

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

March 7, 2011
7:30 P.M.

MINUTES

I. CALL TO ORDER

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

ROLL CALL

Present: Commissioners Levenfeld, Obsitnik, Socolich, Wykle, Chairman Driver
Absent: Commissioners Richards, Whitley
Staff: Lori Salamack, Planning Director

B. Conflict of Interest

There was no reported conflict of interest.

II. ADOPTION OF MEETING AGENDA

On motion by Commissioner Obsitnik, seconded by Commissioner Socolich and carried unanimously to adopt the meeting agenda, as shown.

III. ANNOUNCEMENTS

There were no announcements.

IV. PUBLIC COMMENTS

Holly Lucas-Alcaly, 128 Devon Drive, Moraga, referenced the language in the approved conditional use permit for the Dollar Tree Store application in terms of defining the sale of food and beverages and confusion with respect to the interpretation of the Town's Retail Ordinance. She asked the Planning Commission to evaluate that situation as an agenda item at a future meeting.

V. ADOPTION OF THE CONSENT CALENDAR

There were no items on the Consent Calendar.

VI. PUBLIC HEARINGS

- A. **CDP 02-05 - Draft Environmental Impact Report for the Hetfield Estates Subdivision, John Wyro (Applicant), Robert and Sandy Lipson and Sanford Gage (Property Owners)**: Public Hearing to receive comments on the Draft Environmental Impact Report (EIR) for the proposed 7-acre lot subdivision. The project being evaluated by this EIR is the subdivision of a 58.2-acre parcel into seven lots. Six single-family lots would be located on 6.75 acres, with the remaining lot containing 51.45 acres that would remain in permanent open space. The open space area would be maintained either by a homeowner's association or a special district, e.g., geological hazard abatement district (GHAD). The six residential lots would range in size from 41,826 square feet (.96 acre) to 59,930 square feet (1.38 acres). The proposed development is located on a northern portion of a remnant parcel that was previously subdivided in 2001 (Subdivision 8444). At that time, the entire parcel contained 65.5 acres and 7.4 acres were developed for single-family housing in the southwest corner of the property.

The new homes would be served by the East Bay Municipal Utility District (EBMUD), Central Contra Costa Sanitary District (CCCSD), PG&E, and AT&T for cable television. Students would attend schools in the Moraga Elementary School District and the Acalanes Unified School District. The site is not a known toxic site.

Planning Director Lori Salamack presented the staff report for the public hearing to receive comments on the Draft EIR for the proposed 7-acre lot subdivision. The Planning Commission had considered the matter two years and had approved the project with a Mitigated Negative Declaration as the environmental document to support its decision. The project had been appealed to the Town Council which had determined that a Focused EIR was necessary to fully evaluate the impacts of the project and had directed staff to rework the environmental document. Staff in working with the Town's consultants had performed that work and the Draft EIR had laid out alternatives to the project submitted. It had also gone into greater detail on specific subjects of Town Council concern including concerns with respect to geology and issues with respect to the General Plan.

Ms. Salamack advised that the applicant's team was present and included the Town Consultants and Darwin Myers Peer Review Consultant Mitch Wolfe. She explained that the Planning Commission would not be making a decision on the project at this time in that the only decision to be made was to potentially extend the public comment period for an additional two weeks, as indicated in the staff report dated March 7, 2011. The public comment period had been open for 45 days in accordance with State law. An additional public hearing would not be

held during that time unless the Planning Commission determined that was necessary.

An extension of the public comment period would allow additional opportunity for the public to submit written comments to be addressed in the Final EIR.

Carolyn Mills, Town consultant on the Draft EIR, added that the Town Council had directed specific areas to be expanded in the EIR including not only geology and soils but issues with respect to the General Plan, hydrology, drainage, aesthetics, and the land use planning component. The EIR team had evaluated those issues, had identified additional impacts and mitigation measures, and had pulled impacts and mitigation measures forward from the Initial Study, as deemed appropriate.

Darwin Myers, geotechnical consultant, commented that during the Town Council public hearing the neighbors had two experts testify on the surface water and groundwater hydrology with concerns expressed for the depth of the landslides, whether or not there was enough information to draw solid conclusions about landslide hazards, and concerns that groundwater could become unmanageable. A fault map of the site was to be evaluated with the idea it could be a groundwater barrier. The applicant's geotechnical consultant, ENGENEO, had prepared a work program in response to the issues that had been raised which had been forwarded to all of the involved consultants for both the applicants and the neighbors. ENGENEO had set stakes at locations for borings and test pits, had conducted borings in slide areas, and had indicated that the slide was confined to the soils in the overlying bedrock. The borings extended 30 feet into the bedrock and had been evaluated in a laboratory.

