

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

June 20, 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, Kuckuk, Mallela*, Marnane
Chairperson Woehleke
*Commissioner Mallela arrived after Roll Call

Absent: None

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

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

Commissioner Kuckuk reported that she had met with the applicant for agenda Item 5D, 68 and 70 Vista Encinos.

2. PUBLIC COMMENTS

There were no comments from the public.

3. ADOPTION OF CONSENT AGENDA

A. May 2, 2016 Minutes Redlines

B. June 6, 2016 Minutes

Commissioner Kuckuk reported that she would abstain from approving the May 2, 2016 minutes due to absence.

Chairperson Woehleke reported he would abstain from the approval of the June 6, 2016 minutes due to absence.

On motion by Commissioner Marnane, seconded by Commissioner Korpus to adopt the Consent Agenda, as shown. The motion carried by the following vote:

Ayes: Commissioners D'Arcy, Korpus, Kovac, Kuckuk (abstained from May 2, 2016), Marnane, Mallela, Woehleke (abstained from June 6, 2016)
Noes: None
Abstain: None
Absent: None

4. ADOPTION OF MEETING AGENDA

(Note: Motions throughout these minutes are based on the audio from the meeting, and not as reported by the Chair during the meeting.)

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

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

5. PUBLIC HEARING

A. 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 Area, Subject to Conditions of Approval.
(Staff Recommends that this Item be Continued to the Planning Commission Meeting of July 18, 2016)

Planning Director Ellen Clark requested that the item be continued to the Planning Commission meeting of July 18, 2016, to allow staff the opportunity to respond to questions raised during the June 6 meeting. Although there would be no discussion on the item, given the potential for a conflict of interest and since he resided within 500 feet of the project site, she recommended that Commissioner Mallela recuse himself from the vote to continue the item.

On motion by Commissioner Kuckuk, seconded by Commissioner D'Arcy to continue the Moraga Town Center Homes Project to the Planning Commission meeting of July 18, 2016. The motion carried by the following vote:

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

Abstain: None
Absent: Mallela [recused]

B. 1928 St. Mary's Road – Saint Mary's College

Applicant: Saint Mary's College of California, 1928 St. Mary's Road, Moraga

Conduct a Public Hearing and Consider PC Resolution ___-2016 Amending Conditional Use Permit (UP 5-15) to remodel and repurpose 2,410 square feet of a storage area to accommodate shipping and receiving support services within the lower level of the existing Saint Mary's College Power Plant Building.

CEQA Status: Categorically Exempt Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines

Assistant Planner Coleman Frick presented the staff report dated June 20, 2016. Due to the project's consistency with the Zoning Ordinance, Saint Mary's College (SMC) Master Plan, and General Plan, with minimal impact on surrounding properties, he recommended the Planning Commission adopt a resolution to approve an amendment to Conditional Use Permit UP 5-15 pursuant to Moraga Municipal Code (MMC) §8.56.030, subject to the Conditions of Approval, as contained in Attachment A to the staff report.

Commissioner Korpus clarified with Mr. Frick the reason for the Commission's review of the changes to the lower level of the existing SMC Power Plant Building due to the intensification of the use of the building; the space was currently being used as a storage area.

Mr. Frick responding to Commissioner Korpus, the space had a low ceiling at 8.5 feet in height, lower than other buildings on the SMC campus, and fewer windows than the level above since it had been built into a hillside. Having visited the site, he confirmed the space was not damp, although it was darker than other buildings not built into the hillside but adequate to provide room for a maximum five staff and students. Any issues with respect to safety would be reviewed by the Moraga Building Department and the Building Services provided by Contra Costa County, and the space was required to meet state code.

Ms. Clark also confirmed that occupational health and safety issues would be addressed through the Contra Costa County Building Department, and understood the intended use met the required standards.

Commissioner Kovac clarified with Mr. Frick the space had been proposed to be used for the production of certain materials off-site; the shipping and receiving support services would receive Federal Express and United Parcel Service (UPS) deliveries to different departments on the SMC campus; staff had reviewed whether there was adequate space for a semi-truck to access the site; the former warehouse location had an elevated loading dock, although the needs had changed which required smaller as opposed to larger trucks; printing would be done off-site; and the parking lot for the lower level had been designed for one-way through truck traffic to accommodate trucks loading and unloading various materials.

PUBLIC HEARING OPENED

Diane Hardy, SMC Director of Project Management, clarified the purpose of the application to sustainably repurpose and reprogram the lower level of the existing SMC Power Plant Building in order to alleviate the need for new structures; not displace people around the SMC campus at the expense of space that could be readily accommodated for purposes that were low occupancy and low transaction space; with the space to be used for shipping and receiving currently located at the warehouse. That space had been used for printing operations for SMC faculty and students although those needs had been reduced by disseminating information through digital means. SMC still required a presence for shipping and receiving services, with the larger amount of shipping and receiving conducted in the back of the Dryden Hall area, related more to food services for students on a daily basis. Food delivery trucks came in with refrigerated vans with goods for the campus on a routine basis.

Given that smaller UPS vans have low decks and the loading dock was no longer needed, SMC had reconsidered the best use of the space, which consisted of 2,410 square feet. The north and east sides of the space had windows, a 14-inch wood deck with recessed lighting, a fire protection system, and a slightly higher than 8-foot head clearance. The space could not be used for activities that required higher head room. Ultimately, SMC had determined that shipping and receiving was the best use of the space.

Ms. Hardy explained that offices serving the School of Business would be placed at the street level above, and SMC had determined that the use of the lower level for more entrepreneurial services would be a complementary use of space. A handicap accessible bathroom would have to be provided in the space. Mitigating issues of moisture, light, and ventilation had been included in the design plans for the permit application.

Ms. Hardy also identified the truck routes for the larger delivery trucks which were compelled to travel down De La Salle Drive into the Corporation Yard, which was populated by service personnel who were experienced with the larger trucks. The trucks had to back up to the existing loading dock, although in the newer location the trucks would come onto De La Salle Drive, pull into the Power Plant driveway, stop, and unload without backing up, and proceed on around the loop between the Power Plant and Assumption Hall without having to maneuver into a three-point turnaround. The new traffic circulation provided a safer path of travel, reduced noise impacts from the trucks backing up, and offered a smoother flow of traffic in and out of the SMC campus.

Ms. Hardy affirmed, when asked, that the Moraga-Orinda Fire District (MOFD) had been to the site. No changes had been proposed to the exterior appearance of the building.

PUBLIC HEARING CLOSED

Commissioner D'Arcy suggested the proposal offered a fairly efficient reuse of the building.

Commissioner Marnane supported the application as being well thought out.

Commissioner Kovac had no concerns with the application other than the submittal of late correspondence, which had raised concerns with the underground storage tanks on the SMC campus. He urged that issue be resolved prior to construction and the repurpose of the building.

Ms. Clark reported that staff had discussed the storage tanks with the applicant; staff had opined the storage tanks had no bearing on the conditional use permit request and the work proposed would be interior to the building. SMC would have to address the storage tanks prior to proceeding with the rest of the building construction and numerous agencies were involved. There was no need to condition the approval of the application relative to the storage tanks.

