TOWN OF MORAGA
PLANNING COMMISSION MEETING

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

February 1, 2016

7:00 P.M.

MINUTES

1. CALL TO ORDER

Commissioner Woehleke, acting as Chair in the absence of the Chairperson Marnane and Vice-Chair Kuckuk, called the Special Meeting of the Planning Commission to order at 7:00 P.M.

A. ROLL CALL

Present: Commissioners D'Arcy, Kovac, Mallela, Vice Chairperson Woehleke

Absent: Commissioner Kuckuk, Vice-Chairperson Marnane

Staff: Ellen Clark, Planning Director
Ben Noble, PlaceWorks

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

Commissioner D'Arcy advised that she had walked property in the Moraga Center area with Dave Bruzzone, Commissioner Kovac, Teresa Onoda and staff, among others, regarding the Moraga Center Specific Plan (MCSP), and had spoken with Suzanne Jones. Vice Chairperson Woehleke reported that he had a brief conversation with Suzanne Jones at her request to highlight areas of interest in the agenda item under discussion at this meeting.

2. PUBLIC COMMENTS

There were no comments from the public.

3. ADOPTION OF CONSENT AGENDA

A. January 20, 2016 Minutes

Commissioner Woehleke asked that the minutes be moved to the last item on the agenda for discussion.

4. ADOPTION OF MEETING AGENDA

On motion by Commissioner D'Arcy, seconded by Commissioner Mallela to move the January 20 minutes as the last item on the meeting agenda. The motion carried by the following vote:

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

5. PUBLIC HEARING

A. Hillsides and Ridgelines Project: Preferred Policy Options

Planning Director Ellen Clark clarified with the Chair that the Planning Commission would utilize the same process it had used at the January 20, 2016 meeting when considering the same subject, which would be to consider each item individually and open up public comment for each. She introduced Ben Noble, the consultant for the Hillsides and Ridgelines Project, who had led the discussion at the last meeting having to do with the update of Moraga's hillsides and ridgelines regulations. She noted that the content had been split into two meetings given the volume of information involved.

Ben Noble, PlaceWorks, explained that the purpose of the meeting was to continue the discussion from two weeks ago related to key issues of the hillsides and ridgelines project. He would present the recommendation from the Hillsides and Ridgelines Steering Committee on each issue; there would be public comment on each issue; the Planning Commission would comment on each issue; and those comments would be forwarded to the Town Council in February or March to identify a preferred approach to each issue.

Mr. Noble identified some of the considerations to keep in mind when discussing the options: The desires of Moraga residents today, particularly the input received from the public as part of the public outreach efforts; the original intent and language of the Moraga Open Space Ordinance (MOSO) Initiative, which had been adopted by the voters and which could not be changed without returning to the voters; the Town Council's direction to avoid considering any changes to the MOSO Initiative at this time; property rights and takings implications of the rights that property owners had for the reasonable use of their property; and the full range of community values as expressed in the General Plan, which included open space and natural resource preservation along with goals related to mobility, shopping and services, and housing.

Mr. Noble reported that the Planning Commission had discussed six of the issues at its last meeting, as follows:

- MOSO Open Space Map
- MOSO Ridgeline Map
- Definition of Development

- MOSO Open Space Map
- MOSO Ridgeline Map
- Definition of Development
- Steep Slope Limitations in MOSO Open Space
- High Risk Areas Map
- Remediation of High Risk Areas

The remaining issues were intended to be discussed at this time.

- Ridgeline Definition and Mapping
- Protecting Ridgelines
- Viewshed Protection
- Building Size on Large Lots
- Hillside Development Permits

Mr. Noble explained that the General Plan included a number of policies related to ridgeline protection, particularly Policy CD1.5 to *protect ridgelines from development*, although the General Plan did not contain a general ridgeline definition that applied Town-wide in that it applied only within MOSO Open Space, which had created a lack of clarity. He stated the Town needed to identify what constituted a ridgeline, and the location of the ridgelines, in order to resolve some of the issues that had occurred.

Mr. Noble identified a map to show the boundaries of the MOSO ridgelines, and noted that within MOSO Open Space there were Major Ridgelines and Minor Ridgelines established by the MOSO Initiative, which he pointed out at this time. There were no clear definitions of other ridgelines nor was there mapping to identify the location of those ridgelines. Three options had been proposed to address the issue. Option A would add a general ridgeline definition to the General Plan and Moraga Municipal Code (MMC); Option B which went along with Option A, would create a map to identify the location of all ridgelines and add that to the General Plan; and Option C would clarify that the term "ridgeline," as identified in the General Plan, meant only MOSO ridgelines.

Mr. Noble advised that strong support had been shown by the public for both Option A and Option B. When the Steering Committee had met in November 2015, it had provided a recommendation to establish a new ridgeline definition effective Town-wide: *Ridgeline means a long, narrow elevation of land that forms the upper-most portion of a hill and rises to a crest.* The Steering Committee also recommended establishing definitions for special types of ridgelines; Major MOSO Ridgelines and Minor MOSO Ridgelines, and add new definitions for special types of ridgelines outside of MOSO Open Space, one being Significant non-MOSO Ridgelines, as well as Other Ridgelines.

