

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

May 2, 2016
7:00 P.M.

MINUTES

1. CALL TO ORDER

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

A. ROLL CALL

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

Absent: Commissioner Kuckuk

Staff: Ellen Clark, Planning Director
Brian Horn, Associate Planner
Coleman Frick, Assistant Planner

B. Conflict of Interest

Commissioner Mallela reported that he would have to recuse himself from the discussion of Agenda Item 6A due to a potential conflict of interest.

Chairperson Woehleke reported that he would recuse himself from Agenda Item 5A due to a potential conflict of interest, although he had participated as a private citizen in the discussions on the application during the Design Review Board (DRB) hearings.

Commissioner Kovac reported that he had attended the DRB meetings as the Planning Commission Liaison when Agenda Item 5A had been discussed. He had no conflict of interest and would participate in the discussion.

C. Contact with Applicant(s)

Commissioner Korpus reported that she had met with the applicants for Agenda Item 5A, had toured the subject property and the neighbors.

2. PUBLIC COMMENTS

There were no comments from the public.

3. ADOPTION OF CONSENT AGENDA

A. April 18, 2016 Minutes

Commissioner Mallela requested an amendment to the last sentence of paragraph 6 on Page 8 of the April 18, 2016 minutes, as follows:

He [Commissioner Mallela] too questioned how the Report in Attachment D could be interpreted and supported an approval contingent upon the submittal of actual measurements to ensure compliance with FCC regulations.

Commissioner Kovac requested an amendment to the second to last sentence of the first paragraph on Page 6, to read:

He [Commissioner Kovac] understood that anything over 20 percent would be prohibited absent written authorization by the MOFD.

To the fourth and fifth sentences of paragraph 7 on Page 8, to read:

He [Commissioner Kovac] noted that people had become reliant on technology and he would like to see it used wisely and safely. He supported the 10-year extension from the expiration date of the current permit based on the additional recommended conditions.

Commissioner Kovac also asked that the references to antennas in the discussion related to 1199 Alta Mesa Drive, T-Mobile, be revised to read “antenna towers.” To the comments he had made under Planning Commission Reports on Page 10, he clarified that he had not attended a meeting of the Moraga Center Specific Plan (MCSP) Implementation Steering Committee, but had met with representatives from the Metropolitan Transportation Commission (MTC) and the Contra Costa Transportation Agency (CCTA) to ask questions about the MCSP.

On motion by Vice Chairperson Marnane, seconded by Commissioner D’Arcy to adopt the Consent Agenda, as amended. The motion carried by the following vote:

Ayes:	Commissioners D’Arcy, Korpus, Kovac, Mallela, Marnane, Woehleke
Noes:	None
Abstain:	None
Absent:	Commissioner Kuckuk

4. ADOPTION OF MEETING AGENDA

On motion by Commissioner Mallela, seconded by Commissioner Marnane to adopt the Meeting Agenda, as submitted. The motion carried by the following vote:

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

Chairperson Woehleke stepped down from the dais at this time and left the Council Chambers.

Vice Chairperson Marnane chaired the meeting.

5. PUBLIC HEARING

A. 287 Rheem Boulevard

Applicant: Gwan (Richard) Yu, 287 Rheem Boulevard, Moraga, CA 94556

Consider an Appeal of the Design Review Board Decision to Approve a Major Residential Remodel at 287 Rheem Boulevard, Including the Construction of First and Second Story Additions adding 3,224 Square Feet of Living Area and a New 674 Square Foot Three-Car Garage which Reflects Revisions made in Response to Conditions of Approval required by Design Review Board Action Memorandum 4-15

Assistant Planner Coleman Frick presented the staff report dated May 2, 2016, and clarified that the square footages included in the application were reflective of the DRB approved project, although there had been some modifications to the project following the DRB's approval, which was why the resolution as well as certain areas of the May 2 staff report had identified different quantities regarding square footage. Following the approval by the DRB and the filing of the appeal, staff had met with the applicant and the applicant had made a number of revisions and had submitted revised materials.

The most notable revisions to the plan included the movement of the garage an additional 5 feet away from the eastern property line for a total setback of 20 feet from the property line in response to a condition of approval from the DRB; revision to the landscape plan to include new vegetation as the landscape plan in the past had only included maintaining the existing vegetation on the property, while the new plan included cedar trees as well as Wax Myrtle shrubs, both of which would be evergreen plant species; submittal of a revised and more extensive shadow study to illustrate potential shadowing effects; and additional documentation as to the feasibility of retrofitting the existing foundation for use in the revised plan. The new site plan reflected the current revisions.

Mr. Frick stated the project met all the applicable standards outlined in the Moraga Municipal Code (MMC), although the Town's Design Guidelines were more subjective and more difficult to quantify since they were qualitative in nature and open to interpretation. The project had been thoughtfully designed to minimize the building mass and the new second story; the second story had been stepped back from the

eastern property line; decorative architectural detail and different rooflines had been incorporated into the design; varied vertical and horizontal massing had been incorporated to balance the sides of the home; and the massing had been concentrated on the western side of the property. The applicant's revisions to the project following the DRB's approval and submittal of the appeal included increasing the garage setback an additional 5 feet for a total of 20 feet; the addition of evergreen landscaping in the front and side yard areas; and demonstrated an attempt to mitigate potential adverse impacts on neighboring properties and the scenic corridor.

Mr. Frick recommended that the Planning Commission consider an appeal of the DRB decision and adopt a resolution approving the major residential remodel at 287 Rheem Boulevard, including the construction of first- and second-story additions adding 3,224 square feet of living area and a new 674 square foot three-car garage, as further modified by the applicant. Should the Planning Commission determine that the findings for approval of the project, as designed, could not be made, staff requested that the Planning Commission provide direction to the applicant as to desired revisions and continue the hearing with direction to return to the Planning Commission with revised plans.

In response to Commissioner D'Arcy as to the references in the staff report to County setbacks, Mr. Frick explained that the Town allowed remodels and additions to use the County setbacks based on the language of the ordinance adopted in 2013. There had been deliberations as to how restrictive the setbacks should be with some reflected in the recitals for the ordinance, although the code had not specified the extent of development that would negate the applicant from using the setbacks.

Planning Director Ellen Clark added that the references to the County setbacks in the staff report were only related to the County setbacks, that the Town's regulations had been in existence for many years, and the MMC had been updated in 2013 to clarify that issue.

Commissioner D'Arcy also verified with staff when the applicant would provide additional documentation of the feasibility of retrofitting the existing building foundation to accommodate the remodel and second story addition, in particular to determine the applicability of MMC Section 8.68.060 regarding use of County R15 setbacks, as stated in the staff report.

Mr. Frick stated that the Town of Moraga contracted with Contra Costa County for building services and the Town relied on County Engineers to make determinations related to structural details. The applicant had submitted a statement that the foundation could be reused and staff had coordinated with County Building staff to determine if that would be feasible. County staff had requested additional information as to how the retrofit would occur, and the applicant had provided that information to the County; County staff determined it would be feasible to use the foundation based on this information. This conclusion was based on the construction details as provided, and if the project had been engineered correctly, the project should be able to be constructed as shown on the plans. The applicant's Structural Engineer had also conducted on-site

tests and had provided supporting information. Based on information staff had received from the County Building Official, the project could be built as designed.

