

**TOWN OF MORAGA
DESIGN REVIEW BOARD MEETING
MINUTES**

July 8, 2013

I. CALL TO ORDER AND ROLL CALL

A Regular Meeting of the Design Review Board (DRB) was called to order by Chair Helber at 7:00 P.M. in the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.

Present: Boardmembers Glover, Kirkpatrick, Chair Helber

Absent: Boardmembers Escano-Thompson, Zhu

Staff: Pierce Macdonald Powell, Senior Planner

B. Conflict of Interest

There was no reported Conflict of Interest.

C. Contact with Applicants

There was no reported contact with applicants.

II. PUBLIC COMMENTS

There were no comments from the public.

III. DESIGN REVIEW

A. 271 Donald Drive

Applicant: Douglas and Sandra Jamieson

Proposed Application: Request for Design Review Permit to construct a 515-square-foot residential addition in a side yard setback. The Planning Commission approved a Variance for side setback on June 17, 2013.

CEQA Status: Categorically exempt pursuant to Section 15301 ("Existing Facilities")

Senior Planner Pierce Macdonald Powell presented a request for the construction of a 515-square-foot residential addition in a side yard setback for property located at 271 Donald Drive. She reported the Planning Commission had reviewed the project and had approved a Variance application for side setback on June 17, 2013, and had also discussed screening on the north side of the roof. The Planning Commission had concluded that the addition would be adequately screened due to the limited side yard setback and due to an existing fence and vegetation on the neighboring property.

Ms. Macdonald Powell suggested this would be an opportunity to provide landscaping around the proposed addition which would enhance the appearance of the new expansion and the property, as a whole. She advised that the applicant had submitted a conceptual drainage plan which also showed a variety of plant material in the backyard; although it had not included plant species, size, paving, groundcover, or irrigation. Staff had not been able to determine the consistency of the proposed landscaping with the Town's Design Guidelines. She stated that a condition of approval had been added to Attachment A to the staff report dated July 8, 2013, the Draft Action Memorandum, requiring the drainage and landscape plan to be submitted with irrigation notes for staff review and approval prior to the issuance of a building permit.

Ms. Macdonald Powell advised that the Draft Action Memorandum contained the typical conditions of approval placed on new construction. Referring to Condition 7, the Action Memorandum required the conceptual drainage plan to be revised and updated, with the drainage and landscaping plan to be reviewed and approved by the Planning Department subject to specific criteria including consistency with the Town's Design Guidelines. She also referred to the other staff report attachments: B, Design Guidelines Conformance Analysis; C, Project Plans; and D, Photographs Provided by the Applicant.

Boardmember Kirkpatrick questioned whether the Town had required backyard landscaping in the past, and questioned the appropriateness of the Town requiring backyard landscaping given the existing conditions and the existing screening provided on the neighboring property.

Planning Commissioner Stacia Levenfeld offered a brief background of the Planning Commission's discussions and could not recall that the Planning Commission had specifically discussed landscaping; although some Commissioners had found that five feet was too small to require any landscaping given the closeness of the neighboring fence, where it would be difficult to maintain landscaping.

Ms. Macdonald Powell clarified the basis for drainage information and the Town's Clean Water Act regulations as required by Public Works review. She clarified Condition 7 (a) requiring drainage from the addition to drain to a bio-filter, noting that even if the DRB were to strike Condition 7, Condition 7 (a) could remain as a Public Works Department requirement.

PUBLIC COMMENTS OPENED

Douglas Jamieson, 271 Donald Drive, Moraga, explained that prior to the Planning Commission hearing for the Variance application, he had considered landscaping and had held several meetings with staff. He commented that he had been able to secure a drawing as part of a project the Town had accepted in the past for a bio-filter and four downspouts, which his architect had used to formulate a design with Town staff. After that work was complete, staff had pointed out that no plant species had been identified on the plans. At this meeting he provided an updated landscape plan to the DRB for the backyard identifying the plant species, an amended drainage plan, and the plant species for the bio-filter.

Mr. Jamieson acknowledged that while the backyard landscaping was not an integral part of the process, as staff had mentioned, a landscape plan would be a good idea and would be able to present a more complete and comprehensive package for the addition/remodel. He said that his Landscape Architect had also prepared an irrigation plan which he also provided to the Board as part of the updated landscape plan. He advised that it was his intention to be able to use the existing gutter and downspouts on the roof which occupied the area where the garage was located, which would be covered by the addition, and which drainage would handle the north side of the home. He commented that the drawings could be amended to reflect that intent if that was the direction of the DRB. As a result, the bio-filter aspect was to be addressed through one of those gabled ends only. In addition, he clarified his understanding that the Town no longer issued permits to cut curbs and that property owners were required to handle water from impervious surface areas by other means, which the bio-filter process was intended to address.

PUBLIC COMMENTS CLOSED

Boardmember Kirkpatrick understood the intent of the bio-filter and drainage requirements in the conditions of approval to ensure the roof from the new addition would be appropriately drained.

Chair Helber spoke to the C.3 Clean Water regulations and acknowledged the project did not meet the C.3 threshold; although the applicant was striving to include some green features. He commented on the benefit of collecting runoff and using the runoff to irrigate the grounds and, through a percolation process, remove some of the particulate matter from the roof prior to reaching the natural streambed and ultimately the Bay.

Ms. Macdonald Powell spoke to the findings required for water efficient irrigation and suggested that if the DRB agreed to include Condition 7 (a), it would offer certainty and assurance the applicant was prepared to address those standards. However, if the DRB had a policy not to review rear yards with the exception of accessory structures, staff would accept that direction.

Chair Helber stated that he did not want to set a precedent that the Board does not review rear yards.

Boardmember Kirkpatrick understood the next step after this hearing was for the applicant to secure the services of a contractor to build the addition. He recommended the applicant indicate on the drawings where the drainage would go on the north side of the roof for the benefit of the future contractor. He also spoke to the fact that the Town has a time limit requirement for material staged in the front of a home.

Mr. Jamieson stated that a downhill neighbor to the south had a large area with a removable fence for the purpose of access and there should be no issues with respect to the storage of materials in front of the property.

Chair Helber identified the area adjacent to and across the fence where substantial oleander bushes were located. While he understood the concern of the Planning

Commission for a buffer, with a 5-foot setback and a 3-foot wide sidewalk only 2 feet of planting area would remain. In his opinion, there was insufficient area to provide adequate planting material of any size. Chair Helber asked the applicant what was proposed for that area.

Mr. Jamieson commented that the area along the garage was a pathway that was approximately 30 inches wide, and another 24 plus inches wide of gravel up to the end of the northeast corner of the garage where the concrete wrapped around and would be underneath the proposed addition. He planned to provide an area that would link the front with the rear yard without having to step into the dirt. As such, he planned to extend the pathway. He added at the time that the variance concept had been discussed, he had approached nine neighbors in the immediate area with the exception of those residing on Birchwood Drive, expressing the willingness to work with them to mitigate and address any concerns. None of his neighbors had expressed any objections to the project.

Chair Helber also spoke to Condition 6 related to the lighting proposed as part of the project and clarified with the applicant the intent to install wall sconces on either side of the door of the addition to match that existing on the main home. Lighting specifications were presented to the Design Review Board. Chair Helber clarified that, of the three lighting options, none would include a frosted bulb; a 25-watt bulb would be used at the rear yard and a 40-watt bulb at the front of the addition.

Chair Helber was not concerned with minimizing the wattage given the limited light spillage or light pollution, but he recommended that Condition 6 be revised to read:

6. *The applicant shall revise and re-submit the proposed lighting specifications that avoids off-site glare and that the proposed lights would be deemed compatible.*

Chair Helber supported the addition and the expansion of the rear yard landscaping. He added that the irrigation plan had not shown irrigation where the proposed rain gutter would be located and he recommended consideration of supplemental irrigation during the summer months.

Mr. Jamieson explained that the revised plan had been hastily prepared to show the intent of the addition. He emphasized the intent for complete and comprehensive landscaping for the property.

Ms. Macdonald Powell asked the DRB to clarify whether the irrigation and landscaping plan was something that staff or the DRB should be asked to approve. In her opinion, the plan could be approved at the staff level.

On motion by Boardmember Glover, seconded by Boardmember Kirkpatrick to adopt the Draft Action Memorandum dated July 8, 2013, approving Design Review 05-13 for Jamieson at 271 Donald Drive, subject to the findings and conditions of approval as shown, and with the modification to Drawing L1-04 to show the disposition of the runoff from the north side of the roof addition, to be approved by staff; revision to Condition 6 to reflect the details of the light fixtures as submitted, to be provided to staff; the

irrigation plan yet to be submitted, to be reviewed and approved by staff; and striking Condition 7(d). The motion carried by the following vote:

Ayes: Glover, Kirkpatrick, Helber
Noes: None
Abstain: None
Absent: Escano-Thompson, Zhu

Chair Helber identified the 10-day appeal process of a decision of the DRB in writing to the Planning Department.

IV. ROUTINE AND OTHER MATTERS

- A. Consider a Recommendation to the Planning Commission to **Amend Title 2.20, Design Review Board, and Chapter 8.72 (Design Review) of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code.** Consider proposed text amendments prepared by staff in response to Design Review Board and Planning Commission comments. **CEQA Status:** Exempt pursuant to Section 15378, Project, of the CEQA Guidelines, because "project" under CEQA does not include organizations or administrative activities of government that will not result in direct or indirect physical changes in the environment.

Ms. Macdonald Powell presented the proposed text amendments to amend Title 2.20 (Design Review Board) and Chapter 8.72 (Design Review) of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code (MMC) as prepared by staff in response to DRB and Planning Commission comments. The item had previously been presented to the Planning Commission on June 17, 2013 and July 1, 2013. The Planning Commission had encouraged staff to broaden the public outreach, and staff was in the process of conducting enhanced outreach for a July 29, 2013 Planning Commission/Community Meeting. Public noticing had been conducted in the local newspapers, with postings, notice on the Town's website, the About Town newsletter, and to those who subscribed electronically to receive Town agendas.

Ms. Macdonald Powell clarified that the proposed text amendments would not change the scenic corridor laws and grading permit regulations, which would still require design review consideration when certain thresholds were met. She advised that the staff report dated July 8, 2013 included comments from prior DRB meetings and from the July 1, 2013 Planning Commission meeting. The Planning Commission had continued the item to July 15, 2013 and recommended the item be brought back to the DRB for further review and comment. She identified Attachment A, the text amendments with all changes made since the Planning Commission reviewed them on July 1, 2013.

Boardmember Glover reiterated comments he had made during a previous DRB meeting, that applications should not only include soils and engineering reports but also include additional structural and geotechnical design. He pointed out typographical errors to the first bullet under "Implementation," as shown on Page 7 of the staff report; recommended references to *Commissioners* be corrected to read *Boardmembers*; and that the last sentence of the first bullet point on Page 7 be amended to reflect

Boardmembers suggested that the guidelines should be reinstated whenever requested by the DRB.

Boardmember Glover also referenced Section VI. Exemptions for Non-Single Family Zoning Districts, Item 3, as shown on Page 8 of the staff report. He said the list of types of projects requiring building permits and/or land use permits would be appropriate for exemption in Multifamily, Commercial, and Institutional Zoning Districts after review by the Design Review Administrator. He recalled that the DRB had decided, as an example, that a substitution of "synthetic materials" would be acceptable for decking.

Boardmember Glover referenced Attachment A, MMC Chapter 8.72, Design Review with Text Amendments, and made the following recommended revisions:

- Page 1, Article 1, General Provisions, Section 8.72.020 (Purpose), he clarified with staff that ridgelines fall under scenic corridors and slope density laws and were also addressed in the Moraga Open Space Ordinance (MOSO) regulations. He affirmed that MOSO could be added to Section 8.72.020 (Purpose) to provide better clarity;
- Page 4, Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.060 (Generally), he clarified with staff that the language in this section sets up a procedure that an applicant would go through and begin with Design Review Administrator review and then proceed to Section 8.72.090 (Procedure for review) with the language as shown, requiring DRB review and allowing only minor projects an exception from the requirements;
- Page 5, Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.070 (Required information for application under Section 8.72.060), Item A, (2) should be amended to read: Record of Survey; and Item A (5) should be amended to read: Temporary or permanent signs;
- Regarding page 6, Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.080 (Standards for reviewing applications as required by Section 8.72.060) and Section 8.72.090 (Procedure for review) subsections B, C, and D, he clarified with staff that the language came directly from the MMC, the definitions would not replace the Design Review Guidelines, that were standards in addition to the Moraga Design Guidelines, and applications would be required to conform to both regulations.
- Page 9, Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.090 (Procedure for review), Item 14, he clarified that the language was part of the MMC and that MOSO was part of the MMC;

- Page 10, Article 4, Hearing and Appeal Procedures, Section 8.72.120 (Imposition of conditions of approval), he clarified that the language came directly from the MMC but could be amended to reflect that the application must comply with the applicable "design review findings and guidelines."

Boardmember Glover requested the following amendments to Attachment B, Implementation Procedures:

- Page 1, Implementation of Draft Design Review Ordinance, Item 4 (c), he clarified with staff how the Design Review Administrator would address issues of setback variances in existing easements, with staff advising if a project was exempt from DRB review, it would not mean it would be exempt from the zoning regulations. She stated that the Design Review Administrator did not have the authority to grant a variance or to supersede a private easement agreement. Staff also clarified Page 2, Item 4 (d), and explained that the distinction that staff was trying to describe in that paragraph was that Item (c) could be a new fire pit or barbeque on an existing patio, but the exemptions did not include a new patio. The addition of a new patio in an area landscaped and close to a neighbor's bedroom would still require design review.
- Staff acknowledged a typographical error on Item 6, as shown on Page 2.
- In addition, staff clarified Item 8, on Page 2. Board Members recommended that the DRB receive said information in a more timely manner. Staff advised the DRB that administrative design review notices of approval are sent 10 days prior to action being taken on the item and the same letter sent to the neighbors within 300 feet would be sent to DRB members to allow for comment on an application. After that notice there would be another 10-day appeal period after administrative action is taken.

Ms. Macdonald Powell again referenced Attachment A, MMC Chapter 8.72 Design Review with Text Amendments, Article 4 Hearing and Appeal Procedures, Section 8.72.120 (Imposition of Conditions of Approval), and clarified that although she had recommended the word "findings" previously in the meeting, the MMC used the word "standards" as shown in Page 7, Section 8.72.080 (Standards for reviewing applications as required by Section 8.72.060), and recommended the first sentence be amended to reference "Design Review Guidelines or standards" rather than "findings."

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

When asked, Ms. Macdonald Powell clarified that the Design Review Administrator would be a current staff member and was currently identified as the Planning Director.

Chair Helber requested the following amendments to Attachment A, MMC Chapter 8.72, Design Review with Text Amendments:

- Page 1, Article 1, General Provisions, Section 8.72.020, Purpose, he clarified with staff the intent of the new language as shown in the first paragraph, and recommended striking the use of the language to the exterior as shown in the last sentence;
- Page 6, Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.070 (Required information for application under Section 8.72.060.C), subsection C, he recommended that the section be revised after review of language from other jurisdictions to better clarify the requirement for story poles;
- Page 8, Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.090 (Procedure for review), Item 3, he recommended the section be amended to read: *Normal repairs, replacement and maintenance of existing construction, so long as there is no substantial change in the materials, design and size of the feature being repaired or replaced except as required by the State Building Code;*
- Page 9, Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.090 (Procedure for review) Item 11, he recommended it be revised to read: *Skylights no more than twenty-four (24) inches in diameter not visible from the street;*
- Page 11, Article 5, Design Review of Above Ground Installations in the Public Right-of-Way, Section 8.72.180 (Design Review of Above Ground Installations), he disagreed with the language which exempted all Town projects and clarified with staff that section, including all of other recommended amendments, had yet to be reviewed by the Town Attorney, with staff to determine whether that section could be amended.

Ms. Macdonald Powell also clarified that the language that had been shown in underline format on Page 12 for Article 6, Section 8.72.210 (Violation – Penalty), had come directly from the MMC and was not new or revised language.

Chair Helber again clarified with staff that Article 3, Design Review in Land Use Districts Other than Single-Family Residential, Section 8.72.090 (Procedure for review), that the Design Review Administrator was staff, currently identified as the Planning Director, and was not a newly funded staff position. He acknowledged the DRB had reviewed this item on two subsequent occasions and he recognized the staff effort to move the process forward. He also acknowledged the intent to streamline the process for staff and the citizenry and anything that could be done to achieve that effort was supported. He supported the text amendments, as amended and as discussed, and he supported a favorable recommendation to the Planning Commission from the DRB.

Boardmember Kirkpatrick recalled in the past applications had gone to the Planning Commission and then on to the DRB particularly for variance applications. He cited the

first agenda item and was pleased to see that the Planning Commission had acted on the application prior to DRB review. Boardmember Kirkpatrick supported a revision to the current process to reduce the number of required public hearings and to allow the sequence of events to be more logical, easing some of the pain with respect to processing requirements.

Boardmember Glover agreed with the effort under discussion and made a motion to move the effort forward with a positive recommendation to the Planning Commission.

On motion by Boardmember Glover, seconded by Boardmember Kirkpatrick to recommend the Planning Commission approve a recommendation to the Town Council to Introduce and Adopt an Ordinance Amending Title 2.20, Design Review Board, and Title 8, Planning and Zoning, of the Town of Moraga Municipal Code, including Design Review Sections 8.72.010 and 8.72.200, as amended and as discussed. The motion carried by the following vote:

Ayes: Glover, Kirkpatrick, Helber
Noes: None
Abstain: None
Absent: Escano-Thompson, Zhu

B. Planning Commission Liaison Report - Levenfeld

Planning Commissioner Levenfeld reported that both DRB agenda items had been discussed by the Planning Commission during recent meetings. The Commission had last met on July 1, 2013 and had discussed and approved a request for an interior addition to a single-family residence which expanded the Floor Area Ratio (FAR). Staff was asked to determine how to better streamline the process for such applications involving a Planned Development (PD) District which included a set FAR. The Planning Commission had also held a lengthy discussion, which she briefly outlined, on amendments to the zoning setbacks with no consensus on the options presented to the Commission. The item had been continued to the Planning Commission meeting scheduled for July 15, 2013. She affirmed, when asked by the DRB Chair, that the DRB's comments on the setback issue had been outlined in the staff report to the Planning Commission. She added that she had requested consideration of broader public noticing of the item given the potential impact to a large segment of the community.

Ms. Macdonald Powell affirmed the setback discussion had been continued by the Planning Commission to its July 15 meeting, although when the Commission met on July 15, staff would be recommending the item be continued again to a meeting scheduled for July 29, 2013. She too outlined the discussion held by the Planning Commission on July 1 with respect to the setback issue.

Chair Helber recalled that when the DRB had last discussed the setback issue there had been consensus of the three DRB members present at that time that an existing non-conforming use should be allowed to conduct repairs to maintain a property but not to expand on the non-conformity.

Ms. Macdonald Powell advised that the setback issue had not been scheduled to return to the DRB for further discussion unless requested given the DRB's comments that the issue was a high-policy issue that needed feedback from the Planning Commission. By consensus, the DRB asked that the issue return to the DRB for further comment given the potential impacts to a substantial number of residents.

V. REPORTS

A. Design Review Board

Boardmember Glover reiterated a prior request for staff to contact the property owner of the Shell gas station site, which was unsightly, located within the scenic corridor, and with a lack of maintenance of the barriers which posed a safety issue. He encouraged the submittal of an abatement letter to the property owner.

Ms. Macdonald Powell expressed the willingness to send copies of any abatement letters to the DRB and to the Planning Commission.

Chair Helber reported that he, Boardmember Glover, and Ms. Macdonald Powell had attended a neighborhood meeting at Moraga Country Club sponsored by City Ventures, which discussion he summarized at this time. The next meeting had been scheduled for July 16, 2013.

B. Staff

Ms. Macdonald Powell reported that Saint Mary's College (SMC) had obtained its permit for the Alioto Recreation Center, construction was due to commence, and a letter had been mailed to adjacent residents with SMC contact information. Information had also been posted on SMC's website.

VI. ADJOURNMENT

On motion by Boardmember Kirkpatrick, seconded by Boardmember Glover and carried unanimously to adjourn the meeting at 8:32 P.M.

A Certified Correct Minutes Copy



Secretary of the Planning Commission