

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

Council Chambers & Community Meeting Room
335 Rheem Boulevard
Moraga, CA 94556

December 7, 2015

7:00 P.M.

MINUTES

1. CALL TO ORDER

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

A. ROLL CALL

Present: Commissioners D'Arcy, Kovac, Kuckuk, Mallela, Woehleke, Chairperson Marnane

Absent: Commissioner Carr

Staff: Ellen Clark, Planning Director
Brian Horn, Associate Planner

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

Commissioner Woehleke reported that he had contact with the appellant and the neighbors who lived on both sides of the appellant for 68 Vista Encinos, Item 5B on the meeting agenda.

2. PUBLIC COMMENTS

There were no comments from the public.

3. ADOPTION OF CONSENT AGENDA

A. October 19, 2015

Commissioner Woehleke made a motion, seconded by Commissioner Mallela to adopt the Consent Agenda, as shown.

Commissioner Kovac requested an amendment to the first sentence of the fourth paragraph on Page 6 of the October 19, 2015 meeting minutes, as follows:

Commissioner Kovac suggested the landlord notification would protect the landlord since most tenant agreements specify dogs, and cats, but not chicken coops and the requirement would provide a level of control.

Although a motion had already been made, a second motion was made to adopt the Consent Agenda, as modified.

On motion by Commissioner D'Arcy, seconded by Commissioner Mallela to adopt the Consent Agenda, as amended. The motion carried by the following vote:

Ayes: Commissioners D'Arcy, Kovac, Kuckuk, Mallela, Marnane
Noes: None
Abstain: Woehleke
Absent: Carr

4. ADOPTION OF MEETING AGENDA

Planning Director Ellen Clark reported that the applicant for Public Hearing Item 5A had requested the item be postponed.

On motion by Commissioner Kuckuk, seconded by Commissioner Woehleke to remove Item 5A, Bella Vista Subdivision (Rancho Laguna II Subdivision 9330) from the meeting agenda, and to adopt the meeting agenda, as modified. The motion carried by the following vote:

Ayes: Commissioners D'Arcy, Kovac, Kuckuk, Mallela, Woehleke, Marnane
Noes: None
Abstain: None
Absent: Carr

5. PUBLIC HEARING

A. Bella Vista Subdivision (Rancho Laguna II Subdivision 9330)

Consider Approval of PC Resolution __-2015 Amending Conditional Use Permit (UP 04-15) to allow the Temporary Use of Lots 1, 26, and 27 of the Bella Vista Subdivision (Subdivision 9330) as an alternate to the previously approved locations for a Sales Office and Model Home Facility and Associated Signage

The item had been removed from the agenda.

B. 68 Vista Encinos

Applicant: Branagh Development, Inc., 100 School Street, Danville, CA 94526

Conduct a Public Hearing and Consider Adoption of PC Resolution __-2015 to deny an appeal and uphold Design Review Board Action Memorandum 8-15 for a new 3,205 square foot two-story single-family

residence with a 460-square foot attached two-car garage at 68 Vista Encinos

Associate Planner Brian Horn presented the staff report dated December 7, 2015 to consider an appeal of Design Review Board Action Memorandum 8-15 for a new 3,205 square foot two-story single-family residence with a 460-square foot attached two-car garage at 68 Vista Encinos. He recommended that the Planning Commission deny the appeal and uphold Design Review Board Action Memorandum 8-15, subject to findings and conditions.

Commissioner Woehleke clarified with staff that the another development which had been approved in Moraga in a similar fashion had been the Paseo Linares Subdivision off of Moraga Road, which consisted of six homes in a small cul-de-sac, when the lots had been sold individually and had been approved one or two at a time.

Commissioner D'Arcy clarified with staff the Town policy that more than two levels could be stacked directly one above the other, and that two stories had been defined as some portion which overlapped another.

Chairperson Marnane also clarified with staff that the original 2006 approval of the subdivision with the tree screening had been outlined in the December 7, 2015 staff report, and that 68 Vista Encinos was the first lot with tree screening.

Staff affirmed that the tree screening requirements remained consistent with the 2006 approval which required tree replacement if trees died or failed to grow. In this case, the property had sat vacant with no development and the trees that had been planted failed to prosper.

Commissioner Kovac referenced the history of the project, which he stated he had evaluated, and spoke to the concerns that had been raised in the past as to the adequacy and effectiveness of the tree screening. He asked staff to comment on that issue.

Mr. Horn explained that the original landscaping had not been installed until after the Design Review Board (DRB) had approved the project in 2006, at which time the grading and improvements for the subdivision had commenced and the vegetation and irrigation had been installed.

Ms. Clark acknowledged that the landscaping had not been successfully maintained during that interim period. The conditions imposed by the DRB had recognized that fact and had given the newly planted vegetation a head start by requiring larger plantings, requiring the survival of the vegetation, and requiring that the property owner and Homeowner's Association (HOA) maintain the plantings. Said requirement could be enforced by the Town to ensure that if the plantings died they would have to be replaced.

Commissioner Kovac also clarified with staff the status of some existing Monterey pines near the property line which he understood would be replaced by a 3:1 ratio if they died.

The intent of that requirement was that there be a deed restriction; the trees were not to be removed and if they did there would have to be a 3:1 replacement.

