

**TOWN OF MORAGA  
PLANNING COMMISSION MEETING**

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

July 15, 2013  
7:00 P.M.

**MINUTES**

**I. CALL TO ORDER**

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

**ROLL CALL**

Present: Commissioners Kline, Kuckuk, Marnane, Onoda, Schoenbrunner, Vice Chairperson Levenfeld

Absent: Chairperson Comprelli

Staff: Shawna Brekke-Read, Planning Director  
Ellen Clark, Senior Planner  
Pierce Macdonald Powell, Senior 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**

Denise Coane, Moraga, a resident of Moraga County Club, stated that Moraga Country Club would have visibility of the City Ventures project with many in the neighborhood trying to grasp the project and understand the relationship to the Moraga Center Specific Plan (MCSP) area. She asked whether the project was part of the One Bay Area Plan, and asked what would be the best way for a large group of the community to express its concerns with the development.

Vice Chairperson Levenfeld encouraged homeowners to contact the Planning Director directly with any inquiries related to the City Ventures proposal. She was uncertain when the project would again be presented to the Planning Commission. She also encouraged residents to sign up on the Town's e-mail subscriber's list to be apprised of upcoming agenda items.

Planning Director Shawna Brekke-Read suggested another opportunity for the public to be apprised of projects in the Town would be to sign up for the About Town Newsletter.

### III. ADOPTION OF THE CONSENT AGENDA

#### A. Adoption of Meeting Agenda

On motion by Commissioner Marnane, seconded by Commissioner Onoda and carried unanimously to adopt the Meeting Agenda, as shown.

### IV. PUBLIC HEARING

#### A. 425 Moraga Road

Applicant: Nick Ghassem, 425 Moraga Road, Moraga, CA 94556

Proposed Application: Proposed Conditional Use Permit Amendment (UPA-02-13) to Conditional Use Permit (UP-13-11), to establish and operate an expanded convenience store, oil change bay, an automatic drive-through carwash, and outdoor vacuum air station at the existing vacant service station facility at 425 Moraga Road. The proposed Conditional Use Permit Amendment would allow a smog check station instead of an oil change facility in an existing service bay. Categorically exempt pursuant to Sections 15301 and 15305 of the California Environmental Quality Act (CEQA) Guidelines ("Existing Facilities" and "Minor Alterations in Land Use Limitations," respectively). (LC, EMC).

Senior Planner Ellen Clark presented the application for a proposed Conditional Use Permit Amendment (UPA-02-13) to Conditional Use Permit (UP-13-11), to establish and operate an expanded convenience store, oil change bay, an automatic drive-through carwash, and outdoor vacuum air station at the existing vacant service station facility at 425 Moraga Road. The proposed Conditional Use Permit Amendment would allow a smog check station instead of an oil change facility in an existing service bay. She reported that the applicant now preferred to open a small "test only" smog test station to be located in one of the two previously approved bays. Since the previously approved use permit had specified the use of one of the bays for oil change use, a Use Permit Amendment was required.

Ms. Clark advised that the applicant had stated that no exterior or interior changes would be required as part of the Use Permit Amendment to accommodate the test only station other than the use of small equipment, with no venting required for the interior of the building. As a test only station, the facility would be allowed to conduct emissions testing only and not perform any other engine repairs or adjustments.

Ms. Clark noted that smog test stations were heavily regulated by the California Bureau of Automotive Repairs which dictated how such facilities operated, how the testing protocols were run, imposed a set of procedures to be followed, and registered how small smog test facilities were to be licensed with the State.

The previously approved use included an extensive list of conditions which had addressed issues of concern raised by the Planning Commission and members of the public, primarily related to noise, on-site circulation of vehicles, pedestrian and vehicle traffic generated by the facility, and parking on-site. Staff had determined the smog test station would be similar to an auto-oriented service such as an oil change use; the smog test facility would be similar in character and function to the previously permitted use; and there would be no reason to conclude that additional traffic, noise, or parking issues would be generated beyond what would have been associated with the previously approved oil change bay.

Ms. Clark reiterated there were a number of conditions that had applied to the previous project which would apply to the new facility; some of the conditions had been re-specified in the resolution related to noise attenuation monitoring for the air vacuum, and exterior design review for signage and colors. The exterior materials, colors, and lighting had been reviewed and approved by the Design Review Board (DRB) and would not change as part of the approval. Additional conditions related to the hours of operation, car wash, service station, and parking.

