

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

March 18, 2013

7:00 P.M.

MINUTES

I. CALL TO ORDER

Chair Levenfeld called the Regular Meeting of the Planning Commission to order at 7:02P.M.

ROLL CALL

Present: Commissioners Comprelli, Kline, Kuckuk, Marnane, Onoda, Schoenbrunner*, Chair Levenfeld

*Commissioner Schoenbrunner arrived at 7:08 P.M.

Absent: None

Staff: Shawna Brekke-Read, Planning Director
Ellen Clark, Senior Planner
Natalie Macris, Consultant Planner

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

There was no reported contact with applicant(s).

II. PUBLIC COMMENTS

There were no comments from the public.

III. ADOPTION OF THE CONSENT AGENDA

There was no Consent Agenda.

IV. ADOPTION OF THE MEETING AGENDA

On motion by Commissioner Kuckuk, seconded by Commissioner Marnane and carried unanimously to modify the meeting agenda by moving V. Public Meeting Item B. after VII. Reports.

V. PUBLIC MEETING

- A.** 1800 Donald Drive – Study Session – Proposed construction of a 4,270 square foot home on a vacant 13,203 square foot parcel, with access from a circular bridge driveway off Donald Drive

Planning Director Shawna Brekke-Read advised that Public Meeting Item A, 1800 Donald Drive had been canceled and would be rescheduled and renoticed to the public.

- B.** Provide Additional Direction to Staff on Draft Amendments to Chapter 8.36 (Community Commercial District) of the Zoning Ordinance

Item B had earlier been moved to Item VII. Reports.

VI. ROUTINE & OTHER MATTERS

A. Review and Approval of Edits to the PC Rules and Procedures

Ms. Brekke-Read explained that the Planning Commission Rules and Procedures had been based on what the Design Review Board (DRB) had done in 2012. Changes included the selection of Planning Commission Chair and Vice Chair in March of each year; meetings to be held regularly in the Moraga Library Meeting Room or Special Meetings at Joaquin Moraga Intermediate School; with the Planning Commission agenda to be consistent with the Town Council agendas.

Commissioners identified typographical errors under Article V, Rules of Order, Section 5.1, (5), and Article VII, Section 7.2 (1), second line, and recommended under Article 5, Rules of Order, Section 5.6 Motions, that the word "properly" be stricken from the first sentence; and for that same article, Section 5.1 Agenda, Item (7), be clarified that the Chair had the authority to allow an applicant to speak more than 10 minutes, although staff had recommended the language remain as shown which allowed the Chair some latitude.

On motion by Commissioner Marnane, seconded by Commissioner Comprilli and carried unanimously to approve the edits to the Planning Commission Rules and Procedures, as amended.

B. Election of Chair and Vice Chair

Ms. Brekke-Read described the process for the selection of Chair and Vice Chair.

Commissioner Marnane nominated Frank Comprelli as the Chair of the Planning Commission. Commissioner Onoda seconded the nomination.

Commissioner Kuckuk nominated Stacia Levenfeld to serve as the Chair of the Planning Commission for an additional term given the number of new members of the Commission and since Commissioner Levenfeld had served only one year as had Commissioner Kline. She suggested that the Commission would benefit from the continuity. The nomination was seconded by Commissioner Kline. There were no other nominations and the nominations were closed.

On the discussion of the two nominations, Ms. Brekke-Read clarified that the selection of Chair was not limited to a one-year term and that an individual could serve as the Chair multiple times.

Commissioner Marnane suggested that Commissioner Comprelli would be an effective Chair given his experience in the Town and on the Planning Commission in the past which had been his reasoning to support his nomination.

Chair Levenfeld was willing to remove her name from nomination to allow Commissioner Comprelli to serve as the Chair.

Ms. Brekke-Read suggested that one person could be the Chair and the other the Vice Chair.

On motion by Commissioner Kuckuk, seconded by Commissioner Marnane, **Frank Comprelli** was elected to serve as the Chair, and **Stacia Levenfeld** to serve as the Vice Chair of the Planning Commission.