Mr. Noble explained that the Steering Committee's recommended definition for Significant non-MOSO Ridgeline was: *The portion of any ridgeline outside of MOSO lands which forms the skyline visible from a 'public place' (defined as including all public*

streets, parks and trails designated for public access and use) and is either above 800 feet or the continuation of a ridgeline that is above 800 feet, is particularly prominent, and is important to the Town's scenic qualities.

Mr. Noble reported that the Steering Committee also recommended defining in the General Plan and the MMC, "Other Ridgelines" as: *All other ridgelines that are not a Major MOSO ridgeline, a Minor MOSO ridgeline, or a Significant non-MOSO Ridgeline.* The Steering Committee recommended an opinion from the Town Attorney on potential takings issues if views from all public places were considered when designating Significant non-MOSO Ridgelines.

The Steering Committee had also directed a review of all ridgelines above 800 feet outside of MOSO Open Space to consider whether they met the definition of a Significant non-MOSO Ridgeline, to study the lateral ridges that came off the sides of ridgelines to determine if they should also be designated as a Significant non-MOSO Ridgeline, and to include in the General Plan a map of the Significant non-MOSO Ridgelines.

If there was a ridgeline above 800 feet that continued down below 800 feet, the Steering Committee directed that a determination be made as to whether the designation of Significant non-MOSO Ridgeline should continue.

Mr. Noble presented graphics to illustrate ridgelines above 800 feet outside of MOSO Open Space, with the majority in the northeast portion of the Town and with others on the north side of the Town. The Steering Committee had recommended an evaluation of all the ridgelines to select a subset that met the definition of non-MOSO Ridgeline when viewed from a public place where the skyline would be visible behind it. If the ridgeline was not visible from any public place, it would not meet the definition of a Significant non-MOSO Ridgeline.

Commissioner D'Arcy verified that a road would also be considered a public place.

Ms. Clark asked Mr. Noble to clarify if it was the intent for the 800-foot threshold to apply to Significant non-MOSO Ridgelines, and Mr. Noble stated that a Significant non-MOSO Ridgeline needed to be above 800 feet but it could be included if it tailed down below 800 feet, and if it was particularly prominent and was important to the Town's scenic quality, at which point it would be considered on a case-by-case basis.

Mr. Noble again offered a number of examples and photographs of the ridgeline definitions and explained the importance of identifying those designations given that standards and regulations would apply to Significant non-MOSO Ridgelines and areas within close proximity to them. There was also a question with respect to the lateral ridges and whether or not they should also be designated as Significant non-MOSO Ridgelines.

In response to Commissioner D'Arcy, Mr. Noble stated that any place where a ridgeline outside of MOSO Open Space above 800 feet dipped down, it would be considered

from the public viewpoints around it on a case-by-case basis, and a determination would be made with documentation to be provided to substantiate the recommendation, and that after which Town officials with that backup information would make a final determination..

Commissioner Woehleke asked when the determinations would be made, reported by Mr. Noble that those determinations would be made at the front end as a component of the Hillside and Ridgeline regulations update. If the Town Council agreed with the approach as part of the next phase of the project, the next meeting of the Steering Committee or the Planning Commission would review a draft map for consideration.

Commissioner Woehleke noted the definition of ridgeline could be gamed and suggested there was nothing to indicate that it was the defining crest of the hill. He asked if the definition was strong enough to avoid misinterpretation.

Mr. Noble stated the precise wording would continue to evolve, and noted the Commissioner Woehleke's concern that the definition could be too broadly defined and lack the clarity desired. In the process, PlaceWorks would consider every place where a regulation or policy mentioned ridgeline and consider the implications involved.

With respect to the three options, Commissioner Woehleke asked the basis for the Steering Committee to not recommend Option C or to remain as is. He suggested there was no basis communicated for choosing what had been chosen.

Mr. Noble explained that from the perspective of the Steering Committee and Town staff, it was difficult to apply Town policies related to protection given the lack of clarity on the definition of ridgeline. The Steering Committee and the Town Council had indicated the need for better clarity in the definition of ridgeline. He noted that Option C would state that only ridgelines that are MOSO and MOSO Open Space would be considered to be ridgelines for the purpose of applying the policies. There was a desire to map all ridgelines including ridgelines outside of MOSO Open Space and have a definition that applied to them. He clarified that just as in MOSO Open Space, not all ridgelines were treated equally given that some were most visible and most prominent and needed to be mapped clearly with the potential application of new and different regulations. The Steering Committee, staff, and consultants had indicated that the Significant non-MOSO Ridgeline approach appeared to be a good way to map those ridgelines outside of MOSO Open Space that were particularly important and warranted special protection.

Commissioner Mallela referred to the definition of ridgeline and asked if it lent itself to any weakness of interpretation of a ridgeline relative to MOSO. He suggested a broad definition might weaken what was generally applied to MOSO.