Mr. Horn clarified that the trees planted in 2006 had died, although the old Monterey pines remained. The project covenants, conditions and restrictions (CC&Rs) required the replacement of the Monterey pine trees if they fell, were removed, became a hazard, or died.

Having walked the site, Commissioner Kovac suggested that Lots 4 and 5, and possibly other lots in the development, could impact the homes on Louise Court. He asked staff whether that had been considered as an impact area. He cited prior testimony from the applicant that Louise Court would not be impacted, disagreed, and suggested that Louise Court would be impacted and should be considered.

Ms. Clark acknowledged that both the DRB and the Planning Commission would consider all neighborhood impacts.

Commissioner Kovac also suggested the status of the drainage issue was nebulous. He sought clarification of the drainage for the project.

Mr. Horn explained that the applicant had been required to provide final reports on the drainage. The majority of the grading had been completed and the drainage had been reviewed as part of the overall approval of the subdivision. As the individual lots moved forward, there would also be a Stormwater Control Plan.

Commissioner Kovac referenced the past hearings before the Planning Commission in 2001, and a discussion related to the provision of erosion control plans, particularly for those lots adjacent to Louise Court. Given that Lot 5 had yet to be approved and was to maintain the drainage for Lot 4, he questioned how that issue could be resolved.

Ms. Clark stated the homes would always be under some type of ownership, whether the owner of the individual lot, the HOA, or the overall property owner. The owner would be responsible to ensure the maintenance of the drainage as part of the Stormwater Control Plan, and the property owner of record would be liable for all of the conditions of approval.

Commissioner Kovac again cited some of the testimony from the applicant in 2001 to the then Planning Commission regarding the submittal of written documents and commitments of the then property owner. He asked staff to clarify some of the comments made at that time.

Ms. Clark explained that the individual referenced in the 2001 discussions before the Planning Commission had been the representative for the applicant at that time. There had been a discussion about certain reports and the fact the CC&Rs had yet to be recorded on the property. She explained that it was typical for conditions of approval to memorialize various legally binding agreements, such as a Subdivision Improvement Agreement, which would be recorded against the property and which the property owner had the duty to enforce. There had been a Subdivision Improvement Agreement recorded for the property which spoke to all on-site improvements including

infrastructure, drainage improvements, and the like. While there were a number of conditions of approval where there was not compliance, prior to the issuance of any building permit all conditions would have to be satisfied.

Ms. Clark added that the Stormwater Control Plan would be reviewed by the Town's Public Works Department and Town Engineer as part of the approval process.

Commissioner Kovac referenced updated recommendations from ENGEIO regarding the drainage, as outlined in the draft resolution. He clarified with Mr. Horn that the recommendations made on the original geotechnical report had included recommendations for the design of retaining walls and foundations, with confirmation whether the recommendations would comply with current building codes.

Ms. Clark clarified that staff had been concerned there would be no major change to the foundation design which would alter the approval. As the foundation designs came forward, staff sought assurance the designs would still meet current building codes, which was the purpose of the review by ENGEIO. That review would occur through the standard building process with review by Contra Costa County.

Commissioner Kovac again cited the applicant's testimony in 2001, understood that Lots 1 through 5 were to have piers to lock the soils in, and clarified with Ms. Clark the need to make a distinction between statements made, as recorded in past meeting minutes, and those that were actually part of the approved project.

Ms. Clark commented that many things had changed from the Planning Commission approval in 2001 to date, such as seismic safety standards. The Town's geotechnical engineer had found the foundation design to be appropriate and feasible relative to the project conditions. The engineer had reviewed the foundation design relative to current standards and had found it to be an appropriate foundation design.

Commissioner Kovac expressed concern with many of the statements made by the applicant in 2001, particularly the comments regarding drainage, and questioned how they would be able to measure pre-development historic flow levels.

Ms. Clark explained that stormwater control measures had become progressively more stringent over time, as had seismic safety standards. She described how the drainage improvements would be changed resulting in improvements to the drainage patterns, but which could not increase the runoff, necessitating a retention basin and other such improvements. The project would have stormwater control measures consistent with current C.3 requirements. The drainage had been considered subdivision wide and would be considered as the individual lots were approved as part of the construction of the homes.

Commissioner Kovac sought more clarification on the drainage issues which he characterized as confusing. He also spoke to the size of the home as compared to the yard space, and clarified with staff that the Floor Area Ratio (FAR) included the garage and living areas but did not include the exterior decks. The square footage of the home would be 3,205 square feet with a 460-square foot attached two-car garage.

Commissioner Kovac sought more clarification on the actual size of the home. He also understood that Lot 4 included a requirement or guideline for yard space and asked for clarification from staff.

Mr. Horn stated the Town's Design Guidelines required 1,000 square feet of flat, level, outdoor usable space. Due to the nature of the lots on the hillside, it would be more impactful to the properties below to create that space. As part of the approval, the DRB had granted an exception to that guideline, using findings that outdoor space would be provided by utilizing the decks at the back of the home.

