

**TOWN OF MORAGA  
SPECIAL JOINT MEETING  
MORAGA TOWN COUNCIL AND PLANNING COMMISSION**

**NOVEMBER 30, 2011  
MINUTES**

**7:00 P.M. Special Meeting**

Joaquin Moraga Intermediate School Auditorium  
1010 Camino Pablo, Moraga, California 94556

**I. CALL TO ORDER**

The regular meeting was called to order at 7:04 P.M. by **Mayor Karen Mendonca**.

**ROLL CALL**

Councilmembers present: Mayor Karen Mendonca, Vice Mayor Michael Metcalf, and Councilmembers Ken Chew, Howard Harpham, and Dave Trotter

Councilmembers absent: None

Commissioners present: Chair Stacia Levenfeld, Vice Chair Dick Socolich, and Commissioners Bruce Whitley, and Roger Wykle

Commissioners absent: Commissioners Russell Driver, Jim Obsitnik, and Tom Richards

**II. PLEDGE OF ALLEGIANCE**

**Mayor Mendonca** led the Pledge of Allegiance.

**III. PUBLIC COMMENTS AND SUGGESTIONS**

Beverly Sowa, Moraga, reported that staff had been provided a packet of information dated November 30, 2011, regarding the five-lot development project on Kimberley Drive. She asked whether or not there had been any legal interpretation of the conditions of approval for that development, as requested in her correspondence, noting that staff had been asked months ago about the status of a lateral V-ditch for Lot 1. She sought an opinion on that matter from the Town Attorney.

Planning Director Shawna Brekke-Read advised that there was an active application for property located at 8 and 10 Kimberley Drive which was scheduled to be considered by the Planning Commission in a public hearing at its first meeting in December. Staff had not released the staff report or the recommended conditions of approval at this time to the Planning Commission. She noted that only inquiries from the Planning Commission, Town Council, or staff were forwarded to the Town Attorney.

**Mayor Mendonca** directed the interested members of the public to contact the Planning Director for any updates on the project.

## VI. ADOPTION OF THE MEETING AGENDA

### PUBLIC COMMENTS OPENED

There were no comments from the public.

### PUBLIC COMMENTS CLOSED

**ACTION: It was M/S (Chew/Harpham) to adopt the meeting agenda, as shown. Vote: 5-0.**

## V. NEW BUSINESS

- A. Consider Economic Development Action Committee's Recommendations for Rheem Planning Area Revitalization
- B. Provide Direction to Planning Staff Regarding Planning Procedures, General Plan, Zoning Ordinance, and Application to Designate Rheem Planning Area a Priority Development Area (PDA)

Town Manager Jill Keimach explained that the Town Council and the Planning Commission had not met jointly for four to five years. Since the Economic Development Team and the Economic Development Action Committee (EDAC) had been working on goals to revitalize the Rheem Planning Area, the purpose of the meeting was to allow both the Town Council and the Planning Commission to jointly discuss and offer direction on the recommendations from EDAC, and direction to planning staff on planning procedures, General Plan, Zoning Ordinance, and an application to designate the Rheem Planning Area as a Priority Development Area (PDA).

Renee Zeimer, a member of Economic Development Team, presented a PowerPoint presentation on its outreach efforts to revitalize the Rheem Planning Area and the Town's economic efforts overall. She explained the background of the formation of EDAC, which the Town Council had chartered last spring. The purpose of EDAC had been to support the goals of the Economic Development Team to develop a town-wide ordinance to streamline community supported retail and compatible land uses and to revitalize the Rheem Center. After discussions, EDAC had decided to limit the scope of streamlining, clarifying uses and planning processes to the Rheem Planning Area since the Moraga Center Specific Plan (MCSP) had already been approved.

Ms. Zeimer explained that EDAC had formed three working groups including Visioning, Streamlining, and Marketing. The Visioning group had organized two community workshops and had created a vision statement to describe EDAC and its vision for the Rheem Planning Area. The Streamlining group had reviewed town ordinances, business guidelines and processes, and the Marketing group had worked closely with the Moraga Chamber of Commerce to advance the marketing goals of the Chamber, specifically the efforts to revitalize Shop Moraga First. Based on those efforts, a draft vision for the Rheem Planning Area had been created.

