

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

July 29, 2013

7:00 P.M.

MINUTES

I. CALL TO ORDER

Chairperson Comprelli called the Special Meeting of the Planning Commission to order at 7:00 P.M.

ROLL CALL

Present: Commissioners Kline, Kuckuk, Marnane, Onoda, Chairperson Comprelli

Absent: Commissioners Levenfeld, Schoenbrunner

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

Caroline Wood, 26 Hardy Drive, Moraga, expressed concern with the comments a local property owner had made during a recent Town Council meeting about the current makeup of the Planning Commission that she characterized as unfavorable and unkind. In her opinion, the current Planning Commission and Planning Director had an interest in preserving the Town's lands and open space rather than rubber stamping projects.

III. ADOPTION OF THE CONSENT AGENDA

- A.** June 17, 2013 Minutes
- B.** July 1, 2013 Minutes
- C.** Adoption of Meeting Agenda

Consent Agenda Item A was moved to Item V. Routine and Other Matters, as Item B.

On motion by Commissioner Marnane, seconded by Commissioner Kline and carried unanimously to adopt Consent Agenda Items B and C, with Commissioner Kuckuk abstaining from Item B due to absence.

IV. PUBLIC HEARING

- A. Consider adopting the draft Resolution recommending Town Council adoption of **Amendments to Section 2.20.090 (Appointment and duties of Design Review Administrator) of Title 2 and Chapter 8.72 (Design Review) of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code.** Consider proposed text amendments prepared by staff in response to Design Review Board and Planning Commission comments. CEQA Status: Exempt pursuant to Section 15378, Project, of the CEQA Guidelines because "project" under CEQA does not include organizational or administrative activities of government that will not result in direct or indirect physical changes in the environment.

Senior Planner Pierce Macdonald Powell reported that the item had previously been discussed by the Planning Commission on June 17, and July 1, 2013. Staff proposed amendments to the Design Review regulations to give staff additional authority to determine whether a project was minor enough to be exempt from Design Review in Single-Family Zoning Districts; allow certain projects in Non-Single-Family Residential Zoning Districts to be exempt from Design Review; introduce Administrative Design Review for minor projects in Non-Single-Family Residential Zoning Districts; and streamline the design review process in response to comments from residents and applicants.

Ms. Macdonald Powell advised that since the Planning Commission had last reviewed the proposed text amendments, the Design Review Board (DRB) had held public meetings on July 8, and July 22, 2013, and had provided feedback on the staff recommendations. The DRB had offered suggested edits to the text amendments as outlined in the July 29, 2013 staff report, which had been incorporated into Exhibit A, the draft Resolution Recommending Approval of Amendments to MMC Chapter 8.72 Design Review, and Section 2.20.090 Design Review Administrator and draft Design Review Amendment dated July 26, 2013.

Ms. Macdonald Powell identified the staff recommended language modifications to the DRB suggestions as contained on Pages 5, 6, and 7 of the July 29, 2013 staff report relating to story pole plans and public infrastructure projects. The Town Attorney had also reviewed the proposed text amendments and had offered further edits to the structure of the document. This was the sixth public meeting on the draft text amendments. Staff had received e-mail correspondence from Moraga resident Dave Bruzzone on June 10, 2013, and had received additional comments from the public during the Planning Commission and DRB public meetings.

Ms. Macdonald Powell asked that the Planning Commission hold a public hearing, accept testimony from the public, consider and discuss the proposed text amendments, and adopt the draft resolution as contained in Exhibit A to the July 29, 2013 staff report. She clarified the action from the Planning Commission at this meeting would be forwarded to the Town Council for action at a Town Council meeting scheduled for August 28, 2013.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Responding to the Commission, Planning Director Shawna Brekke-Read explained that the text amendments under discussion did not represent a comprehensive revision of Chapter 8.72, since there were some areas where the chapter could be improved or reorganized. Staff was currently focusing on strategic edits, allowing staff more authority to determine what the Town Council, Planning Commission, and DRB intended to regulate. Also, Administrative Design Review allowed staff the ability to administratively process applications in Non-Single-Family Zoning Districts. The Town's Design Guidelines would remain intact.

Commissioner Kuckuk agreed with the purpose of the text amendments, as discussed, and appreciated the purpose statement in the draft Design Review Amendment. She commented that she had not been present during the Planning Commission meeting of July 1, 2013, but had read the meeting minutes. As to the list of exceptions shown under the draft Design Review Amendment, Article 2, Design Review in Single-Family Land Use Districts, Section 8.72.030 Design Review procedures for additions or alterations under Exceptions, No. 7, she noted that with green building and more energy efficiency homeowners were being encouraged to install more light colored roofs which was in conflict with the language as shown. She urged consideration of alternative language or the elimination of the text "light or" in that section.