Commissioner Korpus supported the application but had concerns related to the potential impacts to those who would be working inside the space. She supported the intent to repurpose the building and was pleased there would be a reduction in traffic. She otherwise noted the need to correct the numbering of the conditions in Attachment A, and affirmed with staff the text of Attachment A could be modified administratively.

Commissioner Kuckuk also supported the application.

Commissioner Kovac clarified the hours of construction were as noted pursuant to the conditions of approval. He suggested Condition 14 be revised to include the statement “*excluding holidays*” at the end of the sentence.

Commissioner Marnane offered a motion, seconded by Commissioner Kuckuk to adopt a resolution approving the building remodel and repurpose for SMC at 1928 St. Mary’s Road, with the conditions as shown.

On the motion, Commissioner Korpus requested the motion be modified to include a renumbering of the conditions as shown in Attachment A, and a modification to Condition 14, to read:

Construction and noise-producing activity shall be limited to between the hours of 8:00 A.M. and 5:00 P.M. Monday through Friday, excluding holidays.

Commissioner Marnane as the maker of the motion accepted the modifications.

On motion by Commissioner Marnane, seconded by Commissioner Kuckuk to adopt PC Resolution __-2016 Amending Conditional Use Permit (UP 5-15) to remodel and repurpose 2,410 square feet of a storage area to accommodate shipping and receiving support services within the lower level of the existing Saint Mary’s College Power Plant Building at 1928 St. Mary’s Road, subject to the findings and conditions of approval, and subject to a renumbering of the conditions as shown in Attachment A, and the modification to Condition 14, as shown. The motion carried by the following vote:

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

Absent: None

Chairperson Woehleke identified the 10-day appeal period of a decision of the Planning Commission in writing to the Town Planning Department.

C. 1199 Alta Mesa Drive, T-Mobile

Applicant: Ginbar Ketema, Crown Castle, 10 Rollins Road, Suite 202, Millbrae, CA 94032

Conduct a Public Hearing and Consideration of PC Resolution ___-2016 for Renewal of a Conditional Use Permit (CUP 09-15) for an Existing Wireless Communications Facility at 1199 Alta Mesa Drive. APN 258-160-062

CEQA Status: Categorically Exempt Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines (*Continued from April 18, 2016*)

Associate Planner Brian Horn presented the staff report dated June 20, 2016, and advised that the T-Mobile wireless communications facility was consistent with the provisions of the Wireless Communications Ordinance, as noted in the staff reports dated June 20 and April 18, 2016. The project was also consistent with the Zoning Ordinance, General Plan, and the criteria for renewal of the Use Permit as established in Use Permit 03-99. He recommended that the Planning Commission adopt a resolution to approve Conditional Use Permit CUP 09-15, subject to the Conditions of Approval as contained in Attachment A.

Commissioner Mallela clarified with Mr. Horn the Planning Commission had previously requested a commitment for annual reporting, which had been included as Condition 2 in Attachment A. While staff planned to remain in contact with the applicant to ensure the reports continued, staff cautioned it may be a challenge to remain in contact with the primary contact given the turnover in the telecommunications industry.

PUBLIC HEARING OPENED

Ginbar Ketema, Crown Castle, 10 Rollins Road, Suite 202, Millbrae, confirmed as part of the annual compliance reporting the Commission had requested photographs of the site to annually ensure and verify the signage and fencing, and acknowledged a request to also include the vegetation to ensure compliance with the conditions of the permit. She did not see that such a condition would be an issue if required on an annual basis; however, she concurred that the nature of the telecommunications industry would mean that there might not be the same contact person in the future.

Ms. Ketema also clarified the conclusions shown on Page 17 of the SiteSafe RF Site Compliance Report dated June 4, 2015, as shown in Attachment C of the staff report, which included a disclaimer whereby if the exact antenna type and model was unable to be identified, a worst case scenario had been used, as reflected in the conclusions shown.

Ms. Clark added that the use of the term “conservative” in the text on Page 17 meant the “worst case” scenario.

Ms. Ketema clarified there would be annual maintenance at the site, and while she served as the agent for the carrier, she was unaware of the details of the daily operations of T-Mobile, which was the carrier.

Chairperson Woehleke pointed out that annual maintenance had been identified as a condition of approval.

PUBLIC HEARING CLOSED

Commissioner D'Arcy suggested the application had been well evaluated during the April 18 Commission meeting. She liked the fact that the antennas would be co-located, were Federal Communications Commission (FCC) compliant, had been approved by the MOFD, the properties and neighborhood surrounding the site would not be impacted, and the site had been well screened. She supported the application.

Commissioner Kuckuk stated although not present when the application had been discussed on April 18, she had weighed in on other use permits at the location. She found the application to be acceptable in every regard and appreciated the clarification of the extension and renewal of the permit.

Commissioner Korpus supported the application but asked that Condition 2 be modified to include a statement to read: *The applicant is also required to provide photographic evidence showing the continuing compliance of signs, fencing, and vegetation.*

Commissioners Marnane, Kovac, Mallela and Chairperson Woehleke also supported the application.

Commissioner Korpus requested a modification to Condition 10, to read: *The overall height of the highest point on each of the new panel antennas shall not exceed 17 feet.*

On motion by Commissioner Korpus, seconded by Commissioner D'Arcy to adopt PC Resolution __-2016 for Renewal of a Conditional Use Permit (CUP 09-15) for an Existing Wireless Communications Facility at 1199 Alta Mesa Drive, subject to the findings and Conditions of Approval as shown, and subject to the modification to Conditions 2 and 10, as shown. The motion carried by the following vote:

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

Chairperson Woehleke identified the 10-day appeal period of a decision of the Planning Commission in writing to the Town Clerk.

Chairperson Woehleke declared a recess at 7:51 P.M. The Planning Commission meeting reconvened at 8:00 P.M. with all Commissioners present.

D. 68 and 70 Vista Encinos

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

Consider Two Separate Appeals and

- 1) Adoption of PC Resolution __-2016 Denying an Appeal and Upholding the Design Review Board Action Memorandum 8-15 for a New 3,155 Square Foot Two-Story Single-Family Residence with a 452 Square Foot Attached Two-Car Garage at 68 Vista Encinos (*Continued from the December 7, 2015 Planning Commission Meeting*); and
- 2) Adoption of PC Resolution __-2016 Denying an Appeal and Upholding the Design Review Board Action Memorandum 10-15 for a New 3,410 Square Foot Two-Story Single-Family Residence with a 470 Square Foot Attached Two-Car Garage at 70 Vista Encinos

CEQA Status: A Mitigated Negative Declaration was adopted on January 9, 2002 for the Los Encinos Vesting Tentative Map and Hillside Development Permit. No further CEQA review is necessary.

Associate Planner Brian Horn presented the staff report dated June 20, 2016, and reported that after the distribution of the staff report, correspondence had been received from Amy Fabo, Michael Larkin, Ferenc Kovac, Joe Ryan, and Shaoqiu Zhuo.