Allen Sayles, a member of EDAC, described the discussions with the community which had led to the following recommendations.

1. Beautification projects to improve the outdoor aesthetics and functionality of the Rheem Center, with recommended projects to include:

- Reconfiguration and replanting of the concrete planters to break up the linear configuration of the Rheem Center and increase outdoor seating;
  - Refurbishing and maintaining information kiosks; and
  - Repair and repaint The Park in Rheem Valley entry statements.
2. Grant applications to fund pedestrian, bicycle, and vehicular improvements to roadways and paths within the Rheem Planning Area and on access routes.
  3. Permitting process revisions to offer greater guidance and ease in the permitting process and to minimize delays.

Holly Lucas-Alcalay, a member of EDAC, outlined the proposed medium-term projects as follows:

1. General Plan and zoning changes that reflect community objectives for a mixture of uses in the Rheem area and pedestrian-oriented development.
2. Streetscape and signage upgrades to improve visibility and design, and showcase the Rheem Valley Planning Area as a public destination, with a particular emphasis on a gateway and intersection improvements at Rheem Boulevard and Moraga Road.
3. Marketing plan to make Moraga attractive to desirable businesses and support efforts of commercial brokers and business owners to market the businesses to residents and visitors to the Town. This plan would build on the Town's existing connections with the theater, local winegrowers, and Saint Mary's College.

Ms. Lucas-Alcalay commented that a long-term strategic plan was necessary to implement the structural renovations and development of the Rheem Planning Area, and the use and development of the Rheem Area itself was needed including land use and development guidelines. In order to implement those programs, EDAC had voted at its November meeting to recommend that the Town add a paid part-time Economic Development Coordinator position. It was recommended by staff that the position not be a permanent staff position but rather an extendable one-year contract position. The Town Council and the Planning Commission were asked to provide direction regarding the proposed strategic approach for the Rheem Planning Area Revitalization.

Ms. Zeimer took the opportunity to thank the members of EDAC for all of their hard work.

**Mayor Mendonca** also expressed her appreciation to the members of EDAC and to Town staff and those Councilmembers who had served on the committee.

#### PUBLIC COMMENTS OPENED

Dale Walwark, Moraga, questioned how the Town would be able to achieve the recommendations for streamlining to reduce delays in permitting retail given past applications for Orchard Supply Hardware (OSH) and the Dollar Tree Store, as examples. He stated that those projects had taken an extensive amount of time, not because of the Town's ordinances, but because of public interest. He questioned how streamlining to save staff time and money could be accomplished within the same type of environment that had surrounded the OSH and Dollar Tree applications. He recommended that the Planning Commission and the Town Council make decisions and not draw out the process by referring matters back to staff. He also questioned how the permitting process could be legally streamlined given that public input was required.

Rich Larsen, a member of the Economic Development Team, clarified the issue of streamlining. He said the most important thing the Planning Commission and the Town Council could do was to ensure that the Town adopted new zoning regulations and ordinances which would permit certain uses to be automatically approved. He noted that the Economic Development Team and staff had spent a great deal of time considering various ways to modify the Town's ordinance. He was disappointed that EDAC did not recommend specific changes that had been discussed and debated. He urged the Council and Commission to consider what uses should be permitted so that when a particular use was proposed, it was clear whether it was a conditional or permitted use, which would streamline and simplify the permitting process. He suggested the Town could require a Conditional Use Permit for a new use of 6,000 sq. ft. or more. As an example, he referred to a gift shop recently proposed for the Rheem Center which required Planning Commission review and which, in his opinion, should have been a permitted use that did not require Planning Commission review.

Dusty Robison, Moraga, thanked everyone involved in EDAC for volunteering their time, interest, and energy on behalf of the community. She asked the Town Council and the Planning Commission to respect the vision the community had created for the Rheem Planning Area and to take action on that vision.

Larry Tessler, a member of EDAC, echoed Mr. Larsen's comments, noted the amount of time EDAC had spent reviewing the Town's ordinances and the recommendations on what would be good for the Town, emphasized the fact that the proposed work program was a revenue generator and suggested there was no reason the retail revenue could not be increased for the Town if done right, and urged the Town Council and Planning Commission to make timely decisions.