Chair Levenfeld continued to Chair the meeting at this time.

VII. REPORTS

A. Planning Commission

Commissioner Marnane reported that he had toured the Hetfield Estates and Camino Ricardo sites with the Project Managers; had viewed the Bollinger Valley project site with the permission of the Bruzzone family; and had viewed the Donald Drive property.

Commissioner Kline reported that he had attended the Liaison meeting as the representative of the Planning Commission.

Commissioner Comprelli reported that he toured the Hetfield Estates site.

B. Staff

Ms. Brekke-Read introduced new Senior Planner Ellen Clark who identified her experience and background in Mammoth Lakes, California, a community with similar open space issues as Moraga.

Ms. Brekke-Read also noted that the Planning Department had another Temporary Planner who had done work for the Town in the past. The advertisement of Assistant/Associate Planner position was ongoing; and she took the opportunity to introduce Consultant Planner Natalie Macris who had been working on the Community Commercial Zoning Amendments. She added that staff would be interviewing firms about the Livable Moraga Road Project this week with Commissioner Kuckuk and Design Review Board (DRB) Member John Valentine to also sit on the interview panel. Staff would also be preparing grant applications as part of transportation planning. In addition, the Bollinger Valley Environmental Impact Report (EIR) public hearing had been rescheduled from April 1, which meeting had been cancelled, to a Special Meeting of the Planning Commission on Wednesday, April 17. A regular meeting of the Planning Commission had also been scheduled for April 15.

As to the Livable Moraga Road Project, Ms. Brekke-Read commented that when the Economic Development Advisory Committee (EDAC) had made its recommendations to the Town Council and Planning Commission, one of the recommendations related to the speed of traffic on Moraga Road through Rheem Boulevard and the lack of safety for pedestrians and bicyclists, the timing of which had coincided with a Transportation for Livable Communities Grant cycle with Measure J funds. Staff had applied for the grant, received it a year ago, but did not have the staff to prepare a program. Senior Planner Clark was now the Project Manager and lead for the project with a focus on the corridor from Donald Drive north to Campolindo, with a particular focus on the area in front of Campolindo, Rheem, the Moraga intersection, and outside of the project boundary at St. Mary's and Moraga Roads. She noted that the area had been identified for a four-way intersection with a School Street extension, and was within a Priority Development Area (PDA) the Association of Bay Area Governments (ABAG) had identified for possible transportation project funding in the future.

V. PUBLIC MEETING

B. Provide Additional Direction to Staff on Draft Amendments to Chapter 8.36 (Community Commercial District) of the Zoning Ordinance

Chair Levenfeld reported that the item had been considered by the Planning Commission during its February meeting although the Commission had not made a formal recommendation given that there remained a lack of definitive explanations, with a decision to hear the item again when new Planning Commissioners had been appointed.

During the prior hearing, the Commission had discussed the item in a workshop format although this time the discussion would be held as a public hearing.

Ms. Brekke-Read advised that she had worked with the Consultant Planner on the approach for the item and it might be helpful to hold the discussion in a workshop format. She explained that Holly Lucas-Alcalay from EDAC was present to provide background to the new Commissioners.

For the benefit of the new Commissioners, Ms. Brekke-Read explained that the Moraga Municipal Code (MMC) was unclear, particularly for many professional planners, and the lack of clarification ran the gamut from design review when required for a single-family residence to the Community Commercial District, the process for obtaining permits, findings for a permitted use, and the process for opening a business. She described the background and formation of EDAC which had developed recommendations to attract businesses to Moraga in response to vacancies in the Rheem Shopping Center, the fact that a couple of businesses had not been embraced by planning during the planning process, and difficulties with development review. EDAC had held two visioning workshops at the Rheem Theatre and created working tables on what was envisioned and desired for the Rheem Area and identified issues in the center. There was a desire for walking and bicycling, new restaurants, with a list of desired uses for the center having been included as one of the attachments to the March 18, 2013 staff report. Another group had discussed what could be done with the Town's Zoning Ordinance and the Moraga Center Specific Plan (MCSP) and the uses that should be allowed, with a recommendation for a separate evaluation of the Rheem Area.

