TOWN OF MORAGA
PLANNING COMMISSION MEETING

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

July 1, 2013

7:00 P.M.

MINUTES

I. CALL TO ORDER

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

ROLL CALL

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

Absent: Commissioners Kuckuk, Schoenbrunner

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

B. Conflict of Interest

Chairperson Comprelli verified with staff he did not have a conflict of interest although his name appeared in documents from 1987 and 1989 as a former Planning Commissioner as related to Agenda Item IV (A) for 4 Whiting Court.

C. Contact with Applicant(s)

There was no reported contact with applicants.

II. PUBLIC COMMENTS

There were no comments from the public.

III. ADOPTION OF THE CONSENT CALENDAR

A. Adoption of Meeting Agenda

On motion by Commissioner Levenfeld, seconded by Commissioner Kline to adopt the Meeting Agenda, as shown. The motion carried by the following vote:

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

IV. PUBLIC HEARING

A. 4 Whiting Court

Applicant: Jim Simmons, 430 West Cliffs Place, Walnut Creek, CA 94545
Proposed Application: Planned Development District Modification - changes to Conceptual, General, and Precise Development Plans approved for developments under the names of Country Club Vista, Moraga Valley Lane, and Sonsara, Subdivisions 7301 and 7764, to permit an 80-square foot addition within the interior of an existing residence, including Design Review Exception exempting the new floor area pursuant to Moraga Municipal Code (MMC) Section 8.72.030 (B) (1).

Senior Planner Pierce Macdonald Powell presented the request for Planned Development (PD) District Modification changes to Conceptual, General, and Precise Development Plans approved for developments under the names of Country Club Vista, Moraga Valley Lane, and Sonsara, Subdivisions 7301 and 7764, to permit an 80-square foot addition within the interior of an existing residence, including Design Review Exception exempting the new floor area pursuant to MMC 8.72.030 (B)(1) at property located at 4 Whiting Court. The project, a small addition, had triggered a number of PD regulations where any change would require an amendment to the PD District itself.

Ms. Macdonald Powell reported the project had been deemed exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines. She identified the area of the addition as an existing double height ceiling corridor, and explained that the property owners would like to install a floor extension across the upper level, with some of the existing clerestory windows no longer providing sunlight to the ground floor.

Ms. Macdonald Powell recommended that all of the findings that had been made with the initial PD approval could continue to be made with the addition of the 80 square feet of new floor area. She recommended that the Planning Commission adopt a resolution of approval identified as Attachment A to the staff report, and corrected an error in the resolution which had referenced the addition at 87 square feet, and which should be corrected to read "80-square-foot addition" as it had been noticed and agendized.

PUBLIC HEARING OPENED

Jim Simmons, 430 West Cliffs Place, Walnut Creek, described the project as a simple internal addition which would not include a bathroom or bedroom with no applicable fire codes. Four of the eight existing clerestory windows would be part of the open area, no walls would be created, and the lower floor would still enjoy light. The addition would essentially create a larger hallway to be located above an existing hallway as shown on Figure 4 of the plans.

Mr. Simmons expressed frustration and understood the Town's guidelines would have allowed approval of a 200-square foot addition in a PD District administratively over-the-counter, absent a public hearing.

Jun Han, 4 Whiting Court, Moraga, the property owner, commented that Mr. Simmons had done a good job describing the situation. The addition was intended to correct what he characterized as a design mistake for the existing hallway which felt like a canyon to the residents, particularly during the evening. The addition would correct this design mistake by extending the second story hallway all the way to the second story window, with lighting to make the area more pleasant and livable.

Commissioner Levenfeld expressed concern that the project required Planning Commission review and commented that this was the first time an interior change to a PD had been presented during her tenure on the Planning Commission. She asked staff how similar situations could be avoided in the future given the number of PD's in the Town. She also expressed concern that a fee had been imposed on the property owners for Planning Commission review, and asked that this topic be discussed when the Commission discussed the next agenda item.

Planning Director Shawna Brekke-Read affirmed that such a scenario had been added to the list of concerns to be discussed under potential amendments to the MMC, although it would not be considered in the first set of amendments to be discussed under the next agenda item.

Ms. Macdonald Powell agreed that the PD amendment scheduled before the Commission was not the best use of residents', staff, and the Planning Commission's time; although the resolutions approving the PD were clear that the floor area had been capped by the Conceptual Plan (CP) approval and any excess in the cap required Planning Commission approval.

