

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

October 15, 2012

7:00 P.M.

MINUTES

I. CALL TO ORDER

Chair Levenfeld called the Regular Meeting of the Planning Commission to order at 7:00 P.M.

ROLL CALL

Present: Commissioners Kline, Killam, Kuckuk, Obsitnik, Socolich, Chair Levenfeld

Absent: Commissioner Wykle

Staff: Shawna Brekke-Read, Planning Director
Bob Pendoley, Contract Planner

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

There was no reported contact with applicant(s).

II. PUBLIC COMMENTS

There were no comments from the public.

III. ADOPTION OF THE CONSENT CALENDAR

There was no Consent Calendar.

IV. ADOPTION OF THE MEETING AGENDA

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

V. PUBLIC MEETING

A. 489 Moraga Road - Via Moraga Subdivision (Signature Properties).
Conceptual Development Plan to subdivide 1.96 acres into 20 lots and construct detached single-family residences; (LC zoning).

Planning Director Shawna Brekke-Read introduced Bob Pendoley, the Contract Planner for the project, and Steve Hicks, the applicant for Signature Properties. She reported that the Planning Commission had last seen the project in May as part of a joint Planning Commission and Design Review Board (DRB) meeting at which time a 28-lot single-family subdivision had been presented. At that time, the focus of the discussion had been on the overall design, land use, and the overall density which had been 14 units to the acre. The Planning Commission and the DRB had provided feedback to Signature Properties which had made changes to the plan, to be forwarded to the DRB in the near future, and with staff to initiate the Initial Study.

Ms. Brekke-Read explained that the entire Rheem Planning Area had been designated as the Rheem Park Specific Plan Area, specific to the Moraga Center, and the Town was to pursue a specific plan consistent with the objectives to be accomplished. Until a specific plan has been adopted, the underlying General Plan designation of Commercial, in place since 1990, was to remain in place. This designation prohibits single-family residential development. At this time, the Planning Commission was being asked to consider how to amend the General Plan.

Ms. Brekke-Read advised that staff had identified four ways to amend the General Plan as outlined in the October 15, 2012 staff report: delete Land Use Policy LU3.2 altogether which means the land use diagram could be revised for the 1990 zoning for all other properties with the subject site to be changed to Medium Density Residential to accommodate the project; delete Land Use Policy LU3.2 and revise the land use designations throughout the Rheem Park Area; extract the property from the requirement for the Rheem Park Specific Plan and change the land use designation to accommodate Medium Density Residential which would remove the General Plan requirement for the specific property although the overall policy would remain intact; or change the land use designation for the site and revise Land Use Policy LU3.2 at a later date, which aligned with an idea the Planning Commission and the Town Council had discussed in November 2011 regarding a General Plan Amendment for the Rheem Park Area as opposed to an entire specific plan.

Ms. Brekke-Read noted that excerpts and diagrams from the General Plan had been included in the staff report.

In response to Commissioner Socolich, Ms. Brekke-Read advised that whether or not the project is appropriate to consider an amendment to the General Plan was a policy question to be considered by the Planning Commission.

Ms. Brekke-Read added that when the project had last been discussed by the Planning Commission and the DRB, there had been consensus that a project of 28 units would not work for the space although some sort of residential project would be appropriate. Signature Homes had revised the project in response to those comments with direction that the project should go through the DRB process in a linear process prior to Planning Commission consideration.

Ms. Brekke-Read reiterated that the original proposal was for 28 units which equated to a density of 14 units to the acre. The applicant now proposed 20 units equating to 10 units to the acre.

Commissioner Killam commented that he had reviewed the proposed project closely and was of the opinion that the project site would not be a suitable area for residential homes since it is located in a high traffic area which traveled at high speeds and which would require additional crosswalks to allow pedestrians to cross the busy road.