Ms. Clark added that conditions had also been recommended to require a smog "test only" station; no automobile repairs would be allowed; the applicant would have to comply with the standards of the State Bureau of Automotive Repairs which specifically disallowed exterior servicing of vehicles outside of the service bay itself; and signage would be limited to what was allowed by the Moraga Municipal Code (MMC). Subject to the additional conditions and the previously approved conditions of approval, staff was of the opinion the findings could be made to approve the Conditional Use Permit Amendment and recommended approval to allow the smog test only station in place of the previously approved oil change facility.

Responding to the Commission, Ms. Clark spoke to Attachment A, the draft resolution, in the staff report dated July 15, 2013, and clarified that the whereas clauses contained in the resolution related to the use permit. The design review issues had not been referenced; however, it would be up to the Planning Commission to decide whether it wanted the design issues to be referenced in the resolution.

In response to Commissioner Kuckuk regarding the design review condition that the vacuum air station be located in an area with the least off-site noise, Ms. Brekke-Read explained that the condition had been imposed in February 2012 when the applicant had been going through sound studies at that time. Condition 8, as shown on Page 8 of the staff report referred to the DRB conditions of approval. She acknowledged that a whereas clause could be added to the resolution to state: *Design Review Board reviewed and approved the project and modifications on a specific date.*

Commissioner Kuckuk acknowledged that since the resolution included conditions of approval referencing the DRB review and approval subject to conditions that would satisfy her concern.

## PUBLIC HEARING OPENED

Nick Ghassem, Property Owner, 425 Moraga Road, Moraga, commented that there had originally been a sign on the building for smog check. He alluded to the fact that his original architect had made a mistake in proposing the oil change service; clarified he did not want to provide oil change services since it involved air pollution and potential safety hazards; and suggested the smog check services would be clean, involve no impacts, and would be compatible with the convenience store and car wash components of the facility.

## PUBLIC HEARING CLOSED

When asked, Mr. Ghassem clarified that when the smog check services were provided automobiles would be located completely inside the bay, with the vehicles to be placed on a specific system for the smog check test when the bay door would be open in the front. He added that the smog check computer system was noiseless, clean, and sophisticated. He recognized there was another smog check facility in Moraga, spoke to his history with other service stations having been with British Petroleum (BP) in 1986 at which time he had been recognized as having the cleanest station and best customer service in the State, and was confident in his business model and in the success of the proposed business.

On motion by Commissioner Marnane, seconded by Commissioner Onoda to adopt Draft Resolution next in number to approve Use Permit Amendment (UPA-02-13), which amends Conditional Use Permit (UP-13-11), pursuant to Moraga Municipal Code Section 8.40.030, to establish and operate an expanded convenience store, smog check station, automatic drive-through carwash, and outdoor vacuum air station at the existing vacant service station facility at 425 Moraga Road, subject to the findings and conditions of approval as shown. The motion carried by the following vote:

Ayes: Kline, Kuckuk, Marnane, Onoda, Schoenbrunner, Vice Chair Levenfeld  
Noes: None  
Abstain: None  
Absent: Chairperson Comprelli

Vice Chairperson Levenfeld identified the 10-day appeal process of a decision of the Planning Commission to the Town Council in writing to the Town Clerk.

### **B. 337 Rheem Boulevard -**

**Applicant:** Gayle Somers, 460 Center Street, #6237, Moraga, CA 94570  
**Proposed Application:** Proposed Use Permit Amendment (DI3-17/UPA-01-13) modifying Resolution 05-12, for a Café and a Salon to modify permitted uses, increase total number of café and restaurant seats, change operating hours, add beer and wine service, add music and entertainment, and add off-site catering and on-site private events. Categorically exempt pursuant to Section 15301 (a) and (g) of the CEQA Guidelines ("Class 1, Existing Facilities"). (CC,PMP).

Senior Planner Pierce Macdonald Powell presented the staff report dated July 15, 2013 for Use Permit Amendment (DI3-17/UPA-01-13) modifying Resolution 05-12, for a Café and a Salon to modify permitted uses, increase total number of café and restaurant seats, change operating hours, add beer and wine service, add music and entertainment, and add off-site catering and on-site private events. She reported the project had initially been approved for Henry Chao in 2012 for a use permit for café with outdoor seating, salon, and restaurant space which had formally operated as Mondello's Restaurant. On April 23, 2013, the DRB approved signs, landscaping, and exterior modifications associated with the approved new uses. The café approved in 2012 would have provided coffee, espresso drinks, juices, smoothies, and prepared foods like bagels and coffee cakes. The café would have employed four full-time employees, three part-time employees; a maximum of two employees and a minimum of one employee would have worked at any one time. The business would have operated between 8:00 A.M. and 6:00 P.M., Monday through Sunday, and would have seated 15 inside and 36 outside for a total of 51 seats; however, no building permit had ever been issued for those improvements and no business had occupied the tenant space.

