

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

May 13, 2013

I. CALL TO ORDER AND ROLL CALL

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

Present: Boardmembers Escano-Thompson, Glover, Kirkpatrick, Zhu,
Chair Helber*

* Chair Helber arrived at 7:06 P.M.

Absent: None

Staff: Planning Director Shawna Brekke-Read
Temporary Planner Rebecca Atkinson

Conflict of Interest

There was no reported conflict of interest.

Contact with Applicants

There was no reported contact with applicants.

II. PUBLIC COMMENTS

There were no comments from the public.

III. ADOPTION OF THE CONSENT CALENDAR

A. Adoption of Meeting Agenda

On motion by Boardmember Glover, seconded by Boardmember Kirkpatrick and carried unanimously by those members present at the time to adopt the meeting agenda, as shown.

IV. PLANNING COMMISSION LIAISON REPORT

Planning Commissioner Teresa Onoda reported that the Planning Commission had met on April 15 and April 17.

The Planning Commission meeting on April 15 involved review and consideration of a new home at 1800 Donald Drive, and a lot line adjustment for 1043 Camino Pablo when the Commission had approved both projects. The project at 1800 Donald Drive had been appealed by neighbors and would be considered by the Town Council. The meeting on April 17 involved a public hearing on the adequacy of the Draft Environmental Impact Report (DEIR) for the Bollinger Valley Project.

V. DESIGN REVIEW

A Design Review DRB 08-13, 26 Fieldbrook Place - to construct a 186-square foot addition at the rear of the existing 2,486-square foot single-family residence on a 14,986-square foot lot. (3-DUA, RA)

Temporary Planner Rebecca Atkinson presented the request to construct a 186-square foot addition at the rear of the existing 2,486-square foot single-family residence on a 14,986-square foot lot in the three dwellings per acre (3-DUA) district at 26 Fieldbrook Place. The addition would be single story, not increase the height of the residence, continue an existing roofline, the roof pitch would remain the same as the existing residence, have east and south facing windows, and exterior light fixtures would be dark sky compliant. The applicant proposed to tie in the new roof leader drains to a bio-filter to prevent any drainage down the nearby slope, with a new patio; existing trees and landscaping would remain; and the design of the overall addition would match the existing residence

Ms. Atkinson explained that DRB review was required because the proposed eaves would encroach into the sideyard setback by two feet. The proposal also did not comply with the Town's Design Guidelines since the addition would create a blank wall of 18 feet in length as opposed to the Design Guideline of 15 feet pursuant to Section SFR2.9. She also asked the DRB to make a determination regarding Design Guideline SFR 1.10 as to the proximity of the foundation relative to the nearby top of slope.

Ms. Atkinson reported that staff had received no additional comments from the public on the application since the public notice was issued; the applicant had provided site photographs to illustrate the condition of the property; and staff recommended standard conditions of approval. She recommended approval of the project pursuant to the conditions of approval as contained in the May 13, 2013 staff report.

In response to the DRB, Ms. Brekke-Read explained that prior to 2000, staff had measured yard setbacks from the wall or foundation itself pursuant to the Moraga Municipal Code (MMC). In November of 2001, the Planning Department staff brought the topic of yard setback measurement to the Town Council for interpretation. At that time, the Town Council interpreted that setbacks should be measured between any point on a building and the property setback line. In

many cases, the building eave line is the furthest projection of a building to the property setback line.

Ms. Brekke-Read stated that staff was starting a list of Moraga Municipal Code changes to address. The Town Council policy regarding setback measurement has remained since November 2001. She explained that in recent conversations with the Town Attorney, the Town Attorney confirmed and was in agreement with staff that a variance would not be required to address the eave line for the current project.

Ms. Atkinson advised that the Moraga-Orinda Fire District (MOFD) had provided its standard response to the application with a recommended condition of approval in the DRB Draft Action Memorandum requiring the applicant to obtain MOFD sign-off on the plans.

Ms. Brekke-Read affirmed that if measurement of the sideyard setback was from the wall rather than from the eave, the project would be in compliance with the 10-foot setback requirement.