Ms. Macdonald Powell explained that the exceptions listed in Section 8.72.030 had listed those items that would not trigger design review, with the first seventeen listed exceptions existing exceptions under Design Review.

Commissioner Onoda suggested the text amendments, as presented, which had been reviewed on several occasions, were acceptable.

Commissioner Kline understood that the Town Attorney had reviewed Exhibit A. He referenced Article 1, General Provisions, Section 8.72.020 Purpose, and asked whether Section 8.68.060 Setback Requirements should also be identified in that section. He also spoke to Article 2, Design Review in Single-Family Land Use Districts, Section 8.72.050 Standards for reviewing applications under Section 8.72.030, and asked

whether the provisions contained in Section 8.72.020 Purpose should be included in that same section.

Commissioner Kline preferred to see a better way for project architects to be alerted to those triggers that would mandate DRB review.

Ms. Macdonald Powell explained that the Planning Commission had a resolution listing the criteria and goals for DRB and Planning Commission review, and staff had also conducted review of scenic corridors and did not recommend that section be changed. She suggested the concerns could be considered as part of the larger project the Town would be embarking on to integrate the zoning, goals, and policies of the General Plan. She noted that important documents had been posted on the Town's website along with design review, application materials, and publications, with the Planning Department having worked hard to ensure that information was available to all applicants.

Ms. Brekke-Read commented that it was easier to have the standards outlined in the ordinance as opposed to an appendix to the ordinance. She noted that the criteria for Single-Family was not before the Commission at this time and the Commission may consider continuing the public hearing, offer direction to staff; or move forward with staff directed to present to the Town Council an alternative of including the standards found in Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.080, Standards for reviewing applications.

Ms. Macdonald Powell explained that the intent of Article 1, General Provisions, Section 8.72.020 Purpose, was to include all of the other applicable MMC sections, with land use review as shown in that section to include zoning implementation, variances, use permits and the like. She acknowledged a recommendation to delete the last sentence of Section 8.72.050, which referenced Chapter 8.132.

Chairperson Comprelli suggested that the Commission had covered all of the substantive material during the past six sessions on this subject. He had reviewed all comments and agreed with all of the staff recommendations.

On the discussion of the draft resolution, Ms. Macdonald Powell explained that the Planning Commission may make a motion to adopt the resolution subject to any modification. If the Planning Commission would like the criteria or standards established by the Planning Commission and the DRB in Single-Family Districts, staff would forward that recommendation to the Town Council with a recommendation that the section be codified and placed into that section for the DRB Purpose section. The aspects and standards for reviewing applications for the DRB were also presented to the Commission.

The Planning Commission discussed the inclusion of the DRB aspects and standards for reviewing applications for the DRB, to be included in Section 8.72.080 standards for reviewing applications.

On motion by Commissioner Kline, seconded by Commissioner Kuckuk to adopt a draft Resolution to Amend Chapter 2.20.090 (Design Review Administrator) and Chapter 8.72 (Design Review) of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code, subject to the following amendments:

- Page 3, Article 2, Design Review in Single-Family Land Use Districts, Section 8.72.030 Design review procedures for additions or alterations, B, Exceptions, 7, delete the use of the text "light or;"
- Page 1, Article 1, General Provisions, Section 8.72.020, Purpose, add to the first paragraph "Section 8.68.060, Front and Side Yard Setbacks Established Under County Zoning;"
- Page 5, Article 2, Design Review in Single-Family Land Use Districts, Section 8.72.050, Standards for reviewing applications under Section 8.72.030, include the list of existing criteria; and
- Page 5, Article 2, Design Review in Single-Family Land Use Districts, Section 8.72.050, Standards for reviewing applications under Section 8.72.030, delete the last sentence.

The motion carried by the following vote:

Ayes: Kline, Kuckuk, Marnane, Onoda, Comprilli
Noes: None
Abstain: None
Absent: Levenfeld, Schoenbrunner