Mr. Horn recommended that the Planning Commission consider the two separate appeals of Design Review Board (DRB) approvals of new single-family homes at 68 Vista Encinos and 70 Vista Encinos, and determine whether to adopt the resolutions as contained in the staff report, respectively upholding DRB Action Memorandum 08-15 and Action Memorandum 10-15.

Commissioner Kovac reported that he had taken photographs of the story poles on May 25, 2016, which included the decks shown in the drawings. He clarified with Mr. Horn that the story poles had been placed at the final height of the homes and the story pole plan in the staff report had identified the building elevations, as confirmed by an engineer.

Ms. Clark clarified that the decks on the homes had not been modeled in the story poles as reflected in the story pole plan, which had only shown the main walls of the buildings.

Commissioner Kovac clarified with Mr. Horn the runoff from the homes would eventually drain to Camino Pablo, and as part of the building permit process the applicant was required to provide information on the water flow as part of the subdivision improvements.

Ms. Clark advised that the overall increase in runoff had been analyzed as part of the original Los Encinos Subdivision and had been reviewed as part of the subdivision application.

Commissioner Kovac also referenced the variable setbacks for 68 and 70 Vista Encinos and clarified with Mr. Horn that the setback for 70 Vista Encinos at the corner of the

garage was 20 feet from the front property line, while the setback for 68 Vista Encinos was actually 24 feet, not 20 feet as noted in the staff report. The initial approval of the subdivision included conditions to preserve a number of Monterey pine trees along the rear property line; however over time a number of these trees died and in general were not the best type of tree screening. A condition of approval for the subdivision stated that there should be a deed restriction to protect the Monterey pine trees on Lots 2, 3 and 4. The applicant would be required to install new plantings; staff recognized Monterey pine trees were not the best option.

Commissioner Korpus clarified with Mr. Horn the status of creek flow given the impression the story poles appeared to be at the top of the ledge of the creek.

It was noted that the impacts to the creek had been analyzed as part of the original subdivision approval process which had ultimately determined that the site could accommodate new development. Each new home in the subdivision would have to meet C.3 stormwater requirements where the home, when constructed, would not be allowed to generate any additional off-site flow. The initial environmental studies prepared for the project had identified the stream as not a blue line stream and it had not been identified on any Town mapping.

Commissioner Korpus questioned whether the neighbors had provided any insight on any overflow or erosion problems related to the site, to which Mr. Horn advised that the initial appellant, Michael Larkin for 68 Vista Encinos, had commented that the overall drainage had improved on the site when the initial grading had been done, although another neighbor had concerns given the proximity of the drainage.

Commissioner Marnane understood the closest lot to the creek was within 28 feet of the riparian area of the stream, and Ms. Clark identified the exhibit on the plans which had shown a 35-foot setback at the closest point to the centerline of the creek, with the building set back from the riparian habitat. The project was not located in a Federal Emergency Management Agency (FEMA) designated flood zone. Given the analyses that had been prepared for the project, from a planning standpoint there were no staff concerns with the setback of the home.

Staff added that the flow of the creek supported the vegetation and was thus somewhat indicative of the extent of the riparian area.

Commissioner Kuckuk commented that one of the photographs presented to the Planning Commission illustrated the requirement for a certain width of near level clearance around the home, and Mr. Horn affirmed that the front of the home had a level clearance. He also confirmed that the MOFD had reviewed the preliminary plans for the homes.

Commissioner D'Arcy spoke to the number of exceptions to the Town's Design Guidelines, as identified in the staff report, which she clarified with Mr. Horn were primarily related to the slope, and with more grading required if providing a more level area. **Mr. Horn** further clarified the decks for the homes were located on the second level, which was partially why a design exception had been required. In this case staff

found the decks corresponded to the size and architecture of the homes and were not overbearing or oversized.

Commissioner D'Arcy also clarified with staff the most recent revisions to the plans; questioned the applicant's statement that any further reduction in square footage would not provide any benefit; and stated that references to the viewpoints on Ketelsen Court had not been identified in the conditions of approval.

Ms. Clark explained that the reference to the viewpoints on Ketelsen Court were to provide a more complete neighborhood context including some of the homes that had a similar condition with larger homes upslope.

Chairperson Woehleke acknowledged that although the staff presentation had been for the two appeals for 68 and 70 Vista Encinos, he recommended that the two appeals be discussed separately, with the first appeal to be discussed for 68 Vista Encinos.

PUBLIC HEARING OPENED (68 Vista Encinos)

APPLICANT:

Bob Pickett, Branagh Development, Inc., 100 School Street, Danville, CA, 94526, explained that Branagh Development was not the original developer for the Los Encinos Subdivision but had contracted to purchase lots, build homes, and were the facilitators of some of the old subdivision improvements that had been neglected. He presented a PowerPoint for the plans for 68 Vista Encinos depicting before and after views of the footprint and various views of the deck and floorplan, and described the revisions that had been made to reduce the height and square footage, suggesting that a further reduction in square footage would not benefit the visual from the neighbors.

Views of the home showing its evolution from a much larger home to the current iteration were displayed and the reductions in height and size were clarified. The landscape plan included four 48-inch box coastal live oaks to provide full on screening from all of the adjoining properties owners; whether deciduous or evergreen trees would not matter in that the canopy would be 20 to 25 feet where the neighbors would not be able to see what was in the undergrowth, with some trees compatible with the undergrowth with no significant merit for shrubbery between the ground and the tops of the trees. A series of photographs from the perspective of the neighbors' homes were also presented to offer a sense of the impacts, and trees would be planted in strategic locations to customize screening to specific homes.

Mr. Pickett was uncertain what had happened to the existing Monterey pine trees that had been planted at the site, which situation would be addressed when the developer reached the building of the three lots near those trees. He described the project homes as hillside homes, which would not have level areas on three sides due to the lot configuration; two sides that flanked the homes would be sloped and the lots would slope all the way down to the property line. A level lot would require mass grading which was not what was intended for the subdivision. Storm drainage had been addressed when the subdivision had originally been designed, and through the installation of the street and concrete V-ditches, the water would be collected and travel

into an underground storm drain pipe in the street which was of extra-large capacity with a throttle release, releasing the storm drainage at a slower pace to ensure that capacity downstream storm drains would not be stressed. The developer had also completed a supplemental hydrology report to address the drainage into the creek channel, which he suggested would be negligible.

While the construction of the homes would generate some runoff from the roofs, a storm drain pipe would be connected to the backs of the lots and into the existing storm drain at the bottom of the creek. The creek was seasonal and did not flow all of the time.

Mr. Pickett stated the vegetation area of the creek was the riparian area, but that did not mean the water flowed that high. The project would be 35 feet from the flow line of the channel which did not have a high volume of water, the embankment was engineered fill, and the ditch had been designed with the knowledge of the creek. It had been deemed suitable at that time to build on the property and nothing had changed since that time.