Steve Hicks, Signature Homes, stated that Signature Homes was supportive of the staff recommendation to change the land use designation for the site and revise Land Use Policy LU3.2 at a later date, which would provide the Town the most flexibility and make the process as flexible as possible for the small parcel. He explained that since the project had last been presented to the Commission and the DRB, the plans had been revised and submitted to Town staff. Recently, an all department meeting had been held on the revised plans and based on comments at that time direction had been provided to make more adjustments to the plan.

Mr. Hicks detailed the comments received during the joint Planning Commission and DRB workshop in May 2012, with a consensus in terms of land use that a compact, single-family attached residential project would be an appropriate use and that a compact single-family detached density project could go up to 13 units to the acre although a lower density would accomplish the design criteria. In addition, there had been concern as to whether or not a commercial project would be viable on the project site since a commercial site was not practical; the 18-foot setback along Moraga Road was not sufficient; the developer was asked to consider meandering the sidewalk along Moraga Road; to consider more trees and landscaping along Moraga Road to soften the buffer and make the area a greener corridor; to submit additional perspective renderings and visual simulations to capture the project's impacts from the viewshed; that two entrance streets had not been a major concern; protection of the scenic corridor was an important aspect of the design; to coordinate the Moraga Road Study for traffic calming pedestrian safety; concerns expressed with corridor effects with the fronts of the homes too close together; that garages would dominate the streetscape; and usable common area was recommended since the site was close to park and recreation facilities.

The applicant was also asked to consider a sidewalk system to facilitate pedestrian circulation and increase the parking ratio from what had been shown on the plan. There had also been interest in an Initial Study to determine whether a focused Environmental Impact Report (EIR) or Mitigated Negative Declaration (MND) needed to be prepared for the project, and an understanding that the Planned Development (PD) zoning appeared to be sufficient for the proposed project.

Mr. Hicks explained that the plans had been revised based on those comments and comments from staff. The project now included 18-foot driveways for all homes allowing parking in front of the home, the homes had been pushed back, a small park had been introduced for recreation use, there would be a sidewalk through the community providing pedestrian access, and the setbacks had been pushed back from Moraga Road. The setback from Moraga Road would now be 25 feet above the average for the entire block on that side of the street. The homes had been designed with a two-driveway system with three of the homes to side onto Moraga Road and the front doors of the homes to face Moraga Road.

Mr. Hicks walked the Commission through the layout of the setbacks. Concerns raised by planning staff included a staff recommendation that a road be moved to the back of the project to provide one continuous loop around the project, the sidewalk and landscape corridor had been moved to the front of the homes, Plans Two and Three had been made wider with elements on the garage and with a recommendation to de-emphasize the garage with more home up front, and to push some of the design elements for Plan Two up to the front of the home to further de-emphasize the garage.

Bob Pendoley, Contract Planner, explained that based on the studies to date, the project would qualify for a Mitigated Negative Declaration. While the traffic issues were a concern, he stated it was clear that Moraga Road would be able to handle the additional traffic. He suggested that the real issue would be the turning movements in/out of the driveways. The Town's Traffic Engineer was adamant that one of the driveways must be closed off.

Mr. Hicks identified one of the driveways where a right only in/out had been proposed which would eliminate left turning movements out of the site. A safe pedestrian crossing was also being sought which could provide a landing in the middle of the road to offer a protected zone, which was in progress.

Mr. Pendoley affirmed that the Town's Traffic Engineer was analyzing the pedestrian circulation issues to recommend a solution.

As to whether or not there was a need to amend the General Plan for the entire area in order to accommodate a pedestrian crossing, Ms. Brekke-Read stated that there were many General Plan policies around pedestrian orientation.

Mr. Pendoley stated that he did not see a basic conflict with the policies regarding pedestrian crossing although the actual design of the pedestrian crossing should be reviewed by the Planning Commission.

PUBLIC COMMENTS OPENED

Dale Walwark, Moraga, was skeptical about a residential development on a commercially zoned property regardless of an EIR or a General Plan based on a practical, realistic, and political point of view until a determination had been made as to how to get people across the street safely. He did not see that the project could be viable absent a traffic signal which issue needed to be decided prior to any other action.

