

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

January 6, 2014

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, Kuckuk, Levenfeld, Onoda, Marnane,
Schoenbrunner, Chairperson Comprelli

Absent: None

Staff: Jill Keimach, Town Manager
Shawna Brekke-Read, Planning Director
Ellen Clark, Senior Planner
Karen Murphy, Town Attorney
Doug Herring, EIR Consultant

B. Conflict of Interest

There was no reported Conflict of Interest.

C. Contact with Applicant(s)

There was no reported Contact with Applicant(s).

II. PUBLIC COMMENTS

There were no comments from the public.

III. CONSENT

There was no Consent Calendar.

IV. ADOPTION OF MEETING AGENDA

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

V. PUBLIC HEARING

- A. **Continued Public Hearing to 1) Consider Certification of the Camino Ricardo Subdivision Project Environmental Impact Report, 2) Consider Approval of the following: Conceptual and General Development Plan, Vesting Tentative Subdivision Map, Hillside Development Permit, Grading Permit, Conditional Use Permit, and Design Review for the Camino Ricardo Project, a 26-Unit Single-Family Residential Subdivision, and 3) Consider a Recommendation to the Town Council Regarding Approval of a Development Agreement between SummerHill Homes and the Town of Moraga. (MCSP, 3DUA, EMC)**

Senior Planner Ellen Clark presented the staff report dated January 6, 2014 for a continued public hearing from the Planning Commission meeting of December 16, 2013, for a request for 1) consideration of certification of the Camino Ricardo Subdivision Project Environmental Impact Report, 2) consider approval of the following: Conceptual and General Development Plan (CDP and GDP), Vesting Tentative Subdivision Map, Hillside Development Permit (HDP), Grading Permit, Conditional Use Permit (CUP), and Design Review for the Camino Ricardo Project, a 26-Unit Single-Family Residential Subdivision, and 3) consider a recommendation to the Town Council regarding approval of a Development Agreement (DA) between SummerHill Homes and the Town of Moraga.

Ms. Clark stated that although the Planning Commission had given direction to the contrary, staff continued to recommend the inclusion of the pedestrian bridge across Laguna Creek and a pedestrian facility on Moraga Road that would serve the bridge crossings pursuant to the policies in the Moraga Center Specific Plan (MCSP). She recommended that the Planning Commission conduct the public hearing that had been continued from December 16, 2013.

She noted just prior to the meeting the Planning Commission had been provided an errata memorandum to the conditions of approval, specifically an amendment to one of the CEQA Mitigation Measures and revisions to the DA.

Town Attorney Karen Murphy identified the revisions to Attachment C, a resolution recommending approval of the DA between the Town of Moraga and SummerHill Homes, and to the DA itself, specifying that Section 2 of the resolution had a proposed finding that the DA was consistent with the Moraga General Plan and the Moraga Municipal Code (MMC), and included language that the DA was consistent with the MCSP; and Page 2 of the DA, Recital H had noted that the approvals before the Planning Commission had not included the CUP and Design Review and included a Tree Removal Permit that was no longer subject to approvals, with the recitals to be modified in the final version of the DA to reflect the actual actions taken. In addition, the last sentence of Page 10, Section 5.2, Impact Fees, 5. Development Fees, Exactions and Public Improvements of the DA would be modified to read:

In consideration of the Developer's Agreement to dedicate the Open Space/Park Area to the Town and to undertake specific improvements in connection with Open Space/Park Area, Town shall give Developer full credit for the Park Development Impact Fee and/or any park dedication requirements.

Ms. Murphy recommended that if the Planning Commission approved the agenda items, as shown, any motion for approval was to include the revisions identified by staff.

Ms. Clark further added that the Commission had reviewed draft conditions of approval during the December 16, 2013 meeting, and the errata memorandum presented to the Commission had included some of the revisions the Commission had requested to the conditions, as well as two additional conditions in response to a request from Preserve Lamorinda Open Space (PLOS).

In response to the Commission as to tree removal, Ms. Clark advised that there would be a tree replacement ratio required for native trees and a lesser ratio for the orchard trees. She clarified that the total street width was 28 feet curb-to-curb and included a parking lane and two 10-foot travel lanes, and noted that one of the potential uses for Parcel C was as an environmental education site where interpretative panels could be installed with a living classroom, which had been a concept mentioned during the December 16, 2013 meeting by a member of the public.

Planning Director Shawna Brekke-Read also clarified, when asked, that although the Park and Recreation Commission had discussed the status of Parcel C, she could not recall that maintenance costs had been addressed. She noted that the use permit findings contained in Attachment B, a resolution for the various entitlements, did not address the maintenance costs and were findings required in order to approve the construction of a trail on property owned by the Town. She added that the maintenance of the trail would be a negligible cost.

Ms. Clark added that there was no firm idea of the maintenance costs although there would be maintenance costs for fire suppression and weed control. She also clarified that an easement was required for the stub road since it would be a private road and if the general public was to be allowed to access that amenity a public access easement would have to be provided.

Ms. Clark further clarified that the outlook point may exist with or without the road connection as discussed during the December 16, 2013 meeting, with the outlook point serving as an amenity to offer a vista point with views to the south and a place to sit down.

Ms. Brekke-Read explained that one purpose of the outlook point was to provide a street to the south, a sitting area, and an open space amenity, which community members had asked the applicant to include in the development plans. The conditions of approval required that future property owners be aware that a street would eventually be constructed, and on either side of the street a vista park would remain, as shown on

the plans. She commented that a street to the boundary line would be constructed with a green space to be located there as shown on Sheet L1.OC of the project plans.

Denise Cunningham, Director of Development, SummerHill Homes, thanked Planning staff and the Planning Commission for everyone's effort over the holiday period. She introduced the SummerHill Homes development team present in the audience, advised that they had been going through the process with Town staff a little under two years having started in early 2012, and that they were excited to be the first project to implement the MCSP. She reported that SummerHill Homes had received Design Review Board (DRB) approval in October 2013, and along with 26 high-quality homes there would be a number of community benefits as part of the project including trail connectivity through the entire site, extending the sidewalk down Camino Ricardo to Moraga Way, and connectivity all the way through the private road open to the public to the trail, down to the south, and across Parcel C all the way to Moraga Road.

The developer had agreed to a cash contribution towards the Moraga Road improvements as part of the DA, and the project included over 50 percent preservation of open space including the protection of the riparian area which had been described as a jewel in the Town. SummerHill Homes was also pleased to have worked with PLOS and the Town on the vision for the area.

Ms. Cunningham commented that there had been discussions to provide a more natural state in the riparian area with grasses and interpretive signage, and noted that she had another slide to show the use of grass areas and would continue to work with the Town and PLOS as to the use of that area. She identified the most recent changes to the plans, as presented to the Planning Commission on December 16, 2013, when the streets had been steepened from 15 to 16.7 percent, with a net result significantly reducing the amount of grading, cut, and fill on the site; the eastern portion of the cul-de-sac had been lowered by 10 feet, with the introduction of single-story homes; the roofline for Lot 26 had been lowered from 14 to 17 feet, offering a large reduction in the view impacts; the setback from the riparian area was now at an average of about 60 feet; and the design standards would coincide with the new plan. The developer had also been asked to consider a reduction of the profile for Lot 11, which had been reviewed, although the proposed plan was thought to be the best plan for this lot with a generous setback from Camino Ricardo and with tiers of landscaping and buffered trees to be sensitive to the view impact from Camino Ricardo.

Dan Hale, Hunt Hale Jones Architects, identified Lot 11 and the discussed the architecture and massing for this home located on the corner, with a layering effect achieved between the site design, landscaping and architecture, with two rows of orchard trees, stone wall, another layer of trees close to the home, a front door that addressed the corner, side entry courtyard low courtyard wall, front door facing out addressing the corner and the neighborhood. He identified the side slope homes as part of the project, and a diagram showing the rooflines, single- and two-story elements, with single-story elements also available for the rear elevations. He commented that the design for Lot 11 worked well in the context of the project design from all perspectives.

In response to concerns with respect to additions, Mr. Hale explained that as part of the DA, SummerHill Homes had provided several sheets for every lot that outlined the building envelope which was where the building could be placed or additions could occur.

Mr. Hale cited as an example the area between Lots 4 and 5. Lot 5 had a five-foot setback with a 15-foot setback for Lot 4, with a 20-foot separation between the homes. He also noted the irregular-shaped lots always maintained the 20-foot separation between the homes. He walked through the architecture for Lot 1, a side split home showing the quality of the architecture and the materials proposed, site design, and landscaping working together as one.

Ms. Cunningham emphasized that SummerHill Homes had demonstrated a willingness to listen, had made modifications to the plans, and acknowledged that collaborations between the developer and others offered a better plan for a nicer community.

Ms. Clark identified the exhibits, including the most recent versions of Sheets TM-1 through TM-4, as part of the Vesting Tentative Map before the Planning Commission for approval. As part of the final conditions, the developer would be required to submit a final conforming plan set that would include all of the updated sheets in a single submittal for Town files.

Ms. Cunningham also added, when asked, that there would be parking on one side of the street and the other side would have red curbing where the mail boxes would be located. The red curb would be on the south side of the street and the parking would be on the north side.

Greg Miller, CBG, Project Civil Engineer, clarified a requirement when street slopes exceeded 16 percent and switched from an asphalt street to concrete, which was an older standard that some districts had stopped using. The developer had looked closely at the revised profile that had been presented during the December 16, 2013 meeting and had made an attempt to bring the street up faster at the bottom, modify the curb, and reduce the slope to 16 percent allowing a conventional asphalt street section, with the design on the order of two and half to three percent, with the standard allowing up to ten percent. The primary change was getting below the 16 percent threshold to have a uniform asphalt section. The other change was with the introduction of a median in the entryway to provide some character and pursuant to Moraga-Orinda Fire District (MOFD) requirements for 20-foot clear access on both sides.

Ms. Cunningham also spoke to the cost of the material for the bridge crossing, side rails and decorative wood for the cover and two abutments, which had been estimated by an on-site individual, with the developer having been provided an estimate for the abutment work as well. She reiterated that a proposal had been provided from their off-site person and a proposal from the contractor for the abutments. She was uncertain of the cost of the material for the bridges at Commons Park to be able to offer a comparison.

As to the cost of the pedestrian bridges to Commons Park, Ms. Brekke-Read was uncertain when those bridges had been installed.

Town Manager Jill Keimach clarified that pursuant to public contract codes, prevailing wages, and unions, amounts often added 30 percent to the costs and it was more expensive to do the work in the public sector than the private sector which may not have the same requirements. If the Town constructed one bridge in the future, it would be more expensive than if the developer constructed two bridges at one time.

Ms. Cunningham advised that both bridges would be the same width, eight and a half to nine feet wide, with a 65-foot span. The bridges would come in sections, already be fabricated in that size, and then fit into the crossing. One section had been proposed for each crossing which may be longer than the width of the creek required.

PUBLIC HEARING OPENED

Joseph Sun, 929 Camino Ricardo, Moraga, identified his home as the first home on the right with the Camino Ricardo subdivision to be located immediately adjacent to his residence. He presented photographs of the proposed subdivision that would look down upon his residence, expressed concern with a two-story home that would view onto the living area of his home impacting his privacy, and asked that the home be either lowered in height or be better screened from view to alleviate his concerns.

Suzanne Jones, Moraga, representing Preserve Lamorinda Open Space (PLOS), explained that since the December 16, 2013 public hearing, PLOS had worked closely with SummerHill Homes regarding project impacts to native grasses, Rainbow Trout in Laguna Creek, and the Dusky-Footed Wood Rat that inhabited the site, and together PLOS and SummerHill Homes had agreed on a condition of approval for native grass restoration and for prohibiting fill on Parcel C that acknowledged the benefits to the Rainbow Trout and revisions to the EIR to mitigate impacts to the Dusky-Footed Wood Rat. With the added conditions and mitigation measures, and the grading reductions the developer had identified during the December 16, 2013 meeting, it allowed a 60-foot setback between Laguna Creek and the grading limit on the west side of the Corliss Tributary. SummerHill Homes had addressed all of the concerns raised by PLOS during the adequacy of the EIR biological analysis. She commended SummerHill Homes' willingness to be a community partner, to resolve PLOS and the community's concerns regarding the project, as well as Town staff's willingness to accept the changes and incorporate them into the approval documents.

Ms. Jones remained concerned with the location of the second bridge which crossed Laguna Creek, and agreed with the consensus of the Planning Commission during the December 16, 2013 meeting that a bridge over Laguna Creek opposite the Skate Park was not a good idea. While she understood the connectivity arguments, she could not support the location of the bridge as the right place, at the right time, and recommended holding the funds to construct the bridge in the future at a time and location where it would minimize the environmental impacts, disturb less riparian vegetation, and create a better connection to the existing signalized intersection at St. Mary's Road.

Ms. Jones noted that the bridge in the MCSP had been shown in the southernmost point of the triangle area of the site, and the location had been chosen since vegetation was different, with minimal understory, few large oak trees requiring trimming to allow the bridge, and a rationale for that location to be chosen in the MCSP. She added that PLOS and others had contacted the Moraga Historical Society, the Moraga Garden Club, and the Native Plant Society regarding the potential use of Parcel C as an educational opportunity, and all representatives were enthusiastic with the concept of the development of Parcel C. The Native Plant Society had offered to help PLOS research the natural history of the area and determine the plants that had grown in the area. She commented that the neighbors adjacent to Parcel C requested a 100-foot setback between the public trails and property lines and suggested such a buffer between the loop trail and the property lines could be a buffer for the public as well.

Roger Poynts, 147 Donald Drive, Moraga, spoke to information he had found on-line regarding the Vesting Tentative Map dated November 2013, which had shown grading on Parcel C and two bridges. He clarified that the second bridge the Commission would like to eliminate was over Laguna Creek. He noted that the grading amount, as shown on the Vesting Tentative Map, would be approximately 30,000 to 40,000 cubic yards of off-haul which he understood would require a variance since the MMC required a balanced site. While a variance would not pose a problem, he suggested it would have to be considered carefully, with findings required to be made for approval. He expressed concern with the number of trucks required for the off-haul of material which may impact the neighborhood and asked that the Town Attorney opine on the issue of a variance to ensure that the Town's procedures were met.

Shawn Kim, 170 Danefield Place, Moraga, was pleased that SummerHill Homes had modified the lower elevations of the building pads for Lots 10 and 26, but asked whether the developer would consider further modification by setting up adjusted story poles for those lots to allow a visual, and work out detailed landscaping and fencing plans. He stated he would appreciate the Town's support to ensure that his privacy and visibility was not impacted. He also asked to see an architectural rendering prepared for those lots rather than hand-drawn plans to show that the lots would be lower than initially proposed. He introduced his Land Use Attorney present in the audience who expressed a desire to work with the developer to lay out all of the details on the height and privacy issues.

Mike Rijavic, 926 Camino Ricardo, Moraga, spoke to the meetings held for the preparation of the MCSP, the MCSP rationale and vision for retail and shopping centers eliminating the use of private automobiles, and cited the success of Moraga Ranch as a stepping stone on what the development could be. He agreed that the second bridge over Laguna Creek was not a good idea although the MCSP conceptual plans had shown bridges directly from the subject property over and towards Moraga Ranch, and while wonderful he suggested this development could not succeed absent the two property owners working together.

Dave Bruzzone, Moraga, commended SummerHill Homes' ability to accommodate most of the neighbors' needs. He spoke to the potential access point noting that the road circulation had been designed for the subject property and had not addressed his property's design concerns, and he would be happy if that was removed. He pointed out that if the SummerHill Homes development had to connect to Danefield Place, which condition would also apply to his property, major constraints would result.

Mr. Bruzzone questioned how that would work for his future development. He cited the Sonsara development and noted if that development were required to connect to Fieldbrook Place, neighborhoods could not be created given the difference in elevations. He spoke to the outlook point which would view onto the rear, side, and rooftops of properties planned for his future development, did not want to face the same problems that SummerHill Homes had faced with its adjacent neighbors, and suggested it was the responsibility of the Planning Commission with the approval of the MCSP and the subject development to acknowledge that his future development would be a higher and denser development with visual impacts.

Paul Kline, 834 Crossbrook Court, Moraga, thanked the Planning Commission, SummerHill Homes, and Town staff for listening to the community's comments regarding Parcel C. He asked that the Planning Commission hold to its recommendation to eliminate the second bridge over Laguna Creek and to the Moraga Road crossing, noting that his neighbors remained opposed to the second bridge for a variety of reasons, as discussed during the prior meeting. He recognized the desire for connectivity but before the rest of the MCSP was realized suggested that issue would have to be addressed somehow. He saw nothing in the staff report that would encourage the Planning Commission to change its recommendation to eliminate the second bridge, SummerHill Homes was not opposed to that direction and would offer the Town funds for potential options in the future, and he suggested there could be a potential traffic safety and flow issue with the second bridge as related to the future development of the Bruzzone property. He therefore questioned whether there had been a study of the effects of future traffic flow when the MCSP was complete. He also understood there had been an earlier plan for the loop trail to set back farther from its current location and supported a condition of approval requiring a 100-foot setback between Crossbrook Court property owners and any trail.

Jennifer Friedman, Hardy Drive, Moraga, spoke to the height of the homes and agreed that story poles should again be installed to show the potential visual impacts.

Brita Harris, 178 Corliss Drive, Moraga, thanked SummerHill Homes for its work on the project. She understood that as part of the MCSP, the trail system would be linked over time when the various developments were constructed. She encouraged the Planning Commission to wait until such time as other developments had been constructed before the second bridge was considered and at a time when connectivity would make sense. She also wanted to ensure there were adequate financial resources to build the bridge in the future. She otherwise commented that while there were no significant public

safety issues with existing Moraga parks, residential burglaries had increased and a bridge across Laguna Creek may provide an easy exit strategy for perpetrators.

Ms. Harris suggested that a second pedestrian crossing over Moraga Road, a major artery through the Town, did not make sense with an eye on future development. She spoke to the owl population, noted there were nests in the pine trees on her property, and asked for a modification to the mitigation conditions stating that she had collected information from reliable websites, particularly from the California Department of Fish and Game, which had suggested that the nesting period for owls occurred anywhere from September 1 to January 31. She also asked that Parcel C be designated as a nature preserve as opposed to a park.

Dave Harris, 178 Corliss Drive, Moraga, spoke to the cost of the second bridge, explained that he built bridges, and noted that the bridge located across the street from the Moraga Library had cost \$157 per square foot, totaling \$177,000. He suggested that \$75,000 would not begin to cover the bridge costs and the Town would have to be involved with the US Army Corps of Engineers, the Department of Fish and Game, and other entities to determine the placement of the bridge, which would likely have to run from tree line to tree line, minimizing impacts to the area, with the primary impact the abutments outside of the tree line and at the top of bank. Based on current costs, the pedestrian bridge could cost between \$175 and \$180 per square foot with the greatest cost likely the hauling of the structure to the site.

Rich Scarpitti, 920 Camino Ricardo, Moraga, referenced the vegetation behind Lot 11 on the south side, and clarified that the development was not located within a major scenic corridor and was more than 500 feet from the scenic corridor. He asked about the height of the landscaping and trees compared to the overall height of the roof of Lot 11, and the overall height of the roof compared to Camino Ricardo as to whether it would provide adequate shield or cover. He also spoke to the volume of off-haul with 2,000 truck trips planned along Camino Ricardo, asked whether there would be restricted times to move the fill given the busy traffic volume in the morning and afternoon, and asked whether the developer would be restricted to specific days to take the fill off-site. He referenced recent crime statistics and expressed concern with safety and security for homeowners in the future, questioning whether the subcontractors or employees for SummerHill Homes would be vetted, particularly given that children would walk through the area to and from school during the construction period. He understood the developer planned to offer cash contributions to build the bridge, and asked whether the developer would also consider a financial contribution for repaving Camino Ricardo and the sidewalk into the development given the potential volume of truck traffic.

Doug Herring, EIR Consultant for the Town of Moraga, identified the maximum off-haul option at 43,000 cubic yards. Since the applicant had reduced the site grading, he explained it would be less than that but had been based on the maximum amount of 16 cubic yards per truck load (220) resulting in a range of 150 to 2,688 one-way truck trips spread out over about six weeks, and 91 one-way trips a day spread out over the work day with the contractors tending to avoid the peak hours of the day.

Mr. Herring advised that the traffic consultant, Fehr & Peers, had reviewed the traffic situation, converted it to passenger car equivalents which increased the number of trips, and based on the traffic counts in the area intersections, the Level of Service (LOS) of the intersections would not be adversely affected and would remain unchanged, with all intersections operating at a LOS of A or B. He added that the trucks would be standard dump trucks.

Ms. Clark added that traffic safety impacts had been reviewed in the EIR and had been found to be less than significant even with the higher grading off-haul amounts analyzed as part of the worst case scenario. Also, conditions of approval had been recommended to address the paving conditions, and there would be a condition requiring a pre-construction survey, videotaping of pavement conditions, and haul routes designated as part of the Construction Management Plan. If there was any damage to the roads, the applicant would be required to restore the road to the appropriate condition following construction.

REBUTTAL:

Ms. Cunningham emphasized that throughout the process, SummerHill Homes had worked with the community; had made multiple revisions to the plans during the last 18 months in response to community, staff, Planning Commission, and DRB comments, and multiple other entities; and had been very accommodating to everyone. SummerHill Homes had reduced the number of lots from 28 to 26 single-family homes, and had introduced two single-story homes specific to Lots 10 and 26, with a large amount of public benefit to the project. She recognized the cost of the bridges was debatable, and suggested the \$75,000 cash contribution to the Town should be sufficient to do that work. The developer was willing to construct the bridge and had a team already in place with the location decided. While the bridge could be deferred to the future, there was an opportunity for fair share contributions from other developers in the MCSP towards the cost of the bridge.

Ms. Cunningham was also more than happy to work with Mr. Sun to address his screening issues, and while SummerHill Homes had not worked with Mr. Sun in the past, screening could easily be provided to address his privacy concerns. As to the efforts with respect to Lots 10 and 26, she noted that the developer had installed story poles on two separate occasions in good will and in the interest of working with the neighbors, and there was no ordinance in place requiring the placement of the story poles. She suggested that the two-story plans, as shown, were appropriate for the neighborhood with no single-story plans required in the MCSP. She added that there would be a fiscal impact at some point for the 26 lots and the amount of community benefit and contributions that could be made.

Ms. Cunningham advised that SummerHill Homes did not have a new rendering for Lots 10 and 26, although the architect had done the drawing on top of the previous rendering which had been done to scale and which should be relatively accurate. She asked that the project not be delayed further by requiring additional story poles or renderings, emphasizing the developer had worked with staff and the community to address the

concerns. Speaking to the expected total off-haul, she explained that SummerHill Homes had started out with 15,000 cubic yards of off-haul, had originally balanced the off-haul on the site, and throughout the iterations had been encouraged to be more creative with a decision made by the Town that off-haul would be preferable and result in a better new home development as opposed to working in the confines of keeping all of the dirt on the site. With the reduction of cut and fill, and including the off-haul from the park, the proposal was now at approximately 33,000 cubic yards which was less than the amount evaluated in the EIR. She thanked everyone for their time and requested approval of the project.

Ms. Cunningham reiterated, when asked, that the two bridges shown on the plans were actually steel rail cars, reused and put in place, narrower at eight and a half to nine feet, with the Moraga Road bridge strictly a pedestrian bridge with no vehicular access. The bridge on the other side was a rail car bridge, where it could be modified after placement on site, with rails on the side and abutments on either side of the bridge. The material was attractive and meant to be a pedestrian bridge, and a maintenance vehicle could use it to access the park on the Camino Ricardo side.

In response to the concerns with owls nesting at specific times of the year, Ms. Cunningham commented that the criteria included in the EIR included standard protocols and had been included in the mitigation requirements.

Dr. Hopkins, Biologist for SummerHill Homes, advised that California was the third largest state in the union with different nesting periods in southern, northern, and central California. He explained that in the Bay Area, raptors tended not to nest until mid-February or later, oftentimes not until March when nesting behavior occurred in the Bay Area. The Department of Fish and Game traditionally considered February 1 as the start of the nesting season. He read into the record the applicable federal and State laws related to nesting raptors, and commented that by law the nests were not to be disturbed during certain periods of the year, and applicants were fairly inclusive if they conducted surveys after February 1 to determine any disturbance if trees were cut down or maintained. He described the process as typically at least two weeks prior to any ground disturbance when a pre-construction survey should be conducted.

Ms. Cunningham expressed the willingness to agree to conduct a pre-construction survey if SummerHill Homes planned to begin any work after February 15.

Ms. Keimach clarified that either the current Planning Commission or a future Planning Commission (when the future Bruzzone project came before the Planning Commission) would have the ability to connect or determine feasibility of the future connector road, depending on the Bruzzone layout, as to whether it should be kept as a lookout.

Ms. Keimach suggested that the Planning Commission could make a decision on the status of the stub road and not feel they were placing undue pressure on the Bruzzone future development.

As to the bridge, Ms. Keimach acknowledged that staff had been disappointed with the Planning Commission's recommended removal of the bridge given that the community had in the last seven years involved all interested parties on the vision of the MCSP, which had envisioned three pedestrian bridges; two on Parcel C, and one south of Parcel C. She found that vision to be good since it provided a connection to the Lafayette-Moraga Regional Trail, all the way to the City of Walnut Creek, through Lafayette under the bridge, and to another East Bay Regional Park District (EBRPD) regional trail around the Briones Reservoir.

Ms. Keimach commended SummerHill Homes and explained that every time the developer had been asked for changes to the project or a public amenity that was not necessarily in its interest, the developer had agreed to provide that change. One of the things staff wanted was for the developer to listen to the seven years of vision for the MCSP. She added that the Park and Recreation Commission had a goal for 2014/2015 to consider trails pursuant to its vision for Corliss and Camino Ricardo residents to walk to Moraga Commons to enjoy local festivals. The removal of the bridge could impact the effectiveness of Parcel C with one access, an access that was steep, requiring emergency personnel to be visible to anyone in the area. The bridge would allow police and emergency personnel to drive by and monitor if there were any issues and reach that area quickly. Further, if Parcel C was designated an educational area it made no sense absent the public access bridge given it would otherwise be difficult for many people to access the area including emergency personnel due to the steepness of the hill.

Ms. Keimach asked that the Planning Commission look at the big picture, the seven years of input and vision for the MCSP, and the two bridges to Parcel C to make the vision for the MCSP work. She also commented that although the developer had offered a contribution of funds for the bridge, it was unlikely the Town would ever be able to construct the bridge in the future given the Town's limited resources and inability to obtain the required permits from the various agencies. She stated it would be much easier for the private sector to secure the necessary permits at the time of construction of the development.

PUBLIC HEARING CLOSED

Commissioner Kuckuk stated that she had the opportunity to speak with staff this date regarding the bridge crossing over Laguna Creek. She commented that when she had spoken of this issue during the December 16, 2013 Planning Commission meeting, she had suggested that the bridge crossing and the signalized pedestrian crossing at Moraga Road be included in the DA, which staff had proposed as part of Condition 17.

Commissioner Kuckuk explained that she had been involved in the creation of the MCSP, and she believed in and supported the MCSP which included a Circulation Element to encourage connectivity throughout the Town and the MCSP area, and which encouraged walking, biking and other forms of transportation other than vehicles.

Commissioner Kuckuk remained concerned that any new crossing at Moraga Road between Corliss Drive and St. Mary's Road should be positioned to support pedestrian traffic from the MCSP area west of Moraga Road and north of St. Mary's Road, and not just from the Camino Ricardo site. She suggested that determining the ultimate location of the signalized crossing should be through the Livable Moraga Road Project where there would be additional opportunity for public comment, involvement from the community, and CEQA analysis. A signalized crossing was an important safety feature, would be a visual disturbance within the scenic corridor, and should be planned thoroughly to ensure it was in the right location, was appropriate, and safe.

Commissioner Kuckuk also wanted to see some flexibility in the exact location of the Laguna Creek bridge crossing which would be important to ensure the ultimate alignment of the signalized crossing along Moraga Road. She supported a modification to Mitigation Measure 5-7 to reflect her concerns and would support the staff errata memorandum recommending changes to Condition 14. For the record, she emphasized that it had never been her intention to eliminate the Laguna Creek bridge crossing as part of the original discussion, but include both the Laguna Creek bridge and the pedestrian crossing as part of the DA.

Ms. Clark advised in response to the Chair that recommendations as part of the Livable Moraga Road Project were expected in the next month or so, with direction on a preferred concept in late spring/early summer 2014.

Commissioner Levenfeld stated she too had been involved with the MCSP effort, and did not recall the final map having a bridge this far north. She recalled a discussion on development of the site exiting onto Moraga Road into the park although that had not been the recommendation of the Planning Commission at that time. She also recalled discussions that it was not a good idea to move people and vehicles across Moraga Road. She wanted to see some connectivity to the path, did not like the idea of the bridge at the proposed location, and agreed with Commissioner Kuckuk that it made sense for the Livable Moraga Road Project Committee to review the potential signalized crossing particularly given the location in the scenic corridor.

Commissioner Levenfeld asked whether SummerHill Homes could be directed to place the bridge in a more southerly location, to which Ms. Brekke-Read advised that the most logical place for the bridge was not on Town-owned property.

Ms. Clark identified Sheet TM-2 and the supplemental packet provided during the December 16, 2013 meeting to identify property boundaries, flood zone, and creek.

Commissioner Levenfeld understood the need for connectivity with the trail, but was not convinced that the bridge was in the right location given it would be a bridge to nowhere, and a crossing could create a nuisance causing a significant impact to the scenic corridor.

Commissioner Levenfeld suggested it was premature to identify the location of a crosswalk at this location potentially creating a situation similar to downtown Lafayette

which was full of traffic signals and was no longer scenic and semi-rural. She agreed with some of the concerns expressed by the neighbors to keep the area as a preserve with limited access, but noted there would be little parking in the area for access. Until trails could be developed, the crossing could be the best way to proceed although she did not want to be held hostage that this was the only chance for the bridge and it should be done now.

Ms. Keimach commented that if a bridge was not provided from Parcel C on both sides, regardless of the crossing, and while she understood the concerns with the crosswalk, if both bridges were not provided at this time, when the next development was proposed (Bruzzone property) it would not have the permission of the property owner of Parcel C, and to implement the MCSP both sides were needed. She acknowledged, when asked, that while it was not typical for the Town to have DAs, there was a DA with Moraga Country Club, which was the first DA in the Town.

Ms. Clark affirmed that the further out the Planning Commission placed a decision on the bridge the more difficult it would be to implement that component; i.e. the timing of the development, needed funding and financing, and the willingness of the developer to construct the bridge. She again identified Sheet TM-2 which had shown the property boundaries, the flood zone, and the creek.

Commissioner Levenfeld commented that SummerHill Homes had stated that the crossing towards Moraga Road would only be pedestrian although staff had stated that emergency vehicles may access Parcel C, to which Ms. Brekke-Read clarified that the bridge over Laguna Creek would not be for vehicle access but was how the MOFD planned to access the site for emergency purposes. The MOFD would not drive across the bridge but walk over the bridge which would be designed on the other side for park maintenance vehicles.

Commissioner Onoda questioned that emergency vehicles would have to access Parcel C in a convoluted way due to the number of signal lights as opposed to accessing the development, park at the cul-de-sac, and travel down. She supported a more direct route in the event of an emergency which could be provided at Camino Ricardo.

Ms. Brekke-Read stated that staff had spoken with the MOFD Fire Marshal and it was likely emergency personnel would access the property from the Fire Station located on Moraga Road which was closer to Commons Park and access directly over a flat bridge with a gurney, which would be the shortest route.

Commissioner Onoda understood that the MCSP had planned for the southwest corner of Parcel C to have that connection. She commented that the Moraga Country Club Fire Station would only have to go to Parcel C, right out of the fire station out of the Country Club, one light, left into the shopping area, which was flat land, which would be a much closer connection in the event of an emergency as opposed to the gurney route.

Commissioner Onoda valued the efforts related to the MCSP and did not want to create something else that had not been discussed in the MCSP.

Ms. Keimach suggested that if the Planning Commission wanted to propose both bridges to the permitting agencies and identify a bridge connection from Parcel C to Town property with the least impact, the associated agencies could determine an appropriate location. She explained that the goal was that the pedestrian bridge meet the intent of the MCSP and protect wildlife and vegetation.

On the question of whether it was appropriate to have a bridge crossing over Laguna Creek, Commissioner Levenfeld recalled a lengthy discussion before the Planning Commission years ago, with a suggestion that the site be considered, but there was limited space to walk and nowhere to go. There had been no conversation at that time on a property owner and the potential for development, simply the discussion of where a crossing should be located.

Commissioner Schoenbrunner suggested that a bridge from Moraga Road would provide greater public access, stated that public safety was a concern, and noted that it would be better for the Police Department and the MOFD to approach the site from a flat rather than a steep side. She could support the bridge if provided in such a way to mitigate damage to the creek and wildlife in the area. She remained concerned with the population of landlocked native Rainbow Trout in Moraga, which from a biological perspective could be an adverse effect if sequestering the species from those that were more limited genetically. She also suggested there would be a unique opportunity for the Livable Moraga Road Project to work with the Department of Fish and Wildlife to address access and wildlife mitigation. She recognized the desire for access and connectivity to the trails which was another reason she could support the bridge.

Commissioner Marnane was uncertain he could support the bridge, recognized the need for connectivity, but suggested the more basic concern was whether Parcel C should be deeded to the Town given the potential impacts to the Town. He otherwise understood that the bridge would be a flat bed chassis with support on the ends.

Commissioner Kuckuk suggested that a bridge crossing over Laguna Creek would be desirable, and acknowledged the benefits to the Town to obtain the parcel and maintain it in its natural state although her sticking point was on its placement.

Commissioner Onoda commented that she would be happy without the second bridge and suggested if considering Rancho Laguna Park, which had a loop, it was not connected to anything although there were people in the park walking, and walking their dogs. She did not see the connection to be a problem and suggested it would be nice to walk with a friend in a place that was quiet, in nature, and without a lot of people. She suggested once the rest of the village had been developed, a connection point would make more sense where the people were and not just where the 26 homes were located, allowing access to Parcel C and then onto the shops. She therefore did not support the bridge.

Commissioner Kline noted that staff had convinced him of its arguments to preserve the Laguna Creek bridge, and while the location was a problem, he could support the bridge at this time.

Commissioner Levenfeld suggested a connection to Moraga Road was important although, suggesting that the connectivity should not be to the road but to the trail system which made better sense. She did not want to see Parcel C be completely isolated and there should be some other pedestrian connection out of Parcel C, not to Moraga road at that location. If she was being asked whether to have a bridge at all, she would consider a bridge under different circumstances.

Chairperson Comprelli stated that he had not been in favor of connectivity, understood the concept, and understood the staff direction, but did not share that feeling. He suggested that Parcel C was important and should be developed not as a park but as a natural space. He was inclined to suggest that Parcel C be developed as a natural space tied to the project, and suggested it would do the parcel a disservice if tied to Commons Park. He was not convinced that people would want to come from Commons Park and walk across the street to access Parcel C, although people who resided on Camino Ricardo may walk through Parcel C, and he could see traffic coming from west to east but not east to west. He added it was not that clearly obvious to him that a bridge was needed, and he would not automatically vote for a bridge at this time.

Commissioner Levenfeld understood that moving the bridge was not an option, although the Chair understood that other locations could be considered for the bridge. If it was that important to connect the subject area to Commons Park it could be done by connecting to a trail and then crossing at the intersection of Moraga Road and St. Mary's Road, as opposed to the Skate Park.

Ms. Brekke-Read referenced Sheet TM-2, as part of the December 16, 2013 staff report, where it had shown what Laguna Creek looked like adjoining Town-owned property. She clarified the location of the flood zone, the top of bank, and from Parcel C, and the location of the bridge would be the shortest section and the least invasive to the riparian habitat. She summarized the comments from the Commission regarding the bridge, understood that a majority of the Commission was of the opinion that the bridge was a good idea because of the connectivity. She suggested the location of the bridge was the best location although the Commission had yet to discuss how the connection figured into the big picture of Moraga Road and the pedestrian/bicycle circulation, which issue could be discussed independent of where the bridge was located and could be done during the Livable Moraga Road Project discussions. She reiterated that SummerHill Homes had offered to contribute monies to pay for bicycle/pedestrian improvements along Moraga Road.

Commissioner Kuckuk explained that she was the Planning Commission representative to the Livable Moraga Road Project, and the crossing as proposed in the plan led one directly over to the Skate Park and aligned with the northern end of the new parking lot.

Commissioner Kuckuk suggested that while it may be a reasonable crossing, she did not believe it was the only reasonable crossing since the MCSP had considered the connection of Parcel C down towards the St. Mary's Road intersection.

Commissioner Kuckuk referenced a fresh granite path angled down towards the St. Mary's Road intersection which she suggested was a reasonable crossing that would be consistent with the MCSP, tie into the trail system, avoid a signalized crossing on Moraga Road, and which should be studied as part of the Livable Moraga Road Project. She wanted to decouple the bridge and pedestrian crossing but still provide in the conditions of approval and in the DA the flexibility of placing the bridge farther south upon the determination of the pedestrian crossing along Moraga Road.

Ms. Brekke-Read reported that the conditions of approval staff had identified in the errata memorandum to the Planning Commission offered that flexibility.

Ms. Keimach suggested that the Planning Commission need not determine where the crossing was to be located in order to determine the location of the bridge. The crossing could remain where located, the bridge could be placed in the least environmentally impacted area, and a trail could then go through.

Commissioner Kuckuk remained concerned directing a bridge at a 90-degree angle to a road, which would have a natural inclination for people to cross directly even if the trail went south and which could be an attractive nuisance. She preferred to design something that would be used in the way intended.

On the discussion, Ms. Clark again reiterated the process for the Livable Moraga Road Project where after a review of the options discussions of a preferred alternative would proceed followed by CEQA review.

Speaking to the Conditions of Approval, Ms. Brekke-Read clarified that the errata memorandum as submitted by staff during the meeting contained modified conditions, as identified by staff during the staff presentation. She explained that Condition 15 would be addressed as part of the Livable Moraga Road Project, and as part of that project the pedestrian circulation along Moraga Road would be better defined and provide an opportunity to work with the developer on a possible alternative location for the bridge. She clarified that the Livable Moraga Road Project Committee would make a recommendation to the Planning Commission on the project and the Commission would then make a recommendation to the Town Council. If the Commission approved the project at this time, there would be a bridge, the developer would have an approved project and would be aware of the requirements for the project, including the construction of the bridge, with the specific location yet to be identified.

Ms. Clark clarified that the applicant may construct the project with or without the second bridge.

Commissioner Kuckuk sought a way to revise Condition 14, and suggested it be modified to include the language *conformance with the EIR and the MCSP*, and also sought language that would tie the deadline into the Livable Moraga Road Project.

Chairperson Comprelli and Commissioner Levenfeld suggested that Condition 15 served no purpose, to which Ms. Clark agreed that the condition was redundant to the extent the mitigation measure in the EIR remained with or without that condition.

Commissioner Kuckuk wanted to tie Conditions 14 and 15 to the Livable Moraga Road Project and to the timing of that project to ensure that the conditions were not left hanging.

Andy Faber, Land Use Counsel for SummerHill Homes noted the developer sought a condition that would not require further environmental analysis. He did not want an open-ended condition.

Chairperson Comprelli declared a recess at 10:23 P.M. The Planning Commission meeting reconvened at 10:38 P.M. with all Commissioners present.

Ms. Brekke-Read again spoke to Condition 14 and the discussion as to who would make the decision where the bridge would be located and the ability to analyze any potential impacts of moving the bridge location. If the bridge was moved farther south, the top of bank would change places with the flood zone and the riparian corridor would widen substantially. She recommended that Condition 14 be modified to add the statement:

14. *The Laguna Creek bridge would be moved as far south as possible without creating environmental impacts and without changing the permitting requirements.*

Chairperson Comprelli suggested that once the bridge had been built it should tie into a path, and the path should turn south heading towards the intersection of St. Mary's Road and Moraga Road and not cross the street anywhere.

Ms. Brekke-Read explained that the high visibility crosswalk involved a separate condition and the location of the hiking trail, but potentially the bridge could connect south and north if the Livable Moraga Road Project recommended trails on both sides of Moraga Road.

Commissioner Levenfeld recommended that Condition 14 be modified with additional language as follows:

14. *The location of the Laguna Creek bridge may be adjusted within the project area from that shown in the approved plans to optimize a safe and convenient connection to regional trails subject to Town approval and finding of conformance with the EIR.*

And Condition 15 was recommended for modification, to read:

15. *A safe pedestrian connection or crossing (if determined to meet the mitigation requirement) shall be provided in proximity to the proposed*

Laguna Creek pedestrian bridge in accordance with EIR Mitigation Measure 5-7.

On the discussion of the bridge and the crossing, Ms. Clark commented that the condition should allow for the crossing if an alternate could not be found. She did not recommend precluding a crossing at this stage. Absent an analysis to determine that the crossing meets the CEQA documents, she suggested it would be inadvisable to delete the crossing at this time.

Ms. Brekke-Read reiterated that staff would deal with the crossing through the Livable Moraga Road Project process with the Planning Commission to make a recommendation to the Town Council.

Commissioner Levenfeld recommended a further modification to Condition 15, to read:

15. *A safe pedestrian connection or crossing (if determined to meet the mitigation requirement) shall be provided in proximity to the proposed Laguna Creek pedestrian bridge in accordance with EIR Mitigation Measure 5-7, subject to Planning Commission approval.*

Commissioner Kuckuk recommended a further revision to Condition 14 to include the following language:

14. *The location of the Laguna Creek bridge may be adjusted within the project area from that shown in the approved plans to optimize a safe and convenient connection to regional trails subject to Town approval and finding of conformance with the EIR and with the Moraga Center Specific Plan (MCSP).*

On the discussion of the revisions to Conditions 14 and 15 and in response to the Chair, Ms. Murphy advised that with the way the conditions had been drafted there would be a requirement to construct the bridge, although it could be adjusted with Town staff approval. Pursuant to the DA, the bridge would need to be constructed prior to issuance of a Certificate of Occupancy for the 16th residential unit. The connectivity to the regional trail system had been addressed in Condition 14 and would come back to the Planning Commission through the Livable Moraga Road Project process.

Ms. Cunningham commented that if the developer was tied to the installation of the bridge with the 16th residential unit, and if the developer could not submit for applications to the regulatory agencies for possibly six months until the Livable Moraga Road Project determined a location for the bridge, the developer would be unable to maintain its schedule. She sought a quick decision on the location of the bridge.

Ms. Brekke-Read again clarified that the Livable Moraga Road Project was dealing with the pedestrian crossing and not the bridge crossing. The bridge crossing was a separate Town decision.

Ms. Keimach asked whether the Commission would be able to approve the project with the bridge and with Conditions 14 and 15, as written, and not have to go back to the developer for the crossing since the mitigation was in place, keeping the trail south to the intersection of Moraga Road and St. Mary's Road. And, if the Livable Moraga Road Project stated that a trail should be there, it would come back to the Planning Commission and not be tied to the development, allowing SummerHill Homes to meet its mitigations and not tie it to the Livable Moraga Road deadline.

Commissioner Levenfeld asked staff to review moving the bridge and asked that be done within a six-week time period.

Ms. Keimach suggested a safe trail down to the intersection and then allowing the Livable Moraga Road Project to consider whether a flashing light and crosswalk should be considered.

On the discussion of this topic, Ms. Brekke-Read recommended a further modification to the language for Condition 14, to read:

14. *The location of the Laguna Creek bridge shall be adjusted as far south as possible without significantly increasing environmental impacts and without changing the permitting requirements to optimize a safe and convenient connection to regional trails subject to Town staff approval and finding of conformance with the EIR and the Moraga Center Specific Plan (MCSP).*

An unidentified individual representing the developer expressed concern disconnecting the timing of the bridge, making a decision on the bridge, implementing the bridge, and later trying to determine the pedestrian crossing. The mitigation for the bridge must be in place when the bridge was constructed. Once the bridge location was determined, there could be a deadline to resolve the crossing issue. He noted that it would be at least three months before SummerHill Homes started construction of the bridge after submittal of the permit applications, allowing a window of time for the Town to determine the mitigation.

Another unidentified individual representing the developer suggested that the condition tying the construction of the bridge to construction of the 16th residential unit should be eliminated. He noted that the developer had environmental clearance now to build in one place.

Ms. Murphy clarified that the DA also included language whereby if the completion of such improvements was delayed due to circumstances not reasonably within the control of the developer, the completion deadline shall be reasonably extended by the Town, which would address such circumstances.

Ms. Cunningham reiterated that the location for the bridge had been selected as the environmentally superior location since it was not as wide, and the riparian buffer was wider when moving to the south.

The Planning Commission, staff, and the development team for SummerHill Homes continued to discuss the Laguna Creek bridge at length, debating the location of the bridge, the timing of its construction, and the requirements of permitting through the Department of Fish and Game.

In response to the concerns with respect to tying the mitigation measure to the bridge, Ms. Murphy recommended a further modification to Condition 15, to read:

15. *Prior to opening the bridge over Laguna Creek to public use, a safe pedestrian connection or crossing (if determined to meet the mitigation requirement) shall be provided in proximity to the proposed Laguna Creek pedestrian bridge in accordance with EIR Mitigation Measure 5-7, subject to Planning Commission approval.*

An unidentified representative of the developer pointed out that Mitigation Measure 5-7 would also have to be modified to be consistent with the language proposed by the Town Attorney for Condition 15.

Further discussing Conditions 14 and 15, Planning Commission consensus was to accept staff's recommended modifications with the conditions to now read:

14. *Bridge crossings at Corliss Tributary and Laguna Creek shall be provided. The bridge crossing of Corliss Tributary, shall generally be limited to non-motorized uses, but shall be designed and constructed to accommodate vehicles for maintenance purposes and the Laguna Creek bridge limited to non-motorized access only. An exception has been granted to allow the bridges and landscaping within the creek easements. The location of the Laguna Creek bridge shall be located as far south as possible without resulting in significant environmental impacts or changing the permitting requirements to optimize a safe and convenient connection to regional trails subject to Town staff approval and finding of conformance with the Environmental Impact Report (EIR) and the Moraga Center Specific Plan (MCSP).*
15. *Prior to opening the Laguna Creek bridge for public use, a safe pedestrian connection or crossing (if determined to meet the mitigation requirement) shall be provided in proximity to the proposed Laguna Creek pedestrian bridge in accordance with EIR Mitigation Measure 5-7, subject to Planning Commission approval. The ultimate location and design of this improvement may be adjusted from that shown in the project plans to optimize pedestrian safety and connectivity from the project site to regional trails subject to Planning Commission approval.*

On the discussion of these conditions, the development team for SummerHill Homes questioned the criteria to be used for the threshold to impose the conditions, to which Ms. Clark noted that as the Town Attorney had stated a new mitigation measure would be needed to mitigate impacts if those impacts rose to a new level of significance.

Ms. Keimach explained that there was data in the EIR, which staff had walked through for the potential environmental impacts if the bridge was moved farther south. She suggested it could be possible for the Planning Commission to determine from an environmental and data point of view that this was the least impact, and the Commission could consider rotating the bridge so that it was not oriented directly at a 90-degree angle to the road. She asked whether the Planning Commission would support such direction rather than reanalyze the impacts.

Commissioner Kline supported that direction as long as the bridge was not 65-feet wide.

Mr. Herring suggested that was not a CEQA solution to the discussion and may skirt the CEQA requirements. He stated there was no clear line threshold, .15 acres of riparian habitat had been identified as being significantly impacted but if that acreage was doubled to .38 acres that would still be mitigated and would not substantially increase the severity of the significant impact and would not require the recirculation of the EIR.

The Commission continued to debate the issue of the bridge, with Commissioner Kuckuk recommending that the Planning Commission follow the recommendations of the CEQA Consultant as to how the Town may avoid a substantive issue if placing the bridge farther downstream. If the threshold was to not trigger recirculation of the EIR, she stated she would be comfortable with that. She did not see the need to reach a point with no changes to the mitigation measures in that there would likely be minor changes.

Commissioner Levenfeld expressed concern that discussions still needed to occur between the developer and staff to resolve the two issues. She recommended that the item be continued with staff directed to work with the applicant to address how the intent of the Planning Commission may be resolved.

Commissioner Marnane pointed out that if the bridge was in existence now, and if one turned right, it would be 200 yards from the regional trail with the regional trail traveling across St. Mary's Road.

Commissioner Marnane questioned the discussions related to connectivity to the regional trail in there was a connection after walking 200 yards along Moraga Road.

Mr. Herring pointed out that there were environmental impacts in that people would cross which would create a safety hazard.

On motion by Commissioner Levenfeld, seconded by Commissioner Onoda to extend the Planning Commission meeting to 11:35 P.M. The motion carried by the following vote:

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

Commissioner Schoenbrunner recommended that the Commission consider the inclusion of the following condition to the project Conditions of Approval.

Public trails on Parcel C shall be designed with setbacks and landscaped screening to assure as much as reasonably possible privacy of residents and property which abuts Parcel C.

Commissioner Kline requested that Condition 27 be addressed at such time as the landscaping plan was approved, to which Ms. Brekke-Read advised that the landscaping plan was being approved as part of the project, and had already been reviewed and approved by the DRB.

Commissioner Kline opposed the planting of short trees since the closest home would be large and located on a hill. He encouraged a modification to Condition 27 and asked that the applicant be directed to plant larger trees.

Ms. Brekke-Read reiterated that the condition had been imposed by the DRB with the intent of preserving an orchard aesthetic.

Commissioner Onoda recommended that pear trees could be planted along the street which would provide that orchard aesthetic while on the higher elevations a tree species, such as a redwood, could be planted to provide adequate screening.

Commissioner Levenfeld commented that regardless of the tree species, the closest home would not be able to be screened completely.

Ms. Brekke-Read recommended against the use of redwood trees given issues that had been experienced elsewhere in the Town.

Commissioner Kline spoke to the stub road and suggested that since it was not clear that the future connection would be built, he recommended that the sidewalk and curb not be installed until such time as the road was connected. In the meantime, the area could serve as a little park.

Chairperson Comprelli disagreed since the street was there and had been posted to demonstrate an intention, and it would be up to a future Planning Commission to implement that future intention.

On the question of whether the stub road should be a road or an easement, and based on a straw poll vote and show of hands, the consensus from the Commission was that the stub road would be a road.

Commissioner Levenfeld pointed out that a finding was missing from Page 15 of Attachment A, a resolution certifying the Camino Ricardo Subdivision Project EIR, with 6-H having no rationale, and with staff clarifying that the same finding applied to both that finding and the prior finding.

Commissioner Kuckuk referenced Page 5 of Attachment A, a resolution certifying the Camino Ricardo Subdivision Project EIR, and noted that the first paragraph referenced Exhibit A2, although the attachment had not been identified as such.

In response to a statement made by a member of the public that a variance would be required, Ms. Brekke-Read explained that the MMC provision that all grading should balance on-site was a guideline, not a rule, and would not require a variance.

Ms. Clark also added that the project findings supported the grading approach that had been proposed.

Responding to a concern from the public regarding the owl nests, Ms. Brekke-Read reiterated that as the Biologist had stated, a pre-construction survey would be required as part of the mitigation measures.

Mr. Herring suggested that Mitigation Measure 6-5 (b) may be modified to reflect the non-breeding season for birds from September 1 through January 15.

On motion by Commissioner Levenfeld, with no second, to extend the Planning Commission meeting to 12:00 A.M. The motion carried by the following vote:

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

Ms. Brekke-Read identified Page 11 of the Mitigation Monitoring and Reporting Program (MMRP), Mitigation Measure 6-5, and stated that the pre-construction survey requirement included three dates and should be modified from September 1 through January 31 to read *September 1 through January 15*, and changing February 1 through August 31 to read *January 16 through August 31*.

Ms. Murphy recommended that the first sentence of Mitigation Measure 5-7 on Page 3 of the MMRP be revised to read: *Prior to opening the Laguna Creek bridge for public use, a safe pedestrian connection or crossing shall be provided, as approved by the Town Engineer, in conjunction with the proposed Laguna Creek pedestrian bridge, which condition would track with the changes made to Condition 15 as earlier discussed.*

The Planning Commission, staff, and the developer again discussed Conditions 14 and 15, and while Ms. Brekke-Read was under the impression there had been a consensus from the Commission that the language she had identified earlier was acceptable, there was further modification to Condition 14, as follows:

14. *Bridge crossings at Corliss Tributary and Laguna Creek shall be provided. The bridge crossing of Corliss Tributary, shall generally be limited to non-motorized uses, but shall be designed and constructed to accommodate*

vehicles for maintenance purposes and the Laguna Creek bridge limited to non-motorized access only. An exception has been granted to allow the bridges and landscaping within the creek easements. The Laguna Creek bridge shall be located as far south as possible without creating new significant environmental impacts or substantially increasing the severity of previously identified impacts or changing the permitting requirements. The bridge shall be designed to orient pedestrians towards the south, and shall optimize a safe and convenient connection to regional trails subject to Town staff approval and finding of conformance with the Environmental Impact Report (EIR) and the Moraga Center Specific Plan (MCSP).

By consensus, the Planning Commission supported the amendments to the MMRP, Condition 15 as previously modified, and Condition 14 as further modified above.

The Planning Commission extended the meeting to 12:15 A.M. [There was no motion or second] The following vote was taken:

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

As to the draft resolution next in number to Adopt the Findings that the EIR for the Camino Ricardo Project has met the Requirements of CEQA and Certifying the Camino Ricardo Subdivision EIR, Ms. Murphy restated that staff had provided modifications to the document in the errata memorandum presented prior to the public hearing.

Ms. Murphy clarified that those modifications included a modification to Mitigation Measure 5-7, 6-1 and 6-5 (b). She asked that any motion for approval incorporate those additional amendments.

On motion by Commissioner Kuckuk, seconded by Commissioner Levenfeld, to adopt Resolution next in number to Adopt the Findings that the Environmental Impact Report for the Camino Ricardo Project has met the Requirements of the California Environmental Quality Act and Certifying the Camino Ricardo Subdivision Environmental Impact Report, subject to the details provided in the errata document to the Planning Commission [presented January 6, 2014], and the changes as read into the record by staff to Mitigation Measure 5-7, 6-1 and 6-5 (b). The motion carried by the following vote:

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

Regarding the approval of the CDP, GDP, Vesting Tentative Subdivision Map, HDP, Grading Permit, CUP, and Design Review for the Camino Ricardo Project, a 26-Unit Single-Family Residential Subdivision, Ms. Brekke-Read explained that there had been

changes made to the project conditions of approval as identified in the errata memorandum, and detailed during the discussion for Conditions 14, 15 and 32.

As to the final modification to Condition 14, Ms. Murphy advised that the condition as presently drafted and as modified, would be subject to Town staff approval while Condition 15 was subject to Planning Commission approval.

Commissioner Levenfeld did not support the bridge at a 90-degree angle. She was uncertain the Commission could reach a compromise at this point.

Further discussing Condition 14, and although a consensus had been reached on the latest modification, Ms. Brekke-Read recommended the condition be further modified to read:

14. *Bridge crossings at Corliss Tributary and Laguna Creek shall be provided. The bridge crossing of Corliss Tributary, shall generally be limited to non-motorized uses, but shall be designed and constructed to accommodate vehicles for maintenance purposes and the Laguna Creek bridge limited to non-motorized access only. An exception has been granted to allow the bridges and landscaping within the creek easements. The Laguna Creek bridge shall be located as far south as possible without creating new significant environmental impacts or substantially increasing the severity of previously identified impacts or changing the permitting requirements. The bridge shall be designed to orient pedestrians towards the south, and shall optimize a safe and convenient connection to regional trails subject to Planning Commission approval and finding of conformance with the Environmental Impact Report (EIR) and the Moraga Center Specific Plan (MCSP).*

Commissioner Levenfeld was comfortable with the condition as modified as long as it allowed the developer to keep moving forward.

The developer's unidentified representative expressed concern that the DA included a timing condition that may be a concern in the future if there was no Planning Commission support.

Ms. Brekke-Read noted that the DA must still be approved by the Town Council, which had been tentatively scheduled for consideration in February. She was confident that the issue may be resolved prior to that time.

Ms. Murphy commented that it would depend on the time needed to complete the analysis and she was uncertain how long that could take.

On the continued discussion of the status of the bridge, Ms. Brekke-Read suggested it would not be realistic to request that the applicant return to the Planning Commission in two weeks, and it would be more of the timing for the developer as opposed to the

timing relative to the DA. She suggested much would depend on the time to generate information.

The developer's unidentified representative explained that the problem was infinite and moving farther south the impacts of the bridge would be greater and may therefore increase the impacts. If the bridge was to be angled, the impacts would be dramatically increased which was why bridges tended to be perpendicular since that was the least effect. The issue was moving people, and there were creative ways to move people and keep the bridge where located. It was noted that the bridge was currently located in the best location environmentally.

Commissioner Levenfeld stated that up to this point she had been opposed to the bridge since it would cause a nuisance on the road, and she sought a compromise to angle it farther south. If that was not possible, she suggested there should not be a bridge although she acknowledged the desire for connectivity. She did not want to see a fence in the scenic corridor, emphasized her concern for not needing a crosswalk at the bridge, and expressed concern that people would run in the middle of the street.

Commissioner Kuckuk would like to see the bridge location return to the Planning Commission. While she did not want to delay the applicant, was uncertain of the best way to achieve that direction.

Ms. Clark suggested it would be possible to craft language for the DA that would allow enough latitude for the bridge to be included, or a cash contribution to be made, should the Planning Commission decide it was not a desirable feature if it could not be designed or located adequately.

Before the Final Map was submitted, Ms. Clark suggested that Planning Commission approval may be obtained to allow a final decision on the bridge. She did not see that there was sufficient time between now and the Town Council consideration of the DA to complete the analysis.

Ms. Murphy recommended further modification to Conditions 14 and 15, as follows:

14. *A bridge crossing at Corliss Tributary shall be provided. The bridge crossing of Corliss Tributary, shall generally be limited to non-motorized uses, but shall be designed and constructed to accommodate vehicles for maintenance purposes and the Laguna Creek bridge limited to non-motorized access only. An exception has been granted to allow the bridges and landscaping within the creek easements. The applicant shall submit plans for a bridge across Laguna Creek. The Laguna Creek bridge shall be located as far south as possible without creating new significant environmental impacts or substantially increasing the severity of impacts previously identified. The bridge's design and location shall optimize a safe and convenient connection to regional trails subject to Planning Commission approval and finding of conformance with the Environmental Impact Report (EIR) and the Moraga Center Specific Plan (MCSP). The design shall orient pedestrians toward the south. In the event that the*

Planning Commission does not approve a bridge over Laguna Creek the developer shall provide a payment of \$75,000 to assist in funding future bridge or trail improvements as documented in the Development Agreement between the Town and the developer.

15. In the event the Laguna Creek bridge was constructed, prior to opening the Laguna Creek bridge for public use, a safe pedestrian connection or crossing (if determined to meet the mitigation requirement) shall be provided in proximity to the proposed Laguna Creek pedestrian bridge in accordance with EIR Mitigation Measure 5-7, subject to Planning Commission approval. The ultimate location and design of this improvement may be adjusted from that shown in the project plans to optimize pedestrian safety and connectivity from the project site to regional trails subject to Planning Commission approval.

In the event the bridge was not constructed, and as to whether the \$75,000 in funds may be used towards the maintenance of native habitat in response to the Commission, Ms. Brekke-Read advised that the applicant would be installing the landscaping. The bridge was meant for pedestrian orientation.

Ms. Clark spoke to the recommendation for alternative connectivity and explained that the \$75,000 was valuable to the Town for future pedestrian improvements.

On motion by Commissioner Kuckuk, seconded by Commissioner Levenfeld to adopt Resolution next in number to approve the Conceptual and General Development Plans, Vesting Tentative Subdivision Map, Hillside Development Permit, Grading Permit, Conditional Use Permit, and Design Review for the Camino Ricardo Project, a 26-Unit Single-Family Residential Subdivision, subject to the details presented in the errata memorandum to the Planning Commission on January 6, 2014; including the changes to Conditions 14, 15, and 32, as read into the record by staff. The motion carried by the following vote:

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

As to the DA, Ms. Murphy identified the changes discussed earlier in the meeting and recommended a further modification to the operative provisions found on Page 2, Item 3 of the resolution, to read:

3. The Planning Commission recommends that the Town Council adopt an ordinance approving the proposed Development Agreement included as Exhibit A, with revisions to Section 5.11, to provide that if the Planning Commission does not approve a bridge over Laguna Creek, before approval of the Final Map, developer shall alternatively provide Town a total of \$75,000 to fund bridge and trail improvements. This

recommendation is based on the Planning Commission's certification of and reliance on the Final EIR.

Commissioner Kuckuk offered a motion seconded by Commissioner Levenfeld, recommending that the Town Council Approve a Development Agreement Between SummerHill Homes and the Town of Moraga, subject to the changes read into the record by the Town Attorney.

On the motion, Commissioner Onoda understood that the Town had only one prior DA with the Moraga Country Club years ago. While this development would be doing some wonderful things, as other developments had in the past such as the amenities provided by Palos Colorados, Hetfield Estates, and Rancho Laguna II, all had no Town maintenance or DA. Although the Town would get a sidewalk, habitat, and possibly two bridges as part of the Camino Ricardo development, she could not support the DA. She did not want to see the Town start a new norm with DAs.

Ms. Brekke-Read explained that the applicant had proposed improvements above and beyond what would normally be required to provide, as outlined in the staff report. The project would have the pedestrian bridges and sidewalk and cash contributions for improvements along Moraga Road, all of which were not direct impacts from the project. She emphasized that the developer would be providing improvements beyond what the nexus required, and as such, was a primary reason for the DA.

Ms. Brekke-Read added that Palos Colorados monies had come to the Town as a result of a Settlement Agreement; Rancho Laguna II and Hetfield Estates had no approved Tentative Subdivision Maps, and only had CDPs approved to date. In addition, there was a policy in the MCSP that alluded to the use of DAs.

Ms. Murphy further added that the DA was a legal mechanism by which to document and provide those improvements and funding to the Town. The developer would also receive vested rights through the DA which included a term of ten years. The developer may develop within that ten-year period subject to the zoning in place and approvals, which she understood was not the intent, but which may also be extended by the Town.

Commissioner Onoda reiterated her concerns with the DA suggesting it had not had adequate public or Town Council comment.

The Commission pointed out that the motion, as stated, was clear that the next step was Town Council consideration of the recommendation from the Planning Commission on the DA.

Ms. Clark advised that DAs were common in the country, and while uncommon in Moraga there were government codes which applied to the use of DAs.

Commissioner Levenfeld spoke to prior concerns with the Hetfield Estates development, with the property having been graded and left to sit undeveloped. She asked whether that concern may be addressed in the DA to ensure the Town did not have a future eyesore of a fully graded development that was left to sit.

Ms. Clark explained that the Town had certain securities and commitments for the execution of the grading plan.

Ms. Murphy clarified that the DA included no requirements for development and did not include those timeframes, leaving that to the developer. After the grading was completed, the Town could check with the developer to ensure construction at a specified amount of time.

An unidentified representative of SummerHill Homes reported that during the recession SummerHill Homes had been involved in a number of developments. Not once since the recession had SummerHill Homes not moved forward on its projects, stopped grading, or backed out of its commitments. SummerHill Homes had a reputation to uphold and had another project in the Town for which it would also like to obtain approval. While not an assurance, she emphasized that SummerHill Homes had a reputation to uphold.

Commissioner Levenfeld expressed the willingness to provide correspondence to the Town Council on this issue to allow the Town Council to ensure that concern was addressed to allow the DA to move forward.

Ms. Clark commented that concern may also be addressed as part of the Final Map approval process.

Ms. Murphy suggested if the developer was willing to accept language regarding timing after the grading of the site that may be included in the DA, with language to be negotiated with the developer regarding the timing of development after the Grading Permit. She recommended a further modification to Item 3 of the operative provisions found on Page 2 of the resolution, to read:

3. *The Planning Commission recommends that the Town Council adopt an ordinance approving the proposed Development Agreement included as Exhibit A, with revisions to Section 5.11, to provide that if the Planning Commission does not approve a bridge over Laguna Creek, before approval of the Final Map, developer shall alternatively provide Town a total of \$75,000 to fund bridge and trail improvements, and additional revisions regarding the timing of development after grading of the site to be negotiated between the Town and the developer. This recommendation is based on the Planning Commission's certification of and reliance on the Final EIR.*

Commissioner Kuckuk modified her original motion to accept the Town Attorney's revisions. As the second to the motion, Commissioner Levenfeld also accepted the revisions.

On motion by Commissioner Kuckuk, seconded by Commissioner Levenfeld to Recommend the Town Council Approve a Development Agreement Between

SummerHill Homes and the Town of Moraga, subject to the changes read into the record by the Town Attorney, as further modified. The motion carried by the following vote:

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

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

VI. ROUTINE & OTHER MATTERS

There were no Routine & Other Matters.

VII. COMMUNICATIONS

There were no communications.

VIII. REPORTS

A. Planning Commission

Commissioner Kline requested a copy of the meeting minutes from the September meetings, to which Ms. Brekke-Read reported that the minutes were forthcoming.

B. Staff

Ms. Brekke-Read reported that she was still developing the 2014 Planning Commission meeting schedule, and would present it to the Planning Commission at its next meeting. She added that story poles were often required for new construction and anything that could be visible in the scenic corridor, with story poles having been installed at property located at 1066 Larch Avenue and property at Paseo Linares. Upcoming projects to be presented to the Planning Commission included Rancho Laguna II, Hetfield Estates, and the Sign Ordinance.

IX. ADJOURNMENT

On motion by Commissioner Kline, seconded by Commissioner Kuckuk and carried unanimously to adjourn the Planning Commission meeting at approximately 12:35 A.M.

A Certified Correct Minutes Copy



Secretary of the Planning Commission