Commissioner Levenfeld suggested that the issue should be pursued. As homes in Moraga aged, homeowners would likely consider projects to improve a residence and she would rather see the Town encourage the renovation of homes.

Chairperson Comprelli recognized the consensus of the Planning Commission to support the applicant's request. He found the adjustment to be straightforward as staff had reported, and was in agreement with the statements and findings included in the staff report.

On motion by Commissioner Marnane, seconded by Commissioner Levenfeld to adopt the Draft Resolution to approve changes in the Conceptual Development Plan, General Development Plan, and Precise Development Plan approved for 4 Whiting Court and for developments under the names of Country Club Vista, Moraga Valley Lane, and Sonsara, Subdivisions 7301 and 7764, to allow the addition of 80 square feet within the interior of an existing residence, including Design Review Exception exempting the new floor area pursuant to Moraga Municipal Code (MMC) Section 8.72.030(B)(1), as modified. The motion carried by the following vote:

Ayes: Kline, Levenfeld, Marnane, Onoda, Comprelli
Noes: None

Abstain: None
Absent: Kuckuk, Schoenbrunner

B. **Consider a Recommendation to the Town Council to Amend Chapter 8.72 (Design Review)** of Moraga Municipal Code Title 8, Planning and Zoning of the Town of Moraga to:

1. Clarify Thresholds for Design Review;
2. Clarify Discretion of the Design Review Administrator (Planning Director) to Determine When Projects are Exempt from Design Review;
3. Allow Design Review Administrator to Request Additional Information and/or Waive Submittal Requirements;
4. Allow Administrative Design Review in Non-Residential and Multi-Family Zoning Districts; and
5. Clarify List of Exemptions from Design Review for Single-Family Zoning Districts.

Ms. MacDonald Powell reported the item had previously been presented to the Planning Commission on June 17, 2013, and a public meeting had been held with the Design Review Board (DRB) on June 24, 2013. As a result, staff had updated its approach based on the comments received from the DRB. She reported that the DRB had agreed with the Planning Commission on several aspects of the potential amendments, including discreet project types as possible exemptions as opposed to a broad criteria of the types of projects that may be exempted by the Design Review Administrator. DRB members agreed that there should be some flexibility built into the language for similar types of projects that could be found exempt by the Design Review Administrator.

Ms. Macdonald Powell referenced Page 8 of the July 1, 2013 staff report, which had outlined the exemption approach consistent with the DRB's comments, and a list of 15 projects that, with the Town Council's agreement, could be considered exempt from design review for Multifamily, Commercial, Institutional, and College projects. She also identified Attachment A (MMC Chapter 8.72, Design Review with Text Amendments) and reported that the language staff recommended would amend Design Review and allow the Town to review changes either as exemption or for administrative approval.

Ms. Macdonald Powell advised that the DRB had been comfortable with the staff recommended approach but wanted to see the actual text amendments in finer detail. Staff would make another presentation to the DRB prior to final recommendation from the Planning Commission to the Town Council. The Town Attorney had yet to review the staff recommendations. That evaluation would also occur prior to final recommendation from the Planning Commission to the Town Council.

Ms. Macdonald Powell added that staff had polled and obtained background information on the design review process in neighboring jurisdictions. A Decision Tree Flow Chart had also been provided in the staff report, and staff had found that some sections of the MMC would require appeals of the Design Review Administrator to be considered by

the Planning Commission as opposed to the DRB, which would be brought back to the Planning Commission at a future meeting.

PUBLIC HEARING OPENED

There were no comments from the public.

PUBLIC HEARING CLOSED

Commissioner Marnane referred to the exemption considered in the first agenda item and the process that had been discussed, and commented that he found the Planning Commission to be involved in many issues that could be addressed through a permit or inspector process.

Commissioner Kline agreed with the staff recommendations and approach but was uncertain that the amendments would go far enough. He too referenced the first application and the applicant's testimony of his understanding that a 200-square-foot addition would have been permitted by the Town's Design Guidelines.

Ms. Brekke-Read understood that a one-time addition that exceeded the Floor Area Ratio (FAR) had been identified in the Design Guidelines but had not been applied to the previous application.

Commissioner Kline clarified with staff that single-story additions at 200 square feet or less, which maintain the same siding and roof as the existing homes, would be subject to administrative approval in Single-Family Residential Districts as a result of the Town's existing Design Guidelines.