APPELLANT:

Michael Larkin, Appellant, 1099 Larch Avenue, Moraga, explained that the Planning Commission had approved the development in 2001 but had not approved specific sizes or massing. He acknowledged that the conceptual homes, as proposed, could prove difficult to approve. He read into the record numerous comments made by the 2001 Planning Commission as part of the recorded meeting minutes, and stated that none of those comments had been included in the staff reports to the DRB or had been considered by the DRB. The staff reports also included no information about concerns that had been raised during those discussions related to lot size, privacy, or visual effects, nor had the same concerns been included as part of an appeal to the Town Council in 2001. A clause had been added to Condition 11 requiring the visual impacts to be reviewed by the DRB from the perspective of the houses on Larch Avenue, Baitx Drive, and Louise Court.

Mr. Larkin commented that the staff report had included two artistic renderings of the views from adjoining neighbors' properties, but not from his property. The staff report had not included photographs nor identified the location in the rear yards from which the renderings had been produced. The staff report included a cross section diagram of the relationship of the homes to the homes on Larch Avenue, 50 feet above and 80 feet away from the homes on Larch Avenue. He characterized the Town's Design Guidelines as nebulous and referred to neighborhood compatibility and similar homes as not the source, which point had been encapsulated by comments made by the then Planning Director in 2001, whose comments he read into the record at this time.

Mr. Larkin asked that the Planning Commission evaluate the approved design within the context of the 2001 Planning Commission and Town Council meetings, within the context of the Mitigated Negative Declaration (MND), and whether design changes could be considered to change some of the visual effects. He suggested the structure could move further up the slope providing more privacy and a chance for a greater tree screen; the floor plates could be reduced which would reduce the massing for the downslope homes; and the home could be stepped up the slope with the two-story section fronting onto Vista Encinos rather than onto Larch Avenue.

Mr. Larkin read into the record the details of the history of the required tree screening. He asked for clarification whether all shrubs and trees for the tree screening would be required to be 48-inch box size on Lot 4; whether all trees and shrubs listed in the plan would be available in 48-inch box size; whether only trees with a mature growth of 40-foot would be part of the tree screen or whether the performance standards applied only

to plants with a mature growth of 40 feet; and whether the tree screen at maturity provided privacy to homes below the new homes whose rooflines would be 50 feet higher and approximately 80 feet away.

In addition, Mr. Larkin asked the Planning Commission to consider requiring additional and larger plantings when the homes were considered by the DRB and the Planning Commission; asked the applicant to provide a plan view of the tree screening based on views from the adjacent properties and identify the proposed home sizes, height, and setbacks; and not limit the plans to native plant material or the plant material listed in the Town's Design Guidelines to ensure drought tolerance and low water use. He also asked that the design include plants that had faster growth rates given the existing soils conditions and locations.

Mr. Larkin recommended that 15 percent of the trees be coast live oaks or similar trees with similar growth rates and mature heights; 30 percent of the plants have a mature growth rate of 20 feet or greater; all plantings in the oak category to be 48-inch box size and a height between 12 and 15 feet; with the caveat that direct sightlines into homes, bedrooms, and bathrooms require trees in an 18-foot, 48-inch box size.

Mr. Larkin further commented on a gap in the existing trees between the two homes and the sightlines between the two bedrooms, commenting that the applicant had e-mailed him photographs of 17 and 18-foot high, 48-inch box trees that had been planted in the Wilder Project located in the City of Orinda. While he could accept an 18-foot high oak tree in the gap, he preferred a 20-foot high tree. While the applicant had removed deciduous plantings from the plan, he asked that the proposed use of ceanothus frosty blue which could only reach 10 feet in height be replaced by something that would end up at 18 to 20 feet in height; the plants that would replace that plant species be 10 to 12 feet in height when planted; and suggested the requirement of 48-inch box trees alone would be insufficient to provide any sense of privacy and initial screening given that 48-inch box live oaks ranged from 6 to 18-feet in height, contrary to the staff report which had suggested they would be at least 10 feet high.

APPLICANT:

Bob Pickett, Senior Development Associate, Branagh Development, 100 School Street, Danville, CA 94526, stated that Branagh Development was under contract to purchase four lots from the current property owner, who had not been the owner of record during the process of subdivision approval. Branagh Development was contemplating building homes on Lots 4, 5, 7, and 8. Lots 7 and 8 had been approved and were in the process of structural design with permits to be issued shortly. Plans had been submitted for Lots 4 and 5 in March 2015. After those submittals, meetings had been held with the neighbors and story poles had been installed.

Mr. Pickett acknowledged that the original plans for Lots 4 and 5 had been considered to be overpowering. After the original plan had been presented for Lot 5, the plans had been modified to reduce the overall height and to change to hipped roofs. In the area where the home would be visible, the developer had agreed to plant a 16- or 18-foot high tree, which at the outset would be above the existing vegetation and would take a couple of years to offer a beneficial screen. Photographs of the area west of the Larkin

property had been presented to show the original plan and later modifications to Lot 5. The developer had also agreed to install a tree to address a gap issue in the tree screening for the Shuo family at 1097 Larch Avenue.

