

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

July 16, 2012

7:00 P.M.

MINUTES

I. CALL TO ORDER

Chairperson Levenfeld called the Regular Meeting of the Planning Commission to order at 7:06 P.M.

ROLL CALL

Present: Commissioners Killam, Kline, Kuckuk, Obsitnik, Socolich, Wykle,
Chairperson Levenfeld

Absent: None

Staff: Shawna Brekke-Read, Planning Director
Kelly Suronen, Assistant Planner
Amy Skewes-Cox, Environmental and Contract Planner

B. Conflict of Interest

Commissioner Obsitnik reported that he had not attended the Planning Commission meeting of July 2 due to a conflict of interest with the Saint Mary's College (SMC) Recreation Center application given that he lived within 500 feet of the project location. He therefore had a conflict of interest with Consent Agenda Item E.

Planning Director Shawna Brekke-Read advised that Commissioner Obsitnik may vote on the Consent Agenda as a whole, and abstain on Item E.

C. Contact with Applicants

Commissioner Killam reported that he had contact with Suzanne Jones with Preserve Lamorinda Open Space regarding the public hearing for Hetfield Estates, and had met with representatives for Saint Mary's College.

Chairperson Levenfeld reported that she had contact with Suzanne Jones with Preserve Lamorinda Open Space regarding Hetfield Estates, with Timothy Glover with SMC, and had been allowed to walk a neighbor's yard regarding the Hetfield Estates project.

Commissioner Wykle reported that he had brief contact with Tim Farley with SMC during a recent Liaison meeting, and with Suzanne Jones with Preserve Lamorinda Open Space.

Commissioner Socolich reported that he had contact and had discussions with Bob Ellerbeck and Edy Schwartz regarding the Hetfield Estates project.

II. PUBLIC COMMENTS

There were no comments from the public.

III. ADOPTION OF THE CONSENT AGENDA

- A. Approval of the April 16, 2012 Meeting Minutes
- B. Approval of the May 7, 2012 Meeting Minutes
- C. Approval of the June 4, 2012 Meeting Minutes
- D. Approval of the July 2, 2012 Meeting Minutes
- E. Mitigation Monitoring and Reporting Program (MMRP) for Saint Mary's College student recreation and baseball spectator facilities, parking lot, and grading.

Consent Calendar Items A and D were moved to Routine and Other Matters, as Items B and C.

On motion by Commissioner Kuckuk, seconded by Commissioner Killam and carried unanimously to adopt Consent Agenda Items B, C, and E, as shown with Commissioner Obsitnik abstaining from Item E.

IV. ADOPTION OF MEETING AGENDA

The meeting agenda was rearranged by switching Items A and B under Public Hearings.

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

V. PUBLIC HEARINGS

- B. DRB 03-12: Appeal of the Design Review Board's May 29, 2012 conditions of approval for new Valero signage and other exterior improvements at an existing service station, including dark grey fascia, a smaller externally lit freestanding sign, and a smaller dark grey wall sign.

Assistant Planner Kelly Suronen presented the appeal of the Design Review Board's (DRB's) May 29, 2012 conditions of approval for new Valero signage and other exterior improvements at an existing service station for property located at 1410 Moraga Road, and noted that many of the gas station signs in the Town predated the Town's Sign Ordinance. The Valero application offered an opportunity to bring the signs into

conformance and make them more semi-rural in character consistent with the General Plan. She noted that there was no State law or rule against restricting the size of the logo.

Ms. Suronen reported that the DRB had conditionally approved the Valero signage on May 29, 2012 and required the trim on the building and canopy structure to be a dark grey color as opposed to bright teal, the freestanding sign to be smaller in size and externally illuminated, and the food shop sign to be smaller in size and to be colored dark grey. She recommended that the Planning Commission uphold the decision of the DRB and deny the appeal.

PUBLIC HEARING OPENED

Bobby O'Hara, Sign Development Inc. stated that he had reviewed the conditions of approval with the property owner and with Valero, was willing to concede to the DRB recommendations for the canopy and building trim colors given that the site is within a scenic corridor.

Mr. O'Hara noted that the average square footage for a service station sign in the Town of Moraga is 37.5 square feet. He emphasized the highly competitive market for service stations and that the applicant offered a discount for cash pricing which must be shown side by side and at the same height.

Mr. O'Hara asked that the external illuminations required by the DRB also be discussed since it would be more costly to the applicant.

Mr. O'Hara presented photographs of the other service stations in Moraga which had multiple signs.

Gordon Nathan, 51 Carr Drive, Moraga, commented that he had been in the service station business in the 1950's. He suggested that if other sites enjoyed multiple signs the Commission should allow the applicant's request given that the other sites were out of compliance with the Town's sign guidelines, to ensure fairness and to allow the applicant to be competitive.

PUBLIC HEARING CLOSED

In response to Commissioner Socolich to clarify the MMC and the requirement to make changes to non-conforming signs, Ms. Brekke-Read explained that the MMC stipulated that changing one sign requires all signs to become code compliant. The regulations set a maximum height of 10 feet and a maximum area of 20 square feet. The sign area may be increased to provide for price signing as regulated by State law. The DRB had allowed for the increased sign area in order to accommodate the price.

The staff recommendation was that 30 square feet is a reasonable accommodation pursuant to the State law pricing requirements.

As to the other service stations in the Town which had multiple signs, Ms. Brekke-Read explained that those signs had been in existence prior to the Town's Sign Ordinance. The subject service station had a number of illegal and non-conforming signs at this time.

When asked, Ms. Brekke-Read was uncertain of the status of the stenciled signage located at the back of the station when leaving the Moraga Center that read "Caution Blind Driveway Ahead," a request of a prior DRB.

Mr. O'Hara again clarified the size of the sign structure at 40 square feet and noted that it had increased due to the signage for the pricing.

Commissioner Killam suggested that if the applicant must be required to comply with the MMC the other service stations in Town must be compliant as well.

Ms. Brekke-Read explained that under the MMC, anything created under previous codes became legally non-conforming. As an example, there is a gas station at the corner of Moraga Road and Rheem Boulevard where the Planning Commission had approved a Conditional Use Permit to add a car wash and convenience store. The DRB had approved modifications and required that all of the signage must be removed and the applicant required to submit a new sign program to compliance with the MMC.

Commissioner Kuckuk acknowledged the legal non-conforming sign in excess of 30 square feet. The Sign Ordinance allowed 20 square feet, and it could be increased by the amount necessary to enable the sign to display the minimum required size of pricing, although pursuant to the State Business and Professional Code, the property is located in a scenic corridor where the size could be further reduced. She suggested that requiring the sign to be 30 square feet is reasonable, liked externally illuminated signs in the scenic corridor although she recognized that placed a financial burden on the applicant, and noted that all businesses would be held to the same standards if requesting changes in the future. She favored 30 square feet with numbers that were six inches in height, the minimum required, favored external illumination, and had no preference on the two-inch difference in height. She clarified that the stipulations pertaining to the freestanding sign were shown as Condition 9 on Page 4 of the Draft Resolution.

Commissioner Kuckuk also spoke to the requirement to place a caution sign at the back of the property, which a prior DRB had required. She emphasized that the DRB at that time had intended that a standard road caution sign would be installed.

In response to Commissioner Obsitnik, Mr. Brekke-Read explained that any change to the existing sign would trigger MMC requirements.

Commissioner Obsitnik commented that it was unfortunate the changes were being made from a cost perspective and silly to incur the cost of lowering it two inches, although the MMC is in place and the Planning Commission must uphold the MMC. He had no issues with the height of the sign or with the existing structure and had no opinion on the external versus internal illumination requirements other than to adhere to the requirements of the MMC. As a business owner, he wanted Moraga to offer a business-friendly environment and he found that the application is not business friendly.