Dan Hale, Hunt Hale Jones Architects, responded to Commissioner Korpus' suggestion for a single-story home to mitigate the neighbors' concerns by explaining that a single-story home had not been studied on the subject lot, although the developer would be building some single-story homes on adjacent lots. Based on his experience and in his opinion, a single-story home would be 30 percent smaller and much closer to the neighbors on the lower side. Also, when stepping a single-story home down a hill, it would likely have more exposed area from the rear and the home could appear to be four levels from the side even if defined as a single-story home. In addition, in order to create a flat pad, a lot of grading and retaining walls would be required, which would be inconsistent with the Town's Hillside Design Guidelines. He acknowledged it may be possible to construct a single-story home with supports, with a portion elevated up as opposed to creating a flat pad on the ground.

Mr. Pickett added that a single-story home would result in half of the upper level and they would have to consider the garage and access off of the road; a single-story home would sprawl, and given the sloping lot would require underpinning and framing up to the floor level, resulting in a basement and air space under the floor. The home for 68 Vista Encinos had already been lowered with some interior steps off of the foyer, and it would not really improve the situation design wise. A stair stepped home would be a challenge, particularly when reaching the undeveloped Lot 3 since they could not have two, two-story homes adjacent to one another.

To Commissioner Korpus' recommendation to consider a single-story home that was raised up with natural landscaping underneath, Chairperson Woehleke stated such a design had not been seen in Moraga and there had been significant past resistance to such a design. (With the exception of the homes in Moraga Country Club.)

Commissioner Kovac clarified with Mr. Pickett the storm drainage runoff for downhill Lots 1, 2 and 5 included a pipe that would drain to an existing pipe at the downhill side of the drainage creek, with the roof areas of the homes to drain into the pipe and the existing pipe downhill with some retardation of the flows required by a smaller pipe size or upsize of the drainage pipes. The discharge from those homes would not increase the downstream flow.

Commissioner Kovac also clarified with Mr. Pickett the story poles for 68 Vista Encinos had been installed once approval had been received from the DRB but had been removed after neighbor complaints about the noise from the flags flapping. The story pole design had been coordinated between the architect and civil engineer for the project and he clarified how the story poles had been placed in relation to the design of the home.

Commissioner Kovac also spoke to the existing longitudinal cracking in the street related to the initial subdivision and clarified that the current developer would be required to submit a report prepared by a soils engineer (ENGEO Inc.) to evaluate the condition of the street.

Mr. Pickett also commented that the survival rate of trees large or small would likely be 100 percent; a 48-inch box tree had a significantly slower growth rather than a 15-gallon or 24-inch box tree as examples. He stated the health and stability of trees planted in a smaller size in the long term was better, allowing the roots a better opportunity to establish. He expected the 48-inch box trees to survive although landscapers would likely recommend the planting of smaller trees. He added that the prior plantings as part of the original subdivision had died because they had not been watered.

Commissioner Mallela suggested the developer had not addressed the Planning Commission's previous concerns with the size and scale of the home, although Mr. Pickett reiterated the response to the neighbors' concerns where the visibility of the home had been addressed with the lowering of the home, which along with the existing vegetation significantly reduced the visual impacts. He suggested the square footage was not an issue; that issue had been discussed at length by the DRB and the Planning Commission. He pointed out that homes in Moraga typically had views of other homes as existing homes in the neighborhood.

Chairperson Woehleke clarified with Mr. Hale the four different architectural styles proposed for the homes in the subdivision; the roof line and roof shapes enforced the architectural style; as the plans had been modified and the home lowered in height, the roof had been modified to a hip roof style, with the intent to design a home which fit into the hillside with nice colors and materials. He sought a way to push the home forward on the lot to the 20-foot setback.

Mr. Pickett commented that if the home for 68 Vista Encinos was pushed forward a bit, it was likely the home would be raised given the slope and the inability to bury the lower level more into the hillside. He did not see that a slight horizontal shift would make much of a difference.

Chairperson Woehleke suggested if the rear of the home was also pushed four forward it could have other beneficial aspects.

Ben Helber, Chair of the DRB, was present to represent the DRB on the two appeals. Speaking specifically to 68 Vista Encinos, he advised this was the fourth lot within the overall subdivision to be considered. He acknowledged it was unusual for the lots to be approved piecemeal which was not a typical process, and which had been a concern expressed by the DRB and members of the public. Staff had explained the project had

gone through the Final Map stage and the applicant had the right to come forward with applications one by one. He explained that with the first two lots, the DRB had mitigated some of the neighbors' concerns with the building height by asking the applicant to adjust the roof pitches, change the roof style from a gable to a hip roof, and other variations to the architecture to reduce the overall mass away from the street and reduce the overall height. The applicant had taken the initial recommendations and direction and incorporated them into the designs presented to the DRB.

The DRB had discussed the massing, landscaping, and neighborhood compatibility with respect to 68 Vista Encinos. As reflected on Exhibit A42.3, a comparison of the original massing with the DRB's ultimate approval showed that the applicant had maintained four sided architecture, a well-articulated façade horizontally and vertically, with a push pull overall, and with an attractive overall design and attractive building. In terms of the exceptions being requested, much had been predetermined by the subdivision and the way it had been laid out versus the Town's current process, which would have been folded into a Planned Unit Development (PUD). He added that staff had presented a well detailed explanation of the project and the DRB's Action Memorandum approving the project had been included in the staff report.

Joe Ryan, 1099 Larch Avenue Moraga, identified his home as in front of 68 Vista Encinos, and presented a photograph from the rear of his residence to show the story poles and the lot for the proposed home. He described his property with tree screening but with gaps in the screening that had to be filled given that two of the homes would be visible, expressed doubt the gaps could be filled quickly, stated mitigating trees could be removed in the future, and the homes would loom behind his residence and affect his property value. He was also concerned with potential impacts when Lot 3 was ultimately considered by the Town.

Responding to the Commission, Mr. Ryan suggested the concessions the developer had made on the building height were positive, but he preferred that Lots 1 through 5 be single-story homes and the two-story lots be set back from the road. If the home were moved up the hill a bit, it would raise the height of the home, the trees were at a maximum height and it would take years for a healthy tree to mature to its full height.

Shaoqiu Zhuo, 1097 Larch Avenue, Moraga, presented photographs from the interior of his residence to illustrate the views the home proposed for 68 Vista Encinos would have on his residence and stated the home was too large, too high, and too close to his property affecting the sunlight into his residence which was why he opposed a two-story home. Most of the homes in the neighborhood were Ranch style homes and the proposed home would not be compatible with the existing neighborhood. He asked whether the slope could accommodate a two-story building; whether earthquake studies had been prepared to account for properties downslope in the event of a seismic event; whether a study had been prepared to address any runoff impacts to the downslope neighbors, including potential erosion impacts; and whether the home could be moved away from the existing homes.

Nancy Sandlund, 30 Baitx Drive, Moraga, read into the record written correspondence; identified her property as backing to the Baitx Drive extension to the Los Encinos development to the north and Lot 1 to the west; read into the record Condition 11 of the Conditions of Approval as part of the Los Encinos Vesting Tentative Map approved in

2002; expressed concern the proposed homes for 68 and 70 Vista Encinos would negatively impact the existing homes adjacent to the site due to their size and scale; the homes would not maintain the character of the surrounding neighborhood in design or architecture; the height of the homes would loom over the backyards of the homes on Larch Avenue and invade privacy; and the homes were too large for the lot size. When asked, she suggested something between 2,000 and 2,500 square feet would be more compatible with the existing homes in the neighborhood.

REBUTTAL:

Mr. Pickett reported that he had taken a series of photographs from Larch Avenue to illustrate that while the roof tops of the homes would be slightly visible, they would be buried between the homes in front. He reiterated the drainage had been addressed as part of the overall scope of work during the creation of the subdivision; 80 percent of the runoff that had come off of the hill in the past was being diverted and would continue to be diverted, resulting in no impacts to the downhill properties; the home would be 39 feet away from the Zhuo property where a 15-foot setback was allowed; the developer had made a number of changes to address the impacts to the neighbors; the current market conditions and trends for single-family lots called for larger homes; the developer had taken adequate measures to reduce the visual impacts; trees represented a valid solution to privacy screening; the developer was comfortable with what was being proposed; and while the homes would be visible it would be through filtered trees and out of the corner of a bedroom window.

Responding to the concerns with the piecemeal process of the development and as a long-time developer in Moraga, Mr. Pickett stated he had experience building homes one at a time and cited Sanders Ranch as an example. Although the developer had initially sought to build all ten lots at one time, given the sloped lots, design guidelines for two-story homes, and shape of the cul-de-sac, there had proven to be challenges that would have significantly delayed the design process and not allow the developer the opportunity to take advantage of the current real estate market. As a result, the developer started the design of four initial lots and hoped to design the remaining six lots at one time.

PUBLIC HEARING CLOSED (68 Vista Encinos)

Commissioner Mallela recognized the lots were challenging to develop. He appreciated the dialogue and discussion between the homeowners and the developer and recognized the progress made with an attempt to reduce the size of the home for 68 Vista Encinos. He also recognized the undeveloped lots could have future impacts on homeowners and acknowledged the concerns with the piecemeal approach while also recognizing the needs of the applicant to make the most of the current opportunity while also recognizing the needs of the existing homeowners and potential new homeowners. As to the size of the home, the Planning Commission had expressed concern with the size, scale, and compatibility with the neighborhood, which concern remained.

Commissioner D'Arcy expressed concern the lots did not comply with the Town's Design Guidelines as set forth in the staff report. She suggested the placement of two story-homes on an uphill lot was not compatible with the existing neighborhood, and

found that tree screening was overrated as a panacea to mitigate view impacts. In her opinion, the scale of the home should be reduced. She also spoke to the developer's comments that the current real estate market trend was for larger homes, although many Moraga neighborhoods had smaller Ranch style homes and existing homeowners who were long- time homeowners. She could not support the application, as proposed, at the cost of the existing neighbors, neighborhood, and stakeholders. She suggested the concerns with a loss of privacy were further aggravated by the upslope lots, home size, lack of compatibility with the neighborhood, and loss of property values as evidenced by the information provided by the initial appellant Mr. Larkin, as shown in the staff report.

Commissioner Kovac agreed the applicant had been given prescriptive guidelines to what was allowed, and had the experience in design and architecture to fit an appropriate home on the lot that met the Town's Design Guidelines. He recognized the challenges of the lot, and based on the plans provided he had measured the home as being 65 feet above the adjacent neighbors, which would be massive. If a two-story home could be built that met the Town's Design Guidelines that could be considered, although he was not confident that could be done. He also suggested the real estate market should not drive the Planning Commission's decision whether or not to approve the home as designed.

Commissioner Kuckuk had considered Baitx Drive most compatible to Ketelsen Court, which streets branched off; one to the right and the other to the left, with homes built on the slope above smaller flat lots. Homes on Wandel Drive loomed over the homes on Ketelsen Court, with the lots on Baitx Drive larger than the lots on Larch Avenue. While not suggesting the homes on Ketelsen Court be used as an example, she recognized that homes in suburban communities had views of other homes, and that could not be prevented completely. The intent was to see possibly a bit of the rooftops above adjacent rooftops. During the last meeting when the Planning Commission had considered the appeal, the Commission had directed the applicant to reduce the impact the home, the massing, and consider the tree screening to be secondary and not primary as an approach to screening the views.

Commissioner Kuckuk pointed out a reduction in square footage had not been specified, since square footage did not describe well the design and how the impacts of the development could be reduced. She agreed with the statement made by the developer that a further reduction in square footage would not necessarily result in a further reduction of the impacts, which was why the developer was proceeding with the design. Based on the requirements of the MMC, she was generally supportive of 68 Vista Encinos.

Commissioner Marnane suggested the Planning Commission and DRB had provided adequate direction and guidance to the developer who had complied with what had been requested by reducing the massing. The home was not a common two-story due to the slope. Having driven the area and even having climbed up to the top of the hill with the help of a neighbor, he had viewed the property from Larch Avenue and from Camino Pablo where everyone had views of other homes. The home had been designed where it would not go much beyond the trees, and had been designed well.

He found the project to be an excellent one and if the developer did as well with the other lots, it would make the Commission's job easier. He supported the project.

Commissioner Korpus agreed with the comments from Commissioners D'Arcy, Kovac, and Mallela to a large extent that the home was too big, and too tall. She also found the design had not protected the vistas and hillside, and the home would loom over others. She suggested the lot for 68 Vista Encinos involved a different situation than the lots previously approved for 63 and 65 Vista Encinos since those lots backed up to the hill behind them and would blend better and more easily, with no one directly in front of the them. She noted that Condition 11 of the original conditions for the Los Encinos Subdivision required the homes to blend in with the topography. Due to the bulk of the home, it did not blend and based on her views of the design, given the home size and drawings that had been presented, it would appear like a large box from the sides and back. Also, having driven around the neighborhoods and having viewed the site from multiple angles, including views from Ketelsen Court, she suggested it would be reasonable to have the home sunk down as the homes had been on Ketelsen Court.

Commissioner Korpus added that MMC Section 8.136.070 (c) required that the building be located on the lowest possible point of a site. Placing the top floor at the street level aggravated and amplified the feeling of the size of the homes. In order to have a low profile and to blend in more with the environment, she suggested that both 68 and 70 Vista Encinos should be limited to a single story, stepped if necessary, and reduced in size. She recognized the homes for 63 and 65 Vista Encinos would be larger in size but described Lots 1 through 5 as transition properties that should be treated as such; smaller, moved down slope, and stepped.

Commissioner Korpus also suggested the issue with respect to privacy could be eliminated with a smaller size, and suggested the upper deck be eliminated from the design given the upper deck on a two-story home would create privacy issues. She also expressed concern with the side and rear massing when looking past 70 Vista Encinos, which she suggested was in violation of the Town's Design Guidelines since they dominated the views. She suggested both homes should be reduced in size by 20 to 30 percent, more in keeping with the neighborhood scale, and should be stepped down to be more easily screened with landscaping to hide both homes from view.

Chairperson Woehleke recognized the subdivision had been approved years ago and no matter what homes were built they would be visible. He suggested there was a precedent for the construction of sizable homes on slopes, citing Moraga Country Club as an example; understood the concerns of the neighbors and the challenges for the applicant to find the right balance to mitigate the impacts; and suggested the applicant had relied heavily on landscaping which had historically been used as mitigation, although it was not to be considered the primary mitigation. He also recognized the adjacent homeowners had a responsibility to maintain their own landscaping, and in some ways it was to their benefit to take control and install landscaping that would provide mitigation since they would keep it alive. There was also precedent throughout the Town where neighboring homes were visible from rear yards.

Chairperson Woehleke was uncertain what the right square footage of the homes should be, and cited some of the more recently approved developments such that the

only recently approved development with home sizes less than 3,000 square feet is the very unusual Via Moraga. He was puzzled why the home had not been moved to the 20-foot setback since it would positively impact the massing behind it, and was torn about denying the appeal since the project had come a long way, would not be perfect, and saw it being further appealed if the Planning Commission denied the appeal. While he would like the project to move forward, he agreed that the upper deck should be eliminated. He saw no rationale for that design element or practicality to moving it to the lower portion of the lot with access above.

Commissioner Mallela agreed with the recommendation that the home have a 20-foot front yard setback, although that could have implications for the home size and could change the overall rear massing.

Commissioner Korpus suggested if the project moved forward and the appeal was denied, the upper story should be pushed back since the articulation was not nearly enough to make a difference in a looming home.

Commissioner Kuckuk noted the front yard setback at 20 feet had been shown on the plans.

Chairperson Woehleke referenced Sheet G1 of the plans which had shown the home behind the 20-foot setback. Although shifting the home could raise the first level, the driveway could be sloped and could address some of the neighbors' concerns with the upper story and with the removal of the upper deck. He welcomed the applicant/architect to opine on that recommendation.

Mr. Pickett explained that with the assumption the lower level would also be pushed back with the upper level, the home would go up, and the daylight line for the bottom floor would be above grade. The first floor could stay where it was now; it was not visible and it was possible to consider that option although that would significantly change the interior. He acknowledged the upper level could be moved four feet leaving the lower level where it was located without raising the floor level as long as the lower level was left where it was.

Commissioner Kuckuk pointed out that if the lower level was left where it was, it would still not address the neighbors' concerns.

Mr. Hale understood that if the home were moved forward the intent was to get the second/upper level pushed back four feet plus or minus towards the front, which could be considered. In response to the recommendation to eliminate the upper deck, he understood the concerns were with visual impacts to the neighbors below and rather than eliminate the deck, and rather than involve more impacts to the home in terms of its location, he would like the ability to review that option further. Rather than eliminate that outdoor living space, he recommended eliminating the visual impacts from its use, whereby it might be possible for the deck to be pushed into the home like a courtyard, although that would have to be studied further and that living space could also be considered for the lower level.

Commissioner Kovac commented that Lots 1 through 5 were larger than the nearest neighbors. He suggested the home for 68 Vista Encinos be the same size as the homes below and be single story. He added that the Planning Commission had not discussed the adverse impacts on the values of the existing neighborhood, which he was uncertain could be mitigated or eliminated. He preferred to see a square footage set for the two homes under discussion with a single level residence.

Commissioner D'Arcy suggested the square footage for the home should be consistent with the existing average which was 2,000 to 2,800 square feet for the older existing neighborhood.

Commissioner Kuckuk generally supported the design for 68 Vista Encinos with the top floor moved towards the street and given the slope creating an alternate outdoor living space on the same level as the kitchen.

On the discussion, there was no consensus for the Planning Commission to set a hard number for the square footage for the home nor for the developer to consider a single-story design for 68 Vista Encinos. The Planning Commission also recognized it could not require that all ten homes be constructed at one time.

At this time audience members spoke from the audience, did not speak at the podium, or identify themselves, with a request that no action to be taken on 68 Vista Encinos until after the discussion of 70 Vista Encinos since the two designs were linked.

Commissioner Kuckuk offered a motion to adopt Resolution next in number denying an Appeal and Upholding the Design Review Board Action Memorandum 8-15 for a New 3,155 Square Foot Two-Story Single Family Residence with a 452 Square Foot Attached Two-Car Garage at 68 Vista Encinos; pursuant to the plans submitted to the Planning Commission on June 20, 2016 (an alternate version from what had been considered by the Design Review Board). Commissioner Marnane seconded the motion.

On motion by Commissioner Kuckuk, seconded by Commissioner Marnane to adopt PC Resolution __-2016 Denying an Appeal and Upholding the Design Review Board Action Memorandum 8-15 for a New 3,155 Square Foot Two-Story Single-Family Residence with a 452 Square Foot Attached Two-Car Garage at 68 Vista Encinos pursuant to the plans submitted to the Planning Commission on June 20, 2016 (an alternate version from what had been considered by the Design Review Board). The motion **FAILED** by the following vote:

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

Chairperson Woehleke supported a motion to require the home to have a 20-foot setback.

Commissioner Kovac pointed out the developer had not complied with the direction given by the Planning Commission in December 2015. He recommend the developer be directed to comply with that direction and revise the plans accordingly. He recognized the challenges of the lot making it difficult to identify a specific square footage or that the home be a single- versus two-story residence. He recommended moving the front and the back of the home towards the street; restated his comments that the massing be addressed, the rear and side yards consider a first floor level deck, the project comply with the Town's Design Guidelines, and the upper deck be eliminated.

Commissioner Korpus restated her concerns and stated if the height did not change, she would vote to uphold the appeal.

Ms. Clark affirmed the Planning Commission could consider a denial of the appeal subject to modifications or continue the item with additional direction.

Commissioner Korpus suggested another option could be to continue the appeal subject to direction to the developer requiring a single-story plan for Planning Commission review.

Speaking from the audience, an unidentified speaker advised that he was not willing to comply with that direction, it was inappropriate, but was willing to provide a partially stepped home, with the design to be shifted, and removing the upper deck although single-story homes must be placed elsewhere in the subdivision. [All comments were not clearly audible.]

Chairperson Woehleke understood the Planning Commission was considering a continuance of the appeal with direction for a partially stepped home design which could impact the building mass moving the back and rear forward and reducing the size, although he was not confident a reduction in height was achievable.

Commissioner Korpus offered a motion, seconded by Commissioner D'Arcy to continue the public hearing for the appeal of 68 Vista Encinos pending the submission of an alternate design from the developer in an attempt to address the strong concerns raised by the Planning Commission.

On the motion, Chairperson Woehleke requested the applicant consider language proposed by Commissioner Korpus: *including but not limited to* partially stepping the home, decreasing the home design and size, and consider an alternative for the exterior upper deck.

Commissioner Kovac also asked that the motion include direction to consider the visual impacts and privacy issues to be addressed by the design and not by landscaping, although Chairperson Woehleke disagreed with the additional direction since landscaping had historically been used in the past in Moraga to offer partial screening.

Commissioner Kovac restated his recommended direction given past issues in the community where required landscaping had not been enforced by the Town or maintained by some Homeowner's Associations (HOAs).

Chairperson Woehleke disagreed.

Commissioner Korpus suggested the developer was being offered a clear message of the Planning Commission's concerns, and on the discussion agreed there was validity to using some landscaping as screening but did not want to overly rely on landscaping.

Ms. Clark clarified that as part of the deed restriction for the property, the property owner would be required to maintain the landscaping, which was enforceable by the Town.

On motion by Commissioner Korpus, seconded by Commissioner D'Arcy to continue the public hearing for the appeal of 68 Vista Encinos pending the submission of an alternate design from the developer in an attempt to address the strong concerns raised by the Planning Commission, including but not limited to:

- The developer to consider partially stepping the home design;
- Reduce the size of the home;
- Consider the removal of the exterior upper deck; and
- Consider ways to reduce the overall height of the home.

The motion **CARRIED** by the following vote:

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

Chairperson Woehleke identified the 10-day appeal period of a decision of the Planning Commission in writing to the Town Clerk.

Chairperson Woehleke declared a recess at 10:31 P.M. The Planning Commission meeting reconvened at 10:40 P.M. with all Commissioners present.

PUBLIC HEARING OPENED (70 Vista Encinos)

APPLICANT:

Mr. Pickett described the plan originally presented to the DRB, which had sent the developer back to the drawing board. The developer had considered a reduced footprint farther away from the neighbors and the creek, close to a flat pad area on the lot with not as much underpinning below. Images of the creek channel and the toe of the original grading had shown the lot would be away from riparian and drainage areas; the home for 70 Vista Encinos would have a lower pitched roof and the maximum roof height had been brought down; and east side views of the home facing Louise Court illustrated the home would be as inconspicuous as possible. The rear of the home had been modified, the entire second level had been eliminated, the massing had been

reduced, and the deck had been centered and moved far to the right resulting in lesser impacts to the Fabo residence at 1101 Larch Avenue.

Mr. Pickett presented side by side comparisons to show that everything had been brought down and landscaping on the east side offered seven trees to provide a screen. An image of a 48-inch box tree to be located down the slope was displayed and images showed how the trees would merge to screen the entire side of the home; those trees were expected to survive without irrigation for the next five years.

A series of photographs from the perspective of the neighbors' homes was offered to provide a better sense of the impacts and strategically placed trees would be able to fill in the gaps to help mitigate the views of the subject home from the adjacent homes, and off-site impacts would be negligible.

Commissioner Korpus clarified with Mr. Pickett that the eastern elevation was 81 feet from front to back. Mr. Pickett explained the intent of a side entrance garage adding to the character, value and streetscape.

Mr. Pickett clarified the home was situated entirely on a flat area, with the cul-de-sac radius with the slope off to the east side, the home had been designed to the curved contour, with a crawl space underneath. The home had been designed to provide the required daylight line, a portion was located below grade with barely daylight, and that was the anchor to the lower level. Approximately 1,000 square feet of the lower level would have to be eliminated if the home was moved back. He confirmed that no walkway had been designed at the side of the home.

Mr. Pickett clarified in response to Commissioner Kovac that the living space was partially below grade, and while living space could be provided between Trees 1 and 2 (referencing a portion of the home shown on the slide that was displayed), he did not see the benefit given the configuration of the head clearance. From a design and liability standpoint, he suggested the finished floor below the exterior grade should be minimized. He emphasized that liability was a real concern given that waterproofing was not a 100- percent solution to anything and any time there was a floor below grade there could be problems.

Also in response to Commissioner Kovac Mr. Pickett clarified the southeast elevation trees would shield the views of the home from the Ricketts family; the trees proposed to screen the property from the homes on Louise Court would be 50 percent larger than the existing trees in five years, and in 15 years Mr. Pickett expected the trees to be huge, and ultimately entirely shield the home from view.

Ben Helber, Chair of the DRB, referenced Exhibit SP.1 of the plans which had accurately shown the plans considered by the DRB, and which illustrated the original footprint of the structure, the west setback, the limit of grading, the centerline of the creek, and why the grading had been restricted given the property's long and linear design. The DRB had considered the overall placement of the structure on the lot and had recommended it be pushed forward a bit to keep it away from the riparian and creek side areas. Vegetation had been discussed and used as a mitigation measure, and helped to mitigate and to strengthen that mitigation measure. The DRB had

directed the applicant to work with the Town Attorney on an approvable deed restriction to the benefit of the Town calling for the maintenance and ongoing vitality of the trees. He suggested the additional trees added by the developer during the DRB review process helped with the linear mass of the structure. He looked forward to the comments from the Planning Commission which would assist the DRB in considering future projects.

David Ricketts, 5 Louise Court, Moraga, understood the Planning Commission had continued consideration of both lots during the December 2015 meeting, and understood the only reason he was able to comment now was because the DRB's approval of the lots had been appealed.

Mr. Horn identified the timeline for both 68 and 70 Vista Encinos, as reflected in the staff report; 68 Vista Encinos had been approved by the DRB in 2015 and had been considered on appeal by the Planning Commission in December 2015, with the appeal continued at that time. The lot for 70 Vista Encinos had been approved by the DRB in May 2016, and had been appealed to this date.

Mr. Ricketts stated he had concerns with both 68 and 70 Vista Encinos, and like many residents was of the opinion the lots should not be considered at one time, not piecemeal. He expressed concern with the size of the home at 70 Vista Encinos, and while revisions had been made over time, the home remained too large in comparison to his and his neighbors' homes. He also questioned whether the home was compatible with the existing neighborhood and questioned why there was no restriction in the allowable square footage. His home was located below the flood plain sitting 10 feet below the grade of the subject home, the creek was full during the winter, and he expressed concern that drainage from the subdivision would impact his residence. He was also uncertain whether the Monterey pine tree that would have to be removed was located on his or the applicant's property, which had been discussed with the applicant. Once removed, the tree would leave a gap and he would have nothing but views of the proposed home until trees had been able to fill in the gaps.

Amy Fabo, 1101 Larch Avenue, Moraga, emphasized she had attended many meetings, had several conversations with the applicant, and remained concerned with the properties, including the potential loss of light and privacy which was to be minimized pursuant to the Town's Design Guidelines as well as minimize the dominance of a structure to neighboring properties. She suggested renderings rather than photographs offered a better depiction of the impacts of the story poles. She emphasized the size of the home with a balcony hanging off the subject home overlooking her rear yard and into her home. She suggested it would take years before the tree screening was able to screen the home and there was no guarantee the trees would survive. She also expressed concern with the approval of the subdivision in 2002, particularly as to the condition of the roadway, which was cracked; questioned whether bedrock was located on the hill with homes built on top; and referenced the recent slide that had occurred in the Moraga Country Club subdivision and the potential for slides that could impact the downslope homes.

REBUTTAL:

Mr. Pickett again identified photographs of the Fabo and Ricketts' properties which had shown that portions of the home would be visible but suggested neither neighbor would ever see the entire 80 feet of the home; the existing Monterey pine tree was alive but questionable health and could be a liability; there were mixed views of the property from the Ricketts' residence; soils stability had been discussed in the past, with soils reports on file including engineers' recommendations and all reports had been peer reviewed by the Town; all foundations had been designed by structural engineers and reviewed by soils engineers; the homes would have state-of-the art designs; construction would comply with all building codes; and soils reports and foundation reviews would be current for each of the homes in the subdivision. He acknowledged that while sliding did occur, it had occurred for homes primarily built 50 years ago, and the reference to sliding in Moraga Country Club involved homes on a 3:1 slope. The subject home would be on a 4:1 slope and the project would be stable.