Ms. Clark explained that all of the structural engineering for the project had not yet been completed and typically occurred prior to the issuance of a building permit. Once the more detailed structural plans were available, the project would be conditioned that the commitment made by the applicant would be honored, with the approval contingent upon the reuse of the foundation as proposed. If the home was completely demolished and the foundation removed, the project would start from scratch.

Commissioner D'Arcy also referenced the DRB deliberations of the project, particularly related to the height, and questioned whose decision it would be to protect the hillsides and ridgelines.

In response, Mr. Frick explained that the DRB had discussed the Design Guidelines for the scenic corridor. When driving through the scenic corridor, there were limited angles in the subject area where the ridgelines would be visible in the distance, and from certain perspectives the ridgeline would be obscured by the top of the home.

Ms. Clark spoke to the multitude of standards and criteria in the Design Guidelines and scenic corridor standards with respect to ridgelines, and stated the DRB had been asked to consider all impacts on the scenic corridor. The DRB had concluded that due to the limited perspective affording ridgeline views, and the fact that the roofline had been designed to follow and conform to the topography of the ridgeline, that it met the scenic corridor standards.

Commissioner D'Arcy also referenced Table 4, as shown in the staff report, which had shown that the home was 28 percent larger than any homes in the area, and which had illustrated that the home would not be compatible with the neighboring residences in terms of size. She questioned how staff had been able to determine that the home would be compatible with the neighborhood.

Mr. Frick commented on the number of facets of the design; architecture, and placement of massing, and explained that the height of the second story was below the maximum height allowed. Considering those factors, the DRB had made its findings for approval that the home balanced the massing and proposed size through those features to an extent that was seen as quality design features.

Commissioner D'Arcy emphasized that the home did not fit into the neighborhood given its size even if it had been well designed. She stated that compatibility was a serious issue.

Commissioner Korpus reported that she had visited the site and had found that the home would be as high as 12 feet above Rheem Boulevard, although Ms. Clark clarified that the home would be approximately eight feet above Rheem Boulevard, described the requirements of the Municipal Code as to how height was measured, with which the project was consistent, but agreed that, if the grade difference between Rheem

Boulevard and the top of the home was aggregated, that measurement would be more than 28 feet.

Mr. Frick added that the MMC allowed a maximum height of 45 feet on sloped lots and would actually allow a greater height if in a sloped area.

Commissioner Korpus clarified with staff the number of people who had registered opposition and support for the project throughout the DRB meetings; staff had received no comments when the story poles had initially been erected; and all public comments at the DRB meetings as well as those received via correspondence and contact with Town staff had been documented. She asked whether any of the issues with neighborhood compatibility included any concerns with the proposed colors and architecture for the addition. She asked staff whether there were any examples of Spanish or Mediterranean style architecture that had been allowed in neighborhoods with existing Ranch style homes that could be used as a precedent.

Mr. Frick commented that while there were some homes in the neighborhood with Spanish architecture, the majority of the homes within a 300-square foot radius on Rheem Boulevard consisted of Ranch style homes.

Ms. Clark identified a residence at 5 Paseo Linares which had a similar architectural style as the Spanish style architecture that had been proposed, and which was located in an area with a combination of more recently constructed homes in various styles.

Vice Chairperson Marnane noted the Bluffs neighborhood had alternated between Spanish and shingle style homes.

Commissioner Korpus commented that based on her interpretation of the floor area ratio (FAR) requirements, there was a maximum FAR requirement for lots over 20,000 square feet, and the maximum FAR for the project would be .21, approximately 4,620 square feet. She had raised that concern with staff, and asked whether staff had received an opinion from the Town Attorney on that issue.

Ms. Clark referenced Page 65 of 68 of the Design Guidelines, which stated that a parcel of 20,000 square feet or less than the maximum floor area would be limited in size to the table shown in the Guidelines, and noted the text following the table explained how to determine a parcel size that fell between one of the thresholds. The Town Attorney had determined that the interpretation provided by staff, which had been applied in the past, was the correct interpretation. Further, the Hillsides and Ridgelines Steering Committee in conjunction with the Town Council had recently discussed the possibility of expanding that table to apply to larger sized lots, specifically because it did not apply as currently constructed. In staff's view, there was no doubt as to the correct application for the subject project and for others.

Commissioner Korpus expressed concern with the staff interpretation based on the language in that section of the Design Guidelines.

Commissioner Kovac asked whether any current renderings had been provided for the property from the east and west elevations, as viewed by the neighbors. He expressed concern with the neighbor's potential loss of privacy.

Mr. Frick acknowledged that color renderings had not been completed but was not a requirement for all applications. The applicant had made revisions to address concerns by the most affected neighbors, and he indicated on the project elevations what the nearest neighbors would view of the project, particularly of the ground level of the subject property.

In response to Commissioner Kovac, Ms. Clark explained that privacy impacts had been analyzed by determining whether any windows would have views down into the adjacent property and sightlines that would be provided. She noted there were some windows in the existing home.

Mr. Frick added that there had been comments from the neighbors and the DRB regarding that issue. Based on those comments, adjustments had been made to the windows. He affirmed the shadow study was a revised version submitted by the applicant after the DRB's approval and the subsequent appeal.

In further response to Commissioner Kovac as to the current sightlines for the home, Mr. Frick explained the roofline and the design of that part of the second story had not been modified.

Commissioner Mallela questioned the lack of a definition for "remodel" and questioned the size and scope of the remodel project.

Ms. Clark acknowledged the scope and sense of the remodel was more substantial than most presented to the Planning Department, with the majority of projects in the 400 to 600 square feet range. She acknowledged the Town did not have a definition to constitute a remodel nor had the MMC offered clear direction as to what was actually permissible in terms of the application of the setback standards. In the absence of clear direction, staff was of the opinion that based on the information provided by the applicant, the project met the definition for a remodel and would qualify for the setbacks.

Commissioner Mallela questioned how other communities, such as Palo Alto and Los Altos, dealt with similar sized homes for remodel versus the demolition of a structure to build a new structure.

Ms. Clark explained that provided a portion of the building remained standing, a remodel was allowed once the setback had been established and maintained. The project had been evaluated based on the Town of Moraga's criteria.

PUBLIC HEARING OPENED

APPLICANT:

Steve Chang, an Attorney represented the applicant, Gwan (Richard) Yu, explained that English was not Mr. Yu's first language. He reported that the application had originally been submitted on March 11, 2015, and during the process there had been a number of revisions. He noted the applicant had been frustrated with the process. He emphasized the applicant's efforts to comply with all the DRB's rules and requirements and all development standards. He noted that the applicant had gone above and beyond what was required by the rules and that the height of the home was far below the allowed height limit

Mr. Chang suggested that any further delay would be unfair to the applicant who had gone through significant costs for each revision. As to the size of the property, he asked that the Planning Commission not categorically reject the application given the raw square footage; the home had been designed to hide the mass, and if the square footage was behind or underneath, the second story would not be as massive as the square footage would suggest. He asked that the application be approved, and at a minimum that the applicant be directed as to what he needed to do.

