

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

June 4, 2012

7:00 P.M.

MINUTES

I. CALL TO ORDER

Chairperson Levenfeld called the Regular Meeting of the Planning Commission to order at 7:09 P.M.

ROLL CALL

Present: Commissioners Kline, Kuckuk, Obsitnik*, Socolich, Wykle*,
Chairperson Levenfeld
Absent: Commissioner Killam
Staff: Shawna Brekke-Read, Planning Director
Kelly Suronen, Assistant Planner
Amy Skewes-Cox, Contract Planner

* Commissioners Obsitnik and Wykle arrived after Roll Call

B. Conflict of Interest

There was no reported Conflict of Interest.

C. Contact with Applicants

Commissioner Kuckuk reported that she had a telephone conversation with Suzanne Jones with Preserve Lamorinda Open Space, had spoken with the owner of the property at the corner of Hetfield and Sanders Drive, and had a brief conversation with the applicant at 1160 Sanders Drive.

Commissioner Socolich reported that he met with John Wyro, the applicant for Hetfield Estates, to view the site prior to the last meeting.

Chairperson Levenfeld reported that she had met with Suzanne Jones with Preserve Lamorinda Open Space.

Commissioner Obsitnik reported that he had visited the site with John Wyro.

II. PUBLIC COMMENTS

There were no comments from the public.

III. ADOPTION OF THE CONSENT AGENDA

A. April 2, 2012 Minutes

On motion by Commissioner Kuckuk, seconded by Commissioner Socolich and carried unanimously to move the Adoption of the Consent Agenda to Agenda Item VI, Routine and Other Matters, as Item A.

IV. **ADOPTION OF THE MEETING AGENDA**

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

V. **PUBLIC HEARING**

A. **Hetfield Estates. CDP 02-05 for Conceptual Development Plan to subdivide 58.2 acres of property into six single-family residential lots ranging in size from 41,826 square feet (0.96 acre) to 59,930 square feet (1.38 acre) plus one remainder 51.45-acre common area parcel; (OS-M, SBR)**

Chairperson Levenfeld identified the meeting procedures with a staff presentation, presentation from the applicant/developer, comments and questions from the Planning Commission to staff and the applicant, and the public comment period for the general public. She advised that this would not be the final action on the Hetfield Estates development and there would be opportunities for future comment. The agenda item is only for the consideration of the Conceptual Development Plan (CDP), as agendized.

Planning Director Shawna Brekke-Read introduced Contract Planner Amy Skewes-Cox to make the staff presentation on the Hetfield Estates Conceptual Development Plan (CDP).

Amy Skewes-Cox, the Contract Planner for the Hetfield Estates CDP, identified correspondence that had not been included in the Planning Commission packets because it had arrived too late to be included. She referred to letters from Preserve Lamorinda Open Space, Mary-Jill Clemons, Timothy and Pamela Meltzer, and Lori Salamack. She added that staff had not had the opportunity to review the correspondence from Ms. Salamack but identified the numerous concerns raised in the other correspondence received. The Planning Commission had also been provided with copies of Tables 3(a) and 3(d), a comparison of the lot sizes for the six-lot plan and the eight-lot alternative. The staff presentation would focus on the eight-lot alternative.

Ms. Skewes-Cox identified the additional information requested by the Commission at its April 2 meeting, including a reduced area of grading and building footprint from what had been provided for the eight-lot alternative which not yet been done but which could be discussed during this meeting. She described the Hetfield Estates site where Larch Creek ran along the north boundary of the site separating the site from residential development on Sanders Drive, with elevations ranging from 550 up to 800 feet at the south end of the site, six mapped landslides ranging from one to six, a mapped fault, fault setback lines, wetlands to the west of Lot 1 and on Lot 2, and a large swath of riparian vegetation that ran east to west down into the creek zone and south of the site.

Ms. Skewes-Cox provided an overview of the eight-lot alternative which had been the subject of the Environmental Impact Report (EIR) analysis, (but is not the proposed six-lot project), consisting of eight-lots in an area of 3.62 acres of a total 58.2 acres of property, with the area of disturbance for corrective grading to be extensive because of the landslides. There would be a 3:1 slope after the corrective grading had been done totaling 4.5 acres as compared to 8.5 acres for the original six-lot application. The eight-lot alternative avoids Landslide 1 and 6 (off the area of development) but touched on Landslide 1 with a setback for Landslide 6 about 25 feet from the area of disturbance due to the grading for Lot 8, and where a General Plan policy required 100 feet of setback from active landslides. The eight-lot alternative avoids the wetlands to the west of Lot 1 with the exception of Lot 2. A similar requirement for the six-lot application includes the bridge construction, access road, location outside of the forested area of the site, the need for corrective grading with 3:1 slopes, and the need to stay outside of the fault setback. The lots for the eight-lot alternative range from .35 to .61 acres in size with the building envelopes identified for each lot ranging from 4,000 square feet for Lot 7, and 7,300 square feet for Lot 1.

Ms. Skewes-Cox identified the major concerns expressed by the neighbors which included concerns that the project could become similar to the undeveloped Los Encinos (Vista Encinas) project which had been started and stopped in mid-construction, off-site impacts such as landslide disturbance, lack of public benefit, grading in an area of Moraga Open Space Ordinance (MOSO) property considered to be a high risk, visibility of the project, the need for a Floor Area Ratio (FAR) limiting the square footage of the homes to 4,000 square feet or less, the cost of a Geologic Hazard Abatement District (GHAD) for future homeowners, and the need to consider a project fewer than six lots.

As to the issue of home size expressed by those on Sanders Drive where homes were smaller in size than what could possibly be built as part of the eight-lot alternative, Ms. Skewes-Cox commented that she had created a table showing that Lot 7, as an example, had a small envelope as compared to Lot 1 outside of the 3:1 slope as shown in Table 3(c).

As a result, Ms. Skewes-Cox recommended that the Planning Commission consider a home size limitation rather than utilize the FAR process, which she characterized as complicated for this type of project.

In terms of the issue with respect to the lots with the most constraints, Ms. Skewes-Cox described the concerns and recommendations for fewer lots to ensure compliance with MOSO findings and for the overall density. Lots 7 and 8 could be eliminated because they were both within Landslide 5. Lot 7 had a very small building envelope and was significantly constrained with a small back yard, and Lot 8 required grading on the north side which would come within 25 feet of Lot 6. If the lots were eliminated, the length of the on-site road could be reduced. With the reduction of a third lot, Lot 1 could be considered since it is within close proximity to disturbing Landslide 1 and Lot 1 is largely inclusive of Landslide 2. She explained that if those three lots were eliminated but remaining within a more constrained building area, the developer may be able to expand or change some of the lot lines for the remaining six, or five lots, to allow more yard space.

Ms. Skewes-Cox identified the recommendations for the Planning Commission to consider such as establishing an FAR or a home size limit; a setback limit from the remaining landslides in compliance with the General Plan policy of 100 feet; determining the appropriate number of on-site lots given the MOSO findings; considering more than just two, two-story homes adjacent to one another or partial two-story homes given that the size of the development is small and not visible from the north; identifying drainage information to provide for the next step after the CDP stage including detention basins; requesting a detailed GHAD plan; considering establishment of a condition of approval to not allow retaining walls until the home plans had been approved; adding a condition to not allow any infrastructure improvements at the time of corrective grading until home plans had been approved; and considering a condition to require vegetative screening in the area of the corrective grading.

Ms. Skewes-Cox identified the five main issues with the project including landslides and corrective grading, overall site usage and neighborhood compatibility, site planning and visual issues, the merits of the project, and the EIR.

In response to the Planning Commission, Ms. Brekke-Read explained that the Town Council had directed that a Focused EIR be prepared which would concentrate on certain impact areas rather than requiring a full-blown EIR on all issues. The Focused EIR included geotechnical, soils, aesthetics, visual, General Plan and MOSO consistency, and hydrology and storm drainage. She noted that one of the requirements of the California Environmental Quality Act (CEQA) is that alternatives be studied. The EIR consultant and staff at that time had identified the different alternative development scenarios that could have potentially less impact than the six-lot subdivision that had been proposed.

As to whether or not something between a three- and an eight-lot plan could be considered, Ms. Skewes-Cox explained that there was no exact science with respect to alternatives. The only CEQA requirement is that they must consider the no-project alternative, no change from existing conditions. There would be more density with the eleven- and eight-lot plans but with a reduced footprint which reduced many of the environmental impacts. While a five or fewer lot alternative could have been considered, it was a matter of what is a reasonable comparison for the decision makers. The EIR authors for this document determined that the eight-lot alternative was reasonable. As to the six-lot alternative, there could be fewer impacts with a smaller footprint because the amount of corrective grading would be reduced. A six-lot plan had earth movement on the site of approximately 180 cubic yards of dirt and fill, with the eight-lot plan creating a much smaller footprint involving less grading. If Lots 7 and 8 were eliminated from the eight-lot plan, it would further reduce the overall amount of corrective grading and impacts but care would have to be taken to avoid stretching out Lot 6 so that it wouldn't be too close to Landslide 5.

Ms. Skewes-Cox walked the Commission through Table 3(c) which had shown the lot and building areas with an assumption of a one-story home with a range of 2,400 square feet, all the way up to 4,633 square feet as building area. She was uncertain of the likely size of the Hetfield Estates homes.

John Wyro, The Wyro Company, 40 Valley Drive, Orinda, understood that final action on the project would not be taken at this time. He referred to a memorandum that he had submitted to Town staff dated May 29, 2012, included in the Commission packets, which outlined his overall views and issues. He stated that he had continued to receive input and information on the project up to this evening, including correspondence from former Planner Director Lori Salamack. He took the opportunity to introduce and present the development team present in the audience.

Mr. Wyro emphasized that the first plan that had been developed had changed prior to its submittal based on input from staff. The second plan had been crafted in such a way as to satisfy the planning staff. The Planning Commission had approved the CDP, Conditional Use Permit, and certified the Negative Declaration as adequate although that action had been appealed by the neighbors to the Town Council. The Town Council took no action on the application and rather directed that a Focused EIR be prepared based on conflicting testimony regarding geology. That action had occurred in 2009 and the project had been remanded back to the Planning Commission. He asked that his development team be allowed to make presentations on the specifics of the project at this time.

Ray Skinner, ENGEO Incorporated, Geotechnical Consultants, presented figures for the eight- and six-lot plans including figures showing the relationship of the fault to the proposed building envelopes, building areas and setbacks, the relationship between the building envelopes and slide areas including slide areas that would remain after corrective grading, the debris benches, slide debris to be removed for the 3:1 slope to be returned as reengineered fill and limits of corrective grading proposed keyway to support the fills, slide removals, reconstruction of the 3:1 slope, subdrains to be placed once the slide debris or other soils had been removed, dimensions for Landslide 6 with the closest point to the slide removal at 60 feet and closest point to the lot line at 80 feet with the keyway at 15 feet, and on the other side 18 feet and 24 feet between the lot line and Landslide 1 with some grading touching Landslide 1. If remaining exactly within those limits, he stated they would have to do some geograde enforcements to further protect Lot 1.

As to the General Plan policy and requirement for a 100-foot setback from active landslides, Mr. Skinner commented that all of the slides were dormant and older slides not currently moving with the exception of an area that had moved in the 1980's. He noted that the project would be 250 feet from the one lot line to that slide. Based on cross sections, he identified the keyways when fills were built and the keyways intended to start the fill on stable material, cut down through all soils subject to lateral movements, and reach reliable material which was the keyway, and with a subdrain would be re-compacted with reengineered fill. He also offered an illustration of the thickness of slide debris and amount of keyway and slide removal needed for the corrective grading. While a deeper slide plane had been hypothesized, he noted the additional corrective grading that would be needed if the hypothesized slide was correct. However, he suggested there was substantial evidence to show it was not correct based on all of the borings and slide plains that had been encountered with 20- to 30-foot drilling into the bedrock, which was found to be stable. He reported that the Town's Geologist would be on site to observe the grading conditions along with the applicant's development team and could reach a consensus that all of the slide debris had been removed and the depth of excavation was adequate. If not, they would continue to excavate and re-compact the soil.

Uri Eliahu, ENGEO, and President of the California Association of GHADs, spoke to the history of GHADs which had been created in 1979 as a means to allow communities to tax themselves for the purposes of abatement, mitigation, prevention, and control of geologic hazards broadly defined to include any natural or unnatural movement of soil or earth. He explained that GHADs had become very popular over the years and had been created by local agencies, in this case the Town Council. Once created, the GHAD would be an independent State level public agency. Similar to other agencies, a GHAD would have certain authorities, the ability to issue bonds, the ability to be subject to a vote, and the ability to own land.

A GHAD would be governed by a plan of control setting forth the operating requirements of the GHAD, describe the boundaries of the GHAD, and set forth the criteria of the GHAD's involvement which directly affects the budget and funding requirements.

Mr. Eliahu explained that the funding for a GHAD is typically through a supplemental property tax assessment which requires a simple majority vote and which, beyond increases related to inflation, could not be increased without another vote. Revenue to the GHAD would be split into operations including: routine maintenance, monitoring, prevention, administrative, and reserves to allow for larger scale repairs that were infrequent and unpredictable.

Mr. Eliahu described the Hetfield Estates development as very small although there were no limitations on the size of a GHAD other than the requirement for five property owners implying five parcels. His firm was involved in virtually all GHADs in the State which were generally much larger in size. He suggested it would make sense for this project, if conditioned to be in a GHAD, to be annexed into another existing GHAD. While it would be workable at a micro level, GHADs generally started at a size of 25 all the way up to 20,000 units. He also noted that the GHAD plan of control would be submitted prior to the issuance of a grading permit. The GHAD would then be formed, initiation of the levying of the assessments would be authorized at the time the GHAD was formed but monies not collected until triggered by building permits. There would be some time when the GHAD was collecting revenues but providing no service. There was also an acceptance process when the GHAD would inspect the property to ensure that the project had been built in compliance with the approved plans and then accept responsibility.

In response to a comment as to what would occur in the event the GHAD was not sufficiently funded, Mr. Eliahu explained that a standalone GHAD may borrow against future revenues if there was no money in the account, known as a tax lien, whereby commercial lenders would be eager to lend against a secure revenue stream, particularly if the GHAD was annexed to another GHAD. The GHAD would pledge against future revenues, borrow the money, and use it. The GHAD was also eligible for tax exempt debt and may borrow at very favorable rates. If the event was a \$2 million problem, as an example, and the revenue stream could not reasonably generate those monies, the GHAD would have some borrowing power and the residents could be asked to vote in more taxes to fund the GHAD, the GHAD may issue longer term bonds, and the like. He emphasized that no GHAD had gone bankrupt since GHADs had been created in 1979.

Mr. Eliahu emphasized that the Town would not pick up the liabilities for the GHAD and it was on the property owners within the GHAD, an independent agency, unless there were irregularities. He added that the GHAD was an independent, higher level agency than the Town.

Mr. Eliahu explained that the budget for the GHAD would occur before the first milestone typically at the recordation of the first map or grading permit around which time the GHAD would be formed. Once formed, it would exist as an entity with no money or authority to collect monies. As of January 1, 1997 pursuant to Proposition 218, in order to authorize an assessment a Board must have an affirmative majority of the voting parcels to vote in the tax. In this case, Hetfield Estates would involve a single owner/vote and at that point the Board may authorize the assessment which would not collect monies or levies. As part of the Proposition 218 process, an Engineer's Report would be prepared which would set forth the budget, reducing it to a per parcel assessment. In the event of annexation to an existing GHAD with an existing Board, this one community (Hetfield Estates) would present itself to the existing GHAD Board for annexation, which Board would have to make a finding that the revenue generated would be a ratio of revenue to risk at least as it was for the existing GHAD to avoid overburdening the existing GHAD. The Board would then have the discretion to annex that property and the property owners, in this case the one owner, would have to vote in the tax. The property owners within the existing GHAD would not be required to take any action.

Mr. Eliahu recommended that by the time the first maps were recorded the GHAD be formed, although oftentimes building permits were issued before the first maps were recorded. Once the first maps were recorded, it allowed the possibility for multiple owners to have a majority vote, but for larger communities not a project the size of Hetfield Estates. He suggested that the grading permit time period would be a good time to form a GHAD or annex to a GHAD. He reiterated that the GHAD would not assume responsibility for any sort of occurrence during the grading which remained the developer's responsibility. The developer must deliver the site pursuant to the approved plans to the GHAD; the GHAD then inspects the project, and then accepts responsibility. He reiterated that for a project the size of Hetfield Estates, it made sense to consider annexation to another GHAD.

Mr. Eliahu suggested that the formation process for a GHAD was straightforward and when presenting a financially feasible package to an existing GHAD, the GHAD that annexes this project would benefit from the economics and as long as the package made sense it would make sense to annex from that perspective since GHADs typically liked to balance risk. He added that the scope of the GHAD for this project had yet to be defined although the least expensive GHAD he was familiar with cost approximately \$109 per parcel per year.

The most expensive, which was actually collecting revenue and was not yet active, was the Wilder/Orinda Gateway project in the City of Orinda, which was in the range of \$2,700 a year per parcel.

Mr. Eliahu added that he was also involved with a GHAD for a beach community in Malibu, California which involved a different situation and that GHAD needed a \$20 million loan to replace its beach.

Bob Rourke, RMR Design Group, Concord, explained that when the project had come to them years ago they had worked on the topography, preliminary geotechnical review and evaluation, and had identified a MOSO developable cell area averaging less than 20 percent slope on an average basis over an extensive area on which development could occur as defined under MOSO. He noted that the MOSO cell area went out to the east beyond the original Lot 6. Based on the work of the Geotechnical Consultants, ENGEEO, the slides farther east of the site were deep, could not be stabilized, were expensive to repair, and recommended Landslides 1 and 6 as viable for repair. That area had been evaluated and determined to be an area for the original six-lot plan. The property had also been evaluated in terms of the vegetative cover, open area, and pedestrian trail along the creek with an effort to remain away from it all the way along, and in the process complete a loop to the existing Moraga Ranch Trail and the trail created off the end of Los Encinos up on the ridge and back around to allow a complete loop to the west.

Mr. Rourke commented that with the creation of the pedestrian trail, it made sense to place the road and homes against the base of the slope rather than the other choice to bring the road in and run along the toe of the slope and back the homes to the neighbors which would have taken away currently enjoyed privacy. The trail and the street and the front yards would be a buffer from some of the neighbors' front yards with the backyards up against the slope bank and where the backyards and landscaping would screen noise and visual impacts from the neighbors. He explained that as one left the existing Sanders Drive neighborhood and traveled into Hetfield Estates, the road was routed off to the east and generated a six-lot plan that had been condensed down removing Lots 1 and 6 to avoid landslide and wetland impacts and was suggested as the environmentally preferred alternative in the EIR. The eight-lot plan had reduced the lot sizes and widths to be comparable to the lots in the Sanders Drive area.

Mr. Rourke clarified that the drainage would be intercepted off of the hills and be carried into a storm drain pipe into a large underground detention pipe at the lower end of the street to be released into the creek, which pipe he suggested would be more than adequate to allow any required manual clean out.

Mr. Rourke noted that he had been involved in more than one underground detention pipe for projects in MOSO properties in Moraga, had evaluated those properties for performance during major storms, and had found in every case that they were self cleaning with no soil sediment. As to the retaining walls, he commented that they could grade the slopes out 3:1 into the pad areas as an interim measure and come back later to install the retaining walls although the retaining walls would be placed as part of the mitigation requirements of the EIR for drainage and geotechnical considerations, and as a total slope drainage mechanism.

Mr. Rourke explained that the slopes had been graded at 3:1 slopes consistent with Moraga's Grading Ordinance. He commented that many of the East Bay hillsides were already at a 3:1 slope or much steeper than 3:1 or 2:1, and he was strongly of the belief that it created a natural looking finished product. The grading would be contoured particularly for the eight-lot plan. The six-lot plan had a long section of east to west running straight slopes which had been eliminated with the elimination of Lot 6 in that plan.

As to the building envelope and architecture, Mr. Rourke commented that since everything appeared to be motivated by the idea of making the project as compatible as possible with the existing Sanders Drive neighborhood, the usable areas of the lots were now comparable to Sanders Drive with all of the other requirements to be close to the same with the front, rear, and sideyard setbacks to be consistent under the zoning for the Sanders Drive neighborhood. He suggested that the FAR and setback decisions should be left to design review to allow flexibility in design to create larger usable yard area. He noted that he had prepared a schematic home design for Lot 7 with a three-car garage using the 15-foot rear setback with an L-angled plan which had generated the 25 x 40 and 15-foot rear yard over the remaining rear of the lot, and he could design a three-car garage with 2,300 square feet on the ground floor with two stories for up to 4,600 square feet plus another 600 square feet over the garage, which had shown how much square footage could be built and still meet the standard.

Malcolm Sproul, LSA Associates, Inc. Richmond, the Project Biologist, spoke to the eight-lot alternative and noted that it would reduce the wetland fill from two tenths of an acre down to two one hundredths of an acre through the removal of the original Lot 1 and the largest wetland area on the site associated with a spring. The removal of Lot 9 would preserve 90 percent of the acreage wetland that would have been filled under the original design. He noted that the staff report had addressed the need for the repair of the slide on Lot 1 with four alternatives, three of which would result in the elimination of the wetland (Alternatives 2, 3, and 4). The reduction in the grading footprint under the eight-lot alternative had been done in part to preserve the wetland and he suggested that it would be inconsistent to remove Lot 1, attempt to preserve the wetland, and then remove it for slide repair.

Mr. Sproul suggested that Option 1, as outlined on Page 9 of the June 4 staff report, would be the preferred option from a biological perspective since it would preserve the wetland and leave to the GHAD any needed repairs that may occur in the future.

Speaking to Page 14 of the June 4 staff report and the staff recommendation to widen the proposed trail which parallels the interior road along the creek, Mr. Sproul commented that the staff report had recommended the widening of the trail to 12 feet although the trail between the road and the riparian vegetation was tight and widening it to 12 feet would offer nothing but increase impacts. He recommended that the trail be moved up to the road and made a sidewalk with more separation between the trail and the riparian zone offering the best possible result to preserve biological values in the riparian zone. As to the alternative results for fill for the one remaining wetland, identified as Seasonal Wetland C, he stated that area was small at 650 square feet in size surrounded by annual grasslands, isolated to other wetlands, and is a weakly expressed wetland which hydrates in the winter and in some winters would not hydrate at all. Seasonal wetlands were seen in the East Bay Hills and expanded or detracted depending on the rain received. The seasonal wetland with weakly expressed fill would require mitigation with replacement of the wetland. The six-lot plan had shown a wetland mitigation site at the end of Lot 6 and a small pool which would have been preserved under that plan with room for a third wetland fill, although now there was a lesser need reducing the amount of mitigation. Wetland D was also identified and he noted that expanding it would increase the wetland values.

Mr. Wyro explained that the amount of detail offered by the development team provided a thorough explanation of all information. Having walked through the staff report page by page, he suggested there was more in common with the staff recommendations than differences. He referenced the CEQA analysis and findings as shown on Page 8 of the staff report and concurred with the staff findings that the Commission find that all CEQA requirements had been met and recommended that the Commission consider the EIR for certification at a future hearing.

Mr. Wyro spoke to the eight-lot plan and based on the comments made by the Commission during its last meeting, he understood the Commission is more interested in discussing the eight- as opposed to the six-lot plan. He spoke to the last sentence of the first paragraph of Page 9 of the staff report and the statement that "Overall, the EIR provides adequate analysis for the Conceptual Development Plan even though neighbors and the environmental consultants disagree about the methods needed to mitigate geologic hazards." He opposed the use of the word "mitigate" and recommended the use of the word "devalue" given the discrepancies between the applicant's, the Town's, and the neighbors' geologist consultants as to how to evaluate the geological hazards using the same mitigation.

As to the staff recommendation on the same page, Mr. Wyro noted that the project would be contour graded with the 3:1 ratio more closely approximating the existing slopes as opposed to 4:1.

As to the proposed setback at 20 feet, Mr. Wyro had no concern making that work but noted that the CDP may involve future adjustments to address specific issues that may occur during the process. Referencing the six-lot plan and the statement that the public right-of-way currently functioned as private property, he suggested that be corrected in that it did not and the neighbors on both sides used the public right-of-way. As to the use of phrases on Page 11 of the staff report that the eight-lot plan created issues with respect to density in the MOSO findings, he commented that the findings were precise and consistent with MOSO projects since its inception with everything done to conform to the MOSO findings. The idea of reducing the FAR or requiring new FAR standards was a concern although he was aware that the Commission had concerns with the lot and home sizes and adherence to the height and setback limits of the Sanders Drive neighborhood. He suggested that the Town's FAR regulations would work for this project as it had for every other project and the square footages were maximums and not guarantees. He suggested that the Design Review Board (DRB) should consider the building design, building envelope, and the like, with the project to conform to the Town's Design Guidelines.

Mr. Wyro noted that the rear yard spaces and lot sizes would be comparable to Sanders Drive and would be based on the real estate market. As to the Emergency Vehicle Access (EVA), he noted that it was not a requirement of the development but would be a public benefit. The fire trail had been developed and would apply to only the six lots but had been agreed to by the developer and would not require any debate. As to the comment on Page 16 of the staff report that "a reduced density would result in a project more in keeping with MOSO," he suggested that the eight-lot alternative would do that, limiting and reducing the areas of impact with 94 percent of the property left as permanent open space and with an extremely low density. He suggested that the plan met the criteria of the environmental documents with less than significant impacts, is consistent with MOSO guidelines and the Town's General Plan, and all of the same conclusions the Commission had made in 2008 had been put forth and submitted in the EIR document, and with further refinements to the plan meeting the goals of the Planning Commission, the Town Council, and MOSO.

PUBLIC COMMENTS OPENED

Peter Favreau, 36 Ross Drive, Moraga, identified his home as being located on the west side of the development. He had no concerns with the project's layout and commented that as a long-time resident of Moraga he found the Town to be an economical place to live with Sanders Ranch having modest ranch style homes.

Mr. Favreau expressed concern with restrictions on the development resulting in higher land costs which could impact future homebuyers, sought a higher density project, and recommended that the project be allowed to be built at eight lots as opposed to six lots.

Suzanne Jones, 1285 Bollinger Canyon Road, Moraga, representing Preserve Lamorinda Open Space, spoke to the adequacy of the EIR and suggested that the EIR had not analyzed any project fewer than six lots on a reduced footprint alternative but had increased the number of lots with no explanation. As to the density, she agreed with the staff recommendation that a reduced density project would be more in keeping with MOSO given the central issues with respect to landslides, slope instability, and the grading required to remediate the landslides as well as the ongoing risk with the development of the land. She cited the Los Encinos development which had triggered landslides in the process of remedial grading and which had increased the total amount of grading and the area of disturbance beyond what had been analyzed in the EIR process.

Ms. Jones noted that the MOSO Initiative had not addressed the abatement of high risk areas but spoke of trying to avoid those areas and the reasons why with the concept of abatement having come in later. She suggested that the staff recommendation to consider five lots made sense and in a straightforward way reduced the amount of grading in unstable areas with consideration of eliminating Lots 7 and 8. It also addressed the issue of the 100-foot setback from landslides with respect to Lots 5 and 6.

Ms. Jones stated that Preserve Lamorinda Open Space supported Mr. Sproul's statement about leaving the question of instability in the location of former Lot 1 to the future to repair if necessary, and that to destroy the wetland as a hedge to potential movement defeated the purpose of the reduction to the footprint. She also supported Mr. Sproul's recommendation for the trail to be moved to the road as a sidewalk.

Ms. Jones also suggested that the staff report had correctly pointed out that the Hetfield Estates development would not adequately provide a community-wide public benefit to justify the densities associated with a six- and eight-lot plan. She suggested it would be beneficial to evaluate other projects that had been built in open space lands, such as Rancho Laguna, which would be built at 180 acres at a density of one unit per seven acres. The public benefits in that case included a staging area, trails, and the major repair of Rheem Boulevard, saving the Town millions of dollars. Palos Colorados had developed 17 homes on 170 acres of MOSO land, a density of one unit per ten acres, with numerous community-wide benefits. She recognized that the subject location did not lend itself to such public amenities. Consequently she suggested that the project was not entitled to the type of approved densities the other projects had received.

Ms. Jones supported the staff recommendation, asked the Commission to consider the removal of Lots 7 and 8 and potentially Lot 6, further reducing the footprint, reducing the grading, avoiding Landslide 5, allowing the setbacks for Landslide 6 to avoid that issue, and considering a project more consistent with MOSO.

Walter Vaughn, 1104 Sanders Drive, Moraga, a long-time resident, commented that he had been involved with a landslide on his property. He expressed concern that the plans had ignored Landslide 1 and the undergrowth along the creek which could be a fire hazard.

Bob Ellerbeck, 1164 Sanders Drive, Moraga, thanked staff for the overview presentation on the plans given the many meetings over the years. He commented that given the economy and its effects on the real estate market, the property owner was well aware that the property had investment speculation attached with no guarantee that homes could be built. He agreed with Ms. Jones' comments that staff was on the right track with a five-lot proposal, expressed concern with the potential for risk given the existing faults, sought homes comparable in size to Sanders Ranch which were all around 2,000 square feet or less, suggested that five homes could be built which would avoid some of the environmental hazards, and suggested that one of the reasons the project had taken this long was a result of the potential environmental hazards. He did not believe that the property represented the best piece of land for development. He expressed his hope that the Commission would consider the most reasonable development for the property which made sense for the community. He also questioned how the homes would add any benefit to the Town of Moraga.

Shivaun Wraith, 19 Hetfield Place, Moraga, expressed concern with the potential dust impacts given the volume of earth movement that would be required during grading, asked whether or not chemicals would be used during the grading process, whether or not past cattle grading operations had been taken into consideration in terms of particulates in the air, commented on the fact that wood burning was restricted as a result of particulate matter, and questioned the potential particulate matter that could be exposed as part of the grading operations. She added that there were seniors and small children who lived along Sanders Drive who had respiratory issues and she had suffered from Valley Fever as a child. She expressed concern that the project continued to be compared to Sanders Ranch which had nothing in common with the Hetfield Estates development. She added that her home, at 2,000 square feet, was one of the largest homes in the Sanders Ranch neighborhood.

Jennifer Koziel, 1132 Sanders Drive, Moraga, clarified that Attachment D to the staff report included two letters she had submitted to the Town although one of the letters had actually been sent in 2008 and the other in May 2012.

Ms. Koziel commented that she had seen a Great Gray Owl in an area near Saint Mary's College and along the trail, which owls were endangered in California, and asked whether or not there were known sightings in the project area, and if so what mitigation measures had been proposed to ensure the population was not further endangered.

John Valentine, 1144 Sanders Drive, Moraga, Pastor of the church which owns 1107 Sanders Drive, commented that he was a recent homeowner at the creek side near the end of Sanders Ranch and when the home was purchased it was with the knowledge it was not in Sanders Ranch but on Sanders Drive. He noted that Lots 6, 7, and 8 would view onto his rear yard. He asked that the documentation clearly differentiate between homes located on Sanders Drive from those in Sanders Ranch when considering lots sizes.

Tim Meltzer, 6 Willow Spring Avenue, Moraga, complimented the detailed staff report which had been presented and noted the concerns with the condition of Los Encinos and that the same situation could occur with Hetfield Estates. He agreed with Mr. Sproul's recommendation to avoid disruption to Lot 1 as long as there was something like a GHAD for protection. Given the magnitude of the earth movement that had occurred on the site and across the street at Hetfield Place, he suggested that the project did not represent a community-wide public benefit given the past impacts to neighboring properties. He expressed concern with the developer's statement that many concerns with the project could be addressed at a later date and disagreed that the number and size of the homes could be addressed through design review. He suggested that the developer was not bound to the eight-lot plan and recognized that the staff report had suggested the plan could be reduced to five lots and there were benefits to that reduction. He sought a more compact, meaningful, and compatible situation based on what the applicant and the neighbors wanted and what was good for the community.

Malcolm Cooper, 1160 Sanders Drive, Moraga, agreed with the comments regarding the scope and incompatibility of the project, noted that the neighbors already had access to the East Bay Regional Park District (EBRPD) property via a good-standing relationship with a private property owner, and commented that the applicant proposed an easement for an EVA with no identification of who would pay for that improvement particularly since the Sanders Ranch Homeowners Association (HOA) was involved in drainage concerns and had no monies or interest in becoming involved with an EVA. He suggested that the applicant would likely install a dozer road from the end of the development into what the Moraga-Orinda Fire District (MOFD) had already installed as a dozer road at the end of Sanders Drive and tie into an existing dozer road. He suggested that the development would not provide any major benefit or anything the residents don't already enjoy.

Daran Santi, 1148 Sanders Drive, Moraga, referenced the correspondence submitted by residents Tim and Pamela Meltzer dated May 30, 2012, which letter he supported. He too expressed concern with the outcome of the Los Encinos development where the same could occur with Hetfield Estates, and in spite of all of the geotechnical testimony from the applicant's experts stated that no one could guarantee what would happen once the dirt had been moved, which was why underground construction was the most litigious in the industry. He referenced a piece of property located on Hetfield Place which home had been crumbling for years as a result of landslides. He also understood the same developer had been involved with the Los Encinos project and had experienced additional slides and other problems when disturbing the hillside for that project with no mitigation. He expressed concern that the Town would make the same mistake and asked the Commission to limit the number of homes to as few as possible. He suggested that five lots would be reasonable.

Camille Santi, 1148 Sanders Drive, Moraga, Registrar for Joaquin Moraga Intermediate School who welcomed families every day to the Town and the Moraga School District (MSD), noted that families liked the Town's open space and its schools. She recommended that the Planning Commission remember that when making its decision.

John O'Hare, 1120 Sanders Drive, Moraga, suggested if a development must be built on the property it be as small as possible. He urged the Commission to consider its responsibility representing the values of the community prior to the approval of anything in the scenic area, which would be changed dramatically by any development. He asked that any aesthetic issues be evaluated and that any development be kept as small as possible.

REBUTTAL:

Mr. Wyro commented that he had planned to walk the Commission through the 2002 General Plan policy analysis as it related to the project, design review analysis, and provide his comments. He suggested that the staff analysis of the General Plan and the plan as proposed had more in common than differences. In response to concerns with respect to neighborhood compatibility and Sanders Ranch, he noted that the developer had agreed to provide fire access through the project. He recognized that the project was not Sanders Ranch although one would drive through Larch Avenue to reach the project site. He noted that the lots at the end of Sanders Drive were located directly in the subdivision, and suggested that the project was being sensitive to what was occurring on Sanders Drive but had no obligation to mirror that development which was nearly 50 years old, and separated from Hetfield Estates by 175 feet through a tree screen. He suggested that the eight-lot plan, with the FAR refined and with smaller lot sizes had fine-tuned that plan.

Mr. Wyro suggested that the EIR was complete, adequate, and had addressed all issues from airborne spores to the EVA. He recognized that the property was in MOSO Open Space although it was privately held and as long as one adhered to the General Plan policies and MOSO guidelines, one should reasonably expect to be able to develop the property. He commented that earlier studies had evaluated four areas; geology, hydrology, General Plan, and MOSO consistency and the EIR had come to the conclusion that had been done. The plan had evolved to a plan that met the necessary obligations of the General Plan and MOSO and which had been supported by the Planning Commission and approved in 2008. When evaluating the EIR and Mitigated Negative Declaration (MND), the same conclusion had been made and he suggested that they had delivered what was called for in the General Plan and MOSO guidelines.

Mr. Wyro spoke to the comparison of the project to other approved projects on MOSO lands which had set a precedent. He noted that the Hetfield Estates project had been influenced by that precedent and was consistent with his interpretation of the rules and regulations and the past practices of the Town. He noted that he had attended the public hearings before the Town Council for the Rancho Laguna project and commented that Hetfield Estates had been held as an example for executing MOSO by one of the opponents to the Rancho Laguna project.

Mr. Wyro recognized that this was not the final hearing for Hetfield Estates. He asked the Commission to uphold the General Plan and MOSO policies. Referring to Attachment J, MOSO Guideline Findings Draft, Page 4, as it related to public benefits, he explained that 94 percent of the property would be dedicated open space available to the public even though the developer was not required to make that land available to the public. Based on the guidelines, the public benefit is there. He had also spoken to one of the architects of MOSO who had suggested that the project had met the public benefit requirement. He extended an invitation to continue to work with the neighbors to find solutions that worked for both. He suggested that if the project was not approved and not viable, the Town would not get the open space acreage, trails, EVA, slide repair work, and GHAD that would protect the existing neighborhoods as the General Plan recommended. He urged the Commission to review the history, prior staff reports, and the EIR to make its decision.

Mr. Wyro asked the Commission to give direction to staff to come back with the necessary resolutions to consider the eight-lot project and certify the EIR as adequate. He also asked that the project not be continued for a six-week period to July 21 given the lengthy review process, frequent continuances, and the Permit Streamlining Act. He asked that the item be continued to the next meeting of the Planning Commission.

Commissioner Obsitnik asked whether or not the GHAD would apply to all 58 acres. He also asked of the applicant's perspective of a five-lot plan and the staff recommendation to eliminate Lots 7, 8, and possibly part of Lot 6.

Mr. Eliahu noted that pursuant to Proposition 218, only those property owners who paid into the GHAD would benefit although there could be some Proposition 218 issues that would have to be reviewed. Depending on the status of the GHAD if under financial constraint, some work could be put off although the GHAD would be responsible for the open space.

Mr. Wyro suggested that a five-lot plan was not feasible given all of the other work that needed to be done including the bridge crossing and slide repair. In his opinion, there was no substantive reason to reduce the project to five lots. He suggested that there was a defensible plan and the eight-lot plan could be a viable plan based on the Commission's direction during its April 2 meeting.

Commissioner Socolich asked what this developer could do to prevent a Los Encinos situation, to which Mr. Wyro explained that it had been recommended that the retaining wall along the south edges of the lots not be installed until the final grading had been done, leaving the site in a more natural state and appearance. The slide repair would take place and could be phased in such a way to ensure that the dirt in the 3:1 slope would be spread over the building sites to leave everything in balance.

Mr. Rourke added that the entire site would be graded with the exception of the retaining wall sections and they would likely install the underground utilities under the street, at minimum the storm drains and erosion control measures, including the intermediate catch basin and sub drains and detention pipe and discharge outfall to the street, and typically the sewer would be the first to be installed since it was the deepest, and then the storm drain. The water system and other joint trenches and other utilities such as electric and gas could be deferred.

Commissioner Socolich suggested that effort would benefit everyone given that the slides would be repaired early in the process and would be a community benefit even to the neighbors on the other side of the creek. He asked the biologist to speak to the concerns with the presence of the Great Gray Owl.

Mr. Sproul advised that there were no Great Gray Owls in the Town of Moraga since they were native to the California Sierras. He suggested that what likely had been observed was a common breeding species, the Gray Horned or a Barn Owl.

Commissioner Socolich also spoke to the compatibility concerns with the homes which would ultimately fall under the purview of the DRB, and asked the applicant to speak to that issue as it compared to the existing homes in the Sanders Ranch HOA.

Mr. Wyro stated that the project would be blessed with a separation as a result of vegetation and lack of visibility. The eight-lot plan would pull back in four lots and would be adjacent to fewer homes and the smaller lots by definition would create smaller homes. He noted the maximum FAR and explained that while one lot was over 4,500 square feet, on average they were all less than 4,000 square feet. He had no problem capping the one lot of concern at 4,600 square feet consistent with setback requirements and design review.

Commissioner Kuckuk recognized that the applicant had scaled back the project from the initial proposal with smaller homes on the lots although staff had recommended five lots. She asked if the six-lot plan would be on the same footprint and asked of the square footage required for a viable project.

Mr. Wyro suggested that there was no need in the marketplace to have a home larger than 4,500 square feet in size.

Commissioner Socolich suggested that the applicant could consider the six-lot plan and eliminate Lots 7 and 8, and have the same size home under the eight-lot alternative.

Mr. Wyro questioned the purpose of reducing the number of lots from eight to five for smaller homes and smaller lots, or as the staff had recommended leaving the eight-lot footprint and provide fewer lots which could be larger.

Ms. Skewes-Cox clarified that the staff report was not suggesting a reduction in the footprint to stay within the eight-lot plan although there could be the flexibility to provide something slightly larger than just the six lots. The intent was to reduce the amount of grading and impacts to the landslides.

Commissioner Wykle inquired of the slope of the debris bench to which Mr. Rourke and Mr. Skinner noted that the debris bench would involve a standard ten percent slope. They both walked the Commission through the geotechnical cross sections for Lot 1 and identified the 3:1 slope, a four-foot retaining wall, ten percent debris bench, and V-ditch, picking up the natural terrain from up above.

PUBLIC COMMENTS CLOSED

Commissioner Obsitnik commented that he had read the correspondence from former Planning Director Lori Salamack. He suggested that the letter from the former Planning Director was a good approach in helping the public understand the Commission's decision-making process and the history of the Commission's decision in 2008.

Ms. Brekke-Read explained that this was a de novo hearing, a new hearing, and everything was discretionary.

Commissioner Obsitnik found the methodology referenced by the former Planning Director to be very transparent. He noted that there was no new testimony on the landslide depth and commented that during many of the hearings the Commission had been hearing the same issues over and over again, making slow progress, but it was not a judgment call based on all of the data. He had heard no new information on the drilling methodology from one geotechnical consultant to another and was comfortable with the data that had been received. He had also heard enough discussion on the other items identified in the June 4 staff report.

Ms. Skewes-Cox sought specific direction from the Commission on the number of lots that would be appropriate; the six- versus the eight-lot alternative plan, whether or not to increase the rear yard setbacks, and whether or not a maximum building area should be set.

Commissioner Obsitnik stated that he had visited the site this week and suggested that the eight-lot alternative would bring in the property reducing the impacts on some of the homes on either end. He noticed the screening on the creek and acknowledged that the property in some ways was in a secluded area although the property was very dense with dense vegetation which made it difficult to see. He suggested that the eight-lot configuration seemed to make more sense, reduced the number of slides that could be disrupted, and recognized the concerns in reducing the project size further leading to concerns with the feasibility of the project to ensure that it would not become another Los Encinos which had been a victim of the real estate market. When someone did build, he wanted to see homes that would be livable that would benefit everyone. He commented that if the number of lots was reduced even further the homes and lot sizes would likely be larger contradicting the nature of the rest of the homes. He suggested that the eight-lot alternative was a reasonable configuration.

Commissioner Kline echoed those comments but noted the need to ensure conditions to avoid another Los Encinos. He suggested that the GHAD be established approximately at the time of the grading permit which protection would go in place when the grading was approved and which would cover the slides in the rest of the area including Slide 1.

Commissioner Kline suggested that the GHAD include any other burdens on the homeowners regarding the stream. He wanted to see someone held responsible for the maintenance of the plantings coming from the landscaping plan and the EVA and would like more information in that regard. He also wanted to see a set of proposed conditions and a GHAD that would protect the neighbors and the Town from a worst case scenario if the property were sold and if the owners were to go bankrupt.

Commissioner Obsitnik sought a timeline of the different stages of development and noted that after visiting the Hetfield Estates site he had also visited the Los Encinos site. He agreed that the chain link fence at the Los Encinos site was an eyesore; however, had the street never been paved and the retaining walls not been installed, and had the construction in the landslide area not led to other landslides, vegetation would have grown over that property and it would not have become an eyesore. He sought a mechanism for the different phases of the project to trigger some of the improvements, such as the pavement of the road, to ensure that in the event the property lay fallow as a result of bankruptcy as an example, vegetation would help in terms of the visual impacts.

Commissioner Kline suggested that nature had not corrected the situation for the Los Encinos site. Either the property owner is held accountable or a bond should be in place until the lots are sold.

Commissioner Socolich stated that he was prepared to support the certification of the EIR and suggested that everything had been done to identify the problems through solutions and mitigations. However, he wanted to see more information on the home sizes and stated that in order for the project to be compatible with the surrounding neighborhood, the size of the homes should be kept within a reasonable limit. As an example, he expressed support for a .2 FAR. He acknowledged that if the lots were reduced in size and number, the homes and lot sizes would likely be increased. He supported the eight-lot approach but would like more information on the home sizes to allow a better understanding of the FAR and how the homes fit into the overall neighborhood.

Commissioner Socolich suggested that the project had the advantage of a buffer between the area to be graded and the existing homeowners given the existing vegetation and it would not be as visible as Los Encinos. He agreed that the retaining walls should not be installed until later and that the repair and remedial work should be done, leaving the streets and curbs until later but installing the underground drainage system and infrastructure until the homes were ready to be built, which should be highlighted as the approach to the project. He recognized the economic impacts for reducing the size of the lots and was willing to support the eight-lot alternative.

Commissioner Kline understood that there was a suggestion in the staff report that grading not be done until some of the lots had been sold, to which Ms. Brekke-Read affirmed that was the suggestion, or until design review had been approved for specific homes.

Ms. Skewes-Cox commented that the corrective grading should be done at one time because it would be unfeasible to do that work lot by lot. Staff had discussed the concerns and need to prevent another Los Encinos development, and one of the concerns was that it would be difficult for prospective homeowners to see what their lots would look like.

Ms. Brekke-Read noted that it was also possible for all of the lots to be sold but not sold to individual homeowners first and staff was trying to anticipate all scenarios.

Commissioner Kline suggested that the retaining walls be deferred until after the lots had been sold.

Commissioner Socolich suggested that rough grading could be done now with the final grading, retaining walls, and streets and curbs to be installed at a later date and in stages. He added that there should be a requirement that the developer provide some sort of maintenance service during the period prior to starting the final pads and the retaining walls so that if something were to occur, such as a minor slide, it could be taken care of and not impact the neighborhood.

Commissioner Kuckuk thanked the community for its input and submittal of correspondence, all leading to Moraga being a better community and with a better review process. Initially, her primary concerns had been the geologic hazards with slides and landslide repair. She agreed that there is adequate information to certify the EIR that protections should be put into place to protect the Town from projects that were started and not continued, and she supported project milestones for different events.

Commissioner Kuckuk remained concerned with the homes and lot sizes, the number of lots, and the compatibility with the existing neighborhoods. Under the MOSO guidelines, staff had proposed five lots which would involve the same footprint as the eight-lot alternative, equating to one dwelling unit per ten acres, which she supported, although she acknowledged the risk of an unfeasible project that might not be viable in the marketplace. She wanted to give the builder discretion to be able to have a financially feasible project.

Commissioner Kuckuk stated that her primary concern was with the area of disruption and the amount of grading.

Commissioner Kuckuk wanted to remain within the area of the footprint or disruption of the eight-lot alternative which avoids landslides at either end, but had no input at this time whether or not eight, six, or five lots was appropriate. As to the size of the homes, FAR, and neighborhood compatibility, she suggested that the most appropriate size would in the neighborhood of one and a half times the size of the homes in the Sanders Drive neighborhood which went up to 2,500 square feet, for potentially a maximum of 3,500 to 3,700 square feet and with the FAR to be worked out in the future.

Commissioner Wykle stated that he had the same concerns he had expressed during past meetings. Pursuant to the General Plan policies and MOSO guidelines as to high risk areas and design guidelines, the project is a high risk area limited to one unit per 20 acres. He agreed with the direction as outlined in the correspondence from former Planning Director Lori Salamack that the merits of the project should come first. As to the adequacy of the EIR for certification, he remained concerned that the movement of soil regardless of volume will involve either 180,000 or 90,000 cubic yards of soil being moved by either 9,000 or 4,000 truck semi-loads of soil being moved, which is an unmitigated unavoidable significant impact to the environment along with the permanent installation of two debris benches which would permanently alter the landscape of the open space which should be addressed in the EIR. He suggested that a project between three and eight lots should be considered in the EIR, and based on the amount of grading, landslides that had occurred during development, and existing faults, he could not make the finding to permit the density that had been proposed. He also questioned the public benefit since the entire area was zoned Open Space, which in his opinion represented the greatest benefit to the public.

Chairperson Levenfeld concurred with Commissioner Wykle as to whether or not the project site was high risk. She asked that the next staff report include an analysis as to why the property was not high risk prior to mitigation.

Ms. Skewes-Cox agreed that the site was high risk based on its current conditions and based on the MOSO map.

Ms. Brekke-Read advised that the MOSO guidelines allowed the Town to reclassify property from high risk, which had been laid out in the April 2, 2012 staff report. She acknowledged that the property is clearly high risk, had originally been designated high risk in 2005 or 2006, and was well documented as high risk as a result of the landslide activity. She suggested that the question was whether or not the Commission could reclassify from high risk because of the amount of corrective grading and mitigations and it was up to the Commission to determine whether or not that was consistent with the policies in the General Plan and the MOSO guidelines. In order for the property to no longer be high risk, it needed remedial grading.

Chairperson Levenfeld also asked for information on the size of the homes in Sanders Ranch to glean a sense of the market demand and support for homes that had more recently been built. She suggested that the footprint for the eight-lot alternative was much better with a smaller footprint and she understood the intent to make the lot sizes smaller than Sanders Drive, although she suggested that the homes were larger and closer together. She did recognize that the size of the homes would depend on what the market would bear. She asked for clarification from staff on the setback requirements.

Ms. Skewes-Cox noted that the plans now showed 20 feet at the front and 15 feet at the rear. The other rear yard issue had been that the design guidelines required a usable rear yard area of 25 x 40 feet minimum, which could not be achieved with a 15-foot setback.

Chairperson Levenfeld also expressed concern with the amount of grading she defined as significant and questioned the height of the homes. At some point during the process she wanted to see story poles on one or more of the lots to better visualize the building heights. She asked that the story poles be placed at the locations of greatest impact.

Ms. Skewes-Cox noted that story poles could be requested now which would not show the ground level, but which could show the top of the wall.

Commissioner Obsitnik suggested that story poles be installed for two of the lots, the lot located near where one crossed the bridge and another somewhere in the middle, near and closer down towards Lot 6, to allow views down the alley.

Commissioner Kline recommended that the story poles show the ground level and another line across.

Ms. Skewes-Cox affirmed the request for story poles at the tallest two-story points for two lots, the one lot nearest the bridge and in the middle such as Lot 6, with a line showing the ground level.

Chairperson Levenfeld did not have concerns with the FAR and having two-story homes if the building footprint was smaller which was why she wanted to see the story poles be placed to better visualize the height. She agreed that the retaining walls should not be installed at the earliest point and she would like staff to address whether or not the application could be considered sooner than the continuation date for July.

Ms. Skewes-Cox explained that staff had reviewed the calendar and due to the staff schedule and staff vacations, staff would not be able to accommodate a continuation to the next meeting in June.

Ms. Brekke-Read added that the first Planning Commission meeting in July is full and includes the Saint Mary's College (SMC) Recreation Center. She commented that staff had received materials on this application up to the date of the distribution of the packet and it was important for staff to receive information early to be analyzed adequately. She understood that the Commission would like to see proposed conditions of approval and possibly some adjustments to the mitigation measures at the next meeting. She asked the Commission to consider if the scale and volume of the grading was decreased whether or not the concerns with high risk would be addressed.

Commissioner Wykle suggested that the less grading the less high risk.

Chairperson Levenfeld suggested that the grading depended on where it is done and reiterated her concerns with the appropriateness of the grading based on the location in MOSO lands and based on the amount of earth to be removed. She wanted to see a project that fit into the rolling hills. The proposed contour grading was better than the initial project, although she remained concerned fitting in eight lots and have it then feel "like a chunk of earth that had been removed and homes stuck in."

Ms. Skewes-Cox explained that the idea of reducing the number of lots had been considered with the intention of reducing the overall area of grading.

Ms. Brekke-Read commented that during the previous meeting the Commission had discussed the delineation of the area of grading which she suggested should be done prior to the next meeting, along with the installation of the story poles to allow visualization of where the grading would occur.

Commissioner Socolich questioned how to delineate where the grading would occur given the existing vegetation.

Mr. Rourke stated that he had never been asked to delineate the limits of grading and spray paint on the ground unless the property was already stripped and ready for grading although he acknowledged that grading stakes and flags could be considered.

Ms Brekke-Read commented that she had experience with developments which had delineated the area of grading and story poles through the use of stakes and flags which she recommended be done.

Chairperson Levenfeld reiterated her opinion that the rear yard setbacks should be consistent with other developments in the Town and an exception not be made for such a small project. In her opinion, it would be better for the future homeowners who wanted a rear yard. She suggested that issue could be left up to the DRB recognizing that Lot 7 would be the most restrictive.

Ms. Brekke-Read suggested that a condition of approval may be appropriate to specify a minimum yard area, elevating it from a design guideline to a requirement for a future home and that staff could explore the conditions of approval. Based on the Commission's comments, she also understood that the Commission would like to explore how to regulate the FAR as part of the conditions of approval since adding an FAR in and of itself would not necessarily limit the home sizes.

Ms. Skewes-Cox commented that the two tables included in the staff report are important to determine why the FAR would or would not work.

Commissioner Obsitnik recalled that the Palos Colorado project had set a maximum square footage for certain styles for the custom lots which had set a precedent that could be evaluated further.

On motion by Commissioner Socolich, seconded by Commissioner Kline and carried unanimously to continue the public hearing for Hetfield Estates, CDP 02-05, to a date certain but no earlier than July 16, 2012.

VI. ROUTINE & OTHER MATTERS

A. April 2, 2012 Minutes (Included in Item V.A as Attachment E)

On motion by Commissioner Socolich, seconded by Commissioner Kline and carried unanimously to approve the minutes of the April 2, 2012 meeting, as submitted, with abstentions from Commissioner Kuckuk and Chairperson Levenfeld.

VII. REPORTS

A. Planning Commission

Commissioner Obsitnik stated that he had been unaware of the change in meeting location to the Moraga Library Meeting Room and asked how the public had been informed of the meeting location.

Ms. Brekke-Read advised that the Commission had been advised of the change in meeting location through e-mail with the public notified through postcards and posting on the Town's website, 72-hours prior to the meeting date, pursuant to public noticing requirements.

B. Staff

Ms. Brekke-Read reported that Summerhill Homes had submitted its application for a less than 30-lot subdivision on Camino Ricardo (Chi property) on May 25, 2012 with another Contract Planner processing the application and Initial Study prior to the preparation of an EIR. She also understood that Signature Homes planned to submit revised plans on June 5 for the former bowling alley site. She otherwise commented that staff had received a great deal of correspondence which had typically been forwarded to Commissioners through e-mail, although she would like to hold off in forwarding that information in the future until the correspondence could be attached to a staff report for an application.

Ms. Brekke-Read also reported on the status of the Donald Drive application with another Contract Planner handling that project. The applicant had been informed that foundation plans and other items would be required which the architect anticipated to provide. It was hoped the application would come back to the Commission soon. In addition, she reported that the County would be handling the Town's grading permits providing plan check, early advice when routing plans, technical, and field inspections. Further, seven applicants had interviewed for the position of Public Works Director/Town Engineer with four finalists to be interviewed in the next week. Staff had received between 50 and 55 applications for the Senior Planner position with eight applicants to be invited for interviews in the next week.

VIII. ADJOURNMENT

On motion by Commissioner Obsitnik, seconded by Commissioner Socolich and carried unanimously to adjourn the Planning Commission meeting at approximately 10:50 P.M.

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Secretary of the Planning Commission