Chairperson Comprelli referenced the 15 items that could be considered exempt from design review, as shown on Pages 8 and 9 of the staff report. He clarified the intent of Item 4 with the language "no change in materials" to allow normal repair and keep the design cohesive and similar to, or same as, the original approval. He clarified that any change would trigger a review under the ordinance with public noticing to neighbors. He recommended that a change in materials for decks, as an example, should not initiate any special Town review.

Ms. Brekke-Read explained that one of the reasons for the discussion was that, as shown in Attachment A (Design Review Procedures for Additions and Alterations in Single-Family Land Use Districts), if a homeowner desired to replace a deck with Trex material, staff could not deem such a change to be minor and allow an over-the-counter approval with no design review. This was the reason that language had been added to allow flexibility on the part of staff and as shown in Section 8.72.090 (Procedure for Review), subsection E.

Commissioner Marnane suggested that the more detail staff could show on the different potential materials for decks, as an example, the better to avoid the requirement for DRB review.

Ms. Brekke-Read described Moraga as a highly regulatory environment from the simplest thing to the most complex, and Director Brekke-Read suggested the process would be changed significantly if amendments allowed material changes for an entire home, absent design review.

Chairperson Comprelli again spoke to the 15 items that could be considered exempt from design review and clarified the intent of Item 7, recommending the addition of language "and all other similar boxes," but clarified with staff that the language "and such panels," which had been included, would be acceptable.

Ms. Macdonald Powell acknowledged the input from the Commission and asked the Commission to consider a motion directing staff to present the text amendments to the DRB and return to the Planning Commission for a public hearing on July 15, 2013.

On motion by Commissioner Levenfeld, seconded by Commissioner Kline to direct staff to present the text amendments to the Design Review Board and continue the item to the Planning Commission meeting of July 15, 2013. The motion carried by the following vote:

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

C. Consider a Recommendation to the Town Council to Amend Title 8, Planning and Zoning of the Town of Moraga, to Clarify Moraga Municipal Code Section 8.68.060, Lot Size, Yard, and Setback Requirements

Ms. Macdonald Powell reported that this was the first public hearing on the proposed approach to consider potential amendments to MMC Title 8, Planning and Zoning, to clarify Section 8.60.060 (Lot Size and Setback Requirements). The item had been noticed in the Contra Costa Times, all official Town posting locations, the Town's website, and the About Town newsletter.

Ms. Macdonald Powell reported that the Planning Commission had discussed the item during a Study Session on June 17, 2013. She read into the record MMC Section 8.68.060, as written, and as shown on Page 2 of the July 1, 2013 staff report. She noted that this section of the code had been challenging to staff for some time and had resulted in different interpretations. As a result, staff's intention was to amend the text to make it clearer, clarify the purpose of this section, and determine the best way to treat property under the Code. She reported that the DRB had also held a Study Session to discuss the item on June 24, 2013, and the DRB had agreed that the issue was far-reaching and important.

Ms. Macdonald Powell reported that the DRB had discussed the item at length with a desire for high-level direction from the Planning Commission. She offered an overview of the DRB's comments, as expressed during the June 24 DRB meeting. The DRB's decision at the end of the item was that it could not support the recommend setback approaches that staff had developed, as shown on Page 7 of the staff report.

Ms. Macdonald Powell identified Attachment B (Diagrams of Building Footprints and Additions) which had been prepared to better illustrate the staff recommended approach identified as Option B in the staff report. She noted that the DRB had recommended different approaches to staff, including an approach that Contra Costa County setbacks would be appropriate for any new addition in any new construction not just for homes built prior to the Town's incorporation (Option D). In addition, as an alternative, the Town could amend Title 8 of the MMC and define "alteration" to mean a remodel or repair of existing walls or architectural feature without an increase in size and no increase in floor area (Option C). She sought input from the Planning Commission on which of the options staff should consider further.

Ms. Macdonald Powell also reported that correspondence had been received on the item, including an e-mail received June 24, 2013 from Dave Bruzzone. She read the e-mail into the record at this time. She noted correspondence from Shannon and Greg Zwakman, received July 1, 2013, and copies of correspondence were presented to the Planning Commission.

Ms. Macdonald Powell added that, as part of the DRB discussions, staff had researched setbacks and lot sizes for the communities of Orinda, Lafayette, and Danville, as shown in Attachment D to the staff report. She welcomed input from the Commission at this time.