In response, Mr. Noble suggested there was no risk to MOSO Open Space given that Major and Minor Ridgelines were so clearly defined in the MOSO Initiative and had been mapped. He suggested the potential downside of a broadly defined term was that it could create challenges with projects involving a ridgeline that did not meet the

definition of a Significant non-MOSO Ridgeline, but for which someone could argue that some protections might apply.

PUBLIC COMMENTS:

Suzanne Jones, speaking on behalf of Preserve Lamorinda Open Space (PLOS), stated that the association had been founded 15 years ago by Lamorinda residents with a shared interest in open space and development issues in Lamorinda with nearly 900 supporters, more than half of whom lived in Moraga. She stated that PLOS supported the basic approach that had been proposed for the definition of ridgeline and stated that visually significant ridgelines were protected irrespective of whether they were under 800 feet. She referred to the ridgeline at the Bella Vista subdivision, which was below 800 feet, and it was the dissatisfaction with that development on that ridgeline that had inspired the current effort to protect ridgelines. She noted that some of the most visually significant ridgelines in the Town were below 800 feet. She also noted that lateral ridges silhouetted against the sky from the scenic corridors, and she asked that the third and fifth bullet points in the staff report under the topic be carried forward to the Town Council for consideration regarding ridgelines below 800 feet and lateral ridges being designated as Significant non-MOSO Ridgelines.

Dave Bruzzone stated that the current ordinances and policies were very clear and pinpointed the major significant ridges that were safe from development. Mr. Bruzzone suggested that new rules were being applied to ridges that had never been deemed visually significant, which he suggested would produce less clarity and open the Town to future lawsuits. He stated that the new rules appeared to target the Bruzzone properties. He added that the major ridges had been identified since the Town's first General Plan, those major ridgelines had been included in MOSO, and with respect to the Painted Rock property significant parts of that property had been designated MOSO land and/or designated Open Space. He expressed concern the ridges were not shown in the context to neighbors, and was also concerned with the expansion of where and how to determine what significant meant when viewed from a public or private road. He stated the standards were being changed of what really made a property significant and he urged a remedy to the situation.

Michael Finochio, 1631 Camino Pablo, Moraga, expressed concern with not having a map included in the next MOSO revision given that a definition appeared to be so contentious.

Edy Schwartz, Hetfield Place, Moraga, isympathized with the concern for ridgelines and protection of views and the like, although she did not see that the potential effects of new regulations in relation to property rights in the material that had been presented. She referenced the time being spent by Planning Commissioners and Town Councilmembers who had preconceived values and ideas, and urged that the whole of Moraga be considered in the process. She emphasized the importance of showing the consequences of what had been proposed, and without that suggested a realistic view was not being provided.

Malcolm Sproul, 45 Williams Drive, Moraga, commented that ridgeline protection had broad based support in Moraga as evidenced by the workshop and the focus groups. He supported Options A and B, thought the ridgeline definition presented was reasonable, and referred to the test case and the ridgeline that had been shown in an exhibit which was now a protected ridgeline in a subdivision that had been approved in the early 1980s, and suggested it needed to be carried forward, had been done prior to MOSO, and reflected the language currently in the General Plan about protecting ridgelines.

Kelly Griest, 1970 Joseph Drive, Moraga, commented that she was especially troubled about the soft and vague definition of ridgeline. She supported a better definition, and was concerned with property rights in the non-MOSO ridgeline areas which had not previously been regulated.

Jane Russell, 273 Birchwood Drive, Moraga, commended the work that had been invested up to this point, understood the concerns of property owners, did not think that one group with legal standing should have more influence than another, sought a consensus and a good balance, and urged that a definition of "development" be clarified as well as the definition of "ridgeline." She stated that once any kind of change was allowed on a ridgeline there would be unpredictable after effects and emphasized that development did not always involve a building.

Bob Miller, 273 Birchwood Drive, Moraga, wanted the ridgelines to be protected but suggested that would not mean that development could not occur near the property and exclude property owners from building on non-MOSO land. He suggested it was simply to make sure that the skyline was protected.
Mr. Miller noted that in Rancho Laguna II, the skyline had been protected. He added that those who lived in the community and wanted to live in the community wanted the open space and the views to remain.

Doris Chen, 26 Laird Drive, Moraga, described growing up in Moraga and having returned wanted it to remain as it had been and wanted development to be clearly defined to be able to maintain the open space in Moraga and avoid aesthetic and environmental issues.

Mr. Noble responded to the comments and stated with respect to the definition of development that the definition had been discussed two weeks ago, was one of the key issues to address as part of the project, and the recommendation of the Steering Committee was to keep the existing definition in place to resolve some very minor discrepancies between different definitions in the General Plan and the MMC, and to clarify how the Town should address some exceptions. Currently the definition was very broad and included any new structures, grading, subdivision of land, establishment of new land uses, and installation of utilities, although the Town's regulations allowed exceptions to cross ridgelines in certain cases with special approval of the Planning Commission if seen to accommodate reasonable development within the Town and consistent with overall Town policies.