- B. Consider and discuss proposed amendments to the **Moraga Municipal Code (MMC) Section 8.68.060, (Lot Size, Yard and Setback Requirements)** of Title 8, Planning and Zoning, of the Town of Moraga. (No action will be taken on this item). CEQA Status: Exempt pursuant to Section 15378, Project, of the CEQA Guidelines because "project" under CEQA does not include organizational or administrative activities of government that will not result in direct or indirect physical changes in the environment, and Section 15061(b) (3) of the CEQA Guidelines, which allow an exemption where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Senior Planner Ellen Clark reported that the item was a continuation of a series of meetings held in June and July on potential clarifications to MMC Section 8.68.060 (Lot Size, Yard and Setback Requirements) of Title 8, Planning and Zoning, of the Town of Moraga. The item had originally been considered as a public hearing with the Planning Commission to make potential recommendation to the Town Council; however, at the recommendation of the Town Attorney, draft language had been provided to the Planning Commission in a draft form for review and comment, with the item to be

brought back to consider how the language would mesh well with the Design Guidelines and to ensure there were no conflicts. The intent of the revisions was to clarify and better define the implementation of the provisions for front and sideyard setbacks, which language had been found to be confusing, unclear, and interpreted differently by staff and others, causing difficulty for staff and applicants.

The Planning Commission and the DRB had discussed the item in June and July and had offered significant guidance on a number of topics, and on the four options staff had offered as potential approaches, as outlined in the July 29, 2013 staff report.

Ms. Clark identified the comments from the Planning Commission and the DRB on the four options, with the DRB having identified support for Option B during its July 22, 2013 meeting. Based on the direction from the Planning Commission and the DRB, staff had developed draft language as identified in Attachment A, Draft Proposal to Review MMC 8.68.060 Front and Side Yard Setbacks Established Under County Zoning. She recommended that the Planning Commission hold a public hearing, accept testimony from the public, consider and discuss the proposed amendments to the MMC, and provide direction to staff to prepare a draft ordinance amending MMC Section 8.68.060 of Title 8, Planning and Zoning, of the Town of Moraga MMC.

PUBLIC HEARING OPENED

Sean Sherwood, Moraga, was uncertain his residence adhered to the Town's current setback regulations although he understood the current proposal would limit his ability to add onto his property. He supported language that was identical or consistent with existing language for additions regardless of whether in the county or Town setback.

Lisa Crouch, Moraga, echoed the concern of the previous speaker, noted her property had been built in 1964, she would like to build a small addition, but had been informed her home fell within the old guidelines.

Ms. Clark clarified that the proposed language under consideration would not prevent the types of additions the two homeowners had proposed, although second story additions would require design review.

Dave Bruzzone, Moraga, referenced comments submitted during previous Planning Commission hearings and understood the intent to make it easier for existing residents to add onto their homes consistent with the rules when the property had originally been built. He emphasized the importance of allowing and encouraging residents to improve their neighborhoods; opposed the imposition of artificial restrictions that would make the process more difficult; explained that when the Town had incorporated in 1974 the ordinance had specified if a home had been built on that date or before it would be allowed to build to the county standards; Moraga's first General Plan had been enacted in 1979, and its first Zoning Ordinance had been established in 1980; expressed concern with unfairly imposing conditions on homes built after 1974; and asked for the number of homes built after the Town's incorporation.

Judy Dinkle, Moraga, a local residential designer and builder, thanked the Commission for the effort to clarify the MMC. She urged the Commission to consider changing the language of the proposal for the extension of existing side setback walls for additions at 20 lineal feet or 50 percent of the original structure, emphasizing that design review was always an option, if needed. She also supported a 10-foot setback for all buildings constructed prior to 1974.

Steve Forster, Architect, Pleasant Hill, thanked staff for all the hard work to address the issue. He reported that he had been involved in the completion of many successful projects in Moraga, all of which had been carefully reviewed by planning staff with no neighbor objections, and all homes built to previous county standards of R-10 and R-15, which included 80 percent of the rest of the sites in Moraga which followed the context of previous zoning in lot width, lot size, and current setbacks. He encouraged the Planning Commission to adopt Option A allowing residential additions to follow the old county zoning setbacks, suggested the criteria had been well written, but asked that the walls be allowed to extend at least 20 feet, and suggested that extending a wall over 14 feet would be excessive since most of the older homes had been built with an eight- or nine-foot plate where a nine- or ten-foot wall would be appropriate.

Shannon Zwakman, Moraga, thanked staff and the Planning Commission for consideration of the item and stated she had previously addressed the Commission at its June 17 meeting and had submitted written comments at that time. She reported that this time last year she had been in contract to purchase her home on Scofield Drive. At that time, she had conducted due diligence on the Town's setback requirements and the potential for expansion and additions. She had been informed by planning staff at that time that her property was located in Zone 1, built under the county zoning, and must comply with the R-15 building setback requirements as documented by information she had been provided in writing. Based on that information, she and her husband had purchased their property. It had later come to her attention that her property would be required to adhere to the Town's zoning requirements as opposed to the county's R-15 regulations. Requiring adherence to the Town's regulations would result in significant and negative implications and an increase in the side yard setback from 10 to 20 feet, meaning that she could not add onto her home behind the garage. Had she known this, the home would not have been purchased. She expressed concern the Town's regulations would negatively impact the value of the home and would be a deterrent to those considering moving to and investing in Moraga.