EDAC had recommended the Town separate the two areas, the MCSP and the Rheem Area which were currently under one zoning district. A list of short, medium, and long-term projects had been identified to address the concerns, including recommendations to change the permitting process, changes to the General Plan, and getting the uses in the center. In 2012, the Planning Commission had been presented with options, including consideration of an administrative permit process with staff recommending some sort of zoning permit process similar to that used in the cities of Orinda and Lafayette. Pedestrian orientation had also been discussed, and last month the Planning Commission had reviewed an actual draft ordinance identified as Attachment C to the March 18, 2013 staff report.

During the February 20, 2013 meeting, the Planning Commission had discussed the draft amendments to the Community Commercial regulations and requested additional information on the regulations from the cities of Lafayette and Walnut Creek, and the Town of Danville.

Staff had provided additional feedback, discussed regulating the size of a business, whether formula-based, whether a concentration of uses should be regulated, standards for permitted uses, and how to incorporate the General Plan provisions into the regulations.

Ms. Brekke-Read identified a series of questions contained in the March 18, 2013 staff report she asked the Commission to discuss, and noted that in the next month staff would return with a draft ordinance for review, with additional feedback to then allow the commencement of an Initial Study to amend the Zoning Ordinance which involved a recommendation from the Planning Commission pursuant to a public hearing and California Environmental Quality Act (CEQA) regulations to the Town Council.

In response to the Commission, Ms. Brekke-Read commented that in order to separate the MCSP from changes to the Community Commercial District, specifically the Rheem Area, would likely involve the addition of a separate section just for the Rheem Area. She acknowledged that pursuant to the zoning map, the Community Commercial District was predominantly the Rheem Area or the MCSP, which had been encompassed within a Specific Plan area pre-empting the zoning where the Rheem Area could be a subset of the Community Commercial District, which could be explored further since the permitting process would be changing where there could be Community Commercial in general with an overlay for the Rheem Area as a subset. She explained that whether Community Commercial was the right nomenclature or the Rheem Area could be further explored as well.

Holly Lucas Alcalay, a member of EDAC, offered the background of the EDAC discussions, review of the General Plan, MCSP, and discussion of the lack of a Rheem Area Specific Plan as related to the Rheem Shopping Center. Concerns had been expressed with the fact that the Rheem Valley Shopping Center was in high distress, with an approximate 90 percent vacancy rate and with the challenges in the MMC as to what the community wanted and how the MMC could help encourage specific uses. She referenced the volume of retail in Moraga with discussions on what could be done to encourage new businesses, and the types of businesses desired, with the challenge of retail now between competition on-line as compared to 'Mom and Pop' stores which had been declining. She emphasized the need to reflect the needs of the community and while the Planning Commission was not comprised of elected officials expressed her hope that the Commission would utilize and consider the short, medium, and long-term goals that had been identified by EDAC through the visioning workshops as to what could be done to encourage the types of businesses the community desired.

Ms. Lucas-Alcalay suggested the Rheem Area was different from the MCSP and deserved its own attention and regulations for the future to reach a sustainable path. While a Rheem Area Specific Plan was desired, the financial realities had proven that was not an option. She sought General Plan Amendments and encouraged the Commission to attach General Plan language to the MMC to allow the community, the Commission, and Town Council to further the desires of a semi-rural environment.

Responding to the Commission, Ms. Lucas-Alcalay identified the recommendation to streamline the Town's permitting processes in response to concerns with the difficulty for businesses to obtain permits, and as related to the current regulations relating to conditional and permitted uses. She cited as an example the fact that the community desired a diverse group of restaurants which could be allowed faster as a permitted use. She also cited concerns with the way the MMC had been interpreted in the past for some uses which had food sales and which had been interpreted as conditional uses, although precedence had been set for TJ Maxx, Dollar Store, and the like which had been interpreted as permitted uses. She sought crystal clear regulations and suggested that separating the Rheem Area from the rest of the Community Commercial District might accomplish that clarity.