Based on the Planning Commission's discussion last week, Mr. Noble stated PlaceWorks would look more closely at those exceptions to try to clarify when those exceptions could be granted and to establish potentially new standards or guidelines to minimize adverse aesthetic impacts that might result from some development crossing a ridgeline.

Further responding to comments, Mr. Noble stated the intent and the direction from the Steering Committee was to map the ridgelines that warranted special protection. He presented a map to identify a starting point of ridgelines outside of MOSO Open Space above 800 feet to be able to come up with a single map to identify all the ridgelines including those inside MOSO Open Space and outside MOSO Open Space.

As to how that would relate to MOSO Open Space, Mr. Noble stated that ridgelines within MOSO Open Space were very well defined in terms of their characteristics as well as their location, and there were clear protections of the Major and Minor Ridgelines within the Town's existing regulations. Within a 500-foot buffer of a Major Ridgeline, development was prohibited, and development was prohibited on Minor Ridgelines, which were existing standards and regulations that would not change. He noted the question of those ridgelines outside of MOSO Open Space that were not Major or Minor ridgelines and how they would be defined, where they were located, and what standards should apply to those ridgelines outside of MOSO Open Space. As such, defining those non-MOSO ridgelines and mapping them would be the first step to clarify the Town's policies related to development on or near ridgelines.

Commissioner Mallela suggested the proposed solution to attempt to address broad questions that came to the Planning Commission related to ridgeline development was a step in the right direction and it was important to have a definition and the map. He noted that ridgelines were identified in MOSO in the context of constraints on development and the definition was formulated around the constraint, although how the definition of a ridgeline related to any development around non-MOSO ridgelines would have to be clarified.

Commissioner Mallela supported a general ridgeline definition to the General Plan and the code with the addition of a map of all the ridgelines to the General Plan; Options A and B.

Commissioner Kovac referred to the definition of a ridgeline and suggested it would not cover a local minima (a dip in the ridgeline crest), and even if over 800 feet it would not be considered a ridgeline because it was not the maxima, the uppermost portion of a hill. He suggested it was a good definition but could be better. He referred to the proposed definition of a Significant Non-MOSO Ridgeline and suggested the intent was to address the visual effects and suggested the focus should be on the visual impact on the scenic corridors and public places. As a result, in lieu of the "above 800" in the definition of a Significant non-MOSO Ridgeline, he would insert "highly visible and thus dominates the area's landscape," to recognize what it did to the visual impact of the community versus a specific height in both MOSO and non-MOSO areas.

Commissioner D'Arcy also referred to the definition of Significant non-MOSO Ridgeline and emphasized the importance of the definition given that those ridgelines followed the landform from the ridgeline down. She also agreed with the bullet listed in the Staff Report to "Examine all ridgelines above 800 feet outside of MOSO Open Space and consider whether they meet the definition of a Significant non-MOSO Ridgeline," and "Potentially designate a ridgeline below 800 feet as a Significant non-MOSO ridgeline if it is a continuation of a ridgeline above 800 feet." She also supported the recommendation to study lateral spurs that led off the big ridgelines given that they were part of the visual corridor. She suggested the definition of ridgeline could work if there was a portion around the crest to protect the crest.

Commissioner Woehleke noted the Town's General Plan was updated every 10 years or so and was very balanced in that it addresses a comprehensive range of issues. He suggested there was insufficient information to endorse the recommendation, had concern for the legal implications, and questioned whether MOSO was being expanded, and asked to what degree the legal aspects of creating a new category of non-MOSO ridgelines with restrictions constituted rezoning, and constituted a taking. He urged caution in delving into that area. With respect to the definition, he supported a clear and focused definition to ensure clarity and remove uncertainty related to its application. He commented that the identification of the ridgelines and the application of rules related to ridgelines and lateral ridges would help clarify the issue.

Commissioner Woehleke declared a recess at 8:17 P.M. The Commission reconvened at 8:23 P.M. with Commissioners D'Arcy, Kovac, Mallela, and Woehleke present.

- Protecting Ridgelines

Mr. Noble reiterated that this issue was closely associated with the last issue, Non-MOSO Ridgeline Definition and Map. He stated that General Plan Policy CD1.5 began by "protecting ridgelines from development," which required some clarification. While ridgelines and development had been clarified, "protect" also needed to be clarified along with how the policy applied to ridgelines outside of MOSO Open Space, if at all, and whether development should be allowed on ridgelines outside of MOSO Open Space, and if so, how a development should be designed so that it complied with the Town's goals and policies.

Mr. Noble stated to help resolve the question of what protect ridgelines from development meant, five options had been devised from the least restrictive to the most restrictive. Option A would allow development on and near non-MOSO ridgelines consistent with improved design guidelines; Option B would prohibit development on non-MOSO ridgelines but allow development near non-MOSO ridgelines consistent with new development standards; Option C would prohibit development within 250 feet of non-MOSO ridgelines; Option D would prohibit development within 500 feet of non-MOSO ridgelines; and Option E would add an "escape clause" to Options B, C, and D to allow exceptions if regulation would result in an unconstitutional "taking" of the property.