Ms. Macdonald Powell described the new application for Home/made kitchen café and bakery which project included some aspects of the proposed café and some aspects of a restaurant with the preparation of foods and cooking. The new applicant would occupy 1,800 square feet used by the former Mondello's Restaurant, new tables, counters, and other seating area; a total of 10 employees, half would be part-time and half full-time employees; the business would operate between 6:00 A.M. and 7:00 P.M., Monday through Friday, and 7:00 A.M. to 4:00 P.M. on Saturday and Sunday. The proposed plans identified comprehensive kitchen and bathroom renovations to accommodate the new use as well as changes to the floor plan, layout for seating, cashier, counter area, and equipment.

The application specified seating for 55 to 60 people, although the applicant expected no more than 40 customers at one time. The project plans had shown seating for 29 people indoors and the outside patio had shown seating for 36 people with bench walls included in the seating count.

Ms. Macdonald Powell clarified that Page 7 of the staff report had shown a total of 32 seats in the outdoor patio area, which should be corrected to read 36 seats for a total of 65 indoor and outdoor seats. The project would also include minimal changes to the exterior of the building including window changes, lighting, and a new awning with printed business identification signage on the awning.

Ms. Macdonald Powell recommended a condition of approval requiring DRB review of the proposed exterior modifications pursuant to Chapter 8.72 of Chapter 8.88 of the MMC. She identified the key issues with the application as outlined in the staff report including an analysis of the Use Permit Amendment, and required parking particularly as it related to the high parking needs during the evening hours to accommodate 24-Hour Fitness.

Ms. Macdonald Powell noted that when 24-Hour Fitness had been approved, the Rheem North Center area had contained adequate parking to accommodate the estimated number of patrons because of a reciprocal parking easement amongst all of the property owners who shared the shopping center parking lot. The Town had applied the MMC General Retail Commercial Standard of one parking space for each 250 square feet of gross floor area for 24-Hour Fitness, although by contrast other cities had higher parking requirements for fitness facilities and health clubs requiring one space per 100 square feet of gross floor area to one space per 4 person building capacity. She suggested the parking standard difference could be contributing to the parking issues the center was currently experiencing. She added that in 2012, the Planning Commission had approved the proposed salon and café use at 337 Rheem Boulevard.

Ms. Macdonald Powell advised that a parking study had been prepared showing the 2012 approval for the café and salon with an estimated deficit of 71 parking spaces, which was aggregate parking with no variables for combined trips or uses. With the proposed use, the parking deficit would be 73 parking spaces, which she also identified as a correction in the staff report. As such, the parking requirement would go from 21 spaces for the proposed use to 22 parking spaces.

Ms. Macdonald Powell explained that the applicant also proposed outdoor dining, and a number of conditions of approval had been placed on the 2012 approved project regarding the storage of materials outdoors. She recommended the retention of many of those conditions of approval and noted that the applicant proposed to add off-site catering, and on-site private events, with deliveries associated with those uses to be conditioned particularly as related to the use of the kitchen during the evening hours. A condition of approval had been recommended to require *No deliveries, no use of the kitchen, and no events shall be allowed beyond 10:00 P.M. to 6:00 A.M.* The applicant also proposed to add music and entertainment; the prior project approved in 2012 had prohibited music or any events beyond acoustic music inside the café. The applicant proposed live and recorded amplified music and entertainment until 9:00 P.M. She recommended that indoor music be permitted but music on the outdoor patio not be approved by this Use Permit Amendment but be allowed on a case-by-case basis with a special professional event permit, as allowed through the MMC, which would allow applicants to hold special or private events which needed some entertainment on a case-by-case basis without creating an entitlement running with the land.

Ms. Macdonald Powell added that the project approved in 2012 had not included the sale of beer and wine or any other alcoholic beverages. The current applicant proposed to sell beer and wine. She recommended a condition of approval requiring that the applicant secure all permits and licenses from the California Alcoholic and Beverage Control (ABC) Board consistent with on-premises consumption of beer and wine with food, and that the approval specify that no alcoholic beverages shall be served on the outdoor patio after the end of café/restaurant hours of operation unless the applicant obtained approval for a short-term promotional program pursuant to Section 8.148.050.

Ms. Macdonald Powell reported that some of the project plans still indicated a salon use, and she clarified a salon use had not been proposed at this time; if the plans were approved by the Planning Commission that would need to be corrected. She also reported that staff had been contacted by a member of the public regarding the application as to the parking adequacy although that person had not submitted a letter for Planning Commission review. In addition, she made a correction to Page 1 of the staff report and clarified that the project application number was *UPA-1-13* not *UPA-02-13* as shown on the agenda.