Responding to the Commission, Ms. Macdonald Powell clarified the intent of Option D which was to find those neighborhoods where there may be some lots that had not been developed under the County zoning and attempt to define those neighborhoods better. The same setback regulations would apply regardless of whether the home had been built prior to, or after 1974, or if the lot was undeveloped.

PUBLIC HEARING OPENED

Audrey O'Donnell, 148 Hodges Drive, Moraga, stated that she was a 47-year resident who had lived in her current 50-year-old residence for 40 years. She advised of her intent to remain in the home in the future. She spoke to her plans to remodel the bathroom and to expand at the rear to provide a bedroom; however, during the process she had learned that the project would encroach inches into the required setback, an issue which had been discussed with staff for the past four months. Although the project had previously been presented to the Planning Commission, her application was at a standstill given the setback issue. She expressed concern with the requirement to obtain a variance for an encroachment that was only inches into the required setback, and commented that a portion of her sideyard extended even farther than the planned

extension. She emphasized the time involved with her project and expressed her hope the matter would be resolved soon.

Ms. Macdonald Powell explained that the issue with the O'Donnell property was a setback situation with a building wall 9.9 feet from the side property line where 10 feet would be required. She reported that staff had received updated plans for the O'Donnell project on June 14, and staff was ready to issue administrative design review approval given that the architect had shown the setback at 10 feet, and given the Town Council's recent decision to allow eaves in setbacks.

Judy Dinkle, Moraga, a local Designer and Builder, stated that she had appeared before the Planning Commission on June 17, 2013. She restated her concerns with the Town's process, which had become confusing making it difficult to decipher how to advise her clients. She cited a current project to build an addition directly behind a garage and existing small family room to create a larger kitchen and new addition/family room. The addition would continue the straight line of the garage wall on the side of the home. She urged the Planning Commission to consider Options A or B given that most of the homes in Moraga had been constructed prior to 1974 and additions could apply to either of those scenarios. If she was required to push her client's addition 10 feet farther into the flat portion of the property, it would create a significant negative difference. Much of the usable portion of the yard would be taken up by the addition. She urged the Commission to consider the implications of imposing the Town's 20-foot-wide versus the 10-foot-wide existing County setback which would impact 80 percent of the dwellings in Zone 1. She suggested that a variance should be for exceptions only and noted that design review could also be requested, if needed. As to Option D, she commented that she found that it allowed a continuation under the County zoning, which would be acceptable, applying to most of the homes in Zone 1.

Jim Schmidt, 711 Camino Ricardo, Moraga, explained that as Ms. Dinkle had stated, he was attempting to construct a simple remodel to his home, and it was clear in the language on the Town's website that his home was in the R-1 Zone, requiring homes constructed after 1974 to have the County setback requirement of 10 feet. He explained that his architect had been informed by the Planning Department to hold off with his application, and he had been in limbo since. He understood the purpose of the Planning Commission to make the process easier for residents, suggested that there was already clear language as to how to complete this approach, and expressed concern with the Town's process. He expressed his hope that clearer heads would prevail and that the language would be made clearer with no ambiguity. He also understood that some situations would require a variance. He expressed his hope that the variance process was not being used as a way for the Town to make money, and he asked the Commission to follow the lead of planning staff to make the regulations clear and concise to ensure that residents had clear direction as to how to improve their properties.

Steve Forster, Architect, Pleasant Hill, stated 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. He stated that all homes had

been built to previous County standards of R-10 and R-15, which included 80 percent of the rest of the sites in Moraga and which followed the context of previous zoning in lot width, lot size, and current setbacks.

Mr. Forster explained that if the sites were now required to comply with stricter rules, such as for 20-foot-wide side yards, it would severely constrain homeowners to construct an appropriate addition. He commented that many of the additions involved the addition of a family room, kitchen, or the extension of a bedroom. These areas typically occur on the side of a home, not the center, where a 20-foot setback requirement would result in an inappropriate addition. He emphasized that the purpose of his architecture was to inspire consistency of context, details, and character of the older homes. Based on the staff report, he recommended the adoption of Option A, which would ensure a design review check and balance to ensure that the architecture was appropriate.