Mr. Myers advised that while in the field, the parties involved had determined that an additional boring or two and a change in the location of the borings was necessary within the landslide areas. It had been agreed that a total of seven borings would be in locations within the landslide areas with two additional borings down near the creek to determine the depth of rock and other characteristics of rock in that area. A location for a fault trench had also been determined. Three of the borings had hit landslide debris down to a depth of 18 to 19 feet. The other four borings hit a slide plain at a depth of approximately 10 feet. The recovery of core was good once into the bedrock with a few areas of shearing into the core, which was not unusual in the fault trench. There was very little water found although there was some seepage in addition to one long trench to locate the fault. Shorter trenches had been utilized to project the fault across the site.

Mr. Myers commented that 14 test bits had been conducted by ENGENEO and five borings by a previous developer, the data from which had been relied upon as part of the Initial Study. There were now approximately 26 test bits, with seven to

eight test bits located in 3:1 fill slope areas to confirm the depth of bedrock and the severity of potential landslide hazards.

The report from ENGEO had been available since January 2010, and as a result the initial impacts and mitigation measures had been fine tuned and graphics clarified in the Draft EIR to better assist the experts in the field.

Ms. Mills stated that the drainage had also been evaluated and the analysis expanded for both on- and off-site drainage problems, and included back-to-back storms. The analysis had relied upon results from the geotechnical studies on groundwater impacts and had provided a more detailed description of the operation of the detention basin. In response to the aesthetic concerns in terms of consistency with the existing neighborhood, a more thorough analysis of the General Plan and planning policies on neighborhood character had resulted in a new set of impacts and mitigation measures.

Ms. Mills took this opportunity to identify a discrepancy between the text and the summary table regarding Mitigation Measure 3.1-3(a) of the summary table, where the last line should be corrected to read "finished grade" not "existing grade," as shown.

Ms. Mills also commented that the planning and land use section of the Draft EIR had expanded the MOSO [Moraga Open Space Ordinance] discussion. It had been determined that based on all of the additional geotechnical analysis the proposed project met the MOSO criteria and was no longer considered to be a high risk site. The alternatives that had been developed with Town staff included a no project alternative; a 3-lot subdivision which would reduce the project area; an 8-lot subdivision with reduced lot size on a smaller development area; and an 11-lot subdivision, the maximum development allowed on the site, with reduced lot sizes within the proposed development area. All had been contained on Pages 5-3 and 5-9 within the alternative section of the Draft EIR with a comparison table of the alternatives. The project applicant's objectives for the project had also been considered as part of the requirements of the California Environmental Quality Act (CEQA) where it had been determined that a 3-lot subdivision would not be financially feasible and with the 8-lot subdivision determined to be a superior alternative to the proposed project.

PUBLIC HEARING OPENED

John Wyro, 40 Valley Drive, Orinda, identified himself as the applicant representing the property owners. He recognized that the Planning Commission had seen the project before since the original application had been filed in December 2006, and the Planning Commission had approved the project in November 2008. That approval had been appealed to the Town Council leading to the preparation of the Focused EIR. He pointed out that the Draft EIR had come to the same conclusion as the Mitigated Negative Declaration. It was his

hope that after exploration of the document itself they would be able to come back and discuss the project itself.

Mr. Wyro submitted written comments to staff that he identified as responses to be included in the document. He looked forward to working with the Planning Commission on the project.

Suzanne Jones, 1285 Bollinger Canyon Road, Moraga, representing Preserve Lamorinda Open Space comprised of approximately 700 local residents aimed at participating in the public process on open space development issues, commented that the organization had participated in the Initial Study and Mitigated Negative Declaration and the appeal. While she advised of her desire to comment on the Draft EIR, she stated she had been unable to do so because of the appeal of the Rancho Laguna II development which had culminated during the 45-day public review period for the Draft EIR for Hetfield Estates. Given that CEQA provided for an extension of the public comment period, she requested that the Planning Commission extend the public comment period for the Draft EIR for Hetfield Estates for a full 60 days to allow for public comment and the ability of the organization to inform its members of the opportunity to comment.