Roger Poynts, Moraga, stated that the Rheem/Moraga Road intersection would lend itself to a traffic circle with an entry statement in the center. Given the numerous ways to access the intersection and enter the end of the shopping center, he suggested that the area would be improved if the entrance was relocated and the side road past the repair shop was turned into a bicycle path. Having attended all of the EDAC public meetings, he explained that all of the participants had been passionate about improving that intersection and he suggested the Town would have volunteers to help in that regard. He urged consideration of a specific direction in which to take the Rheem Center and the intersection.

Edy Schwartz, a member of EDAC and President of the Moraga Chamber of Commerce, stated that she had also attended many of the public EDAC and RECON meetings, emphasizing the time spent on community input. Based on her experience, she emphasized the importance of volunteers and the number of opportunities that could be considered to achieve the goals and objectives that had been outlined. She offered advice on the proposed part-time Economic Development Coordinator position and agreed with the need to provide pedestrian, bicycle, and vehicular improvements along Moraga Road into the Rheem Planning Area given the safety hazards involved. She urged the Town Council and the Planning Commission to not only be fiscally responsible but to recognize the numerous opportunities that could be considered to achieve the stated goals.

#### PUBLIC COMMENTS CLOSED

In response to Planning Commission Chair Levenfeld, Ms. Lucas-Alcalay explained that when the process had first started the former Planning Director had provided EDAC with recommended language changes to the Zoning Ordinance which had been taken from the MCSP. She believed that the Moraga Municipal Code (MMC) was flawed, and had been used as a reason for approving the Dollar Tree application which was one of the reasons the

application had not been resolved satisfactorily for many. In an effort to encourage the retail desired in the Town, EDAC had outlined those uses that should be conditional or permitted, which reflected the notes from all of the EDAC discussions.

**Commissioner Socolich** understood the desire that specific uses be allowed and streamlined which reflected the vision desired in the community based on the community workshops. As a Planning Commissioner for a number of years, he acknowledged that the Commission must work within the existing ordinances and regulations. As to the recent application for a gift store, he noted that the Commission had spent little time on the consideration of that application. The Dollar Tree application had involved more extensive time given the opposition to that use. He supported a streamlined process but questioned how the public would remain involved in what had been proposed for the Rheem Planning Area.

Ms. Lucas-Alcalay commented that as an appellant to the Dollar Tree application, one of the opposition's concerns was that the business sold food items. Based on the MMC, any business that sold food or beverages was a conditional use. Other businesses in the Rheem Valley Shopping Center, such as Home Goods and TJ Maxx, also sold food items and had not been categorized as a conditional use. Therefore she understood the Town believed a precedent had been set which she characterized as a flaw in the MMC. She recommended creating a structure to address those concerns and noted that the community's vision could be used as an outline.

**Councilmember Trotter** agreed with the comments from Commissioner Socolich as to how the public would remain involved with a streamlined process, was pleased that the recent application for a gift store had been quickly approved by the Planning Commission, cited the applications for OSH in 2004 and Dollar Tree in 2010 which had involved extensive public input on those Use Permit applications, but commented that other non-controversial retail uses had been addressed by the Planning Commission over the years in an expeditious way. He suggested that the current regulatory framework was not as unbalanced as some had suggested. He added that the General Plan called for a Specific Plan for the Rheem Planning Area. The MCSP had been completed and approved in 2010. He suggested that there were strong and good ideas in the EDAC report to help implement a Rheem Valley Specific Plan process, and now was the time to commit time and resources to that process.

**Councilmember Trotter** noted that a Specific Plan process needed members of the community and input from the owners of the Rheem Valley Shopping Center. He questioned who would pay for improvements on private property and asked how to elicit cooperation from the private property owners. While some of the items may happen quickly, in his opinion the Town needed a Specific Plan process as soon as possible. He added that the concerns with permitted and conditional uses and the recommendation for a better balance in the Rheem Planning Area was a good idea and had been approved by the Town Council in 2010. He saw no reason why what happened in the MCSP should mirror what happened in the Rheem Planning Area and pointed out that the Specific Plan process was an area where concerns could be vetted.