Responding to the Planning Commission, Gwan (Richard) Yu, the Applicant, also identified himself as the contractor for the project. He described the process for the demolition of the home, with more than 80 percent of the home to be demolished with the portion of the foundation to remain on the existing garage side where the kitchen was located, to be determined based on a final decision from the structural engineer.

Jeffrey Haw, Civil and Structural Engineer for the project, advised that he been asked by Mr. Yu whether the existing foundation could be reused for the remodel. He advised that the foundation could be reused. Based on what was known, the foundation was in good condition with no cracks, could be retrofitted, and a majority of the foundation could be kept in place by drilling holes through the side of the foundation and by using rebar for support. Retaining the existing foundation and the walls where they were located would be a bit more expensive, but by placing piers around the existing foundation, the second story could be built independent of the first story. Retrofitting would be the practical way to go, had been done in many cities, and in terms of retrofit and remodel, he had seen extremes where a small section of the home was left intact and defined as a retrofit. He had not yet determined the size of the linear wall to be retained.

Mr. Yu stated he would not occupy the home during the construction period, the final engineering plans had yet to be completed, and if the project was approved the engineering plans could be provided to the Town in a month.

Mr. Hall clarified that the original plans presented to the Planning Commission were architectural plans but could be designed by an Engineer. He had been brought into the project by the applicant given his experience with the structural aspect of the project.

Mr. Yu responded to an inquiry by the Planning Commission and stated that if they were to require 20-foot side yard setbacks on either side of the property in response to impacts to the neighbors, he was uncertain how that would affect the project since that

would depend on the project designer. He clarified that he had an in-house designer and owned the company.

In response to concerns with the name on the original drawings and who was representing the project, Mr. Frick explained that the original drawings, the site plan, and floor plans had been modified by the project architect.

Jimmy Fong, Project Architect, clarified that a different series of drawings had been provided. The architectural design work had been done with Mr. Yu's in-house construction designer. He had done part of the design process. ORIS Design was an outside firm that had been brought in to assist with the landscape and excavation design. He identified himself as the Project Architect of record, the overseer of the project, and that different team members had done different parts.

Mr. Hall also spoke to the fact that for a project of the proposed size, there were different people responsible for different parts of the project.

Vice Chairperson Marnane declared a recess at 8:33 P.M. The Planning Commission meeting reconvened at 8:39 P.M. with Planning Commissioners D'Arcy, Korpus, Kovac, Mallela, and Vice Chairperson Marnane present.

PUBLIC HEARING OPENED

Ben Helber, the Chairperson of the DRB, acknowledged that staff had done a thorough job representing the discussions of the three DRB meetings when the project had been considered and actions taken. He recognized that the project was a substantial remodel that had been considered by the DRB during three separate public hearings, and that at one of those hearings on January 25, 2016, the DRB had adopted a motion to approve the project although the vote was not unanimous. The DRB's discussions on the project included concerns with respect to massing and how it might affect the neighbors, and how the project might affect the scenic corridor. The prevailing interpretation was that the project would not affect the view of the scenic corridor although there would be intermittent views when either walking or driving a vehicle. The DRB had determined that the project overall would not adversely affect the scenic corridor.

The DRB had also determined overall that with the varied roofline, horizontal and vertical articulation of the building, the building had been well designed and fit in with the overall neighborhood. The DRB had asked the architect to adjust the massing several times, which had been detailed during the staff presentation. The massing of the garage had been the greatest concern of the neighbors and the applicant had been asked to push away from the property line to mitigate those concerns. The DRB's action to approve the project had been identified in the staff report.

Responding to Commissioner Korpus, Mr. Helber explained that the DRB had seen many projects where the project was presented over a certain square footage of the lot and the FAR had not applied, which had historically been the interpretation of the Town.

The DRB had accepted that interpretation. While there had been questions, the prevailing interpretation had always been that FAR did not apply for lots of this size. He added that during the first DRB meeting in which the project had been considered, the applicant had been directed to explore several alternatives including the exploration of a detached garage. While a motion had been made to provide a greater setback from the street, that motion had ultimately not passed due to the prevailing opinion of the DRB.

APPELLANTS

Mike Hollingsworth, 291 Rheem Boulevard, Moraga, the adjacent neighbor to 287 Rheem Boulevard, spoke to the many issues with the proposal which had been documented in correspondence provided to the Planning Commission, with more discovered in the latest staff report. He questioned the accuracy of the staff report to the Planning Commission for an appeal which should have accurately summarized the application's history, previous DRB meetings, and scope of the public concerns in an unbiased manner. Any revisions of the proposal or new arguments should have been clearly identified and discussed, although he suggested the staff report had not accomplished that with no characterization as to the volume of prior correspondence and public input; no discussion as to architectural incompatibility; misrepresentation of the DRB meetings and description of the scenic corridor; no discussion of newly introduced conditions of approval regarding the foundation or tree planting along the side yard; conflicting and incorrect data; and no recognition of the additional shadow study impacts. He commented that with the limited time to speak, there was insufficient time to clarify all the issues raised. He asked the Commission to refrain from taking any final action until he had the opportunity to discuss the concerns with staff.

Mr. Hollingsworth noted that the new three-car garage located on the west side of the property had negative impacts by creating an 83-foot walled effect along the common property line. By itself, it would block views of the ridgeline due to the relationship to Rheem Boulevard, and would block 90 minutes of sunlight into his sitting/master bedroom area from the spring to fall equinox, essentially six months out of the year, which could be mitigated by recessing the garage into the home or moving the garage to the west side of the property where the impacts would be less to the adjoining property, and by decreasing the viewshed obstruction because of the smaller difference in elevation to Rheem Boulevard.

Mr. Hollingsworth commented on the loss of light due to the garage extension which had been a concern once the story poles had been installed. The applicant had been informed in August 2015 when the story poles had been completed of those concerns and the importance of the natural light into his home to be able to cope with a family tragedy. He suggested this was a mental health issue in that the loss of 90 minutes of sunlight, as shown in the shadow study, would be significant. He added that the new shadow study had shown additional shading of his rear yard, patio, and family room area due to the second story additions, and suggested the amount of increase in shadowing was another example of the incompatibility of the proposal and the need to reduce the scale of the project. He suggested a comfortable and smaller home would

meet the needs of the applicant but would require downsizing and eliminating some of the non-essential amenities that had been proposed.

Additionally, if the trees proposed as part of the new landscape plan along the common property line were cedar trees, Mr. Hollingsworth stated would raise new concerns regarding shading given that the trees could mature to be far taller than the building, further affecting the sunlight. He suggested there were too many issues with the proposal and encouraged the Planning Commission to deny the application, as presented.

Jane Hollingsworth, 291 Rheem Boulevard, Moraga, commented that one of the findings to be made to approve the project was that there would be no decrease in property value, although the staff response continued to claim there would be no decrease in property values and she could not recall a great deal of dialogue about this issue during the DRB meetings. Staff's rationale continued to be that updating a poorly maintained or unattractive structure would increase property values, and while true she suggested a compatible upgrade was more likely to achieve that goal than an incompatible upgrade.

Mrs. Hollingsworth explained that there was evidence on the Internet that incompatible construction could reduce the value of other homes in the neighborhood and suggested it was likely the project would impact property values. She suggested her home would be less attractive to potential buyers if the project was approved as is given the impact of 83 feet of mass along the property line, no privacy in the rear yard due to window placement, impacts from the lower and upper floors, fencing across the property line, with sightlines into her home from the garage into the sitting room of her residence as well as possibly from the kitchen into one of her bedrooms. The shadow study had shown that her rear yard and family room would lose evening light during the summer and reduce sunlight into the sitting room for 90 minutes of the day reducing the common enjoyment of her home.

Mrs. Hollingsworth understood the difficulty in honoring one person's right to build and respecting the rights of neighboring homeowners, although Moraga had a clear set of guidelines emphasizing the scenic corridor, visual impacts to neighbors, and neighborhood compatibility. In addition, the General Plan and Design Guidelines had a philosophy of retaining the semi-rural charm of the Town. She suggested setting a precedent for uncontrolled construction in an infill location could result in an undesirable outcome for the community.

Andy Hollingsworth, 291 Rheem Boulevard, Moraga, explained that he had attended the DRB meetings and had spoken about the size of the project and its incompatibility during the September 2015 DRB meeting, at which time he had presented to staff and the DRB an inventory of homes, which analysis staff had not been originally provided. The inventory included where single-story homes began to the City of Orinda border along Rheem Boulevard. Of 65 homes, 57 were single-story Ranch style homes. There were no other homes on the north side of Rheem Boulevard that had a second story spanning the entire width of the home. There were no homes with Spanish style

architecture although a large home at 221 Rheem Boulevard had stucco and a tile roof. The large home at 228 Rheem Boulevard had not been included in the inventory since it sat on a five-acre lot.

Mr. Hollingsworth spoke to the staff report which included homes within a 300 square foot radius which were close in size or slightly over .1 FAR. He suggested the FAR for the project was actually .247 and had not included the two-story element and had placed the home close to two and a half times the FAR. He also questioned the staff's interpretation of the FAR guidelines.

Mr. Hollingsworth explained that at a subsequent DRB meeting, he had provided a further inventory of homes in the greater Moraga area where the proposed home was larger than 98 percent of all homes in the Town. Most homes were on lots over a full acre, and in neighborhoods with consistently large homes on smaller sized lots. He could find no homes in the Town with the same disparity, and commented that Rheem Boulevard had some of the smallest homes in the Town, a fact that neither the DRB nor staff had discussed at the DRB meetings. He emphasized that although some revisions had been made, given the extremes for the project and its size, what he characterized as incremental changes had not changed the extremity of the project.

PUBLIC COMMENTS OPENED

Patrick Brunelle, 1 La Salle Drive, Moraga, a supporter of the Moraga Open Space Ordinance (MOSO) commended the Town's effort to ensure that the intent of MOSO was followed. He had attended the DRB meetings and although some of the discussions of the DRB had been conflicted, the DRB had approved the project on a 3-1 vote. Based on the comments from the public, he suggested the DRB had erred in its judgment. He sympathized with the Hollingsworth family and expressed concern with the future of Rheem Boulevard and the scenic entrance into the Town. While beautifully designed with attractive architecture, the proposal was a large, two-story, 5,000 square-foot home on a third of an acre situated amongst smaller homes, and if approved could set a precedent, creating increased potential for incompatible homes in the neighborhood altering the scenic entrance into the beautiful Rheem Valley.

Richard Immel, 299 Scofield Drive, Moraga, disagreed with staff that the findings for the scenic corridor were justified. He suggested development processing in the Town should be divided into construction and policy. He suggested the applicant was trying to rebuild an existing home, which would be completely out of character with the existing homes and that staff had offered an unequivocal recommendation for approval in opposition to Moraga's values. He stated the story poles had shown the second story would block views of Campolindo Ridge; suggested the staff photographs of the neighborhood in the area of Rheem Boulevard were misleading and distorted giving the impression of a heavily wooded wall that would block ridgeline views; questioned the staff interpretation of intermittent views and the use of evergreen trees to screen the building; noted the Design Guidelines did not exempt individual lots or buildings from its application; and the Hillside and Ridgelines Steering Committee was working for more stringent, not less stringent, guidelines.

Mr. Immel described the home as a mansion with aggressive Spanish style architecture, busy details, and a bright yellow exterior with a red tile roof. There was nothing in the neighborhood that resembled the building design and it was therefore incompatible with the neighborhood. He also referenced the shadow study, which he suggested had shown the proposed home was not compatible with the residence at 291 Rheem Boulevard, or with the neighborhood.

Xiu T. Zhang, 287 Rheem Boulevard, Moraga, responded to the comments regarding the size of the home and impacts to property value. She spoke to the size of the home at the time it had been purchased and its value based on the existing square footage, as compared to the neighboring properties, which were smaller in size. She questioned the assumption that the proposal for the home would decrease property values, and explained that the home was currently 1,400 square feet in size and was occupied by six family members. If the proposal met the Town's requirements, she questioned why the remodel could not be approved as a remodel. Additionally, she asked why the appellant did not have to pay for the appeal given that the applicant had to unfairly bear the financial burden.

Glen Lee, a friend of the applicant, understood that the applicant had followed the Town's rules and regulations and an argument was being based on more subjective matters, such as impacts to sunlight. He pointed out the neighbor had some of the tallest trees for privacy and the applicant could also plant trees that would block sunlight. If two stories was not allowed, he questioned why that was not part of the Town's ordinances. He asked how to proceed if the application met the Town requirements; found the process to be unfair and open ended; disagreed that upgrading the home would decrease property values; and emphasized the application had been in process for over a year. He sought answers on behalf of the applicant to allow the applicant to proceed and asked what could be done to make the neighbors happy.

Commissioner Korpus agreed that a decision needed to be made. She recognized the question as to whether the project should be considered a remodel with an expansion or a remodel as new development. Given the size and location of the project, with a ridgeline and hillside behind it on a scenic corridor, she suggested the Commission would have to err on the conservative side of the applicable standards.

Commissioner Korpus suggested the project was a tear down, with new building going up, with a new foundation. If the foundation was going to be reused, it would have to be retrofit, but that a portion on the eastern side of the home, the only portion abutting the 10-foot side yard setback, was the most likely portion of the foundation that would be required to be torn down and redone. She found the amount of linear feet of walls to be retained to be minimal and suggested it had been planned that way to take advantage of the earlier setback standards.

Commissioner Korpus reported that she had visited the Hollingsworth property with their permission, and had stood in their rear yard. As is, she suggested the project would be too close to the neighbors' home even at one story, suggested a second story would be daunting, and noted that while there were a number of trees, she understood that some

trees would have to be removed. Given the concerns, she suggested the cost of retrofitting the foundation would be as costly as demolishing the home and rebuilding it.

Commissioner Korpus also spoke to the fact that the application was unprecedented in the subject neighborhood, with the home size larger than others in the neighborhood. Not opposed to a second story, she suggested it could be allowed as long as it met certain criteria. She suggested the application represented a tear down and new development; and given the neighbors' concerns with views, privacy and shadowing, 20-foot setbacks should be required on both the right and left sides.

With respect to viewshed protection, Commissioner Korpus commented that she had read both the General Plan and MOSO extensively, and it was clear that one of the top two priorities of the Design Guidelines was the protection of the ridgelines and vistas and the retention of the semi-rural character of Moraga. She suggested the DRB had improperly focused on the existing vegetation in the scenic corridor, and while vegetation and trees mattered, the Design Guidelines state that buildings were to be designed architecturally in color and description to blend in with the natural environment. While the home was beautiful, it did not blend in and was too different. Given the viewshed issue, she suggested a hard line should be taken in not allowing any building in the scenic corridor to break the ridgeline.

Commissioner Korpus recommended a discussion as to how much of the hillside could be blocked. In her view, the appropriate viewpoint in which to consider the home was standing on Rheem Boulevard in front of the home, which was the most conservative perspective. Based on that, there were two locations from various angles where a massive amount of the hillside would be blocked. She recommended with respect to a second story that it be pushed back as much as possible to avoid breaking the ridgeline.

In terms of the scenic corridor without the ridgeline, Commissioner Korpus suggested the DRB had not considered the seasonal loss of leaves on deciduous trees with views in most directions of the home which did not blend in, and which would be amplified by the fact the home would be eight feet higher than Rheem Boulevard. She characterized the Mediterranean Spanish style architecture as a McMansion, not semi-rural, and again expressed concern with the potential precedent that could be set if the home was approved, as proposed.

Commissioner Korpus also spoke to the issue of neighborhood compatibility and suggested it would be difficult to make that finding, particularly given the comments already expressed and with the use of unnatural materials that were not supported by the Design Guidelines.

As to the issue of negative impacts to the neighborhood, Commissioner Korpus stated that the applicants had the burden of proof on this issue and recognized that there is no requirement for expert reports on the issue of value. She recognized the only information she had seen came from the neighbors and that anecdotal information was available from the Internet; she had spoken to at least two real estate agents about the proposal who had been shocked with the building design.

In terms of privacy impacts, Commissioner Korpus suggested some of the privacy arguments had been a bit overblown in that neighbors could not expect perfect privacy. The existing home had been in place when the Hollingsworths had purchased their property. She had been persuaded by the loss of the Hollingsworth's westward views, the fact they could lose additional views, and perhaps additional loss of light, and while she sympathized with the possible loss of light, she found that the applicants had taken substantial steps to address the shade issue. She agreed with the suggestion that relocating the garage to the west side of the property would go a long way to create harmony with the neighbor and minimize impacts and the potential loss of property values. While not recommending that as a requirement, she suggested compromises could be made. She also agreed there would be impacts to the Hollingsworth's western views and urged the applicant to see what could be done to push the upstairs back as far as possible, suggesting it might be possible to shift some of the second floor back to the hillside and have it be supported by the hillside, which option would reduce the impacts to the hillside and the walled effect on the corridor.

Commissioner Korpus suggested that under the current plan, the Hollingsworth's enjoyment of light, air, and space would be reduced to an unacceptable level with the immediate loss of property values, which argument should be given more weight. She also cited the Design Guidelines and recommended that dense low foliage be provided to help cover the lower level and make it blend in.

Commissioner Korpus also stated the home was too bulky; suggested that Appendix D was inaccurate and to her it was a clear statutory construction issue where the maximum size of the lot would limit the home to 4,620 square feet with an FAR of .21; recommended whether the project was or was not considered to be new construction, a side yard setback of 20 feet should be required on both sides; and the second story should be pushed back with ways to maximize the use of the interior volume of the second story, every cubic foot of that space in the second story comes out of the hillside

Commissioner Mallela stated the home was a nice design in principle, and expansion was acceptable, although the concept of whether the home was a remodel, expansion, or tear down was irrelevant. He emphasized the importance of aesthetics in the Town and sympathized with the fact the application had been in process over a year and the applicant had taken the Town's policies to heart. The key was that the Town of Moraga also operated based on Design Guidelines, which were as important as the strict interpretation of the policies that had been established, with an exception for every rule, knowing what worked in the Town and what did not. He suggested the building design pushed the boundaries of the Town's Design Guidelines for properties along Rheem Boulevard; emphasized the importance of considering the privacy and shadowing impacts to the neighbors; and found that the applicant had been open to consider revisions in response to the neighbors' concerns and the input from the DRB and encouraged that willingness to continue.

Commissioner Mallela suggested there was insufficient information for the Planning Commission to fully understand the impacts to the neighbor's views of the structure

once built, and needed more information before moving forward. He sought more information on the impacts to the neighbor's privacy and shading from the neighbor's viewpoint; moving the garage to the other side of the property with a 20-foot side yard setback; and suggested the proposed Spanish style architecture was a gray area. He asked the applicant to consider a design in harmony with the neighbor and the neighborhood.

Commissioner Kovac expressed frustration with the lack of prescriptive clarity in the rules. As to the grandfathering aspects of the County R15 Zoning for the property as compared to the Town's one dwelling unit per acre (DUA) MMC regulations, in his opinion it was meant to allow existing family homes built in the R15 Zoning District to be legal but did not grandfather-in new construction vis-a-vis the existing home. He read into the record regulations from Scottsdale, Arizona as to how that community handled remodels, rebuilds, and defined new construction. Based on those regulations, the subject application should be considered new construction and not a remodel.

Commissioner Kovac recognized that the applicant had the right to redesign the residence as long as it complied with the current standards and guidelines in the Town's 1-DUA Zoning District versus the County's R15 regulations. He stated that the second floor needed to comply with the Design Guideline to blend into the hillside, which would be difficult given the massive structure and the upslope.

Commissioner D'Arcy agreed with some of the points raised by Commissioner Korpus and suggested if the applicant recognized the 20-foot setbacks it would solve a number of the neighbors' concerns with respect to light, walled effect, and shadowing. A redesign would allow better utilization of the space on the ground, the floor plan could be tighter and better designed, and the scenic corridor could be protected. She agreed that the home size, style, color, and articulation were not compatible with the existing Ranch style homes in the neighborhood, and urged a redesign and downsize of the project.

Vice Chairperson Marnane agreed with the Commission's comments and found that the home was not a remodel but new construction given the cumulative effects of the design, FAR, space, and shadowing. He also found that the home design was incompatible in the scenic corridor and that views of the ridges would be obscured by the home detracting from neighboring property values. He suggested the Town had made a mistake in the past by approving the home at 226 Rheem Boulevard, which was also a massive home. He also suggested the Town had been more than fair with the applicant, with multiple public hearings, staff time, and meetings with staff including the subject meeting. He reiterated the number of negative impacts with the proposal, and suggested that staff had understated the privacy, visual, and shading impacts of the home onto its neighbors.

Vice Chairperson Marnane entertained a motion to direct the applicant to consider a new home; reconsider the design and engineering components; return with a project design closer to existing conditions; improve the architectural and civil presentations to

staff and the Planning Commission; and bring the project significantly closer to the size, FAR, scenic, shading, and other considerations.

Ms. Clark advised that if the action of the Planning Commission was to deny the application, staff would have to return with a new resolution of denial to memorialize that decision and include the appropriate findings to be brought back to the Planning Commission at a future meeting.

Vice Chairperson Marnane clarified his recommendation was a denial of the application with direction to the applicant to go back to the drawing board, and redesign the project based on the comments provided.

Commissioner Korpus suggested the appropriate action would be to deny the application as proposed, and authorize the applicant to redesign the home as it had been described and in consideration of the issues that had been identified. She recommended that the application be returned to the Planning Commission for review as opposed to the DRB.

Ms. Clark reiterated that if the action of the Planning Commission was to formally deny the application, a new resolution denying the application would have to return to the Planning Commission with the appropriate findings, which were not available for consideration at this time.

In response to Commissioner Mallela as to the implications of a denial versus direction for the applicant to make revisions, Ms. Clark advised that denial of the application was an appealable action to the Town Council and would require the submittal of a new application which would procedurally go back to the DRB, and which could be appealed to the Planning Commission. If the Planning Commission directed design changes, that direction could come back to the Planning Commission directly. As to whether any additional fees would be imposed with a denial, the Town would take whatever balance of fees remained in the application, require a new completeness review, and send the application back through the process.

Commissioner Korpus suggested rather than a denial, better direction might be to direct the applicant to make revisions, to be returned to the Planning Commission for consideration, which Ms. Clark affirmed could be an option to consider.

Vice Chairperson Marnane suggested the more appropriate action would be the denial of the application given that the application had been presented as a remodel as opposed to new construction.

Ms. Clark advised that there were Design Guidelines in place that allowed the DRB and the Planning Commission to require greater setbacks than the minimum required by the MMC, regardless of the interpretation of MMC Section 8.68.060.

Commissioner Korpus verified with Ms. Clark that a remodel or new construction would have to adhere to all of the Design Guidelines and MMC standards. She recommended

that staff prepare a factual finding that the Planning Commission had found the application to be new construction for all of the reasons that had been discussed, to be included in a newly prepared resolution for denial.

Vice Chairperson Marnane offered a motion that the Planning Commission deny the application for 287 Rheem Boulevard, with a request for a redesign of the property to be treated as new construction, the design and engineering to be brought closer to the existing local conditions, improving the architecture and civil engineering presentations to both staff and the Planning Commission, and with the design to be significantly closer to the size, FAR, scenic, shading and other design considerations.

Commissioner Korpus requested an amendment to the motion to state rather than a denial, the Planning Commission would withhold a decision on the application pending review from the applicant of a new submittal to redesign the home in compliance with the issues discussed, paying attention to the concerns the Planning Commission had raised, with the remainder of the Vice Chair's motion to remain.

Ms. Clark recommended rather than withholding a decision, the Planning Commission continue consideration of the application.

Vice Chairperson Marnane restated his motion to withhold the approval of the current application for 287 Rheem Boulevard and consider a new design submittal, request the applicant return with the design and engineering of a new home brought closer to the existing local conditions, improve the architecture and civil engineering presentations to both staff and the Planning Commission, and get significantly closer to the size, FAR, scenic, shading and other design considerations.

Commissioner Korpus supported the motion as restated by the Chair.

On the motion, Mr. Frick commented that some Commissioners had stated they would like to see more evidence on the impacts to the neighboring property. He asked that specific direction be provided to the applicant since the applicant had previously provided photographs and a shadow study.

Vice Chairperson Marnane suggested it would be up to the applicant to provide that information. The neighbors had suggested there would be impacts to privacy, views, shading, and scenic views, and the Planning Commission had covered all aspects of the potential impacts.

Commissioner Kovac asked for a rendering from the perspective of the neighbors on either side of 287 Rheem Boulevard, without any tall vegetation, with the same viewpoint from the west elevation to allow views of the building mass of the structure from those viewpoints.

Vice Chairperson Marnane suggested the applicant and his development team be provided a copy of the meeting minutes where all of the concerns had been discussed.

Commissioner Korpus also sought a line of sight study, a diagram with lines drawn down to identify at what point on the home there would be any line of sight issues in order to see potential views into the home, and views infringing onto the private space at the rear; that the four feet of height at 287 Rheem Boulevard be made clearer in the shadow study; that the shadow study be done for a minimum of four, not two days out of the year, with views of all seasons; and allow the applicants and the Hollingsworths to again approach the Commission to determine what additional information would be helpful.

Commissioner Korpus suggested statements from the Planning Department as opposed to statements from the applicant, and for the Planning Commission to find real estate agents willing to provide an opinion on the issue of property value impacts, to avoid having to spend money on an expensive report.

Vice Chairperson Marnane noted that the applicant and the neighbors could also submit further written comments for the record.

On motion by Vice Chairperson Marnane, seconded by Commissioner Korpus to withhold the approval of the current application for 287 Rheem Boulevard and consider a new design submittal, request the applicant return with the design and engineering of a new home brought closer to the existing local conditions, improve the architecture and civil engineering presentations to both staff and the Planning Commission, and get significantly closer to the size, FAR, scenic, shading and other design considerations. The motion carried by the following vote:

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

Vice Chairperson Marnane declared a recess at 10:17 P.M. The Planning Commission reconvened at 10:22 P.M. with all Commissioners present.

Commissioner Mallela recused himself from the discussion of Agenda Item 6A due to a potential conflict of interest and left the dais at this time.

6. ROUTINE AND OTHER MATTERS

- A. APN 255-321-024, Northeast Corner of Moraga Way and School Street**
Applicant: JP Morgan Chase, NA (Steve Bashe), 24085 El Toro Road, CA2-5116, Laguna Hills, CA 92663
Study Session for proposed Chase Bank at the northeast corner of Moraga Way and School Street

Associate Planner Brian Horn presented the staff report dated May 2, 2016, for a proposed Chase Retail Bank with drive up automated teller machine (ATM) and canopy,

on property located at the northeast corner of the intersection of Moraga Way and School Street within the Moraga Center Specific Plan (MCSP) Area, designated Community Commercial. The project was before the Planning Commission as a study session to review the proposed use and overall site design since there were several elements that would ultimately require Planning Commission approval. Those elements included a request for reduction in the 50-foot front yard building setback from Moraga Way in accordance with MMC Section 8.036.040 C, approval of a drive-up ATM, parking modifications to allow driveway aisle width reductions, and permit inclusion of compact parking spaces.

Mr. Horn recommended that the Commission discuss the proposed project and site design, and provide initial comments to the applicant and staff, particularly focusing on conformance with the MCSP; building setbacks, drive-up ATM, parking related to number of parking spaces, width of driveway aisles and use of compact parking spaces, landscaping, and pedestrian facilities.

Commissioner Kovac understood that the MCSP had been patterned after the Town and Country development located in a jurisdiction on the Peninsula. He had spoken with people about their experience with the Town and Country development, with largely negative opinions due to the lack of parking. He clarified that the parking standards in the MCSP required one parking stall per 250 square feet, and that lighting and signage were not part of the subject application and would involve a separate application.

Commissioner D'Arcy understood that Wells Fargo Bank also had a drive-through and ATM, although Mr. Horn clarified that while drive-throughs had been mentioned in the MMC, the MCSP had been silent on the use of ATMs and some drive-through uses but not drive-through ATMs.

Bob Superneau, representative for Stantec Architecture, Inc. representing Chase Bank, affirmed there were some lease restrictions from Safeway, which determined some of the factors laid out on the property, such as the visibility corridors. Safeway had required direct visibility from the intersection, which was why the building had been situated on the property as it had. A portion of the site contained an existing parking lot that would be reconfigured as part of this project, with the maintenance of those parking stalls as much as possible by incorporating Chase Bank and an ATM drive-through function on the property. The project proposed to include 49 parking stalls, including 10 compact stalls, 3 clean air stalls, and 2 Americans with Disabilities Act (ADA) accessible stalls. The project, as proposed, would require approval by the Planning Commission for the 10 compact spaces. Twenty-one 90-degree spaces would be provided in the immediate vicinity of the bank building, with an additional 28 60-degree angled spaces at the north end of the site and in proximity to the drive-through ATM. The latter spaces would include an area of approximately 30 existing parking stalls that would be reconfigured to accommodate the proposed drive-through ATM and new parking.

Some concessions had to be made to the drive aisle width which would have to be reduced slightly, with the driveway aisle width at 25 feet 3 inches, compared to the required 28 feet, in the area in front of the proposed building. The site plan also incorporated a pedestrian-oriented landscaped seating area at the corner of Moraga Road and School Street; a new 5-foot wide sidewalk had been proposed along School Street; proposed landscaping along School Street would be minimal; and a striped pedestrian walk would be provided from the School Street sidewalk to the front entry plaza of the bank, which also included a walk-up ATM on the School Street side of the building. The site plan also incorporated a pedestrian-oriented landscaped seating area at the corner of Moraga Road and School Street.

The representative for Stantec recognized that the project design required DRB review and approval. Preliminary elevations had been presented to staff, with articulation added to the east side of the building facing Wells Fargo Bank.

Recent comments from the Moraga Police Department had been received expressing concern with visibility, and Chase Bank was willing to work on those issues and comply with the Moraga Police Department's requests, although it would come down to the parking situation and how to work through that issue.

Ron Chester, Real Estate Manager, Chase Bank, commented that the applicant had been working with the property owner over the past two years to make the site work. The site was currently unattractive, and Chase Bank was desirous to make the site an attractive location for the community and be a long-term business in Moraga. He commented on the need to have parking as close to the building as possible. He was also aware of the need to address the view corridors. While Chase Bank would rather be situated on the corner, that would not be approved by Safeway. The overall parking required by the Town would be 16 parking spaces although not all would be dedicated to Chase Bank but be part of the overall shopping center. Chase Bank's parking standards were 25 to 30 spaces. He explained that Chase Bank was flexible as to the color of the building and the height of the parapet, and would like to dress up the corner and enhance the landscaping in cooperation with the property owner. He sought input from the Planning Commission as to whether Chase Bank would be able to locate in the community.

Dave Bruzzone, Property Owner, emphasized the importance of welcoming businesses to Moraga, such as Chase Bank, without placing too many abusive or unreasonable demands on the site. The site was currently unproductive and unattractive. The application from Chase Bank would be an enhancement to the area, generate tax revenue for the Town, and give the retail and commercial development community the idea Moraga was doing something now. He encouraged the Town to be welcoming, hospitable, and encourage new tenants while also being supportive of existing tenants.

Mr. Bruzzone suggested the application was a win-win for the Town, the applicant would install a pedestrian corridor and new sidewalk which currently did not exist; and the property would be enhanced with landscaping and possible additional landscaping may

be accommodated. He had received a copy of an e-mail from Safeway this date, and he reported that Safeway was clear on what it wanted and needed, which was a sidewalk on School Street, which was supported as long as there was no loss of parking. As to peak hours of shopping and the existing parking counts, he emphasized those issues were prevalent and existed in all communities. He had provided the Planning Commission with generic wording for contracts for commercial spaces and rights to use common areas, and had provided historic information on Safeway and the Panini's area.

Mr. Bruzzone recognized that Safeway wanted to preserve the view corridor. As to the missed perception that there was an overabundance of parking, he suggested that was not the case. The MCSP process had been a multiyear effort and subsequent years since that time there continued to be a misperception of over parking. He emphasized that all of the parking spaces in front of Safeway, along School Street, and up to the liquor store were used regularly and frequently. He read into the record many of the General Plan policies and Design Guidelines which supported his argument related to parking, and which the staff report had failed to address in many aspects.

Mr. Bruzzone commented that he had provided the Planning Commission with information on the existing site, including the views of the vacant pad, and explained that Chase Bank needed 31 parking spaces. He had provided a photo showing parking stalls identified as Row "0" Chase, and Row "1" existing, Row "2" closer to Safeway, and Row "3" behind Safeway. Staff had recommended the removal of 17 parking spaces, and those parking spaces were located in Row "0," with Row "1" proposing to remove the first ten parking spaces. He also provided a photo of the existing parking dated November 2015, showing that the parking stalls were not completely full. He suggested the downtown was failing which was the reason for the MCSP; the downtown was only capturing 24 percent of sales tax revenue, and the intent of the MCSP was for people to shop in Town and capture tax dollars. In order to have a successful downtown, he questioned the staff recommendation for the removal of parking spaces, which would have a cumulative effect to the other existing rows of parking.

Mr. Bruzzone offered a comparison to the Lafayette Safeway which generated more than 21 percent sales tax per square foot than the Moraga Safeway store, and that Lafayette enjoyed three grocery stores. If Moraga were to capture what it had in the past when the Town had multiple grocery stores, others in the Lamorinda area would shop in the Town and the Town would do better. For the downtown to be successful, he again questioned the staff recommendation to tear out existing parking spaces, which would cause a cumulative effect. He added that Safeway was also not in agreement with the removal of its parking spaces. He described how the removal of the spaces would affect other businesses as well.

Commissioner Korpus again questioned whether the lease for Chase Bank would allow the rotation of the building 90 degrees, with parking on both sides of the building, and which would offer a more pedestrian-friendly environment.

Mr. Bruzzone stated that option was not viable and questioned how the rotation of the building would improve the pedestrian orientation.

The representative for Stantec commented on his experience with grocery store chains and the language in their leases related to the maintenance of the view corridor. He described the negative impacts if the building was shifted in that there would be insufficient physical room to add parking and allow for backing out of the parking stalls to ensure proper circulation. He explained, when asked, that the Chase Bank in the City of Lafayette did not have dedicated parking spaces.

Commissioner Kovac noted that the trash cans for Safeway blocked Wells Fargo Bank from the main corridor, to which the representative for Stantec identified Wells Fargo Bank's location on a separate parcel.

Commissioner Kovac stated his main concern was that the MCSP guidelines encouraged minimalized impacts from vehicles, which the project had not addressed. He also clarified with Mr. Chester the intent of the bicycle lockers, as shown on the plans, as part of the green code requirements to provide long- and short-term bicycle parking as well as electric vehicle parking.

Commissioner Kovac understood that School Street was locked-in with no bicycle or strolling lane, and would be located pursuant to the MCSP guidelines. He asked whether any public spaces had been planned, and noted the Moraga Police Department had expressed safety concerns with the project, which concerns he shared. There was also no turn in area for the bus stop or a bench.

Mr. Chester identified the existing turn in area for the bus stop along Moraga Way, which would not be changed, and explained the landscaping behind the sidewalk would be enhanced and a new pedestrian plaza at the intersection would have benches and seating for pedestrians.