Dave Bruzzone, Moraga, commented that the problem has been foreseen many years ago when the Town had incorporated and when the Town had taken existing neighborhoods and changed the zoning. He commented that most of the homes developed in Moraga were in the R-10, with some in the R-15 zone. The comparable new Town zoning was the 3-dwelling units to the acre (DUA). He referenced a zoning map for The Bluffs neighborhood and spoke to the history of the Town's incorporation when the zoning had been changed, which had resulted in non-conforming uses. He questioned changing the standards when all of the homes and setbacks existed under previous standards. He stated that he was experienced with upgrading existing households and neighborhoods. From an addition and remodel perspective and if consistent with the neighborhood, the homeowner should be able to upgrade accordingly. He also referenced vacant lots in some of the Town's neighborhoods and noted that if they were required to comply with the Town's setback requirements, then those properties would appear different and incompatible with the existing neighborhoods. He expressed his hope that the Planning Commission would support Option D, which would allow building to the County standards.

For a vacant parcel, Mr. Bruzzone recommended that a property owner should also be able to build to the County standards and not be forced to have a different setback, to ensure consistency and fairness to everyone. He also understood that 6-DUA properties required 25-foot-wide setbacks and minimum lot sizes of 10,000 square feet, which he suggested should be reduced to allow a car to park in the front of the home. He urged the Town to move away from the three-stage PD process and consider, in some instances, more straightforward zoning.

PUBLIC HEARING CLOSED

Ms. Macdonald Powell explained the differences between Options C and D. Option D was not a recommendation from the DRB but based on a comment from a DRB member and that option had not been thoroughly evaluated by staff. If the Commission determined Option D was worthwhile, staff could prepare maps and provide more technical information.

Commissioner Marnane stated that he liked MMC Section 8.68.060, and understood that changing the setback regulations after the Town's incorporation was a desire for something different than County regulations. He understood the MMC was not intended to allow the building of 10-DUA residences, absent any setbacks, with the desire to have open space.

Commissioner Marnane preferred to see the setback regulations to be closer to the MMC, which could allow for more innovation and creativity with additions and extensions. He sought more discipline in the process, and suggested that items submitted to the Commission should be the exception and not the norm, given that it should not be that difficult for a resident to obtain a decision.

Ms. Macdonald Powell clarified that some of the examples from other jurisdictions included in the staff report included a process that was not quite a variance for those homeowners desirous to build into setbacks. She asked the Planning Commission to discuss whether that was an option that should be considered, as well, since that option had not been included as one of the options in the staff report but had been discussed by the DRB. As an example, she referenced Orinda's exception process which could be considered.

Commissioner Marnane supported such a process.

Chairperson Comprelli understood that option would essentially be a modification of Option B.

Ms. Macdonald Powell explained that Option B started with the premise that building would be allowed to the County setbacks and, if an applicant built to the County setbacks, the applicant would have to satisfy criteria. Alternatively, the exception process assumed that an applicant must build to Town regulations and if the application met certain setbacks, it would qualify for an exception.

Commissioner Levenfeld understood the Town had conducted broad noticing on the item; although those property owners that could be impacted by this decision should be considered. She asked that such consideration be made to ensure fairness. While an advertisement in the Lamorinda Weekly would be beneficial, she would rather see a letter from the Town to affected property owners. She sought an extraordinary effort to properly notice, given the number of people who would be affected by this decision, particularly if a homeowner was desirous to renovate his or her property. She suggested additional noticing in shopping centers or to the Chamber of Commerce to ensure that the public was adequately provided the information.

Ms. Brekke-Read advised that the Planning Commission agenda had been posted on the Town's website, sent to the Town's agenda subscribers list with those people notified electronically, and with posting in all of the Town's standard noticing locations throughout the Town. Also, as a matter of practice, all Planning Commission and DRB decisions were posted in the About Town newsletter.

Commissioner Levenfeld asked staff how to address, as an example, a subdivision with approved lots although those lots had not yet been developed. She agreed with the argument that homes next to a subdivision (assuming the subdivision had been built out) should look consistent, which could require a smaller home. In those situations, she sought a minimum square foot lot.

Commissioner Levenfeld also spoke to the uneven interpretation over the years to the former County zoning. She leaned towards an option somewhere between Options A and D, and clarified with staff the intent of language contained in Option A. If a property had been developed under the County zoning, she had no problem allowing the property to continue to build within the County zoning standards. However, with a PD, she did not support a broad brush approach in terms of the Administrative Design Review or DRB review process.