Commissioner Kline agreed and recognized that the Commission did not have much leeway due to the requirements of the MMC.

Commissioner Wykle noted that the MMC allowed the sign area to be increased although he agreed that 30 square feet represented a good compromise.

Commissioner Socolich supported the DRB's decision since the property is located on a busy intersection and in a scenic corridor, and there would likely be changes in the Moraga Center in the future as part of the Moraga Center Specific Plan (MCSP).

Chairperson Levenfeld was sympathetic to the applicant's position although she emphasized that the Commission had to interpret the MMC, as written, supported exterior lighting, noted that the Commission was not a policy making body, and supported a denial of the appeal.

Ms. Brekke-Read presented options for the Commission to consider.

Chairperson Levenfeld REOPENED THE PUBLIC HEARING at this time.

The applicant asked when the changes to the Sign Ordinance had gone into effect, emphasizing that he had been waiting for sign approval for the past four months during which time he could not operate.

PUBLIC HEARING CLOSED

The Planning Commission discussed whether there was a need to shorten the base structure by two inches and whether exterior lighting or interior lighting would be more appropriate given that the service station is located in an area more rural in character.

Commissioner Killam made a motion, seconded by Commissioner Kline to uphold the decision of the Design Review Board, DRB 03-12, to remove and replace Lamorinda Gasoline & Auto Care signage and install new Valero signage at an existing service station, eliminate (b) and (c) of Condition 9, and add a new Condition 11 to require the caution sign to be replaced with a new sign conforming to State Highway caution signs.

On the motion, Ms. Brekke-Read recommended that Page 2 of the Draft Resolution be modified to include an additional WHEREAS clause and a finding to read:

WHEREAS in upholding the Design Review Board's decision the Planning Commission finds that the 30 square foot sign accommodates larger signage as allowed by the Moraga Municipal Code (MMC) Section 8.88.220.0 which stipulates 20 square feet to accommodate the pricing, and the sign will be consistent with the Town's scenic corridor; and

WHEREAS in upholding the decision the Planning Commission finds that the existing base can be retained while accommodating a smaller sign.

Page 4 of the Draft Resolution to eliminate Condition 9 (b) and (c) and renumber 10 (a) to read:

- (a) The caution sign on the project site shall be upgraded to a street quality sign subject to Town Engineer approval.

On motion by Commissioner Killam, seconded by Commissioner Kline to uphold the decision of the Design Review Board, DRB 03-12 at 1401 Moraga Road to remove and replace Lamorinda Gasoline & Auto Care signage and install new Valero signage at an existing service station, subject to the findings and conditions as shown and subject to a new Condition 10 (a) requiring that the caution sign on the project site be upgraded to a street quality sign subject to Town Engineer approval. The motion carried by the following vote:

Ayes:	Killam, Kline, Kuckuk, Obsitnik, Wykle, Levenfeld
Noes:	Socolich
Abstain:	None
Absent:	None

On the motion, Ms. Brekke-Read clarified with the Chairperson that the motion as stated upheld the DRB's decision but did not add a WHEREAS clause, update the findings, or eliminate Condition 9 (b) and (c). She identified the 10-day appeal of the decision of the Planning Commission in writing to the Town Clerk subject to applicable fees.

Also after the motion, Chairperson Levenfeld opened the floor to allow a comment from an unidentified member of the audience who asked why the public had not been allowed to speak to the motions. The Chairperson clarified that when the public hearing is closed, the item would return to the Commission with no discussion on the motion by the public.

- A. **CDP 02-05:** Environmental Impact Report (EIR), Mitigation Monitoring and Reporting Program, Conceptual Development Plan and Conditional Use Permit

to allow a single-family residential development on 58.2 acres of property zoned OS-M, commonly known as Hetfield Estates.

1. Original application: Subdivide 58.2 acre of property into six single-family residential lots ranging in size from 41,826 square feet (0.96 acres) to 59,930 square feet (1.38 acres) plus one remainder 51.45-acre common area parcel;
2. Eight-lot alternative that was evaluated in the EIR as an alternative is the focus of the staff report, as requested by the Planning Commission. However, the application remains a six-lot project. The eight-lot plan would have eight single-family residential lots ranging in size from 15,401 square feet (0.35 acres) to 26,685 square feet (0.61 acres) plus one remainder 54.58-acre parcel).

Chairperson Levenfeld reported that the item was a continued hearing, with all previous comments in the record, as reflected in past Planning Commission meeting minutes.

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.

Contract Planner Amy Skewes-Cox presented a brief overview of the staff presentation, noting that the Planning Commission was being asked to consider the adoption of a resolution to certify the Environmental Impact Report (EIR) and its findings; adopt a resolution to approve the Conceptual Development Plan (CDP) subject to conditions of approval; and approve the Mitigation Monitoring and Reporting Program (MMRP). As the Commission directed at its June 4 meeting, the applicant installed story poles to illustrate the height of the buildings and staking to show the areas subject to corrective grading.

Ms. Skewes-Cox stated that the general consensus during the June 4 Commission meeting was that the eight-lot alternative should be considered more seriously from the original application for a six-lot plan with much larger lots. There were six landslides mapped on the site and since the June 4 meeting, correspondence had been received and staff had e-mail and telephone discussions with the applicant, neighbors, and Preserve Lamorinda Open Space representatives. Comments included recommending avoiding Landslide 5 on the site, reduce the total number of lots to six or seven, and considering appropriate allowable home sizes for each lot.

Ms. Skewes-Cox advised that the applicant had reviewed the conditions of approval with staff and the conditions had been fine-tuned prior to the distribution of the staff report. As indicated in the staff report, staff recommended up to a seven-lot development within a reduced area of disturbance that avoids Landslide 5 and allows

home sizes of up to 4,000 square feet, and that the originally proposed Emergency Vehicle Access (EVA) should be shown as an easement and not a part of the project's design and construction at this time since it would allow the applicant more time to work with the Sanders Ranch neighborhood to make the EVA workable, would allow the applicant to complete future environmental review, and would allow more time for the grading and alignment of the EVA.

Ms. Skewes-Cox explained that in recommending the approval of the FEIR and MMRP, staff recommended two changes to two of the mitigation measures. The Moraga Open Space Ordinance (MOSO) Finding for Lot 1 was no longer applicable since the original Lot 1 would not be part of the eight-lot project. Staff also recommended a height limit of 35 feet to allow more design flexibility.

Ms. Skewes-Cox also referenced Page 6 of Attachment C, which contained the MOSO finding for the EVA and which should be eliminated, and stated that the EIR findings should also address the fact that the approval of a seven-lot project would not result in any new impacts and would not require the recirculation of the EIR.

Ms. Skewes-Cox outlined the seven-lot project option which would avoid Landslides 1, 5, and 6; would result in an average lot width of 84 to 85 feet; the access road would be unchanged from the eight-lot plan; the retaining wall would be unchanged from the eight-lot plan; the rear of the lots would be unchanged but be compatible with the nearby neighborhood, and would reduce the overall amount of required grading by about 15,400 cubic yards; and eliminate the idea of using a Floor Area Ratio (FAR) of .2 setting a maximum home size of 4,000 square feet including garages. She offered a comparison of the seven-lot plan with the eight- and six-lot plans and identified Tables 5 and 6 as contained in the July 16, 2012 staff report which identified the average sizes of home in the Sanders Ranch neighborhood (which did not include garages) and recently approved home sizes.

Ms. Skewes-Cox explained that the conditions of approval also included setback recommendations to allow flexibility in design and recommended 10-foot minimum sideyard and 15-foot front yard requirements, as well as 24 x 40 foot rear yard usable space.

In response to the Commission, Ms. Skewes-Cox responded to the letter received from Preserve Lamorinda Open Space and the issue of piecemealing the project. She commented that if the applicant was required to have the EVA the project could not be split up. The EVA had been proposed to encourage the public benefit for the project and to keep the MOSO findings. Staff recommended that the EVA be shown only as an easement at this time and at a later stage the necessary California Environmental Quality Act (CEQA) review and environmental discussion would occur as part of the project.

Ms. Brekke-Read added that the reclassification of the property from High Risk had been addressed on Page 19 of the July 16 staff report in response to concerns raised by the Commission during its prior public hearings.

John Wyro, The Wyro Company, 40 Valley Drive, Orinda, referenced correspondence he had submitted to Town staff dated July 11, 2012, and which included a number of attachments including a cross section for Lot 4, conceptual house plan showing how homes could fit on the lots, and ideas advanced by staff over the past week. He commended staff on the job of organizing and spelling out the issues.

Mr. Wyro identified an error in the staff report where the developer had indicated that Landslide 5 was 15,400 cubic yards but was in fact 10,400 cubic yards in size; suggested that staff's approach to the EVA was a good one to provide the easement as part of a condition of approval of the CDP and in the General Development Plan (GDP) stage address the CEQA issues and have conversations with the Sanders Ranch neighborhood; and referenced the staff report which indicated that all CEQA requirements had been met, the FEIR could be certified and that the findings under MOSO to allow the development and increase the density. He suggested that the key issue is the number of lots and the size of the homes.

Mr. Wyro commented that staff had recommended seven lots and the developer an eight-lot project. Also some of the conditions of approval applied to a six, seven-, or eight-lot project and some of the conditions were new to the developer who had not had the opportunity to review them. He was confident that in time they would reach solutions that worked for everyone.

Mr. Wyro spoke to the home sizes and expressed his hope that the Commission had reviewed the aeriels that had been provided offering a sense of the differentiation between Hetfield Estates, Sanders Ranch, and Sanders Drive. He suggested that there was an opportunity for a different standard than the existing 50-year old subdivision and still comply with MOSO, the General Plan, and the Zoning Ordinance. He recommended a maximum home size of 4,500 square feet including garages, noting that a Conditional Use Permit for the homes would be required to be approved by the Commission and the DRB.

Mr. Wyro explained that an eight-lot alternative footprint had been identified as the environmental alternative in the FEIR and that he heard the Commission express more interest in that plan than the six-lot plan. The eight-lot plan met all of the criteria and met all of the findings, and he questioned Landslide 5.

Mr. Wyro spoke to the reduction in significant impacts from the six- to the eight-lot plan with very little gained in eliminating one more lot. Landslide 5 had never been an issue and represented only 11 percent of the total amount of yardage to be removed for the eight-lot plan, affecting 28,000 square feet on a 52-acre parcel. Mr. Wyro suggested that it made little difference in terms of impacts on the environment, open space

element, wetlands, with contour grading to create a natural environment. He suggested that the additional loss of a lot was not warranted for the benefits to be gained, and that the developer had a good project that warranted Planning Commission approval.

Mr. Wyro referenced correspondence that had been submitted by the East Bay Regional Park District (EBRPD) and the Moraga-Orinda Fire District (MOFD) and noted that the preservation of open space, preservation of the ridgeline, provision of the emergency access, and confidence that the EVA would be built, along with all the other improvements to make the project better should be supported by the Commission.

Mr. Wyro referred to the size of the homes as compared to the Sanders Drive homes and expressed his willingness to work with staff and the neighbors to make modifications to make the project better. As to the placement of the story poles, he commented that the actual placement of the story poles had been identified on the exhibit provided.

Mr. Wyro emphasized that he favored the eight-lot project which included the removal of Landslide 5. He pointed out that with the removal of Landslide 5, they could build Lots 7 and 8 as called for in the eight-lot plan. For the seven-lot plan, that slide would remain in place with narrower lots.

Ms. Skewes-Cox reiterated that the seven-lot plan would result in a reduction of the overall grading on the site, less area of retaining walls, less artificial disruption on the site, and would be more consistent with MOSO.

Mr. Wyro reiterated that the eight-lot plan would eliminate Landslide 5 allowing more room for flexibility. The six-lot plan involved 200-foot lots, which would be 85 to 90 feet with the eight-lot plan producing more restrictions and less opportunity to create nice homes in the subdivision. As to the Geologic Hazard and Abatement District (GHAD), as part of the development it would be required to be formed and funded, with the initial funding from the developer.

Ms. Brekke-Read reiterated that the intent of the seven-lot plan had been to reduce the overall footprint of the development, avoid a third landslide, and create a density in keeping with the site, and provide lot widths similar to the existing neighborhood. She recommended that the Town's Geologist speak to the issues of the landslides.

Mitch Wolfe, Cal Engineering and Geology, explained that from a geotechnical perspective if Landslide 5 was not repaired it would remain a potentially active slide and had the potential to move in the future. The project would be designed with future movement on Landslide 5 and the home on Lot 7 could be technically feasible although there is the potential hazard for Landslide 5 to move down into and obstruct the creek. That potential hazard could be mitigated with the eight-lot project and remediate that portion of Landslide 5. In the event that Landslide 5 moved, it would be the responsibility of the GHAD. He noted that the slides appeared dormant but likely moved

in small increments which were not detectable. By and large, they would be considered dormant but the ground would move a bit. He noted that the slide at Los Encinos (Vista Encinas) had occurred through remedial work that had occurred on that site with the top of that slide having become active. While not anticipated, it was not uncommon. As to the chances of Landslide 5 to be aggravated with the development of Lot 7, he noted that there were 20-foot setbacks and the development on Lot 7 would not necessarily influence the performance of Lot 5. If Lot 5 had the potential to impact Lot 7, there were methods available to stabilize the margins of Landslide 5 and protect Lot 7 and the same methods could be applied to Lot 1 to protect it from Landslide 1.

PUBLIC COMMENTS OPENED

Edy Schwartz, 22 Hetfield Place, Moraga, commented that eight years ago she had started the Moraga Citizens Network to ensure that residents were informed and it primarily started because of the subject project. She noted that she had attended a number of Planning Commission and Town Council meetings and based on her experience, this had been the most pleasant and while there had been disagreement it had been civil and educational. She also took the opportunity to publicly express appreciation to Suzanne Jones with Preserve Lamorinda Open Space for her involvement over the years working with staff and the community.

Ms. Schwartz supported fewer than seven lots although due to the work done and the way the homes would be placed, she could live with seven lots. She had been concerned with the stability of the land which had been addressed in many ways and had been concerned with compliance with the letter and spirit of MOSO. She emphasized that the number of lots, whether six or eight, would have a tremendous effect on the land; and suggested that the Commission adhere to the wisdom of the General Plan regarding infill projects and not allow 4,500 square foot homes which would not be compatible with Sanders Drive and Hetfield Place, and which would be disruptive and not in the spirit of MOSO. She did not want to see anything larger than 2,800 square feet.

Mike Larkin, 1099 Larch Avenue, Moraga, described himself as a survivor of the Los Encinos planning process.

Mr. Larkin thanked those who had assisted in having some landscaping provided on that site. He pointed out that the Los Encinos development had some of the same conditions and reporting requirements as proposed for Hetfield Estates although seven years later there is no landscaping or tree screening improvements at Los Encinos. He noted that when the landscaping plan for Los Encinos had come before the DRB, it had been discovered that some of the elevations behind Larch Avenue were up to 10 feet greater than the approved conceptual plans. He added that even with the knowledge that some of the homes in the Los Encinos development would loom 20 to 50 feet over Larch Avenue and some would be two stories, the DRB had agreed with the contention

of the property owner that the views of the yet-to-be-built homes had priority over the views and privacy of the existing homeowners due to the tree screening.

Based on that experience, Mr. Larkin recommended that an annual public report be required during the grading and building phases of multi-unit development projects to detail the activities that had occurred, what conditions were triggered by that activity, with staff assurance that all conditions of approval had been met.

Gordon Nathan, 51 Carr Drive, Moraga, commented that the staff report had recommended a seven-lot plan, with approximately 2,500 cubic yards of dirt to be removed from each lot equating to approximately 20,000 cubic yards to be removed by semi-trucks totaling hundreds of trips, which would impact Sanders Drive, already in poor condition, and which had not been mitigated in the plans. In addition, whether seven or eight lots, he asked of the timeline for the grading from beginning to completion, reported that he had spoken with the President of the Sanders Ranch Homeowners Association (HOA) who had no knowledge of the EVA for the project, and questioned whether or not Landslide 5 would impact the easement or the EVA.

Suzanne Jones, 1285 Bollinger Canyon Road, Moraga, representing Preserve Lamorinda Open Space, advised that the group's concerns remained the grading, landslide repair, and neighborhood compatibility. She suggested that the grading and the landslide remediation for the eight-lot plan was unacceptable particularly given that during the last public hearing staff had proposed a straightforward way to reduce the grading volume by reducing the project footprint. Staff was again making a recommendation to reduce the project footprint to avoid Landslide 5, which she strongly supported.

Ms. Jones pointed out that MOSO stipulated the avoidance of development on steep and unstable slopes and did not speak to the repair of landslides. She added that the Planning Commission was required to uphold the principles of MOSO, emphasizing the amount of grading and truck trips that would be generated by the project regardless of whether six or eight lots which would represent significant impacts to the neighbors with daily traffic, dirt, and dust.

While she still recommended that seven lots would be too dense for the property, Ms. Jones suggested that seven lots would reduce the footprint of the development, reduce the amount of grading and area of disturbance, eliminate one of the two debris benches and allow Landslide 5 to remain undisturbed. The lot widths and home sizes would be more consistent with the widths of the homes on Sanders Drive, and if the seven-lot project were approved, she asked that there be a condition to ensure that the average lot size not exceed 84 feet width. She emphasized that concerns remained with the home sizes in that 4,500 square feet was too large.

Ms. Jones stated that she had submitted information on comparable home sales in response to the developer's assertion that a smaller-sized home would not be

economically feasible. Homes smaller or equal to 4,000 square feet, including the garage, were selling for as much as \$1.4 million. She questioned whether the staff recommended restriction on home sizes would make the project infeasible. She also expressed concern with a 35-foot building height suggesting that the story poles had not provided reassurance that the homes would not be out of scale with the existing development. She suggested that staff had offered a compromise that had made meaningful steps in addressing the most significant issues.

Ms. Jones advised that Preserve Lamorinda Open Space did not want to have to appeal the project, but would not accept the eight-lot plan which did not address the recurring concerns of remedial grading, landslide repair, and neighborhood compatibility. The staff recommendation for a seven-lot plan made significant efforts to address those issues. If the building height could be resolved, she considered the seven-lot plan would to avoid an appeal from Preserve Lamorinda Open Space on this issue. She asked the Planning Commission to approve the staff recommendation.

Kerry Clifton, 1068 Sanders Drive, Moraga, spoke to the issue of the EVA and while she understood that it would be tabled, she asked that the residents of Sanders Drive be included in any future discussions of the EVA since she wanted assurance that a road would not be connected from Canyon Road and Sanders Drive all the way to Sanders Ranch. She suggested that an EVA would create peace of mind as response times would be substantially decreased.

Eleanor Vaughn, 1004 Sanders Drive, Moraga, referenced the past slide history on the Los Encinos property and commented on the fact that five property owners had to financially address the slide in the past on their own. She expressed concern that the same could occur with the subject development. She sought a provision to prevent such occurrences.

Malcolm Cooper, 1160 Sanders Drive, Moraga, suggested that since the EVA was being tabled the public benefit should be tabled as well. He suggested that the density should be more in the five-lot range and urged the Commission to consider something in the neighborhood of five lots in a reduced footprint, with grading to be avoided in keeping with MOSO. He questioned how a 4,500 square foot home would be compatible with the neighborhood and recommended a limit of 3,000 square feet, a limit on the height of the homes, and a limit on the number of homes with two stories

Jane Ellerbeck, 1164 Sanders Drive, Moraga, asked whether or not the applicant planned to sell the property once approved given the concern and history of the Los Encinos development. While she did not want any development near her home, if the Planning Commission were to approve any development she urged conservative development.

Bob Ellerbeck, 1164 Sanders Drive, Moraga, commented that based on recent correspondence and Town regulations, a decision must be made on the Hetfield

Estates development. He suggested that the property was not suited for development and although the property owner had rights to build on the land, the residents had the right to express concerns with respect to the safety of the development of the property and its impacts on the neighborhood. He commented that the developer had submitted correspondence on July 11 which had suggested that the residents of Sanders Drive had overstated the issue of compatibility, suggesting that the project would have a different footprint and would not be relevant to Sanders Drive. He disagreed that a 4,500 square foot home would be appropriate, suggesting a limit between 3,000 and 4,000 square feet. He did not support eight lots, suggested that Landslide 5 was relevant, and that the staff recommendation for seven lots was well thought out, feasible, and offered the least impact to the environment. He expressed his hope that residents would be able to work with the developer to produce a successful outcome for everyone.

Nancy Wilkerson, 1140 Sanders Drive, Moraga, identified her home as in the middle of the project site. She commented that she had viewed the story poles above the oak tree behind her home and assumed that it was a 35-foot story pole, suggesting that homes 35 feet in height would loom over her rear yard and would not be screened by trees particularly during the winter months. She added that the lot sizes were not a concern although she remained concerned with the size of the homes; asked that a two-story home not be built behind her home since it would ruin her rear yard; questioned why a height of 35 feet would be allowed since it may become a three-story home; expressed concern with the amount of grading, dirt and movement and the impacts to her swimming pool; and pointed out that there were no two-story homes on the right side of Sanders Drive and therefore questioned allowing two-story homes in the Hetfield Estates development.

Tim Meltzer, 6 Willow Spring Lane, Moraga, advised that he had submitted correspondence dated July 10 outlining his concerns with the adequacy of the FEIR, and the size and number of the homes. While he did not like the idea of seven lots, it addressed one of the problems in the FEIR as to what was reasonable development, reduced the footprint and the amount of grading, and made the homes more compatible with the homes on Sanders Drive. The staff proposal would eliminate Landslide 5 and he supported the reasons that had been stated. He noted that the staff report had shown that the applicant had skewed the numbers of square footages of homes that had been built and approved in Moraga, and had included the square footages for two 'McMansion' homes that had been built on Rheem Boulevard. The average square footage for homes on Sanders Drive was 2,095 square feet and he suggested that a 4,000-square foot home would violate the guidelines. He suggested that homes closer to 3,000 square feet should be considered and agreed that homes 35 feet high would not be appropriate.

Jennifer Koziel, 1132 Sander Drive, Moraga, raised the same concerns with Table 6 as shown in the July 16 staff report of the recently approved home sizes, as provided by the applicant, and questioned using those figures to justify the larger home sizes in

Hetfield Estates. She identified mistakes in some of the data included in that table, commented that the existence of large-sized homes in Moraga did not justify larger homes in the subject site, read into the record excerpts from a recent news article on home sizes and the trend in downsizing, and questioned the terms that had been used to describe the tree screening. She emphasized that the site was not isolated from the existing neighborhood and asked the Commission to ensure that the project respect the Town's Design Guidelines and more closely reflect the size and character of the neighboring properties which were all one story.

Camille Santi, 1148 Sanders Drive, Moraga, thanked the Planning Commissioners who had listened and taken into consideration the elimination of Lot 8 since the lot would sit directly behind her home. She spoke about the volume of dirt to be removed, to the value of her property, the air quality impacts from the grading at Los Encinos, and supported the seven-lot rather than the eight-lot project. She noted that pine trees located behind her home provided some screening but would not last long since some were being removed by the neighbors. She too expressed concern with the size and height of the homes and concurred with her neighbors on all the issues and would like the opportunity to address them further in the future.

REBUTTAL:

Mr. Wyro thanked the residents for participating in the process which had worked because of everyone's efforts. He clarified that none of the dirt would be hauled off site, there would be a condition of approval to monitor Sanders Drive to ensure that any damage was repaired, and the EVA now in the form of an easement would be included in conversations with the Sanders Ranch HOA and would represent a public benefit. He referenced a cross section for Lot 4, which had shown a range of four to six feet of roof elevation between Lots 1 and 8, and which is 175 to 200 feet away from the adjacent residents. He disagreed that the homes would loom over the neighborhood.

Mr. Wyro explained that prior to the meeting, he had conversations with the property owners who had given him flexibility in the process. In the spirit of moving the project forward, he explained that the applicant was willing to accept the staff recommendation for seven lots, with a maximum home size of 4,000 square feet including the garage.

Mr. Wyro noted that the staff report for the seven-lot plan had shown 84-foot width lots, which was needed, and he expressed his hope that they could do that without encroaching into Landslide 5, although that had not yet been engineered. Anything that encroached into Landslides 1 or 5 would have to be reviewed by the Town's Geologist. With that flexibility, he advised that the applicant could agree to compliance with the staff recommendation.

In response to the Commission, Mr. Wyro described conditions of approval to prevent eyesores until final grading had been completed and homes constructed that would need to be fine-tuned in the General Development Plan phase. He suggested that the

Los Encinos developer had a responsibility to meet the conditions of approval that it was the Town's responsibility to ensure that the conditions of approval were met.

Mr. Wyro suggested that the grading could be done in one season with six weeks of grading followed by the installation of underground utilities. He emphasized that no dirt would be moved off site. Once grading commenced, there would be active remediation of the dust with equipment on site. There was also a condition of approval for the project that signage be posted at the entrance to the site with a contact name and telephone number in the event of any problems.

PUBLIC HEARING CLOSED

Commissioner Wykle commented that the record was clear with his thoughts on the project. Having read MOSO, he referred to paragraph (c) of the ordinance whereby it is the intent of the people of the Town to protect the remaining open space resources within the Town. He sought the protection of the Town's open spaces although if the Planning Commission decided not to fully adhere to MOSO it must consider reclassifying the High Risk designation of the property since High Risk areas were to be avoided. He commented that if the property was reclassified from High Risk, the Commission should support the staff recommendation for a seven-lot project, minimize the grading, and stay away from Landslide 5.

Commissioner Kline was supportive of the seven-lot project but would like some discussion on the issues of compatibility with the neighborhood and responsibility for the maintenance through the various phases, and although a timeline had previously been requested it had not be included in chronological order in the MMRP.

Commissioner Obsitnik agreed with the comments and suggested that the staff recommendation had resolved a number of issues, although home sizes and neighborhood compatibility, as well as what happened with Los Encinos remained to be addressed to ensure conditions to mitigate those concerns.

Commissioner Kuckuk was pleased to see the seven-lot plan proposal with a reduced area of disturbance and grading more in keeping with MOSO. She was more concerned with the area of disruption, size of the homes, and neighborhood compatibility which needed to be addressed. She suggested that 4,000 square feet including the garage was too much, as was the maximum height at 35 feet. She also expressed concern with oversight, enforcement of the conditions, and protections for the Town and the neighborhood.

Commissioner Killam suggested that the seven-lot plan appeared to be good. He complimented staff. However, he expressed concern with Landslide 5 and the public benefit of the EVA. He asked the geologist to provide a better idea of the preferred method to either leave the landslide alone or provide mitigation.

Mr. Wolfe commented on the potential for Landslide 5 to adversely impact the creek or the homes along Sanders Drive suggesting that there was sufficient distance from the landslide to the creek with a low possibility to impact the creek, although he noted that hazards would not go away without remediation. The risk would always be that there but would be a low probability. He noted that the length of the existence of Landslide 5 was not known.

Mr. Wolfe commented that in the case of Los Encinos, there had been a known slide hazard with a plan for remediation to remove the lower portions. However during construction the upper portion reactivated as part of the construction process and the grading had to be extended beyond what had been approved for the project.

Ms. Skewes-Cox added that Landslide 5 is in an area that could possibly be impacted by the alignment of the EVA and when the EVA is designed it may have to be an area reviewed as part of CEQA.

Mr. Wolfe understood, when asked, that the current plan called for sideyard access to the debris bench.

Bob Rourke, RMR Design Group, 1130 Burnett Avenue, Suite A, Concord, explained that the access requirement was eliminated when four-foot retaining walls were required at the rear. Access would be provided on the eight-lot plan through an access around the east end behind Lots 7 and 8, which remained between repaired Landslide 5 and unrepaired Landslide 6. That issue would have to be evaluated as part of the seven-lot plan since the plan did not show the final contour grading.

Ray Skinner, ENGEO Incorporated, Geotechnical Consultants, 332 Pine Street, #300, San Francisco, stated that it could be technically feasible to fix that piece.

Mr. Wolfe commented on his experience with landslides in close proximity to new homes and explained that the lateral margins of the slide could be partially stabilized. He affirmed that there would be a 20-foot setback from Landslide 5.

Commissioner Socolich supported the staff recommendation for a seven-lot plan but could also support an eight-lot plan primarily because it would assist in correcting Landslide 5 which would always be in place, benefit the new development, and correct many of the existing issues. He could also support a seven-lot plan with a remediation of Landslide 5 given that some of the other landslides would be repaired during the grading operation. He requested more time to address the home sizes.

Chairperson Levenfeld stated that she had struggled with the project and a footprint she could support given the requirements of MOSO but she could support the staff recommendation for a seven-lot plan and its footprint. However, she would be more comfortable with six homes given the home sizes that had been proposed. She suggested that many of the loose ends had been tied up since the last presentation,

although she urged that conditions be included to ensure that the EVA would be addressed.

Ms. Skewes-Cox advised that Condition 33, as shown on Page 14 of Attachment C, Resolution of Approval for the CDP, had shown that the EVA which would be granted as an easement and studied at a future date in terms of the CEQA requirements.

Chairperson Levenfeld asked staff how the staff recommendation for a 35-foot building height had come about. Ms. Skewes-Cox explained that since the lot sizes would be substantially reduced, staff had sought some flexibility in the design. She recommended two-story homes with setbacks and flexibility to increase the square footage while reducing the footprint and allowing some yard space.

Ms. Brekke-Read advised that a variance request would require Planning Commission approval subject to specific findings, which were difficult to make. She added that the height limitation of 35 feet was an aggregate height from the lowest point of the foundation to the highest point of the ridge. In no case or single plane could it exceed 25 feet, or two stories, pursuant to the Town's regulations.

In terms of the neighborhood compatibility, Commissioner Killam commented that 4,000 square feet was too much, although he expressed concern that if too many limitations were placed on the homes that may impact their desirability in the market.

Ms. Skewes-Cox commented, when asked, that the size of the homes on Sanders Drive included livable space although she had not been able to verify with the County Assessor's Office whether garage space had been included. She noted that the Sanders Drive lots were similar to what had been shown with a 90-foot width and average lot size of 90 feet by 170 feet, and with an FAR of .278, which would allow a home of 4,253 square feet. If a Sanders Drive homeowner desired to expand his/her home, it could be increased to 4,250 square feet.

Commissioner Kline referenced the Town's Design Guidelines as to neighborhood compatibility and commented that while the FAR guidelines may not apply to the subject project, the guidelines were relevant in terms of the compatibility with the adjacent neighborhood. If Sanders Drive homeowners may expand their homes to 4,250 square feet, Commissioner Kline stated that the same should be allowed for Hetfield Estates. He added that the Design Guidelines established a 35-foot height limit which also applied to Sanders Drive.

Commissioner Kuckuk suggested that Commissioner Kline had made a compelling argument in that an FAR conversion would allow 4,200 square feet with the garage.

Commissioner Socolich commented that the average size of Sanders Drive homes is 2,100 square feet with the median at 2,040 square feet, not including the garage, with most of the homes including two-car garages equating to 2,500 square feet.

Commissioner Killam suggested that 4,000 square feet was a reasonable figure with the garage, but would not support more than 4,000 square feet with two stories.

Chairperson Levenfeld concurred with the likelihood that homes on Sanders Drive may be expanded in the future given their age and she did not want to place a restriction on Hetfield Estates homes where they could be smaller than those on Sanders Drive. She could therefore support homes up to 4,200 square feet.

Commissioner Wykle advised that as a member of the Climate Action Plan Task Force (CAP) that is not the limit the CAP was considering since it was considering homes smaller in size.

Commissioner Obsitnik recommended that the market be allowed to dictate the home sizes which he understood from a recent article had suggested that homes were declining in size. He wanted to allow the developer that flexibility and agreed with an interpretation that if smaller homes were to be the norm then smaller homes would be built based on the market. He still supported a cap of up to 4,000 square feet.

By consensus, the Planning Commission determined that the home sizes be capped at no more than 4,000 square feet.

As to the height limit, Commissioner Kline suggested that 35 feet was consistent with the homes built on Sanders Drive.

Commissioner Kuckuk would support that height as long as 35 feet was consistent with two-story homes.

Commissioner Socolich suggested that 35 feet would be acceptable as long as the home was architecturally treated properly which would be reviewed during the design review stage.

Commissioner Obsitnik agreed that a 35-foot height limit would be acceptable.

Ms. Skewes-Cox spoke to concerns with respect to monitoring the project over time. She recommended an additional condition that would require the monitoring of the project on annual basis.

In response to concerns from some members of the public that two-story homes not be built and the developer's request that two-story homes not be limited, Ms. Skewes-Cox clarified that staff had recommended that two-story homes not be restricted and that all seven lots be allowed to two-story homes. If the Commission desired a condition to restrict two-story homes adjacent to one another the condition would have to be modified.

By consensus, the Commission determined to limit the number of two-story homes consistent with the Town's Design Guidelines, and determined that the last sentence of the first paragraph on Page 9 of Attachment A, the Draft Resolution for the CDP, Conceptual Development Plan Findings, D. be stricken from the finding.

Ms. Skewes-Cox recommended an additional condition requiring annual reporting.

Ms. Brekke-Read recommended that the condition read that the applicant shall submit an annual report to the Planning and Engineering Departments and the Planning Commission on the status of compliance with conditions of approval, which could be added to Condition 15 of the Mitigation and Monitoring Compliance.

In response to concerns as to what would occur if the developer went bankrupt, Ms. Brekke-Read clarified that the approval of the CDP is the first step, which is a concept with no engineering on the lots, and which had been analyzed for CEQA and the approval of a Conditional Use Permit. The next step is the General Development Plan. All of the conditions of the CDP and everything needed before a General Development Plan could be approved had been highlighted in Attachment A. The General Development Plan would likely be submitted with a Tentative Subdivision Map. At that point there would be preliminary grading plans, street sections, exploration of the EVA, and more details. Once that approval had been obtained, the developer still needed the approval of a Grading Permit and Hillside Development Permit prior to any movement of dirt. There were also conditions outlining the amount of money the developer must place into a bond and Condition Nos. 102 through 104, as shown on Pages 34 and 35 of Attachment A, contained the conditions related to protections for the Town. During the Grading Permit stage, the Town Engineer would assist in crafting conditions at the Tentative Map stage to ensure that protections were in place.

Commissioner Kline sought some sort of condition to provide protection until the various requirements such as the GHAD and HOA were in place. He asked whether or not the GHAD would be responsible for the creek, and Ms. Skewes-Cox advised that the GHAD would not be responsible for the creek.

Ms. Brekke-Read she pointed out that Condition 102 on Page 34 would provide security.

As to the staff recommendation that additional information be provided related to Larch Creek and the bridge supports, Ms. Skewes-Cox stated that had not been a specific condition of approval but could be added as a condition although the bridge supports would be part of any permitting from the Department of Fish and Game, which would not allow a major disruption to the creek.

It was recommended that the first sentence of Condition 11, Bond, as shown on Page 11, be amended to read:

The applicant shall prepare a "Bond Study" prior to approval of the Tentative Map to address the following (at a minimum); cost such as the site to more natural contours and removal of paving if site is not developed within two years; landscaping of site to repair graded areas; removal of retaining walls if site is not developed within two years; slide repair and corrective grading to eliminate any risks for adjoining neighbors; completion of the site access road, bridge, storm drainage system and erosion control improvements if applicable; and other similar items.

Commissioner Kuckuk asked at what point of the CDP versus the GDP stage would it be appropriate to add conditions relating to road fees and neighborhood street maintenance given the poor condition of the Town's roads and streets and given that the developer could not access the private road for the project site without traveling on neighborhood streets.

Ms. Skewes-Cox identified a condition regarding the repair of Sanders Drive in the event of any damage during construction.

Ms. Brekke-Read noted that the Town did impose development impact fees which included transportation impact fees and which were collected at the time of building permit issuance.

Commissioner Kuckuk noted that Conditions 90 and 105 in Attachment A were duplicate conditions.

Ms. Brekke-Read recommended the elimination of Condition 105.

Speaking again to the building height issue, Ms. Skewes-Cox noted that one of the mitigation measures had been changed from a 25- to a 35-foot height limit.

In response to concerns with respect to new landscaping with annual evergreen trees which were not deciduous trees, it was noted that a landscaping plan would be submitted in the future when that issue could be addressed. It was also clarified that the existing vegetation would not be altered as part of the application.

On the discussion, Ms. Brekke-Read commented that the Commission made no changes to the resolution to certify the FEIR other than to the findings attached to Exhibit A, Attachment B, EIR Findings, and Page 2, VI. Absence of Significant New Information, with the third sentence to be amended to read:

The Final EIR and the seven-lot subdivision do not add significant new information to the Draft EIR that would require recirculation of the EIR under CEQA.

Ms. Brekke-Read recommended a revision to the second sentence of Mitigation Measure 3.1-3A as shown on Page 5, Table 1 - Findings for Each Impact and Mitigation Measure of the Hetfield Estates Subdivision Final EIR, to read:

The maximum building height shall be determined through the design review process but shall not exceed 35 feet consistent with the Moraga Municipal Code.

On motion by Commissioner Killam, seconded by Commissioner Kline to adopt Resolution next in number to adopt the Findings that the Environmental Impact Report for the Hetfield Estates Conceptual Development Plan had met the requirements of the California Environmental Quality Act (CEQA) and to certify the Environmental Impact Report for Hetfield Estates, with the modifications as shown. The motion carried by the following vote:

Ayes:	Killam, Kline, Kuckuk, Obsitnik, Socolich, Levenfeld
Noes:	Wykle
Abstain:	None
Absent:	None

Speaking to Attachment C, Resolution for Approval of the Conceptual Development Plan (including conditions of approval), Ms. Skewes-Cox identified the modifications, as discussed:

- Page 6, MOSO Findings F., delete the third paragraph since the EVA is no longer included as part of the public benefit;
- Page 9, Conceptual Development Plan Findings D., eliminate the last sentence;
- Page 11, Conditions that must be satisfied as part of approval of the Conceptual Development Plans, 11. Bond, revise to read:

The applicant shall prepare a "Bond Study" prior to approval of the Tentative Map to address the following (at a minimum); cost such as regarding the site to more natural contours and removal of paving if site is not developed within two years; landscaping of site to repair graded areas; removal of retaining walls if site is not developed within two years; slide repair and corrective grading to eliminate any risks for adjoining neighbors; completion of the site access road, bridge, storm drainage system and erosion control improvements if applicable; and other similar items.

- Page 35, Other conditions that apply, strike Condition 105;

- Page 10, Conditions that must be satisfied as part of approval of the Conceptual Development Plan, 7. Overview, revise the first sentence to read:

The Hetfield Estates Project in the General Development Plan shall include seven lots for single-family residences, concentrated in the area shown in the Conceptual Development Plan (attached to the staff report dated July 16, 2012) and shall avoid landslides 1, 5, and 6 and shall have an average lot width of 85 feet.

- Page 32, Other Conditions that apply, Condition 103, add an additional sentence to read: *The applicant shall submit an annual report to the Planning Commission on the status of the project and compliance with the conditions of approval.*

On motion by Commissioner Socolich, seconded by Commissioner Killam to adopt Resolution next in number to approve a Conceptual Development Plan and Conditional Use Permit to allow development of seven (7) single-family residential lots for the Hetfield Estates Project (CDP 02-05), with the modifications as shown. The motion carried by the following vote:

Ayes:	Killam, Kline, Kuckuk, Obsitnik, Socolich, Levenfeld
Noes:	Wykle
Abstain:	None
Absent:	None

Referencing Attachment D, the Mitigation Monitoring and Reporting Program, Ms. Skewes-Cox identified the following revisions:

- Page 3, Mitigation Measure 3.1-3A, revise 25 feet to read 35 feet and add the language *consistent with the Moraga Municipal Code* to the end of the sentence;
- Eliminate any mitigation measure that applied to a MOSO reclassification of Landside 1;
- Page 3, Mitigation Measure 3.1-1C, add the language: *until a Homeowner's Association (HOA) has been established and assumes responsibility* to the end of the last sentence;
- Page 2, Mitigation Measure 3.1-1A, revise the second to last sentence to include the language *and shall be a mixed native evergreen species*, and strike the reference to coast live oak.

On motion by Commissioner Killam, seconded by Commissioner Kline to approve the Mitigation Monitoring and Reporting Program dated March 23, 2012 for Hetfield Estates, with the modifications as shown. The motion carried by the following vote:

Ayes: Killam, Kline, Kuckuk, Obsitnik, Socolich, Levenfeld
Noes: Wykle
Abstain: None
Absent: None

Ms. Brekke-Read advised of the 10-day appeal of the decision of the Planning Commission in writing to the Town Clerk subject to applicable fees.

Chairperson Levenfeld declared a recess at 10:54 P.M. The Planning Commission reconvened at 11:00 P.M. with all Commissioners present.

VI. ROUTINE & OTHER MATTERS

Given that Commissioner Obsitnik must recuse himself from Item A, the Commission took action on the two sets of meeting minutes which had been removed from the Consent Agenda for consideration under Routine & Other Matters.

A. Approval of the April 16, 2012 Meeting Minutes

Commissioner Kuckuk requested an amendment to the second to last sentence of Page 5, as follows:

She [Commissioner Kuckuk] 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.

On motion by Commissioner Wykle, seconded by Commissioner Killam to approve the minutes of the April 16, 2012 meeting, as amended. The motion carried by the following vote:

Ayes: Killam, Kuckuk, Socolich, Wykle
Noes: None
Abstain: Kline, Obsitnik, Levenfeld
Absent: None

B. Approval of the July 2, 2012 Meeting Minutes

Commissioner Kline requested an amendment to the last sentence of the first paragraph of Page 11, as follows:

He [Commissioner Kline] did not agree with SMC waiting until the end of 2012 to resolve this situation, would also like to limit the hours and have the lights turned off by 9:00 P.M. until they were repaired, and understood that the former stadium speakers were for the football field and he did not fault the DRB for that issue.

Commissioner Kline also asked that the Commission recommendation for the request for modification to Mitigation Measure TRAFFIC-2, as shown on the bottom of Page 17 and the top of Page 19, be modified by staff to be consistent with the language shown in the MMRP for SMC.

Commissioner Kuckuk requested an amendment to the second sentence of the last paragraph of Page 11, as follows:

She [Commissioner Kuckuk] supported reduced hours and control of the noise so that students did not have the ability to plug into an amplifier causing noise impacts to residents from the Redwood Grove.

To the fourth sentence of the same paragraph:

She [Commissioner Kuckuk] commented that she too had been a member of the DRB when the lights had been approved for the intramural field, with the lights required to be directed downwards to avoid spillage onto neighboring sites and if there were complaints the time would be moved back to 9:00 P.M., although she noted that issue had not been included in the staff report.

And to the second bullet point as shown on Page 16:

- *Mitigation Measure NOISE-1 to be revised as reflected on Page 6 of 20 of the July 2, 2012 staff report with the Commission stipulating that the construction hours to be limited from 8:00 A.M. to 6:00 P.M., Monday through Saturday, through the date of September 1, 2012.*

Ms. Brekke-Read advised that the minutes of the July 2, 2012 meeting, as modified, would be returned to the Commission for approval at its next meeting to allow staff to verify the language in the MMRP.

Commissioner Obsitnik recused himself from the discussion of the next agenda item and stepped down from the dais at this time.

C. Saint Mary's College Intramural Fields (as requested by the Planning Commission on July 2, 2012).

Ms. Brekke-Read reported that during the July 2 Planning Commission meeting, the Commission had directed planning staff to place the item on the next agenda in response to concerns expressed by the Commission and the public with the lights and

noise from Saint Mary's College (SMC) intramural fields. Since that time, SMC had submitted a letter to staff requesting a delay of the discussion until late August, although staff had informed SMC that the Commission had been clear that it wanted to see the item on this agenda. She provided background on the intramural lights; the DRB discussions; and approval of the lights and an all weather-surface for the fields; excerpts from the minutes of the DRB meetings; and staff report, action memorandum, and conditions of approval; scenic corridor guidelines; and correspondence received.

Given that school would be starting in late August and there were two members of the public present to speak to the item, Ms. Brekke-Read recommended that the Commission discuss the item at this time.

Commissioner Kuckuk commented that she had been one of the Commissioners who had requested that the item be agendaized, and having reviewed all of the background materials, she found some inconsistencies. She reported that in March 2011, the DRB had approved the intramural lights and field although the information from the July 2 staff report was inconsistent with the DRB's approval from March 2011. The July 2 staff report had reported that an Initial Study/Mitigated Negative Declaration (MND) had been prepared for the project, and that the intramural lights may be allowed to operate until 10:00 P.M. unless complaints were received where the Planning Director may reduce the hours to 9:00 P.M., although the conditions of approval from March 2011, as written, were different. The minutes of the March 2011 DRB meeting had included a discussion and when a motion was made, the intent was that it also pertain to lights and the glare from lights, although the action was not appealed nor was any inconsistency identified and the meeting minutes had been approved with the decision standing with noise being the factor in causing the lights to be reduced back to 9:00 P.M.

Commissioner Kuckuk was uncomfortable allowing the issue to extend until the end of 2014 waiting for SMC to resolve the issues. She questioned the benefit of continuing the discussion to August 6, as staff had recommended.

