BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of: An application for Approval of a Tentative Subdivision Map (SUB. 9207) for conversion of an existing 8-unit apartment complex to condominiums at 2009 Ascot Drive.	**Resolution No. 32-2007 PC** Planning Commission Adoption Date: August 6, 2007 Effective Date: August 17, 2007

WHEREAS, on November 6, 2006 an application was filed by Parwin W. and M. Taher Sarwary for division of an existing 8 unit apartment complex on a 21,656 square foot parcel at 2009 Ascot Drive into 8 individually owned condominium units and 1 parcel in common ownership; and

WHEREAS, the applicant proposed a 194 sq.ft. bedroom addition to Unit 4 and 198 sq.ft. bedroom additions to Units 6 and 8 as part of the conversion to condominiums; and

WHEREAS, a Hillside Development Permit application was required because the proposed bedrooms at the east rear side of units 6 and 8 would be built over an existing slope steeper than 20%; and

WHEREAS, an application for the Hillside Development Permit was submitted on December 12, 2006; and

WHEREAS, the application for the condominium conversion and Hillside Development Permit were reviewed and found incomplete on January 8, 2007; and

WHEREAS, on March 7, 2007, the applicant submitted copies of the "notice of intent to convert" signed by each existing tenant; tenant demographic information; additional information for the physical elements report; draft Covenants, Conditions and Restrictions (CC&R's), and a tentative subdivision map for the condominium conversion; and

WHEREAS, on March 15, 2007 the estimated useful life for the driveway and exterior siding was submitted to complete the physical elements report; and

WHEREAS, the proposed conversion of 8 apartment units would not exceed the number of potentially convertible rental stock as required under Section 8.96.250 because 25 new rental units were completed in 1998 and no new conversions have been approved since the new rental housing was built; and

WHEREAS, on July 13, 2007 the Town Attorney completed the review of the CC&R's, except for the initial assessment fees anticipated for maintenance, which were not included in the CC&R's; and

WHEREAS, on July 17, 2007 the applicant submitted the Department of Real Estate Budget Worksheet with the proposed initial assessments for maintenance; and

WHEREAS, on July 19, 2007 the assistant Town Engineer submitted recommendations for drainage improvements needed at 2009 Ascot Drive; and

WHEREAS, on July 25, 2007 the applicant submitted revised copies of the tentative subdivision map with the Tract Number 9207 on the map; and

WHEREAS, on July 26, 2007 staff completed a report to the Planning Commission where it was determined that the condominium conversion and proposed additions and improvements to the existing apartment complex are categorically exempt from CEQA under Sections 15301 (d), (e) and (k); and

WHEREAS, this CEQA exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination and includes:

(d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(e) Additions to existing structures provided that the addition will not result in an increase of more than: 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.

(k) Division of existing multiple family residences into common-interest ownership, where no physical changes occur which are not otherwise exempt;

WHEREAS, public hearing notices were mailed to all tenants currently living at 2009 Ascot Drive, all property owners within 300 feet of the subject property and to public agencies and utilities on July 26, 2007 in accordance with Section 8.96.060-C of the Condominium Conversion Ordinance; and

WHEREAS, on August 6, 2007, the Planning Commission of the Town of Moraga held a public hearing and heard testimony from the applicant and interested parties; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the tentative subdivision map for conversion of the 8-unit apartment complex at 2009 Ascot Drive to condominiums subject to the findings and conditions listed below.

Part 1 – Findings required for approval under MMC Section 8.96.300

A. **Each provision of Chapter 8.96 is met;**

Each provision of Chapter 8.96 was discussed in the staff report for the project and the conditions of approval in Part 2 of this resolution include requirements to guarantee complete compliance with all the provisions of Chapter 8.96.

