, deck and ADA ramp. If all 50*
36 *spaces are available, then a maximum of 150 seats would be allowed for the dining*
37 *facility. It would be advisable for the Moraga Country Club to work on a construction*
38 *schedule and vehicle parking plan to utilize the front (east) portion of the parking at*

1 the existing clubhouse to the maximum extent feasible. For example, construction
2 vehicles might use the existing north exit driveway during construction and the
3 proposed ingress-egress driveway at the south side could be re-stripped and utilized
4 for access of overflow parking for the temporary clubhouse.
5



6
7 View looking at SW end of Driving Range Parking Lot
8 at proposed site of temporary clubhouse trailer
9



10
11 View looking at NW end of Driving Range Parking Lot

- 12 **7. The proposed use will not encourage marginal development within the neighborhood;**
13 *Comment: The proposed use is temporary and the surrounding properties have*
14 *already been developed.*
- 15 **8. The proposed use will not create a demand for public services within the Town**
16 **beyond that of the ability of the Town to meet in light of taxation and spending**
17 **restraints imposed by law;**
18 *Comment: The proposed use is a private recreational use and will not have any*
19 *impact on the demand for public services.*
- 20 **9. The proposed use is consistent with the Town's approved funding priorities.**
21 *Comment: The project has no impact on the Town's approved funding priorities.*

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Recommendation

Staff has prepared a draft resolution with the required findings and recommended conditions of approval for the temporary Moraga Country Club clubhouse trailer. The Commission should consider any changes to the findings and conditions based upon the testimony received at the public hearing.

Exhibits:

- A. Public Notice Map, Notice List and Public Hearing
- B. Planning Commission Resolution 01-2010
- C. Design Review Board Action Memorandum dated May 10, 2010
- D. Draft Resolution for Temporary MCC Clubhouse
- E. Project Plans

