

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

April 16, 2012

7:00 P.M.

MINUTES

I. CALL TO ORDER

Vice Chairman Socolich called the Regular Meeting of the Planning Commission to order at 7:00 P.M.

ROLL CALL

Present: Commissioners Killam, Kuckuk, Wykle, Vice Chairman Socolich

Absent: Commissioners Kline, Obsitnik, Chair Levenfeld

Staff: Shawna Brekke-Read, Planning Director

Kelly Suronen, Assistant Planner

B. Conflict of Interest

Commissioner Killam reported that he had visited the Hetfield Estates site a couple of weeks ago.

C. Contact with Applicant(s)

There was no reported contact with applicants.

II. PUBLIC COMMENTS

Edy Schwartz, Moraga, commented that during the last meeting of the Commission there had been a discussion about the process of excavation for the Hetfield Estates project. She reported that a slide presentation had been prepared by local resident Jim Klippert to illustrate how the process would work, with Mr. Klippert's contact information available through Town staff.

III. ADOPTION OF THE CONSENT CALENDAR

A. February 21, 2012 Minutes

B. March 5, 2012 Minutes

C. March 19, 2012 Minutes

Commissioner Wykle requested an amendment to the second paragraph of Page 3 of the minutes of the February 21, 2012 meeting, as follows:

Commissioner Wykle wanted to know if the appeal process had been an issue in the past and whether or not a Commissioner or member of the Town Council had ever appealed an item.

On motion by Commissioner Kuckuk, seconded by Commissioner Killam and carried unanimously to adopt the Consent Calendar subject to amendment to the minutes of the February 21, 2012 meeting.

IV. ADOPTION OF MEETING AGENDA

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

V. PUBLIC HEARINGS

A. UP 02-12 / Gary Guenther (Applicant), Henry Chao (Owner), 337 Rheem Boulevard:

1. Land use permit application to operate a beauty salon in a 1,260-square foot vacant commercial space (permitted use that requires findings); and
2. Conditional Use Permit application to operate a café with outdoor seating in the adjacent 540-square foot vacant commercial space.
Location: Former Mondello's Restaurant in the Rheem North Center Area.

Assistant Planner Kelly Suronen presented the request for a land use application to operate a beauty salon in a 1,260-square foot vacant commercial space permitted use that requires findings, and a Conditional Use Permit application to operate a café with outdoor seating in the adjacent 540-square foot vacant commercial space. The beauty salon would feature services such as manicure, pedicure, hair, skin care, and massage.

Ms. Suronen identified some of the issues with respect to the application including the landscaping and noted that while the lawn in front of the building complemented the Rheem Valley Scenic Corridor, improvements could be made at the site and staff had recommended additional conditions related to the landscaping. The proposed outdoor seating as part of the café had raised some issues with litter, noise, display of merchandise, storage of materials, and safety, staff had addressed with proposed conditions of approval. She acknowledged that the outdoor patio area would provide vibrancy, attractiveness, and walkability while contributing to the commercial area.

In response to Commissioner Kuckuk as to whether or not the Commission had restricted the capacity of outdoor seating in the past, Planning Director Shawna Brekke-Read advised that while restrictions had been imposed in other jurisdictions she was unaware whether or not the same had been imposed on businesses in Moraga.

Commissioner Kuckuk pointed out that the project description had identified a maximum number for outdoor seating although the resolution of approval had not included that same information.

Ms. Brekke-Read suggested that the approval statement of the resolution could be amended or a condition of approval could be added to address the capacity of outdoor seating for the café.

As to the food items to be sold in the café, Ms. Suronen advised that the food items would include coffee, drinks, juices, and supplementary foods such as pastries. No cooking or preparation of food would occur on site other than the use of a microwave. She noted that two resolutions had been presented for consideration; one for the beauty salon and the other for the café.

PUBLIC HEARING OPENED

Gary Guenther, 641 Norvell Street, El Cerrito, the architect and applicant, explained that the project was straightforward; the vacant restaurant would be converted to a beauty salon and separate café with outdoor seating. One door would be added to the exterior with the change of an existing door from wood to glass. A couple of windows which had previously been converted would be changed back to windows. The appearance of the building would remain the same with the addition of signage. He acknowledged and expressed the willingness to comply with the staff recommendations for landscaping improvements.

Mr. Guenther added that the capacity for outdoor seating had been identified at 36 seats. He clarified that the existing restaurant had a seating capacity of 66 seats and the total seat count would be for both indoor and outdoor seating. There would also be a solid wall separating the café from the beauty salon.

Edy Schwartz, Moraga, commented that she had worked closely with the Chao family for the past three years as a member of the Moraga Chamber of Commerce and had enjoyed their restaurant and professionalism in the community. She supported the applications under consideration which were consistent with the community's expressed desire for a place to gather but added that she had a concern with respect to the parking associated with 24-Hour Fitness and noted that there had been an agreement between Mondello's and Mr. Chao to install signage that would allow parking to be reserved for the restaurant at certain periods of the day.

Ms. Schwartz noted, however, that the management for 24-Hour Fitness had changed and the current manager had removed the sign and stated that such restrictions were not legally permitted. She asked how that situation could be resolved.