Ms. Zwakman asked the Town to honor the information she had been provided in writing and asked the Planning Commission to uphold the first approach identified by staff. Given the magnitude of the issue and the number of homes that could be affected, she questioned the adequacy of public notification and questioned the appropriateness of the hearing at this time given that many residents were unable to attend due to summer vacation. Since she understood that compliance with the Town standards would be unacceptable in her case, she asked that the Commission approve a policy that would allow the extension of existing lines, suggesting that 15 feet would be too restrictive.

PUBLIC HEARING CLOSED

Based on the comments, Chairperson Comprelli stated it was clear that the message was not getting out to the public; however, he suggested that staff and the Planning Commission had been responsive on this issue and he found that much of the information provided clarification in response to the concerns that had been expressed.

Ms. Brekke-Read reiterated that there was general agreement that the MMC was not clear that homeowners could add onto their homes, and the issue had been brought to the Planning Commission and the DRB on several occasions. This was the first time that staff had language that could be evaluated and staff had hoped to have a resolution to act on to allow for a formal recommendation to the Town Council to allow the Council to take action on August 28; however, there had been complications with crossovers with Chapter 8.72 related to Design Review. She reiterated the purpose and background information related to the subject, identified the criteria and standards for the Planning Commission to discuss, and stated with respect to wall height that a 10-foot wall height made sense although not all second stories required final DRB review and approval. She emphasized that staff was attempting to construct criteria consistent with DRB review and approval requirements. She welcomed input from the Commission.

Ms. Macdonald Powell added that the issue of privacy had not been included in the Design Review Guidelines, and there was a recommendation to preserve the high level of privacy that Moraga residents currently enjoyed.

Commissioner Kline understood that there were two main concerns; not enough people were aware of the discussion although four meetings had already been held between the Planning Commission and the DRB, and the Town was not moving fast enough.

Commissioner Marnane supported Option B, as shown in the July 29, 2013 staff report, which approach required a variance for additions that encroached further into the required setbacks.

Ms. Clark clarified the intent of Options A, B, C, and D; that second-story additions would require a higher level of scrutiny and review; and along with the Planning Director clarified the intent of the criteria and standards for review as shown on Pages 1 and 2 of the draft Proposal to Revise MMC 8.68.060, Front and Side Yard Setbacks Established Under County Zoning.

Chairperson Comprelli found the language in the draft resolution to be nicely written but not in plain English. In this case, he sensed that the public was not of the opinion the Town was being responsive to its needs.

Commissioner Marnane clarified with staff the background of the criteria and standards for review, 2 (a) (ii), as shown. Having reviewed the numbers, he found that the criteria for the scope of construction would not increase the total floor area of a residence more

than 50 percent, an unreasonable figure. He recommended that 20 percent would be more appropriate for a homeowner to build a family room, dining room, or extend a bathroom. If that figure was revised to read 20 percent, he would accept the staff report, as written, and could accept the draft resolution, as revised.

Commissioner Kuckuk reiterated that she had attended the Planning Commission meeting of June 17 but had not been present for the meeting of July 1.

Commissioner Kuckuk commended Town staff on its job of noticing all Planning Commission and DRB meetings while recognizing that summer vacations made it difficult to read all of the material in advance of a meeting. She understood the intent to make the process easier and less onerous for homeowners and pointed out that the way the MMC was currently written variances were required most of the time, which process was prescribed by law, restrictive, expensive, and required a right of special privilege not to be granted to every homeowner. As a result, Town staff had worked to find a process that still met the intent when the Town had been incorporated in 1974 to provide spaciousness and privacy, without forcing everyone through a variance process, which in her opinion should be an exception process.

Commissioner Kuckuk reiterated, as she had stated during the Planning Commission meeting of June 17 that she favored Option B. She was pleased that the DRB favored that option as well. The intent was not to repeal the Town's Zoning Ordinance. She suggested that Option B would enable a home that had been constructed prior to the Town's more restrictive zoning requirements to be renovated, remodeled, and added on as long as the homeowner followed the existing building lines and setbacks as when the home had been constructed, which option she found to be user friendly, which did not mean that a property owner could not request a variance as to why construction should be allowed to encroach further into the setback space.