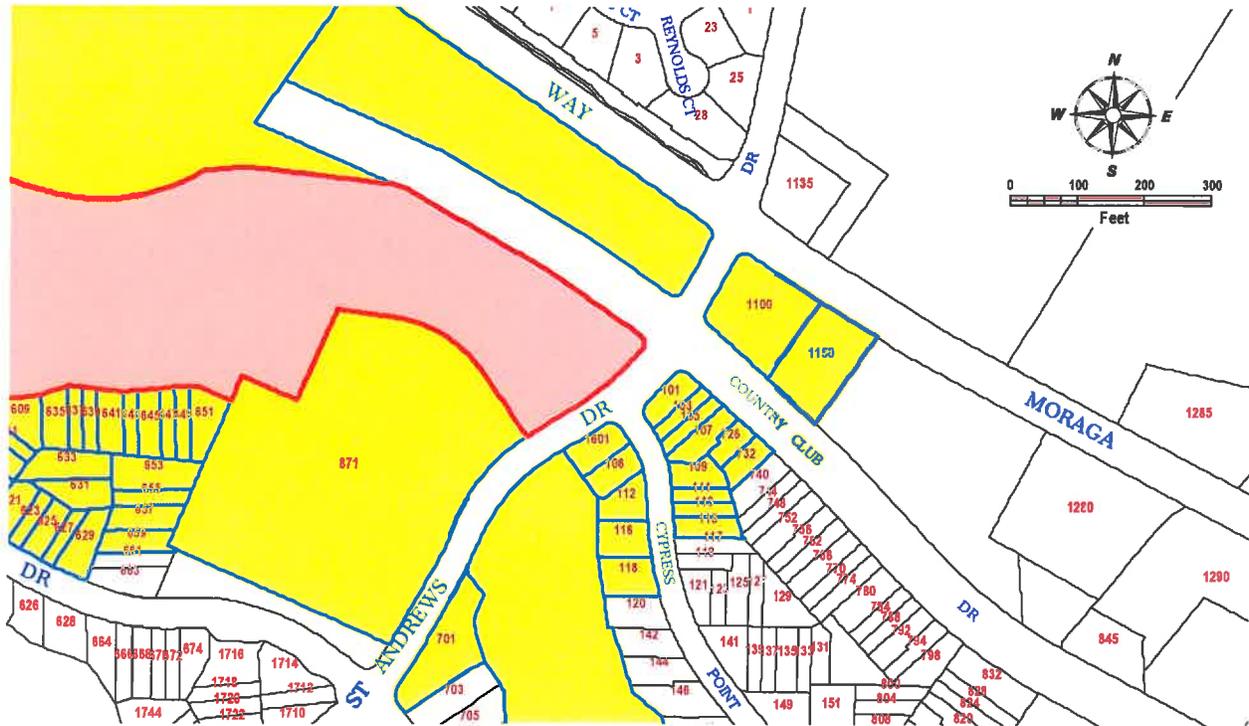
EXHIBIT A

**PUBLIC NOTICE MAP,
NOTICE LIST AND
PUBLIC HEARING**

VICINITY MAP AND AREA OF NOTICE

Moraga Country Club Temporary Clubhouse

File Number: UP 05-10



PUBLIC HEARING

Town of Moraga

YOU ARE HEREBY NOTIFIED THAT on Monday, June 21, 2010, at 7:30 p.m., in the in the meeting room at the Moraga Library, 1500 Saint Mary's Road, Moraga, California 94556, the Planning Commission of the Town of Moraga will hold a Public Hearing to consider a Conditional Use Permit (CUP 05-10) to allow installation of a 2,880 square foot trailer to serve as a temporary golf club and pro shop facility for the Moraga Country Club. The location of the temporary facility will be at the southwest end of the driving range parking lot on the northwest side of St. Andrews Drive opposite the intersection with Cypress Point Way. On January 4, 2010, the Planning Commission approved a Use Permit to allow the demolition of the existing club house at 1600 Saint Andrews Drive and construction of a new club house in the same location. The purpose of the proposed conditional use permit is to allow the temporary 60-foot by 48-foot trailer to be used for the period of time when the existing clubhouse is demolished and the new clubhouse is under construction. The project also includes a 60-foot by 18-foot exterior deck for casual seating and dining. The facility will have an ADA compliant ramp for disabled access and the parking will be revised to provide disabled parking access. The property is within the Moraga Open Space district (MOSO). The project is categorically exempt under CEQA Guidelines Sections 15303(c) and 15332 for in-fill development projects. (APN 257-470-004).

Property Owner/Applicant
Frank Melon on behalf of the Moraga County Club
Homeowners Association
1600 Saint Andrews
Moraga, CA 94556

The plans for this project are available for public review at the Moraga Planning Department, 329 Rheem Blvd, Suite 2 during normal business hours (Monday through Friday from 8 am to noon and 1 to 5 pm). Comments regarding the proposed project can be submitted in writing or orally at the public meeting. Written comments submitted to the Planning Department will be given to the Planning Commission on the night of the meeting. For additional information, contact the Planning Department at (925) 888-7040.

In any challenge to the Town's decision on this matter in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the Town at, or prior to, the Public Hearing. Public comments will be considered before a decision is reached.

Project Planner: Richard Chamberlain, Senior Planner

UP 05-10
Mailed Public Notice

MCC Temporary
Clubhouse
Mailing List

Planning
Commission
Public Hearing

| APN | Name | Address | City & Zip |
|-----------|----------------------------------|-----------------------|------------------------------|
| 257492013 | Ann V H Grant Trust | 710 AUGUSTA DR | MORAGA, CA 94556 1039 |
| 257492008 | Kevin R & Jody K Johnson Trust | 114 LA QUINTA ST | MORAGA, CA 94556 1025 |
| 257492012 | Timothy J & Karen Murphy Trust | 20 WOODACRES CT | ORINDA , CA 94563 |
| 257482026 | Eugene Y & Joan Louie Tuan Trust | 24 INDIAN WELLS ST | MORAGA, CA 94556 1021 |
| 257491004 | Carol P Dias | 4629 WINCHESTER LN | MARTINEZ , CA 94553 |
| 257492009 | Olaf Vlieks | PO BOX 6996 | MORAGA , CA 94570 6996 |
| 257492010 | Ernest A & Lisa Sangmaster Trust | 1705 ST ANDREWS DR | MORAGA, CA 94556 1026 |
| 257492011 | Stuart Roloson | 2875 MADIGAN CT | CONCORD , CA 94518 2130 |
| 257482020 | William E & Marion P Condon | 1724 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257482021 | Steven H & Toni J Russell | 1722 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257482025 | Richard A & Judith E Ayers Trust | 1742 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257482019 | Janet Moore Hollingsworth | 1710 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257482024 | Blanca L Strelffer | 1751 ST ANDREWS DR | MORAGA , CA 94556 1026 |
| 257482022 | Jack J Jr & Joan G Carlson Trust | 1720 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257482018 | Paul C Boettcher Trust | 1712 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257491003 | Kanwar S Bagai Trust | PO BOX 474 | ORINDA , CA 94563 0474 |
| 257482023 | Jeffrey W & Ariana Fort Walker | PO BOX 95 | DOUGLAS FLAT , CA 95229 0095 |
| 257491002 | Mark K & Loretta L Mullins Trust | 703 AUGUSTA DR | MORAGA, CA 94556 1007 |
| 257482017 | Jeanne A Parsons Trust | 1714 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257482016 | Norman & Susan White Trust | 1716 ST ANDREWS DR | MORAGA, CA 94556 1033 |
| 257482014 | Paul R & Linda M Ehrich Trust | 672 AUGUSTA DR | MORAGA, CA 94556 1006 |
| 257482013 | Andre & Anna Hassid | 670 AUGUSTA DR | MORAGA, CA 94556 1006 |
| 257482015 | Clyde L & Barbara J Wilson Trust | 674 AUGUSTA DR | MORAGA, CA 94556 1006 |
| 257482012 | Mark R Warnke | 668 AUGUSTA DR | MORAGA, CA 94556 1006 |
| 257482011 | Marilyn Ann Kinney Trust | 666 AUGUSTA DR | MORAGA, CA 94556 1006 |
| 257482010 | Mark S & Linda A Solomon | 260 DONALD DR | MORAGA , CA 94556 |
| 257482009 | Sylvester L & Cynthia A Kelly | 628 AUGUSTA DR | MORAGA, CA 94556 1006 |
| 257482008 | William D Douglass Trust | 626 AUGUSTA DR | MORAGA, CA 94556 1006 |
| 257491001 | James D & Maryly M Ousman | 701 AUGUSTA DR | MORAGA, CA 94556 1007 |
| 257481016 | Kimiyo E Fukuhara Trust | 84 SHUEY DR | MORAGA , CA 94556 |
| 257430069 | Jack F Burns | 3223 BLUME DR | RICHMOND , CA 94806 5782 |
| 257481017 | Anne F Lavine | 661 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481033 | Moraga Country Club Ho Assn | 1600 ST ANDREWS DR | MORAGA , CA 94556 1132 |
| 257481018 | Ralph G & Aletta Nefdt | 659 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257430068 | Kendall C & Joan E Cole Trust | 116 CYPRESS POINT WAY | MORAGA, CA 94556 1131 |
| 257481014 | Janie Quock | 627 AUGUSTA DR | MORAGA, CA 94556 1036 |
| 257481015 | Edward L & Carole J Lucas Trust | 629 AUGUSTA DR | MORAGA, CA 94556 1036 |
| 257481019 | Virginia Guerin Trust | 657 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481013 | William R & Kathleen Forrester | 1270 ESTUDILLO AVE | SAN LEANDRO, CA 94577 3959 |
| 257481012 | Kun Hsuan & Shu Hui Chen Trust | 105 MERION TER | MORAGA , CA 94556 1022 |
| 257481020 | Lee James E & Tilly M Per | 655 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481011 | Charles P & Anne Murrin | 621 AUGUSTA DR | MORAGA, CA 94556 1036 |

