TOWN OF MORAGA
PLANNING COMMISSION MEETING

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

June 6, 2016

7:00 P.M.

MINUTES

1. CALL TO ORDER

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

A. ROLL CALL

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

Absent: Commissioner Mallela, Chairperson Woehleke

Staff: Ellen Clark, Planning Director
Holly Pearson, Senior Planner
Brian Horn, Associate Planner

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

There was no reported contact with applicants.

2. PUBLIC COMMENTS

There were no comments from the public.

3. ADOPTION OF CONSENT AGENDA

A. May 2, 2016 Minutes
B. May 16, 2016 Minutes

On motion by Vice Chairperson Marnane, seconded by Commissioner Kuckuk to move the adoption of the Consent Agenda to Routine and Other Matters as Item A. The motion carried by the following vote:

Ayes: Commissioners D'Arcy, Korpus, Kovac, Kuckuk, Marnane
Noes: None
Abstain: None

Absent: Commissioner Mallela, Chairperson Woehleke

4. ADOPTION OF MEETING AGENDA

On motion by Commissioner Korpus, seconded by Commissioner D'Arcy to adopt the Meeting Agenda, as modified. The motion carried by the following vote:

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

5. PUBLIC HEARING

A. 155 Moraga Road

Applicant: KJ Woods Construction, 1485 Bayshore Boulevard, #149, San Francisco, CA 94124

Conditional Use Permit (UP 4-16) for a Temporary Construction Staging Area for the Central Contra Costa Sanitation District (CCCSD) Phase 10 Pipeline Renovation Project

Associate Planner Brian Horn presented the staff report dated June 6, 2016, and reported that staff had received a telephone call from the neighbor who had initially filed a complaint about the temporary construction staging area. That neighbor was unable to attend the public hearing, but registered additional complaints related to noise and the start of operations prior to 7:00 A.M; however, due to the project's consistency with the Zoning Ordinance and General Plan, and due to its temporary nature with minimal impact on surrounding properties, he recommended that the Planning Commission adopt a resolution approving Conditional Use Permit UP 4-16 pursuant to Moraga Municipal Code (MMC) Section 8.04.110.A, subject to conditions of approval as shown in Attachment A.

Commissioner D'Arcy spoke to Condition 4 of Attachment A, and clarified with Mr. Horn that if the applicant did not comply with the conditions of approval, staff had the option to impose administrative fines pursuant to the criteria contained in the MMC. She also clarified that although the applicant had identified a completion date of October 31, 2016, and the lease between the applicant and the church where the staging area was located ran through October 31, the applicant had indicated the work may be completed prior to that date.

In response to Commissioner Korpus, Mr. Horn confirmed that the site had been used informally for construction staging in the past; this was the first time the Town had received a complaint. The applicant had sought a large enough site and willing property owner for the staging area, and if the site did not work out, he was unaware of possible alternative locations. He affirmed that the Planning Commission could designate a start time from 7:00 A.M. to 8:00 A.M., although he recommended that the applicant speak to that recommendation.

Commissioner Kovac referenced the map of the site as contained in Attachment D to the staff report and clarified with Mr. Horn that all of the work being done by the CCCSD would be located in the City of Lafayette with no work in the Town of Moraga.

Commissioner Kovac asked the applicant to speak to the process of how and why the CCCSD had chosen the subject site for the construction staging area.

PUBLIC COMMENTS OPENED

Connor McNamara, Project Manager, KJ Woods Construction, 1485 Bayshore Boulevard #149, San Francisco, explained that sites in the cities of Orinda and Lafayette had been sought although the subject location was the only site the applicant was able to secure for the construction staging area. Locations that had been used in the City of Lafayette in the past were currently in use by other companies, with all possibilities exhausted to locate a Lafayette location. He reported that the job was ahead of schedule and there was a provisional lease on the subject property through October 31, 2016. The goal was to be out of the site by the end of July at the earliest, or the end of August at the latest.

Responding to the Commission, Mr. McNamara clarified that another company had conducted the previous phase of work for the CCCSD and had used a construction staging area on the other side of Highway 24, which site had been sought by the subject applicant. The City of Lafayette had objected to the use of that site due to issues with the previous contractor. He also clarified that the contractor was only allowed to start work at 8:00 A.M. at the Lafayette site; arrived at the site as early as a quarter past 7:00 A.M., and left the site at 7:30 A.M. for an 8:00 A.M. work time. If work occurred earlier than that, it was rare. He would speak to his staff to ensure that work would not occur prior to 8:00 A.M. As to the type of equipment that would be noise generating, he described the use of machinery such as excavators and smaller dump trucks that were being stored on-site

Mr. McNamara reiterated that the Lafayette site had an allowed start time of 8:00 A.M. pursuant to their permit with the City of Lafayette. The crew was generally not at the site prior to 7:00 A.M., and he had been surprised to learn the Town had received a complaint. He pointed out that traffic to Lafayette was heavy and would impact the start time. The crew generally left the site by 7:30 A.M. to reach the Lafayette work site by 8:00 A.M.

