

**TOWN OF MORAGA  
TOWN COUNCIL SPECIAL MEETING**

**March 10, 2016  
MINUTES**

**6:00 P.M. Special Meeting**

Council Chambers and Community Meeting Room  
335 Rheem Boulevard, Moraga, California 94556

**1. CALL TO ORDER**

The special meeting was called to order at 6:00 P.M. by **Mayor Michael Metcalf**.

**ROLL CALL**

Councilmembers present: Mayor Michael Metcalf, Vice Mayor Dave Trotter, and Councilmembers Phil Arth\*, Teresa Onoda, and Roger Wykle  
\*Councilmember Arth arrived at 6:47 P.M.

Councilmembers absent: None

**2. PUBLIC COMMENTS**

There were no comments from the public.

**3. ADOPTION OF MEETING AGENDA**

PUBLIC COMMENTS OPENED

There were no comments from the public.

PUBLIC COMMENTS CLOSED

<p><b>ACTION: It was M/S (Trotter/Wykle) to adopt the Meeting Agenda, as shown. Vote: 4-0-1. Absent: Arth.</b></p>
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**4. ORDINANCES, RESOLUTIONS AND REQUESTS FOR ACTION**

**A. Consider Preferred Policy Options for Hillside and Ridgelines Project:  
Preferred Policy Options**

Planning Director Ellen Clark introduced David Early with PlaceWorks, the Consultant facilitating the Study Session with the Town Council on the Hillside and Ridgeline Project: Preferred Policy Options. By consensus, the Town Council conducted the meeting consistent with the format used for the Hillside and Ridgeline Steering Committee meetings.

David Early, PlaceWorks, outlined the purpose of the meeting to provide an update on the Hillside and Ridgeline Project and receive direction from the Town Council on its preferred approach on a number of issues. The Town Council was also being asked to consider changes to the Hillside and Ridgeline Steering Committee Charter and its composition.

Mr. Early explained that during the course of the Steering Committee and Planning Commission review, a general consensus had emerged on a number of the issues, suggesting a more limited need for extensive discussion or debate by the Town Council on that subset of issues. Given the volume of material to be addressed at this time, it was suggested that these five issues could be treated as consent type items where the Town Council could provide concurrence with the recommendation without substantial issue-by-issue discussion. For the other five issues, it was expected that the Town Council would need to discuss the issues and consider multiple options prior to providing staff and consultants with direction on a preferred approach. Each of the issues would be presented as a separate item with an opportunity for public comment and Town Council discussion.

The following five items were presented as “Consent Items” for which staff suggested there did not need to be a detailed presentation or discussion, except as requested:

**MOSO Open Space Map**  
**MOSO Ridgeline Map**  
**High Risk Areas Map**  
**Definition of Development**  
**Hillside Development Permits**

The remaining five topics were to be individually discussed by the Town Council:

**Ridgeline Definition and Mapping**  
**Ridgeline and Viewshed Protection**  
**Steep Slope Limitations in MOSO Open Space**  
**Remediation of High Risk Areas**  
**Building Size on Large Lots**

For each item, staff had provided a recommendation followed by a description of the issue, options considered by the Steering Committee, a description of the public comment, and staff responses to questions raised by the Planning Commission.

Mr. Early advised that the intent of the Hillside and Ridgeline Project had been to reduce the conflict over hillside development caused by disagreements over the meaning of specific development rules and regulations, to ultimately result in targeted amendments to the Town’s hillside and ridgeline policies to address concerns with Town-wide regulations. The policies were not being considered for any specific development project or property, and the project did not concern general policies on the impacts from population growth.

Existing policies and regulations were being considered including the General Plan, Moraga Open Space Ordinance (MOSO) Ballot Initiative, MOSO Guidelines, Town Design Guidelines, Grading Ordinance, and Zoning Code. Specific text amendments to those existing policies and regulations would not be identified at this time and the consultants would later do the detailed work of creating amendments as necessary to each of the documents, which would be subject to Town Council direction, and require additional meetings with the Town Council and the Planning Commission.

