

**TOWN OF MORAGA PLANNING COMMISSION
MEETING MINUTES
Monday, February 7, 2011
Moraga Library Meeting Room
1500 Saint Mary's Road, Moraga California 94556**

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:30 pm by Vice Chair Socolich.

The following Planning Commissioners were present:

Levenfeld, Obsitnik, Socolich, Wykle

The following Planning Commissioners were excused:

Driver, Richards, Whitley

No Commissioner had a conflict of interest.

ADOPTION OF MEETING AGENDA

The meeting agenda was adopted as drafted.

ANNOUNCEMENTS

Director Salamack announced that Commissioner Obsitnik asked to have the Saint Mary's College temporary cell tower in the Saint Mary's Road Scenic Corridor considered by the Planning Commission and it has been scheduled for Tuesday, February 22, 2011. She also indicated that both Chief Priebe and Senior Planner Richard Chamberlain were present to participate in the discussion of the draft medical marijuana ordinance and the potential subdivision of Town property at Rheem and Saint Mary's Road.

PUBLIC COMMENTS

There were no public comments.

ADOPTION OF THE CONSENT CALENDAR

The January 18, 2011 minutes were adopted by the following vote:

Ayes: Levenfeld, Obsitnik, Socolich

Noes: None

Absent: Driver, Richards, Whitley

Abstain: Wykle

The November 1, 2010 minutes were adopted by the following vote:

Ayes: Socolich and Wykle

Noes: None

Absent: Driver, Richards, Whitley

Abstain: Obsitnik and Levenfeld

PUBLIC HEARINGS

Draft Medical Marijuana Ordinance

The Planning Commission conducted a public hearing on a draft ordinance to prohibit the establishment and operation of medical marijuana dispensaries in the Town of Moraga.

Director Salamack presented the staff report and explained that the proposed ordinance would add Chapter 8.160 to the Moraga Municipal Code (MMC), which would prohibit medical marijuana distribution facilities, as defined in MMC Chapter 7.32, in all zoning districts in the Town of Moraga. She further explained that the draft ordinance would also prohibit the outdoor cultivation of marijuana in order to protect the public health and safety.

Chief Priebe elaborated on the law regarding medical marijuana in the State of California. He further noted that the draft ordinance had been prepared on the advice of the Town's legal counsel and recognized that this is a very fluid area of the law with changes continuing to occur.

Joan Webb, 1870 Joseph Drive, spoke in favor of the prohibition on outdoor cultivation citing the impact that existing outdoor cultivation has on neighboring properties. She also spoke in favor of regulations regarding venting of indoor cultivation.

Roberta Klaproth, 1897 Joseph Drive, expressed concern for the odor associated with outdoor cultivation of marijuana and the potential impact of such cultivation on the youth of the community.

Richard Webb, 1870 Joseph Drive, expressed concern for potential criminal activity associated with outdoor cultivation especially the theft of marijuana by potentially violent criminals. He also expressed concern for decreased property values due to the impact of marijuana cultivation on neighboring properties that would also result in reduced property tax revenue to the Town. Finally, he noted the potential fire hazard associated with indoor cultivation as has been experienced elsewhere.

Commissioner Levenfeld asked if indoor cultivation could be addressed in the draft ordinance and Commissioner Socolich noted the potential for indoor cultivation to result in the establishment of "grow houses." Commissioner Obsitnik requested clarification regarding proposed modifications to the general provisions regarding nuisance abatement.

Director Salamack explained that the municipal code was being modified to add additional enforcement alternatives. She further explained the needed action and future process and agreed to look at other ordinances that address criminal as opposed to civil penalties and the venting of indoor odors.

Commissioner Obsitnik moved approval of the draft ordinance which was seconded by Commissioner Socolich and all Commissioners voted in favor.

PUBLIC MEETING

Study Session – Subdivision of Town-Owned Land at Rheem Blvd. and St. Mary's Road. The Planning Commission considered alternatives for a minor subdivision for one or two single family residential lots at the northwest corner of Rheem Boulevard and St. Mary's Road. The proposed subdivision would involve approximately 2 acres near the northeast end of a 21.4 acre parcel that fronts on St. Mary's Road between Moraga Road and Rheem Boulevard. The property was acquired by the Town in 1977 when the State sold portions of the proposed right-of-way for the Gateway Freeway. The southwest end of the property is developed as part of Moraga Commons Park and the East Bay Regional Park District maintains a pedestrian and bike trail across the property.

Senior Planner Richard Chamberlain presented the staff report and noted that the East Bay Regional Park District had not received notification of the Planning Commission study session and thus he asked the Planning Commission to not make a recommendation at the meeting. Mr. Chamberlain explained the history of the project and the Town's acquisition of the property. He further explained the development standards for the creation of one or two lots in MOSO including requirements for environmental review and review by the fire district. Mr. Chamberlain also noted the future potential development of a traffic circle at the intersection of Rheem and Saint Mary's Road and its possible implications for the potential subdivision.

Director Salamack explained the maximum development potential of the site with respect to density and lot area. She further commented that the goal for the Town was to approve a good project and then maximize the profit to the Town from the project.

A neighbor spoke about the need for the Town to maintain the drainage ditch on the property. He indicated that he would not be affected by the subdivision because he expected a freeway to be constructed in this location when he moved in many years ago.

A representative of the East Bay Regional Park District noted that she was happy that a decision would not be made at this meeting and that the Park District would provide substantive comments in the future.

The Planning Commission discussed the options and determined that they needed more information to make a recommendation to the Town Council. The Commission further requested that the Town look into removing the dead oak tree on the property.

ROUTINE & OTHER MATTERS

Mr. Chamberlain announced that he had received a call from PG&E regarding the replacement of a gas monitoring station on Saint Mary's Road. It was suggested that the Park District be in communication with PG&E regarding the potential facility since it is proposed to be located close to the Lafayette-Moraga Trail.

Commissioner Wykle questioned the installation of the wireless communications facilities on Rheem Boulevard and asked staff to investigate the installation for conformance with the Design Review Board approval.

COMMUNICATIONS

There were no communications.

REPORTS

Planning Commission

1. Russell Driver - absent
2. Dick Socolich, Vice Chair
3. Stacia Levenfeld – no report
4. Jim Obsitnik – no report
5. Tom Richards - absent
6. Bruce Whitley - absent

7. Roger Wykle attended DRB meeting on December 18, 2010 and reported on the two agenda items.

Staff advised the Planning Commission that the Town Council will be meeting on February 9, 2011 to discuss goals and the new green building ordinance will also be agendized in the near future. Staff also reported that on February 10, 2011 there will be a tri-city meeting at the Soda Center in part to discuss the Sustainable Communities Strategy required by SB375.

ADJOURNMENT

The meeting was adjourned at 9:17 pm to a special meeting of the Planning Commission on Tuesday, February 22, 2011 at 7:30 P.M. at the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.