Ms. Lucas-Alcalay suggested that one of the reasons there had been a great turnout at the visioning workshops was that residents wanted to have a voice in the discussion particularly as it related to the Rheem Area, the condition of the center, and continued struggles to obtain tenants, and the fact that many in the community were not pleased with the discount stores that had primarily occupied the center. She noted in terms of the recommendation for administrative review that EDAC had originally recommended the Town consider the hiring of a part-time staff person to continue to liaise with the property owners of the Rheem Area, although the challenge was that the Town did not own the property. In her opinion, such staff person could help to ease some of the issues in the center.

Ms. Brekke-Read understood that part of the source of frustration with the Town's administrative review process was that the Town had a process for permitted uses although when one use had been permitted through that process administratively it had been appealed to the Planning Commission and then to the Town Council, and there was a perception in the community the Town had the right to approve or deny a use given the appeal process and findings that must be made. Ultimately in that case, the Town Council and the community had been told it did not have the discretion to deny the use leading to the frustration with the process, and a need to decide what the Town absolutely wanted and to make the process truly administrative, over the counter, and ultimately allow the Planning Commission and the Town Council the ability to deny a specific use.

In response to a concern with the use of the term "desirable businesses" as shown on the last paragraph of Page 1 of the March 18, 2013 staff report, Ms. Macris suggested the Commission could list the desirable businesses the Commission and community decided were appropriate.

PUBLIC COMMENTS OPENED

Jason Evans, a member of the Moraga Chamber of Commerce, reported that the concern of the Chamber revolved around commerce and what the findings would be to approach them. He noted the multitude of landowners and businesses that should be allowed to have input and who would like to come to Moraga, had not considered what would be involved, emphasized that time was money and if it appeared the process would be lengthy, businesses would go to other communities. As to the perception in working with prospective tenants and uses, he commented that the Chamber had heard that being very, very specific could be difficult for landowners. Also in terms of restaurants, there were concerns whether the restaurant was franchised, and whether local franchised. He commented on the difference between wants and needs in that needs would run the cash register and keep the tenant in Moraga and wants were businesses such as Nordstrom where the experts decide if it would be best for the Town. He emphasized that the motto in retail was "the cash register rules," and expressed concern that a small group of people could decide what was desired in the Town. He pointed out that the viability of new tenants was not always known for the first 18 months. He thanked EDAC for its efforts, understood that was still a want list, but urged a focus on the needs of the community, how to address those needs, and how to get shop keepers to come to Moraga.

Responding to the Commission, Mr. Evans acknowledged that Moraga was a remote community; it was difficult for retail, office, or a commercial developer to come to Moraga since it was not near an expressway. He commented that there were some examples of existing stores which had fought to come to the Town, with their parking lots full of cars from all over. He expressed his hope in those cases that the surrounding businesses were also benefitting from those customers.

Mr. Evans emphasized the need to be selective in that the uses that worked well in Danville, for instance, might not work as well in Moraga. In terms of streamlining the permitting process procedurally, he recommended reliance on the experts. Based on his experience with permitting, less was more. If there was a political desire in a community to fight particular merchandise, whether a dirty bookstore, pot store or other use, those would be easy to resolve. He suggested the process needed to advise an applicant of what needed to be done to bring business to Moraga. If there was the possibility for multiple reviews and unknowns, businesses would go elsewhere, particularly the 'Mom and Pop' stores.

Mr. Evans suggested that the Town had been unable to attract national tenants for a number of reasons. He also added that the life span for a Mom and Pop retailer was not good since they had to change their inventory often and it ended up that the landowner would have to carry the store and keep a sign in the window for the adjacent stores to survive.