Ms. Macdonald Powell advised that prior to the public hearing staff had distributed a revised draft resolution. She noted that Condition 12 of the initial resolution had required DRB approval prior to issuance of a building permit, which would not work with the applicant's timeline. She recommended a new Condition 29 in place of Condition 12 to read:

29. *Prior to final inspection of building permit for tenant improvements approved herein, the applicant shall submit plans for the exterior modifications and signage to the Design Review Board for review and approval, and the applicant shall have obtained Design Review Board approval for any exterior modifications.*

Condition 19 revised to read:

19. *All storage of materials and sales displays shall be entirely within the building structure. The display of outdoor merchandise, storage, and advertising, including but not limited to wording or advertising on the outdoor umbrellas, shall be prohibited. Business shall be permitted to display one temporary sign for two periods of no more than fifteen (15) consecutive calendar days each year, such as upon business opening, subject to planning department review and approval.*

Condition 23 revised to be consistent with the hours of operation as requested by the applicant as follows: *6:00 A.M. to 7:00 P.M., Monday through Friday; 7:00 A.M. to 4:00 P.M. on Saturdays through Sunday.*

The first sentence of Condition 5 was revised to read:

*The plans for a building permit shall be substantially in conformance with the plans stamped and entitled "Official Exhibit, July 15, 2013, Planning Commission" and approved by the Planning Commission on July 15, 2013.*

Responding to the Commission, Ms. Macdonald Powell spoke to Condition 22 and clarified the applicant had requested, as part of the Use Permit Amendment, the ability to hold special events for organizations and members of the public, which would operate beyond the normal hours of operation of the café.

The project description had specified the events would be held once every month and would not require a special permit. Music beyond the operating hours of the café would require a special event permit. It was also clarified that the total number of parking spaces in the Rheem North Center area included the Saint Mary's College (SMC) campus although SMC had not been holding classes in the facility.

Ms. Brekke-Read affirmed the approval ran with the land and SMC had a use permit to allow for class facilities requiring a more intensive parking need. She understood that many people had found ample parking at that location of the shopping center although many had preferred to park closer to the entrance at 24-Hour Fitness.

Ms. Macdonald Powell highlighted a study of uses internal to the lot and based on the hours of operation as proposed and as related to the existing cleaners, Chef Chao's Restaurant, and the proposed use.

#### PUBLIC HEARING OPENED

Gayle Somers, 460 Center Street, #6237, Moraga, Operator for Home/made kitchen café and bakery, introduced her partner in the business. She acknowledged the end of the parking lot where the business would be located was small and appeared to always be occupied by patrons of 24-Hour Fitness. She described her business as specializing in breakfast, lunch, and the daily preparation for complete dinner specials to be packaged and made available fresh daily to be located in a small retail area of the café. A full-service coffee bar would be included with all types of coffee and an espresso machine, as part of an open kitchen concept, with small counter space and views into the café and bakery. Her partner was a pastry chef, and another individual who had provided baked goods for the Hacienda Café would also provide baked goods for this location. Made to order donuts would also be provided as would other baked good items as dictated by the market.

Speaking to the outdoor space, Ms. Somers commented that it was something that the public and she was excited to provide. She understood the staff report had identified concerns with views of materials being stored in the outdoor patio area given the location within the scenic corridor but noted there was no other location to store outside patio furniture. She expressed her hope that would not become an issue. She advised that the tables, chairs, and umbrellas to be used would be extremely tasteful, and she cited the plans with no changes to the building footprint other than modifications to the windows, awning, and signage to improve the aesthetics of the site.

Ms. Somers explained that Mr. Chao, the property owner, had been willing to work with her on whatever color she desired for the building, and they were considering a color in keeping with their media. The awnings would be black with clean white lettering with the business name clearly on the front and the side exposed to the parking area. As to the music and entertainment portion of the application, she explained the intent to use local products and suppliers within a 50-mile radius of the Town, with some sort of celebration for the grand opening through the use of local entertainment.

Ms. Somers stated she had also hoped to have such entertainment occur once a month, which was intended to be community centric during the evening dinner hour. She would also like to allow for special events to be available to the public. As to the sale of beer and wine, she noted the intent to apply for a renewal of the ABC license used by Mondello's Restaurant and to feature Lamorinda winemakers.