Lynne Fiorindo, 1112 Sanders Drive, Moraga, spoke to Pages 3-41 and 3-42 of the Draft EIR, specifically related to a 2002 and 2006 flooding incident at her residence at 1112 Sanders Drive. She commented that although those incidents had not been reported to the Contra Costa County Flood Control District (CCCFCD), she was disappointed and frustrated that had not been included in the Draft EIR. She stated that she had previously submitted photographs to the Town Council of her rear yard which she re-submitted to the Planning Commission at this time. She noted that she had not reported any flooding of her property at that time and that section in the Draft EIR had implied that no flooding had occurred. She had not been aware of the various agencies to report to at the time she had purchased her home and had understood that property owners took care of the problem which they had understood was the right thing to do. She acknowledged that some improvements to her property had been made since those incidents to block any future flooding that may occur as a result of nearby Larch Creek.

Daran Santi, 1148 Sanders Drive, Moraga, questioned what assurance the neighbors would have once the developer had approval from the Town that the project would be built and not end up like Vista Encinos, a project located on the other side of the hill. In that case, the developer had gone bankrupt and the property had become an eyesore in the community.

Gordon Nathan, 51 Carr Drive, Moraga, commended the completeness of the Draft EIR. He referenced a letter he had read as contained in the EIR, which had listed 60 questions related to the development. While he understood that the Draft EIR had come to the same conclusion as the initial EIR, there remained a

number of questions raised by the neighbors which he suggested may take more than the allowed public comment period to answer.

Mr. Nathan agreed that the Planning Commission must take into consideration the number of questions the neighbors had raised on the proposal either through public comment or through written correspondence. While he understood that the property owners had a right to develop the property as they wished, given that regulations had changed over the years he stated that the property owners must follow those regulations and it was the duty of the Planning Commission to ensure that was done.

Jennifer Koziel, 1132 Sanders Drive, Moraga, asked that a copy of numerous questions that had been raised by the neighbors be incorporated into one document. She presented those questions to staff. She noted that Laurel Collins, a geomorphologist, had provided her with a number of questions regarding issues she had suggested had not been answered in the Draft EIR sufficiently, which questions she submitted to staff at this time. She also submitted her own written correspondence for the record along with photographs of the Vista Encinos property that had been referenced. The photographs depicted the deteriorated condition of the property and a very large pond of standing water at the end of that development where it appeared that the drainage may be failing.

Christopher Bowen, 1108 Sanders Drive, Moraga, identified himself as an arborist. He cited the recommendation on Page S-4 of the Draft EIR for a California Baylor tree species that had been proposed as tree screening. He described that species as attractive to sudden oak death and suggested it would be a mistake to plant that species within the project site.

Nancy Wilkerson, 1140 Sanders Drive, Moraga, expressed concern with the potential drainage issues and soil removal associated with the project site given the drainage issues on her own property. She too expressed concern with the potential for Hetfield Estates to become a nuisance as Vista Encinos had become.

Shivaun Wraith, 19 Hetfield Place, Moraga, also expressed concern with the potential drainage impacts if the property was ultimately left vacant and not developed as proposed as had occurred with Vista Encinos. She sought greater details on the drainage system being proposed for the property. She noted the number of restrictions imposed on Moraga residents to develop on their property and asked what development restrictions would be imposed on the project.

John Ohare, 1120 Sanders Drive, Moraga, referenced the geologist that had been hired by the neighbors to consult on the Draft EIR and who had recommended that there could be a need for further drilling in response to

potential deeper landslides on the property. He questioned the Town's liability if deeper landslides were found that had not been currently identified.

Mr. Ohare also understood that debris would be benched behind the homes to be built, the size and appearance of which had not been identified in the document. He requested some sense of the size of the debris bench, a schematic of the area once excavated, and the debris bench created and grading conducted to show how the hillside would appear after that work had taken place. He also understood that the size of the homes would be reduced to fit in better with the surrounding neighborhoods although that reduced size had not been identified.

Malcolm Cooper, 1160 Sanders Drive, Moraga, read into the record a letter he had submitted to the Planning Commission. He expressed concern with the steepness and unstable conditions of the land where the project had been proposed for development, which land had been zoned as high risk. He questioned how that designation had now changed. He disagreed that the project was consistent with the General Plan or MOSO given that the development, as proposed, would require extensive grading with potential impacts. He suggested that the same impacts had occurred with the Vista Encinos development, which project had proposed the same methods of construction, and had become a vacant eyesore with no new housing or revenue for the Town. He expressed concern with the many similarities between the Vista Encinos project and the proposed Hetfield Estates development and asked the Town to take into consideration the potential liability and risks now and in the future if the project were allowed to move forward. He also expressed concern with impacts or required repairs to Sanders Drive as a result of heavy equipment and construction activities associated with the project that had not been addressed in the EIR.