Dave Schnayer, Moraga, Commercial Real Estate Broker, noted that much of his retail business had been in Moraga. Having worked with EDAC, which was a diverse group with members both for and against certain retailers, he noted that this discussion and challenge had pre-dated EDAC for at least a decade with public hearings, discussions, seminars, Planning Commission hearings, community meetings, focus groups, and the like. He commented on the challenges for someone tasked professionally to bring merchants into Moraga given that it was a cul-de-sac community, absent freeway access, a limited population, but with good schools and low crime. He commented that part of his task was to fill up a portion of the Rheem Valley Shopping Center as it became vacant, which had been a challenge. He acknowledged that the proposed ordinance amendments had incorporated many of EDAC's ideas, did not have any single person's preference, and was a compilation of the committee's work. He explained that merchants would likely locate in a community which allowed permitted uses, particularly if close to the highway, BART, and public transportation. He had been successful in securing merchants for the community for the past two to three years, and while there were several new merchants negotiating to come to Moraga there were challenges since every single use desirous to come to Moraga must currently require Planning Commission approval.

Mr. Schnayer commented that as a business professional in the industry, there was a number that made sense as to the threshold for square footage which should be a permitted use. However, the ordinance also regulated similar businesses within a certain number of feet. He characterized that regulation as communism. He identified the various types of businesses in the community and questioned whether it should be up to staff or the Commission as to what was allowed in the community which he suggested should be the decision of the property owner.

Ms. Lucas-Alcalay explained that the square footage threshold had come from EDAC's discussion to encourage smaller uses as well as the larger ones. Currently restaurants were conditional uses which EDAC recommended be permitted uses.

Ms. Brekke-Read emphasized that a variety of uses made a community vibrant although service establishments did not pay sales taxes. She noted that the Town received minimal sales tax revenues and there was a desire for sales tax generators.

Ms. Brekke-Read acknowledged the concern in the community that the Rheem Valley Shopping Center was becoming a discount retail center and the ordinance amendment for the square footage threshold had been a way to address that issue.

Mr. Evans pointed out that discount stores were making money nationwide and it was difficult to put an absolute fix on the stores and uses to be allowed now and into the future. He referenced the industry rule that all the wants and needs changed within 17 years.

PUBLIC COMMENTS CLOSED

Ms. Brekke-Read asked whether the Planning Commission desired to retain some regulations about formula-based businesses, chains, and franchises either with a discretionary permit process or regulation through a Conditional Use Permit process. She referred to the questionnaire which had been developed for the City of Fairfax's formula-based businesses and asked the Commission if that might prove helpful if implemented in Moraga.

Commissioner Kuckuk did not support obstructions to free enterprise. While formula-based was not popular, she would only support its restriction based on size and if out-of-scale with the community where a Conditional Use Permit process would be appropriate. Speaking to the Fairfax questionnaire, she found that document to be frightening and was shocked to see it was being used. She referred specifically to Item I in that document which obstructed free enterprise.

Commissioner Onoda agreed in that when she had seen the questionnaire from Fairfax she had been horrified. She asked if the smaller businesses in the Rheem Valley Shopping Center were close to 2,000 square feet in size.

Mr. Schnayer advised that 10,000 square feet was classified as major; anything less than 10,000 square feet was classified as a shop tenant. The produce market in the Rheem Valley Shopping Center was 5,000 square feet in size and typically jewelers and salon type of tenants ranged from 1,200 to 1,500 square feet or smaller.

Commissioner Onoda suggested there was flexibility in the threshold number, suggested that the major stores would be the ones that should go through the Conditional Use Permit process, and disagreed with limiting formula-based same type businesses which would be unfortunate for the Town.

Commissioner Marnane saw the need to establish the atmosphere of charm in Moraga but agreed the Town could not limit same type businesses since not all would succeed in terms of the formula-based.

While he supported free enterprise, Commissioner Marnane did not see that anyone would come to Moraga if the restaurants were all fast food, as an example. He commented that in a perfect world there would be a set of guidelines based on common sense, which would provide charming uses that fit a need. He was uncertain what could be done to address the formula-based retail issue and was also uncertain how to address the Community Commercial District as to what rules would apply to the Rheem Area and not another Community Commercial District. In terms of the formula-based businesses, he suggested that common sense would come into play. In general, he stated the Planning Director could make that kind of decision.