Ms. Somers understood the conditions of approval, as revised, and expressed the willingness to comply with those conditions; understood a separate permit would be required for special events; emphasized they had not really intended to serve dinners but with their specialty breakfasts and lunches would provide a good quality packaged dinner that could be picked up and taken home. As to the hours of operation, the hours of operation as identified by staff would be acceptable with the intent to be competitive, particularly on Mondays through Fridays.

Henry Chao, the property owner, 343 Rheem Boulevard, Moraga, was excited, supported the business, and expressed his hope the business would be successful in Moraga. As to the parking in the center and as the owner of the Chef Chao Restaurant for the past 33 years, he explained that since 24-Hour Fitness had occupied the center parking had become an issue. He noted that he, the operator of the former Mondello's Restaurant, and Edy Schwartz had met with the manager of 24-Hour Fitness to discuss the parking issue, and had ultimately agreed that signage was needed to address the parking. He presented the Planning Commission a photograph of signage which had stated "Restaurant Customer Parking from 4:00 P.M. to 7:00 P.M." for 20 parking spaces; however, a year after the signage had been installed a new manager for 24-Hour Fitness had the signage removed.

Mr. Chao pointed out there was ample parking in the common area near the SMC campus, particularly during the evening and oftentimes at lunch, although patrons of 24-Hour Fitness preferred to park near the entrance to that facility. He urged the Commission to support and approve the applicant's request.

Kathe Nelson, representing the Moraga Chamber of Commerce, spoke to the community's need for products such as those supplied by the applicant. She endorsed the proposal and expressed her hope the Commission would approve the application and allow the business to proceed.

Edy Schwartz, Moraga, stated that she had been involved in the Moraga business community for six years and had worked hard to develop and support local businesses. She referenced the discussions in the community of the types of businesses the citizenry desired, and suggested there had been some movement in that effort over the past couple of years. She noted that the applicant had also opened the Hacienda Café at the Hacienda and had offered the community a more upscale café through a nice presentation. She suggested the applicant's business model was something the community had requested.

Ms. Schwartz otherwise commented that while there was parking on the SMC campus side of the center, parking remained an issue particularly for seniors and had led to the failure of the former Mondello's Restaurant. She too spoke to the background of the discussions that she, Mr. Chao, and a former manager of 24-Hour Fitness had been engaged to resolve the parking situation, which had led to the installation of signage; however, new management at 24-Hour Fitness had removed the sign. She suggested there was a way to resolve the parking situation, suggested if SMC used its parking appropriately and shared some of its frontage with 24-Hour Fitness that could free up some of the parking. She had been trying to contact 24-Hour Fitness to further discuss the parking situation and while she recognized it was not a Town problem reported that those efforts had been unsuccessful. She expressed her hope that Town staff along with 24-Hour Fitness, Mr. Chao, and SMC, would be able to discuss and resolve the parking issues.

Bob Giomi, 7 Dolores Court, Moraga, explained that his residence was located behind 24-Hour Fitness. He recalled when the business had obtained its permit noise impacts were to be addressed. As such, he expressed concern with the subject applicant's plans for outdoor music and entertainment. He reported that he had met with Ms. Somers when she had first opened the Hacienda Café, was pleased with her enthusiasm, and liked the plans for outdoor seating, but expressed concern with the potential noise impacts from music and entertainment and urged that music and entertainment to be regulated by Town permits given that sound bounced off walls and buildings impacting adjacent residents. He did not want additional noise impacts from the subject use to negatively impact the nearby residents.

Ms. Somers clarified the intent of the evening events, which would not be exclusive to music events, and which was not part of the business model but intended to provide music for the grand opening or occasional special event. If special events gained popularity and occurred more than once a month, she did not expect many to include live or amplified music. She planned to have something similar to Chef Chao's, which had indoor background music with nothing playing outside.

As to the parking issues, Ms. Somers observed that the parking lot in front of 24-Hour Fitness was full all the time. She expressed concern her customers would not have adequate parking and expressed her hope there would be some way to allow for her customers to park and easily access her business.

#### PUBLIC HEARING CLOSED

Commissioner Marnane appreciated the comments from Mr. Chao, stated that he patronized Chef Chao's, and typically parked at the far end of the parking lot and walked to the site. He asked staff what could be done to address the parking situation.

Ms. Brekke-Read explained that there was a joint shared parking arrangement for the parking lot amongst all of the different property owners in the center which was non-exclusive.

Ms. Brekke-Read noted the need for staff to speak with the management of 24-Hour Fitness, and would be happy to work with Mr. Chao and Ms. Schwartz on the matter, emphasizing that it was all voluntary.

Vice Chairperson Levenfeld suggested that during potential discussions amongst the involved parties consideration of timed parking in some of the parking spaces may also be a way to address the parking constraints.