UP 05-10
Mailed Public Notice

MCC Temporary
Clubhouse
Mailing List

Planning
Commission
Public Hearing

| | | | |
|-----------|--------------------------------|-----------------------|---------------------------|
| 257481022 | Susan M Olsen | 144 CYPRESS POINT WAY | MORAGA, CA 94556 |
| 257430067 | Geraldine M Landin Trust | 112 CYPRESS POINT WAY | MORAGA, CA 94556 1131 |
| 257481021 | Michael P Keough Trust | 120 HARDIE DR | MORAGA, CA 94556 1106 |
| 257430064 | John Jr & Sally Greene | PO BOX 595 | ANACORTES , WA 98221 0595 |
| 257430087 | Moraga Country Club Homeowner | 1600 ST ANDREWS DR | MORAGA , CA 94556 1132 |
| 257481023 | O B & Michele G Towery Trust | 1891 ST ANDREWS DR | MORAGA , CA 94556 |
| 257460008 | Moraga Country Club Ho Assn | 1600 ST ANDREWS DR | MORAGA, CA 94556 1132 |
| 257430066 | Elaine Holt | 106 CYPRESS POINT WAY | MORAGA, CA 94556 1131 |
| 257430065 | Henry D & Hazel Dicum Trust | 279 CALLE LA MESA | MORAGA, CA 94556 |
| 257430004 | Rob Mcspadden | 107 CYPRESS POINT WAY | MORAGA, CA 94556 1130 |
| 257430003 | Herbert P & M Susan Gindy | 105 CYPRESS POINT WAY | MORAGA, CA 94556 1130 |
| 257481028 | Yea Hwa Liao | 643 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481027 | Jacqueline M Oconnell Trust | 641 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481029 | Jeffrey & Cynthia J Raleigh | 645 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481026 | Aldo A & Pearl Cavazza Trust | 639 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481030 | Mary Jane T Pearson | 647 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481032 | Lupe M Zavala Trust | 651 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481031 | Jean H Maclean Trust | 649 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481024 | Alice G Foard | 635 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257481025 | Phyllis D Milenbach | 637 AUGUSTA DR | MORAGA, CA 94556 1035 |
| 257430002 | Rajan Kumar & Natasha J Batra | 103 CYPRESS POINT WAY | MORAGA, CA 94556 1130 |
| 257430001 | Steven O Miller | 101 CYPRESS POINT WAY | MORAGA, CA 94556 1130 |
| 257440001 | Moraga Country Club Homeowners | 1600 ST ANDREWS DR | MORAGA, CA 94556 1132 |
| 257470004 | Moraga Country Club Ho Assn | 1600 ST ANDREWS DR | MORAGA, CA 94556 1132 |
| 257180083 | Frank Melon | 1600 ST ANDREWS DR | MORAGA , CA 94556 1132 |
| | Dahlin Group, Inc. | 5865 Owens Drive | Pleasanton, CA 94588 |
| 257430061 | Melinda M Beagle | 848 JANSEN AVE | SAN JOSE, CA 95125 2438 |
| 257430062 | Barbara M Schafer | 113 CYPRESS POINT WAY | MORAGA, CA 94556 1130 |
| 257430006 | Samuel C Iii Klopstock Trust | 732 COUNTRY CLUB DR | MORAGA, CA 94556 1127 |
| 257180079 | Joan E Bruzzone | 899 HOPE LN | LAFAYETTE , CA 94549 |
| 257180077 | Kevin F Hogan | PO BOX 177 | LAFAYETTE , CA 94549 0177 |
| 257180080 | Linda & Jules Properties Llc | 189 DRAEGER DR | MORAGA , CA 94556 2152 |
| 257430005 | Alex & Janet M Trzesniewski | 726 COUNTRY CLUB DR | MORAGA, CA 94556 1127 |
| 257430060 | Ziv & Rosalie Ben-joseph Trust | 117 Cypress Point Way | Moraga, CA 94556 1130 |