Mr. Early identified the project process, reported that a background analysis had been prepared and completed, the Hillside Regulations Options had been identified in 2016, draft regulations would be prepared in mid-2016, and review and adoption was anticipated in late 2016. As part of the development regulations process, a series of options had been developed with input, and preferred options had been forwarded from the Hillside and Ridgeline Steering Committee to the Planning Commission. An Issues and Options Memorandum had been developed in May 2015, the Steering Committee had considered the options in May and June 2015, and an Options

Workbook had been created in August 2015 for review by the Hillside and Ridgeline Steering Committee and the public at large. Community presentations had been held in September 2015, and there had been a Planning Commission meeting on September 8, 2015, a public workshop on September 17, 2015, and focus groups in September 2015. All information from those sessions had been detailed and contained in the March 10, 2016 staff report. In addition to all that, three Steering Committee meetings had been held in November/December 2015, and three Planning Commission meetings had been held in January/February 2016.

Mr. Early recommended that the Town Council consider the options, the desires of Moraga residents, the original intent of the MOSO Initiative and Guidelines, property rights and taking implications, and the full range of community values expressed in the General Plan including environmental preservation, mobility, shopping and services, and housing. He again identified the five Consent Items to be discussed as one item. For the benefit of the audience, he detailed the recommendations for each item, as outlined in depth in the March 10, 2016 staff report and sought comments from the Town Council and the public on the five Consent Items.

**Councilmember Onoda** spoke to the recommendation to eliminate Hillside Development Permits (HDPs), and referenced a situation where a recent project on Donald Drive, which had not involved a grading permit, had required an HDP. She urged a review of past development review applications to ensure the requirement for that type of review.

Mr. Early advised that all effort had been made to review all past development permits. The only discovery had involved one permit for a slide down a hillside into a swimming pool which would not otherwise have gone through Town review. All of the other development projects that had received an HDP would have been subject to some other form of Town design review or other regulatory review.

**Councilmember Wykle** echoed the concerns with the recommendation to eliminate the HDP requirement, and asked that the consultants re-look at the provision where slopes greater than 20 percent but less than 50 cubic yards of dirt removed would not require a grading permit.

#### PUBLIC COMMENTS OPENED

Gordon Nathan, Moraga, spoke to the recommendation to eliminate the requirement for HDPs and agreed with the recommendation offered by Councilmember Wykle. He suggested it was a critical element of the HDP to address a 20 percent slope.

#### PUBLIC COMMENTS CLOSED

**Mayor Metcalf** referred to the significant discussion on the topic of eliminating HDPs during the Hillside and Ridgeline Steering Committee meetings, and found that the current HDP regulation was old, had been superseded by other regulations, and was redundant. During the Steering Committee meetings, the consultant had been asked to be very sure that everything would be addressed without the HDP.

Mr. Early explained that the consultants would thoroughly address that question again in detail. He added that the property at 1800 Donald Drive would also be part of that detailed review.

**Vice Mayor Trotter** stated he was prepared to move forward with the five Consent Items. As to the issue of HDPs, he understood the recommendation was conditional and could be revisited. He offered a motion to adopt the Consent Items.

**ACTION: It was M/S (Trotter/Onoda) to adopt the policy options for the five Consent Items including: MOSO Open Space Map; MOSO Ridgeline Map; High Risk Areas Map; Definition of Development; and Hillside Development Permits. Vote: 4-0-1. Absent: Arth.**

Assistant Town Attorney Karen Murphy clarified that all five Consent Items would be brought back; this was not the final action on the preferred policy options although the Town Council action was essentially moving the items forward for further review to the next step.

The Town Council started an individual discussion of the five remaining items.

### **Ridgeline Definition and Mapping**

Mr. Early detailed the discussion of the Steering Committee and the Planning Commission on this topic, as outlined in the March 10, 2016 staff report.