Ellen Voyles, 1156 Sanders Drive, Moraga, spoke to Page S-4 of the Draft EIR in terms of aesthetics. She questioned the proposed tree screening noting that her property would be directly impacted by the mitigation measures that had been proposed. She explained that her existing tree screening had taken many years to mature and she expressed concern the developer may remove existing trees to be replaced with the proposed trees identified for mitigation. She encouraged Commissioners to view the site.

Tim Meltzer, 6 Willow Spring Lane, Moraga, concurred with the comments and agreed that the comment period should be extended given the time already spent on the proposal, and since the Town Council had directed the preparation of a Focused EIR two years ago. He understood that many people had been unable to attend the hearing and there was no reason not to extend the public comment period. He suggested that there remained problems with the development given that there was no agreement as to how the drilling would occur and that ENGEO had decided on a narrower drill than the drill recommended by the neighbors'

consultant. Also, the drilling had not gone to the bottom of the deepest landslide and the potential impacts in that case were unknown.

Mr. Meltzer also spoke to the Vista Encinos development and described that property as in disrepair, something the neighbors were concerned may occur with the Hetfield Estates development. He urged the Commission to address all areas of the project.

Katherine Jarrett, 35 Hetfield Place, Moraga, reported that a large slide had been repaired directly behind her home in August 2009. She urged caution in that the slide had been monitored over a year by experts although the repair had turned out to be significantly different from the plans for its repair. She reported that there had been another failure which impacted her home and which had required an emergency repair at significant cost during the time of the other landslide repair. She sought assurance that the landslide repair would be fully completed and that existing homeowners would be protected from any potential damage.

Zoe Klippert, 27 Hetfield Place, Moraga, echoed the comments made by Ms. Jarrett noting that the landslide referenced had greatly impacted her rear yard and had almost destroyed her home. She commented on the time involved with the Hetfield Estates development which had gone on for many years. She also commented on the closeness of the existing neighborhoods and urged Commissioners to visit those neighborhoods.

Mr. Nathan also urged Commissioners to view the project site and the surrounding neighborhoods to see the steepness of the slope facing Sanders Drive.

Jeff Schwartz, 22 Hetfield Place, Moraga, reported that a slide had occurred on the hillside five years ago which had illustrated what the hills were made of and the geological formation. He too expressed concern with the potential that landslides could occur in the future due to the development of the Hetfield Estates property. He stressed the need to be as careful as possible.

Commissioner Levenfeld spoke to the Visual Resources section of the Draft EIR, specifically Section 3.123, and noted that she had reviewed the figures and still struggled with the visual impacts in terms of the relationship between the current and proposed new homes. Having walked the hillside, she noted that Figure 3.3-2 did not appear to have much of an elevation change between the current and new homes. Also, the debris bench had not been shown and would be at a higher elevation. She asked for a better rendering of the impacts and the relationship between the existing and new homes and the debris bench.

Commissioner Levenfeld added that the size of the homes was also relevant in the Draft EIR due to the relationship between the proposal and the existing neighborhood in order to determine that the new homes would be in character

with the existing neighborhood, and to better understand the mitigations that had been proposed.

Commissioner Levenfeld understood that the home sizes would be no less than 180 feet apart although it would be helpful to have a better visual on the proposed sizes. While the mitigation measure that home designs would be compatible with the adjoining neighborhoods was good, she suggested that it could be going too far with a requirement for a low profile by incorporating low pitch roofs and roof overhangs for new construction.

Commissioner Socolich commented on the testimony from those who resided on Sanders Drive having attempted to repair the drainage situation. He asked for an assessment of the existing drainage and requested clarification as to whether or not the mitigation measures that had been proposed would solve the problem.

Bob Mills commented on the capacity of Larch Creek from the top down to its discharge into Moraga Creek. He noted that a study had been conducted in 1998 which had recommended that capacity be increased to 300 cubic feet per second, which had not been done with the exception of a new 72-inch pipe farther down from Larch Avenue and which had caused backup in the creek as a result of heavy storms. Foliage in the creek itself was also an issue. With a free discharge at the end of the project the water coming down the creek, even in a 100-year storm, would not come up to the top of the creek. He suggested that the existing conditions had exacerbated the current problems. The applicant had proposed a sophisticated storm drainage system including a detention basin with a 7-foot diameter concrete pipe which would retain the excess flow from the impervious surfaces of the development from a 100-year storm. The discharge from the detention basin would not be greater than the amount of flow coming from the site now consistent with the applicant's requirement to conform to the Clean Water C.3 Storm Water Requirements.