Ms. Macdonald Powell advised that she had reviewed a prior traffic and transportation analysis for a café of similar size for another business in another jurisdiction, with cafes of this size having a high pass-through generation rate. The report she had reviewed had shown an 80 percent pass-through rate. She commented that if there were 22 parking spaces required, up to 17 could be drivers already going to the shopping center, and the use would not need the aggregate parking requirement, which was a promising trend for the business in the shopping center.

As to permits for special events, Ms. Brekke-Read explained that the requirements had been outlined in the MMC, although businesses were not always diligent in obtaining those approvals from the Town. She emphasized the importance of informing the Town of special events so that the Police Department could also be informed.

Ms. Macdonald Powell clarified that the Zoning Administrator had the authority to approve special event permits; no public hearing would be required although if needed a special event permit may be referred to the Planning Commission for review which would involve a public hearing. The event could last up to 10 days with no required fees for processing. Pursuant to the conditions of approval as contained in the draft resolution, special events which complied with the conditions of approval required the submittal of a rental agreement to staff, and if held indoors and over by 10:00 P.M., would be part of the permitted use. Alcoholic beverages, live entertainment, or more than one event per month if held outdoors and beyond the allowed hours of operation, would require a special event permit.

Ms. Brekke-Read further clarified that the special or promotional event permits were not really permits since they were not being processed by staff with an applicable fee since there was no staff time involved; however, all Departments of the Town of Moraga had been pressured to be full cost recovery and staff would be considering changes to the Zoning Ordinance to address some of the different issues related to uses.

Commissioner Schoenbrunner supported the business as one of the uses desired by the community. She appreciated the comments made by Ms. Schwartz and agreed with the need to have the parking situation be addressed. As a frequent patron of 24-Hour Fitness, she affirmed that many patrons preferred to park close to the front entrance. She otherwise spoke to the layout and flow of the parking lot as one entered from Rheem Boulevard when many of the first parking spaces were always occupied; acknowledged the lot closer to the SMC campus was typically empty although it took some effort to reach the lot given a divide and parking hump, was not paved, and the parking stalls were not clearly defined.

Commissioner Schoenbrunner sought a combination of addressing the logistical issues, a restructure or restriping of the SMC campus lot, and signage with a limited parking time of possibly 15 minutes which would make a tremendous difference to the subject business, particularly for those customers desirous to obtain a quick coffee or dinner. She otherwise recognized it may be difficult to work with 24-Hour Fitness given that it was a large corporation but suggested it was important to make the effort.

Commissioner Onoda stated that she had patronized the Hacienda Café when it had first opened and was delighted with the business. She liked the ideas offered by Commissioner Schoenbrunner to address the parking situation with 24-Hour Fitness but was uncertain how those ideas could be implemented.

Commissioner Kline expressed his support for the draft resolution, as revised by staff. He too agreed with the comments from Commissioner Schoenbrunner and agreed that the parking lot in front of the SMC campus needed to be restriped.

Commissioner Kuckuk also supported the draft resolution, as revised, and suggested the business would be a great addition to the businesses in the Town. As to the parking situation, she agreed it was a concern but also recognized the Town was limited with what it could do to resolve that issue. She expressed concern the application would add to the deficit in parking pursuant to the Institute of Transportation Engineers report but suggested the numbers in the report had been overstated. She suggested the current parking structure had led to the lack of patrons parking on the SMC campus side, and she emphasized it was up to the individual businesses to cooperate to reach a parking restructure or signage plan. She suggested it was important how the traffic entered the space, how vehicles were directed, and if directed over to the SMC campus side there would be more parking which she suggested could be achieved with a restriping of the lot. She also supported short-term parking for food pick-up for Chef Chao and the new business.

Commissioner Kuckuk commented that one of the main concerns with traffic was traffic coming across Rheem Boulevard, which had been an attractive nuisance, with available parking located across the street and with people jaywalking to the center. She suggested that anything that staff or the Chamber of Commerce could do to assist in resolving that situation would be welcome.

Vice Chair Levenfeld also supported the application but asked staff to address the hours of operation which were tied to the property and which may restrict current and future businesses. She emphasized that the difficulties of conducting business in Moraga had been discussed by the public over and over. She asked staff how to address that concern, particularly if the business was a success and wanted to provide dinners in the future.

Ms. Macdonald Powell explained that the way the application had been noticed to the public was as a café restaurant hybrid; if a new business wanted full dinner or a full bar the existing use permit would have to be modified, which would involve a public hearing.