B. **The proposed conversion is consistent with the general plan and is not detrimental to the health, safety or general welfare of the town;**

The existing apartment complex was built in 1969 under the Contra Costa County's M-3 zoning at a density of 16 dwelling units per acre. The project is legally non-conforming with the Town's General Plan density of 6 dwelling units per acre. In accordance with MMC Section 8.20.030-B a condition of approval has been included in Part 2 of this resolution to require a use permit for the proposed expansion of this legally non-conforming use. The project would not be detrimental to the health, safety or general welfare of the Town because the conditions of approval will require many structural and building code improvements to the existing complex.

C. **The proposed conversion will conform to the municipal code in effect at the time of tentative map approval except as otherwise provided in this chapter;**

The existing apartment complex was built in accordance with Contra Costa County's development standards for the M-3 zone, with a 20-foot front setback, 10-foot side yard setback (on both sides) and a minimum 15-foot rear yard setback. The existing project is legally non-conforming with the Town's development standards for Zone 6, which requires a 25-foot front setback and 20-foot side yard setbacks on both sides. The proposed bedroom additions to units 4, 6 and 8 and the new carport at parking space P-16 would comply with the Town's larger building setback requirements. The conditions of approval in Part 2 of this resolution require a total of 16 covered assigned parking spaces and 4 guest parking spaces, which would be in full compliance with MMC Sections 8.76.100 and 8.96.090-J. The conditions of approval also include a requirement for a subdivision improvement agreement to guarantee completion of all the required improvements listed in Chapter 8.96.

D. **The overall design and physical condition of the condominium conversion achieves a high degree of appearance, quality and safety;**

The existing apartment complex and landscaping requires extensive improvements in order to comply with Section 8.96.090-I, which requires the developer of the condominium conversion to refurbish and restore each building, structure, fence, patio enclosure, carport, accessory building, sidewalk, driveway, paved area and landscaped area as necessary to achieve a high degree of appearance, quality and safety. The conditions of approval in Part 2 of this

resolution require the plans for the refurbishment and restoration of the project to be reviewed and approved by the Design Review Board prior to approval of the Final Map.

E. **The proposed project will not convert during the current calendar year more than one hundred (100) percent of the potentially convertible rental units for the current calendar year except as otherwise provided in Section 8.96.280;**

The proposed conversion of the 8 apartment units would not exceed the number of potentially convertible rental stock as required under Section 8.96.250 because 25 new rental units were completed in 1998 and no new conversions have been approved since the new rental housing was built.

F. **The proposed conversion will not have an adverse effect on the diversity of housing types available in the town;**

The 452 existing rental units represent 7.8% of the total 5,760 housing units in Moraga. The loss of 8 rental units will reduce the total number of rental apartment units to 444 or 7.7% of the total housing units. There is a need for more multiple family rental housing in Moraga to meet the needs for Saint Mary's College students, senior citizens and other lower income families of people that are employed in the Town of Moraga. The Town's current multiple family zoning of 6 units per acre is too low a density to make new apartment projects economically feasible; therefore, no new apartment projects are expected until the Town adopts some higher density zoning. The adverse impact of the loss of the 8 rental housing units has been balanced with the benefits to the Town with the conversion, which will provide additional parking and improve the existing buildings to meet current building and safety codes.

G. **The proposed conversion will not displace a significant percentage of tenants and reduce low and moderate income rental units from the housing stock at a time when no equivalent housing is readily available in the town.**

The existing apartment project does not qualify as a low income rental project because all of the existing rental rates at 2009 Ascot Drive are higher than the HUD low income rent limit. Nevertheless, using 100% of the median income as the basis for "moderate" income, the existing units would be considered moderate income rentals. The monthly cost for the condominium units, including the monthly mortgage payment and proposed homeowner's association assessment fee of $254 would qualify as moderate income housing if it does not exceed 25% of the median income for Contra Costa County. Some of the existing tenants may be able to purchase one of the condominium units. At the present time there are 5 comparable rental units in the Town of Moraga with 2 bedrooms that have a rental rate below $1,650/month, which would be affordable to the current tenants at 2009 Ascot Drive.