Mr. Pickett emphasized the developer had responded more dramatically for the home proposed for 70 Vista Encinos than 68 Vista Encinos, with a significant reduction of square footage. He did not see the home as a major impact, clarified the home size would be 3,410 square feet of living area, with 470 square feet for the attached two-car garage. In addition, he was uncertain what property the existing Monterey pine tree was located on but he had discussed that issue with Mr. Ricketts. Responding to whether the east side of the property could be raised near the creek to provide additional protection to the properties from an overflow situation, Mr. Pickett noted the developer had purposefully remained away from the creek area to avoid any environmental issues with associated agencies. He did not see there was any space on their side of the creek to do anything.

Ms. Clark stated there was no evidence to suggest there was a flooding risk based on the studies that had been prepared.

PUBLIC HEARING CLOSED

Commissioner Marnane found that the design, the corrections, and the DRB input had been well executed. He supported a denial of the appeal.

Commissioner Korpus found the home had the same height issues as 68 Vista Encinos, and suggested a way to bring down the roof before she could support the project, and also suggested the size of the home should be significantly reduced given that the size was too large and incompatible with the existing neighborhood. Given the presence of the creek and riparian area, the lot had the appearance of being larger although the space on the lot was smaller than for 68 Vista Encinos. She suggested the home should be moved down the hill, the building height should be reduced, and the size of the home shrunk with additional landscape screening, in particular, near the Ricketts home where there was a space between the two homes where the home would be visible. She supported a denial of the current plan, as presented, for similar reasons as those for the proposed home at 68 Vista Encinos.

Commissioner Kovac had seen the view of other lots from the rear of the Fabo residence which had a 15-foot hedge, 8 to 10 feet below the top of the structure, and found that vegetative screening would be a bigger challenge for 70 Vista Encinos than

68 Vista Encinos. He also found that the Ricketts' property would be most affected. He too had the same issues with 70 Vista Encinos as with 68 Vista Encinos given the impacts to the Fabo and Ricketts properties.

Commissioner Kuckuk commented that she had struggled more with 70 Vista Encinos than with 68 Vista Encinos given that the eastern elevation was 80 feet in length with a solid two-story wall, and while she realized that elevation was visible to the homes on Louise Court and a home at the corner of Larch Avenue, she would like to see the upper story be set back. She also expressed concern with the total height and the impact to the two most affected neighbors. She sought a better rendering that would show each of the two buildings through the trees, acknowledged that the neighbors had the opportunity to plant trees on their own properties, and the subdivision had been ready to build for years. She was not ready to approve the home at this time and suggested the item be continued to address the issues.

Commissioner Mallela liked the revised plan, saw the concerted effort to consider the livable space and reduce it based on the feedback received, and commended the developer for that effort. He was uncertain whether the height of the home could be reduced, and agreed more work could be done in that area before action was taken. He also concurred with the comments that landscape screening would be difficult for the property and was uncertain the property could be fully screened in the future. He recommended a middle ground in dealing with the height of the home with landscape screening that would not impact the neighbors.

Commissioner D'Arcy recognized that the applicant had made an effort to reduce the size of the home although issues with the size remained. The home was 26 feet high and with the hill elevation it appeared massive and larger based on the square footage. She recommended the second story be stepped back to break up the massing, questioned whether it was possible to completely block the views of the home with vegetative screening, and could not support the current plan but suggested it might be possible if the design was further tweaked and made more acceptable to the neighborhood.

Chairperson Woehleke recognized the home was large but not as tall or as obtrusive as it could be, acknowledging it was situated on a large lot, double the size of the lot for 68 Vista Encinos. He had previously visited the Fabo residence and acknowledged the impacts to the two most significantly affected neighbors; the Fabos and the Ricketts. He was not convinced that the impacts to those two homes was reasonable even with the vegetative screening that had been proposed.

On motion by Commissioner D'Arcy, seconded by Commissioner Mallela to extend the Planning Commission Meeting to 11:45 P.M. The motion carried by the following vote:

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

Commissioner Marnane offered a motion to continue the public hearing for the appeal of 70 Vista Encinos to a date certain.

On the motion, the Planning Commission recommended the application consider the following modifications to modify the home *including but not limited to* stepping back the home; reducing the visual impacts to the neighbors (Fabo and Ricketts) by more than just landscaping; reducing the impacts of outdoor living space and considering removal of the balcony; considering a significant reduction in the home size; potentially reducing the height; and providing renderings of how the home would appear through the foliage from all of the immediate neighbors.

As the maker of the motion, Commissioner Marnane accepted the modification, and on further discussion and at the suggestion of staff, recommended that the item be continued not to a date certain but to a date uncertain to allow the applicant to return with revised plans, when available.

On motion by Commissioner Marnane, seconded by Commissioner Kovac to continue the public hearing for the appeal of 70 Vista Encinos to a date uncertain, subject to the following revisions, including but not limited to:

- Step back the second story of the home;
- Reduce the visual impacts to the neighbors (Fabo and Ricketts) by more than just landscaping;
- Reduce the impacts of outdoor living space and consider the removal of the balcony;
- Consider a significant reduction in the home size;
- Potentially reduce the building height; and
- Provide renderings of how the home would appear through the foliage from all the immediate neighbors.

The motion carried by the following vote:

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

Chairperson Woehleke identified the 10-day appeal period of a decision of the Planning Commission in writing to the Town Clerk.

6. ROUTINE AND OTHER MATTERS

There were no routine and other matters.

7. REPORTS

A. Planning Commission

Commissioner Mallela reported the Home-based Wineries and Vineyards Subcommittee had met with a set of conceptual ideas for options having been prepared to be presented to interested parties.

Commissioner Marnane attended a recent breakfast with the Mayor, Interim Town Manager and Chairs of the Town Committees/Boards with a discussion on the number of appeals and concerns with a disconnect between the DRB and the Planning Commission; with a recommendation for a joint Planning Commission and DRB meeting.

Chairperson Woehleke reported he would be meeting with the Chair of the DRB and the Planning Director to discuss the best way to ensure that the DRB and Planning Commission were aligned in response to the recent appeals. He hoped during the next meeting of the Planning Commission to discuss the rules and responsibilities of the Planning Commission.

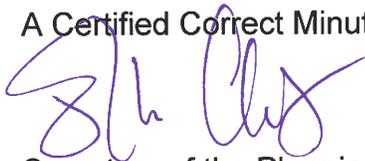
B. Staff

Ms. Clark affirmed the Home-based Wineries and Vineyards Subcommittee had met with another meeting to be scheduled to include participation with the Lamorinda Wine Growers Association; and the Hillside and Ridgelines Subcommittee had scheduled two meetings for June 29 and 30, at the Hacienda de las Flores, with the meetings open to the public.

8. ADJOURNMENT

On motion by Commissioner Kuckuk, seconded by Commissioner Korpus and carried unanimously to adjourn the Planning Commission meeting at approximately 11:40 P.M.

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