Commissioner Schoenbrunner commented that prior to the presentation and having read all of the information, she had been supportive of formula-based as a conditional use, but now after public comment and the discussion she suggested free enterprise should be allowed to take its course and that a concentrated use could be something to require conditional permitting which might take care of the problem. While there were some chains she found attractive and would add to the charm and increase the vibrancy of the Rheem Valley Shopping Center, such as Jamba Juice or Peet's Coffee, she would not exclude formula-based definitions in permitted use.

Commissioner Kline opposed limiting formula-based and what is permitted noting that the Town would not allow a McDonald's, as an example, since drive-ins were restricted.

Commissioner Comprelli pointed out that not only restaurants but banks and other chains were formula-based. He agreed with Commissioner Kuckuk's comments and noted that the market would dictate what business was viable. Characterizing it as formula-based or other constrained condition did not address a viable Community Commercial District and he was uncertain that regulation provided that objective. He did not support a use like a pot store and commented that if there was enough resistance in the community to a specific business, the business would likely not be viable. He suggested that certain types of businesses could be handled through special exceptions, businesses that represented specific challenges, such as to public safety. He was not convinced that the regulations could stipulate whether a business would or would not be successful and if the Town were to restrict another business like an Orchard Supply Hardware (OSH) which could be competitive to another business he did not see as a viable option.

Ms. Brekke-Read noted that concentration was another issue. The discussion was on formula-based and the Commission could regulate certain uses it did not want in the community. As an example, industry was not allowed.

Ms. Brekke-Read suggested that viability was not the issue when discussing formula-based businesses and reiterated the issue of formula-based businesses had come about as a way to address the community's concerns previously identified.

Commissioner Kline found the formula-based regulations too broad noting that most people would think of McDonalds and not See's Candies, as an example. He otherwise did not support regulations that would restrict a concentration of businesses.

Ms. Brekke-Read commented that formula-based businesses had approached the Town occasionally although most of the applications processed by the Planning Department related to residential remodels.

Chair Levenfeld allowed a member of the audience to address the Commission.

Sophie Braccini, a local reporter speaking as a resident of Moraga, commented that most small businesses had stressed the importance of how much individual Mom and Pop type businesses contributed to communities, schools, and local services, which was the reason for the formula-based regulation to protect the Mom and Pops and encourage those uses.

Chair Levenfeld pointed out that Moraga had limited retail space. In her opinion, there was too much retail with a lot of vacant space. Because of that, while she did not recommend limiting formula-based the Town should consider a higher level of scrutiny for the concentration of similar stores. Having lived in neighborhoods where that had been an issue, she noted that some communities had been able to economically incentivize the type of retail or development desired in a community. While Moraga was not in a position to incentivize the mix of uses the community would like to see, through this process the Town might be able to incentivize through administrative and discretionary approval.

Chair Levenfeld supported free enterprise and suggested that the amendments to the Community Commercial District could be a way to get the things the community desired. She would like to consider the concentration of uses since the Town might not be able to get what it wanted in the future if the centers were full of similar uses. She strongly recommended that those retailers who sold regulated substances and products be required to obtain a Conditional Use Permit requiring public input pursuant to proper regulations.

Ms. Brekke-Read asked the Commission to comment on the issue of concentration of businesses whether more information or options that could be considered was desired.

Chair Levenfeld reiterated her opinion that discretionary should be separate from permitted since the Town did not have the ability to use economic development incentives as had other communities. The one incentive that could be used was to make the process easier with a higher level of scrutiny on concentrated uses to allow for a diversity of uses.

Commissioner Comprelli expressed concern that through a higher level of scrutiny the Town could be implying that if that extra level of scrutiny existed the possibility of denial existed.