Part 2 – Conditions of Approval

A. REQUIREMENTS FOR APPROVAL OF THE FINAL MAP

1. The time limit for recording the Final Map shall be twenty-four months commencing with the effective date of approval for the Tentative unless an extension of time is granted. On application of the subdivider, the Planning Commission in accordance with the Subdivision Map Act may grant an extension.

2. The total number of lots shall not exceed eight (8), with one parcel in common ownership.

3. A fee in lieu of parkland dedication is payable prior to Town Council approval of the Final Map. The fees shall be in accordance with MMC Sections 8.140.080 and 8.140.090 of the Park Dedication Ordinance. The fee will be the fair market value 0.0672 acres plus 20% toward costs of off-site improvements. The amount of land is based upon 8 new condominium lots multiplied by the average number of persons per dwelling unit (1.68) and the requirement for .005 acres per of parkland per person.

4. A transportation and traffic impact fee is payable prior to Town Council approval of the Final Map. The amount of the fee is set each year in the month of January by the Lamorinda Fee and Finance Authority (LFFA). Currently the 2007 fee is set at $3,187.00 per multiple-family dwelling unit. If the proposed condominium conversion does not generate more peak hour vehicle trips than the existing apartment complex, then the project may be exempt from the transportation and traffic impact fee in accordance with paragraph 2(a)(1) of Town Council Resolution 18-98.

5. The final version of the Covenants, Conditions and Restrictions (CC&Rs) including the provisions as set forth in **PART 2-C** shall be submitted for approval by the Town Attorney prior to approval of the Final Map. The subdivider shall provide a letter or index listing the page numbers or sections of the CC&Rs where each provision in PART 2-C can be found. The approved CC&Rs shall be recorded with the Final Map and shall be binding on the Homeowners Association and each lot owner in the subdivision.

6. A Subdivision Improvement Agreement shall be provided to the Town of Moraga prior to approval of the Final Map by the Town Council. The Subdivision Improvement Agreement shall include an agreement to complete all the improvements listed in **PART 2-D** of this resolution, titled "Subdivision Improvement Requirements". The subdivision improvements include the necessary structural and building code upgrades for refurbishment of the existing apartment buildings, carports, paving, drainage and landscaping to comply with provisions in Chapter 8.96 to achieve a high degree of appearance, quality and safety, without which the condominium conversion would not be approved. The Subdivision Improvement Agreement may include

a requirement for a bond, irrevocable standby letter of credit or other approved security to guarantee the completion of the improvements prior to the sale of any of the condominium units. The amount of the security will be based upon a total construction estimate submitted for review and approved by the Town Engineer.

7. The conditions pertaining to construction operations for refurbishment of the apartment complex as set forth in **PART 2-E** shall be included in the Subdivision Improvement Agreement.

8. Submit an updated title report prior to approval of the Final Map.

9. The Final Map shall be reviewed by the Town Engineer and shall clearly delineate the boundaries of the eight (8) condominium units, the location of the exclusive use areas such as the assigned parking spaces, private patios, decks and balconies and private storage space for each unit. The Final Map shall include all necessary public utility easements, storm drain easements and access easements on the map. The applicant's engineer should provide verification to the Town Engineer from all the public utilities that they have the easements they need prior to approval of the Final Map.

10. Prior to approval of the Final Map, the applicant shall apply for a use permit in accordance with MMC Section 8.20.030-B to allow expansion of the existing non-conforming use with the proposed 194 sq.ft. bedroom addition to Unit 4 and 198 sq.ft. bedroom additions to Units 6 and 8. The plans for the bedrooms additions shall include building elevations and roof plans. An arborists report shall be required to ascertain whether the construction of the bedroom additions at the east side of Units 6 and 8 will have any adverse impacts to the two existing Oak trees on the slope below the units.

B. GENERAL REQUIREMENTS

1. All tenant rights as listed under MMC Sections 8.96.150 through 8.96.240 shall be adhered to with regard to the sale of units to tenants and the provisions for the relocation of tenants.

2. In accordance with MMC Section 8.96.090-H, the developer shall provide a one-year warranty to the buyer of each unit at the close of escrow on a dishwasher, garbage disposal, stove, refrigerator, hot water tank, and air conditioner that is provided for the unit.

3. The developer of the condominium conversion shall either replace the T1-11 siding on the buildings, which has only 3-years estimated remaining life, or the developer shall provide contingency funds for replacement of the siding in the reserve account for the Homeowners Association.

4. All improvements to the building complex and landscaping installation shall be completed prior to the first sale of any unit.

5. 'As-built" plans for all improvements, utilities and landscape irrigation and sprinkler plan shall be prepared for the Homeowners Association to help them maintain the system.

6. The final form of the Physical Elements Report shall be submitted to the Town for approval and shall remain on file with the Planning Department for review by any interested party. In accordance with MMC Section 8.96.060-B the subdivider shall provide copies of the final Physical Elements Report to each purchaser before the purchaser executes a purchase agreement or other contract to purchase a unit.

7. In accordance with MMC Section 8.96.040-B, the pest infestation and dry rot report on each unit is required within sixty (60) days of close of escrow for sale of the units.

8. Before the close of escrow, the subdivider shall submit the following information to the Planning Department:

   a. name, address and phone number of Homeowners Association;

   b. actual sale price of units;

   c. number of prior tenants who purchased units;

   d. actual Homeowners Association fee;

   e. number of units purchased with intent to be used as rentals

C. REQUIREMENTS FOR COVENANTS, CONDITIONS AND RESTRICTIONS (CC&R'S)

1. The Covenants, Conditions and Restrictions (CC&Rs) shall include the Town of Moraga as a third party beneficiary of the document and no changes shall be made in the CC&Rs with respect to the conditions required in this section without prior approval from the Town of Moraga, with review by the Town Attorney.

2. There shall be a total of sixteen (16) assigned parking spaces and four (4) guest parking spaces for non-exclusive use by all owners and their guests. The guest parking shall be limited to 72-hours maximum use. Two (2) covered parking spaces shall be assigned for each unit. The parking spaces assigned to each unit shall be located as close to the unit as possible.

3. In accordance with MMC Section 8.96.090-J-2, all parking spaces shall be for the use of unit owners. An occupant of a unit with two or more bedrooms may

rent one parking space back to the association. All parking spaces, except those specifically designated for recreational vehicles, shall be used solely for the purpose of parking motor vehicles as defined by the Vehicle Code of the state of California and shall not be used for trailers, unmounted campers, boats, or other recreational vehicles.

4. In accordance with MMC Section 8.96.110, the CC&Rs shall describe the location of the private patio, deck or balcony space that is assigned for the exclusive use of each unit. The location of these private exterior spaces should be shown on the Final Map to facilitate the description in the CC&Rs. The maintenance of these exclusive use exterior spaces shall be the responsibility of the unit owners with the exception of the patio areas that are located on top of the carports.

5. The Budget Worksheet for the State Department of Real Estate (DRE) shall be amended on page 13 to include the estimated amount for landscape irrigation and the initial assessments for each unit shall be modified accordingly.

6. Homeowners Association dues shall commence for all units upon the sale of the first unit. The developer of the condominium conversion shall pay Homeowners dues assessments for all unsold units.

7. The CC&Rs shall include the procedure for transfer and acceptance of the maintenance responsibilities that will be assumed by the Homeowners Association. The subdivider shall maintain the common area landscaping, parking areas and paved driveways, drainage facilities, and exterior building and carport maintenance including painting and roofing, until 75% or six (6) of the units have been sold, at which time the Homeowners Association shall assume the maintenance of all improvements in the common area.

8. The Homeowners Association shall have a storm water system cleaning program and driveway paving sweeping program. The storm drain inlets and existing concrete V-ditches shall be inspected and cleaned once every year, in September. The debris removed shall not be permitted to enter the inlets. The driveways shall be swept at least six times a year, with monthly intervals in September, October and November to clean fallen leaves and debris before they clog the storm drain system. An annual report shall be submitted to the Town Engineer on April 1st of each year, summarizing the annual maintenance required for the system. The CC&Rs shall also grant the Town the authority to enter onto the site to verify that the cleaning program is being implemented.

9. The Homeowners Association shall be required to maintain the common area in a non-hazardous condition with regard to weed and brush overgrowth and tree trimming for defensible space adjacent to the units.

10. In accordance with MMC Section 8.96.090-B-2, the Homeowners Association shall maintain any required fire protection systems in the common area, such

as fire hydrants, fire alarm systems, portable fire extinguisher and other fire protective appliance. Fire protection systems shall be retained in an operable condition at all times to the satisfaction of the Moraga Fire District.

11. If the Building Code standards for sound transmission between units as required under MMC Section 8.96.090-C-2 cannot be reasonably met, as determined by the Design Review Board when they review the project plans, then the noise deficiency existing between the units shall be disclosed to potential buyers of the units and included in the CC&Rs for the project.

12. The CC&R's shall prohibit changing, without association approval, flooring materials such as cushion back vinyl, which were installed to improve impact sound transmission.

13. In accordance with MMC Section 8.96.090-D, each dwelling unit shall be separately metered for gas and electricity. A plan for equitable sharing of communal water metering shall be developed before final map approval and included in the covenants, conditions and restrictions. Subsidiary water meters shall be installed for each unit and monitored by the Homeowners Association to help ensure conservation of water and the difference between the total amount of water used by the 8 units and the EBMUD master water meter will be the amount paid by the Association for landscaping irrigation.

14. Any new plumbing installed by homeowners shall use water saving appliances and devices.

15. The Homeowners Association for the subdivision shall follow East Bay Municipal Utility District (EBMUD) guidelines with regard to the use of equipment, devices and methodology for irrigation of the landscaping in the common areas that will provide long term efficient water use, the use of soil amendments and low water-requirement plants, and limited use of turf.

D. SUBDIVISION IMPROVEMENT PLAN REQUIREMENTS

1. The plans for all improvements, including new carport structures, patios, decks, lockable storage areas, trash enclosure and landscaping improvements for the project shall be submitted to the Design Review Board for review and approval prior to application for a building permit.

2. If the use permit (see Part 2, Condition A-10) is approved for the additional bedrooms for Units 4, 6 and 8, then the plans for these additions, including full building elevations shall be submitted to the Design Review Board for review.

3. In order to comply with MMC Sections 8.96.090-J and 8.76.100, the project shall have 16 covered parking spaces and 4 guest parking spaces for a total of 20 parking spaces. Unless it is proven to be infeasible to the satisfaction of the

Design Review Board, two (2) tandem covered parking spaces shall be added behind the parking spaces designated as P-15 and P-16 on the tentative map at the west side of Unit 1. A carport shall also be built over two (2) additional parking spaces, either spaces P-8 and P-9 or spaces P-9 and P-10. The remaining uncovered spaces, P-1 and P-10 or P-8 will become unassigned guest parking spaces for a total of 4 guest parking spaces.

4. In accordance with MMC Section 8.96.090-E, the location of the two hundred (200) cubic feet of enclosed weather-proof and lockable private storage space for each unit shall be included on the improvement plans submitted for Design Review Board approval. Standard closets for linen, pantry or clothes closets in bedrooms cannot be used to meet the 200 cubic feet requirement for private storage space and the space should generally not be divided into two or more locations. In accordance with MMC Section 8.96.090-J-2, the private storage area of one unit cannot overhang or take its access from the required off-street parking space of another unit.

5. In accordance with MMC Section 8.96.110, the improvement plans shall include an exterior private space for the exclusive use of each unit owner. The Design Review Board shall review the plans for the private patio, deck or balcony and shall confirm that the space meets the following requirements:

   a. The minimum area of the space shall be one hundred fifty (150) square feet.

   b. The space shall have a shape and size that allows for optimal usable space.

   c. The space shall be at the same level as, and immediately accessible from, a room within the unit.

   d. The space shall have at least two weatherproofed electrical outlets.

6. In accordance with MMC Section 8.96.090-F, the proposed laundry area in each unit shall be shown on the improvement plans.

7. In accordance with MMC Section 8.96.090-G, plans for landscaping improvements shall be submitted to the Design Review Board to significantly improve the appearance and quality of the project. Existing trees shall be maintained and new shrubs and ground cover shall be added to enhance the common areas of the project. Some of the landscaped areas may also provide for bio-filtration of storm water from drainpipes and paved surfaces. The landscape plans shall also be submitted for review and approval by the Moraga-Orinda Fire District.

8. The drainage issues cited by the assistant Town Engineer, John Sherbert, on July 19, 2007 shall be addressed on the improvement plans for the subdivision as follows:

   a. Plans for riprap or other discharge velocity control shall be submitted for the roof leader/downspout at the northeastern and southeastern corners of Units 2 and 4.

b. Plans for discharge velocity control shall be submitted for the roof leader at the northeastern corner of Units 6 and 8, which terminate in the driveway, but are currently routed with black corrugated pipe to the top of the steep slope at the east side of the units.

c. Plans for discharge velocity control shall be submitted for the roof leader at the southeastern corner of Units 6 and 8.

d. The correction of the drainage deficiencies noted in items a, b and c, above, shall incorporate “best management practices” (BMPs) such as cisterns, to reduce the velocity of stormwater run-off.

e. The plans shall include BMPs such as planters, to slow the runoff from the new carport roofs and existing roof areas where possible.

f. The concrete "v-ditch" down slope from the back of the complex is clogged with dirt and debris and shall be cleaned. Although part of the ditch appears to be outside of the property line, it is strongly encouraged that the entire ditch be cleaned to avoid having debris washing back into the drain area.

9. Any cracks or defects considered to be a tripping hazard by the Moraga Public Works Department in the existing sidewalk along Ascot Drive at the frontage of the property shall be repaired. An encroachment permit is necessary for any repairs deemed necessary.

10. All refurbishment and improvements to individual units shall be completed prior to close of escrow for each unit, including the following:

    a. In accordance with MMC Section 8.96.090-B-1, smoke detectors with an approved detector of products of combustion other than heat conforming to the latest U.B.C shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping in each unit.

    b. In accordance with MMC Section 8.96.090-C-1, mechanical equipment in the units, such as laundry equipment, dishwashers and air conditioner compressor motors, that could be a source of structural vibration or structure-borne noise shall be shock mounted with inertia blocks or bases or vibration isolators, or both, in a manner recommended by an acoustical engineer.

    c. In accordance with MMC Section 8.96.090-C-2, the walls, floors of the units shall be modified as necessary to conform to interior and exterior sound transmission standards of Chapter 35 (Appendix) of the Uniform Building Code. An acoustical engineer should be consulted to make recommendations for improvements to help reduce sound transmission between units, both vertically between floors and horizontally through common walls. The plans to improve the sound transmission between the

units shall be submitted to the Design Review Board for review and approval (See Condition C-13).

d. In accordance with MMC Section 8.96.090-H, the developer shall check, repair and replace as necessary all functioning items within the unit, including the dishwasher, garbage disposal, stove, refrigerator, hot water tank, air conditioner, furnace or heating unit, electrical circuits and plumbing.

e. Installation of new solid core entry doors and new deadbolt locks for each unit.

f. Installation of weather stripping for each unit.

g. Insulation shall be improved in attics to whatever extent possible, subject to staff review. Any discrepancy between current standards and the R values of the insulation in the existing walls and ceilings shall be reported to prospective buyers.

11. The recommendations in the Structural Inspection by Jaime P. Arafiles, dated November 13, 2005, shall be implemented as listed below, unless the site improvement and landscaping plans approved by the Design Review Board call for elimination or relocation of one or more of the design element on the list:

    a. Both buildings shall have a seismic retrofit to comply with current building code standards.

    b. Replace concrete stair and walk at entry to Unit Number 5.

    c. Replace wood retaining wall with concrete block wall at west side of Unit Number 5.

    d. Replace concrete walk at the west side of Unit Number 5.

    e. Replace concrete pavement at south end of driveway.

    f. Build concrete block retaining wall with foundation drains at south end of driveway.

    g. Replace wood stair with concrete stair at Unit Number 2 entry from garage.

    h. Replace concrete walk at Unit Number 2 entry from backyard.

    i. Install additional area storm drain near walk adjacent to Unit Number 2 entry from garage.

    j. Replace 4x4 posts and piers with new concrete piers and grade beams at both east and west buildings.

12. The defects listed in the Property Investigation by Foster Engineering, Inc, dated January 25, 2005, shall be corrected and the recommendations implemented as listed below, unless the repair is considered redundant with the recommendations of the Jaime P. Arafiles Structural Inspection listed in condition 14 and the recommendations in the Seidelman Associates Geotechnical Evaluation dated May 13, 2006:

    a. For purposes of consistency with other conditions in this Resolution, the "East" Building in the Foster Report is most likely the North Building or Units 1-4 and the "West" Building is probably the South Building or Units 5-8. However, this should be confirmed with Foster Engineering, Inc. by the applicant.

    b. Perform calculations to determine the adequacy of the retrofit work in place and rear floor framing on the North Building.

    c. Re-level the rear of the property by installing a new grade beam supported by steel pipe columns extending into rock. Construct a pony wall to the underside of the floor framing on the North Building.

    d. Upgrade existing drainage system along the north building line.

    e. Repair deck foundation conditions at North Building.

    f. Level walkway adjacent to the North Building.

    g. Perform a detailed investigation of the property to determine code deficiencies and other mechanical and electrical issues for both the North and South Buildings.

    h. Perform structural calculations to determine adequacy of South Building based on latest codes.

13. The recommendations in the Wood Destroying Pests and Organisms Inspection Reports for Units 1-4 and Units 5-8 by Q Termite Inc., dated September 13, 2005, shall be implemented for components of the project that are not entirely replaced with the refurbishment of the buildings and carports.

14. The recommendations in the geotechnical evaluation prepared by Seidelman Associates on May 13, 2006 shall be implemented as follows:

    a. Sandstone bedrock was encountered between 16 and 30 feet below the ground surface and foundation piers should extend into the firm underlying soils and designed to resist creep forces in the upper 6 feet of the soil profile.

    b. Special adherence to all seismic codes is strongly recommended due to the regional proximity of the Concord, San Andreas, Calaveras and Hayward Faults.

c. The addition to the apartment complex should be constructed upon grade beams supported by drilled cast-in-place concrete piers that are 14 to 18-feet deep and 16 to 18-inches in diameter. The piers may be spaced as much as 10-feet on center.

d. Underpinning of the existing foundation along the suture line with the new additions is recommended to minimize differential movement between the different foundation types.

15. The applicant shall address any recommendations or concerns expressed by the Town's Geotechnical Peer Review consultant after they complete their review of the geotechnical report submitted by Seidelman Associates dated May 13, 2006.

16. The applicant shall consider using permeable pavers for the new open guest parking spaces to help reduce the impact to added impervious surfaces on the property.

17. The refurbishment of on grade patio areas should consider the use of pervious pavers or wood decks to reduce the total impervious surface area.

18. All new windows shall be double glazed, all new appliances should be the most energy efficient models available and any new replacement plumbing fixtures, such as shower heads and toilets should be low flow design to reduce consumption of natural resources.

E. CONDITIONS PERTAINING TO CONSTRUCTION OPERATIONS FOR REFURBISHMENT OF THE APARTMENT COMPLEX

1. Construction shall take place on weekdays only between the hours of 8:00 AM and 5:00 PM. No construction shall be permitted on Saturdays, Sundays and Holidays.

2. Parking on Ascot Drive of grading equipment, tractor tread vehicles and any heavy construction vehicles used for refurbishment of the driveway, parking areas and landscape areas is prohibited. These vehicles shall be delivered to the property by trailer and kept on-site during the grading and construction operation. The applicant shall establish an on-site or off-site "staging area" for vehicles utilized by construction employees. The "staging area" and the method of transportation of the employees to the project site are subject to review and approval by the Planning Director.

3. If work on refurbishment of the parking and driveway or landscaped areas will result in areas of exposed soil during the Winter season, between October 1 and April 15, an appropriate storm water pollution prevention plan (SWPPP) shall be submitted no later than September 1 to the Town Engineer for

approval. The SWPPP shall be installed and certified as operational by the Town Grading Inspector by October 1.

4. The property owner and their contractors working on the refurbishment of the apartment complex for the condominium conversion shall be responsible for preventing spills of soil, rock or other construction debris on Ascot Drive and other Town streets. If any spills occur that are traced to the work at the project site, then the owner and their contractors will be held responsible for the immediate cleanup of the spill and repair of any damage that may have been done to the street. The correction of the problem shall be made to the satisfaction of the Town Engineer.

5. Ascot Drive in the vicinity of the site shall be mechanically swept clean of any construction or demolition debris that is tracked onto the street by vehicles hauling materials from the site, including mud or dirt from the tires of the vehicles.

6. Any dust producing material shall be covered while being hauled, and on-site storage piles of dust producing material, such as new top soil for landscaping, shall be covered or watered down twice daily.

7. Equipment used for project construction shall have hydraulically or electrically powered impact tools (e.g., jack hammers, pavement breakers, and rock drills) whenever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. Whenever possible, quieter procedures shall be used such as drilling rather than impact equipment.

8. Temporary noise barriers shall be used to provide noise shielding of stationary noise generating equipment, such as air compressors and concrete pumpers, when construction activities are within I00 feet or less of adjacent residential land uses, and are expected to continue for more than three days in a specific area. The noise barrier should block the line-of-sight between the noise creating source and the adjacent dwelling units. Typically this will provide 5 to 15 dBA of noise reduction.

9. All construction equipment operated at the project site shall be equipped with manufacturer's standard noise control devices (i.e., mufflers, intake silencers, and/or engine enclosures). Equipment used for project construction shall utilize the best available noise control techniques to maintain noise levels within the Federal Government established noise control requirements shown in the following Table.

RECOMMENDED NOISE LIMITS FOR CONSTRUCTION EQUIPMENT

Equipment Type	Leq at 50 Ft.	Equipment Type	Leq at 50 Ft.
Air Compressor	75 dBA	Loader	75 dBA
Backhoe	75 dBA	Pneumatic Tool	80 dBA
Concrete Mixer	75 dBA	Pump	75 dBA
Crane, Derrick	75 dBA	Rock Drill	80 dBA
Crane, Mobile	75 dBA	Saw	75 dBA

Equipment Type	Leq at 50 Ft.	Equipment Type	Leq at 50 Ft.
Dozer	75 dBA	Scraper	80 dBA
Generator	75 dBA	Shovel	75 dBA
Grader	75 dBA	Truck	75 dBA
Jack Hammer	75 dBA		

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga on August 6, 2007 by the following vote:

AYES: Commissioners Whitley, Hays, Hiett, Goglia, Kirkpatrick and Levenfeld

NOES: None

ABSTAIN: None

ABSENT: Commissioner Sayles

_____
Bruce Whitley, Chair

Attest:_____
Lori Salamack, Planning Director