Commissioner Obsitnik acknowledged the concerns regarding the Vista Encinos development and the request for assurances that the approval of Hetfield Estates would not produce a similar situation. He asked that issue be addressed in the EIR or through a comment from the developer.

Commissioner Levenfeld understood that issue could not be addressed through the EIR.

Ms. Salamack explained that that topic could be addressed through a condition of approval as opposed to a mitigation measure in the EIR.

Commissioner Obsitnik commented on the concerns with respect to the geotechnical portion of the Draft EIR as to whether or not the methods used were adequate in terms of drill size and boring locations. As to the Town's risks on

that issue, he asked for clarification in the EIR in terms of the discussion and agreements that had taken place.

Commissioner Obsitnik spoke to the issue of wildlife and commented that section of the Draft EIR should include more data on wildlife movements, existing wildlife, and impacts to wildlife. He suggested that the document did not offer much supporting data on that issue. He also requested clarification as to the definition of "environmentally superior" in terms of the alternatives.

Ms. Mills advised that the CEQA guidelines included a definition for environmentally superior.

Commissioner Wykle commented that he had visited the site. He echoed the comments that the site was very steep. He asked that any reference in the EIR to contour lines also provide the contour intervals, as an example, for Aerial Photo Figure 1-2, and Figure 2-1, to better gauge the steepness of the hill. He also referred to Page 3-4, the discussion of the General Plan as it related to new development and requested more discussion about that in section CD1.1 paragraph (a). For Pages 3-69 and 3-70, Project Impacts, he sought a more robust discussion on the increase in density in regards to landslides. As to the compatibility with the neighborhood, he urged further discussion in that section.

Commissioner Levenfeld spoke to the existing trees in the riparian corridor and the preservation of some of the grasses. In response to the concerns with tree screening, she asked that section be discussed further in the EIR.

Chairman Driver asked for more information to visualize what was occurring and to get a better sense in the EIR. He wanted to know the amount of soil to be moved or removed, excavation depths and the like, to be laid out in the EIR or to be provided in detail in the development plan portion of project review since it was currently unclear. He acknowledged that while more environmental work had been done in the EIR, questions remained and he sought confirmation that what had been proposed was appropriate, adequate, and acceptable.

As to the language in the Draft EIR regarding neighborhood consistency, Chairman Driver was not convinced that the requirements for building height and a slope roof on the right slope was adequate given the size of the homes being proposed. He sought more information on the alternatives in the EIR, specifically the 8-lot alternative which would involve fewer environmental impacts. He also sought more information as to why that alternative was not preferred as opposed to the original baseline project. As to the debris bench, he requested more information on that detail in the grading plan. He suggested that the scale could be off and may be too wide for the proposed setting. He requested a clarification of that information. In terms of the drainage, he recognized that issue had been discussed at length in the past, but he would like to see how it all fit together with

the impacts expressed through the creekbed in terms of the importance of the creekbed.

In response to the request for an extension of the public comment period on the Draft EIR and in response to the Chair, Planning Commission consensus was that the public comment period should be extended.

When asked, Ms. Salamack clarified that extending the public comment period on the Draft EIR would not impose any additional cost to the Town.

As to the survey work done by ENGEO in response to the Chair, Mr. Myers reiterated that ENGEO had prepared a work program and had shown areas of proposed borings and test bits. Their commitment had been to go 30 feet deeper than the depth of a slide. Three borings had been done where the slide plain had been encountered at 18 or 19 feet and that meant the boring went to 50 feet to determine the presence of water, the methodology, and information to confirm the general relationships. Several borings at proposed locations had been moved in response to comments, or additional borings had been added. There had been consensus in the field from all of the parties that ENGEO had been flexible to moving things around to accommodate everyone's concerns.

Mr. Myers identified a potential groundwater concern and noted that a large boring would not allow them to really see anything in that any drilling method would have limitations. The method used had provided cores and drilling through the soils with all the bedrock cored to identify any slides. Slides were not in the bedrock and the two auger borings at the creek went down to about 35 to 40 feet to reach rock. The interpretation of the material encountered was that there may be a few feet of slide debris which was alluvium and colluvium of Larch Creek but not slide debris near the creek. The slide was not a rotational slide, or bedrock, but clay with pieces of sandstone, siltstone, and claystone mixed in it.