Based on the recent modification, Mr. Pickett stated the DRB had approved the plan for Lot 5. He presented a cross section through the project with views of Lot 4 and the Larkin property; identified the tree size to be planted at 16- to 18-feet; noted the larger mature size of the trees would be at approximate window sill height; with some views from the Larkin property and with a gap of the home visible from the Larkin property. He suggested the developer had taken significant measures in terms of reducing the visibility of the home from the Zhuo and Larkin properties, with the only area from the Larkin property that had visibility of the proposed home being from the master bedroom window.

Mr. Pickett pointed out that six months out of the year the area would be filled with vegetation and the other six months it would not. Branagh Development would plant trees accordingly with reasonable responses to the screening issues, and had agreed to the 48-inch box trees and the addition of another tree in the lower left corner. He noted the original tree screen plan had only called for one tree. The four trees that had been proposed would benefit the Larkin, Zhuo, and Fabo properties. He emphasized the developer had taken reasonable measures to address those issues.

Responding to concerns with respect to a piecemeal approval, Mr. Pickett emphasized that he was familiar with homebuilding in Moraga having been a home builder since 1973. He identified Sanders Ranch as having been reviewed one home at a time, as had Willow Spring, Rheem Valley Manor prior to the Town's incorporation, the Bluffs, an area off Country Club Drive, and the area of Sandringham Drive. He had also been involved with projects that involved a group of homes on Corte Maria near the Catholic Church. He emphasized that most of Moraga had been built one home at a time. The subdivision consisted of ten single lots and Branagh Development had contracted to build four of the lots.

Mr. Pickett also suggested that the home on Lot 4 would not impact the residents on Louise Court, although he acknowledged that there would be impacts from Lot 5. The processing for Lot 5 had been stalled and Branagh Development had met with the two neighbors who would be most impacted. As a result, that home would be redesigned to satisfy the neighbors' concerns. He otherwise had answers to the drainage issues although he explained they were not pertinent to Lot 4.

Mr. Larkin identified the location of his property relative to Lot 4. He suggested the applicant's proposed tree screening mitigation might work for his lot but not for the Zhuo property. He emphasized his preference for a tree screening method that would work for everyone.

Mr. Pickett reiterated the history of the subdivision and noted that the current property owner of the ten lots had suggested a design for the entire subdivision, although during the process the designs had been found to be flawed, were in excess of the allowed FAR, had uphill slope elements with three floors, and was an unbuildable plan that had been scrapped. Branagh Development had contracted to build four of the lots and had

resubmitted new applications for the four lots individually. He clarified that the conditions of approval in place for Lots 7 and 8 also applied to Lots 4 and 5, and prior to the issuance of a building permit, the original tree screen planting for the approved subdivision would be restored based on that plan.

The developer had agreed to condition the permits based on a replanting plan pursuant to the original plan for the four lots, which included all of the planting that had been required on the initial five-lot tree screen plan, plus supplemental planting chosen to help screen with the one additional tree. The screening would be provided by four oak trees and the landscape plan would supplement the original landscape plan. While bids had been obtained for that work, they had not been shared with the Town.

Mr. Horn referenced an August 27, 2015 letter from the applicant which had spoken to the bids for the landscape plan, which had occurred prior to the appeal of the application.

Mr. Pickett clarified what had been bid which included the proposed landscape plan and the plans for Lots 1, 2, and 3 pursuant to the original landscape plan, with the details yet to be clarified. He stated the tree could be upgraded to a 48-inch box, if required. He described the process that would likely be used to acquire the trees, including contacting nurseries to advise what was wanted, tag the trees, and verify them, although in discussions with Mr. Larkin he explained that the availability of materials was spotty due to the housing recession. He had shown Mr. Larkin 17- to 18-foot trees that had been 48-inch box sized trees that had been planted for the Wilder Project, although there was no standard for a 48-inch box tree in terms of how tall it could be. He expressed concern with a condition requiring an 18- to 20-foot tall tree if one could not be found, and requested that the condition be premised on the way the trees would be purchased in box sizes. He was confident a reasonably sized tree could be located.

Mr. Pickett clarified that the developer would be planting a 48-inch box coast live oak in the southwest corner of the lot, 15 feet away from the home, and if the tree was added some of the other plant material would have to be removed or relocated. He also clarified that in the absence of plans for Lots 1, 2, and 3, the current proposal was to plant according to the original landscape plan, upgrade the oak trees, the primary screen tree, plant the oak trees where called for on the plan, and when the homes for those lots were redesigned, the DRB would evaluate whether additional planting was needed.

Mr. Pickett added that the homes and subdivision had been approved for the proposed FAR, the neighboring homes had been built 40 to 50 years ago and were smaller given the then market conditions, market conditions were different now and the zoning on the adjoining properties allowed the neighboring homes to be enlarged with additions, and there was nothing to prevent the neighbors from building to make the homes compatible with the proposed home. The project was consistent with the zoning and the proposed home was compatible.

Chairperson Marnane declared a recess at 8:36 P.M. The Planning Commission reconvened at 8:40 P.M. with Commissioners D'Arcy, Kovac, Kuckuk, Mallela, Woehleke, and Chairperson Marnane present.

PUBLIC COMMENTS OPENED

Carl Sandlund, Moraga, identified his property as abutting Lot 1. He questioned what would take place when that lot was built, identified existing deciduous oak trees in the area, and expressed concern with the potential gaps in tree screening which could impact his property.