Commissioner Kuckuk reiterated her support for Option B, as proposed by staff, and recommended that the Commission consider cases where homes had been built prior to the Town's zoning to be allowed to follow the existing building lines.

Speaking to Attachment A, draft Proposal to Revise MMC 8.68.060, Front and Side Yard Setbacks Established Under County Zoning, Commissioner Kuckuk recommended the following revisions:

- Page 1, Findings and Purpose, asked for more elaboration on the background of why the revisions were being made, and the identification of the number of homes affected by the revision;
- Page 1, Findings and Purpose, 2, revise the sentence to read: *It is desirable to allow property owners to remodel and structurally alter their residences even though the structures are not built within the Town's setbacks;*

- Page 1, Applicability, recommended all references to "built after the Town's incorporation" be revised to read whenever the Town's first zoning ordinance went into effect;
- Page 2, Criteria and Standards for Review, 2 (a) Administrative Design Review Required, (i), be revised to read: *The addition would not extend an existing nonconforming building wall(s) by more than 20 feet*;
- Page 2, Criteria and Standards for Review, 2 (a) Administrative Design Review Required, (ii), suggested 50 percent was too high; and
- Page 2, Criteria and Standards for Review, 2 (a), Administrative Design Review Required, (iv), be revised to read: *The addition would not include a wall height of over 10 feet.*

Commissioner Kline stated he had originally favored Option D, which had originally been written differently than now shown. He supported an option that would have amended the MMC, and extended the county setback to all properties built prior to 1974 or when the first Zoning Ordinance had gone into effect. He still favored Option D, but in the interest of moving forward, he could support the staff recommendation for Option B. He recommended the following revisions to MMC 8.68.060, Front and Side Yard Setbacks Established Under County Zoning:

- Disagreed with the recommendation to revise Page 1, Findings and Purpose, as recommended by Commissioner Kuckuk;
- Page 1, Applicability, recommended the first sentence be revised to read: *Provisions of this section shall apply only to existing single-family residences that were built under county zoning regulations, and do not apply to residences built whenever the Town's first zoning ordinance went into effect (November 1974)*;
- Page 2, Criteria and Standards for Review, 2; recommended the statement be revised to read: *May construct an addition that extends existing nonconforming building wall(s) and that encroaches into front or side yard setbacks otherwise required by Title 8 (See Figures 1 and 2), subject to the following limitations and criteria:*
- Page 2, Criteria and Standards for Review, 2 (a), Administrative Design Review Required, (i), revised to read *The addition would not extend an existing nonconforming building wall(s) no further than the front or rear setback*;
- Page 2, Criteria and Standards for Review, 2 (a) Administrative Design Review Required, (ii), supported the 50 percent number;
- Page 2, Criteria and Standards for Review, 2 (a), Administrative Design Review Required, (iv), could support either 10 or 14 feet; and

- Suggested that second-story additions should always require DRB review and approval.

Commissioner Onoda was pleased that homeowners in Moraga wanted to improve their properties, commended staff on the effort, and expressed her hope that everyone would be patient with the process. She commented that she would have supported Option D, but could also support Option B at this time. As to the revisions under discussion for MMC 8.68.060, she supported Page 2, Criteria and Standards for Review 2 (a), Administrative Design Review Required (i), as written; suggested the criteria as shown in (ii) should depend on the square footage of the home although she could support that criteria as written; and also supported (iv), as written.

Chairperson Comprelli commended staff for translating the Planning Commission recommendation for Option B into the proper words but again would support more plain English although the intent was there. He too offered the following revisions to MMC 8.68.060, Front and Side Yard Setbacks Established Under County Zoning:

- Page 1, Definitions, 1, clarified with staff the intent of the use of the term "shall mean" in the definitions for remodel and addition;
- Page 2, Criteria and Standards for Review 2 (a), Administrative Design Review Required, (i), supported a revision from 15 feet to 20 feet;
- Page 2, Criteria and Standards for Review 2 (a) Administrative Design Review Required,(ii), supported the language of 50 percent as written;
- Page 2, Criteria and Standards for Review 2 (a). Administrative Design Review Required, (iv), supported a revision from 14 feet to 10 feet; and
- Expressed his continued support for Option B.

Responding to the Commission, Ms. Brekke-Read clarified that the Town's Floor Area Ratio (FAR) was determined on a sliding scale and there was a floor area limit whereby construction of an addition beyond the FAR would require DRB review and approval of an exception to the Design Review requirements.

Commissioner Marnane referenced Page 2, Criteria and Standards for Review 2 (a) Administrative Design Review Required (ii), stating that he was uncertain how staff would apply the 50 percent criteria on potential applications and also ensure the application met all other criteria.