Hillside and Ridgeline Steering Committee's Recommendation:

*Define and map "Significant Non-MOSO Ridgeline" as the portion of any ridgeline outside of MOSO lands that is at or greater than 800 feet above mean sea level that forms the skyline when viewed from a "public place." "Public place" includes all public streets, parks and trails designated for public access and use.*

Alternative Significant Non-MOSO Ridgeline Definition:

*A Significant Non-MOSO Ridgeline is any ridgeline outside of MOSO Open Space that is highly visible from a designated scenic corridor, dominates the immediate landscape, and a portion of which is greater than 800 feet in elevation.*

Mr. Early presented the staff recommendation for the Town Council to direct staff and consultants to address the Ridgeline Definition and Mapping issue by considering the following recommendations:

1. Defining and Mapping Significant Non-MOSO Ridgelines as "ridgelines that form the skyline when viewed from any public place." (Steering Committee's recommendation); or
2. Defining and Mapping Significant Non-MOSO Ridgelines as those ridgelines that are "highly visible and dominates the immediate landscape." (Staff and consultant alternative.)

Mr. Early noted that either definition could be used to create a map that reflected the chosen definition, with the mapped area and definition to come back to the Town Council for further discussion. Responding to Council, Mr. Early again detailed the discussions of the Steering Committee on the topic. The staff and consultant recommendation was consistent with the suggestion made by the Steering Committee. Lateral ridges, if prominent and visually dominant of the immediate landscape would be included. He noted there were a number of lateral ridges in the Town which did not dominate the immediate landscape. If connected to something over 800 feet, they would be eligible and reviewed to determine whether they dominated the immediate landscape.

Mr. Early explained that the definition suggested by the Steering Committee, while overly broad in some ways, had been limited to those ridgelines that formed the skyline, and where there could be an argument they did not have to necessarily be against the skyline. The alternative

definition did not require the ridgeline to be viewed against the skyline but dominate the landscape around it. He also explained that the proposed language could be more far reaching, but not necessarily more restrictive than the language in the Environmental Impact Reports (EIR) that had been prepared for the Palos Colorados and Rancho Laguna II projects, in that given current computer technology, an assessment of visibility could not be provided everywhere along the corridor. He described the first definition as very broad, which included all public streets, parks and trails designated for public access and use, and could include a Bay Area Rapid Transit (BART) station. Staff and the consultants had recommended the use of a slightly narrower definition, and would conduct an analysis of all the scenic corridors within the Town.

## PUBLIC COMMENTS OPENED

Karen Chin, Moraga, expressed concern with the recommendation from the Steering Committee as overly broad and contrary to what the public had expressed during the Steering Committee meetings. The alternative definition included the language "a scenic corridor," although scenic corridors had not yet been defined, with concerns views would be from different perspectives throughout the Town. She found the proposed alternative definition to be overly narrow.

Mr. Early advised that a defined map of designated scenic corridors had been included in the staff report.

Dave Bruzzone, Moraga, reiterated his concern that the 800-foot elevation was an arbitrary number. He referenced the Bruzzone family Bollinger Valley property, which was dominated by Las Trampas Ridge, suggested that property had been targeted, and suggested the proposed action would be confiscatory in nature. While he agreed with the elimination of the language "from public viewpoints," he disagreed with the alternative definition's use of the statement "dominates the immediate landscape," and questioned the intent of that meaning. He noted the Bollinger Valley property was not visible to the vast majority of the community and would not create significant visual impairment if developed.

Suzanne Jones, representing Preserve Lamorinda Open Space (PLOS), expressed concern with the alternative definition and the use of the terms "highly visible" and "dominates the immediate landscape" since they included new and undefined concepts. She suggested the Steering Committee's recommended definition was more precise and easier to apply. She questioned whether the concern there would be too many ridgelines had been based on the maps that had been shown, since there were many ridgelines on the map which were protected and under conservation easements, some of which were located within MOSO. While there were a number of public places where ridgelines might be viewed, there were a finite number of ridges and once determined that a particular ridge was visible, formed the skyline, or was dominant from one public place, the process would be done with the ridgeline.