Ms. Macdonald Powell noted that the hours of operation had been requested by the applicant, which was why the conditions had been written as shown.

Vice Chair Levenfeld also spoke to the issue of special events and wanted staff to think forward in that if the community obtained what it really wanted for the Rheem Planning Area it was likely the issue would come up again, such as outdoor events and music in the community in the Commercial Districts. She sought a smooth and easy policy for potential applicants given that the current code was ambiguous. She wanted to see the Town encourage community events in community places. In addition, while she recognized it could not be a requirement of the subject application, she expressed her hope in the future to see a crosswalk in front of the Rheem Theatre to allow pedestrians to walk back and forth safely.

Ms. Brekke-Read commented that since the Corporation Yard was in the process of being remodeled for the Council Chambers staff was in the process of working with a Transportation Planning Consultant and Traffic Engineer as part of the Livable Moraga Road project, which could provide advice on the issue of pedestrian safety between the Rheem Theatre and the Town Offices.

Speaking again to the issue of special or promotional events, Ms. Macdonald Powell advised that the applicant would make such a request to the Town in the form of a letter to the Zoning Administrator with action typically taken within a week to 10 days.

Ms. Brekke-Read added that if the special or promotional event was ongoing, staff had discussed the possibility of modifying the Conditional Use Permit, which would also allow neighbors the opportunity to provide feedback, which had been discussed with the applicant. She noted that the Zoning Ordinance was strict with respect to noise generation.

Vice Chairperson Levenfeld expressed her hope the applicant would also consider gluten free bakery products. She asked Commissioners if they would support a modification to the hours of operation for the café from 5:00 or 6:00 A.M. to 10:00 P.M., Monday through Sunday, which would allow the establishment the ability to choose its own hours of operation.

Ms. Macdonald Powell commented that the only concern with such modification was that there was a project description available to the public when the item had been noticed, which had been specific as to the hours of operation and the potential impacts. She had reviewed neighboring businesses which also operated up to 10:00 P.M. and acknowledged a modification to the hours of operation would be consistent with other businesses in the project vicinity.

By consensus, the Planning Commission supported flexibility and allowed the hours of operation to be modified for the café, from 5:00 A.M. to 10:00 P.M., Monday through Sunday; and with no deliveries between 10:00 P.M. and 6:00 A.M.

Ms. Brekke-Read added, when asked, that lighting would be reviewed and approved by the DRB.

Ms. Somers pointed out that the plans had shown lights on the building but suggested that tea lights on the perimeter of the patio area would also be nice.

By consensus, the Planning Commission determined that outdoor activities be limited to 7:00 P.M., with no music outdoors.

Ms. Macdonald Powell affirmed such direction would be consistent with the description provided to the public prior to the meeting. If the Commission made a motion to approve the project, she asked that the revised conditions staff had identified during the staff presentation also be included.

On motion by Commissioner Kuckuk, seconded by Commissioner Marnane to adopt Draft Resolution next in number to approve Conditional Use Permit to approve the operation of a café/restaurant with outside seating, beer and wine, off-site catering, on-site events, and music with entertainment at 337 Rheem Boulevard, subject to the findings and conditions as shown, and subject to the staff recommended revisions as identified in the July 15, 2013 revised resolution as delineated by staff during the staff presentation; and subject to further modification to Condition 23 to read:

23. *The hours of operation for the café, catering kitchen, and private events shall not exceed the hours starting each day at 5:00 A.M. and ending at 10:00 P.M. daily. No deliveries shall be permitted during the night and early morning hours between 10:00 P.M. and 6:00 A.M. daily. The use of the outdoor patio is hereby restricted to the hours starting at 6:00 A.M. and ending at 7:00 P.M. daily.*

The motion carried by the following vote:

Ayes: Kline, Kuckuk, Marnane, Onoda, Schoenbrunner, Vice Chair Levenfeld  
Noes: None  
Abstain: None  
Absent: Chairperson Compralli

Ms. Brekke-Read identified the 10-day appeal process of a decision of the Planning Commission to the Town Council in writing to the Town Clerk.

## **V. ROUTINE & OTHER MATTERS**

There were no routine and other matters.

## **VI. REPORTS**

### **A. Planning Commission**

Commissioner Marnane reported that he had attended the Liaison Meeting with a report on the Planning Commission's work on setbacks and other MMC modifications; with a representative from SMC pleased the Town was working on design review modifications and had approved all permits for the Alioto Recreation Center. He added that the Fourth of July celebrations had been a success with the fundraising efforts for the fireworks display having made money this year and with the Mayor personally soliciting contributions during the event. He understood the City of Orinda had also collected contributions.