Amy Fabo, 1011 Larch Avenue, Moraga, expressed concern with impacts to privacy given that the home would have balconies. She identified a live oak on the side of her property, and expressed concern with the potential planting of more live oaks on the subject property given the failure rate of the prior landscaping, and concern the soil might not allow the trees to survive. She also questioned whether the plant material and tree screening that had been proposed would be sufficient to ensure privacy to the adjacent neighbors.

Mr. Zhuo, 1097 Larch Avenue, Moraga, a neighbor of the appellant, understood the property owner owned the land and had a right to build, although he stated the homes to be built should not disturb the neighborhood. He pointed out that most of the homes in the neighborhood were under 2,500 square feet in size. He suggested the home was too large, questioned the developer's argument regarding market conditions, and suggested the home should be designed to match the existing neighborhood and not the market. He urged the Planning Commission to limit the size of the home to no more than 2,500 square feet in size. He commented that the windows of the home would face the living areas of his home and he urged a more careful design.

Carol Fass, 7 Louise Court, Moraga, inquired of the number of Planning Commissioners who had actually viewed the story poles in person. Aware the developer had a right to build on the property, she requested a design that was compatible with the existing neighborhood, and asked the Planning Commission to consider the impacts of the size of the home in terms of the surrounding neighborhood.

Dave Ricketts, 5 Louise Court, Moraga, suggested no mitigations had been proposed for Lot 4, which would be visible from his residence, and acknowledged he had discussions with the applicant with respect to Lot 5. He understood the zoning requirement and FAR were at play but stated the General Plan adopted in 2002 should also be at play. He read into the record General Plan Policy CD4-3, and noted that while current property owners would be allowed to remodel their homes, they too would be required to comply with the same regulations. He questioned why the DRB was the only body to review the home, which concern he had raised with the DRB, and had been informed the project met the required FAR. He urged the Planning Commission to uphold the General Plan policies as written. While most of the homes in the neighborhood had been built in the 1960s and were not the style of homes currently being sought by new homeowners, new development was required to fit within the character of the existing neighborhood.

PUBLIC COMMENTS CLOSED

Ms. Clark advised that the appellant had the right to rebut any comments.

Mr. Larkin understood that all screen trees on Lot 4 were to be 48-inch box trees although the applicant had stated only the oak trees would be 48-inch box trees. He understood the applicant did not want the height of the trees set although some tree farms allowed a purchaser to see the height and width of the trees to be purchased. He suggested the applicant should find a new vendor to be provided that information at the time of purchase. He identified the obstructions in his line of sight pursuant to the plans and urged the relocation of the screening oak trees to close the gap.

Chairperson Marnane closed the public hearing. (Although public comments were opened, the public hearing had not been opened).

Commissioner Kovac clarified with staff the Colonial style of the home that had been proposed with the use of columns and brick, although staff noted that the Town had a multitude of architectural styles and the Planning Commission could decide whether the architectural style fit in Moraga.

Commissioner Kovac asked staff for information on the nearby size, style, and comps for the neighboring homes. He questioned whether the home was compatible with the homes in the area which ranged at 2,500 square feet in size.

Commissioner Woehleke referenced comps for homes in the area of Ketelsen Court, which were larger in size to what had been proposed according to Zillow estimates.

Commissioner Kovac commented that having read the past meeting minutes of the Planning Commission, Town Council, and DRB, the lots were intended to transition between the current 2,500 square foot homes and the larger homes proposed for the other lots.

Mr. Horn identified Lots 1 and 10 as the lots adjacent to where the Vista Encinos Subdivision began, which were identified as transition lots in the approval.

Commissioner Kovac liked the trees at 18 feet in height, disliked the piecemeal approach in tree screening given the likelihood that would not provide screening for all affected neighbors, and suggested the tree screening should be considered and provided before all of the homes had been constructed. He also sought tree screening for Lots 1 through 5 prior to construction since those lots would have the most visual impact to the neighbors. He understood Lots 1 through 5 would be transition points between the existing homes and the higher level homes on Lots 6 through 10, which would provide a visual buffer and be more compatible with the existing homes.

Ms. Clark advised that the scope to be considered by the Planning Commission at this time was only the scope and design related mitigations for 68 Vista Encinos, and to the extent conditions should be considered to mitigate off-site views of 68 Vista Encinos. The Planning Commission could not condition homes that were not being considered at this time.

Commissioner Kovac sought the designation of 68 Vista Encinos as a transition between the existing neighborhoods, and requested more compatibility with the neighborhood, perhaps somewhere between the existing neighborhood and what had

been approved for Lots 7 and 8 in terms of size and visual impacts. He understood the home would be split level for only a few inches.

As a member of the Planning Commission when the subdivision had originally been approved, Commissioner Kuckuk asked Commissioner Woehleke to offer his insight to that approval.

Commissioner Woehleke commended the appellant for the data he had provided and the applicant who had gone further than other developers in similar situations. As evidenced by the documentation, the project was challenging given its location. He noted that a good solution had not been found by the then Planning Commission and Town Council in setting house sizes, which in his opinion been a major mistake.