Ms. Atkinson added that drainage provisions had been incorporated into the site plan, and DRB members may want to consider additional conditions to incorporate the geotechnical report by reference.

PUBLIC COMMENTS OPENED

Leila Douglah, Douglah Designs, 3586 Mt. Diablo Boulevard, Lafayette, identified herself as the Interior Designer for the project. She explained that the applicant had proposed to remodel the existing hall bathroom by updating existing materials and to enlarge the master bathroom with a walk-in closet, shower, tub, double bowl vanity, and slightly larger bedroom. While working on the plans, the modern amenities had been found to be infeasible within such a small space and it would be necessary to extend the rear of the site to achieve the applicant's program requirements. A Soils Engineer had been retained to test the soil and found it to be acceptable with a raised floor foundation and with no need for piers; a Structural Engineer had also been retained and determined there were no problems. The designers had then commenced with a design for the project.

Ms. Douglah advised that attempts had been made to contact the Town although with a change in staff contact had not been made and the applicant had consulted with a member of the Planning Commission who had reviewed the plans and determined it was an over-the-counter permit application. With the submittal of the plans, it had been found that was not the case and the project had been split into two parts, with a permit for the hall bathroom and hopefully a permit for the master bathroom in time for the contractor to finish the hall bathroom. She noted the contractor was in a holding pattern waiting for permits for the master bathroom to allow construction to proceed.

Ms. Douglah spoke to the reasons requiring DRB approval and referred to the wall which exceeded 15 feet, which did not have an architectural feature, and which was the side wall at the 10-foot setback between the property and the neighbor. She explained if a window were to be installed in that wall, views would be of the neighbor's roof, and she recommended that no architectural feature be required such as a trellis as staff had recommended. As to the eaves which extended two feet into the setback, she understood the measurement was to the actual foundation and not to the eave. With the plans showing a simple ranch style home, she suggested it would appear awkward architecturally to follow the staff recommendation with the wall to go straight down. She also addressed the Town's Design Guidelines requiring 10 feet back from the top of slope, noting the applicant had been working from older plans and once that issue had been resolved a surveyor had been retained. The surveyor had staked the property and identified measurements of 6.5 to 7.5 feet. Referencing photographs of the property and homes to the west side, she noted those homes extended much further out on the hillside and stated the applicant was not asking for anything out of the norm from what currently existed in the neighborhood.

Bob Petterson, Douglah Designs, Lafayette, explained that the blank wall would be using vertical board siding, would appear similar to the wall (not stucco), and with the use of the siding it would add texture to the wall. He agreed that a trellis should not be required.

PUBLIC COMMENTS CLOSED

Boardmember Kirkpatrick reported that he had gone to the applicant's and neighbor's homes although no one had been home. He clarified with the applicant that the line of Italian Cypress trees between the two properties would remain.

Boardmember Zhu stated that while he respected and understood the reasoning for the blank wall, he recommended consideration of two high windows primarily for appearances.

Ms. Douglah understood there would be engineering and structural issues involved if more windows were installed in a sheer wall.

Boardmember Glover recommended that Condition 2 a. under Part 4 Conditions of Approval on Page 3 of 5 of the Draft Action Memorandum dated May 13, 2013, be stricken given that the wall referenced was a side wall, fenced, with trees to screen any views.

By consensus, the DRB eliminated Condition 2 a. of the Draft Action Memorandum.

Ms. Brekke-Read recommended a modification to Page 3 of 5 of the Draft Action Memorandum, Part 3: Design Review Findings, 3, by adding the following

statement: *The west elevation of the addition will be screened with existing trees and will not be visible off-site. In addition the west elevation's siding will be constructed of wood and will provide texture.*

The Chair requested further modification to Page 3 of 5, Part 4: Conditions of Approval 1, by adding the following statement: *The recommendations from the geotechnical letter dated April 18, 2013 shall be incorporated.*

Boardmember Zhu stated in general that he would support the measurement of setbacks to the building wall or foundation and that measurement of setbacks to eavelines could influence roof design.

Ms. Brekke-Read agreed the policy of measuring the setbacks was an issue that needed to be addressed.