Public input on the options expressed strong support for the most restrictive of the options treating non-MOSO ridgelines the same as Major MOSO Ridgelines were

treated. From the workshop, comments were to prohibit all development from silhouetting on the ridgeline, participants wanted detail on new development standards, and there was a desire to prohibit all development visible from the scenic corridors. The focus groups overall expressed a similar opinion although there was some openness to allowing hillside development provided it was not visible from a public place, with strong support for mandatory standards over advisory guidelines.

The Steering Committee had offered initial ideas based on the public input through the process to date, and suggested that Policy CD1.5 could be improved to clarify more precisely the Town's policies related to development on or near ridgelines, and had recommended looking at all policies within the General Plan with amendments as necessary to clarify policies with respect to ridgeline development. In terms of possible clarifications, it was recommended that ridgeline policies be applied to ridgelines throughout Town and not just on MOSO ridgelines. It was also suggested that protecting ridgelines was not just about prohibiting development but ensuring a sensitive design for development located in proximity to a ridgeline and any ridgeline buffer. A basic goal was recommended to retain the character of natural landforms uninterrupted by man-made features, and that visible and undeveloped ridgelines needed to be maintained free from development. Further, that the Town require visual separations between structures and ridgelines where the skyline was visible from the scenic corridor, with absolutely no silhouetting.

The Steering Committee had recommended creating standards to provide visual separation between the top of a structure and a significant non-MOSO Ridgeline, recommended considering different techniques to achieve that visual separation, and a vision plane standard or a vertical separation standard or a combination of the two. It also noted that the specific numerical standards were important and not just borrowing specific numbers from other communities but looking closely at conditions in Moraga, and include a visual separation standard for the Minor MOSO Ridgelines in the MOSO Guidelines.

Mr. Noble offered examples of the techniques for visual separation and presented a table to summarize the development limitations on and near the different types of ridgelines. He explained that with Major and Minor Ridgelines development was prohibited on the ridgeline; for major MOSO ridgelines development development would continue to be prohibited within 500 feet of the center of the ridgeline; and with Minor MOSO ridgelines the Steering Committee had discussed the application of a new separation standard.

Mr. Noble added that currently, development was permitted near to a Minor MOSO Ridgeline provided that it complied with the Town's Design Guidelines. He stated that with Significant non-MOSO Ridgelines, the recommended restrictions were that development would be prohibited on a Significant non-MOSO Ridgeline but would be permitted near to a Significant non-MOSO Ridgeline if it met quantified standards for visual separation from the ridgeline as viewed from the scenic corridor and complied with the Design Guidelines. The approach to Significant non-MOSO Ridgelines had been an attempt to balance a number of competing interests.

During the workshop, focus groups and on-line surveys, there had been very strong support to prohibit development near non-MOSO ridgelines, and prohibit development within a 500-foot buffer of the ridgeline.

Mr. Noble suggested that would be a workable solution and a reasonable compromise to continue to allow some development and maintain the natural appearance of the hillsides and the ridgelines to the greatest extent possible.

The Steering Committee discussed landscaping as well as structures on a ridgeline and wanted to prohibit non-natural appearing landscape from being silhouetted above a Significant non-MOSO Ridgeline. There was also a concern expressed for applicants "gaming" the system in regards to minimum visual separation requirements, and the Steering Committee wanted staff and consultants to keep that issue in mind. The desire was to create a very clear objective, measurable standard for the visual separation so that it would be very clear if a project complied with the standard or not. The Steering Committee had also recommended the Town evaluate its Design Guidelines and include any new standards that clarify requirements for development in hillside and ridgeline areas that go beyond the basic visual separation requirement. All of the standards would be mandatory and all projects would be required to comply with the standards, although there could be different methods to achieve a required outcome.

Mr. Noble presented a list of various issues that could be addressed through the design standards to address the full range of building design issues and offered examples of what could be considered, such as a stepped pad design as opposed to a flat pad or require development within a certain steepness to consider a stepped design in order for the structure to better blend into the hillside. Other examples were offered, to require all development within a hillside setting to exhibit varied design with varied elevations, floor plans, and setbacks. That standard would clearly state that hillside development shall feature design variation and it would be up to the Planning Commission and Town Council with a recommendation from Town staff to make a determination that a project would comply with that standard, allowing some discretion. Another example would be a standard to limit prominent architectural features or to avoid the use of architectural features that increased visual prominence. The new standards and guidelines would include illustrations and photographs to help applicants and the community understood the intent and to clarify the outcomes the Town was looking for with respect to hillside development.

In response to Commissioner Kovac as to Figure 2, Vertical Separation Standard Example in the staff report, Mr. Noble referred to the 25-foot vertical separation between the top of the structure and the lowest point on the portion of any ridgeline within 100 feet of the proposed structure and explained that the example was from another jurisdiction, and that the Town would need to determine the most appropriate separation based on its own local conditions. He explained that a couple of case studies within Moraga would be tested to determine what measurement would be appropriate for Moraga.

Commissioner Kovac recommended that a map be prepared to show what effect different measurements would have and suggested potentially through a contract or an internship St. Mary's Students could be asked to gather that information.

Commissioner D'Arcy stated the public was very clear that it did not want development on or near those ridgelines and the 500-foot buffer zone was the same as MOSO, although that had not been included in the recommendations from the Steering Committee. She asked why the public opinion had not been stated strongly in the Steering Committee's recommendations.

Mr. Noble stated the Steering Committee's recommendation was a different and probably better method that could achieve a similar result. Referring to the examples, he noted there was a certain buffer that had been achieved which might be 25, 50, 100, or 500 feet depending upon the angle selected from the viewpoint. He stated the approach was more outcome oriented whereas a simple 500-foot buffer was less outcome oriented. An angle could be identified that would produce a sufficient amount of separation and distance from the ridgeline, and that would achieve what the public wanted, which was distance or separation between the centerline of a ridge and development. He stated there would be one standard that would apply for all Significant non-MOSO Ridgelines and multiple test cases would be considered to identify the appropriate angle.

Ms. Clark characterized the buffers as "a pretty blunt tool," excluding all development from a much broader range of ridgelines than were currently protected, which, if large could preclude some properties from development to a large extent,. The proposed outcome would be more balanced in allowing development to occur while achieving the visual protection objective.

Commissioner Woehleke asked why the ridgelines above 800 feet were not originally part of MOSO, to which Mr. Noble expressed his understanding from some members of the community that when MOSO was adopted it identified the most important ridgelines in the community and the most visually prominent ridgelines in the community, and established protections from the ridgelines. Another perspective he had heard was at the time it had not been scrutinized as closely as it could have been and when voters were voting on the MOSO Initiative no map had been provided and important ridgelines had been overlooked at the time.

Commissioner Woehleke referred to the five different options for protecting ridgelines and asked how that would affect the zoning for those particular properties.

Mr. Noble stated that new standards that would apply to Significant non-MOSO Ridgelines would apply to whatever zoning district was in place and would not affect the underlying base zoning; it would be an additional standard applied no matter the zoning. In terms of how that would impact the development potential of those properties, Mr. Noble stated the specific standard that would apply should make sure that some development potential remained, some economic viability of the property for development was maintained, and to put the Town in a defensible legal position.

In response to Commissioner Woehleke as to which option had been recommended by the Steering Committee, Mr. Noble stated it was a new option; a hybrid of Options B, C, and D, but using a different method to achieve a similar result, prohibiting development on non-MOSO ridgelines but not establishing the specific buffer as with MOSO ridgelines.

In further response to the Vice Chair, Mr. Noble clarified that mandatory standards would be added to the Town's Design Guidelines document to become more of a "Standards and Design Guidelines" document, to incorporate more graphic and visual standards, and to focus in some cases on outcomes, with flexibility as to how to achieve those outcomes. An example of a mandatory standard was that "hillside development must feature variation in building elevation, floor plans, and setbacks." Because exactly what that meant was difficult to translate into a measurable standard in the MMC, it would be more suitable for a design standards and guidelines document.

As to reducing the prominence of a home by stepping it, which usually required some excavation, Mr. Noble stated that recommendation from the Steering Committee had been in response to public comment received at Steering Committee meetings. He suggested the concern was that an applicant could sink a structure far into the hillside as a way to get a building much closer to a ridgeline than would be desired by the Town. He stated the Steering Committee had wanted to carefully consider the current and future measures to avoid circumvention of the standards.

Commissioner Woehleke referred to Figure 3, the Vision Plane Standard Example, and questioned the practicality of that standard.

Mr. Noble stated there were two ways to approach the vision plane, to establish an angle from the horizontal intercept of the ridgeline, and establish an angle from view of a public road or public place. He suggested the vision plane standard was fairly typical and had been tried and tested.

PUBLIC COMMENTS

Jane Russell had questions about the ridgeline protection Options A through E, and asked about the distance from a ridgeline and suggested it was vague; had a concern with the vision plane standard and the concern for "gaming" the system; and suggested while it might offer a solution it might not offer the best solution in every case.

Bob Miller expressed concern about adding distance to the ridgeline and suggested that while a ridgeline might be protected, a road along a ridgeline that might be planted with evenly spaced planting would also ruin the natural appearance of the ridgeline. He suggested there had to be some distance from the ridgeline where there could be no development or landscaping all the way to the top of the ridge.

Michael Carradine, an architect who owned property in MOSO, stated there was no basis for the comments that 30 years ago when the voters approved MOSO they had somehow overlooked some ridgelines and the elevations that had been chosen. He

suggested that 30 years ago the voters who voted for MOSO knew precisely where the ridges were, where the 800-foot elevation was, and what the setback meant. He referred to the drawings and described them as creeping ridgelines, creeping down the hill and extending the limits established by MOSO. If applied to non-MOSO ridgelines he stated there would be two different standards. Referring to the figures provided, he emphasized that the illustrations and recommendations would creep the ridgeline down setting all the ridgelines on the map another 60 feet, yet the voters had originally assumed they could start at 800 or 850 feet and build a 35-foot high building from there, if appropriate. He emphasized there would be legal implications if exceeding MOSO requirements.

Mr. Carradine had more information to provide but given that his speaking time was up, the Chair urged him to provide his comments in writing.

Malcolm Sproul stated that MOSO was an ordinance and at the time of the last amendment to the General Plan, there had been a question of using the language of MOSO ridgelines, or just 'protect ridgelines,' and it was clear in the General Plan language that it was not limited to just ridgelines defined as MOSO ridgelines. As to the options, he suggested Option B was one that made the most sense, with the addition of the clause under Option E. He also supported the recommendation from the focus groups for mandatory standards over guidelines.

Edy Schwartz referred to the Steering Committee's recommendation to avoid gaming the system, and stated she would support an excavation for a home to allow views of the hillsides and ridgelines.

Suzanne Jones questioned the net result of the visualization standards and suggested that case studies would be helpful. Referring to the diagrams, she stated what would be seen would be a function of different variables including the elevation difference between the observer and the top of the ridgeline, the steepness of the slope, and the distance of the observer from the ridgeline, and she could not see how 15 degrees would do anything to prevent silhouetting. With respect to the buffer concept, she stated that while a blunt tool it was a familiar tool and a simple and straightforward tool to understand, and offered a way to keep the houses down from the top of the roof to the top of the ridge. She did not believe the buffer should be eliminated given that scenarios could easily be drawn where the approaches would not achieve the desired result. While she suggested a 500-foot buffer was excessive for Significant non-MOSO Ridgelines, she suggested a buffer of 100 feet might offer an extra layer of protection to prevent a series of homes from being built just below the crest of a ridgeline. She added that recent issues where houses were being built in scenic corridors, which included the views of ridgelines, had not been included in the process but should be to address that issue in the future.

Dave Bruzzone stated his Bollinger Valley property had not been designated Open Space or MOSO Open Space, did not have significant visibility, and had already been undergoing a development application as mandated by the General Plan. He urged that

the Bollinger Valley property not be included in the current process given his ongoing application.

Mr. Bruzzone suggested the process was effectively changing the rules and commented that the level of detail the Environmental Impact Report (EIR) was analyzing for the Bollinger Valley property was far more significant than the current process related to hillsides and ridgelines. He noted that he had presented information from geotechs to show that the entire Town of Moraga was overlaid by ridges. The Town had already identified the major visually significant ridges which were designated MOSO where development was prohibited, and MOSO standards were being applied to the Bollinger Valley property that was not visually significant. He stated the 800-foot elevation designation was an arbitrary number and the major concern was visual impact. He noted that CD1.5 was clear in that it stated exactly what was allowed and encouraged the location of building sites so that visual impacts were minimized. He added that the visual separation standard with a 15 degree angle was arbitrary.

In response to one of the speakers, Mr. Noble offered an example of the centerline of the ridge and the buffer on the Painted Rock property.

PUBLIC COMMENTS CLOSED

Commissioner Kovac stated in response to Mr. Bruzzone that no properties were being targeted; he emphasized the intent for some consistency in standards, not just guidelines in that the Town's Design Guidelines had not proven to be successful. As a result, more prescriptive and more consistent standards would be necessary. He suggested the definition of a ridge would be where the slope is zero. With respect to Figure 2, Vertical Separation Standard, and Figure 3, Vision Plane Standard, he suggested neither method by itself produced an appropriate result and therefore more than one measure would be required.

Commissioner Kovac offered a working definition of "protect," meaning "to keep from being disturbed, developed, threatened, or having the visual and scenic qualities degraded." He had also considered the definition of "development," and defined it as "the process of adding improvements to a parcel of land such as grading, subdivision, drainage, access, roads and utilities."

Commissioner Kovac suggested that Option E seemed superfluous, and with no map to show the extent of the protected area, he urged being cautious at this point and supported Option D.

Commissioner Mallela also agreed that CD1.5 was clear to protect ridgelines from development. He did not see Option A as being appropriate; could not support Options C or D without a legal opinion; agreed that Option E was embedded in whatever language was ultimately determined; and supported Option B with a change in text from "new development standards" to *clear development standards*, and suggested more study would be required to come up with a combination to reflect what Options C and D in spirit were trying to do. He urged being mindful of whether the recommendations

were extending beyond MOSO. He suggested Option B would offer the best opportunity of what could happen on Significant non-MOSO Ridgelines.

Commissioner D'Arcy stated that public opinion was strongly in favor of no development whatsoever, and she suggested a combination of Option B and C would allow more flexibility, although a buffer zone could help protect ridgelines from development.