EXHIBIT B

**PLANNING COMMISSION
RESOLUTION 01-2010**

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of:

| | |
|--|------------------------------------|
| Approval of a Conditional Use Permit for the) | Resolution No. 01-2010 PC |
| existing private recreational use of the MOSO) | File Nos. UP 09-2009 |
| property at 1600 Saint Andrews Drive by the) | Planning Commission Adoption Date: |
| Moraga County Club and establishment of) | Effective Date: January 15, 2010 |
| development standards to allow the replacement) |) |
| of the club house in the same location on the site) | |
| and other related modifications. | |

WHEREAS, an application for a Conditional Use Permit was submitted on December 8, 2009 by the Moraga Country Club (Property Owner/Applicant); and

WHEREAS, the Moraga Country Club has been serving the residents of the Town of Moraga for over 35 years; and

WHEREAS, the voters of the Town of Moraga approved the Moraga Open Space Ordinance (MOSO) after construction of the club; and

WHEREAS, MOSO allows the operation of a private recreational facility as a conditional use: and

WHEREAS, MOSO allows development within a cell containing a minimum of 10,000 square feet with an average slope less than 20%: and

WHEREAS, the club house site contains of MOSO cell consisting of 270,550 sq. ft. with an average slope of 7.3%: and

WHEREAS, the driving range site contains a MOSO cell consisting of 431,357 sq.ft. with an average slope of 10.6%: and

WHEREAS, a Public Hearing Notice for the project was mailed to property owners within 300 feet of the property on December 24, 2009; and

WHEREAS, on January 4, 2010, the Planning Commission held a public hearing where testimony was received from the applicant and interested parties; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the Conditional Use Permit to allow the existing private recreational use of the MOSO property at 1600 Saint Andrews Drive by the Moraga County Club and establishment of development standards to allow the replacement of the club house in the same location on the site.

BE IT FURTHER RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the following development standards for the property:

| | Cell A – Club House Site | | Cell B – Driving Range Site | |
|---------------------------------------|--------------------------|---|-----------------------------|----------|
| | Existing | Proposed | Existing | Proposed |
| Lot Area (Acres) | 6.2 +/- | 6.2 +/- | 9.9 +/- | 9.9 +/- |
| Density | N/A | N/A | N/A | N/A |
| Frontage | 497 feet | 497 feet | 434 feet | 434 feet |
| Front Building Setback (South) | None | 50 feet | None | 20 feet |
| Side Building Setback | None | 50 feet from Augusta Drive otherwise 0 feet | None | 0 feet |
| Minimum Rear Building Setback (North) | None | 50 feet | None | 0 feet |
| Maximum Building Height | None | 45 feet | None | 45 feet |
| Maximum Impervious Surface Coverage | 67% | 67% | 20% | 20% |

FINDINGS FOR APPROVAL OF A USE PERMIT UNDER MMC SECTION 8.12.120:

1. **The use is appropriate to the specific location;**
Because it has existed in its current location for more than 35 years.
2. **Is not detrimental to the health, safety, and general welfare of the town;**
Because it provides recreational activities for Moraga residents.
3. **Will not adversely affect the orderly development of property within the town;**
Because the area around the club has already been developed.
4. **Will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the town;**
Because the new club house and other modified facilities will better serve the community and thus potentially increase nearby property values.
5. **Is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;**
Because the improvements are consistent with Moraga General Plan Policy OS1.4 which provides as follows: "Private ownership and use of open space areas. Areas designated on the General Plan diagram as MOSO open space or non-MOSO open space may be retained in private ownership, may be used for such purposes as are found to be compatible with the corresponding open space designation and may or may not be accessible to the general public."
6. **Will not create a nuisance or enforcement problem within the neighborhood;**

Because the existing use is not proposed to be changed and it does not have a history of nuisance or enforcement problems.

7. Will not encourage marginal development within the neighborhood;

Because the existing neighborhood is already developed.