Ms. Brekke-Read further clarified the language in Option A with an either/or option with the language "such additions could require Administrative Design Review or Design Review Board approval." Option B offered the same approach, with the Planning Commission to decide on the language to use.

Commissioner Levenfeld also spoke to the issue of whether there should be a process that was not as rigorous as a variance if the Town were to continue regulating construction that moved into the Town's setbacks. If moving in that direction, she opposed a variance process given that it would be difficult to make the hardship finding for a variance.

Commissioner Onoda understood that no matter what was done, the Town was comprised of a hodgepodge with County and Town regulations. She cited the first agenda item as an example. She found the issue to be confusing. She commented that when a home had already been constructed, going along the line that was a natural occurrence, although 50 percent beyond that line would not be acceptable, it should not be rubber stamped. She was uncertain what option to recommend at this time. She also spoke to Mr. Bruzzone's comments regarding lots that already had established standards for size but had not yet been built, and to impose the new code on those properties. She questioned if smaller residences would be unfair to the builder and to the neighborhood. She cited that scenario for lots within the Country Club, which she was uncertain if the Country Club residences should be under the County regulations since it would involve an entirely new section of the development. She asked staff to respond to that issue.

Ms. Brekke-Read clarified that the lots referenced in the Country Club had already been established and subdivided under the Town's regulations.

Mr. Bruzzone clarified that the lots had approved setbacks although the vacant lots he had referenced were located on Sandringham Drive, off of Country Club Drive. He said that the lots had already been established in an R-10, not a PD, zoning.

Ms. Brekke-Read further clarified that there were many areas of the Town that were clearly not developed when the Town had incorporated in 1974, and may have been subdivided but had to comply with the Town's new zoning regulations in order to be developed.

Commissioner Onoda commented that the size of the lot may decide whether the neighborhood or the Town's rules would apply, and commented that each lot was very different. As such, while it would be nice to rubber stamp everything, that was not possible with the Town's topography and the way it had first been built.

Commissioner Kline strongly supported Option D to restore the setback requirements for the Single-Family Residential neighborhoods that had already been constructed at the time of the Town's incorporation. While the Town may have to exclude PD's, he suggested that Option D could solve the issues with the Country Club. He supported Option D because homeowners expected it and if restored, it would not have to be noticed. In his opinion Option D would ensure consistency with the Town's use of County setbacks in those neighborhoods for years as evidenced by correspondence received on this agenda item. It would confer no special privileges on the homeowner or the neighbors, as the same standard required to grant a variance request. It would avoid the complex guidelines when setback encroachments to County standards that may be allowed without asking for a variance, offering simplicity.

Commissioner Kline stated that Option D was easy to understand for homeowners, architects, designers, and contractors, and it would save time, cost, and work, and eliminates the homeowners' and Town's time and cost. Option D would also not change the DRB review guidelines with the DRB to review all additions with the exception of those on the list the Planning Commission had already discussed; it would have little effect on new construction with few vacant lots in the neighborhoods under discussion and including the vacant lots in the County setback regulations; and while the DRB had expressed concern with the semi-rural appearance, the same semi-rural appearance would be maintained as the Town of Moraga desired to preserve at the time of its incorporation. He expressed his hope that the Planning Commission would show its support for Option D and allow the process to move forward.

Based on Commissioner Kline's comments, Commissioner Onoda agreed that his recommendations would make the process clearer.

Chairperson Comprelli stated that many of the objectives that needed to be accomplished could be done with Options A and B, in fairness to everyone. He found Option D to be too general and far beyond what was needed without knowing the implications. While he found simplicity to be wonderful; in this instance, he suggested it would be a mistake. For those homes constructed prior to 1974, at such time as the property owners desired to make changes, such as an addition, extension, or remodel, they should be allowed to build within the conditions under which those homes had been constructed under the County's regulations unless there were circumstances that suggested otherwise. He gave an example of such a circumstance, such as a 50-foot extension of a wall or installing a second story, which he stated would merit additional

review. He pointed out that the Planning Commission had seen several applications over the past few months and had agreed and supported that position. He stated that, where there should continue to be review was those occurrences when the applications did not meet County regulations at the time and should not be approved absent appropriate review.

Chairperson Comprelli commented that he did not particularly care for Option D; he did not agree with Mr. Bruzzone's argument about existing lots and suggested a new home on an existing lot should meet the Town's current requirements for setbacks and other design considerations pursuant to the current ordinance. He stated that the current Town regulation was the reason the Town had fought for its incorporation.