Boardmember Kirkpatrick requested further modification to the last sentence of Page 3 of 5 of the Draft Action Memorandum, Part 4: Conditions of Approval 1, to read: *Any significant changes to the plans shall be submitted to staff for further review and if staff deems appropriate may require re-submittal to the Design Review Board for approval.*

On motion by Boardmember Kirkpatrick, seconded by Boardmember Zhu and carried unanimously to adopt the Draft Action Memorandum dated May 13, 2013 approving DRB 08-13 at 26 Fieldbrook Place, subject to the findings and conditions as shown, and as modified.

Chair Helber identified the 10-day appeal process in writing to the Town Clerk.

B. Design Review DRB 3-13, 350 Park Street - to construct a new +15-foot tall elevator on the exterior wall (west side) of the New Rheem Theater, a 4-screen multiplex movie theater with two storefront businesses and an existing upper level office, in the Community Commercial District (CC, PMP).

Ms. Brekke-Read explained that the New Rheem Theatre had an internal lift which followed the stairs but it had been intermittently out of operation over the years and the owner and operator were faced with an Americans with Disabilities Act (ADA) lawsuit. At one point, the upper screens had been closed given the lack of ADA access although two screens were now open. The New Rheem Theatre operated as a conditional use with some changes having occurred over the years including a division of the single theatre into four theatres, and a condition of approval at that time to accommodate ADA accessibility while preserving the historic fabric and future use of the building.

Since the internal lift was not operable, the operators had been working on a way to accommodate ADA accessibility. They ultimately reached a plan for an external lift, which had also been done in the Town of Danville. An external lift

requires DRB review and approval, given the location of the theatre in a Community Commercial District and in the scenic corridor.

Ms. Brekke-Read explained that the Project Planner had been working closely with the applicant. The Town Council had recently voted to refund the deposit to the theatre owners. This application is at no cost to the applicant. Staff had worked with the applicant to ensure that what was being presented to the DRB was a project that could ultimately be approved by the Building Department.

Ms. Brekke-Read recommended approval of the Draft Action Memorandum dated May 13, 2013, as shown.

PUBLIC COMMENTS OPENED

Leonard Pirkle, Operator, New Rheem and Orinda Theatres, explained that the lift had a one-person capacity; this type of lift was typically used by many businesses in an attempt to comply with ADA requirements and allow access to second floors; the New Rheem Theatre had been designed in such a way where there was no place to access the second floor other than from the outside, absent an incline lift which was financially unfeasible; the New Rheem Theatre had been and would likely continue to operate at a loss; anything done was with the understanding there would be no return on that investment; the theatre could not operate with one screen and needed at least two of the upper screens to operate; the numerous efforts over the years to repair the existing lift had been problematic; and a great amount of time had been spent to find ways to resolve access to the second floor resulting in the proposed external lift.

Responding to the DRB, Mr. Pirkle explained that the external lift would be able to be locked with locks at the bottom and top of the lift; would be locked when the theatre was closed for the evening; all mechanical components were located within the framework; the external lift was required to be operable by a disabled person; and all methods would be used to ensure the external lift was not an attractive nuisance for youth.

Boardmember Glover found two things missing from the application; no foundation had been shown on the drawings, although there had been a reference to the code, and the plans had not shown how the external lift would be attached to the building. He wanted to see those issues resolved as part of the application prior to issuance of a building permit.

Mr. Pirkle understood there would be building drawings showing the foundation, showing how the external lift would be attached to the building.

Boardmember Zhu desired to ensure that the structural aspects of the project would not be visible when the external lift was constructed. He found the design to be a sleek steel frame and if attachments were visible outside of the platform it would become a design issue.

Boardmember Glover noted it had been stipulated that the external lift would be beige in color; the DRB had a responsibility to have professionals review the structure; and a lift was a proprietary design and how it operated in conjunction to the building for safety reasons would be under the auspices of the DRB.

Chair Helber agreed that those issues should be reviewed prior to issuance of a building permit and recommended a condition of approval requesting that review prior to issuance of a building permit.

Mr. Pirkle noted that his architect Allen Sayles, a former member of the DRB, had provided what he [Mr. Sayles] thought the DRB needed.