Vice Chairperson Marnane noted that the bus stop area was also an area for carpooling where there may be competition for the parking spaces and where some policing in the morning periods might be required.

Mr. Bruzzone described what had been envisioned in the MCSP, and explained that they would be able to eke out a 4.5- to 5-foot wide sidewalk to accommodate the pedestrian demand on that side. The area behind Safeway was a blank slate, although there had been no discussion of tearing out parking spaces. He explained that Chase Bank had proposed a good plan and had raised aspects he would like to see as part of new development, such as a new seating area and enhanced landscaping. Additional landscaping could be considered but must consider the existing infrastructure.

Chairperson Woehleke clarified with Mr. Bruzzone that Chase Bank would work within the original design of the MCSP and no new traffic studies had been prepared for Chase Bank, which he suggested were not needed given the historical demand. He was aware of the current demand for a successful grocery store and had projected those numbers onto the parking with the November 2015 photo that had been presented, which had shown some vacant parking spaces.

Chairperson Woehleke referenced Moraga Ranch, with some of the parking spaces to be used for that use, and Mr. Bruzzone described the parking as shared parking, with no parking adjacent to the four existing uses on School Street. The existing parking was more economical and user friendly. He explained that once breaking ground on Moraga Ranch, C.3 requirements would be triggered. He suggested Moraga Ranch could have a regional draw and he did not want to have to place parking in that special environment.

Vice Chairperson Marnane pointed out that if Chase Bank were to build and be successful, it could generate more vehicles to the area that did not exist now, raising valid concerns with the traffic volume in the area.

Mr. Bruzzone noted the intent was to have the existing parking spaces filled and that the center be as successful as the Lafayette Whole Foods Shopping Center and be able to bring in future tenants.

Chairperson Woehleke clarified with staff the positioning of Chase Bank's building facing School Street.

Ms. Clark explained that Moraga Way was the principal street and one that served as the frontage. Both the MMC and the MCSP were relevant to the project; the zoning implemented the MCSP, and if either were in conflict, the zoning would rule.

Mr. Horn acknowledged that the project met the MCSP regulations but not the zoning code, although there was a section in the MMC which allowed Community Commercial zoning and certain modifications subject to findings, where the Planning Commission could approve a lesser setback than the 50 feet the applicant had proposed.

Based on a straw poll vote, the Planning Commission was overall receptive to a bank being located on the property.

The Planning Commission walked through each of the key components staff asked the Commission to address, as follows:

Conformance with the MCSP

Commissioner D'Arcy suggested a bank was compatible with the overall commercial and retail in the MCSP but agreed there was conflict between the MCSP and the MMC;

Commissioner Kovac disagreed the project conformed to the MCSP given the lack of public spaces, it did not follow the spirit of the MCSP, closed off the corner whittling away the MCSP piecemeal, and suggested it be evaluated as a large project; and Commissioner Korpus recognized the limitations of the lease where whatever was developed at the corner would be faced with the same problems, suggested things could be done to make the project as pedestrian friendly as possible such as a pedestrian pathway offering a more inviting area to walk to Safeway or to the park, enlarge the corner more with a possible fountain, break up the concrete and break up the green beltway making the space more commercially viable.

Based on a straw poll vote, there was no consensus from the Planning Commission on this issue.

Building setbacks

Commissioner Korpus suggested the building be shifted back to be able to shift the parking spaces up front to create the appearance of more space; with the representative from Stantec agreeing that some other pedestrian areas could be considered and incorporated into the front although shifting the building back was not viable to move more parking out onto the street since the building had been pushed back as far as possible with landscaping to buffer, screen and blend.

On motion by Commissioner Korpus, seconded by Commissioner Kovac to extend the Planning Commission meeting to 11:45 P.M. The motion carried by the following vote:

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

Commissioner Kovac appreciated that the MCSP had no setback rules and the aggressiveness of Chase Bank for a prime location but urged consideration of a pedestrian pathway, expressing concern with the visual impacts the building would have in the MCSP Area.

Based on a straw poll vote, the majority of the Planning Commission was willing to consider the building setbacks that had been proposed.

Drive-up ATM

Commissioners had no comments or opposition to the drive-up ATM feature.

Parking related to number of parking spaces, width of driveway aisles, and use of compact parking spaces

Commissioner Kovac suggested parking was key and should be preserved, with room to be made for bicycles and pedestrians, with Mr. Bruzzone noting that the existing hike and bicycle trail worked although they could do some additional incorporation at the end of Safeway; Chairperson Woehleke sought more data but did not suggest an additional traffic study, with Mr. Chester noting that in more affluent communities Chase Bank averaged 5,000 transactions per month but did not all come in equally with 6,000 to 7,000 transactions at the ATM, and acknowledged the traffic would be more than it was today; and Commissioner Korpus opposed more compact parking spaces given the preponderance for larger vehicles, and would rather see giving up a few spaces for a roomier setting which would be more inviting, with the representative from Stantec noting they had met the standard 9-foot width but not the depth.

The Planning Commission was not particularly pleased with the parking for the project.

Mr. Chester described in detail the interior functions of the Chase Bank operations.

Landscaping

As to the landscaping along Moraga Way, Commissioner D'Arcy liked the use of black oaks and other drought-resistant native plant materials, had no concerns with the view corridor, liked the fact the corner would be open allowing people to walk through, and rather than a fountain suggested art pieces with benches around it as more appropriate; although Commissioner Korpus suggested if art was allowed, when possible, a water feature should be considered on given days; and Commissioner Kovac emphasized the need to consider safety at the intersection for bank staff and clients, with the applicant to consider the comments from the Moraga Police Department.

There were no comments on the landscaping for the School Street elevation given that nothing had been proposed, although staff noted that additional landscaping should be considered to soften the area between the sidewalk and the parking area.

Pedestrian facilities

Commissioner Kovac expressed concern with the absence of pedestrian facilities other than a bench; Commissioner Korpus encouraged the breaking up of the concrete in the parking lot to make the area comfortable for people to walk through to Wells Fargo Bank; and Chairperson Woehleke suggested pockets along the sidewalk on School Street to place a wide spot with a bench. [Comments from the applicants from the audience were not clearly audible]

The representative from Stantec thanked the Planning Commission for its input.

The following agenda item was not addressed by the Planning Commission.

B. Review Annual General Plan Implementation Report for 2015 and provide input on Planning Department 2016-17 Work Program Priorities

7. REPORTS

A. Planning Commission

Vice Chairperson Marnane reported that he had attended the April 25, 2016 DRB meeting as the Planning Commission Liaison when a proposal for a new remodel at 219 Rheem Boulevard had been continued subject to direction from the DRB.

Chairperson Woehleke recommended that the Planning Commission discuss three agenda topics; the Brown Act; Rules and Responsibilities of the Planning Commission, and characteristics of high quality decisions, to be discussed during three separate Planning Commission meetings.

B. Staff

Ms. Clark reported that the DRB meeting of May 9 had been canceled.

8. ADJOURNMENT

On motion by Vice Chairperson Marnane, seconded by Commissioner D'Arcy and carried unanimously to adjourn the Planning Commission meeting at approximately 11:45 P.M.

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Secretary of the Planning Commission