Mrs. Chao, 343 Rheem Boulevard, Moraga, requested consideration of a traffic light to improve safety and visibility for those who would like to patronize the Rheem Theatre and to then walk across the street to the Chao's restaurant. She agreed that parking was also an issue that needed to be resolved.

PUBLIC HEARING CLOSED

Vice Chair Socolich asked staff what could be done to address the parking situation given the many uses in the center. He recalled when Saint Mary's College had occupied the center that it had been allocated a specified number of parking spaces.

Ms. Brekke-Read explained that when 24-Hour Fitness had been approved planning staff had used a general commercial standard for parking which had not been adequate for the size and intensity of the facility. Staff had conducted more research into the approval for the 24-Hour Fitness to determine whether or not conditions of approval had been imposed to address the scale and intensity of the parking and had found that no such conditions had been imposed. As a result, good neighborliness had been pursued. She reported that there is a joint parking agreement with Saint Mary's College as to their use of the site. As to the use of signage to specify the parking availability for the other uses, she explained that all users in the center would have to agree to such an arrangement. She suggested that all of the businesses, including Saint Mary's College, approach 24-Hour Fitness to see what could be done to address the parking needs of all the users. She acknowledged that there were other parking spaces in the lot that were not used although those spaces were not within close proximity to the restaurant.

Commissioner Killam commented that as a user of 24-Hour Fitness there was signage behind the facility that read "No Gym Parking."

Commissioner Kuckuk liked the beauty salon and café projects overall which would enhance the existing uses, create a strong pedestrian orientation, and create a community gathering spot, although as stated by the public and the Commission there is a problem with crosswalks, jaywalking, and parking. She pointed out that the parking requirements for the proposed use would be less than the prior restaurant use and given the hours of operation proposed the main use would be during the day and the peak period for parking would be during the evening hours. She did not see that the use would dramatically affect the difficulties with parking.

Commissioner Kuckuk suggested there could be a draw from the other uses in the center, such as patrons from 24-Hour Fitness patronizing the café. As to the café, the plan identified a capacity of 36 occupants in an area of 540 square feet in a configuration with tables and chairs which she described as tight. She preferred a reduction in the outdoor seating to prevent empty tables from sitting during most of the day and suggested that a cluttered appearance would not lend itself to patrons. She compared the square footage for the outdoor seating area to other restaurant uses in the Town which appeared to be tight as well. In her opinion, the café could be configured with hedgerows along two sides of the paved patio with benches allowing a nice seating area without a four-chairs-to-two-tables setting. She also expressed concern with the storage of that number of tables overnight and the space available to do so. She asked that the Commission consider reducing the outdoor seating area to a more appropriate number.

Commissioner Wykle recognized that the Commission had not imposed restrictions on the number of outdoor seats in the past and had allowed outdoor seating for other restaurants, such as Starbucks as an example. He otherwise commented that the number of restrooms would be reduced from two to one and affirmed with the architect that one restroom met code requirements for both the café and the beauty salon. He too expressed concern with the parking situation and asked that staff consider adding to a project list a sidewalk with flashing lights to connect the two shopping centers.

Vice Chair Socolich opposed a traffic signal between the theater and the shopping center in that the crosswalks with flashing lights were expensive. He commented that he frequented Starbucks which had about nine to ten outdoor seats, some of which had umbrellas, although the area was closer to 600 to 700 square feet larger than the subject café with outdoor seating. He agreed that the outdoor seating area could be too tight and agreed with the concerns with respect to parking in the center. He asked staff whether or not the property owner had been approached to address the parking situation, such as through a different configuration that would expand the parking, removal of landscaping, or through a joint shared parking agreement between all affected parties.

Mr. Guenther explained that the café would operate from 7:00 A.M. to 9:00 P.M., Monday through Sunday.

Ms. Brekke-Read understood that the applicant had proposed shorter hours, although staff had recommended more generous hours for the conditions of approval in the event the applicant desired longer hours.

Ms. Brekke-Read added that she would caution against recommending the removal of any landscaping in the parking area given that the site was within the Rheem Boulevard Scenic Corridor. She understood that each site in the center was individually owned similar to a Homeowner's Association (HOA) with common space although in this case it was the parking lot. She also noted that the architect could be asked to identify the occupancy load for the tables in terms of crowding.

Vice Chair Socolich suggested that the café was a good idea although he cautioned having too many businesses of the same type noting the number of nail salons in the Town. He asked whether or not it was appropriate to have another similar use in the same shopping center.

Commissioner Wykle pointed out that Starbucks was located nearby and could be a competitor to the café.

Commissioner Kuckuk referred to the population of Moraga and as such did not see that the proposed uses would be unacceptable given that the beauty salon would be a full-service salon lending itself to less duplication than in other areas of the Town. She favored the use even if the number of outdoor spaces for seating was not reduced and suggested it may not change the parking situation given that it was a business that

would occupy a vacant space. She otherwise understood that a landscaping plan would be required to be submitted for consideration by the Design Review Board (DRB). She reiterated her support for the plans but remained concerned with the occupancy for outdoor seating and the precedent that could be set if allowed. She could not support outdoor seating for 36 people and recognized that the capacity would depend on the configuration within a 540 square foot space, whether using benches or tables. She sought a maximum occupancy of 20 to 24 which may also help with the justification for the parking.