Dan Wood, 120 Moraga Road, Moraga, as a contractor whose home was located immediately across the street from the subject site, questioned why the applicant had been allowed to continue working absent an approved use permit. In terms of the staging area, he reported the East Bay Regional Park District (EBRPD) had built a new storage tank near the Lafayette Reservoir years ago and used an area immediately west along Mt. Diablo Boulevard for construction staging. That area had been used several times and allowed easy on/off traffic movements to the freeway. He suggested the applicant was adding to the traffic congestion along Moraga Road and suggested the Town should not host a public works project located in the City of Lafayette.

Mr. Wood also questioned why the applicant was allowed to have longer hours of operation than that imposed on most general contractors and that materials brought to the staging area resulted in numerous traffic trips per day. He noted a tree service had used the church property at the corner as a staging area to dump landscaping materials in the past although the Town had stopped that activity.

Having reviewed the MMC as to the types of permitted conditional uses, which Mr. Wood read into the record, he was unaware of any public hearings which allowed such activity as a permissible use, particularly several months after the site had been used in such a capacity.

PUBLIC HEARING CLOSED

Commissioner Kuckuk acknowledged the concerns with the application after the fact, and understood the concerns with haul routes through a winding section of Moraga Road into the City of Lafayette. While the situation was not ideal, the Town was trying to accommodate the property owners' willingness to provide temporary and conditional use of their property. Her only concern was related to noise, and with Condition 4 required to match the Town's Noise Ordinance policy, she suggested would not cause a hardship if the applicant was doing nothing more than starting up a truck. She recommended that Condition 4 be modified to match the Town's Noise Ordinance and reflect the hours of *8:00 A.M., Monday through Friday.*

Commissioner Korpus expressed concern with the traffic impacts to the entry road in and out of Moraga to the City of Lafayette, on a curving road, particularly around school hours and the evening commute period. She understood the purpose of the project was important, deserved some concessions, and the applicant had made an effort to retain other space in the City of Lafayette and had been unable to do so. She supported the proposed modification to Condition 4 to reflect a start time of 8:00 A.M., including the imposition of fines if the Town received corroborated complaints about any violations of the start time. She stated it was appropriate for the Town to support activities in neighboring cities with the hopes of some reciprocity.

Commissioner Kuckuk noted that Condition 4 had not addressed the start time but noise producing activities as governed under the Town's Noise Ordinance.

Commissioner Korpus agreed that the applicant could have access to the construction staging area prior to 8:00 A.M. but not drive any vehicles prior to that time.

Commissioner D'Arcy was uncertain there would be a positive impact on the applicant if Condition 4 was modified, as proposed, and did not see it would be wise or productive. Having been to the site, her main concern was how to verify a complaint with construction starting earlier than the time permitted. She suggested that Condition 4 remain as written, with a consequence for violation, reiterating her concern as to how to prove non-compliance.

Commissioner Kovac suggested a start time of 8:00 A.M. was early enough, although he found it a moot point since the applicant was already violating the start time and not being fined for those violations given the Town had limited enforcement. He suggested

the Town would have to rely on the applicant's generosity and kindness to the neighbors.

Vice Chairperson Marnane commented that the project was a County operation, not a Lafayette versus Moraga project, and the Town must cooperate in this case. He had no fault with the 7:00 A.M. start time and questioned whether equipment could be staged the night before rather than in the morning.

Mr. McNamara stated they would do the best they could to address the neighborhood concerns, although it was more productive to have as much of the equipment out on the site. In terms of the hours of operation, the longer the crew was allowed to work the better the production and sooner the job could be completed. He reiterated that the lease agreement with the church ran through October 31. He added that his construction company was restricted to the work in the City of Lafayette, had to provide through traffic for at least one lane at all times near the Lafayette work site, and the working hours with the City of Lafayette were 8:00 A.M. to 5:00 P.M.

Vice Chairperson Marnane suggested the project should be approved and he was not opposed to personally checking to ensure the applicant complied with the hours of operation, although he recommended a random watch list for the Police or Public Works Department to visit the site once a week on a random basis. He recommended a condition to that effect.

Planning Director Ellen Clark recommended that the Planning Commission not speak for the Police Department or its scheduling. She reported that most Town staff were not in the Town Offices prior to 8:00 A.M. She encouraged neighbors to take time stamped photographs showing trucks entering and leaving the site prior to the permitted hours of operation, if that were to occur, which should offer enough evidence to show non-compliance. A suitable additional condition could be to ask the applicant to provide notice to all of the neighbors with a contact name and number for the foreman of the site, and for Town staff to register any complaints in that manner.

Vice Chairperson Marnane asked the applicant to use appropriate methods in the storage of the materials, and clarified with the applicant the laydown area was a gravel lot with minimal dust. He recommended an additional condition that the site be watered down periodically. He supported hours of operation from 8:00 A.M. to 5:00 P.M; the applicant to follow the Town's Noise Ordinance; and the applicant to contact the residents as staff had recommended.

Commissioner D'Arcy was not opposed to a start time of 7:00 A.M. She recognized the applicants' timeline for the project and the relationship between the Town of Moraga and the City of Lafayette as related to the CCCSD project. She again clarified with the applicant there would be dump trucks carrying equipment, sometimes pipe from the site, and emphasized the need for the applicant to comply with the Town's Noise Ordinance.

Commissioner Kovac preferred a start time of 8:00 A.M. He stated he would likely abstain from the vote on the application.