Ray Skinner, ENGEO, further spoke to the diameter of the boring and noted that there had been discussions on all of the issues. There had been agreement that if they had good recovery on the core that could provide the answer. Their report had gone into a lengthier discussion on that issue than usual. He reported that they had 90 percent recovery of all the core material that had been cut and therefore an excellent view of the materials. If there had been a slide plain in the rock it would have been seen. He had a high degree of confidence in the slide depths and emphasized that they had done substantially more exploration than in most projects. He explained that there had been nine borings in the latest round in addition to the five borings that had been done earlier, over 20 test bits, and more than two hundred feet of trenching. Maps in addition to the cross sections had shown the thickness of the slides.

Mr. Skinner again walked the Commission through the cross sections as earlier depicted by Mr. Myers. He also clarified that large volumes of groundwater had not been found.

No evidence had been found to identify that the fault had been acting as a groundwater barrier, and Mr. Skinner stated if it was acting as a groundwater barrier at greater depths it would be below where grading and slide removal had been proposed and was not relevant to what was being done. He added that slope seepages had been found in some of the test bits in different places under normal groundwater conditions.

Mr. Myers clarified that the borings had been conducted in September or October 2009. He commented that many times with grading or boring perched water was found and produced for a few hours or days and then drained. No large amount of water had been found other than the seepage that had been identified.

The Commission asked that Figures 3.2-4 and 3.2-5 be enlarged to allow greater visual details.

Mr. Wyro stated, when asked, that he was not opposed to an extension of the public comment period.

On motion by Commissioner Socolich, seconded by Commissioner Obsitnik to extend the public comment period for the Draft Environmental Impact Report for the Hetfield Estates Subdivision for 15 days to March 22, 2011, carried by the following vote:

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

VII. PUBLIC MEETING

A. None

VIII. ROUTINE & OTHER MATTERS

A. None

IX. COMMUNICATIONS

A. None

X. REPORTS

A. Planning Commission

Commissioner Wykle reported that he had attended the February 28 Design Review Board (DRB) meeting at which time the project at 120 Moraga Road had been discussed. Landscaping plans had been presented by the applicant. A nearby neighbor had expressed concern with privacy issues regarding her driveway and some of the proposed landscaping. The DRB had ultimately approved a proposed green screen shrub material.

B. Staff

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

Ms. Salamack reported that the Town Council would be considering a Green Building Ordinance and a procedure for reimbursement for the Calle Montana Nuisance Abatement during its March 9 meeting. The Town Council would consider a revised draft of the Medical Marijuana Ordinance during the meeting of March 23.

Responding to the concern expressed during public comment regarding the Dollar Tree Store application, Ms. Salamack explained that the Moraga Municipal Code (MMC) required a conditional use permit if the business was a restaurant or business which sold or distributed food or beverages. Retail uses were permitted subject to findings. During the Town Council meetings, a concern had been raised that the application should have been processed as a conditional use permit, not a permitted use application. Staff had reviewed the nature and classification of the business and determined it was classified as a General Merchandise Retailer, not a Food Retailer. After discussion, the Town Council determined that no more than ten percent of the floor area shall be devoted to food and beverage merchandise. She noted that the concern from the public was what the Planning Commission wanted the Retail Ordinance to include.

Ms. Salamack reported that the Town Council would be receiving a report from the Economic Development Team on March 9. The Economic Development Team had been charged with a new Retail Ordinance as a work product objective for the current year.

Chairman Driver suggested it would be beneficial for the Planning Commission to be given an update on the efforts of the Economic Development Team as part of the new Retail Ordinance.

Ms. Salamack also commented, when asked, that the Verizon application had included a landscape condition of approval that remained to be satisfied. The next meeting of the Planning Commission may include a discussion of a small subdivision proposed at Rheem Boulevard and St. Mary's Road.

Ms. Salamack also reported that another project that would be considered by the Town Council in April would be the Moraga Adobe Subdivision located in the City of Orinda given the interest of the community and given the property's historic significance.

XII. ADJOURNMENT

On motion by Commissioner Socolich, seconded by Commissioner Levenfeld to adjourn the Planning Commission meeting at approximately 9:20 P.M. to a special meeting of the Planning Commission on Monday, March 21, 2011 at 7:30 P.M. at the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission