# TOWN OF MORAGA
# PLANNING COMMISSION MEETING

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

July 18, 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 Korpus arrived after Roll Call

Absent: None

Staff: Ellen Clark, Planning Director
Karen Murphy, Assistant Town Attorney
Holly Pearson, Senior Planner
Brian Horn, Associate Planner

### B. Conflict of Interest

Commissioner Mallela reported that he lived within the proximity of Moraga Town Center Homes, Item 5A on the meeting agenda, and would recuse himself from the discussion.

### 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. June 20, 2016 Minutes

The Consent Agenda was moved to Routine and Other Matters as Item 6C on the meeting agenda.

On motion by Commissioner Marnane, seconded by Commissioner Korpus to move the Consent Agenda to Item 6C. The motion carried by the following vote:

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

## 4. ADOPTION OF MEETING AGENDA

No motion was made to adopt the meeting agenda.

Commissioner Mallela recused himself from the discussion of Item 5A and left the dais at this time.

## 5. PUBLIC HEARING

### A. Moraga Town Center Homes

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

**Architectural Plans, Landscape Plans, Civil Plans**

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.

**CEQA Status:** An Environmental Impact Report (SCH#2000031129) was previously certified for the Moraga Center Specific Plan, adequately analyzed the potential environmental impacts of the proposed project, and no additional review pursuant to CEQA is required.

Planning Director Ellen Clark advised of the continued public hearing to consider the approval of a General Development Plan (GDP) and Vesting Tentative Map (VTM) for Subdivision 9381, the Moraga Town Center Homes Project, which had undergone an extensive process to date, resulting in the approval of the Conceptual Development Plan (CDP) in 2014, which established the fundamental components of the project and its development standards against which the Planning Commission would review the applications under consideration.

Assistant Town Attorney Karen Murphy advised this was the second stage in the development plan process; the prior CDP had been included as Attachment G to the July 18 staff report, which also included the Town Council action on the appeal along with certain findings and conditions that formed the basis of the subsequent consideration of the GDP and VTM. No changes could be made to the approved CDP, which was a valid and binding approval of the Town Council.

Senior Planner Holly Pearson presented the staff report dated July 18, 2016, and recommended that the Planning Commission adopt a resolution approving the GDP and

VTM for Subdivision 9381, subject to conditions of approval as contained in Attachment B to the staff report.

Commissioner Kovac clarified with Ms. Clark and Ms. Pearson that a bicycle lane would be striped along the project frontage, would extend in the other direction towards St. Andrews Drive, and would not cross Laguna Creek, stopping just short of the bridge. A semi-circular pedestrian path would be located in the pocket park along the creek through the park and connect to a public sidewalk outside of the project site. There would also be pedestrian access through the project on the private streets with a public access easement, within the public right-of-way (ROW) adjacent to the project, and the project would be within proximity to shops and transit. Staff commented that the project would be pedestrian accessible due to its location, and Commissioner Kovac disagreed with the staff characterization that the project provided high quality pedestrian access to services and transit.

Ms. Pearson identified the map of the site showing the new sidewalk along the project frontage and explained that pedestrian access was not required beyond the project site.

Pursuant to the requirements of the Subdivision Ordinance, Ms. Clark stated the applicant was required to improve the frontage of the property but not necessarily to extend those facilities to connect to a broader pedestrian network. While the project would improve pedestrian access, staff acknowledged that additional gaps needed to be closed and the project would not solve all pedestrian issues.

In further response to Commissioner Kovac, Ms. Clark advised that she had e-mailed the Planning Commission a memorandum prepared in April 2014 by Fehr & Peers, the applicant's traffic consultant, which had been peer reviewed by the Town's consultant. This memo provided the traffic analysis, and documented trip generation, safety, and impacts related to the project. She acknowledged that the maps in the traffic study might not be the same as those shown in the current plans since they represented a slightly different version of the project.

Ms. Clark also clarified for Commissioner Kovac that the Planning Commission had the authority to approve or disapprove the VTM, which indicated the intent to vacate the 84-foot offer of dedication for ROW, but which would not be vacated by the Town until the Final Subdivision Map had been approved at the Town Council level. The Town Council had approved the rezoning at 12 dwelling units to the acre (DUA), Planned Development District (PD).

Ms. Clark clarified that the zoning in and of itself would not establish residential standards pertaining to noise related to the Moraga-Orinda Fire District (MOFD) training facility. The issues with respect to noise had been considered at length given the presence of the training facility. During the CDP process, the Town Council had considered the potential noise impacts when numerous conditions of approval had been imposed to address impacts of the MOFD training facility. The applicant had prepared a noise study in which the actual noise generated by MOFD training facility activities had been measured, in order to consider mitigation measures that could be incorporated as conditions of approval, as part of the CDP. One of the adopted mitigation measures

requires a prospective homeowner to sign a real estate disclosure acknowledging the proximity of the MOFD training facility.

In further response to Commissioner Kovac's request for additional clarification about the 84-foot ROW offer of dedication, Ms. Clark explained that the land that had been identified for construction of a freeway had been disposed of and treated in different ways on different pieces of the property after the plans to build the freeway were abandoned. In the case of Moraga Country Club Golf Course, the Town had acquired the land in fee title from Caltrans and now leased the property to Moraga Country Club. She detailed the history of the past plans to connect to Highway 24 and stated when the plans had been abandoned, the offer of dedication had become a vestige of the old plan, and in many ways it was a clean-up item for the subject property to recognize that. In this case, the Town did not own the 84-foot piece of property but had an option to accept the proposed right of way.

In response to the Commission, Ms. Murphy reiterated that the Town had a fee interest in the MCC Golf Course, similar to owning a property on which a home was located. In terms of the offer of dedication for the 84' offer of dedication, the Town did not currently have an interest in that property in terms of an easement or a fee interest, but had the ability to accept an interest in the property at such time as a finding of consistency with the General Plan could be made, at which time the Town could acquire that interest. Due to the change in plans with no connection to Highway 24 at that location, the Town no longer has the ability to accept the interest in the real property. If the subject project did not move forward and the land was rezoned for another use consistent with the use of the offer of dedication (i.e. a freeway or a road), in that circumstance the offer of dedication would have value and could be accepted by the Town. In this case, the land had been rezoned and the map was consistent with the zoning in place.

Commissioner D'Arcy referred to information in the staff report which had included an estimate of traffic counts for single-family attached homes at 350 vehicles trips per day, while another traffic study had identified a traffic count for the City Ventures project at 210 vehicle trips per day. She disagreed that walkability should have been a factor in the traffic count.

Ms. Clark identified the methodology used for the Traffic Impact Analysis based on categories of land use and explained that the Institute of Traffic Transportation Engineers had developed a trip generation rate. The traffic analysis for the MCSP, for the site and the project specific analysis, had been based on a Multi-Family Townhome/Condominium category which had a lower trip generation rate than Single-Family Residential homes. The trip generation rates had been based on national studies, which had generated the 210 trip count. Staff had provided information about the calculation of the same 36 units based on the Single-Family Residential rate, which was higher. There would be a higher daily vehicle trip count if the project site was built at its full density and as envisioned in the MCSP (this is where the 350 trips per day figure came from). Staff had provided the trip generation count based on the two calculations for comparison purposes. Based on the walkability of the project, proximity to services, and since not every trip would involve a vehicle trip, she expected the trip generation to be less than shown.

Commissioner D'Arcy also clarified with staff the MOFD had agreed to the mitigation measures related to the MOFD training facility and that most of the mitigation measures had been suggested by the MOFD. The mitigation measure for a "beacon" had yet to be determined in terms of who would pay for it and install it, although City Ventures had shown a willingness to install it, and whether located on private property or in the Town ROW remained to be resolved between the MOFD and City Ventures.

Commissioner Kovac commented that the MCSP had envisioned a transit center although there was no Moraga Transit Center, and absent a transit center he suggested there would be no reduction in vehicle trips.
Ms. Clark explained that the MCSP did not have a traditional transit center, but had sufficient frequent transit service with a desire to potentially make it a more structured transit hub in the MCSP Area. Since no site for a transit hub had yet been identified, it was premature to show it on the plans. The Contra Costa Transportation Authority (CCTA) in both its Measure J funding and in the new transportation sales tax measure had included funding for transit, although the local jurisdictions and Regional Transportation Planning Committees (RTPCs) would determine the allocation of those funds.

As mentioned in the staff presentation, Ms. Pearson explained that the Lamorinda Fee and Finance Authority (LFFA) fee could be used for transit improvements. This was one of the earliest development projects in the MCSP, and as new development came on line, each development would contribute to improved transit services through the payment of the LFFA fee.

Commissioner Korpus clarified with Ms. Clark that the 36 units were considered to be Medium Density housing in the MCSP, and had not been called out for any particular user or group; the projects effect on property values would be difficult to ascertain and Town staff did not have the resources to conduct appraisals, but had as part of the analysis questioned whether the project had any detrimental effects that would by its nature lower property values; no financial analysis had been conducted although staff had concluded there would be no adverse effect on property values based on the absence of any detrimental effects. Staff acknowledged the developer had not provided information explicitly showing that there would be no adverse impacts on property values. A landscape plan set had been included in the staff report, which included the planting schedule and nine pages of the landscape plan, and the project would be constructed in a single phase.

Chairperson Woehleke described the public hearing process.

PUBLIC HEARING OPENED

Charity Wagner, Development Director, City Ventures, 444 Spear Street, San Francisco, presented a PowerPoint presentation for the 36 unit Moraga Town Center Homes GDP and VTM, 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. The project was consistent with the General Plan and Housing Element, Town Guidelines, Moraga Municipal Code (MMC), MCSP, and the approved CDP from

2015. She detailed the history of the project since 2012 and described how the project had evolved through a significant amount of review and analysis.

The initial application had been submitted to the Town in January 2012, and 20 submittals 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 thirteenth public hearing on the project. Three additional future public hearings would be required, with the color palette and other design elements to continue to be refined. 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 by the Town Council in May 2015, and the current GDP application was consistent with the approved CDP.

Dan Hale, Hunt, Hale, Jones, 444 Spear Street, #200, San Francisco, provided an overview of changes that had been incorporated into the plan since the Planning Commission approved the CDP in November 2014. He explained that the project consisted of four townhome buildings along Moraga Way, with Buildings A1, A2; Buildings B and C and D; 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 which had 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. Vehicular access in and out of the project on Country Club Drive would occur in the center between the cottage units and adjacent to the MOFD training facility, and with an emergency vehicle access (EVA) only access next to the existing office building.

The Town Council had approved the CDP in May 2015, at which time the three-story units had been eliminated from the two buildings on the left, Buildings C and D; Building A, closest to the MOFD training facility, had been split into two to reduce the mass and scale of the building; and Buildings A and B had been pushed further off of Moraga Way to increase the setback and landscape buffer area between the two buildings. A stub street behind Buildings J and K provided a larger setback for the cottage units along Country Club Drive. The pocket park remained the same size as originally proposed.

The Town Council had also requested an increase in the second floor setbacks on all of the cottage units along Country Club Drive, which had been increased to a minimum of 15, up to 17 and 18 feet. The site plan showed a line next to the side yard reflecting the second floor setback. All changes to the plans had been incorporated into the architectural drawings, floor plans, roof plans, and elevations. An example of one of the elevation sheets had shown that the second floor no longer stacked with the first floor, and in all instances the upper floor had been pulled back at least two and a half feet, and more in most cases.

Ms. Wagner referenced Pages 11 and 12 of the Town Council resolution approving the CDP, Table of Specific Development Standards, which applied to the Moraga Town Center Homes, advising that the minimum setbacks along Moraga Way had been measured from the property line to the nearest point of the building. The minimum setback for Building A had been required to be 25 feet and would be 25 feet, one inch; Building B was required to be 23 feet and would be 23 feet; Building C had to be 15 feet and would be 15 feet, 5 inches; and Building D was required to be 15 feet and met the 15-foot requirement.

Applicable separation standards for Buildings A, B, C, and D were identified with the distances between the buildings 11 feet minimum between Buildings A1 and A2; and the paseos from building face to building face were required to be a minimum of 25 feet and would be 26 feet and 29 feet respectively. Along Country Club Drive, the plan met the applicable table of separation standards and minimum requirements with all front setbacks along Country Club Drive; Buildings E, F, and G were slightly in excess of the required 10-foot requirement. The first story would be 10 feet apart, and the second story would step back 15 feet meeting the minimum requirements for the distance between the two buildings. Along Country Club Drive continuing towards the park, all minimums had been met with Building I at almost 6 feet, 11 inches, and the distance between was identified at 12 feet on the first floor and 17 feet on the second floor for one building, and 13 feet on the first floor and a minimum of 15 feet on the second floor for another, exceeding that at 18 feet. Closest to the park (adjacent to the creek), a minimum of 84 feet was required between the property line and the closest building point face, and the property line across the park and was almost 86 feet; and the closest point to the MOFD training facility was required to be a minimum of 25 feet.

Building A with the three-story loft would be 36 feet, 6 inches high where a maximum of 39 feet was allowed; Building B would be 38 feet high with the three-story loft component allowed to be 39 feet; Building C would be 32 feet, 6 inches and allowed to be 35 feet; and Building D, a two-story building, would be 33 feet, 6 inches and allowed to be 35 feet. Minimum patio and open space requirements were also identified, with the townhomes to have front porches, nice entryways, and adjacent open space areas, with the typical patio sizes no less than five feet. The cottages had side yard conditions with each home having access to a side yard in excess of the 50-square foot requirement, a minimum dimension of 5 feet. The project would also have a total of 90 total parking spaces; every home would have a two-car enclosed garage; and there would be 18 guest parking spaces.

Ms. Clark walked through the twelve application submittal requirements for the GDP, and reported that staff had provided a two-page analysis of when the submittals had been made, with staff concluding that all of the requirements of the GDP had been met. She clarified that when the application had first been submitted, it was a combined CDP, GDP, and VTM and when the application had been deemed complete in September 2014 and when the current GDP application had been submitted to the Town, it had really been a revision of the initial submittal in accordance with the then-approved CDP, and not a new GDP application. Much of the information staff relied upon for this phase of the project, in all aspects, was consistent with the CDP approval. Staff had therefore not asked for the original information to be re-submitted. She walked through the twelve submittal requirements of the GDP that had been met and

acknowledged a summary of the total population count of the project had not been included in the submittal information, although that information had been included in the environmental documentation. Approximately 80 people would populate the project based on the average household size, which information had been known prior to the submittal of the GDP and which had not changed since the approval of the CDP.

Chairperson Woehleke declared a recess at 8:30 P.M. The Planning Commission meeting reconvened at 8:39 P.M. with Commissioners D'Arcy, Korpus, Kovac, Kuckuk, Marnane and Chairperson Woehleke present.

Responding to Commissioner Korpus, Ms. Wagner explained that benches would be included in the small pocket park and within the center area of the development where a low seat wall had been identified on the landscape plans. Street lights would be installed along Moraga Way and Country Club Drive, consistent with Town standards with a streetscape and lighting plan to be submitted to the Design Review Board (DRB) for review as part of a subsequent action. Buildings A and B would be taller than 35 feet with the three-story loft element, and Buildings C and D would be two stories and less than 35 feet.

Ms. Wagner also clarified in response to Commissioner Kovac that as part of the Town Council resolution of approval, landscaping along Moraga Way to be "like" the Sonsara development had been discussed in 2012, and was intended to reflect the rolling topographic elevation changes and not be flat, which had been incorporated into the proposal. She also identified the location of the vehicular ROW and the point of connection from Moraga Way coming down and out onto Country Club Drive. The MCSP included the location as the point of intersection with the point of connection consistent with the MCSP, and allowed pedestrian connections along Moraga Way and from Moraga Way connecting to a sidewalk across the internal driveway to Country Club Drive towards the bridge, or towards St. Andrews Drive. There were also pedestrian connections from Moraga Way through the buildings to connect to a sidewalk, with the locations identified on the site plan. A paved pathway adjacent to the creek had also been identified, with bicycle uses allowed on that pathway. She would have to confirm the dimensions of the pathway.

Ms. Clark stated she had not been present at the discussions in 2012, but understood the intent for the landscaping to be similar to the Sonsara landscaping in the way Ms. Wagner had described.

Richard J. Olsen, 1861 St. Andrews Drive, Moraga, commented that while his property would not be visually impacted by the development, his testimony was being offered in the interest of all Moragans. He referenced Page 13 of the June 6, 2016 staff report, and took issue with the characterization of "generous building setbacks along Moraga Way and County Club Drive" given the potential walled effect on the scenic corridor, which the Moraga General Plan specifically stated should be avoided, particularly along scenic corridors. In addition, the extremely narrow setbacks for the cottages along Country Club Drive were not comparable to, or compatible with, those homes located directly across the project on Country Club Drive. Pages 13 and 14 of the June 6 staff report described "an approximate 35-foot wide landscaping buffer along Moraga Way" although that was only being achieved with the Town giving the developer use of 20 feet

of the ROW, suggesting that should the Town ultimately reclaim the 20 feet, the project would be more intrusive than it had been proposed.

Mr. Olsen also noted pursuant to Town Council Resolution 61-2012, that the 35-foot landscape buffer along Moraga Road was required to be "consistent with the nearby Sonsara development," but was not consistent with the 40-foot wide landscape buffer between the Moraga Way scenic corridor and the buildings of the Sonsara development located entirely within the common property of the Sonsara development, with no use of the ROW made to affect that 40-foot wide buffer. He otherwise suggested the reference in the July 18, 2016 staff report and designation in the VTM regarding the relinquishment of the 84-foot wide ROW was premature given that the conditions of Town Council Resolution 61-2012 had not been fulfilled. He urged no action that would indicate they had been fulfilled, which had been a pre-condition for the abandonment of the easement and vacation of the offer of dedication.

Mr. Olsen asked the Planning Commission to defer approval until all of the conditions of Town Council Resolution 61-2012 had been fulfilled, with fulfillment acknowledged by the Town Council and with the Final Map ready for approval.

Charles Coane, 38 Sea Pines, Moraga, commented that Realtors and others had suggested the subject site was not the right location for the development given that the entire three acres would be used; the development would be close to existing office buildings; the MOFD was opposed to the project; traffic would increase; parking was inadequate; there was no parking within the development other that in the private garages, or in the guest parking spaces; and a petition had been filed with signatures from residents opposed to the project although the petition had been thrown out of court. The project was too close to the MOFD training facility; there were concerns with vehicular turning movements onto Moraga Way; and while the developer had made some modifications to lower the height of the buildings and had made other improvements, he suggested the development would fit better in another location.

Fred Boettler, 141 Greenbriar, Moraga, expressed concern with potential impacts to Country Club Drive, which was already impacted by a shortage of parking; Moraga Way would also be impacted by parked vehicles; residents of the units would likely park on Country Club Drive rather than in the garages; the units were too close to the road; the design would essentially close down Country Club Drive visually as one traveled east with two existing office buildings set back 25 feet, and the buildings would be too close to the street, and along with parked vehicles would further narrow the street. Moraga Country Club was also well used by the club members and for Town events, with a number of children in the area, raising safety concerns. He suggested there was insufficient on-site parking and the project was too close to the road.

Steve Huxley, Moraga, opposed the project in the subject location and stated it would be better located elsewhere in Town. He recommended fewer units on the property and in exchange for potentially more units near Safeway. He suggested the referendum opposing the project had lost in court on a technicality. In order to allow a democratic process, he urged a continuance of the item until after the November election to allow a new Town Council to make a decision on the project. As to the MOFD, while issues related to the project's proximity to the MOFD training facility had been discussed, the

MOFD remained opposed to the project. He also opposed the Town giving away the 84-foot ROW as bad planning.

Al Simonsen, 1917 St. Andrews Drive, Moraga, spoke to the incorporation of the Town when the intent had been to prevent high-density development. He suggested the project density was too high; the units were too close together; too high; too many; and urged a reduction in size and separate duplexes. The project also had inadequate parking and driveways, and parking along the homes would impact emergency vehicle access. He suggested the project would be more appropriate on the Bruzzone/Moraga Ranch property next to Safeway, did not fit the character of the Town, and something else should be built on the land.

Fritz Stoop, 432 Tharp Drive, Moraga, commented on his background and experience as a developer and dot.com entrepreneur prior to retirement. He noted that Moraga was a semi-rural town at the end of the road, with people coming to the Town either to visit or attend Saint Mary's College (SMC). He suggested the project would not fit in the scenic corridor or in the neighborhood, with most condominium/townhome development in Town invisible given their setbacks and lack of density. He had conducted a personal traffic study and detailed his findings where between 7:00 and 8:30 A.M. it took approximately 45 minutes to reach Orinda and the freeway, particularly during the school months. There was no traffic solution other than a connection to the freeway when the ROW land would be needed.

Seth Freeman, Moraga, stated the Brown Act did not allow the Planning Commission to require him to state his name or place of residence. He found the staff report to be flawed since it promoted a single, technocratic approach to the meeting, providing no guidance to the Planning Commission on options or alternatives other than offering a variety of responses, technical jargon rules and regulations. He suggested the Town Attorney had the responsibility to identify that this was a discretionary action the Planning Commission was being asked to make; the Town Council had acted poorly and in contradiction to many residents who opposed the project and had approved a design that was nothing like what was before the Planning Commission at this time; the developer had no vested interest in the project until the Planning Commission approved the VTM; and if the VTM was approved, it would be impossible to change the zoning and the MCSP. Given the MCSP was currently under review for implementation and with the upcoming November Town Council election, he suggested the Planning Commission had the discretion to do nothing and allow those actions to be completed prior to taking any action on the project.

Mr. Freeman reiterated that the staff report offered no alternative actions other than recommending approval of the GDP and VTM. If the developer supported a continuance, such action could be appealed to the Town Council. He acknowledged the project had been improved, although he agreed it was in the wrong location at the wrong time. He suggested the Town Attorney also be required to provide a legal opinion to the Town as to the unaccepted dedication of the 84-foot ROW, and suggested the Planning Commission could not make that determination absent a legal opinion.

Marilou Kerr, 1056-B Larch Avenue, Moraga, commented that there were existing traffic apps that routed people through the Town of Moraga and Canyon, including the WAZE app which added to the unexpected traffic increases in the community, and which should be taken into account.

Scott Bowhay, 1671 Camino Pablo, Moraga, agreed that the WAZE app encouraged traffic through Moraga. He found the MCSP to be faulty; the Sonsara development had a 45-foot setback which had only a zero setback requirement; suggested the MCSP had only invited bad projects, and while not suggesting City Ventures' proposal was a bad project for what it was, the project location was a problem. The MCSP allowed the developer to take advantage and could have placed the project with zero setbacks. He also cited the SummerHill Homes development on Camino Ricardo which scarred the hillside and was visible from Commons Park, and a planned project for a development on Country Club Drive, which would have involved an appalling density and impacts to the scenic corridor, and although the Planning Commission had recommended revisions to that project, it would have complied with the MCSP guidelines. He suggested the MCSP should be scrapped.

An unidentified resident commented that all developments in Town had a left turn lane; with one bus every two hours, or every 45 minutes during the rush hour; the Town Council resolution of approval required the developer to provide a pedestrian/vehicle ROW; and a 10-foot wide pedestrian/bicycle path by the creek. Sonsara had a 45-foot wide setback that was not built into the Moraga Way public ROW. She read into the record an excerpt from an article in the Lamorinda Weekly in 2012 where the CEO for City Ventures had been quoted that the project was not the Sonsara development but multi-family housing; understood parks and open space were required for all developments; the project was located on a blind curve; the landscape buffer did not meet the standards required in the Town Council resolution; the project would not meet the Town's semi-rural character or prevent a walled-in effect; she did not agree with the Town giving away the 84-foot ROW; opposed the 10- and 15-foot setbacks from the road; read into the record statements from the June 6, 2016 staff report which had characterized the setbacks as "generous;" and while the total number of units had been reduced from the initial proposal to 36 units, the project size had not been reduced; she disagreed the project met landscape buffer requirements; questioned the proximity to the MOFD property and mitigation measures that were intended to address the MOFD's opposition obsolete; the project would block views and could devalue existing homes in the Moraga Country Club; would block views in the scenic corridor; referenced DRB members' opinions on the project; questioned the adequacy of the EIR prepared for the MCSP in 2010, which should be updated given changes that had occurred since that time including drought conditions; there would be an increase in traffic; questioned how the Town would meet its Greenhouse Gas Emissions (GHGs) reduction goals with the project; and understood that no one was allowed to build on an easement, although it appeared it would be allowed for City Ventures.

Wes Spewak, Moraga, stated he was the owner of property located at 812 Country Club Drive, Moraga, which was occupied by a tenant, and noted that the prior tenant had moved due to the threat of the project and the potential loss of parking. Although he had retained another tenant who was paying the same rent as the previous tenant, he did not want to see property owners lose property values since there would be too many

people using the Moraga Country Club facilities. He suggested the pocket park would be inadequate and there could be financial impacts to Moraga Country Club as a result of the increased population as a result of the development.

REBUTTAL:

Phil Kerr, CEO City Ventures, 444 Spear Street, San Francisco, stated he and Ms. Wagner had been working on the project since 2012. He suggested many of the comments fell into the CDP category, which had already been approved by the Planning Commission and Town Council. While many did not like the MCSP, he stated that document had also been previously approved by the Town. When the process started in 2012, City Ventures had met with staff and the Town Council and had been informed that any development must be consistent with the MCSP as approved by the Town, and all through the project process, City Ventures had ensured consistency with the MCSP.

Mr. Kerr acknowledged comments that the project was not in the right location, and he cited the recitals in the resolution of approval before the Planning Commission, one of which cited the ruling from the Contra Costa Superior Court, which had found the referendum to be invalid because if successful, would have made the zoning inconsistent with both the MCSP and the Moraga General Plan. He spoke to City Ventures' work with cities to redevelop their downtowns and provide walkability, and stated City Ventures had chosen the location due to the MCSP and the ability to come together for the downtown. The project was consistent with the MCSP, General Plan, and zoning.

Mr. Kerr expressed a desire to continue to work collaboratively with the Town on a project that would work with the Town guidance documents. He suggested the Town had a legal obligation to act and approve or deny the project. He asked the Planning Commission to do just that, and stated under the GDP findings the Planning Commission was being asked to consider whether the GDP conformed to the CDP, as well as the additional findings. He reiterated that the project was consistent with the MCSP and General Plan; was not detrimental to the health, safety and welfare of the community; had been through the State process and CEQA review which found no health and safety issues that would prohibit development; was consistent with the MCSP; and would not adversely affect the preservation of property taxes or property values, with the burden on the Town to determine an adverse effect to property values.

The proposed development also would not create a nuisance or enforcement problems with the existing neighborhood as addressed in the CEQA process and in the CDP as approved; would not encourage marginal development within the neighborhood; would not create a demand for public services beyond which the Town could provide; was consistent with the approved EIR for the MCSP; and consistent with the Town's funding priorities as consistent with the MCSP and General Plan.

Mr. Kerr reiterated the request for the Planning Commission to consider the development that would truly benefit the Town, providing a diversity body of housing important to the Town, and added that City Ventures only built infill development in downtown locations.

PUBLIC HEARING CLOSED

Chairperson Woehleke allowed Mr. Olsen to again address the Planning Commission to clarify his comments.

Mr. Olsen referenced Town Council Resolution 61-2012 regarding the vacation of offer of dedication, and read into the record the last whereas clause as written in the resolution, identified as Attachment D to the July 18, 2016 staff report.

Chairperson Woehleke declared a recess at 9:27 P.M. The Planning Commission meeting reconvened at 9:35 P.M. with Commissioners D'Arcy, Korpus, Kovac, Kuckuk, Marnane and Chairperson Woehleke present.

Chairperson Woehleke reiterated that the public hearing had been closed.

Commissioner Marnane stated he had visited similar sites and in similar developments in other cities, had an idea of how the project would appear when completed, and had been a member of the Planning Commission during the entire review process for this project. Speaking to the CDP, he noted the Planning Commission had been aware of the inconsistencies and flaws between the MCSP, General Plan, Town ordinances, and the MMC and had considered those issues; had made changes; and most questions had been answered. The MOFD had initially been in favor of the project and had wanted the Town to consider purchasing a portion of the rear of its training facility. He suggested most of the key objections raised by the MOFD had been addressed.

Commissioner Marnane also understood the history and background of the 84-foot ROW and what it meant to get it back, but suggested it had no value as a ROW, and while it could come back it was not likely to be used to connect to the freeway. He had found that everything had been done right for the CDP and everything had been addressed that could possibly be addressed. He recognized that many people would like to see some type of development on the property, many people did not like the proposed development, and there had been many changes to the project in response to public input. He also found that the court had not made its decision just based on a technicality, but on facts as to how to build such a development in the Town.

Commissioner Marnane suggested for the most part, the project was good and the CDP was good. He found that most of the conditions of the GDP and VTM had been added in response to concerns, and at this time he would support the approval of the GDP and VTM, subject to conditions.

In response to whether the developer had vested rights, Ms. Murphy clarified that a developer would obtain vested rights through a Development Agreement (DA) or a VTM, as had been proposed in this case. She added that the Subdivision Map Act required the Town to process maps in accordance with the law in effect at the time the application was deemed complete. For this project, the application had been deemed complete when the MCSP had been in place, which was the applicable policy document governing the application.

Commissioner Kuckuk acknowledged the dissatisfaction with the MCSP, which while unfortunate, was not entirely unexpected in a community of this size; however, at this time she could make the findings necessary for the approval of the GDP which was clear cut, but did have some technical changes for consideration later in the discussion.

Commissioner D'Arcy was conflicted with the application given the issues with the MCSP. She suggested that building the units on the very edge of the MCSP area was a problem and it had not integrated well with the neighborhood; she would have preferred that a project at the edge of the MCSP area be integrated and transitional into the neighborhood and having something that was two, to two and a half stories in height would be difficult. While the proposal was for an infill project in a downtown area, the proposed density at the edge of the zoning district was one of the issues the neighbors had opposed. She acknowledged the reduction in the overall number of units from the initial proposal and the design modifications that had been made, although she suggested the project had the footprint of public housing. She recommended that the density be reduced; suggested the setbacks were an issue; found the traffic impacts to be underreported and understudied; the landscape buffer which was intended to be similar to the Sonsara development needed more work, particularly since it was located within the scenic corridor; and the units were too large and massive facing the scenic corridor where a wider setback was warranted.

Commissioner D'Arcy also found that three of the four requirements in the Town Council resolution had not been met. Given those concerns, and while there had been a great deal of time put into the project by the developer and residents, she found it unfortunate that it had come to this conflict. At this time, she was ambivalent and might abstain from the vote. She had not been a member of the Planning Commission when the project had initially been considered, but was a member of the MCSP Implementation Project Steering Committee and suggested the project had an impact at the edge of the zoning district.

Commissioner Korpus suggested the MCSP standards were not the only standards that applied to the project in that the MCSP specifically stated in Section 8 that all other guidelines and regulations and MMC codes that were applicable to the types of development that would occur in the area would apply. She read into the record that section of the MCSP. With that in mind, she also found difficulty with Section 4 of the MCSP which included Tables 4-9 and 4-10, which followed a discussion in paragraph j of the same section, which she read into the record. She found the reference to "residential units" meant "residential buildings," not on particular lots and not things that were zoned for residences, but "residential buildings." Based on the statements in Section 4 of the MCSP relating to Tables 4-9 and 4-10, she suggested both tables applied to any development on a Mixed Use lot. She also noted that the standards for Table 4-10 were more restrictive than Table 4-9.

Commissioner Korpus stated in her opinion to the extent that any decisions had previously been made without consideration of not only the standards in Table 4-10, but all other standards which would apply according to the MCSP, had been an error of law and affected the reliability of the prior decisions given the current development plan approval process, which process involved three steps. The first step had been the CDP and the second step was the GDP.

Commissioner Korpus referenced all of the codes that applied to the CDP and GDP stage suggesting it was clear that the CDP stage of the analysis was a conceptual first step but not where the majority of the evaluation occurred, and where the majority of the codes were applied. In the GDP stage, she stated the following codes applied: Section 8.12.080 where the applicant had the burden of proof on all issues, and the applicant had not provided evidence that neighboring property values would not be negatively impacted; Section 8.12.09A where findings must be made; Section 8.12.110, compliance with all applicable requirements of Chapter 8.72 of the MCSP which listed all the criteria the Planning Commission must consider in whether or not the GDP could be approved including maximum height, setbacks, lot coverage, overall mass and bulk of structure, special features of the development, effective concealment, sound attenuation, colors, materials on building exteriors, avoidance of repetition of identical entities, harmonious relationships with nearby developments, pleasing landscaping, using plants which thrived in Moraga; and compliance with Chapter 8.132, scenic corridor regulations, impacts on neighboring properties, harmony with the General Plan, design review guidelines, and Floor Area Ratio (FAR) guidelines.

Commissioner Korpus read into the record Sections 8.48.040(g) and 8.48.060 of the MMC, which stated the zoning regulations that applied and could only be changed with a variance; and the development standards had to be set in the second phase of the project not in the first phase. She also read into the record Section 8.28.030 of the MMC regarding minimum lot setback standards, and maximum height; and Section 8.12.130 of the MMC. She suggested none of those findings had been made by the Town Council or the Planning Commission at the time of the CDP stage.

Commissioner Korpus also referenced Section 8.12.120, and noted the CDP and GDP stages and that the topics that should be reviewed in the CDP stage were general topics, and not whether the development was sufficiently designed to meet Moraga standards. As a result, she had serious difficulty and disagreed with the staff report, as written, that the Planning Commission's only job was to consider consistency with the CDP. Her interpretation was that in the earlier stage when the standards were less stringent, the Planning Commission had been unable to evaluate the project, which incentivized developers to design overly detailed projects at an early stage. As a result, she suggested the process had improperly incentivized the developer to overly develop the plans and allowed things to be locked in place at a time when they would be more likely to be approved rather than follow the process in the MMC.

Commissioner Korpus suggested at a bare minimum, any details contained in the CDP that had not been identified by the Town Council in its prior decision could be revised for passage since they had not been relied upon in any way. She also suggested the Planning Commission could make any adjustments that were necessary to facilitate the approval of the GDP if a finding could be made that those adjustments would not undermine the overall aspects of the CDP that led the Town Council to approve the CDP in the first place.

Commissioner Korpus suggested the 36-unit development was excessive and inappropriate for the lot, which was an instrumental finding in the CDP stage, necessary to the zoning, and had been reviewed extensively in an inappropriate way, and while that could not be changed she suggested that adjustments could be made on things

that had been missed and had not been highlighted in the context of the original analysis to allow the Planning Commission to fulfill its obligations and make the project consistent with the Town's design standards.

Commissioner Korpus noted that staff had suggested the Planning Commission was bound to the CDP simply because there was a condition in the CDP that stated that all plans subsequently approved must be in substantial compliance, although she suggested changes could be made and they could still make the finding of substantial compliance and would not limit the Planning Commission's authority and obligation to determine compliance. For those reasons, she suggested the Planning Commission review the standards in the CDP stage as draft standards, since the MMC was clear that all standards would be set in the GDP, not the CDP stage. While a decision on the CDP had been decided on appeal, she suggested that did not make it binding on the Planning Commission in that pursuant to the MMC, the CDP was not the point when development standards were to be developed or set forth.

Commissioner Korpus also noted that the Town Council had the authority to vote as it saw fit on the CDP but not to change it to a GDP application. She suggested the scope of the Town Council's decision was limited to the topics properly approved during the CDP. She clarified her attempts to establish that the project could be properly reviewed, if necessary, by the Town Council.

Commissioner Korpus stated that at the GDP stage, the Planning Commission was required to find the proposed plan was consistent with the objectives, policies, and general land uses in the MCSP and General Plan, with more of a rigorous analysis required for the second stage. She disagreed with the statement from staff that the CDP and GDP findings were primarily the same and suggested that the Planning Commission diligently and rigorously review the project, and if the Commission agreed with her that changes needed to be made to approve the plan, and if the developer was unwilling to make the changes, the project could be appealed to the Town Council and the Town Council could make the final decision. She suggested the recommendation to continue the item until after the November election would be inappropriate, and suggested the project should go to the Town Council sooner than later to allow a more legitimate review by those Councilmembers who were present when the findings had initially been made.

Commissioner Korpus identified several problems with the plan and read into the record MCSP Guideline 1.2.4 which requires that buildings be oriented to the street. She noted that the buildings were long townhome complexes with a side facing street inconsistent with the MCSP and the semi-rural character of the Town, and had never been discussed during the process. While she concluded that the Planning Commission was bound by the 36 units, the maximum building height had default standards of 35 feet or less and she suggested the setback requirements between buildings and other issues could be resolved with a dramatic reduction in the size of the units. Given the scenic corridor along Moraga Way, she recommended a 30-foot height limit and two stories given that the current plan would obscure the views of the ridgelines, and if the road was widened the landscaping would be removed. On Country Club Drive, she recommended a 35-foot height limit, and suggested no three story buildings should be allowed in the development, although if there was disagreement and the project moved

forward the three stories should be restricted to the units in the middle of the development.

As to the setback requirements, Commissioner Korpus recommended a 20-foot setback from the property line along Moraga Way on both sides with the second floor another 4 to 6 feet back from the face of the bottom floor, with similar setbacks on Country Club Drive for the bottom floor with another 6-foot minimum for any upper floors. The side yard setbacks should be 20 feet from each side as supported by MMC Section 8.28.030 and Tables 4-9 and 4-10. In addition, no lighting design or colors had been submitted for review which was required for approval.

Commissioner Korpus read into the record SC15 of the Design Guidelines and noted that the plans had not identified the use of swales along Moraga Way, as required; SC16 and SC17 of the Design Guidelines and MMC Section 8.132.050(a), 8.132.050 (b)(1), 8.132.050(b)(2), and 8.132.050(b)(6), and suggested the project was not consistent with those guidelines and sections of the MMC. She generally supported the 8-foot high fence between the project site and the MOFD property, although recommended it could be raised another two feet. She sought the submittal of lighting plans inside the development; emphasized the need to comply with the SFR guidelines; and suggested the size of the units be dramatically reduced in size to range from 1,200 to 1,650 square feet to allow more affordable housing or housing for those desiring to downsize.

Commissioner Korpus also read into the record ID 13.13 of the Town's Design Guidelines and suggested the project had not demonstrated that it had met the Build It Green requirements, and the requirements of SFR1.2 had not been met.

Commissioner Korpus commented that in order to see if something was conceptually possible, she had created a plan with significantly reduced unit sizes, and suggested it could be possible if there were 9 units facing Moraga Way, with smaller unit sizes and 30 feet between buildings. The units could be lower with the second story pushed back at least 4 to 6 feet, and pushed back at least 20 to 25 feet, which would protect the scenic corridor which had not been adequately done with the current plan. Such a concept would also create paths for views through, with room for a small parking area to accommodate 12 parking spaces in addition to the available parking on the sides, and still have 36 units. That concept would also allow for 18 units on Country Club Drive if significantly smaller in triplexes, with two on the outside having yards and the smaller units having patios. She urged the Planning Commission to consider meeting its obligations to the developer based on the 36-unit requirement, and still comply with the Town's Design Guidelines.

Commissioner Korpus suggested no evidence had been provided that the development would not negatively impact property values; again suggested there had been inadequate to non-existent consideration of many of the Town's Design Guidelines, the MCSP, scenic corridor, and other applicable guidelines especially if Moraga Way were to be widened in the future. She suggested the requirements of the VTM and all requirements for granting the GDP had not been met and it would be an error to approve the GDP and VTM and give the developer vested rights. It was also not

appropriate for the Town to release the offer of dedication. She urged the developer to consider her suggestions to make the project better.

Commissioner Korpus added that Town Council Resolution 61-2012 had listed four requirements that should be considered, three of which had not been satisfied. She again suggested the offer of dedication should not be released at this time, the Planning Commission should not approve the project, and she offered to circulate her vision for an alternative design that would respect the scenic corridor and still make the project possible and attractive.

Commissioner Kovac suggested that residential rules applied in scenic corridors and should be considered. He too was a member of the MCSP Implementation Project Steering Committee and was concerned with the piecemeal implementation of the MCSP, which was intended to provide a vibrant downtown area with public places to meet and congregate. He noted that he had spoken with the landowners and had asked whether the project would revitalize the commercial sector. He suggested the MCSP and Town Design Guidelines could be met with the right cooperation and hard work, and while some hard work had already been expended, he suggested the Town should have a real three- step approval process. He agreed with Commissioner Korpus.

Chairperson Woehleke commented that the overriding rules he had applied was that the Town Council made policy and the role of the Planning Commission was to apply that policy. The Town Council, over a five-year period with many public hearings, had developed the MCSP. The CDP for the subject project had been approved by the Planning Commission and although some Commissioners did not like all aspects, it met the requirements of the MCSP. He did not consider the proposed development to be perfect and could cite nearby developments that were far worse. He acknowledged the Town's PDP process needed work and adjustment, either to clarify it as a truly three-step process or to combine it into a single phase approval.

Chairperson Woehleke acknowledged the concerns with the project, which was the first project proposed in the MCSP Area. As to the issues with the ROW, he suggested that was a mischaracterization in that it was more the norm that developments adjacent to roads landscape the ROW areas. While Sonsara may have not, Moraga Country Club had done so. He had concerns with traffic, more at the MCSP level, and was uncertain how that would work but had nothing to suggest that what had been presented for the project was off target. As to a turning lane or light at the driveway, Moraga Way had a number of intersections into developments absent turning lanes or lights, with precedent in the Town that turning lanes and lights were not provided. He also commented that many of the issues raised had also been raised during the CDP stage, and given the fact the Town Council had approved the CDP, that was what he had to go by along with the additional requirements of the MMC. He suggested the project substantially met all criteria.

Commissioner Marnane offered a motion to adopt a resolution 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.

Commissioner Kuckuk offered a second to the motion subject to the following modifications:

- Attachment A, Resolution of Approval, revise the first sentence of the last paragraph of Page 6 to read:

  *The project would construct 36 new attached single family homes, which would replace an existing, vacant lot and contribute to the property tax base in Moraga*

- Attachment B, Draft Conditions of Approval, Page 1, 1, modify the date in the first sentence to read:

  *This approval authorizes the General Development Plan and Vesting Tentative Map for Subdivision 9381, collectively the "Moraga Town Center Homes Project" as approved by the Town of Moraga Planning Commission on July 18, 2016, and consisting of the architectural, civil and landscape plans, dated May 2016 and received on May 31, 2016.*

- Page 11, Revise Conditions 63 and 64, as follows:

  63. *Red painted curbs and/or "No Parking" signs shall be installed along Moraga Way along the project frontage subject to the review and approval of Public Works.*

  64. *Parking shall be prohibited on one side of on-site private roadways where the curb to- curb width is less than 36 feet and on both sides of on-site private roadways where the curb-to-curb width is less than 28 feet. Red painted curbs and/or "No Parking" signs and/or curb markings shall be installed along these portions of the roads subject to the review and approval of Public Works.*

Chairperson Woehleke reported based upon a straw poll vote on the motion the following Commissioners supported the motion: Chairperson Woehleke and Commissioners Kuckuk and Marnane. Commissioners D'Arcy, Korpus and Kovac opposed the motion, as stated.

Ms. Murphy stated based on the straw poll vote, the motion as stated, would fail, but formal action on the vote was still required.

On motion by Commissioner Marnane, seconded by Commissioner Kuckuk to adopt 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; subject to the following:

- Attachment A, Resolution of Approval, revise the first sentence of the last paragraph of Page 6 to read:

  *The project would construct 36 new attached single-family homes, which would replace an existing, vacant lot and contribute to the property tax base in Moraga*

- Attachment B, Draft Conditions of Approval, Page 1; 1 modify the date in the first sentence to read:

  *This approval authorizes the General Development Plan and Vesting Tentative Map for Subdivision 9381, collectively the "Moraga Town Center Homes Project" as approved by the Town of Moraga Planning Commission on July 18, 2016, and consisting of the architectural, civil and landscape plans, dated May 2016 and received on May 31, 2016.*

- Page 11, Revise Conditions 63 and 64. as follows:

  63. *Red painted curbs and/or "No Parking" signs shall be installed along Moraga Way along the project frontage subject to the review and approval of Public Works.*

  64. *Parking shall be prohibited on one side of on-site private roadways where the curb-to-curb width is less than 36 feet and on both sides of on-site private roadways where the curb-to-curb width is less than 28 feet. Red painted curbs and/or "No Parking" signs and/or curb markings shall be installed along these portions of the roads subject to the review and approval of Public Works.*

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

| | |
|---|---|
| Ayes: | Commissioners Kuckuk, Marnane, Woehleke |
| Noes: | D'Arcy, Korpus, Kovac |
| Abstain: | None |
| Absent: | Mallela [recused] |

Commissioner Korpus requested that the applicant be asked whether they would be willing to adjust the plan to address the concerns she and others had raised.

Mr. Kerr stated that City Ventures would accept a denial of the application based on the split vote and would appeal that decision to the Town Council.

Ms. Murphy advised that in the absence of an alternative motion a 3-3 vote would be an effective denial of the application.

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

Chairperson Woehleke declared a recess at 10:32 P.M. The Planning Commission meeting reconvened at 10:37 P.M. with all Planning Commissioners present.

**B. 1058 Larch Avenue**

**Applicant**: Brad Agler, 21-C Orinda Way #250, Orinda, CA 94563
Consider Resolution __-2016 for Minor Subdivision (MS 601-16) to Subdivide an Existing 32,848 Square Foot Residential Parcel at 1058 Larch Avenue into Two (2) Single-Family Residential Lots
**CEQA Status**: Categorically Exempt Pursuant to Section 15315 of the CEQA Guidelines ("Minor Land Divisions")

Associate Planner Brian Horn presented the staff report dated July 18, 2016, and stated due to the project's consistency with the Zoning Ordinance and General Plan, with minimal impact on surrounding properties, he recommended the Planning Commission adopt a resolution to approve Minor Subdivision MS 601-16, subject to the Conditions of Approval as contained in Attachment A to the staff report.

Commissioner Kuckuk commented that if the conceptual site design and architecture was required to prove that the new lots could be developed, she questioned why Condition 9 was necessary.

Mr. Horn explained that the DRB had discussed the square footages of the homes with the intent that it be close to what the DRB had reviewed.

Ms. Clark added that the submittal was not as detailed or what would normally be brought to the DRB, with aspects of the plans that had not yet been completely fleshed out.

Commissioner Kuckuk suggested that Condition 9, as written, would tie the final approval of improvements on the subdivided lots to what had been conceptually approved by the DRB, a process she described as awkward.

Ms. Clark commented that pursuant to the Subdivision Ordinance, certain things had been called out in the plans. The plans had been developed with a certain level of detail and if the lots were sold in the future, a different home design could be proposed. Staff could modify the condition where it might be possible to deviate from the plans in a certain way and consider other things that still met the guidelines.

Commissioner Korpus was pleased with the layout and the research that had been included in the staff report. She verified with Mr. Horn that the home adjacent to the subject property had a larger setback but was also situated on a larger lot. There were also plans to demolish one of the existing neighborhood homes, which was non-conforming, and build a home that would be placed further back. She recommended a condition to state that the CDP was limited and was a finding that, in theory, the design and subdivision of the property was possible, and that neither the DRB nor the Planning Commission would be bound to any placement, lot, development, or home size and allow any home design to be considered to ensure compliance.

On the discussion, Ms. Clark recommended the elimination of the first sentence of Condition 9 which would allow a home to be reviewed by the DRB and would not set a parameter on the size and setbacks but would still have to meet the code.

Commissioner Korpus also clarified with Mr. Horn that sidewalks would be required on Larch Avenue and not on the private street, and that staff was recommending a 2:1 ratio for tree replacement, which could be increased or decreased. She recommended a 1:1 tree replacement ratio. She also clarified with Mr. Horn that if Condition 9 was modified, as proposed by staff, the next level of review for the home design would require submittal of elevations and architectural and landscape plans to the Planning Department subject to DRB review. The applicant may submit the design for the home and once the subdivision was approved construction could occur soon thereafter.

Commissioner D'Arcy understood the 2:1 tree replacement ratio had been in response to the high death rate of existing trees. She also clarified with staff that Condition 28 had not mentioned the other properties that would be affected by the sewer line, with Mr. Horn clarifying that no improvements were occurring on those properties. As reflected by Condition 28, an access easement would be required from the adjacent property owners in order to make off-site improvements.

Commissioner Kovac clarified with Mr. Horn that the turnaround in the middle of Barnes Court had been approved by the MOFD; the applicant would have to apply with the Public Works Department for a street light; and with the subject property, three properties across the street, and two located on either side, they could potentially be annexed into a Street Lighting Assessment District as long as four of the six property owners did not object.

Commissioner Mallela asked for more details on the bio-retention basin and the potential of risk given its location, and Mr. Horn recommended that the applicant clarify those details.

Chairperson Woehleke verified with Mr. Horn that fencing and landscaping plans had not been provided or reviewed by the DRB; recommended the first sentence of the last paragraph of Page 7 of the staff report be modified to read: *The conceptual architecture for the residence on Parcel B, as shown in Attachment K, Sheet 3 includes a 3,515-square foot, single-story residence, up to 19 feet in height, with the square footage exclusive of an 876 square foot attached garage and workshop;* and that the use of the term "*metes and bound description*" in Condition 27A was a surveying term.

PUBLIC HEARING OPENED

Bruce Mastick, Building Designer, 725 Alhambra Street, Crockett, stated he had been working with the applicant/developer for years on infill developments. The applicant/developer had several meetings with the neighbors on Barnes Court who would be most directly affected and those neighbors had provided positive feedback. Working with staff, it had been determined that coming down off Barnes Court for driveway access for each of the homes was a good solution for the overall neighborhood and area. With that in mind, he had wanted an existing large oak tree in the middle of the property, to be considered as the streetscape entry to the two

driveway areas and the main entry to the back lot, to be enjoyed by those residing on Barnes Court.

Mr. Mastick reported that no exceptions were being requested for setbacks, height or variances, with the sidewalk to be installed as requested; the front setback of the home would be 28 feet from Larch Avenue; the home would have an open front porch on the right hand side of the property offering some depth and character; the design for Parcel A would consist of a Ranch style home with a farm house appearance; the second story would be a bonus room with an appropriate roof pitch; and meetings had been held with the neighbors. He was very proud of the project.

Brad Agler, 21-C Orinda Way, #250, Orinda, the Applicant/Developer, stated he had worked with Mr. Mastick for years and on the subject project for 18 months; had introduced himself to all of the contiguous neighbors on Barnes Court; no variances were being asked of the project which met or exceeded all setbacks and the heights were within the maximums allowed or well below; the second story element was only a dormer filling of an attic space for a bonus room; the project was within the allowable FARs; the lots were very large at 16,000 and 17,000 square feet; the DRB had unanimously approved the design and architecture; he had unanimous support of his neighbors; each of the three neighbors on Barnes Court were present; and a formal easement had been recorded for access on Barnes Court, with the only easement still required for a storm drain easement behind the homes at the ends of Barnes Court and allow access to an existing storm drain into the Santa Maria development built in 2000, for which those neighbors were in support.

In response to Commissioner Mallela, Mr. Agler acknowledged that flooding had been problematic in this section of the Town and Barnes Court had experienced water sheeting down Larch Avenue. The water had drained to property contiguous to the back of the subject property; water from Larch Avenue pooled at the retention basin; there had been efforts to address the water that pooled at the bottom of Barnes Court; and a bio-retention basin would take all of the roof water connected to the downspouts, capture it, and place it into an underground water storage system and to the bio-retention basin. All water not on the subject property and on Barnes Court would also be captured, with two storm grates off of Parcel A and another grate at the end of Barnes Court. All rainwater from the contiguous properties would be taken to the storm drain and then to an existing storm drain on the Santa Maria development property.

The bio-retention pond would also capture any modest water runoff from the property which was described as "almost none" given the impervious surfaces that had been proposed, with a nominal amount of rainwater to hit the dirt and dissipate into the planter areas. The bio-retention pond was mandated by C.3 stormwater requirements and would be dug down 12 feet, and backfilled with clean gravel. Water would be collected in the bio-retention pond, percolate, and that which did not percolate would overflow into a pipe directed to the storm drain which would then daylight to the creek. No overflow would occur on the property itself and impact the neighbors.

Robert Dixon Kerr, 1056-B Larch Avenue, Moraga, explained that his home was in the middle of Barnes Court and confirmed that drainage was an issue. He thanked the applicant for the project and the drainage plans that would improve his property, and the

new turnaround that would benefit emergency access. He supported the project and stated it would benefit not only his property but all of his neighbors' properties.

Marilou Kerr, 1056-B Larch Avenue, Moraga, affirmed the applicant had met frequently with the neighbors, the plans had been explained, and questions had been answered. She too agreed the project would benefit the neighborhood, and she looked forward to the new neighbors, and supported the project.

John Williams, 1056-C Larch Avenue, Moraga, emphasized the drainage at that area of the Town was terrible and the fact the project would be able to tie into the existing storm drain in the Santa Maria development was critical. He too agreed the project would provide benefits and improve the overall aesthetics of the neighborhood; appreciated that the applicant had kept the neighbors up to date, allowing input; and agreed the project would improve access down Barnes Court from a vehicle and MOFD standpoint which was long overdue. He wholeheartedly supported the application.

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

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

Joren Ayala-Bass, 1056-A Larch Avenue, Moraga, also supported the development wholeheartedly given the technical reasons, storm drainage improvements and improvements to MOFD access. He found the homes would be appropriate for the lot; the two homes would be situated in a way that would be compatible with the existing neighborhood; would expand rather than detract in the neighborhood; improve the current condition of the property; improve existing landscaping; and he appreciated the process the applicant and architect had followed. He asked the Planning Commission to expedite the development which was fully supported.

PUBLIC HEARING CLOSED

Commissioner D'Arcy reported that she had walked the neighborhood and confirmed the lot size and the existing condition of the property as derelict and rundown. She was pleased that the neighbors supported the project, found the drainage and MOFD issues to have been addressed, the applicant had requested no variances, and the architectural style would fit into the existing neighborhood.

Commissioner Korpus characterized the application as well done and a perfect example of community contribution and discussion. She wholeheartedly supported the subdivision. She recommended a modification to Condition 9.

Commissioner Kovac clarified with Mr. Agler speaking from the audience that no parking would be allowed on Barnes Court, which would have no curb pursuant to MOFD requirements.

Commissioner Marnane supported the approval of the Minor Subdivision with the modification to Condition 9 as recommended by staff.

Commissioner Kuckuk also supported the Minor Subdivision. She liked the architecture for the conceptual plans for the home, supported the modification to Condition 9 as recommended by staff given the desire not to tie the architecture to the Minor Subdivision approval, and stated if the applicant moved forward with the application and the DRB approved it, she assumed what was ultimately approved would be substantially compatible. She recommended a modification to the second sentence of Condition 16, as follows:

> *Red curbs and/or "No Parking" signs shall be installed along these portions of the private road subject to the review and approval of Public Works.*

Chairperson Woehleke stated he had reviewed the plans, walked the neighborhood, recognized the diversity of homes in the neighborhood, and suggested the project would fit in. He supported the Minor Subdivision.

The Planning Commission walked through Attachment A page by page and recommended the following modifications:

- Page 2, revise the last sentence of the first paragraph, as follows:

  *The proposed map is consistent with the required residential density, and lot dimensions, and would accommodate future development consistent with the setbacks required for the Three Dwelling Units per Acre (3-DUA) zoning district.*

- Page 4, strike the first sentence of Condition 9 and further modify it, as follows:

  *The final architecture, landscaping and associated improvements shall be reviewed by the Design Review Board and the architecture shall be designed to not require exceptions from the Town of Moraga Design Guidelines. 1) The conceptual plan being approved is as to whether the property can be subdivided into the two lots described; 2) as to the private street being widened as set forth in the plans; 3) as to the general drainage system that is being designed to be installed. Approval does not include size, style, design, placement, layout or architecture of any structure to be placed on the lot, and in particular the Design Review Board shall have full authority to review any subsequent lot improvement plan under the Moraga Municipal Code.*

Speaking to the recommended changes to Condition 9 as proposed by Commissioner Korpus, Ms. Clark explained that as part of the approval of the subdivision would include approval of the improvement plan, which by definition included the roadway, drainage system and the like.

There was no Planning Commission consensus to modify Condition 9 as proposed by Commissioner Korpus other than to modify the condition as recommended by staff with the elimination of the first sentence.

Commissioner Korpus stood by her recommended revision to Condition 9 and asked that the language changes be included for clarity.

The Planning Commission also recommended:

- Page 5, revise the second sentence of Condition 16, as follows:

  *Red curbs and/or "No Parking" signs shall be installed along these portions of the private road subject to the review and approval of Public Works.*

On motion by Commissioner Kuckuk, seconded by Commissioner Marnane to adopt PC Resolution __-2016, Approval of Minor Subdivision 601-16, to subdivide an existing 32,848 square foot residential parcel at 1058 Larch Avenue into two (2) single-family residential lots, subject to the conditions of approval as shown in Attachment A, modified as follows:

- Page 2, revise the last sentence of the first paragraph, as follows:

  The proposed map is consistent with the required residential density, and lot dimensions, and would accommodate future development consistent with the setbacks required for the Three Dwelling Units per Acre (3-DUA) zoning district.

- Page 4, strike the first sentence of Condition 9.

- Page 5, revise the second sentence of Condition 16, as follows:

  Red curbs and/or "No Parking" signs shall be installed along these portions of the private road subject to the review and approval of Public Works.

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 process of a decision of the Planning Commission in writing to the Town Clerk.

## 6. ROUTINE AND OTHER MATTERS

**A. 1928 St. Mary's Road, Saint Mary's College:**
Applicant: Saint Mary's College of California, 1928 St. Mary's Road, Moraga
Conduct annual review of Saint Mary's College Parking Management Plan

Ms. Clark advised that SMC had requested that the item be continued.

On motion by Commissioner Kuckuk, seconded by Commissioner Marnane to continue 1928 St. Mary's Road, Saint Mary's College, to a date certain of September 19, 2016. The motion carried by the following vote:

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

**B. Review and Discuss Planning Commission Roles and Procedures**

No action was taken on this item.

**C. June 20, 2016 Minutes**

The June 20, 2016 minutes were continued to the next meeting of the Planning Commission.

## 7. REPORTS

**A.** Planning Commission

Commissioner D'Arcy reported that she had attended the June 27 DRB meeting when the project for 1058 Larch Avenue had been reviewed and approved.

**B.** Staff

There was no staff report.

## 8. ADJOURNMENT

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

A Certified Correct Minutes Copy

Secretary of the Planning Commission