Commissioner Kuckuk had no issues with a start time prior to 8:00 A.M. but strongly advocated that no noise producing activity occur outside the parameters of the Town's Noise Ordinance, which began at 8:00 A.M., and notification to the neighbors.

Commissioner Korpus recommended an 8:00 A.M. start time for noise producing activity, limited access prior to that time with no noise producing activity, notification to neighbors with contact information including the method of reporting violations, and an additional condition that the Town would pull the permit if the applicant received more than five violations and fines.

Ms. Clark clarified that the potential revocation of the conditional use permit for non-compliance with conditions would require a revocation hearing with the Town.

Commissioner Korpus offered a motion to approve the Conditional Use Permit subject to the conditions of approval, modified as follows:

- An 8:00 A.M. start time for noise producing activities, although the applicant is permitted to be on-site as early as 7:00 A.M.

- Increasing fines for corroborated complaints that the applicant engaged in noise producing activities prior to the 8:00 A.M. timeframe, with the caveat that the Town of Moraga would proceed with a hearing for revocation of the Conditional Use Permit if more than five fines are issued.

- The applicant is required to notify all neighbors within a 500-foot radius of the site to include contact information, permissible hours of operation for noise making activities, and information as to how to file a complaint with the Planning Department including using corroboration such as time-stamped photographs.

- The site to be watered down at least once a week to prevent unnecessary dust.

On the motion, Commissioner Kuckuk was uncertain of the need for watering down the gravel, and suggested once a week was generally not an adequate frequency for dust control.

Vice Chairperson Marnane suggested the site be watered down to prevent unnecessary dust, as required.

Commissioner Korpus accepted the modification to her motion.

On motion by Commissioner Korpus, seconded by Commissioner D'Arcy to adopt Resolution next in number to approve UP 4-16, a Conditional Use Permit for a Temporary Construction Staging Area for the Central Contra Costa Sanitation District Phase 10 Pipeline Renovation Project located at 155 Moraga Road, subject to conditions of approval as shown, and as modified as follows:

- An 8:00 A.M. start time for noise producing activities, although the applicant is permitted to be on-site as early as 7:00 A.M.

- Increasing fines for corroborated complaints that the applicant engaged in noise producing activities prior to the 8:00 A.M. timeframe, with the caveat that the Town of Moraga would proceed with a hearing for revocation of the Conditional Use Permit if more than five fines are issued.

- The applicant is required to notify all neighbors within a 500-foot radius of the site to include contact information, permissible hours of operation for noise making activities, and information as to how to file a complaint with the Planning Department including using corroboration such as time-stamped photographs.

- The site to be watered down, as required, to prevent unnecessary dust.

The motion carried by the following vote:

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

Vice Chairperson Marnane declared a recess at 7:43 P.M. The Planning Commission meeting reconvened at 7:45 P.M. with Commissioners D'Arcy, Korpus, Kovac, Kuckuk, and Vice Chairperson Marnane present.

B. Moraga Town Center Homes

Applicant: City Ventures, 444 Spear Street, San Francisco, CA 94105

Consider Resolution __-2016 Approving the General Development Plan and Vesting Tentative Map for Subdivision 9381, the Moraga Town Center Homes Project, a 36-Unit Attached Single-Family Residential Development located between Moraga Way and Country Club Drive within the Moraga Center Specific Plan (MCSP) Area, Subject to Conditions of Approval

Ms. Clark identified the scope of the request to include the General Development Plan (GDP) and Vesting Tentative Subdivision Map for the Moraga Town Center Homes Project. She explained that the Conceptual Development Plan (CDP), the first step in the three-step Planned Development (PD) process, had been approved on appeal by the Town Council in May 2015. The Planning Commission was being asked to determine whether the findings for the approval of the GDP and Vesting Tentative Map could be made; and whether the project overall was consistent with the prior CDP approval, including the development standards established for the development. As part of the approval of the CDP, a rezoning of the site assigned a zoning designation of 12 dwelling units to the acre (DUA) PD, which allowed a custom series or set of development standards to be applied to the project, establishing setbacks, and heights for the project, as included and contained within the CDP approval.

Ms. Clark added that staff had received a comment letter this afternoon from a neighbor who had raised a number of questions regarding the noticing of the public hearing, and who had suggested that adequate notice had not been provided to neighboring residents and persons interested in the project. She reported that all noticing had been

done consistent with the Town's legal notification process, with notices mailed within a 750-foot radius, substantially greater than the 300-foot radius required by law. Notices had also been published in all requisite locations in the Town pursuant to the noticing requirements.