Commissioner Woehleke read into the record the four findings required to be made to move the project forward as outlined in the staff report. He noted the project was not located on the scenic corridor and the design had been used elsewhere in the Town; characterized the architectural style as Ranch, as opposed to Colonial, at least from the front; suggested the second finding could not be made and the Planning Commission could not evaluate the application without more information on potential adjacent homes; recognized this was a de novo hearing and commented on the difficulty in reviewing the project piecemeal given the concerns expressed; and emphasized the challenge of fitting the approved homes on the hillside while still maintaining the Moraga expectation with respect to setbacks, variation in front yard setback and orientation, and variations in height. The two- versus single-story issue had been discussed in the past, and he found no reference to split levels in the Moraga Municipal Code (MMC) or in the Town's Design Guidelines. If a home appeared to be single story, one was more apt to let it be placed on a hillside. He referenced the Sonsara development which included single-story homes with variations.

Commissioner Woehleke commented that the home appeared to be single story from the front, although it was massive from the rear. He found the impacts to the closest neighborhood to be unknown; understood the homes on Ketelsen Court were close by but not in the same neighborhood; and many of the existing homes in Town had been expanded and upgraded.

With respect to the third finding, Commissioner Woehleke suggested that absent significant mitigation, the home would have a significant impact on the value of the homes on Larch Avenue. He also suggested the neighbors needed to recognize that even at 2,500 square feet in size, any homes built on the property would be visible. He did not support moving forward with the application until there was some idea of the overall tree planting plan for the entire subdivision of ten lots, which required the involvement of the property owner.

Commissioner Woehleke referenced a past discussion and DRB approval of a Bruzzone development at the end of St. Andrews which had been reviewed with the use of envelope drawings, and which had allowed a better context of the type and basic size of homes being proposed. He reiterated that the rear of the home was very imposing to the surrounding neighbors. He noted that the fourth finding was not an issue.

Commissioner Woehleke liked the single-story approach for the front of the home but found it to be imposing for the two story element at the rear. He stated the Town had failed in not finding a way to set home sizes; the FAR guidelines were at the maximum and there should be clarification to ensure notice that FAR guidelines were not a guaranteed maximum; the homes adjacent to Lot 4 would also be impacted by the development of Lot 3, which would be even more imposing unless an effective tree screen had been planted; and while not an invasion of privacy issue in the rear yard or scenic corridor, there were issues of concern for views into bedrooms and bathrooms on the backs of the homes.

Commissioner Woehleke questioned whether the Planning Commission was comfortable just moving forward with the tree screening in recognition that it was not a definite solution to the problem. He recommended large enough live oaks to address the concern or limiting the windows and keeping them higher to ensure privacy to the adjacent neighbors.

Commissioner Kuckuk understood the public hearing was a de novo hearing and the appeal was based primarily on visual and privacy impacts, with square footage also an issue, but only as it relates to visual impacts. She found the topography to be the greatest challenge given that no matter what was built, it would loom. She recognized that the DRB had considered the project thoroughly and thoughtfully and she agreed with most of the DRB's decisions.

Commissioner Kuckuk found that the home generally blended well with the topography, was within the FAR although at the high end, and the home was well below the height limit allowed on the lot, as it should be. Having reviewed the landscape plan, she understood the coast live oaks were being relied upon to hide views from the homes on Larch Avenue below, although she emphasized that nothing was guaranteed in that there could be a blight and the trees could die, or there could be a fire where the tree screening would be lost. She wanted to see the visual impacts be mitigated from every aspect possible.

Commissioner Kuckuk also found the one-story front of the home to be well designed and not out of scale, although the rear of the home appeared massive. She spoke to Sheet A-4.2.4, the rear elevation/north side, where the rear appeared to be massive because the second story was as large as the first story with no setback for the second story and with the addition of the decking structure, making the massing even greater. Had she been in discussions with the DRB, she would have argued for moving back the second story to mitigate against the issues of massing, even if that would not substantially reduce the square footage. While the home was one and a half times the size of the homes downslope on Larch Avenue, it was not out of scale with the neighborhood since homes on Ketelsen Court were in the same size range. She pointed out that oftentimes when scaling out the size of homes the garages were not included, and if one were to add the square footage of the garages on Larch Avenue with the square footage of the home, the home would not be out of character with the neighborhood. The rear massing was, however, beyond what she could support.

Commissioner Mallela commended the developer for attempting to address some of the concerns of the downslope neighbors. He found the home to be fundamentally

compatible with the homes in the neighborhood, with the overall size reflecting the properties that were relatively nearby and of the same size although he agreed that the rear of the home would have imposing views of the downslope properties. He read into the record Design Guideline, SFR1.1, and noted that while potentially coming up with a solution to address Lot 4, there were other lots to be developed and he questioned how the SFR1.1 guideline could be met without considering the entire subdivision.

Commissioner Mallela expressed concern the original trees that had been planted had died and there was a reliance on tree screening to protect privacy, particularly for the Shuo property. He suggested too much weight was being placed on tree screening and there were other options that could be considered, particularly for Lot 4 from a design and tree standpoint.

Based on the proposed square footage of the home, Commissioner Mallela suggested it was not unreasonable to specify a height requirement for the trees.

