Meeting Date: September 20, 2010

TOWN OF MORAGA **STAFF REPORT**

To: **Planning Commission**

From: **Lori Salamack, Planning Director**

Subject: **GRADING PERMIT and HDP 01-10 – Mr. and Mrs. Robert White (Owner/Applicant), 32 Buckingham Drive:** Application for a hillside development permit and grading permit to grade a hillside with a slope greater than 25% including an approximately 50 cubic yard excavation for an in-ground storage building and related improvements. In accordance with Moraga Municipal Code Section 14.16.020, the Planning Commission shall make a recommendation to the Town Council regarding the proposed application. The work that is the subject of this application including the hillside excavation and partial storage room construction was commenced without the benefit of any Town approvals. The Town will evaluate the proposed application as if the work had not been started. This application will receive no special consideration because it was started without permits. The property is zoned 3 dwelling units per acre. APN: 256-203-012. (Continued from the August 2, 2010 and September 7, 2010 Planning Commission meeting)

Request

Adopt the attached draft resolution approving the Permitted Use Application with conditions.

Background

This application was previously considered by the Planning Commission on August 2, 2010 and September 7, 2010. On September 7th, a subcommittee of the Planning Commission was appointed to propose findings and conditions of approval. The revised resolution incorporates the draft findings and conditions of approval from the subcommittee

Alternatives

Revise the attached draft resolution making revisions as necessary.

Recommendations

Adopt the attached draft resolution with revisions, if necessary.

Attachments:

A. Revised Draft Resolution

ATTACHMENT A

Revised Draft Resolution

BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of:	**Resolution No. XX-2010**
Recommendation to the Town Council for approval of a hillside development permit and a grading permit for retaining walls and a storage building at 32 Buckingham. (APN 256-203-012))	File No. GP-01-10 Adoption Date: September 20, 2010 Recommendation to Town Council (not appealable)

WHEREAS, on April 14, 2010, an application for a grading permit and hillside development permit was filed by Robert and Claudia White for the grading and excavation of the hillside at 32 Buckingham; and

WHEREAS, on April 21, 2009, the geotechnical investigation and plans reviewed by John Friar were sent to the Town's geotechnical peer review consultant, Cal Engineering and Geology (CE&G) for review: and

WHEREAS, on May 5, 2010, the Town received the geotechnical peer review report from CE&G which noted the need for additional information; and

WHEREAS, on June 2, 2010, the Town received revised plans and a response to the May 5th CE&E comment letter; and

WHEREAS, on June 14, 2010, the Town received confirmation from CE&G that all of the issues identified in their May 5th letter had been satisfied; and

WHEREAS, on July 23, 2010 notices were mailed to residents within 300 feet of the subject property for the Planning Commission Public meeting scheduled on August 2, 2010 to consider a recommendation to the Town Council in accordance with Moraga Municipal Code (MMC) Chapter 14.16; and

WHEREAS, on August 2, 2010 the Planning Commission held a public meeting to consider the application; and

WHEREAS, on August 2, 2010, the Planning Commission continued consideration of the application to September 7, 2010; and

WHEREAS, on September 7, 2010, the Planning Commission held a public meeting where testimony was received from the applicant and interested parties; and

WHEREAS, on September 7, 2010, the Planning Commission continued consideration of the application to September 20, 2010; and

WHEREAS, on September 7, 2010, the Planning Commission appointed a two-person subcommittee to prepare draft findings and conditions of approval; and

WHEREAS, the subcommittee provided staff with draft findings and conditions of approval that were incorporated by staff into the draft resolution; and

WHEREAS, on September 20, 2010, the Planning Commission held a public meeting where testimony was received from the applicant and interested parties.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby recommends approval of the hillside development permit and grading permit for the rear yard construction at 32 Buckingham, with the following findings and subject to the conditions of approval listed herein:

PART 1 – FINDINGS BASED ON MMC SECTION 14.16.030:

1. The grading is consistent with the town design guidelines because the site improvements to be made will result in a reduction of the number of retaining walls from 3 to 2, the hillside will be in a stabilized condition, the cut slope will be placed behind a naturally contoured retaining wall system, the roof of the proposed storage structure will follow the contour of the land and be covered with grass, and the entire improvement is screened from the street view. Pending a physical survey to determine the actual property line, a variance may be required for the western retaining wall which will be only two feet, eight inches from the fence line. According to the owner, the fence was built on his property which would enable the western retaining wall to conform with the minimum of three feet required between the retaining wall and the property line.
2. The grading is consistent with the regulations and restrictions of chapter 14.16 of the Municipal Code in that the pre-existing slope in the area on construction was 37% and the proposed design only slightly lessens the slope to 34%. The western retaining wall does alter the slope in the East West direction; however this wall is screened from the street view.
3. The grading is not detrimental to public safety because the proposed design has been prepared by a licensed civil engineer and the improvements have greatly improved the stability of the hillside over the pre-existing conditions where a substantial amount of soil sloughed towards the main house structure on the property.
4. The grading is not detrimental to storm water runoff because the proposed design dictates that both surface and sub-surface storm water will be diverted away from structures and not pose erosion or flooding risk.
5. The grading is consistent with the requirements of chapter 8.136 of this code because all factors have been considered in accordance with MMC 8.136.070 and have been sufficiently dealt with in the proposed design. To ensure there are

no further visual or esthetic concerns, a condition of approval will be added to have the Design Review Board review design drawings and specifications.

6. The grading is proposed to be natural contour grading because the proposed design retains the natural contour of the hillside above the excavated portion of the slope.
7. The grading minimizes soil displacement to the maximum extent possible given the substantial amount of soil that previously sloughed towards the main structure. This soil needed to be removed regardless of the planned improvements to restore the stability of the hillside and to return at least a portion of the rear yard to a usable condition.
8. The grading minimizes the use of retaining walls because the site improvements made and proposed will result in a reduction of the number of retaining walls from 3 to 2.
9. The grading is the minimum amount of grading possible on the site because a substantial amount of the grading already completed was a direct result of the substantial amount of soil that previously sloughed towards the main house structure on the property. This soil needed to be removed regardless of the planned improvements to restore the stability of the hillside and to return at least a portion of the rear yard to a usable condition.
10. The grading is not inconsistent with the General Plan because engineered site improvements have increased the stability of the slope and as a result have limited the potential to cause damage to property, injury to persons, or public cost and inconvenience; no alterations are proposed to be made to the ridgeline and the improvements to the hillside generally conform to the natural contour grading of the site and are screened from street view; and a substantial amount of the grading already completed was a direct result of the substantial amount of soil that previously sloughed towards the main structure on the property. This soil needed to be removed regardless of the planned improvements to restore the stability of the hillside and to return at least a portion of the rear yard to a usable condition. In addition, the proposed plan for the storage structure will enable it to maintain a low profile and blend in with the natural setting by placing grass on the roof.

PART II – RECOMMENDED CONDITIONS OF APPROVAL:

1. Design Drawings and specifications for the work remaining (approximately 25%) must be submitted to the Design Review Board for their review and approval prior to the restart of work.
2. Town of Moraga Staff Engineer shall inspect the site prior to the restart of work to ensure site is safe for work to resume and conduct periodic inspections to ensure work is progressing as designed and approved in accordance with Condition 1.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on September 20, 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Jim Obsitnik, Chair

ATTEST:

Lori Salamack, Planning Director