Senior Planner Holly Pearson presented the staff report dated June 6, 2016, and recommended that the Planning Commission adopt a resolution approving the GDP and Vesting Tentative Map for Subdivision 9381, the Moraga Town Center Homes Project, subject to Conditions of Approval as contained in Attachment B to the staff report and subject to further modification to Conditions 26 and 51, as follows:

- Condition 26 revised to read: *The applicant shall work with the Public Works Department to confirm the Town's preference between a street type connection or a standard driveway depression and will design as appropriate;* and

- Condition 51 revised to read: *The property owner shall annex the property to the Town of Moraga Street Lighting District AD 1979-1. Annexation to AD 1979-1 does not include nor provide for service and maintenance of street lighting on private streets. Annexation shall be complete prior to the sale of the first unit or issuance of the first Certificate of Occupancy.*

Commissioner Korpus suggested the project and analysis had been inaccurately framed in the staff report in that the plans the Planning Commission had been provided, while consistent with the CDP, were not the same as required for the GDP and Vesting Tentative Map, and the findings the Commission had approved for the CDP in November 2014 were completely different from those the Commission must approve in order to approve the GDP. Given that the project was being presented as being bound to conditions originally included in the CDP, she found that to be a misleading way to describe the decision making process. Based on her perspective, the Commission had the right and responsibility to make findings as to whether the project should move forward, and whether additional restrictions should be placed on the property. She identified the process as a de novo review of the project and suggested a massive mistake had initially been made in that not all of the applicable laws had been considered in making a decision at the CDP level, or for the appeal of the CDP approval.

Commissioner Korpus referenced Table 4-10 of the MCSP, which set forth the development standards applicable to residential developments, stated the Town Council had approved the rezoning of the project to a residential zone, and for that reason alone suggested the residential standards applied, not the standards shown in Table 4-9 of the MCSP, which applied to the Mixed Retail, Residential and Mixed Office Residential land use designations. She added that the development standards for Residential in Table 4-10 applied to residential units not Residential Areas or a Residential designation. She questioned whether the residential standards for development in Table 4-10 had been considered or applied in the process of approving the CDP or the appeal.

Ms. Clark emphasized that issue had been carefully considered by Town staff, the Planning Commission, Town Council, and legal counsel, all of whom had spent a great deal of time carefully considering all of the aspects, including the interpretation and

applicability of the tables in the MCSP. When the Town Council and Planning Commission had approved the project, and when the Town Council had approved the project on appeal, it had done so with the full understanding of the standards that would be applied to the project. The standards were those standards which applied for the Mixed Office Residential District; the subsequent 12-PD zoning was the zoning district intended to implement the Mixed Office Residential designation for the site, and had essentially been the case that had been taken to court with respect to the referendum to determine whether the rezoning was valid. The court had upheld the position that it was, in fact, entirely proper to do so. There had been no doubt that was the correct standard, no procedural appeal had been filed, and the CDP had been approved as it was before the Planning Commission with no need to revisit that question at this time.

Commissioner Korpus restated her argument, although Ms. Clark stated that the standards applied to the project were more restrictive than the 45-foot height standards and the project proposed a lower building height than the maximums permitted.

Ms. Clark reiterated the positions as part of the prior approval, with the standards as shown in Table 4-9 of the MCSP, allowing 45-foot tall buildings to be applicable to the project.

Commissioner Korpus commented that she had reviewed the meeting minutes and there had been no discussion as to whether the standards set forth in Table 4-10 of the MCSP applied to the project. She suggested it had been missed in that there had been no discussion about the standards applying to residential units. She sought a response to the issue prior to any continued evaluation of whether or not the project could be approved. If that was not resolved and the standards applied she stated it would substantially change the project.

Vice Chairperson Marnane suggested the Planning Director had adequately answered the question, which had previously been addressed, and the applicant had a reasonable expectation to proceed based on the initial approvals and process.

Commissioner Korpus offered a motion to continue the item to allow staff the opportunity to evaluate her concerns. There was no second to the motion and the motion failed.

Vice Chairperson Marnane noted that the public hearing had not yet been initiated and it was premature to continue the item until everyone had an opportunity to address the Planning Commission.

Commissioner Kuckuk commented that if the ultimate decision was to continue the item, she would prefer to hear from the public present in the audience first, and as such requested that part of the public hearing be allowed to proceed. She otherwise clarified with Ms. Clark that the Grading Permit would be approved by the Design Review Board (DRB) concurrently with final design review, in accordance with the requirements of the Grading Ordinance. Also, in terms of the use of recycled water and landscaping, staff was uncertain whether the site was located in a Water Reuse Area, and although there was no recycled water infrastructure in the subject area, it may be possible during the

phase of establishing landscaping to use recycled water for irrigation prior to permanent landscaping.

Commissioner D'Arcy suggested the spacing between buildings A1 and A2 were too narrow, with the approved CDP calling for a minimum separation between buildings A1 and A2 at 10 feet.

Ms. Clark explained that the purpose of separating the buildings was to allow for some additional articulation and breaking up of the building mass. During the appeal hearing, the Town Council saw the separation as a means of breaking up the massing and varying the orientation of the building, which had not been possible when it was a single large building.

Commissioner D'Arcy questioned the description of the 6-foot setback from Country Club Drive as "generous." She affirmed with staff that the median strip along Country Club Drive would be narrowed but re-landscaped, to be made more attractive, with the goal to accommodate parking, travel, and bicycle lanes.

Ms. Pearson clarified that there would be 6 feet in front of the building, then the property line, and the sidewalk would be in the public right-of-way (ROW).

Commissioner D'Arcy also questioned whether the buffer zone in front of the Moraga Way frontage would serve as a bio-retention area or be used as landscaping, with Ms. Pearson explaining the buffer area would serve a dual purpose; providing landscaping for a visual effect and serving as a treatment area for stormwater runoff. The stormwater treatment areas had been identified on Sheet C2.2 of the project plans.

Commissioner D'Arcy referenced the traffic study which had been prepared for the project, noted a total of 90 proposed parking spaces, and commented that the traffic study had projected only 210 vehicle trips per day with access onto Moraga Road. She suggested the calculations were too low given the large amount of traffic in and out of the project site. She also questioned the traffic report's suggestion that since the total number of units had been reduced from a high or 52 to 36 units, there would be a 150 percent reduction in trip generation since it had not taken into account the number of trips to be taken by the public, or impacts in and out of Moraga Road.

Ms. Clark advised that the traffic study had been prepared by a consultant to the applicant and had been peer reviewed by a traffic engineer on behalf of the Town. The rates used in the study were consistent with those used by the Institute of Transportation Engineers which consisted of a standard metric, and which the Town's professional peer reviewer had found to be reasonable for an appropriate traffic study.

Commissioner D'Arcy also clarified with staff that the units would be entirely market-rate housing.

Commissioner Kovac clarified with Ms. Clark that no Development Agreement (DA) was required of City Ventures for the Moraga Town Center Homes project; a DA was a voluntary agreement between a developer and the Town; since the project was less than 50 units in size, pursuant to the Quimby Act the developer was not required to

dedicate parkland but allowed to pay in-lieu fees; the project would pay traffic mitigation impact fees which could be used to pay for transit mitigation; and the Town had not adopted separate and different fees for the MCSP Area requiring payment of fees above and beyond the standard development impact fees.

In addition, the project would provide some pedestrian amenities in the form of sidewalk improvements and upgrades to bicycle lanes and striping along County Club Drive, and the Town could only require improvements along the project frontage pursuant to the Subdivision Map Act.

Commissioner Kovac also clarified with staff that the 84-foot easement, as shown on the Vesting Tentative Map and Sheet C4.1 of the project plans, traveled diagonally across the property and had been offered for dedication for the benefit of the Town, and the Town Council in 2012 had provisionally agreed to consider to relinquish the easement as surplus requirement, contingent upon the project requiring certain features.

Staff identified the location of the bicycle trails which extended from the eastern property line to St. Andrews Drive on the west side, and explained that the applicant was to extend it to the nearest cross street to the west but not connect to the bicycle trails on the east side. The bicycle trail on Moraga Way in front of the Moraga-Orinda Fire District (MOFD) property was designated as a Class II Bicycle lane, although staff was uncertain it actually met the Class II standards. The purpose of restriping would ensure compliance with Class II Bicycle facilities.

It was also clarified by staff that striping would provide a buffer area between the traffic and bicycle lane where space allowed, consistent with bicycle lane design requirements, providing a safe and compliant bicycle lane. The proposed 8-foot sound wall was to be constructed along the property line between the subject site and the MOFD property. The sound wall would not extend all the way in front of Building A1 in order to allow the preservation of an existing line of redwood trees. The sound wall would provide a buffer from the sound generated by the MOFD training facility and operations. There would be numerous conditions of approval imposed as part of the project to mitigate the potential negative impacts from the MOFD training facility and operations; the interior noise levels would comply with interior noise standards; a noise study had been prepared finding consistency with exterior noise standards as well; and prospective homeowners would be made aware of the MOFD training facility and its activities through appropriate disclosures. Further, Condition 14 related to parking would be enforced by the Homeowner's Association (HOA), not the Town.

Commissioner D'Arcy clarified with Ms. Clark that the 210 traffic trips identified in the traffic study were actually total daily trips; the morning peak hour anticipated 16 trips in and out, with 19 trips in and out an hour during the evening peak.

Charity Wagner, Development Director, City Ventures, presented a PowerPoint presentation for the 36-unit Moraga Town Center Homes GDP and Vesting Tentative Map, and explained that City Ventures would return for at least three more public hearings for the final design review, Precise Development Plan (PDP), and Final Map. She advised that the project was consistent with the General Plan and Housing

Element, Town Guidelines, Moraga Municipal Code, MCSP, and the approved CDP from 2015. Over the past four years the project had involved a significant amount of review and analysis with over 20 pages of policy consistency documents including the MCSP guidelines.

Ms. Wagner reported that a Planning Commission workshop had been held in May 2013, in which the Commission had considered the rules that would apply to the site for development, and when the Commission had been asked whether a project within the Mixed Office Residential land use designation must be both Office and Residential, or could be all Office or all Residential. The Commission had concluded that the project could be entirely residential.
The intent was to allow existing offices to be maintained, not legally non-conforming, and not layered with an office component as part of the residential use. The Planning Commission had also reviewed the standards and permitted uses. During the May 2013 workshop, the Commission had discussed which standards and uses applied to the City Ventures project and whether it could be solely residential. The discussions at that time were conclusive.

Ms. Wagner explained that the initial application had been submitted to the Town in January 2012, and 17 iterations of the project had been proposed since that time. The application had been deemed complete in the summer of 2014, and the subject hearing was the twelfth public hearing on the project. Three additional future public hearings would be required. Seven community meetings had been held in an effort to work with the Town and the community and during each process the project had been shifted, revised, and adjusted to bring a project forward that could be supported by the Town.

The CDP had been approved in May 2015, and the project consisted of four townhome buildings along Moraga Way, with Buildings A1, A2; Buildings B and C; and cottage two-story homes along County Club Drive. During the Town Council appeal hearing of the CDP, adjustments had been made to the project and those had subsequently been incorporated into the GDP. The GDP was entirely consistent with the CDP, and as staff had reported, the Town Council had directed the breaking up of Buildings A1 and A2 with a 10-foot walkway between the buildings. The distance between Buildings A1 and A2 had been guided by the distance between Building A and Moraga Way, with discussions of making that area wider or keeping the buildings attached, and with the developer directed to separate the buildings at 10 feet, which still allowed a substantial setback from Moraga Way and allowed the building to be broken up.

The Town Council had also directed additional building setbacks along Country Club Drive, with the distance between Buildings E and F, 10 feet at the ground floor and 15 feet on the second floor. The Planning Commission had also requested changes to the Country Club Drive elevations to make the upper stories of homes step back from the front as well, and the ground floor setback and the buildings had also been set back an additional 3 to 8 feet in pockets. The very corner of Building I, adjacent to Building H, was 6 feet, 11 inches from the property line representing the smallest dimension among the frontage, with an additional area of ROW which was almost another 5 feet; a sidewalk, curb, and then the road.

Ms. Wagner stated she had been involved with the project since late 2011, and City Ventures had invested a significant amount of time and resources attempting to create a project that was consistent with the MCSP. She emphasized the approved CDP dictated the number of homes and included a specific site plan for the property, with the table included in the resolution of approval to guide the development of the property, not the MCSP.

In response to concerns with the proximity of the project to the MOFD training facility, Ms. Wagner acknowledged the concerns and stated the developer had been in contact with MOFD Fire Chief Healy for years, and his predecessor before him.

The height of the sound wall had been dictated by an acoustical analysis and field survey with the individual who had conducted the field survey, who had met the Training Marshal for the MOFD at the site when training operations were ongoing at that time. Ms. Wagner understood the MOFD fire training operations would continue in their current state. She had not been aware that training operations would be held at 2:00 A.M., although there was nothing that would prevent the MOFD from doing so. The only topic remaining to be discussed with the MOFD was whether a signal beacon was warranted along Moraga Way, and City Ventures would continue those discussions.

Ms. Wagner recognized a recommendation for the Planning Commission to have additional time to review the application. She emphasized she was motivated to keep the project moving forward and would welcome any additional questions from the Planning Commission in the hopes of reaching a consensus. If the item was continued, she asked to have the opportunity to respond to specific questions and asked that the Town Attorney be in attendance at that time.

Responding to the Commission, Ms. Wagner stated the developer and the property owner were pleased with the parking accommodations as part of the project, but she could not speak to the opinions of the neighborhood although she had consistently heard the neighborhood wanted more parking and the homes to have garages with driveways adjacent to accommodate four parking spaces for each home. Based on her experience with the homes City Ventures built in the Bay Area and beyond California, if there was parking provided it would be used. As to whether the developer would provide any other transportation means, she pointed out the project was less than 50 units and would not warrant such additional requirements. Additional bus lines would not be added as part of the project although bicycle parking would be provided.

Ms. Wagner added that she had not submitted any evidence indicating that property values would not be negatively impacted by the development; had not submitted a specific economic analysis for the site; and surmised in discussions with staff and others that transitioning an existing dirt lot and building for-sale market rate homes with an attractive street frontage and front doors on the street would be an improvement and a positive impact on the surrounding neighborhood. She noted the larger cottages with private side yards would likely cost in the range of $900,000 and the townhomes less than that.

Ms. Wagner acknowledged the concerns expressed about loss of light, air, and views by nearby neighbors and passersby on Moraga Way whether on foot, bicycle, or in

vehicles, which issue had been discussed at length by the Town Council and the Planning Commission. She explained the developer had worked hard to address that issue and photo simulations had been prepared to reflect some views of the hills along Country Club Drive.

As to whether a traffic study had been prepared on the potential impacts to residents along Country Club Drive, Ms. Wagner stated that had been achieved as part of the traffic study prepared for the project, which had included a discussion of a wholesale reconfiguration of Country Club Drive. The conclusion was that the Town might consider such an effort in the future. The developer had been asked to provide a travel lane on the project side to allow a vehicle to be parked and room for bicycles.
The median would also be narrowed by 6 feet, be replanted, and striped for parking and a bicycle lane. Since Country Club Drive was not a designated bicycle path, as part of the project, a better use of the road would be provided with the bicycle lane transitioned to stop at the intersection and at the same point along Moraga Way.

Ms. Wagner also clarified how the HOA would be maintained; a budget preparer would be hired; a budget would be prepared based on all of the amenities and site work to be maintained by the HOA; everything internal to the site would be maintained by the HOA; as units were phased in, the earlier units would pay more into the HOA since there were less of them, and as more units came on-line the fees would be more proportional. She would serve as the Secretary to the HOA for a full year after the final sale of the last home. The project would be developed in phases with an anticipated two-year build out; the first phase anticipated four months of site work preparation and then build out; there would likely be no less than four, no more than six phases for the project; a construction narrative phasing had been provided as part of the project. In addition, the streetscape plans would be reviewed by the DRB and a new street light would be provided on Moraga Way, as shown in the civil plans. No street signage on Moraga Way had been proposed.

Ms. Clark noted that when the CDP had been written, it was the expectation that the lighting and signage would be approved at the same time as the GDP, with a written statement to that effect. As staff had reviewed the application, it had been determined to be more appropriate to be combined with other design pieces typically reviewed by the DRB.

Ms. Wagner clarified that full access would be provided from Moraga Way and Country Club Drive, although a left hand turn was not permitted from Country Club Drive given that turning movement would be blocked by the median. There was only one Emergency Vehicle Access (EVA) point on Moraga Way. She clarified that Buildings A1, A2, and Building B would have three-story lofts, which were not located along the Moraga Way elevation, but were the center units. There would be no three-story facades along Moraga Way. The buildings along Moraga Way would step back, and would undulate in and out, as guided by the direction from the DRB.

Dan Hale, Hunt, Hale, Jones, explained that a 30 percent offset applied to the cottages along Country Club Drive, which went from 2 to 8 feet for the first to second floor with significant horizontal movement on the second floor and roof and plate line articulation. The two-story townhomes would be located along Moraga Way where similar

requirements as Country Club frontage did not apply, although the buildings had been articulated horizontally anywhere from 2 to 4 feet along a face, with single-story roof elements along the elevations. The developer had also worked extensively with the DRB to minimize the massing and to provide articulation of the buildings. Each elevation was different, offering four unique buildings along Moraga Way.

Ms. Wagner emphasized that the questions that had been raised had previously been discussed at length during prior public hearings. The level of detail included in the CDP for the project was well beyond the level of detail typically required for a CDP, although the Town's processes allowed more intricate and involved discussions.

Issues related to building undulation, as an example, were complete, having been concluded as part of the CDP, which was where the development standards had come from. If the Planning Commission decided to continue the item, Ms. Wagner asked that the action before the Planning Commission and the purview of the Commission be clarified.

PUBLIC HEARING OPENED

Richard J. Olsen, 1861 St. Andrews Drive, Moraga, stated he was not a neighbor to the project and the site was not visible from his property, although he had been involved in Town planning prior to the Town's incorporation and had been heavily engaged in the project, its appeal, and the referendum. He asked the Planning Commission to follow a precedent that had been set in April 2015, when materials were only available to the public just prior to the scheduled public hearing, and when the Town Council decided the public needed more time. Given that the materials were only available for public review the Thursday prior to the Monday meeting, and given the volume of material, he suggested the public had insufficient time for review prior to the hearing. He read into the record a statement he had read to the Town Council at the time the Town Council had granted a continuance of the item on the basis of that argument. He had provided Town staff with written comments on what he found were problems with the process that impaired the potential for public participation. He asked that the Planning Commission continue the item to allow the public the opportunity to review the materials and offer an opinion.

Steve Huxley, resident of Larch Avenue, Moraga, questioned whether the MCSP had been voted on by the people as had the General Plan; questioned the trip generation count that had been identified in the traffic report; and questioned the potential impacts to the travel time to Lafayette and Orinda along Moraga Way during the morning. While he appreciated the fact that many meetings had been held on the project, a signed referendum asking that the rezoning of the project site be placed on the ballot had been submitted to the Town, should have been considered, and in his opinion had been denied by the courts on a technicality.

Seth Freeman, Moraga, questioned how the Planning Commission could approve a GDP and Vesting Tentative Map while there was an existing easement on the property consisting of half an acre. While the Town Council had indicated in 2012 its willingness to remove the easement, that had not yet occurred. He suggested that process should be completed prior to any vested rights for the project. He also suggested the Town

had an extraordinary financial problem since 2012, in that the budget the Town Council would consider on June 8, 2016 stated that the Town had $114 million in unfunded capital projects, $30 million unfunded in the Master Plan for storm drains and needs, and upwards of $2.5 million to repair the Rheem Boulevard Sinkhole, which was unfunded. Also since 2012, the Town had a $4 million unfunded California Public Employee Retirement System (CalPERS) liability. From a business standpoint, he suggested it would be outrageous to give back an easement the Town had for 43 years for free in order to allow the developer to build six additional homes. Given the anticipated sales price of the homes to be constructed, he suggested the Town should be compensated for giving back the easement, and that approval of the Vesting Tentative Map was not feasible while the easement was outstanding.

An unidentified resident who asked not to be identified, referenced the referendum that had been signed by residents to place rezoning of the property on the ballot, which indicated that a large percentage of taxpaying citizens had concerns with the project. She asked that the Town listen to its residents and honor the MOFD's recommendation to reject the project; suggested the project violated at least 16 clauses in the General Plan and MCSP including Policy CD4.3, and Guiding Principle 2; during the Town Council appeal hearing the neighborhood had not been considered; the project did not conform to the Town's semi-rural character; the project violated minimal space requirements between buildings; and a resident had recommended the elimination of one of the units, which had not been considered.

The resident stated the Town had recently rejected a single home due to height and the lack of 20-foot setbacks, three-story homes were not approved along Rheem Boulevard because they would block views, and questioned why the developer was not being held to the same standards. She questioned the setbacks for the project; expressed concern approval of the project could set a precedent for other developers; suggested the City Ventures project was too large for the lot; opposed building 20 feet into the road right of way; urged the construction of a common or left turn lane onto Moraga Way; urged the Town of Moraga to be more small business friendly; commented that she had a business she wanted to locate in Moraga but had been unable to do so; and urged the occupancy of existing commercial spaces rather than building more homes.