Dan Imhoff, 533 Moraga Road, Moraga, identified himself as the co-owner of commercial property adjacent to the subject site. He commented that he had not seen the prior 28 unit nor the new 20-unit plan. He clarified with the developer that the homes would have two-car garages in addition to the driveway aprons, expressed support for those units with two-car garages and the two-car aprons, but would not support tandem parking due to the wraparound nature of his commercial space which could become a default area for additional parking.

Alan Sayles, Moraga, identified himself as the co-owner of 533 Moraga Road and clarified with staff that no development standards would be set at this time. He questioned requiring more commercial space in the area which could dilute the existing commercial uses. He commented that his commercial space had been completed in 2008 and it had taken four years to occupy five of the eight spaces. He suggested that the Signature Properties project would offer the right use and the right scale and density, and noted that the plan had been vastly improved since last reviewed by the Commission. He suggested that the proposed units would be no different than units located above the project site, disagreed that the project would create new problems, and as to pedestrian circulation suggested that if a pedestrian island was installed it would solve the problems related to crossing the street. He supported the project.

Dave Bruzzone, Moraga, expressed concern with the pace of processing applications within the Moraga Center Specific Plan Area (MCSP) noting that the project site was within the Rheem Area which was to be a specific plan area. The MCSP had started in the fall of 2002, was continuing with the same issues being raised, he had signed contracts and was ready to build, and he asked for an expedited process for applications.

Mr. Bruzzone added that the MCSP had been certified and approved along with the Moraga Housing Element, all in compliance with the General Plan. He expressed concern that the subject project could undermine certain aspects of the MCSP and emphasized that the Rheem Area was supposed to, and should go through a specific plan process. He also emphasized the amount of public monies spent for the MCSP, the financial burdens on property owners to pay those monies back to the Town because of that process, and questioned whether the subject project was being fastracked. He otherwise pointed out that pedestrians currently crossed Moraga Road.

Roger Poynts, Donald Drive, Moraga, asked that any development standards imposed on the project require one and a half or more parking spaces per residential unit given an inadequate supply of parking spaces. He also urged that the sideyard setbacks be at least five feet with the rear yard setbacks a minimum of ten feet.

PUBLIC COMMENTS CLOSED

Commissioner Socolich asked that the Planning Commission determine whether or not the project was preferable for the site before moving forward. He did not support an amendment to the General Plan if the Commission could not agree that the project was a good one for the site.

Commissioner Killam did not support any changes to the General Plan.

Commissioner Kuckuk suggested that the Conceptual Development Plan (CDP) at 20 units was not in conflict with the 2002 General Plan which spoke to residential of 10 to 16 dwelling units to the acre (DUA) and an opportunity for infill development in the land use description. She did not support a change in zoning as appropriate at this time given the circulation issues which would be addressed in any environmental report, and did not support a change in zoning for just the one parcel. She suggested that the project would exacerbate the circulation issue and she wanted to see a complete plan prior to considering any residential project on the site.

Ms. Brekke-Read explained that the question regarding support or opposition for a General Plan Amendment was necessary so that the Initial Study may adequately evaluate the impacts of amending the General Plan. Also, the scope of the project must be identified before the environmental analysis could be completed. As to the circulation along Moraga Road, she noted that the Town had secured a Transportation for Livable Communities grant and was in the process of putting together Requests for Qualifications (RFQs) from traffic and engineering firms with community engagement for a pre-design as to how Moraga Road may function better for pedestrian and bicyclists.

Chair Levenfeld expressed concern changing the designation for a project which had changed over the last several years. While the project sounded better than the prior iteration and while she may support it with reservations, she liked a prior proposal for apartments on the site while recognizing the concerns with parking. She did not want to lock into Medium Density if a higher density could also fit into the site.