Ms. Brekke-Read suggested the Commission decide whether it was restaurants, take-out restaurants, or services that the Commission did not want to see an over concentration and whether non-retailers should be identified. She acknowledged that each Commissioner may define that differently.

A straw poll was taken on the philosophy of regulating based on concentration of the type of use limited to the Rheem Area, with a straw poll vote of 4-3.

Speaking to the questionnaire from the City of Fairfax as provided in the March 18, 2013 staff report, Chair Levenfeld commented that she found some of the questions to be positive, which would be positive in response to the Rheem Study, prepared by EDAC, but agreed that some of the questions would not apply to the Town of Moraga.

Ms. Brekke-Read asked the Commission to discuss whether large businesses should have a 2,000 square foot threshold, as staff had recommended. She reiterated the rationale for the staff recommendation to protect small businesses and retain a mix of Mom and Pop stores and chains. She commented that at the direction of the Planning Commission, staff had researched other cities and found that Lafayette also had a 2,000 square foot threshold restriction.

Based on a straw poll whether there was support to regulate a business with more scrutiny based on the fact it was larger than 2,000 square feet resulted in a unanimous vote in support.

Mr. Schnayer commented that there had been multiple studies over the years on shop space in the Town prepared by independent experts in the field with the conclusion that there was too much small shop space for the market.

Commissioner Kline supported some kind of limit, whether 2,000 square feet or not, in that the larger the business the more public input would be desired which was why he was of the opinion a limit should be identified.

Ms. Brekke-Read referenced the standards for permitted uses and the findings staff had prepared as reflected in Attachment G (Sample Standards/Findings for Administrative Use Permits), to the staff report to be rewritten as standards. She suggested perhaps a non-detriment finding would make sense with the non-detriment issued identified as traffic, noise, odor, glare, or a general non-detriment finding. She noted that was a helpful tool for planners and it placed the burden on the applicant to provide evidence of why there was not a detriment use. She affirmed that the language in Attachment A, Section 23B.28.050 Findings for Issuance and Denial and Conditions, would allow input from the Police Department.

Ms. Brekke-Read acknowledged that there was general consensus for the non-detriment finding approach and noted the intent for Attachment A, Section 23B.28.050 to replace Section 8.36.060, Procedures for review of permitted uses, as shown in Attachment C, Draft Amendments to MMC, Chapter 8.36 (Community Commercial District). She also acknowledged that some of the language had been found to be ambiguous. She spoke to the General Plan policies regarding pedestrian orientation and the inclusion of policies in two different places that would apply to the Rheem Area, and asked how those policies should be incorporated into the Zoning Ordinance, either through the purpose statement reflecting the General Plan policies and long-term vision and objectives or to ensure that development standards reflected the General Plan polices, such as walkability.

Chair Levenfeld explained in response to a member of the audience that as the centers changed shape, they should include places to sit and pathways. She noted that the Rheem Center had one pathway connecting to Starbucks and TJ Maxx and the Indian Restaurant. The intent was that the spaces be opened up to walk which was the philosophy of the EDAC sessions.

Ms. Brekke-Read noted that there were regulations in place on the display of outdoor merchandise and in some respects some communities had allowed sidewalk sales which encouraged people to walk around. There had been discussions in the past that restaurants would be prohibited if they did not also include outdoor seating, which could be something to consider since that would inject charm into the community. In this case, she asked the Commission whether it would allow outdoor seating absent a use permit or standards in place which would not require a public hearing. She asked whether the Commission would allow the outdoor display of merchandise suggested that General Plan language could be inserted into the purpose statement and in the standards to allow outdoor seating subject to standards. She reiterated that the outdoor display of merchandise currently required a Conditional Use Permit.

On the discussion, by consensus the Commission determined that outdoor display be allowed subject to standards which could be approved administratively.

Chair Levenfeld commented that EDAC had also prepared language that would be beneficial to include in the purpose statement which she did not have before her at this time but could later provide to staff.

Ms. Brekke-Read also referenced banks, offices, service commercial, theater, and residential in the commercial area and asked of the Commission's opinion on those uses, whether permitted or conditional.