Ms. Brekke-Read clarified that the 50 percent figure could be an extensive remodel or addition. She pointed out that if an addition met all of the Design Review Guidelines and FAR it would not require DRB review and approval. She reiterated that the 50 percent figure had come from feedback from both the Planning Commission and the DRB during the prior public meetings when discussing this topic; with staff brainstorming on what would be a significant remodel and when more scrutiny would be

required. She asked the Commission to determine whether that regulation should be included in Section 2 (a).

Commissioner Kuckuk suggested that a significantly large remodel should require DRB review and approval, and agreed it would be acceptable to strike that regulation and utilize the FAR regulations; Commissioner Onoda stood by her previous comments, she was not opposed to including the 50 percent regulation; Commissioner Kline understood the purpose behind the regulation to define a substantial remodel but agreed it should be deleted; and Chairperson Comprelli understood the intent of the 50 percent figure as point of reference which required DRB review, he was not uncomfortable with that regulation being preserved but if it was eliminated he would like a better understanding of the intent of Section 2 (a)(vi).

Ms. Brekke-Read expressed the willingness to include a discussion of the intent of additions being required to comply with applicable Design Guidelines in the staff report when the item returned to the Commission along with an analysis of the number of homes that would be affected if 2 (a)(ii) was eliminated.

On motion by Commissioner Kline, seconded by Commissioner Onoda, to continue the consideration and discussion of proposed amendments to the Moraga Municipal Code (MMC) Section 8.68.060 (Lot Size, Yard and Setback Requirements), to a date uncertain. The motion carried by the following vote:

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

Chairperson Comprelli declared a recess at 9:13 P.M. The Planning Commission meeting reconvened at 9:18 P.M. with Commissioners Kline, Kuckuk, Marnane, Onoda and Chairperson Comprelli present.

V. ROUTINE & OTHER MATTERS

A. Study Session: Consider and Discuss Town Council 2013 Goal Regarding Options to Protect Ridgelines from Development and Limit Development in Open Space Areas of Moraga Consistent with MOSO and General Plan Goals and Hillside Development Regulations

Ms. Brekke-Read explained that the intent of the study session was to consider and discuss the Town Council 2013 Goal regarding options to protect ridgelines from development and limit development in open space areas of Moraga consistent with the Moraga Open Space Ordinance (MOSO), General Plan Goals, and Hillside Development Regulations. She commented that any time there were zoning or General Plan changes they must be reviewed by the Planning Commission first through a public hearing with a recommendation from the Planning Commission to the Town Council. This item had not been noticed as a public hearing. The public had been noticed

through the Town's website for Planning Commission agendas or through the efforts of the Moraga Community Network.

Ms. Brekke-Read advised that staff was seeking feedback as to how to address the goal, reporting that the Town Council would also be discussing the topic during its next meeting on August 28, and staff would like to present the Planning Commission's initial feedback at that time. She reported that the July 29, 2013 staff report included information on the Town's regulations and policies on hillsides, ridgelines, and open space, the MOSO Initiative, and the Commission had been provided with information on the Town's numerous General Plan policies regarding ridgelines, hillsides, and MOSO. She offered an overview of the staff report at this time.

PUBLIC COMMENTS OPENED

Roger Poynts, 147 Donald Drive, Moraga, presented the Planning Commission with written correspondence dated July 29, 2013. He identified Exhibit D, a basic résumé contained in his correspondence outlining his experience in designing hillside projects since the 1970's. He commented that he had read the staff report and other associated Town documents on the topic; identified his main concerns with the issue at hand, including the effectiveness of grading and how it would be monitored and the stepping down of homes on hillsides, which he suggested should be considered through the use of natural terrain; and cited the third page of his handout which contained a picture of four shots of homes built after the fire in the Oakland Hills which had large skirt walls that fit the natural terrain. He suggested the MOSO Guidelines were not appropriate in this discussion and may be unconstitutional. He urged the Commission to consider whether to keep MOSO in the review since it could not be changed and emphasized the original MOSO included a law only allowing changes to the initiative through the vote of the people.

Stanley Nielsen, Architect, referenced written comments he had submitted to the Town dated July 25, 2013, copies of which had been provided to the Planning Commission, which he read into the record at this time.

Edy Schwartz, Moraga, suggested the public noticing for the item had been too brief for a subject that was so important. She urged better noticing to the public which should be done far in advance given the importance of the issue. She commented that she was neither for nor against most of the issues but had concerns with the process. She expressed concern with the fact that there had been issues with MOSO, which had been adopted in 1986; referenced Measures J and K considered by the citizenry some years ago both of which ultimately failed; questioned what the population of the Town of Moraga in 2013 wanted other than no homes built on ridgelines; emphasized the importance of such study sessions to solicit input from the public; and stated that many people had moved to Moraga since the adoption of the MOSO Initiative and it was possible many were unaware of MOSO.