Commissioner D'Arcy acknowledged that the public supported mandatory standards, the public wanted more clarity, and what would be developed through the process would be the future of the Town. She urged care in the process but reiterated the recommendations for standards, not guidelines, and clarity in terms of ridgeline development.

Commissioner Woehleke fully supported the statement to protect ridgelines, suggested the paragraph provided guidance, recognized the complex issue, and emphasized first do no harm. He suggested that the examples for vertical separation and visual plane standards would not work partially given that the non-MOSO ridgelines might not be visible from the road. Applying the 500-foot buffer to non-MOSO ridgelines was a concern as to whether the Commission was overstepping its rights, although he was not the one to make that determination. He could not recommend any option without an appropriate balance of rights, and suggested that while some locations might not be visually important today, they might be visually important in the future. He did not want to do anything unless it was thoroughly researched and substantiated as the right thing to do, and did not want to use a blunt tool when finesse was required. He stated the Town's Design Guidelines, which were not standards, would allow an application to achieve a good balance.

Commissioner Mallela suggested the definition of Significant non-MOSO Ridgeline was defined as viewed from a public place, which was an attempt to identify those situations where it would be applicable and where it would not be applicable.

Commissioner Woehleke stated the basis of his comment was that a good number of the potential non-MOSO ridgelines were in the southeast area of the Town in fairly remote locations and were not visible

Commissioner D'Arcy stated, however, that they were visible from some of the walking trails.

Commissioner Woehleke declared a recess at 9:50 P.M. The Commission reconvened at 9:55 P.M. with Commissioners D'Arcy, Kovac, Mallela, and Woehleke present.

Commissioner Woehleke noted that the Commission's quorum would soon be lost and given that the Commission would likely not get through all the issues on the agenda, a future meeting would be required. He asked the public to opine. The members of the public present at this time requested a continuation that would not delay the scheduled discussion by the Town Council.

Ms. Clark stated the next regularly scheduled Planning Commission meeting would be on Tuesday, February 16. The Town Council had previously been scheduled to consider the topic at its February 24, 2016 meeting, however staff was looking into holding a special meeting in March to allow sufficient time for that review and an adequate time for the Town Council to consider the complex issues.

The remaining items were continued to the Planning Commission meeting scheduled for Tuesday, February 16, 2016.

- Viewshed Protection
- Building Size on Large Lots
- Hillside Development Permits

3. ADOPTION OF CONSENT AGENDA

A. January 20, 2016 Minutes

Commissioner Mallela referred to Page 15 of the minutes and requested that the third line read:

> *He* [Commissioner Mallela] *was less inclined to change what was in MOSO but did not want to change one definition that could be worked around to another definition that could be worked around in some other sense.*

Commissioner Woehleke recommended changes to Pages 7 and 24 and stated that he would provide those changes in writing to staff.

Commissioner Kovac requested an amendment to his statement on Page 17, to read:

> *Commissioner Kovac suggested there was a problem with a need for a solution although there was no ideal solution.*

Commission Kovac also requested an amendment to his statement on Page 26, to read:

> *Commissioner Kovac reported that he had attended the Liaison Meeting on January 8. He advised that Campolindo High School planned to install solar panels.*

Commissioner D'Arcy had a change to Page 13 and advised she would listen to the recording and submit her comments in writing.

The minutes were continued to the next meeting for approval.

6. ROUTINE AND OTHER MATTERS

There were no routine and other matters.

7. REPORTS

A. Planning Commission

Commissioner Kovac reported that he had gone on a walking tour of the Bruzzone property with some of the MCSP Steering Committee reps, which had been enlightening, and he thanked Ms. Clark for arranging that tour. He had also met with Laurie Sucgang and Brian Horn with Public Works and Planning staff to discuss grading issues and anticipated another meeting to finish that discussion.

B. Staff

Ms. Clark announced an upcoming Pedestrian and Bicycle Master Plan Workshop at the Hacienda on February 4 to review the recommended program for improvements and identify the priorities, to be brought to the Town Council for a report, after which the consultants would create the draft plan for public review.
In lieu of the Planning Commission Liaison report, Ms. Clark reported that the Design Review Board (DRB) had approved a substantial home at Rheem Boulevard after three public meetings, and had retroactively approved a retaining wall that had been started without permits.

In response to Commissioner Woehleke as to the status of the Bella Vista sales office, Ms. Clark noted that SummerHill homes was figuring out the logistics for access to the lower lots, and expected to return to the Commission before April. As to Vista Encinos, no revised project had yet been submitted. With respect to the three-step Planned Development (PD) process and when that would return, she explained it was staff's intention as a next step to return to the Commission for discussion as to how to better clarify the three-step process so that the findings, purpose, and scope could be clearly articulated, along with the DRB, Planning Commission, and Town Council role in the process.

8. ADJOURNMENT

On motion by Commissioner D'Arcy, seconded by Commissioner Mallela and carried unanimously to adjourn the Planning Commission meeting at approximately 10:15 P.M.

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Secretary of the Planning Commission