By consensus, the Commission determined that offices be permitted on the second floor but conditional on the ground floor; mixed use projects not be discouraged but require a Conditional Use Permit; banks be administratively approved and permitted if under 2,000 square feet and did not have a drive-through; and residential required a Conditional Use Permit.

Commissioner Kline asked for guidance from staff in the future as to whether the 2,000 square foot threshold should be increased.

Commissioner Schoenbrunner suggested the threshold be increased beyond 2,000 square feet if the intent was to encourage more Mom and Pop businesses which could be larger than 2,000 square feet and up to a maximum of 5,000 square feet.

Chair Levenfeld asked that staff return with a site map to show how many small spaces remained in the Rheem Valley Shopping Center.

Ms. Brekke-Read commented that Page 4 of Attachment C, Section 8.36.030, Conditional uses, included a list of the conditional uses allowed in the Community Commercial District. She asked whether any other conditional uses should be added or excluded.

Commissioner Kline recommended the addition of outdoor sidewalk sales as previously discussed.

Commissioner Kuckuk recommended consideration of a "not allowed" list of uses, uses that were either permitted, conditional, or not allowed rather than a list of conditional uses that might not include everything, which would ensure that everything was clear, clean, and not confusing. She recommended the prohibition of industrial and sheet metal type businesses.

Ms. Brekke-Read recommended that cabinet shop be eliminated from the list since it was manufacturing.

Chair Levenfeld asked if those uses were removed if the same changes would apply to the other shopping center in the Town or if it was just for the Rheem Area. She did not want to create a competitive problem for one shopping center over another.

Ms. Brekke-Read suggested that was another discussion for a future meeting.

Commissioner Comprelli suggested that the two shopping centers in the Town were different. He characterized the list as a placeholder and suggested that some of the uses on the list were not necessarily ones that would provide charm for the Town.

Ms. Brekke-Read recommended a complete redraft of the ordinance so that it would be completely different with a completely different list of conditional and permitted uses based on input from the Planning Commission and the community, and recommended the exclusion of manufacturing activities.

Chair Levenfeld asked that the list of conditional uses include regulated substances with the language EDAC had recommended, particularly related to marijuana, guns, and cigarettes.

Commissioner Onoda liked the Lafayette model that had been provided in terms of the list of conditional uses.

Commissioner Kline spoke to the previous discussion about combining two stores and clarified with staff that had been addressed on Page 8, Section 8.36.060 Procedures for review of permitted uses.

The Commission discussed combining two or more storefronts. There was no consensus at this time to add that to conditional uses with the request for a map of the existing small spaces in the Rheem Valley Shopping Center to possibly assist in that discussion to allow a more informed decision.

Commissioner Marnane commented that measuring the noise level at the border of anything was not a completely useful exercise in that most noise complaints were from noise through the area bouncing off buildings. He recognized that sound carried and that there were noise concerns in the community.

Chair Levenfeld stated that many of the recommendations from EDAC had to do with upgrading the facility such as improving the landscaping. She emphasized that she did not want to discourage business but asked whether there had been any conversation to potentially improve the appearance of the Rheem Valley Shopping Center property. She suggested that should be part of the discussion as well.

Ms. Brekke-Read explained that the Town had done everything it could to streamline the process for the Rheem Valley Shopping Center but had not discussed capital improvements although in comparison the property located across the street from the center included requirements for major landscaping improvements. She commented that in speaking with her planning staff in terms of design review and the scenic corridor, there was an added level of review. In her opinion, it would make more sense for the residential portions of the scenic corridor to include standards allowing an over-the-counter permit to be issued administratively. The same criteria could be considered for signage although she was uncertain how that could be accomplished for permitted uses.

VIII. ADJOURNMENT

On motion by Commissioner Kline, seconded by Commissioner Onoda and carried unanimously to adjourn the Planning Commission meeting at 9:55 P.M.

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Secretary of the Planning Commission