Malcom Sproul, Moraga, supported a general ridgeline definition that applied Town-wide with a map in the General Plan. He suggested the Steering Committee's definition came closest to what should occur; there was no magic to 800 feet with areas above and below that were equally important and had the same qualities depending from where they were viewed; and the Alternative Definition would be a giant step backwards leaving the Town with the same interpretation as it had for Rancho Laguna II, which was a mistake and would be contrary to the two-year Hillside Study process. He added that the scenic corridor definition in the General Plan had been oriented to the street and the street environment, and did not appear to be intended to focus on long-range views as the primary reason for being defined. He suggested the Town Council did not have the current background to suggest that scenic corridors were the only area to have the definition apply.

Gordon Nathan, Moraga, questioned the meaning of the term “significant” which carried a different meaning to each person. He wanted to see that term be better clarified during the process and its intent to the project identified.

Richard Immel, Moraga, commented that MOSO was a conceptual anchor to the hillside and ridgeline process. He provided the historical background of the MOSO Initiative as one of the principal sponsors; other initiatives that had been passed in other communities and under similar circumstances but which had been overturned by the courts; with the MOSO Initiative made as defensible as possible, which incorporated the General Plan, and which had been found legally defensible in court.

#### PUBLIC COMMENTS CLOSED

Mr. Early explained how the term “Significant Non-MOSO ridgeline” was being used as a new term of art, and would come into play as part of the other topics to be discussed, as the ridgelines outside of the MOSO area in terms of where houses could be sited near them, a term that existed today and was not an arbitrary term but a term of art. Once a map had been created of the ridgelines based on the guidance from the Town Council, the resulting map of the significant ridgelines that were not in MOSO areas would regulate in terms of where a home could be placed, a subject to be discussed later. He was confident the consultants could prepare the maps based on the definitions in the next round which could be discussed by the Town Council. In the end, he suggested there would not necessarily need to be a definition since there would be a map, and if the Town Council was comfortable using both definitions they could be mapped and then brought back for further discussion.

**Mayor Metcalf** commented that it would be helpful to see maps based on both definitions. He suggested the consultants move forward to create maps based on the two definitions.

Mr. Early cautioned that current computer technology was based on topography and not vegetation, and while PlaceWorks could map what was viewable from every public place, the map would map more ridgelines than may be actually visible in the field. Maps representing the two definitions would be brought back for review and discussion to the Steering Committee, Planning Commission, and Town Council, potentially also mapping the conservation easements.

**Councilmember Wykle** also supported the maps based on the two definitions, suggested it would not be too cumbersome given the limited ridgelines in the Town, and recognized the community wanted the hillsides and ridgelines to be protected.

**Councilmember Arth** also supported both maps as being very helpful.

**Vice Mayor Trotter** commented that he had followed the issue during his term on the Town Council and as a member of the Steering Committee, at which time he had helped to craft its recommendation, which he found to be fine as is although he recognized the concerns from the public that it could be less open to interpretation and more broadly protective. The workshops and focus groups had expressed a preference for the Steering Committee’s recommendation as opposed to the alternative. He was not opposed to the mapping, although he suggested it would be helpful to have a straw poll from the Council on which of the definitions the Council would like to see and conceptually prefer at this time.

**Mayor Metcalf** reiterated his preference to consider both definitions.

Mr. Early noted a straw poll vote on which of the two definitions was preferred might be premature absent the maps, but acknowledged the public support for the first definition.

**Councilmember Arth** did not support a straw poll vote on the two definitions at this time pending the preparation of the two maps.

**Vice Mayor Trotter** reiterated his recommendation that the Town Council identify its preferred definition.

**Councilmember Wykle** preferred the recommendation from the Steering Committee but also suggested maps based on both definitions would be useful given his inclination that both maps would be similar, and with that information the Town Council could dispel any arguments about the definitions.