Ms. Brekke-Read recommended that SMC speak to the request for a continuance. She also identified a disconnect between the findings the DRB had made, the conditions of approval, and what was at the site.

PUBLIC COMMENTS OPENED

Tim Farley, representing SMC, explained that one of the issues was the request that no action be taken at this time to allow SMC to take steps to address neighbors' concerns with respect to lights and noise. SMC had hired a highly regarded electrical/lighting engineer who was willing to conduct a survey of the site, review the neighborhood and lights, develop a report, and hopefully meet with the neighbors. He expressed his hope that some of the neighbors' recommendations could be incorporated to reduce some of the light impacts from the intramural field. SMC was

also exploring a new state-of-the-art speaker system and use of the Redwood Grove. He suggested that taking action now would limit SMC's ability to address the neighbors' concerns, emphasized that the lights were currently turned off but could not be tested in the daytime, and asked for permission to turn the lights on for an approximate 45-minute period to allow that testing to be done with the electrical/lighting engineer.

An unidentified individual for SMC reported that SMC had gone to great lengths to ensure that the lights would face downward for the least possible glare to the neighbors. He understood that the noise had become a secondary issue because of the lighting. He too asked that SMC be allowed the opportunity to address those concerns in good faith with its electrical/lighting engineer who was due to visit the campus tomorrow. He asked for a continuance of that discussion to August 6 or the first Commission meeting in September.

Ms. Brekke-Read advised that the first Planning Commission meeting in September would be the third Monday of the month.

Commissioner Kuckuk understood that the noise complaints had been general in nature and not specific to the use of the intramural field. She did not see that a continuance for a few weeks was an issue although based on the background and history of the issue she did not want to wait until 2014 to resolve the issue.

As to whether or not the lights could be kept turned off until September, Mr. Farley advised that he did not have that authority which was under the purview of the SMC Athletic Director. He understood that the students benefitted from the intramural programs.

Frank Comprelli, Moraga, a resident of the Bluffs, submitted correspondence dated July 16, 2012, noting that he represented 106 homes in the Bluffs neighborhood. He commented that the agenda item was only for the intramural field, although part of the problem related to complaints as to the use of the stadium not related to the use of the intramural field and the use of the Redwood Grove, with many residents having submitted correspondence raising concerns with those issues. He read his correspondence dated July 16, 2012 into the record, asked that the Commission take all information into account including the concerns raised in all of the correspondence he had submitted, asked the Commission to consider holding a public hearing on the Conditional Use Permit, and recommended that SMC be permitted to operate the intramural field on an interim basis under conditions set by the Planning Commission.

Phillip Arth, 1960 Joseph Drive, Moraga, commented that he had submitted a couple of memorandums to SMC on the lights and noise, and Mr. Farley had contacted him to inform him of the lighting engineer who would be assessing the lighting, and who had recommended that the Commission had the ability to require that the lights be turned off at 9:00 P.M. He acknowledged SMC's request for additional time to address the lighting and noise impacts, endorsed all of the comments made by Mr. Comprelli, was

uncertain what the lighting engineer could do to address the glare impacts, and suggested it might be better to replace rather than repair the lights. He asked that SMC consider how to improve the existing configuration and determine what could be done if there was no lighting on the field at all.

Gerri Joyce, 43 San Pablo Court, Moraga, asked that the lights be turned off at 8:00P.M., commented on the number of children in the neighborhood, the fact that she had no air conditioning and could hear the noise from both her front and rear yards, and that the lights glowed at her property and the noise amplified up the hill. She pointed out that Campolindo High School turned off its field lights at 9:00 P.M., including the lights for the football field and swimming pool.

Edy Schwartz, 22 Hetfield Place, Moraga, supported SMC, suggested that the Town should be privileged to have the facility in the community, commented on the lack of amenities at SMC, and suggested that residents were aware that there would be lights at the college. She suggested that SMC was trying to be responsible. She urged staff to follow up on existing rules, and asked that the Commission allow SMC the opportunity to work with its lighting engineer and the adjacent residents to find a solution to the light and noise issues.

Ms. Brekke-Read apologized to the neighborhood since residents had started to complain quickly after the start of the school year about the lights and noise and she had been unaware of the condition that planning staff could cut the hours of light use. She commented on the difficulty of having four light poles create the lighted effect that SMC desired in a concentrated area and not have off-site glare, agreed that it may be appropriate for SMC to start over with the lighting, and acknowledged that the Town had been working with SMC and encouraged Saint Mary's College to work with the neighbors on the lights.

Ms. Brekke-Read acknowledged that the DRB, and not the Planning Commission, had approved the intramural lights although the DRB's conditions had placed planning staff in the position of being the enforcing agent. She asked the Planning Commission to provide assistance to staff in that regard, to look at the conditions and determine whether or not the conditions were being met. She added that the Commission may continue the item to the Planning Commission meeting of August 6 although she was uncertain at this time that there would be a quorum for that meeting.

Based on a show of hands, at least four Commissioners would be able to attend a meeting on August 6 although Commissioner Obsitnik would again have to abstain from the item.

Ms. Brekke-Read explained that the first meeting in September would be September 17.

Commissioner Kline asked SMC to consider a procedure where each complaint be followed up and neighbors be offered a telephone number to allow SMC security to

address the noise issues. He recommended that the item be continued to the Planning Commission meeting of August 6.

Mr. Farley clarified that the intramural fields did not have any amplified sound which was prohibited. The field formerly used for football had a speaker system that was not used at night. The Redwood Grove had occasional wedding receptions and SMC was considering the revaluation of that policy.

Ms. Brekke-Read explained that the project was processed as a permitted use and was deemed exempt from CEQA. She recommended that the matter return to the Commission on a monthly basis until resolved.

On motion by Commissioner Killam, seconded by Commissioner Kline to reschedule the Saint Mary's College Intramural Fields discussion to the Planning Commission meeting of August 6 to allow Saint Mary's College the opportunity to respond, and to place the matter on the Planning Commission agenda on a monthly basis until the matter has been resolved. The motion carried by the following vote:

Ayes:	Killam, Kline, Kuckuk, Socolich, Wykle, Levenfeld
Noes:	None
Abstain:	None
Absent:	Obsitnik (Recused)

Commissioner Obsitnik returned to the dais at this time.

VII. REPORTS

A. Planning Commission

Commissioner Wykle reported that he had attended the July 13 Liaison Meeting with a report on the rescission of the Rancho Laguna Park Dog Park Ordinance, proposal for a one-cent sales tax initiative for road repairs for the November ballot, report from the Parks and Recreation Department on the outcome of the Fourth of July fireworks donations, reminder from the MOFD about the hazards of the current fire season, and the announcement that the GaleBration would be held on October 6, 2012 for the SMC Recreation Center.

B. Staff

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

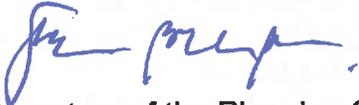
Ms. Brekke-Read reported that the filing period for Town Council candidates is July 16 with three seats open. The Vice Mayor had announced that he would not seek re-election. The Town also had two final candidates for the position of Senior Planner with a decision to be made in the near future.

Ms. Brekke-Read reported that planning staff is in the process of processing 15 applications varying from Conditional Use Permits for buildings that had been approved years ago to new homes, signs, and additions.

VIII. ADJOURNMENT

On motion by Commissioner Wykle, seconded by Commissioner Killam to adjourn the Planning Commission meeting at approximately 12:00 A.M. to a regular meeting of the Planning Commission on Monday, August 6, 2012 at 7:00 P.M. at the Moraga Library Meeting Room, 1500 Saint Mary's Road, Moraga, California.

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Secretary of the Planning Commission