Mr. Guenther commented that the outdoor seating area could be increased or the total number of tables could be reduced. He added that the occupancy rate for an outdoor seating area was 15 square feet per person.

Commissioner Wykle supported the outdoor seating area as proposed given the number of outdoor seating areas permitted in the Town and preferred that the number of tables be left to the applicant's discretion.

Vice Chair Socolich supported the project and given the lack of constraints preferred to see the outdoor seating area made larger.

Commissioner Killam recommended that the capacity of the outdoor seating area be left to the applicant's judgment.

Vice Chair Socolich agreed that since the area was within the scenic corridor the outdoor seating area should remain clean and tidy.

Commissioner Kuckuk commented that since the Town had never imposed a maximum restriction on outdoor seating and given that the owner/applicant had a long history in the community and had the intention to provide adequate seating, she could find the proposed outdoor seating capacity for the café to be acceptable in this case without capping the limit on the seating.

Commissioner Wykle recommended a modification to Condition 13 of the draft resolution for the outdoor seating and café, as follows:

13. *The applicant shall submit plans for the exterior modifications and signage, and outdoor seating area to the Design Review Board for review and approval.*

Ms. Brekke-Read commented that the resolution had not reflected the uses described in the staff report. She recommended that the first WHEREAS clause on the first page of the draft resolution for the beauty salon be amended to read:

WHEREAS, on February 16, 2012, Henry Chao submitted an application to operate a beauty salon/spa to allow hair, nails, massage, and skin care services in a 1,260-square foot space at 337 Rheem Boulevard; and

And the NOW, THEREFORE, BE IT RESOLVED clause as shown on the first page to be amended as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga finds that the land use permit (UP-02-12) to operate beauty salon/spa to allow hair, nails, massage and skin care services in the 1,260-square foot existing vacant commercial space at 337 Rheem Boulevard meets the following guidelines necessary for approval of a permitted use, a beauty salon/spa, in the Community Commercial District, pursuant to MMC Section 8.36.020-B, as follows:

And to the FURTHER, RESOLVED clause on the third page:

FURTHER, RESOLVED, the Planning Commission of the Town of Moraga hereby approves land use permit (UP-02-12) to operate a beauty salon/spa to allow hair, nails, massage, and skin care services within the 1,260-square foot existing vacant commercial space at 337 Rheem Boulevard, subject to the following conditions:

On motion by Commissioner Wykle, seconded by Commissioner Killam and carried unanimously to adopt Resolution next in number, as amended, to approve UP 02-12 to operate a beauty salon/spa for Guenther at 337 Rheem Boulevard, subject to the findings and conditions as shown.

On motion by Commissioner Wykle, seconded by Commissioner Killam and carried unanimously to adopt Resolution next in number to approve UP 02-12 for a café and outdoor seating for Guenther at 337 Rheem Boulevard, subject to the findings and conditions as shown, and Condition 13 as amended.

Vice Chair Socolich identified the 10-day appeal process of a decision of the Planning Commission must be in writing and submitted to Planning Staff or the Town Clerk.

VI. ROUTINE & OTHER MATTERS

There are no items to consider.

VII. REPORTS

A. Planning Commission

Commissioner Kuckuk reported that she had attended the Planner's Institute and Mini Expo in San Jose on March 20 through 22 offered by the League of California Cities; and had attended the March 26 meeting of the DRB as the Planning Commission liaison.

Vice Chair Socolich reported that he would not be in attendance at the May 7 meeting of the Planning Commission.

B. Staff

Ms. Brekke-Read reported that no meeting would be held on April 30 and suggested that a joint meeting with the DRB could be scheduled for May 7 to consider a development proposal for the former bowling alley site. She advised that the Hetfield Estates Final Environmental Impact Report (FEIR) would likely be continued to the Planning Commission meeting of May 21.

Ms. Suronen identified active planning applications as an application for a radio tower than had been appealed to the Town Council which had approved the application subject to DRB approval; a number of administrative design review applications to be approved at a staff level, an application for the DRB for an addition; two applications from Saint Mary's College requiring Planning Commission and DRB approval; and an application for Weight Watchers to locate in the Rheem Valley Shopping Center.

Ms Brekke-Read added that the Bollinger Valley project was close to releasing its Draft EIR, Hetfield Estates would return to the Planning Commission in May, with upcoming projects to include the project at 1800 Donald Drive and Zoning Ordinance Amendments that had previously been discussed by the Planning Commission. Additionally, AT&T had submitted an application for a mono-pine on Saint Mary's College campus and staff had received two other wireless communications applications.

VIII. ADJOURNMENT

On motion by Commissioner Wykle, seconded by Vice Chair Socolich and carried unanimously to adjourn the Planning Commission meeting at approximately 8:00 P.M.

A Certified Correct Minutes Copy



Secretary of the Planning Commission