Commissioner D'Arcy suggested the FAR for Lot 4 would be double the neighbors' home in violation of SFR 2.1, and the home would not be harmonious with the existing neighborhood, although that could be mitigated through a reduction in the size of the home on Lot 4. She questioned the reliance on tree screening. She also urged a reduction in the FAR given the impacts of the height of the home, the drop of the slope, and the fact the home would loom over the downslope neighbors. She suggested the neighbors had a valid point in terms of the lack of integration into the neighborhood.

Chairperson Marnane found that the home met the Town's qualifications, ordinances, and guidelines and was an entirely proper structure. He acknowledged the FAR was at the maximum, and tree screening must be at the greatest height to screen the home. He suggested the DRB had thoroughly evaluated the application; acknowledged the appeal was only for 68 Vista Encinos and not the other lots; and while he was of the opinion to deny the appeal, he preferred that the application be referred back to the DRB with the Planning Commission's comments.

Commissioner Woehleke preferred that the item be kept at the Planning Commission level and recommended a comprehensive review.

Commissioner Kuckuk agreed that the application should be kept at the Planning Commission level. Speaking to the draft resolution, she agreed with the staff revisions to Condition 8 regarding the landscape plan and screening, and within that context suggested it was also reasonable to require a reduction in the rear second story of the home by some percentage or number of square feet to reduce the massing.

Ms. Clark advised of the options before the Planning Commission as outlined in the staff report including a denial of the appeal, upholding the appeal and denying the DRB decision, or the public hearing could be continued, with staff and the applicant directed to make certain changes to the project. She added that the decision of the Planning Commission also involved the potential for an appeal before the Town Council.

The Planning Commission discussed the options for action and the Town's appeal process.

Commissioner Kuckuk opposed upholding the appeal since the applicant could be directed to address the landscaping screening as recommended by staff, as reflected in the changes to Condition 8 of the Draft Resolution, with the applicant directed to set back the second story on the back side of the building, and to reduce the visual impacts downslope. She sought a continuation of the application to address those issues.

Commissioner Mallela concurred.

Commissioner D'Arcy stated while she would agree to a continuance, she found the FAR to be in excess of what was allowed.

Commissioner Woehleke referenced the appellant's issues, as outlined in the appeal dated October 30, 2015, shown as Attachment C to the staff report. He sought a more comprehensive review and again questioned whether the direction being discussed would address the issues with all the lots, not just with respect to Lot 4.

Chairperson Marnane pointed out the discussion related only to Lot 4, and the Commission was reviewing only one lot at a time.

Commissioner D'Arcy spoke to a reduction of the FAR and suggested the reduction of the home size should be made by the architect of the home.

Commissioner Kuckuk pointed out the applicant would have the comments from the Planning Commission with respect to the issue of square footage, visual impacts, and the massing of the rear of the home. She was confident the applicant would come back and propose something that could be approved. She suggested the best approach would be to not specify the amount of square footage or percentage to be reduced.

Commissioner D'Arcy did not trust the process sufficiently to support that approach.

Commissioner Kovac suggested the massing could be reduced by setting back the second story at the rear. He wanted the applicant to submit a design that was less massive and that would be acceptable to the downslope neighbors regardless of the proposed tree screening.

Commissioner Woehleke read into the record the appellant's appeal points, and recommended as a condition of approval that the applicant answer more directly whether trees of a certain height could be purchased. He also recommended that the applicant and staff work on the appeal points to determine whether the requested appeal conditions could be met; suggested the changing of deciduous trees to evergreens would functionally address the third appeal point; urged Commissioners to research the 2001 Planning Commission and Town Council discussions on the original subdivision to address the fourth appeal point, recognizing it had been discussed during this hearing; and remained unsatisfied that appeal point five relating to concerns with the piecemeal approach had been addressed adequately.

Commissioner Kuckuk offered a motion, seconded by Commissioner Woehleke to continue the public hearing on the appeal of 68 Vista Encinos, subject to:

- Changes to Condition 8 of the Draft Resolution, as proposed by staff;
- Revised Sheet L1 of the Landscape Plan to be reviewed and approved by Planning Department staff; and
- The massing of the second story in the rear of the home to be reduced to reduce the visual impact to the downslope neighbors.

On the motion, Commissioner Kovac asked that the reduction of massing be quantified to not rely solely on vegetation to reduce the massing.

As the maker of the motion, Commissioner Kuckuk did not believe Commissioner Kovac's requested modification would make a substantive change to the motion, and the motion remained as offered.

Ms. Clark advised that staff would take into account all of the comments made by the Planning Commission as to the intent of the massing.

The motion was remade by Commissioner Kuckuk, seconded by Commissioner D'Arcy to continue the public hearing on the appeal of 68 Vista Encinos, subject to:

- Changes to Condition 8 of the Draft Resolution, as proposed by staff;
- Revised Sheet L1 of the Landscape Plan to be reviewed and approved by Planning Department staff; and
- The massing of the second story in the rear of the home to be reduced to reduce the visual impact to the downslope neighbors.

The motion carried by the following vote:

Ayes:	Commissioners D'Arcy, Kovac, Kuckuk, Mallela, Woehleke, Marnane
Noes:	None
Abstain:	None
Absent:	Carr

Chairperson Marnane declared a recess at 10:00 P.M. The Planning Commission reconvened at 10:05 P.M. with Commissioners D'Arcy, Kovac, Kuckuk, Mallela, Woehleke, and Chairperson Marnane present.