**Vice Mayor Metcalf** stated that the Dollar Tree issue was more about those opposed to Dollar Tree as a business than whether or not it was a permitted use. He stated the zoning ordinance and appeal process was used in the OSH application as a deliberate tool to keep things from happening, which was one of the reasons he had supported that project. In this case, there was a participation mandate in the way the Town operated which was why public hearings were often lengthy. An appeal process could be considered to address a member of the public avoiding paying the appeal fee by having a Planning Commissioner or Town Council member appeal a decision absent the payment of the appeal fee, which process he would like to see curtailed. He suggested that a Planning Commissioner or a Town Councilmember who appealed a decision should pay the appeal fee.

**Vice Mayor Metcalf** commented that during the many years of the MCSP process many times another issue had arisen to divert the Town's priority when the Specific Plan had been delayed sometimes for months at a time or a year. If the Town Council were to consider a Specific Plan process for the Rheem Planning Area, he urged that it be a high priority. In addition, the financial impacts must be analyzed while also taking into consideration the number of owners involved in the Rheem Planning Area.

**Councilmember Trotter** pointed out that the Town had not required the property owner for the Moraga Center to front the Specific Plan costs. In that case, the Town had incurred the costs and the intent was that the Town would recoup those costs as projects developed in the MCSP area. In his opinion, if the Town had the resources it should do the same for the Rheem Planning Area.

Ms. Brekke-Read explained that there were issues with the Zoning Ordinance which had been raised by the Town Council, Planning Commission, and the public. She sought direction from the Town Council on annual zoning revisions which would allow smaller issues to be addressed on an annual basis.

**Mayor Mendonca** supported incremental advances on the Zoning Ordinance each year as part of the staff work program.

**Commissioner Socolich** supported annual reviews of the Town's Zoning Ordinance and regulations since things changed over time. As a long-time Moraga resident, he noted that the Rheem Planning Area had changed over time and he cautioned being too specific on the permitted uses. He supported flexibility.

**Councilmember Trotter** was not opposed to an annual review of the Town's Zoning Ordinance as to permitted uses on an annual basis in concept, although he also sought consideration of a Specific Plan for the Rheem Planning Area. As to the request to authorize a part-time Economic Development Coordinator, he emphasized that the Town Council needed to consider whether or not those funds should be spent.

**Mayor Mendonca** supported the need and the hiring of a part-time Economic Development Coordinator based on the Town's budget to carry the work forward and recommended that the Town Manager and Planning Director craft the job description. She sought more information from staff on the budget numbers before a decision was made.

**Councilmember Chew** stated that he had not been present when the topics had last been discussed by EDAC, including the hiring of a part-time Economic Development Coordinator, and questioned conceptually how the position would function. He commented that he had spoken with the Planning Director on the issue and he understood that the position could report to the Planning Director and conduct some planning work as well as focus on economic development.

Ms. Keimach explained that if the direction to staff was to return to the Town Council with the budget numbers, staff would return with that information, how to finance the position, the job description, and which if any Department the position would report to. She sought direction from the Town Council and the Planning Commission as to the priority of that recommendation and added that the mid-year budget review would be presented in January/February and the issue could also be discussed at that time. She noted that EDAC had also reported on a specific list of items and implementation strategy, retail description, ordinance, and vision for the Rheem Planning Area, or a General Plan Amendment, showing the vision for the areas and the implementation tools to reach that goal. She agreed that staff would have to better define the scope and job description of the Economic Development Coordinator.

**Councilmember Chew** also referred to the short-term objectives of EDAC. Having spoken with Ms. Zeimer as to how to reach out to the numerous Rheem Planning Area property owners, he asked the status of those efforts and expressed concern that the short-term objectives could not be achieved without the cooperation and permission of the private property owners.

Ms. Keimach stated that there would be continued attempts to have a dialogue with the property owners of the Rheem Planning Area. She acknowledged that none of the short-term efforts and recommended improvements could proceed without the encouragement and permission of the property owners. She emphasized the efforts to have a meeting with the property owners, to partner the property owners with Moraga's strong volunteer groups to ensure a win-win beneficial opportunity for the property and to find a way to cement a good cooperative partnership with community members. A meeting with the property owners remained a priority.

**Commissioner Wykle** congratulated the Town Council, staff, and EDAC for the review of the Rheem Planning Area. He found the EDAC's vision to be well thought out and executed, liked the idea of a part-time Economic Development Coordinator, and agreed with the need for a job description and how the position would fit into the budget.