Boardmember Zhu spoke to the location of the lift, having walked the building from the outside; he had tried to visualize the external lift in the middle of a blank wall. He asked whether it would be possible to relocate the lift from the middle of the wall to the corner of the building, he would prefer that it be less visible.

Mr. Pirkle noted that the external lift had been placed for convenience to allow equal distance to any of the theatres. He emphasized the time spent to reach the best solution. While he would have preferred something inside the theatre that had not been feasible.

Ms. Brekke-Read affirmed, when asked by the Chair, that wind load effects for the external lift would be reviewed by the Building Department, and the architect would likely provide construction drawings to the applicant, to then be provided to staff to ensure compliance. While staff had encouraged early County review of the plans, she was uncertain that had been done.

Boardmember Glover agreed the conditions should note that the foundation and seismic loads were to be considered in the drawings.

Ms. Brekke-Read recommended a modification to the Draft Action Memorandum, as follows:

- Page 2 of 3, Part 2: Conditions of Approval, add a new condition to read: *Prior to building permit issuance.*
The following reports shall be submitted:
 - (a) *Geotechnical review for the foundation by a registered Geotech.*
 - (b) *Structural design for attachments to the building and the foundation.*

Ms. Brekke-Read expressed her understanding that no lighting had been proposed as part of the application. Staff would review any lighting pursuant to Condition 9.

On motion by Boardmember Kirkpatrick seconded by Boardmember Escano-Thompson and carried unanimously to adopt the Draft Action Memorandum dated May 13, 2013 approving DRB 3-13 at 350 Park Street, subject to the findings and conditions as shown, and as modified.

Ms. Brekke-Read identified the 10-day appeal process in writing to the Town Clerk.

VI. ROUTINE AND OTHER MATTERS

There were no routine and other matters.

VII. REPORTS

A. Design Review Board

In response to Boardmember Escano-Thompson, Chair Helber updated the DRB on the May 2, 2013 DRB special meeting when he, Boardmembers Glover and Kirkpatrick, and the Planning Director had been in attendance. Staff had been able to make a determination the project at 1392 Rimer Drive was categorically exempt from the California Environmental Quality Act (CEQA), and the DRB had approved the project subject to modifications to the Draft Action Memorandum.

Chair Helber apologized for being late to the meeting due to a conflict.

B. Staff

Ms. Brekke-Read reported on staff's ongoing experience with applicants requesting Planning Commissioner or DRB Boardmember feedback on projects emphasizing that external changes required design review and discussions with staff.

Ms. Brekke-Read was keeping a running list of efforts for the planning department to undertake including a two-year program to overhaul the Zoning Ordinance.

Ms. Brekke-Read reported that the next meeting of the Planning Commission would include presentations from City Ventures and SummerHill Homes, with the Camino Ricardo project close to releasing a DEIR. Staff was also preparing responses to comments for the Bollinger Valley DEIR. She expressed her hope that the building permit for St. Mary's College would be issued in a month with the Town's Consultant working with SMC as much as possible through correspondence and meetings.

Boardmember Kirkpatrick asked that the DRB be provided with the re-written conditions of approval for DRB 3-13, to verify the DRB's determination.

Ms. Brekke-Read also reported on staff's attempts to achieve clarity with the MMC and when something must require DRB review and approval.

Boardmember Escano-Thompson requested half sized plans for future applications.

As to the Signature Homes proposal for the former bowling alley site, Ms. Brekke-Read reported Signature Homes either submitted revised full plans in the last week or is expected to submit early this week. In addition, the Town's CEQA consultant continued to work with SummerHill Homes on the appropriate environmental document for the General Development Plan and Tentative Map for Rancho Laguna II; the property owner of "painted rock" had asked staff to obtain a consultant for a development application for a winery/performing arts center/single-family residences at the northeast corner of Moraga Road; and the Livable Moraga Road project was still in contract negotiations, with staff close to bringing contracts for Town Council consideration.

VIII. ADJOURNMENT

On motion by Boardmember Glover, seconded by Boardmember Kirkpatrick, and carried unanimously to adjourn the meeting at approximately 8:25 P.M.

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Secretary of the Planning Commission