8. Will not create a demand for public services within the town beyond that of the ability of the town to meet in the light of taxation and spending restraints imposed by law;

Because no change in the demand for public services is anticipated because no change in use or membership is proposed.

9. Is consistent with the town's approved funding priorities.

The project would have no impact on the town's approved funding priorities.

CONDITIONS OF APPROVAL

1. Prior to the issuance of a building permit for any new facilities, all required fees shall be paid and all necessary approvals shall be obtained.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on January 4, 2010, by the following vote:

Ayes: Whitley, Goglia, Driver, Obsitnik, Levenfeld, Daniels

Noes: None

Absent: Socolich

Abstain: None

Jim Obsitnik, Chair

ATTEST:

Lori Salamack, Planning Director

EXHIBIT C

**DESIGN REVIEW BOARD
ACTION MEMORANDUM
DATED MAY 10, 2010**



Town of Moraga

PLANNING DEPARTMENT
329 RHEEM BOULEVARD
MORAGA, CA 94556
(925) 888-7040

DESIGN REVIEW BOARD ACTION MEMORANDUM

On May 10, 2010, the Town of Moraga Design Review Board considered the application described below:

DRB-05-10 – Moraga Country Club Homeowners Association (Applicant and Owner) 1600 Saint Andrews Drive – Plans for a new 20,000 square foot two-story clubhouse building at 1600 Saint Andrews Drive to replace the existing clubhouse, which will be demolished. The new clubhouse building includes an entry lobby, reception desk, lounge, pro shop, women’s and men’s lockers and restrooms, and MCC Homeowners Association offices on the ground floor and a restaurant, with a banquet room, multipurpose rooms and deck dining areas, a full service bar and lounge, kitchen, rest rooms and a board room on the second floor. The parking and landscaping will be modified to have a single in/out driveway and eliminate the existing driveway that goes around the west and south sides of the swimming pool and clubhouse building. The golf cart storage area will also be relocated adjacent to the maintenance yard area northwest of the clubhouse. The plans also include a new snack shack at the pool and new restrooms at the driving range. (APN 257-440-001).

DESIGN REVIEW BOARD ACTION:

The DESIGN REVIEW BOARD hereby grants approval of the project in accordance with the following findings and conditions of approval:

PART 1: DESIGN REVIEW FINDINGS:

In accordance with Moraga Municipal Code Section 8.72.080(B), the following findings must be made in order to approve an application for design review in land use districts other than single-family residential:

1. The proposed structure conforms with good design and in general contributes to the character and image of the Town as a place of beauty, spaciousness, balance, broad vistas, and high quality because the project architects have designed the new Moraga Country Club clubhouse to be reminiscent of renowned community assembly buildings

in California using large expanses of glass to open views of the swimming pool area and surrounding hillside areas while maintaining a scale that will not over whelm the surrounding residential structures.

2. The structure will be protected against exterior and interior noise, vibrations and other factors, which may tend to make the environment less desirable because the new building will be fully insulated and will use dual pane glass windows throughout in order to reduce unwanted noise from the outside. The design of the building will also prevent interior sound from escaping and becoming a nuisance to the surrounding homes.
3. The exterior design and appearance of the structure is not of inferior quality as to cause the nature of the neighborhood to materially depreciate in appearance and value because the new elegantly detailed building will replace the old clubhouse, which was becoming out-of-date, and the new building will include some improved functional features including A.D.A. access improvements.
4. The structure is in harmony with proposed developments on land in the general area because the project architects have considered the scale and design of the surrounding residential homes in the Moraga Country Club and kept the size and mass of the new clubhouse compatible with the existing development in the vicinity.

PART 2: CONDITIONS OF APPROVAL:

1. The plans for construction of the new 20,000 square foot clubhouse building shall be substantially in accordance with the plans date stamped "Official Exhibit", May 10, 2010, on file with the Town of Moraga Planning Department. Any significant exterior architectural changes to the building or to the site development plans shall be subject to further DRB approval.
2. In compliance with design guidelines ID3, ID12.2 and CC2.4, the drainage plans will require further review by the Town Engineer's office. Prior to the issuance of the building permit, the applicant shall submit a deposit sufficient to cover the cost of the Town Engineer's review of the completed stormwater treatment plans. The apparent conflicts in the plans listed below shall be resolved:
 - a. Drainage for parking lots (on sheet C3 shown as P1 & P2) was included in the treatment data calculations, but these areas drain directly to the storm drains, not the BMPs.
 - b. Parking P3 & P4 is shown in the treatment data as being treated by BMP 3, but it is not clear that the elevations will allow for sheet flow from the parking areas into the BMP.
 - c. Roof area R1 is shown in the treatment data as treated in BMP1, yet the bubble-up is outside of that BMP.
 - d. Roof area R2 is shown as draining into both BMP1 and BMP2, in apparent conflict with the calculations in the table.
 - e. Sheet L1 reflects a Stormwater planter on the western side of the building near the pool that is not reflected in any of the other sheets.

Since the project does not appear to require a grading permit, the stormwater treatment plans will need to be incorporated into the building plans before final approval of the building permit.