**Commissioner Whitley** suggested that the position of a part-time Economic Development Coordinator was a Town Council budget issue and not a Planning Commission decision. From a planning perspective, he agreed that it was beneficial to have additional input with respect to ordinances, zoning, and the planning process and while a new position would be great, he emphasized that it was a matter of resources and how the position would be staffed. He suggested that having that position specifically tasked with focusing on the Rheem Planning Area would be more worthwhile than the MCSP since it was a much larger area with greater potential for development and activity. As to the recommendations from EDAC, he suggested that Councilmember Trotter had spoken well on the best approach, suggested that EDAC had made tremendous contributions and recommendations which should be adopted, and while many of the recommendations could be put into a Specific Plan process suggested that the Town should not pursue zoning and regulation decisions without a Specific Plan in place which had been required by the General Plan for the past ten years.

**Commissioner Socolich** suggested that if financially feasible, it would be worthwhile to have a part-time Economic Development Coordinator who could possibly work on both the Rheem Planning Area and the MSCP. He emphasized the need for continuity for both centers and the community as a whole.

**Commission Chair Levenfeld** emphasized that economic development had been discussed at great length over the years and the contract for a part-time Economic Development Coordinator should clearly define the outcome for that position. She also suggested that the review of the zoning in the area of the Rheem Planning Area through a Specific Plan process made sense since a parcel-by-parcel zoning process could be a hindrance.

Ms. Brekke-Read commented that the MCSP was designated a potential Priority Development Area (PDA) and staff recommended that the Town apply for the Rheem Planning Area to also be a potential PDA, which would be brought back to the Town Council for approval. She sought direction from the Town Council. She noted that staff could review other grant funding opportunities.

By consensus, the Town Council determined that the Town should pursue designating the Rheem Planning Area a PDA.

Ms. Brekke-Read also explained that the Lamorinda Winegrowers Association had requested the opportunity to work with Town staff in developing wine growing as an agricultural use and winery uses in all of the Lamorinda cities. She would like to work with the Association and asked whether that was agreeable to the Town Council for staff to return with proposed zoning regulations after the New Year.

The Town Council offered its consensus to the Association's request.

Ms. Brekke-Read explained that the purpose of agenda Item B was that the General Plan, which had been adopted in 2002 and the Zoning Ordinance which had been adopted around 1980, had few changes since that time and there had been some issues and feedback staff had received from the Council, Planning Commission, Design Review Board (DRB), EDAC, and the visioning workshops. Based on those comments, a work program had been created to address the concerns from the winegrowing industry, the appeal process, uses in the commercial areas, the way applicants were treated in Moraga as opposed to other communities, the disconnect between the General Plan and zoning, and what the community wanted for pedestrian orientation in the Rheem Planning Area. At this time, staff was asking for permission to move ahead on the issues that had been identified as priorities.

**Mayor Mendonca** re-opened public comment at that time.

Dave Bruzzone, Moraga, commented that he was possibly interested with winemaking in the Moraga Center. He asked for clarification as to whether or not the intent was that the zoning laws would be different from the Rheem Planning Area than those in the MCSP. He spoke to the overlapping interests and predominant uses in the Rheem Planning Area that were value shopping and the fact there were certain uses in the same area that the Bruzzone family had lobbied but because of substandard policies and vacant storefronts in the Rheem Planning Area those uses had been pushed into that center. He wanted to see streamlining flexibility and the welcoming of investors in Moraga without a barrage of ordinances, indeterminate number of hearings, and fees with no guarantee of approval. As to the recommendation for a Specific Plan for the Rheem Planning Area, he commented on the time, expense, and arduous process for the MCSP and sought a quick hearing to allow investment into the community which had been stagnant far too long. As to the recommendations from EDAC, he pointed out that the Moraga Corridor Streetscape Plan had neither been approved nor accepted by the Town after a fair amount of work. He expressed concern with whether the EDAC recommendations would further exacerbate that issue. He suggested that the Town would be doing a disservice if it were to rush approval of the recommendations.

**Councilmember Trotter** pointed out that there was nothing in the staff report to prevent a cooperative winery or wine sales area at the Rheem Center and that could be permitted under the MCSP. While the process for the MCSP was arduous, it did get done and provided for some of the streamlining of the permitting processes being sought.

Dale Walwark, Moraga, reiterated his concerns with a streamlining of the approval process and emphasized the need to retain the right to appeal which legally could not be denied. If an appeal was filed, the process should move more expeditiously.

#### PUBLIC COMMENTS CLOSED

Ms. Brekke-Read explained that the Council was not constrained to only pursuing a Specific Plan because the General Plan could be amended. She noted that when EDAC had held its visioning workshops based on the feedback from the community, EDAC discussed how to address the community concerns through a planning process for the Rheem Planning Area. During the workshops, the public and EDAC had expressed concern with the long process

associated with the MCSP. In this situation, she suggested that there was an opportunity to amend the General Plan, not necessarily to remove language but to consider a General Plan Amendment package that addressed all of the issues, solicited community input, was open, interactive, included the property owners, was part of the Transportation for Livable Communities Grant for which the Town had recently applied, and developed a set of policies, regulations, and design guidelines that reflected the way the community wanted the Rheem Planning Area to look. She stated that would offer an opportunity to save money and time and provide the vision the community wanted and to address EDAC's recommendations.

**Vice Mayor Metcalf** commended the efforts of EDAC and Town staff but noted that it would take a lot of drive on the part of Town staff to make any headway.

**Mayor Mendonca** liked the work plan as clean, neat, and allowing progress to be made without a Specific Plan for the Rheem Planning Area.

**Councilmember Chew** recognized the concerns with the recommendations for permit process streamlining noting the differences between streamlining paperwork and public participation. He also acknowledged the concerns with members of the Planning Commission and the Town Council's ability to file an appeal and he would be opposed to an appeal fee for a Planning Commissioner or a member of the Town Council who volunteered his/her time to serve the Town.

**Councilmember Harpham** supported the efforts of the Planning Director and wanted to see the Town become as efficient and consistent as possible, suggesting that to do nothing was unacceptable.

**Councilmember Chew** agreed that the Town should not get encumbered by a Specific Plan, and agreed that those things that could get done now should be done now.

**Mayor Mendonca** agreed with the comments in support of consideration for a Specific Plan for the Rheem Planning Area.

**Vice Mayor Metcalf** noted that the Specific Plan process was very formal and cumbersome. Given that things must be memorialized as a General Plan Amendment and if that could be done absent a Specific Plan, he was not wedded to the process.

**Councilmember Trotter** pointed out that there were site specific reasons why a Specific Plan was necessary for the Moraga Center given the undeveloped land and the large site. He emphasized that if a General Plan Amendment was pursued for the Rheem Planning Area there must be participation from all of the property owners. The virtue of a Specific Plan for the MSCP was that while there had been delays, once the Council determined it to be a priority it had not taken as long as some had suggested.

**Commissioner Socolich** agreed that work must be done first on a General Plan Amendment and modifications to the zoning prior to consideration of a Specific Plan rather than vice versa.

**Commissioner Wykle** concurred with the need for a General Plan Amendment and modifications to the zoning prior to consideration of a Specific Plan.

**Mayor Mendonca** thanked all of the members of EDAC and Town staff and commended the efforts of those who had participated in the visioning workshops. She was hopeful that based on the questions from the public the process would be allowed to proceed.

**Councilmember Trotter** echoed the Mayor's comments, understood that based on the staff report there was a recommendation to sunset EDAC, and asked staff if that should be done prior to or after the potential hiring of a part-time Economic Development Coordinator.

Ms. Zeimer advised that the charter for EDAC identified a sunset date of December 31, 2011.

**Councilmember Harpham** emphasized that through the EDAC process, members were cognizant that the Rheem Planning Area, owned by private property owners, was not Town-owned property and that the Town was not spending public money on private property. Ultimately the property owners would be involved. In addition, there was nothing in the deliberations that had intended that a business was simply prohibited. Everyone on EDAC had worked with the best of intentions and he commended all of those efforts.

**Councilmember Chew** also commended EDAC's efforts.

## VI. ADJOURNMENT

**ACTION: It was M/S (Trotter/Harpham) to adjourn the meeting at 9:20 P.M. Vote: 5-0.**

Respectfully submitted by:

  
Marty C. McInturf, Town Clerk

Approved by the Town Council:

  
Karen Mendonca, Mayor