In this case, Chairperson Comprelli leaned towards Option B with the modification that a variance and its specific requirements should apply in certain circumstances; although in other circumstances, variances could be too restrictive. If there was another opportunity for a process (that was not a variance), it should be up to the Planning Director to recommend to the appropriate body, assuming DRB review was needed in any case.

Commissioner Levenfeld understood there were some developments that had been approved under the County's regulations, but which had not yet been built and, after the Town's incorporation, those developments had been required to make modifications. She asked staff whether there was an example that could be identified for discussion purposes, which would be helpful to understand the history of when changes to the setbacks had been made after the Town's incorporation. She recognized a lot of work had gone into the Town's incorporation and into the changes to the Town's zoning regulations.

Commissioner Kline respected the Chair's objections to Option D, although he reiterated his opinion and argument that Option D be considered.

Ms. Macdonald Powell commented that staff had not mapped the neighborhoods that would be affected by Option D; although, that could be done at the direction of the Planning Commission.

Chairperson Comprelli objected to the language shown in Option D, which read "regardless of date of construction."

Commissioner Onoda understood the discussion related to lots constructed prior to 1974.

Commissioner Kline understood Option D to mean lots and built-out neighborhoods, created prior to 1974.

Ms. Brekke-Read responded to Commissioner Kline's recommendations to support Option D and clarified for the record that the DRB did not review all additions unless there were special circumstances associated with the additions. Many additions were

currently handled administratively. She further clarified the intent of Options A and B and clarified, as an example, that if an addition was built straight up and moved a wall it would not require DRB review, unless it created a third two-story home in a row.

Commissioner Kline recommended a change to the guidelines to address a scenario of an addition built straight up, where a wall was moved and where a second-story addition would not require DRB review, unless it created a third two-story home in a row.

Ms. Brekke-Read recommended that issue be discussed further by the Planning Commission when the previous item returned on July 15. On the discussion, she pointed out the Town had Design Guidelines which had the power of regulation and code, which homeowners, architects, and contractors reviewed to determine what could be built.

Ms. Brekke-Read emphasized that administrative design review only applied if a project complied with the Town's Design Guidelines, although some of the Design Guidelines were not guidelines but rules. Regulations should be much clearer since it was not helpful to the public, planners, or the Town. The Town may not end up with what it wanted to get. She acknowledged that certain components of the Design Guidelines had been included in the code.

Ms. Macdonald Powell commented that oftentimes applications met the minimum standards of the code but did not meet the Design Guidelines and did not have the greater than required minimum required setbacks. Applicants and property owners can have strong ideas about the development potential under the minimum standards set by zoning. She suggested the process could take time to make the proposed initial development plan (box) fit into the Design Guidelines to ensure articulation, and lessen massing and impact to neighboring properties. Once a setback had been established, it would be something a property owner would feel entitled to.

Ms. Brekke-Read expressed concern regarding Option D and suggested that Options A and B would envision what Commissioner Kline was seeking in Option D. If a project went beyond the parameters set forth in Options A or B, she recommended DRB review, which process would be clearer to applicants and still have the level of expectation that the Town had when the Town had incorporated. She acknowledged the Commission's concerns with other projects that had been reviewed in the past and how they had been reviewed from a DRB point of view. Director Breeke-Read suggested that Options A or B would accomplish that objective.

Commissioner Kline disagreed in that he found the processes outlined in Options A and B to be too complex.

Ms. Brekke-Read clarified the discussion of setbacks only at this time, not the Design Review code, and cautioned the Commission that it would be reviewing applications differently if Option D was recommended for approval.

Commissioner Kline reiterated his concerns with Options A and B and reiterated that the issue of second stories remained to be discussed. He said that he would like to see that topic discussed separately.

Chairperson Comprelli also reiterated his concerns with Option D, and although he understood the desire to achieve simplicity, he suggested that Option D would create a problem of interpretation that far exceeded any of the problems attempting to be addressed. He otherwise understood the consensus of the Planning Commission to be for a general process for existing homes, developed under the County requirements, to be consistent and easy to address.

Commissioner Levenfeld commented that upon hearing the different perspectives of the Planning Commission and understanding more clearly the options at this point, she was leaning towards Option A, with a clear definition on what scenario would trigger design review.

Chairperson Comprelli again restated his preference for either Option A or B.

Commissioner Onoda commented that she could not state a preferred option at this time.

Commissioner Marnane explained that he did not like the way either of the options had been written. He sought discipline in the community and he did not want to find ways to deviate from the regulations. He suggested that while Options A or B could address that, neither of those options spoke to him.

Ms. Macdonald Powell suggested the item may not be appropriate to return to the DRB based on the DRB's comments. DRB members had expressed the opinion that, generally, this topic was a high-level Planning Commission decision. Staff could prepare additional public noticing for the July 15 Planning Commission meeting as a public hearing. The goal at the July 15 meeting would be to have final direction with a recommendation from the Planning Commission to the Town Council.

Commissioner Levenfeld offered a motion to continue the item with expanded public notification to potentially impacted property owners to the extent feasible.

On the motion, Commissioner Marnane asked for a rough draft of the staff report prior to the July 15 meeting to allow an adequate opportunity for review.

On motion by Commissioner Levenfeld, and seconded by Commissioner Marnane to continue the discussion for a Recommendation to the Town Council to Amend Title 8, Planning and Zoning of the Town of Moraga, to Clarify Moraga Municipal Code Section 8.68.060 (Lot Size, Yard, and Setback Requirements) to the Planning Commission meeting scheduled for July 15, 2013; with expanded public notification to potentially impacted property owners, to the extent feasible. The motion carried by the following vote:

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

Commissioner Onoda asked staff whether the rules within the Moraga Center Specific Plan (MCSP) were the same or different from those in the General Plan as related to proposed development between Moraga-Orinda Fire District (MOFD) property and the Country Club, and where the General Plan prohibited three stories. Director Brekke-Read clarified the MCSP stated three stories, and the MCSP amended the General Plan to allow three stories.

V. ROUTINE & OTHER MATTERS

There were no Routine & Other Matters.

VI. REPORTS

A. Planning Commission

Commissioner Kline reported that he had attended the June 24, 2013 DRB meeting, at which time, three applications and the MMC items under Planning Commission discussion had been considered. One of the applicants had not been in attendance; although, the remaining two applications had been approved by the DRB.

A. Staff

Ms. Brekke-Read reported the Town had advertised for an Associate Planner position; and the Town Council had recently approved the Operating Budget and Capital Improvement Program (CIP), which included a long-range program to overhaul the Zoning Ordinance, with staff to develop a work program to consider strategic amendments. Once the Planning Commission offered its direction on the setback issue, it would be incorporated into the overhaul effort. Also, staff had kicked off the *Livable Moraga Road Project* and staff was to ask for a representative of the Planning Commission to serve on an Advisory Committee in the near future.

Ms. Brekke-Read also reported that Town offices would be closed every other Friday starting Friday, July 5, 2013 to accommodate a 9/80 work schedule, as part of the Memorandums of Understanding (MOUs) with Town employees. She would be on vacation the next week; and staff would make all attempts to get the staff reports to Planning Commissioners as soon as possible. She added that the DRB was scheduled to meet on July 8, 2013. She had spoken with the Chamber of Commerce on the potential for a Historic Preservation Ordinance and zoning issues in Commercial Districts, with staff scheduled to bring the discussion before the Planning Commission in a workshop setting in September.

Chairperson Comprelli reported that he had been asked to make a report on behalf of the Planning Commission to the Moraga Kiwanis Club on August 22, 2013.

Ms. Macdonald Powell reported that Moraga Country Club would be holding its second neighborhood meeting on the City Ventures proposal on Monday, July 8, 2013 at 5:30 P.M. in the clubhouse, which she planned to attend, with City Ventures to present responses to comments from the first neighborhood meeting. She expressed the willingness to scan and send the invitation to Commissioners. She encouraged Commissioners to contact staff as to whether any member planned to attend to ensure there was no conflict with Brown Act requirements.

Commissioners Kline and Onoda reported they planned to attend the neighborhood meeting on July 8.

Ms. Brekke-Read acknowledged that she and Ms. Macdonald Powell had met privately at the invitation of the Moraga Country Club Board of Directors after the last Planning Commission meeting. She was pleased that the developer and Moraga Country Club were engaging in discussions on the project.

VII. ADJOURNMENT

On motion by Commissioner Levenfeld, seconded by Commissioner Marnane and carried unanimously to adjourn the Planning Commission meeting at approximately 9:30 P.M. to the next regular meeting of the Planning Commission on Monday, July 15, 2013, at 7:00 P.M. at the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission