

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

June 16, 2014

7:00 P.M.

MINUTES

1. CALL TO ORDER

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

ROLL CALL

Present: Commissioners Comprelli, Marnane, Onoda, Schoenbrunner*, Woehleke,
Chair Kuckuk
*Commissioner Schoenbrunner arrived at 7:10 P.M.

Absent: Commissioner Levenfeld

Staff: Ellen Clark, Senior Planner
Ella Samonsky, Associate Planner
Brian Horn, Associate Planner
Doug Donaldson, Contract Planner

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

There was no reported contact with applicant(s).

2. PUBLIC COMMENTS

There were no comments from the public.

3. ADOPTION OF CONSENT AGENDA

- A. April 15, 2014 Joint DRB/PC Minutes**
- B. April 21, 2014 Minutes**
- C. May 19, 2014 Minutes**

Senior Planner Ellen Clark reported that the Planning Commission had been provided redline strikeout revisions to the May 19, 2014 minutes, and she asked that Pages 2, 3 and 4 be inserted into the minutes included in the Planning Commission packet.

Commissioner Woehleke asked that the April 21, 2014 minutes be removed from consent.

On motion by Commissioner Comprelli, seconded by Commissioner Woehleke to adopt Consent Agenda Items A and C, subject to the redline strikeout version presented to the Planning Commission on June 16, 2014 for item C. The motion carried by the following vote:

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

On motion by Chair Kuckuk, seconded by Commissioner Marnane to move approval of the April 21, 2014 minutes to Routine and Other Matters, as Item B. The motion carried by the following vote:

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

4. ADOPTION OF MEETING AGENDA

On motion by Commissioner Woehleke, seconded by Commissioner Comprelli to adopt the meeting agenda, as modified. The motion carried by the following vote:

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

5. PUBLIC HEARING

A. 1873 St. Andrews Drive, VAR 1-14

Applicant: J. Allen Sayles Architect, Inc., 1196 Boulevard Way, Suite 11, Walnut Creek, CA 94595

Proposed Application: Request for a Variance to Municipal Code § 8.28.030 to allow a proposed 7 foot-10 inch and a 5 foot-1 inch side yard setback, and 12 foot-11 inch combined side yard setbacks. (3-DUA, ENS)

Associate Planner Ella Samonsky presented the staff report dated June 16, 2014, requesting consideration of a variance to Moraga Municipal Code (MMC) §8.28.030 to allow a proposed 7 foot-10 inch and a 5 foot-1 inch side yard setback, and 12 foot-11 inch combined side yard setbacks. She recommended that the Planning Commission adopt a resolution approving the variance to MMC §8.28.030 regarding minimum sideyard setbacks at the property located at 1873 St. Andrews Drive, and approve Design Review DRB 1-14 pursuant to the required findings and conditions of approval.

Responding to the Commission, Ms. Samonsky referenced Sheet A.1, identified the new storage area which would be located inside the existing structure, and stated it would not require a variance but had gone through the design review process since the additional storage area was in excess of the Floor Area Ratio (FAR) permitted for the lot size. She also clarified that there had been a previously approved addition in the crawl space area, which had been permitted through design review, and although shown on the plans would not be constructed as part of the application for the two decks.

PUBLIC HEARING OPENED

Allen Sayles, Architect, Walnut Creek, explained that the project had been split into two phases because there had been a cut-off deadline for Title 24 requirements in December 2013; however, on December 31, 2013, the State Energy Commission had found an issue with its new requirements and had postponed the deadline to July 1, 2014. He stated the staff report had addressed all of the issues; noted that the Moraga Country Club, when constructed, had prevented additions from being built absent a variance; and that many of the homes had zero lot lines and setbacks less than five feet. He cited the interpretation of the MMC over the years and suggested the current Planning Director had likely interpreted the MMC the way it had actually been written where everything required a variance. He acknowledged there had been issues between some approved projects from the Moraga Country Club Architectural Commission and the approval process from the Town, which oftentimes had exceeded the cost of construction for the project and some of the projects had been abandoned as a result.

PUBLIC HEARING CLOSED

In response to the Commission, Mr. Sayles identified a mechanical pad located within the crawl space where the water heater and furnace was located. The crawl space was half built with a small door outside on the deck and a ladder allowing one to crawl in. The furnace and water heater would be relocated to a concrete pad pursuant to the plans.

On motion by Commissioner Marnane, seconded by Commissioner Onoda to adopt a Resolution next in number to approve a variance to MMC 8.28.030, modifying the minimum side yard setbacks to permit construction of two decks at 1873 St. Andrews Drive, subject to the required findings and conditions as shown. The motion carried by the following vote:

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

B. Consider Resolution No. __-2014 Recommending the Town Council Adopt Housing-Related Amendments to Moraga Municipal Code (MMC) Title 8, Planning and Zoning, which include:

- Amending MMC §8.04.020 (Definitions) to add definitions for Supportive and Transitional Housing and Emergency Shelters and corresponding amendments to lists of permitted uses in applicable districts;
- Adding MMC section to Allow Emergency Shelters by right in the Institutional District;
- Adding MMC section to Allow for Reasonable Accommodation from the Zoning Ordinance for Individuals with Disabilities; and
- Adding MMC section to Allow for Density Bonus for affordable units consistent with State Density Bonus Law.

(Proposed amendments implement the 2010 Housing Element, for which a Mitigated Negative Declaration was adopted in January 2010. No additional CEQA review is necessary).

Associate Planner Brian Horn presented the staff report dated June 16, 2014, and noted that the proposed housing-related amendments to the MMC Title 8, Planning and Zoning, had been presented to the Planning Commission during a study session on June 2, 2014. He asked that the Planning Commission recommend that the Town Council adopt an ordinance amending §8.04.020, Definitions and corresponding permitted uses in applicable Zoning Districts; adding Chapter 8.164 Emergency Shelters; adding Chapter 8.168 Reasonable Accommodation; and adding Chapter 8.172 Density Bonus to Title 8, Planning and Zoning, of the MMC.

Ms. Clark acknowledged that a redline strikeout version of the proposed amendments showing changes from the previously reviewed draft had not been included in the staff report and the only changes to Exhibit A, MMC § 8.04.020, Definitions, had been based on a comment from the Town Attorney who had recommended the inclusion of the housing types in the list of permitted uses to clarify where the uses were permitted in each Zoning District, as reflected on Page 1 of Exhibit A. As to the issue of secondary living units, she noted that the Housing Element had been found to be adequate, although there were some issues that needed to be addressed which were not required as part of this agenda item. Secondary living units would return as part of a future discussion with the Planning Commission.

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

On motion by Commissioner Comprelli, seconded by Commissioner Marnane to recommend to the Town Council the adoption of an Ordinance Amending § 8.04.020; Definitions, and Corresponding Permitted Uses in Applicable Zoning Districts; Adding Chapter 8.164, Emergency Shelters; Adding Chapter 8.168, Reasonable Accommodations; and Adding Chapter 8.172, Density Bonus to Title 8, Planning and

Zoning of the Town of Moraga Municipal Code. The motion carried by the following vote:

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

6. **ROUTINE & OTHER MATTERS**

A. **Consider and Discuss Comprehensive Amendments to Chapter 8.44 (Suburban Office District), Chapter 8.12 (Administrative Procedure) and Chapter 8.04 (Definitions) of the Moraga Municipal Code (MMC) Title 8, Planning and Zoning**

Ms. Samonsky presented the staff report dated June 16, 2014. She asked that the Planning Commission consider and discuss the comprehensive amendments to Chapter 8.44 (Suburban Office District), Chapter 8.12 (Administrative Procedure), and Chapter 8.04 (Definitions) of the MMC Title 8, Planning and Zoning; solicit public comment; and provide feedback. The Commission was not being asked to take action on the item at this time.

Responding to the Commission, Ms. Samonsky explained that Definitions would be added to the beginning of the zoning chapter for Definitions; Definitions had been identified in Attachment B, Draft of Revised MMC § 8.04.020; and acknowledged a recommendation that Definitions be put into one place to avoid inconsistencies if listed in more than place.

Ms. Samonsky also clarified the intent of Attachment A, Draft of MMC Chapter 8.44 Suburban Office-Residential Mixed Use District, §8.88.040 Specific Use Regulations, 4) Separation and Access iii), with living and working spaces not to be independently accessible from one another to prevent people from renting out one unit separate from another, to ensure one of the units was owner-occupied, and to ensure a cohesive live/work unit, which was a standard that had been used in other jurisdictions.

Ms. Clark affirmed that this was the first study session on this topic, that staff would consider any of the comments received, and that the item would return to the Planning Commission.

PUBLIC COMMENTS OPENED

Phil Kerr, City Ventures, emphasized the importance of zoning consistency with the Moraga Center Specific Plan (MCSP). He read into the record § 65860 of the Government Code as related to the requirement of Zoning Ordinance consistency with a General Plan, and emphasized the need for the zoning to be consistent with, in this case, the previously approved MCSP.

Dave Bruzzone, Moraga, explained that the MCSP had streamlined the process and he urged the zoning implementation to be facilitated quickly to allow the City Ventures project to be zoned properly and to ensure that other projects in the MCSP would be

streamlined appropriately. He referenced the voluminous development standards, some of which were not the primary emphasis in the MCSP, and expressed concern that additional rules and conditions had been included that had not been contemplated in the MCSP. As to the standards for new streets, as shown in the draft resolution, he found the standard to be confusing and questioned whether that needed to be addressed at this point.

Mr. Bruzzone suggested a developer would have a better idea of what should be done in terms of private open space and public open space, as examples, but questioned the prescriptive standards that could hamper a potential developer.

Ms. Samonsky explained that additional development standards had been added to the ordinance because the existing Suburban Office Residential Mixed Use District did not have standards to address High Density, Mixed Use, or Mixed Residential Office, and some of the associated issues with those districts. The MCSP did not include those development standards either, and to avoid a gap between what was in the MCSP and what was in the Zoning Ordinance, staff had added additional development standards. Staff had reviewed the standards for other surrounding jurisdictions that had Mixed Use in Residential Zoning Districts with the open space requirements because of concerns with the use of decks for storage in open spaces rather than for enjoyment, and particularly for high densities that did not have a garage.

PUBLIC COMMENTS CLOSED

The Planning Commission offered the following comments and/or direction to staff on the Comprehensive Amendments to Chapter 8.44 Suburban Office, Chapter 8.12 Administrative Procedure, and Chapter 8.04 Definitions:

- There was discussion of the MMC which was in place to set the minimum standards, the critical requirements of the Town without performing specific design;
- Concern expressed with Attachment A, Draft of MMC Chapter 8.44 Suburban Office-Residential Mixed Use District, §8.44.050 Development Standards, H) Bicycle Parking Standards, 1) through 3) as to whether it was a critical requirement or something nice to have, with concern that the Town may be imposing a standard which was overly prescriptive and could restrain creative design;
- Recommendation for a graphic for the design standards for setbacks, specifically §8.88.050 Development Standards, B, Building Transition Zone Adjacent to Residential Districts 2, which should include a graphic to show how to apply the requirement;
- Recommended clarification of §8.88.050 Development Standards, D) Outdoor Open Space Requirements for Residential Uses, to clarify whether addressing decks or windows;

- Recommendation for a better comparison between the zoning districts and MCSP designations, particularly for the riparian areas; staff noted that the General Plan had higher densities throughout, that the zoning districts in place did not conform to what the MCSP called for, that the zoning map was not representative of the MCSP which was part of the inconsistency; and staff clarified that no zoning of the parcels would be changed although there would be amendments to the text so that the usage called for in the MCSP would be allowed;
- Recommendation from the public that the map show the Suburban Office zoning as compared to the current Suburban Office area in the MCSP;
- Staff noted that Suburban Office in the Rheem Area did not have an Overlay Area as did the MCSP, with the parcels outside of the MCSP to retain the development standards and uses as shown in the existing Suburban Office zoning.

Mr. Bruzzone expressed concern applying different standards to the residences planned in the MCSP than to the existing residential development throughout the Town.

Ms. Samonsky explained that the MCSP allowed zero-zero setbacks allowing development up to the property line, and the intent of the new regulations was to address concerns with buildings built up to the property line. The 45-degree angle at 10 feet was a way to ensure there would be some setback of a three-story home, and to ensure sensitivity to the single-family districts.

Contract Planner Doug Donaldson explained the background and history of the MCSP with the intent to allow Mixed Use development to proceed in the MCSP area as anticipated. He noted that the Town had received an application from City Ventures in the Suburban Office Zoning District of the MCSP, which could not proceed until the old zoning had been brought into conformance with the MCSP. He added that the MCSP, which had been adopted by the Town Council, was active and ready to go.

Ms. Samonsky stated that property owners within the MCSP area under the current zoning could not develop or redevelop property in the style described in the MCSP. The amendments to make the zoning conforming would ease future development on those parcels and allow the development envisioned by the MCSP. The amendments would also streamline the process for administrative procedures.

The Planning Commission continued its discussion as follows:

- Concern that the introductory statement in Table 8.44-1, Use and Required Permits under Attachment A, Draft of MMC Chapter 8.44 Suburban Office-Residential Mixed Use District was confusing; with a recommendation to reference or incorporate the provisions in other sections of the Zoning Ordinance that would apply to the Specific Use Regulations as shown in Table 8.44-1; and reference the section numbers in §8.44.030 Uses Permitted in A) and B);

- Concern that under Table 8.44-1, a Conditional Use Permit would be required for Live/Work Units within the boundaries of the MCSP, with a suggestion that such uses should only require an administrative process.

Mr. Bruzzone pointed out that the MCSP identified the permitted uses; expressed concern the Planning Commission would exceed its discretionary authority and could require another review of the MCSP process again; sought an expedient approval process with minimal regulations and expressed concern this effort was moving away from that; and emphasized that Suburban Office had been interfacing against Residential from the start. He cited the Aegis and Moraga Royale facilities, which had required special hearings, and did not want that to occur in this case.

- Concern that Table 8.44-1 did not include Restaurant or Catering uses, and staff noted that the MCSP had not anticipated zoning for retail, restaurant, or catering uses, although ancillary uses for senior housing or care facilities had been anticipated and permitted;
- Staff recommended the inclusion of a provision for uses to be determined by the Planning Director were similar to, or no more deleterious than, what had existed allowing flexibility for uses that would not fall directly under the definitions of uses but which could be compatible;
- Staff clarified that Town Office uses but not Corporation Yards were permitted in the MCSP;
- Staff clarified a vacant lot adjacent to the Rheem Theatre was in the Suburban Office Zoning District;
- Concern expressed with the prohibition of welding or machining to allow more than paper offices under §8.44.040 Specific Use Regulations, A) Live/Work Unit, 1) Limitations on use, iv); with staff recommending the elimination of that subsection and the retention of subsection v), which identified the activity or use that would not be compatible with residential activities.

Mr. Kerr commented that the standards for building zones and the transition to Residential uses was confusing and had not been articulated well. He asked for a clarification on the use of the term “adjacent” in the standards as well as a definition for “structure.”

- Concern the item under discussion was limited to the MCSP but was a Town-wide issue;
- Staff noted that Table 8.44-1, Use and Required Permits and Table 8.44-2, Site Development Standards had differentiated between parcels that were within the MCSP from those outside of the MCSP.