Vice Chair Levenefeld reported that she had attended the July 8, 2013 meeting of the DRB with the DRB having approved an addition for 271 Donald Drive absent landscaping in the side yard or the requirement for a landscape plan for the entire rear yard; and held a discussion on the zoning text amendments to the MMC, as previously presented to the Planning Commission. The DRB provided feedback and wanted to see that item again.

Ms. Macdonald Powell clarified the DRB had eliminated a condition that landscaping be installed prior to the final for the project at 271 Donald Drive but still wanted to see the irrigation, drainage, and plants associated with the irrigation. She added that there would be another community meeting at Moraga Country Club on July 16, 2013 at 5:30 P.M. to discuss the City Ventures proposal.

Commissioners Kuckuk, Schoenbrunner, and Vice Chair Levenefeld expressed the desire to attend the July 16 meeting at the Moraga Country Club..

The Commissioners who had attended the initial community meeting for the City Ventures development proposal at the Moraga Country Club offered a brief overview of the discussion including concerns with traffic at St. Andrews Drive at the intersection of Camino Ricardo and Moraga Way; Association of Bay Area Governments (ABAG) requirements illustrating the need for the Town to better educate the public on the relationship between the MCSP and the ABAG requirements; concerns with three-story buildings and whether the units would be rental properties; questions as to the business plan for the development; how the units would be marketed to the public while also enjoying the privileges of the Country Club; and the anticipated market prices for the units.

Ms. Brekke-Read clarified there would be no Planning Commission or DRB meetings during the month of August.

#### **A. Staff**

Ms. Brekke-Read reported that 5:00 P.M., July 15, 2013 was the deadline for the comments on the Camino Ricardo Subdivision Environmental Impact Report (EIR), with the next step the preparation of Responses to Comments; staff was also in the process of a similar effort with the Bollinger Valley EIR with responses as part of a Master Response, with some areas where additional study would be required and when.

Ms. Brekke-Read noted that all other Town projects were in various stages of activity and Ms. Macdonald Powell had met with the developer for Rancho Laguna II/SummerHill Homes with a General Development Plan and Tentative Map under review to determine consistency with the Conceptual Development Plan. She was uncertain when the project would return to the Commission.

Ms. Brekke-Read added that the Signature Properties proposal for the former bowling alley site had been recommended for a Planning Commission workshop setting to familiarize the Commission with the plans that had been presented in the past based on feedback from the Planning Commission while also recognizing that the makeup of the Planning Commission had changed. She emphasized that staff was working to maintain a schedule of bringing the zoning text amendments to the Town Council at its next meeting at the end of August, and it would be difficult to bring the item back to the DRB prior to that time. The DRB would be presented with a report on the Planning Commission's latest discussions on the setback issue at its next meeting scheduled for July 22, 2013.

Ms. Clark further updated the Commission on the status of the Livable Moraga Road project with an in-house Kick-off Meeting held by staff and the consultant team two weeks ago; with a site visit to be scheduled soon; and with the public process to commence in September. She added that the Planning Commission would be holding a Special Meeting on July 29, 2013 to further discuss the zoning text amendments.

Ms. Brekke-Read reported that July 12, 2013 had been the deadline for the Associate Planner position; 20 applications had been received and staff would commence with the hiring process soon. She described Planning Department staff as dynamic and suggested the Town was fortunate to have staff experienced with making the MMC friendlier.

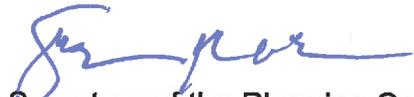
As to the status of the "painted rock" project, Ms Brekke-Read acknowledged an application had been presented many years ago with an environmental determination to prepare an EIR, although the applicant was making some adjustments and would like some feedback from the Planning Department on what the project entailed in terms of what could be allowed. The Town had secured the services of two more planning consultants who would work with the applicant to address issues related to the Moraga Open Space Ordinance (MOSO); whether a piece of land could be re-classified from High Hazard; and whether a development cell needed to encompass areas of corrective grading.

Ms. Brekke-Read further identified the Planning Department's new hours of operation from 9:00 A.M. to Noon, and 1:00 P.M. to 5:00 P.M., with the Town Offices closed every other Friday. The next Town Office closure had been scheduled for Friday, July 19, 2013.

## VII. ADJOURNMENT

On motion by Commissioner Kline, seconded by Commissioner Onoda and carried unanimously to adjourn the Planning Commission meeting at approximately 9:00 P.M. to a Special Meeting of the Planning Commission scheduled for Monday, July 29, 2013 at 7:00 P.M. at the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.

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Secretary of the Planning Commission