3. The applicant will need to obtain an erosion control permit before beginning construction. The erosion control plan shall provide for both wind-borne and water-borne erosion.
4. In accordance with design guidelines L3.3 and ID9.1, the island in the parking area could be designed as a concave island to accept some of the water from the parking lot and some larger canopy trees could be used to provide more shade over the parking spaces.
5. Details for the trash dumpsters within the service yard area will need to be submitted with the building permit plans in compliance with design guideline CC1.3. In order to avoid stormwater leakage through open dumpsters, the trash collection area should be covered. If this is not possible, then all stormwater under the dumpsters shall be directed to the sanitary sewer system.
6. Consider planting some larger trees in the planters at the northeast corners of the clubhouse building and the service yard to help soften the large wall expanses on the north elevation in compliance with design guideline L3.5. NOTE: The north elevation is mislabeled as the "south" elevation on sheet A7 of the plans.
7. Additional canopy trees shall be planted along the edges of the parking areas where they do not interfere with drainage basins or riparian areas in order to provide more shade for vehicles in the parking lot.
8. The landscape irrigation system shall be submitted with the plans for a building permit. The irrigation system shall include automatic rain shut-off controller devices and use drip irrigation wherever appropriate in accordance with design guidelines L3.14 and L3.15.
9. Finishing materials, such as siding, stone and masonry work, and paint color shall be consistent with the colors and materials board approved by the Design Review Board.
10. All work to be undertaken within the right-of-way of Saint Andrews Drive, such as the closure or modification of the existing northeastern exit driveway, shall be shown on the construction plans. Prior to undertaking any work within the public right-of-way, an encroachment permit shall be obtained from the Town.
11. Prior to the issuance of a building permit, the applicant shall submit a \$137 design review fee to the Moraga-Orinda Fire District and confirmation to the Planning Department that the Fire District has reviewed and approved the final building plans and parking and site circulation plans.
12. The applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections.

13. Prior to the issuance of the building permit, the applicant shall pay a fee of \$125.00 for verification of compliance with each condition of approval that requires additional planning staff review after the building permit has been issued, such as review of recycling receipts, inspection of landscaping or verification of noise or light levels.
14. Prior to the issuance of a demolition permit for the existing clubhouse building, the applicant shall submit a waste management plan as required by MMC Section 8.156.080. The plan shall include a quantitative estimate of recyclable material(s), a list of recyclers to be used for the project, a schedule for submitting receipts to the Planning Department and a description of how the recycling will be accomplished. The applicant shall also submit a deposit in compliance with MMC Section 8.156.070 to ensure completion of the waste management plan and submittal of the receipts from disposal and recycling facilities for the project. The amount of the deposit is calculated as a percentage of the projects total cost in accordance with the following table:

| Project Total Cost | Percent of Total Cost | Required Deposit |
|---------------------------|------------------------------|-------------------------|
| 10,000 – 500,000 | 2.00 | 200 – 10,000 |
| 500,001 – 1,000,000 | 1.75 | 8,750 – 17,500 |
| 1,000,001 – 2,000,000 | 1.50 | 15,000 – 30,000 |
| 2,000,001 – 5,000,000 | 1.25 | 25,000 – 62,500 |
| Above 5,000,000 | 1.00 | 50,000 and up |

The deposit may be cash, a certificate of deposit requiring both the signature of the applicant and the Town for release or a letter of credit. The applicant is responsible to make sure that contractors working on the project follow the waste management plan and submit the receipts from disposal and recycling facilities for the project, otherwise the deposit cannot be returned.

15. Precautions shall be taken during demolition of the existing clubhouse building for dust abatement in accordance with design guideline ID3.
16. The demolition contractor, building contractor and the applicant shall be responsible for preventing spills of soil, rock or other debris on to the Town's streets. If any spills occur, the responsible contractor and the applicant will be required to immediately cleanup the spill and repair any damage to the streets to the satisfaction of the Town Engineer. Streets in the vicinity of the site shall be swept clean of soil or debris as necessary to reduce the accumulation of dirt during the demolition phase of the project.
17. Traffic striping and pavement messages that become illegible or obliterated due to the movement of demolition or construction vehicles on their route to and from the project site shall be repainted prior to final inspection of the new clubhouse building. If during the construction of the project, the Town Engineer determines that the legibility of striping or messages is a hazard, the applicant shall restripe or replace the messages during the construction period.
18. All new utility distribution facilities including electric, telephone and cable television systems shall be installed underground from point of connection.

19. Any new exterior lights installed on the clubhouse, snack shack and driving range building shall be designed and mounted so that the source of light has minimal impact off site and directed inward toward the property in compliance with design guideline ID6.
20. The plans for the building permit shall include a detail of the fence or wall screening for the existing transformer in accordance with design guideline CC1.5.
21. The building permit plan set shall include the location of any accessory equipment capable of generating noise and vibrations, such as air conditioning units and trash compactors in compliance with design guideline CC2.5.
22. During project construction, the hours of work shall be limited to the hours from 8 a.m. to 5 p.m. in accordance with MMC Section 7.12.090. To minimize potential disturbance to adjacent residents, construction operations that utilize inherently noisy equipment, such as pile drivers, pneumatic (jack) hammers and rock drills, shall be avoided on weekends or holidays.
23. Parking of demolition equipment, tractor tread vehicles and all construction vehicles on Saint Andrews Drive is prohibited. All tractor tread vehicles shall be delivered to the property by trailer and kept on site during demolition and construction operations. The applicant shall establish an area acceptable to the Moraga Country Club Homeowners Association for the parking of vehicles utilized by the construction employees.
24. If construction is not commenced within one year from the date of final action, the permit becomes null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director showing good cause prior to the expiration of the discretionary action.

Design Review Board action is appealable to the Planning Commission within 10 calendar days after the date of the decision. If you have any questions regarding the action of the Board, please contact the Moraga Planning Department at (925) 888-7040.

EXHIBIT D

DRAFT RESOLUTION FOR TEMPORARY MCC CLUBHOUSE

DRAFT

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of:

| | |
|--|------------------------------------|
| Approval of a Conditional Use Permit to allow) | Resolution No. 06-2010 PC |
| installation of a 60 by 48 foot temporary building) | |
| for use as a golf club and pro shop facility for the) | File Nos. UP 05-2010 |
| Moraga Country Club on the northwest side of St.) | |
| Andrews Drive opposite the intersection with) | Planning Commission Adoption Date: |
| Cypress Point Way (APN 257-470-004).) | June 21, 2010 |
| _____) | Effective Date: July 1, 2010) |

WHEREAS, an application for a Conditional Use Permit was submitted on May 24, 2010 by the Moraga Country Club (Property Owner/Applicant) for a 2,880 square foot temporary trailer building to be used as the temporary clubhouse until the new clubhouse at 1600 St. Andrews Drive is completed; and

WHEREAS, on January 4, 2010, the Planning Commission approved a Use Permit to allow the demolition of the existing club house at 1600 Saint Andrews Drive and construction of a new club house in the same location; and

WHEREAS, the temporary clubhouse includes a kitchen, dining room, offices for the homeowners association, a 60-foot by 18-foot exterior deck for casual seating and outside dining and an ADA compliant ramp for disabled access to the deck; and

WHEREAS, the temporary trailer building would be located at the southwest end of the driving range parking lot, which is zoned 3-DUA (Three Dwelling Units per Acre); and

WHEREAS, MMC Section 8.24.030-B lists a nonprofit private recreational facility as a conditional use in the 3-DUA zoning district; and

WHEREAS, the proposed trailer building complies with the minimum building setbacks and lot coverage requirements for the 3-DUA zoning district; and

WHEREAS, the project is categorically exempt under CEQA Guidelines Section 15303-(c), which includes a store (pro shop), office (Administrative Office for the MCC Homeowners Association), restaurant (kitchen and dining area), not involving the use of significant amounts of hazardous substances, and not exceeding 10,000 square feet in total floor area within an urbanized area where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive; and

WHEREAS, a Public Hearing Notice for the project was mailed to property owners within 300 feet of the property on June 11, 2010; and

WHEREAS, on June 21, 2010, the Planning Commission held a public hearing where testimony was received from the applicant and interested parties; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the Conditional Use Permit to allow the installation of the 60-foot by 48-foot trailer building and 60-foot by-18 foot deck as a temporary clubhouse for the Moraga County Club during the demolition and construction of the new clubhouse in accordance with the following findings and conditions of approval.

FINDINGS FOR APPROVAL OF A USE PERMIT UNDER MMC SECTION 8.12.120:

- 1. The use is appropriate to the specific location;**
Because the proposed location at the Southwest end of the driving range parking lot is the best available site for the temporary clubhouse building, since the trailer building will be built over an existing paved area, so it will not increase the impervious surface area appreciably and it is relatively close to the existing clubhouse at 1600 St. Andrews Drive, while at the same time it is not so close that it will interfere with the construction of the new building.
- 2. Is not detrimental to the health, safety, and general welfare of the town;**
Because the proposed kitchen and dining facility will be reviewed and approved by the Contra Costa County Health Department prior to final occupancy approval by the building department and the Town's Design Review Board will review the location and design for a dumpster to accommodate waste from the kitchen.
- 3. Will not adversely affect the orderly development of property within the town;**
Because the proposed use is temporary and the surrounding properties have already been developed.
- 4. Will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the town;**
Because the proposed use will facilitate the construction of the new clubhouse building, which should have a positive impact on property values in the Moraga Country Club. During the anticipated two-year period when the new clubhouse is under construction, the temporary building could have a negative impact on the homes at the west end of Cypress Point Way and Country Club Drive. The Design Review Board shall consider additional landscaping to help screen the temporary trailer building from view of the residential homes directly across St. Andrews Drive.
- 5. Is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;**
Because the Design Review Board shall consider additional landscaping to help buffer light and noise emanating from the clubhouse in accordance with General Plan Policy LU2.6 and consider native and drought-tolerant plants to help soften views of the trailer building from the Moraga Way scenic corridor as required by General Plan Policy CD3.5. The location of the temporary clubhouse will be over an existing paved parking lot, with no grading or encroachment into any riparian or

other environmentally sensitive areas in compliance with General Plan Policy CD1.1. The Design Review Board shall consider plans for some new signage at the entrance driveway to the driving range to identify the temporary location for the clubhouse and the Moraga Country Club Homeowners Association offices to maintain effective and safe vehicle circulation in accord with General Plan Policy C3.1. The project plans shall be reviewed by the Moraga-Orinda Fire District (MOFD) prior to release of the building permit in compliance with General Plan Policies PS3.6 and PS3.10. The project site is not near any active fault lines or hillsides where landslides could impact the proposed trailer in compliance with General Plan Policy PS4.4.

- 6. Will not create a nuisance or enforcement problem within the neighborhood;**
Because the proposed temporary clubhouse is much smaller than the existing clubhouse and it is not intended to meet all the same functional needs. Nevertheless, the temporary facility is expected to draw more traffic and parking to the driving range parking area, which is already near capacity during the day. The number of seats in the dining area will be limited based on the 50 parking spaces in driving range parking lot. The Moraga Country Club shall submit a construction schedule and vehicle parking plan to utilize the front parking area at the existing clubhouse to the maximum extent feasible during the construction.
- 7. Will not encourage marginal development within the neighborhood;**
Because the proposed use is temporary and the surrounding properties have already been developed.
- 8. Will not create a demand for public services within the town beyond that of the ability of the town to meet in the light of taxation and spending restraints imposed by law;**
Because the proposed use is a private recreational use and will not have any impact on the demand for public services.
- 9. Is consistent with the town's approved funding priorities.**
Because the project would have no impact on the town's funding priorities.

CONDITIONS OF APPROVAL

1. The temporary clubhouse trailer building shall be limited to a two-year initial period of time. If there are unforeseen delays in the construction of the new clubhouse, the applicant can make a request for extension of the use permit for an additional year. The temporary structure shall be completely removed and the parking area restored within 30-days after the new clubhouse has passed final building inspection and been granted an occupancy permit.
2. Since the temporary building will be used for longer than one year, the Contra Costa County Building Department does not consider the building to be "temporary" and the bathrooms and kitchen sink inside the building will be required to connect to the sewer.

3. Approval of this use permit does not authorize construction or placement of the trailer building on site. Prior to construction of the temporary building the applicant shall submit the following plans to the Design Review Board for review and approval:
 - a. Since the proposed structure is within 500-feet of the Moraga Way scenic corridor, some additional native and drought-tolerant landscaping shall be submitted to mitigate views of the trailer from Moraga Way.
 - b. The location and design for a dumpster to accommodate waste from the kitchen shall be shown on the project plans.
 - c. Additional landscaping to help buffer light and noise emanating from the clubhouse in accordance with General Plan Policy LU2.6 and to help screen the temporary trailer building from view of the residential homes directly across St. Andrews Drive.
 - d. The applicant shall show the number of seats in the dining area on the plans submitted to the Design Review Board. The total seating capacity shall not exceed 150 seats based on one parking space for every three seats and the total available off-street parking of 50 spaces in driving range parking lot.
 - e. Plans for new signage at the entrance driveway to the driving range shall be submitted to identify the temporary location for the clubhouse and the Moraga Country Club Homeowners Association offices to maintain effective and safe vehicle circulation in accord with GP Policy C3.1.
4. Due to the limited amount of parking available in the vicinity of the temporary clubhouse building, the Moraga Country Club shall submit a construction schedule and vehicle parking plan to utilize the front parking area at the existing clubhouse to the maximum extent feasible during the construction period.
5. Prior to issuance of the building permit, the plans shall be submitted to the Town Engineer's office for grading and site drainage review. The site drainage shall be reviewed in accordance with the most recent "Start at the Source Design Guidelines" from BASMAA. Standard fees apply for engineering review.
6. The Moraga-Orinda Fire District (MOFD) shall review the access for fire-fighting vehicles in accord with GP Policy PS3.6 and review the built-in fire suppression systems based upon building size, use and location in accord with GP Policy PS3.10. MOFD will charge a fee of \$137.00 for the review of the plans.
7. The applicant shall submit the plans for the proposed kitchen and dining facility to the Contra Costa County Health Department for approval prior to final occupancy approval by the building department.
8. Prior to the issuance of a building permit for any new facilities, all required fees shall be paid and all necessary approvals shall be obtained.

9. Project construction times shall be between 8 am and 5 pm in accordance with the Town's Noise Ordinance.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on June 21, 2010, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Jim Obsitnik, Chair

ATTEST:

Lori Salamack, Planning Director

EXHIBIT E

PROJECT PLANS