Mr. Pendoley explained that in this case the Commission had discretion and the ability to consider the bigger and detailed picture with questions as to whether the project should be allowed at Medium Density and if such a designation would allow related issues, such as traffic, to be evaluated. Cumulative impacts would be evaluated along with long-range implications and the Commission may consider that residential had advantages. If the Commission did not like the pedestrian crossing issue, the project may have to be redesigned or the Commission may see after the implications of rezoning that Medium Density did not work on the site. He explained that the Commission would not be locked into anything until it decided the zoning and whether or not to approve a project.

Commissioner Socolich questioned why the Commission was being asked to consider the four recommendations as outlined by staff, to which Mr. Pendoley commented, as an example, that if the Commission were to decide that a specific plan was needed and did not support the project until a specific plan had been completed, the Town would have to expend serious time and money for a specific plan on the property. If the Commission determined that a specific plan was not needed and liked the current zoning, the project would be processed in a different way.

Ms. Brekke-Read clarified that the Commission was being asked to provide direction to staff as to how to go about amending the General Plan to accommodate the proposed development.

Chair Levenfeld was comfortable with the staff recommendation to change the land use designation at 489 Moraga Road and revise Land Use Policy LU3.2 at a later date since it offered flexibility, allowed the project to continue to be evaluated as to what would work best, and with that alternative the land use designation could be changed again, if needed. She commented that the preparation of a specific plan for the entire center would be very costly for the Town and the project was not entirely known at this time, with circulation and traffic flow remaining to be resolved.

Ms. Brekke-Read commented that another alternative was that the Commission may look at the details or the overall site plan and hear the issues related to traffic and circulation. She emphasized that the environmental review could not be completed until the issue of zoning had been resolved.

Mr. Pendoley explained the process for a specific plan, similar to a General Plan, which covered everything such as traffic, open space, and recreation, as examples. The Commission may consider an area plan which would review land use, circulation, and design, and from the staff point of view would be good enough to cover the critical points of the property. If the Commission determined that direction the General Plan could be amended accordingly.

Commissioner Obsitnik understood the options as outlined, assumed that there was support for the project on the site and that by selecting one of the options, or a variation, it would allow staff to prepare the Initial Study to move the process along. However, before reaching that point, he emphasized the need to determine whether or not the Commission agreed that the project was suitable for the site and whether an exception should be made for this parcel of land, and if so, whether an amendment to the General Plan would be appropriate.

Mr. Hicks commented that based on the joint Commission/DRB workshop in May 2012, his sense was that Medium Density Residential was appropriate.

Commissioner Obsitnik stated that based on the prior discussions, his sense was that the Commission was open to such a project and if a specific plan was prepared for the Rheem Area it was likely that this parcel would be zoned Residential.

Commissioner Kuckuk opined that the project would be appropriate for the area and in order to process the application the Commission must select one of the staff recommended actions which would require the Commission to select a density for the parcel for the purpose of the environmental report.

Ms. Brekke-Read clarified that the Commission did not have to select a density, which would be Residential, ten units to the acre.

Commissioner Killam pointed out that the applicant had submitted a request for what he desired to build and the Commission must then determine the acceptability of that request.

Commissioner Obsitnik emphasized that effort had been done through prior workshops when the applicant had proposed Residential. He suggested that the use that had been proposed was appropriate for the site but depending on the final boundaries of the project would dictate whether or not it would be zoned Residential. He supported an exception for the project site and the staff recommendation to change the land use designation and revise LU3.2 at a later date.

Commissioner Kuckuk again questioned Alternative 4, as outlined in the October 15 staff report, which would essentially make an exception for one parcel, although if LU3.2 was changed at a later date it would apply to the entire Rheem Park Specific Plan Area.

Ms. Brekke-Read clarified that the Commission was being asked to provide direction to staff. Eventually the Commission would be making a recommendation to the Town Council. Alternative 4 would allow for a larger planning process to take place while also allowing the project to move forward.

Mr. Pendoley noted that the larger planning process did not have to be identified at this time. The impacts on all of the driveways in the surrounding area and the pedestrian crossing were the primary circulation issues. In response to Commissioner Killam's concern as to how a General Plan exception in this case could affect future planning, he noted that was the benefit of Alternative 4.