Dave Bruzzone, Moraga, expressed concern wasting Town resources. He found the issue to be one that had been discussed and acted upon most recently in 2008, and

had been very destructive and non-productive for the community. He suggested that the contemplated changes from this discussion could preclude specific discussions of actual impacts about a certain development making it difficult for potential developers; pointed out that Measure K proposed in 2008 wanted to preclude any major development and place significant restrictions where it would have been impossible to build a viable project; emphasized the General Plan dealt with all issues impacting the community, including those that sustained the community; commented that the community contained ridgelines all over, some of which contained development; stated the Town of Moraga had incorporated to be able to preserve its single-family housing heritage and any restrictions on the potential Bollinger and Indian Valley developments, as examples, would prevent the last reservoir of single-family housing; and suggested given the numerous issues that concentrating on open space and ridgelines placed the entire General Plan at a disadvantage.

Amelia Wilson, not a resident of Moraga, was pleased the Town would be taking on the ridgelines and open space which affected not only Moraga but its surrounding neighbors.

Suzanne Jones, 1285 Bollinger Canyon Road, Moraga, Preserve Lamorinda Open Space, advised that Preserve Lamorinda Open Space had submitted written correspondence via e-mail this date which had discussed the legislative history of the drafting of General Plan Policy CD1.5 regarding ridgelines, and the General Plan's definition of ridgelines, and how the policy had not been applied in accordance with its intent to extend protection beyond MOSO only defined ridgelines. She asked the Planning Commission to consider ways to clarify the policy to address potential impacts to non-MOSO ridgelines in the future. In addition, she expressed concern in the manner in which slopes had been calculated both in MOSO and other hillside land, and suggested that the major flaw in the current method was that the slope average may be taken over an arbitrarily large area which meant that a slope of any steepness could, in principle, be developed provided there was enough flatter land included in an area of which the average was taken to drive the overall average down below 20 or 25 percent, a major loophole allowing large development on steep slopes. She noted that was also in contradiction to the MOSO measure that voters had passed in 1986, and since that time many slopes in excess of 20 percent had been approved for development on MOSO lands. She urged consideration of the calculation of slopes consistent with the law and language of implementing MOSO.

Referring to another area that needed to be addressed, Ms. Jones spoke to the inconsistency between the MOSO limitations on development of high risk land and the MOSO provision allowing high risk land to be remediated via massive grading projects. She emphasized that MOSO could not be changed absent the vote of the people; although the guidelines not adopted by the people may be amended by the Town at any time, in principle, and should be modified in order to accurately implement MOSO. She agreed that better noticing should be provided to the public to ensure greater participation and to allow comments to be submitted in writing prior to a meeting date.

PUBLIC COMMENTS CLOSED

Commissioner Kuckuk asked that the Planning Commission be provided with copies of excerpts from the minutes of Town Council meetings with respect to the 2013 Goal Setting Session and subsequent meetings when the goals had been adopted, along with the minutes from the Rancho Laguna II development, which she understood had led to this Town Council Goal.

Ms. Brekke-Read commented that she could not recall the specific conversation which had led to this Town Council goal although staff could provide copies of the minutes of Town Council meetings for future discussions. She acknowledged a recommendation to review the minutes of the Town Council meeting of April 30, 2009, at which time there had been a great deal of public discussion on this topic.

Commissioner Kline sought direction from the Town Council on which of the items under discussion should be a priority at this time.

Commissioner Marnane commented that his way to approach the issue was to follow the phrase "thou shalt honor thy land," pointing out that the intent of MOSO was to honor the land.

Chairperson Comprelli agreed there should be more public participation although this was the first session in what would likely be an exhaustive series of meetings where there would be plenty of opportunity for public input. He acknowledged the high number of ridgelines all over the Town which existed in both MOSO and non-MOSO public space, and there were a number of undeveloped properties in the Town which had ridgelines, although the language in the document had only mentioned ridgelines in MOSO with discussions on major and minor ridgelines only in specific areas. He sought a definition of ridgelines, where they were located, and the rules that should apply in a more general fashion, not just for those ridgelines identified in MOSO. Another priority should be the calculation for slope, which should be studied carefully to ensure fairness for all undeveloped properties in the Town.