**Councilmember Onoda** preferred the broader definition but would be open to seeing the maps.

Mr. Early stated that by consensus, the direction was to create both maps based on the two sets of criteria and bring them back to the Steering Committee, Planning Commission, and Town Council for consideration.

### **Ridgeline and Viewshed Protection**

Mr. Early explained that “Protecting Ridgelines” and “Viewshed Protection” had originally been presented as two separate issues but would be presented as a single item due to their interrelated nature and the fact they had become linked through the process. He detailed the discussions by the Steering Committee and the Planning Commission on this topic, as outlined in the staff report

The Steering Committee recommended the following to address this issue:

- Revise Policy CD-1.5 to more precisely describe the Town’s policies relating to development on and near ridgelines.
- Review all General Plan policies, not only CD-1.5, and amend as needed to support the Town’s policies for ridgeline protection.
- Create standards to provide visual separation between the top of a structure and a Significant Non-MOSO ridgeline. Consider a vision plane standard, vertical separation standard, or combination of the two. Determine the specific numerical standard necessary to achieve desired results. Figure 5 and Figure 6 in the staff report offered two examples of visual separation standards for ridgelines.
- Consider including a visual separation standard for Minor MOSO Ridgelines in the MOSO Guidelines.
- Prohibit non-natural appearing landscaping from being silhouetted above a Significant Non-MOSO ridgeline.
- Consider ways to avoid applicants “gaming the system” in regards to minimum visual separation requirements (e.g., artificially lowering the elevation of a home by excavating a building pad into the hillside).
- Amend the Town’s Design Guidelines to include new standards that clarify requirements for all development in hillside and ridgeline areas. Adherence to standards would be mandatory but may allow for different methods to achieve the desired outcomes for aesthetics and preservation of views of ridgelines.

Mr. Early recommended the Town Council direct staff and consultants to address the Protecting Ridgeline issue by:

1. Proceeding with the Steering Committee's recommendation which would establish quantitative standards and qualitative guidelines for various types of ridgelines;
2. Providing preliminary input on the preferred method (vertical separation, vision plane, and/or horizontal buffer) to ensure visual separation between structures and adjacent ridgelines; and
3. Determining that with these methods applied, no additional measures are needed to address ridgeline and viewshed protection, also consistent with the Steering Committee's recommendation.

In addition to the quantitative regulations, a series of qualitative visual separation standards would be created, to be illustrated with pictures of the kinds of development desired in those areas.

Responding to Council, Mr. Early explained that there had been discussions at the Steering Committee level about views of the ridgelines above and between the homes and where each home would have to meet the requirements. Each home would be required to meet the test individually; the regulations would be written in such a way where the amount of differentiation would be maintained, for example, with homes stepping down. The necessary degree of separation between homes had neither been suggested by the consultants nor reviewed by the Steering Committee, but could be added.

Mr. Early clarified that the recommendations would involve site specific analyses, although they would not be able to analyze and map every possible development parcel from every possible viewpoint in the Town, but would offer a representative sample from several single locations. The regulation might end up being a recommendation to be both 200 feet and 10 degrees, and it might be possible to add in the regulations that the reviewing body looking at the projects review and evaluate whether the home meets the standards.

Discussing the homes in Moraga Country Club and Indian Ridge where the homes were much lower and where the hill below the ridge was visible above the homes, Mr. Early understood the gap was larger than what had been shown in his PowerPoint presentation depicting a home below a ridgeline. He understood there was a desire to see the hillside and the ridgeline, there was a concern that what had been presented to the Steering Committee and the Town Council as an example did not show enough degree of separation, but the intent of the graphic had been to illustrate a differentiation between the home and the ridgeline.

**Councilmember Onoda** expressed a desire to see not just a differentiation from the home to the ridgeline but of the hill and the ridgeline above the home, which would result in a greater separation than the one that had been shown as an example.

In response to the Vice Mayor, Mr. Early affirmed that this was a quantitative standard intended to protect the ridgeline and not the hill face. If the direction was to prepare a quantitative standard to protect the hill face, that would be a different exercise.