Ms. Brekke-Read commented that the General Plan update process had taken three years and now was the appropriate time to consider any adjustments and what had not yet been called for in the policies and regulations of the General Plan. She described the document as fluid and stated that while State law allowed the General Plan to be amended four times a year, Moraga's General Plan allowed amendments three times a year.

Commissioner Socolich verified with staff that the environmental review for Alternative 3 would address the traffic and pedestrian crossing.

Mr. Pendoley explained that if the Commission were to select Alternative 1, it would have to consider what that meant, such as an EIR on all properties would be required but which would allow the current zoning to be preserved and could require legal clarification. Deciding not to do a specific plan would not have any impacts on the environment. He noted that he would have to review the background of the General Plan to determine whether or not the specific plan was intended as a mitigation measure. California Environmental Quality Act (CEQA) review would be the same as what was being contemplated. Alternative 2 would require an EIR with the same environmental review as a specific plan. Alternatives 3 and 4 were the same in terms of environmental analysis and the impacts of the former bowling alley property to be addressed through a Mitigated Negative Declaration. Alternative 3 recommended a specific plan for the other properties within the Rheem Park neighborhood, and Alternative 4 recommended a plan that was not as time consuming and expensive as a specific plan.

Commissioner Obsitnik expressed concern that the Commission was being asked to accomplish something under the guise of something else using the project as a means of selecting how to move forward with the Rheem Park Area.

On the discussion, Ms. Brekke-Read clarified that staff was not asking the Commission to make a decision as to how to address the Rheem Park Area Specific Plan but how to address the subject project because of the Rheem Park Area Specific Plan.

Chair Levenfeld suggested it would be irresponsible for the Commission to decide not to pursue a specific plan for the Rheem Park Area at this time given that the agenda had not been noticed for such action and there was no opportunity for public comment on that issue.

Commissioner Kline expressed support for Alternative 4.

By consensus, based on a straw vote [five out of six Commissioners] the Commission supported Alternative 4 to change the land use designation at 489 Moraga Road by revising Land Use Policy LU3.2, with a general consensus to evaluate a Residential zone.

Chair Levenfeld asked staff to provide a status report at a future meeting as to any development applications that had been submitted for the specific centers in the Town.

VI. ROUTINE & OTHER MATTERS

A. Discussion Regarding AB 1358, the California Streets Act of 2008

Ms. Brekke-Read advised that AB 1358, the California Complete Streets Act of 2008, required cities and counties to identify how they would provide for the mobility needs of all roadway users when cities and counties revised their General Plans, and add requirements for Complete Streets. As a result, Circulation Elements of the General Plans must now address the reduction of Greenhouse Gas Emissions (GHGs); efficiently use urban land use and transportation; and improve public health and ensure that any planning of public streets and roads incorporate all of the different users including public transit, pedestrians, bicyclists and any other mode of transportation a community deemed important. This requirement must be met by 2015.

In addition, Ms. Brekke-Read explained that federal transportation funds had been passed through to agencies in the past, first through the Contra Costa Transportation Authority (CCTA) and then on to local agencies. There were no federal laws as to how such monies must be spent. The Metropolitan Transportation Commission (MTC), the Association of Bay Area Governments (ABAG), and the Bay Area Air Quality Management District (BAAQMD) had together developed the One Bay Area Grant, establishing new regulations as to how to use this money.

Ms. Brekke-Read reported that one requirement is a certified Housing Element. Another is compliance with the Complete Streets Act. She added that the Town of Moraga may comply by amending its General Plan or by adopting a Complete Streets policy.

Ms. Brekke-Read commented that in reviewing the General Plan adopted in 2002, it contained many of the underlying principles of the Complete Streets Act. Given the limited staff resources and staff's desire to be able to qualify for funds as quickly as possible, the best approach for Moraga was being considered. She noted that the purpose of the item was not for the Commission to take any action but to be provided with some background on the Complete Streets Act. She reported that Mr. Pendoley had done some research on the item and recommended that the Town consider an interim policy and then amend the General Plan at a later date.