6. ROUTINE AND OTHER MATTERS

A. Discuss and Clarify Role of Planning Commission Liaison

Ms. Clark explained that the item had been placed on the agenda to edify Planning Commissioners on the role of the Planning Commission Liaison; to be a conduit of information to the DRB; observe the DRB meetings, and report back to the Planning Commission on those meetings.

Chairperson Marnane found that the Planning Commission Liaison had been beneficial and well received by the DRB.

Commissioner Kuckuk also found the process to be beneficial and educational although it had transitioned the last time she had attended a DRB meeting, at which time she had been invited to sit on the dais and comment first, which she found could potentially be perceived as a bias prior to the DRB providing comment on an application. She suggested the Planning Commission Liaison serve in a function similar to a staff person, sitting on the side and not on the dais, and be able to approach the DRB to speak as a member of the audience.

Commissioner Kuckuk noted there was a redundancy in having both the Planning Director and the Planning Commission Chair attend regular Liaison Meetings.

Commissioner Mallela concurred, and saw the function of the Planning Commission Liaison as providing a report to the DRB, with the Planning Commission Liaison to sit in the audience and not at the dais.

Commissioner D'Arcy also concurred with the comments and preferred to observe as the Planning Commission Liaison.

Chairperson Marnane suggested it helped from a public relations point of view to have a Planning Commissioner attend Liaison Meetings to assist staff.

Ms. Clark affirmed that meeting minutes were prepared from the Liaison Meetings, which could be made available to Commissioners.

Commissioner Kovac also concurred with the comments and agreed with the role of the Planning Commission Liaison, suggesting the Liaison sit in the audience and not on the dais during DRB meetings.

Ms. Clark advised she would forward the Planning Commission's comments to the DRB and would also agendize the same discussion for a future DRB meeting

Commissioner Woehleke supported the past history of Planning Commission Liaison reports, but sitting on the DRB dais off to the side as a staff member, not in the audience, given the importance of showing a connection.

Chairperson Marnane agreed.

Commissioner Kuckuk suggested for future Liaison Meetings that the Planning Commission Liaison or Chair report on decisions that had been made by the Planning Commission and staff on upcoming applications, which staff affirmed could be done.

7. REPORTS

A. Planning Commission

Commissioner D'Arcy reported that she had attended a meeting of the DRB when the application for 68 Vista Encinos had been considered.

Commissioner Woehleke reported that he had also attended a recent DRB meeting. He presented a local newspaper article on a proposed development behind Trader Joe's in the City of Lafayette, which he shared given that the proposal for a high-density detached development had challenges. He had also provided staff with written comments on the Bella Vista Subdivision related to concerns with how the developer would address the wet season and the closure of Fay Hill Road.

Ms. Clark affirmed the concerns had been shared with the applicant.

Commissioner Kuckuk reported that she had attended the November Liaison Meeting.

Commissioner Kovac reported that he had attended a recent talk at U.C. Berkeley with a presentation on the future of design and communities; and had attended the Sonoma State 32nd Annual Planning Conference providing an update on the discussions at that conference.

Chairperson Marnane reported on his attendance at the latest Town Council meeting when he had presented the Planning Commission's deliberations on the Small Farm Animals Ordinance. He had also visited John Kiefer's property in Lafayette to see how an odor-free chicken coop had been designed through the use of natural materials. Mr. Kiefer had provided assistance to staff in the creation of the Town's Small Farm Animals Ordinance. The Town Council had adopted the ordinance with minor modifications.

B. Staff

Ms. Clark reported that a new Senior Planner had been hired; and updated the Commission on upcoming term expirations in 2016. She also advised of the December 9 Town Council agenda which includes reorganization of the Town Council, and the second reading of the Small Farm Animals Ordinance. On November 18, 2015, the Town Council had waived the first reading of the ordinance, had eliminated turkeys, and had not supported the keeping of small farm animals and beekeeping on smaller, high density projects in the 10 to 12 dwelling units to the area (DUA) lots.

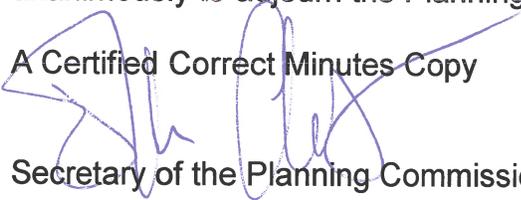
Ms. Clark stated that the Planning Commission would have a busy January with anticipated discussions on the recommendations from the Hillsides and Ridgelines Steering Committee. She acknowledged the Steering Committee included two former Planning Commissioners who did not report back to the Commission, and that any change in the makeup of the Steering Committee would require action by the Town Council. She also reported on the status of the Moraga Center Specific Plan (MCSP) Implementation Committee, with a report to be presented jointly to the DRB and the Planning Commission in January. In addition, a Scoping Meeting for the Saint Mary's College (SMC) Campus Master Plan Environmental Impact Report (EIR) had been scheduled for Planning Commission consideration on Wednesday, January 6, 2016.

Happy Holidays were offered by all.

8. ADJOURNMENT

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

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Secretary of the Planning Commission