Chairperson Comprelli agreed with Option 1, as outlined in the staff report, as to the place to start with this effort; General Plan Program, which would include the issue of ridgelines, hillsides, and what was an appropriate method for slope calculations.

Commissioner Kline suggested that barring direction from the Town Council, his preference would be in light of the discussions on the two prior agenda items, making it easier for homeowners to make additions and improve the community. He would place as a priority Option 5, Amend Slope Density Chapter and then Option 2, Amend MOSO Guidelines.

Commissioner Onoda spoke to the definitions for Open Space Preservation Program Development and Adapt a Program to Preserve and/or Protect, and sought clarification of defining the terms; supported a recommendation to the Town Council to consider a

moratorium on development related to ridgelines and hillsides given the number of developments that had been submitted to the Town for consideration; and would also like to know why some ridgelines were considered to be MOSO while others just as high and identified in MOSO were not. She asked for clarification by staff.

Commissioner Marnane supported the Chair's first two priorities and recommended Option 3, Amend Title 14 and associated policies and regulations, as his third top priority.

Commissioner Kuckuk sought an understanding of what the Commission was trying to address and suggested a good place to start would be with Option 1, General Plan Programs; however, before starting the work she wanted to know what they were trying to accomplish with the exercise.

Chairperson Comprelli clarified that MOSO ridgelines had been defined in the law, with non-MOSO ridgelines protected to a degree as identified in MOSO, and with some undeveloped properties not addressed in the current ordinances. It was those ridgelines he would like to see better defined to merit some degree of protection.

Commissioner Onoda clarified that had been the intent of her comments.

Ms. Brekke-Read reiterated that the item would tentatively be submitted to the Town Council on August 28, 2013, to present the same material as presented to the Planning Commission with a summary of the public and Planning Commission comments. Staff would be seeking guidance from the Town Council to allow staff to report back to the Planning Commission.

B. June 17, 2013 Planning Commission Meeting Minutes

Commissioner Kuckuk requested the following revisions to the minutes of the June 17, 2013 Planning Commission meeting:

To Page 8, the top of the page to be amended to reflect the close of public comment.

To Page 16, the second sentence of the last paragraph, to read:

She [Commissioner Kuckuk] would require DRB approval only without any hesitation for cases involving extension of a wall along an existing setback.

To Page 17, the second sentence of the fourth paragraph, to read:

Although the extension along the existing setback was significant and at least the depth of the existing home, it angled away from the adjacent property.

On motion by Commissioner Kuckuk, seconded by Commissioner Kline to approve the minutes of the Planning Commission meeting of June 17, 2013, as amended. The motion carried by the following vote:

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

VI. REPORTS

A. Planning Commission

Commissioner Kuckuk reported that she had attended the second City Ventures meeting held at Moraga Country Club on July 8, 2013, with the discussion primarily on traffic and parking on Country Club Drive.

Ms. Macdonald Powell also reported on the discussions of the development and the public comment during the City Ventures meeting. She understood a third meeting was anticipated for the week of August 26, 2013, and staff would inform the Commission of the specific date once an invitation had been received.

Commissioner Onoda reported that she too had attended the City Ventures meeting at Moraga Country Club, understood a third meeting would be held, but had no plans to attend.

Chairperson Comprelli reported that he had been asked to speak to the Moraga Kiwanis Club during the month of August.

B. Staff

Ms. Brekke-Read reported that staff was in the process of interviewing Assistant/Associate Planner applicants; she would be on vacation for the next two and a half weeks; the Town Council planned to discuss the Historic Preservation Ordinance, Design Review Chapter 8.72 of the MMC, and a report on the hillsides and ridgelines, and the Kick-Off of the Livable Moraga Road Project during the meeting of August 28, 2013.

Ms. Brekke-Read added that both the Planning Commission and the DRB would be asked to select a member for a Technical Advisory Committee (TAC) for the Livable Moraga Road Project at a future meeting. In addition, the DRB had met on July 22, 2013 and had denied a Tree Removal Permit application for the Sonsara development, and had discussed the MMC text amendments, and setbacks. In other matters, staff had not yet contacted 24-Hour Fitness to discuss the parking situation in the Rheem North Center Area; staff had observed other neighboring businesses, not part of the center, to also be using the parking lot; staff was identifying additional studies that may

be needed as part of the Bollinger Valley Draft Environmental Impact Report (EIR); and she was uncertain when the project would return to the Planning Commission.

VII. ADJOURNMENT

On motion by Commissioner Marnane, seconded by Commissioner Kline and carried unanimously to adjourn the Planning Commission meeting at approximately 10:30 P.M.

A Certified Correct Minutes Copy



Secretary of the Planning Commission