Mr. Pendoley agreed that most of the basics were already in the Town's General Plan although it would take some time to re-write them so that there would be no question that the Town met the regional test. He reported that there was a deadline of January 31, 2013, and recommended Commission approval of a simple resolution to meet that deadline after which the Town could consider a General Plan Amendment to clarify the Town's policies as meeting the required legislation. He commented that he had gone through each of the policies and compared them to the guidelines in State law and it was clear that CEQA would not be triggered.

Ms. Brekke-Read explained that staff would bring the policy to the Planning Commission which would be asked to make a recommendation to the Town Council prior to the January 31, 2013 deadline.

In response to the Commission, Ms. Brekke-Read commented that the draft resolution referenced polices currently within the Town's General Plan, all of which had not been met. She added that although the staff recommendation is that the Planning Commission not adopt the resolution as contained in Attachment A to the staff report dated October 15, 2012 at this time, the Commission may decide not to follow the staff recommendation and adopt the resolution.

Ms. Brekke-Read commented that staff had applied for a bicycle/pedestrian grant on Moraga Road, had been rated well, and been competitive with the Bay Trail in the City of Richmond, and while the Town had not received the funds if it had it would have had to refer the project to the Countywide Bike/Ped Committee.

Many of the bike/ped projects required the involvement of that Committee, and while the draft resolution would be one approach (with the acknowledgment that the General Plan already complied with the Complete Streets Act); Ms. Brekke-Read suggested that it would be more onerous to adopt a policy than to amend the General Plan. She added that much of the information that is required as part of the Complete Streets Act is already on record in the StreetSaver program through the Public Works Department. On the discussion, and given the staff recommendation, she recommended that the resolution be agendized for the next meeting of the Commission.

VII. REPORTS

A. Planning Commission

There were no reports.

B. Staff

Ms. Brekke-Read reported that there were no regular planners on staff although the Town had retained the services of a temporary planner from the City of Orinda. She had received more applications for a temporary planner and was considering adding one more person on a temporary basis. The Contract Planners working with the Town were also providing assistance to the Planning Department on various projects. She also reported that staff would be bringing an item for Town Council consideration on October 24 to reclassify four employee positions including the reclassification of the Senior Planner position with an increase in salary, and separating the Assistant and Associate Planner positions. Once the reclassifications had been approved by the Town Council, staff would conduct a full recruitment for those positions.

Ms. Brekke-Read added that staff had received two applications for the MCSP Area; the Camino Ricardo project which application package was near completion, and a Conceptual Development Plan (CDP) which was not complete for 54 townhomes between the Moraga-Orinda Fire District (MOFD) fire station and the office building on Moraga Way. She explained that the applicant, City Ventures, would like feedback on the CDP prior to submittal of engineering and architectural plans. As such, a joint workshop would be scheduled with the Planning Commission and the DRB at the Commission's first meeting in November.

Ms. Brekke-Read also reported that the Bruzzone Bollinger Valley project had been significantly delayed although the EIR was near completion. When asked, she disagreed with Mr. Bruzzone's characterization as to why projects in the MCSP had been delayed.

Ms. Brekke-Read further reported that Saint Mary's College (SMC) had appealed the Planning Commission's decision to curtail the intramural field lights at 9:00 P.M., which appeal would be heard by the Town Council. As to the status of the independent gas station site adjacent to the Signature Properties site, the applicant had obtained building permits and had commenced with the project and staff had received an application for signage for the site. When asked, she also affirmed that the signage that had been installed for Basil Restaurant was not the signage approved by the Planning Commission. She acknowledged that some of the Commission's approvals had not been correctly implemented.

VIII. ADJOURNMENT

On motion by Commissioner Socolich, seconded by Commissioner Obsitnik and carried unanimously to adjourn the Planning Commission meeting at approximately 8:40 P.M.

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Secretary of the Planning Commission