Responding to Mr. Bruzzone’s concern with the design standards for setbacks and building heights, Ms. Clark explained that based on staff’s interpretation of the MCSP, it would allow a situation for adjoining buildings on lots whether condos with shared walls or buildings on separate lots. She suggested his concerns could be investigated further

given that the MCSP had not made a distinction between buildings on the same site versus buildings on separate sites.

- Given the concerns with a proposal for a building with zero setbacks to existing lot lines and what was intended in the MCSP, the Planning Commission asked staff to research the for an interpretation from the Town Council, which had adopted the MCSP; staff agreed that issue should be clarified given that it was not explicit in the MCSP;
- A Planning Commissioner recommended staff ask the Town Council to provide clarification on the maximum number of stories allowed for Residential development given that the MCSP allowed three stories and the General Plan called for a maximum of two stories, and some developments had proposed two stories and a loft element.

Ms. Clark clarified that at the time of the adoption of the MCSP, the Town Council had to make findings for its adoption including that the MCSP was consistent with the General Plan, with the rationale based on the site specific conditions and a study which had found that the three-story buildings and height limits were consistent with the General Plan. While a General Plan was general in nature and a Specific Plan was more specific, she explained that oftentimes the more specific regulations allowed standards that deviated from the general policy in the General Plan.

B. April 21, 2014 Minutes

Commissioner Woehleke clarified statements that had been made on Pages 11 and 14, although no changes were made to the minutes of the April 21, 2014 meeting.

On motion by Commissioner Woehleke, seconded by Commissioner Schoenbrunner to approve the minutes of the April 21, 2014 meeting, as submitted. The motion carried by the following vote:

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

7. REPORTS

A. Planning Commission

Commissioner Woehleke reported on his attendance at the June 9, 2014 meeting of the Design Review Board (DRB), and highlighted the review and approval of an application for two decks at 1873 St. Andrews Drive; Camino Ricardo landscaping, lighting, and two single-story home designs; and a study session for a home remodel on property located at 14 Hammond Place.

Commissioner Comprelli reported that he and Commissioner Woehleke had attended a luncheon with a presentation on the East Bay Municipal Utility District's (EBMUD) structure and function.

Commissioner Woehleke also reported on his attendance at that luncheon, the EBMUD presentation, and the report that the Town of Moraga had met its conservation needs. He advised that he would not be present for the July meeting of the Planning Commission.

Chair Kuckuk reported that she had attended the Town Council meeting on June 11, 2014; provided background to the Town Council regarding the Planning Commission's deliberations and discussions on the Draft Sign Ordinance; and advised that the Town Council had made some changes to the ordinance, which she highlighted at this time.

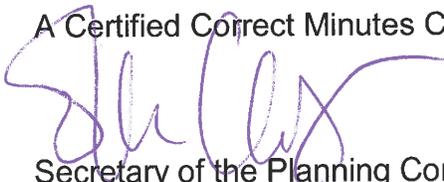
B. Staff

Ms. Clark reported that the Planning Commission meeting scheduled for July 7, 2014 had been canceled with the Planning Commission to next meet on July 21, 2014, and tentatively on August 18, 2014. The meeting of July 21 would include applications from Camino Ricardo, Via Moraga, and potentially other projects. She added that the Hillsides and Ridgelines Committee meeting had been held in the last week with 60 people in attendance when a priority of issues had been identified along with a presentation of the existing regulations. A meeting of the Steering Committee on Hillsides and Ridgelines would be held in August, with Planning Commission consideration in September, and thereafter to the Town Council in October.

8. ADJOURNMENT

On motion by Commissioner Marnane, seconded by Commissioner Schoenbrunner and carried unanimously to adjourn the Planning Commission meeting at approximately 9:00 P.M.

A Certified Correct Minutes Copy



Secretary of the Planning Commission