Michael Carradine identified himself as an Architect, and agreed that the development process should allow more consideration from the public. Given the size of the project at 36 units, a center turn lane should be provided and he recommended a third lane all the way between School Street and Camino Ricardo; suggested parking for the project would likely end up in front of the MOFD Station or on the other side of the street and parking along the street should be provided; a loading zone should also be provided given deliveries that would likely occur to the new homes; a curb cut along Country Club Drive should also be provided given that left turns south into the project were not permitted unless one traveled all the way down to School Street or into the Moraga Shopping Center.

Vice Chairperson Marnane declared a recess at 9:50 P.M. The Planning Commission meeting reconvened at 9:55 P.M. with Commissioners D'Arcy, Korpus, Kovac, Kuckuk, and Vice Chairperson Marnane present.

In response to public comments, Ms. Clark explained that the MCSP had been adopted by the Town Council in accordance with the typical process through a series of public hearings, preparation of a Certified Environmental Impact Report (EIR) which involved a 7-year review process, along with numerous public meetings and workshops prior to its adoption. Part of the Planning Commission's action would be to consider approval of the Vesting Tentative Map showing the vacation of the offer of dedication for the easement to be ratified when the Town Council adopted the Final Map for the project. Any traffic delays on Moraga Way had not been analyzed, although the understanding was that the trip generation from the 36 homes would be negligible in increasing the existing traffic volume on Moraga Way, and would not result in any significant increase in traffic delay.

Commissioner Kuckuk was very familiar with the project having served for five years on the Planning Commission and the Chair of the Commission when the CDP had been reviewed and approved. She offered a motion to continue the public hearing to a date certain of June 20, 2016, and asked that the Town Attorney be asked to attend the meeting to be able to address some of the issues raised. Commissioner D'Arcy seconded the motion.

On the motion, Commissioner Korpus reiterated her concerns with the application, which she asked to be addressed, and sought more time for the review of materials.

Commissioner Kovac also sought more information on the assumptions in the MCSP related to traffic and potential mitigations.

On motion by Commissioner Kuckuk, seconded by Commissioner D'Arcy to continue Moraga Town Center Homes to a date certain of June 20, 2016, for further discussion, with the Town Attorney invited to be in attendance at that time. The motion carried by the following vote:

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

6. ROUTINE AND OTHER MATTERS

A. May 2, 2016 Minutes
B. May 16, 2016 Minutes

Commissioner Korpus reported that she had provided written changes to staff for the May 2, 2016 meeting minutes, and asked that the minutes of May 2 be deferred to the next meeting to allow staff to make track changes, to be provided to the Planning Commission.

Commissioner Kovac was uncertain that the comments attributed to him in Paragraph 2 on Page 23 with respect to Safeway trash cans blocking Wells Fargo Bank were accurate. Staff would check the video of the meeting and revise the comments accordingly.

On motion by Commissioner Korpus, seconded by Commissioner Kovac to continue the minutes of the May 2, 2016 meeting to the next Planning Commission meeting. The motion carried by the following vote:

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

On motion by Commissioner Kuckuk, seconded by Commissioner Korpus to approve the minutes of the May 16, 2016 meeting, as submitted. The motion carried by the following vote:

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

7. REPORTS

A. Planning Commission

Commissioner Korpus reported that the Planning Commission Subcommittee formed to review the home-based wineries and vineyards regulations had multiple interactions and discussed ways to revise the proposed regulations, and had submitted to staff an initial draft of possibilities and topics for discussion. Another Subcommittee meeting had been scheduled for Friday, June 10, to further discuss the issues.

Commissioner Kovac reported that he had attended an Open House in the City of Richmond for a presentation of Plan Bay Area 2040, had been provided a draft copy of the Lamorinda Action Plan, and hoped to obtain a copy of the conditions of approval for the Priority Development Designation Area given to the MCSP from the Metropolitan Transportation Commission (MTC).

B. Staff

Ms. Clark reported that the entire Livable Moraga Road Project would be presented to the Town Council on June 22; staff hoped to bring the home-based wineries and vineyards regulations back to the Planning Commission in July; staff continued to review a second draft of the MCSP draft zoning regulations to be presented to the Commission in the near future; an appeal had been received on the DRB approval of 70 Vista Encinos, to be considered by the Commission in the foreseeable future; and the Commission meeting on July 5 had been canceled.

Vice Chairperson Marnane reported that he would be attending a breakfast with the Mayor, Interim Town Manager, and the Chair of the DRB on June 7, with one of the topics a discussion of the roles of the Planning Commission and the DRB.

Commissioner Korpus inquired of the status of the project at 287 Rheem Boulevard, with Ms. Clark reporting the applicant planned to make revisions to the project, but had not yet submitted revised plans.

Commissioner Kovac reported that Lots 4 and 5 of Vista Encinos had both been appealed, and verified with staff it would be best to consider both appeals at one time.

8. ADJOURNMENT

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

A Certified Correct Minutes Copy

Secretary of the Planning Commission