**Vice Mayor Trotter** stated there was a need to be careful, as part of this exercise to avoid losing some of the valued language in the Community Design Element of the General Plan, specifically the language contained in Policies CD1.3, CD1.4, and CD1.5, and something that

had not just the spirit but contained objective standards with more content and rigor applied to specific projects than had occurred in the past.

**Councilmember Arth** expressed concern for a possible taking, and recommended that the first recommendation not be pursued by itself but be pursued in combination with the third recommendation, as outlined by staff.

## PUBLIC COMMENTS OPENED

Suzanne Jones, representing PLOS, believed that preventing structures from silhouetting against the sky above a ridgeline was important although the vertical separation distance or vision plane angle was needed and was a function of the distance between the observer and the structure, distance between the structure and the ridgeline, elevation of the observer, and elevation of the ridgeline and cross sectional shape of the ridgeline. No single quantitative standard would necessarily achieve the desired result.

Ms. Jones recommended a standard based on what the observer actually saw, and that the standard require that the structure not occupy more than a fixed fraction of the vertical field of view of the land mass as measured from the horizontal plane at the observer's feet to the top of the ridgeline where it would silhouette against the sky. PLOS fully supported a buffer in addition to whatever mechanism was decided to keep the height of rooftops at a level where the hills could be viewed and the ridgetop would remain visible.

Edy Schwartz, Moraga, spoke to the community concern with respect to tract housing on ridgelines, the potential for a taking, and the fact that the MOSO Initiative was not comprehensive, but the proposal represented a broader view than she had heard during the project meetings. While she commended the consultants' work and the meetings that had been held to date, she suggested the proposal didn't address the consequences of what was being considered. She described the General Plan as a great guide and suggested that document should be considered given that it addressed the community's general welfare, health, safety, and sustainability. Referring to the staff report, she questioned the use of the term "gaming the system" given that the directive for the project was to protect ridgelines and viewsheds. She sought a compromise between keeping Moraga ridgelines and viewsheds free from obstruction, and allowing property owners the ability to develop their land in a way that protected the visual impacts.

Gordon Nathan, Moraga, recommended a fourth standard. He agreed that the schematic presented to the Town Council was all perspective and appeared close to the top of the ridge. If there was more than one home, there would be impacts to the views of Indian Ridge which could prevent views of the ridgetop. In that case, the previous ridgeline definition discussion that included "public places" would come into play raising concerns where the "public place" would be designated. For the purpose of discussion, he recommended a fourth illustration to offer a different perspective of the same building using a different viewpoint angle.

Dave Bruzzone, Moraga, spoke to the exhibits that had been shown and asked what ridge it had represented, whether it was a realistic perspective or example, and whether it was a MOSO ridge. He understood the Painted Rock property was designated MOSO although the example was not representative of his property. He was informed by Mr. Early that the exhibit in question had shown Rheem Ridge from Rheem Boulevard.

Mr. Bruzzone commented that the top of a ridge was often the most stable from a geotechnical standpoint, and there would be issues when developing lower on the hillside but those issues

would be addressed in a project EIR. He explained that the visual impact was only one of many criteria to consider. He suggested that Rheem Ridge was the worst example to use and expressed the willingness to work with staff and the consultants on regulations that would allow major developments but without the major impacts that the exhibit had suggested.

Malcom Sproul, Moraga, noted the exhibit that had been shown did not include landscaping and the ridge would disappear in the example with typical landscaping and a home. He recommended a minimum 250-foot setback from the ridge, and if a greater setback was required, it should be based on criteria as to how to preserve the ridgeline and natural land forms.

Brenda Luster, Moraga, referenced regulations used by the City of Malibu, which were more restrictive; 300 feet horizontally, 100 feet vertically, and 18 feet in terms of height of a home as opposed to the 35-foot height allowed in Moraga. She suggested a more restrictive restriction on the setbacks from the ridgeline might allow a variance for a lower profile home height, which would require an HDP if a lower profile home was allowed and which would still allow the pristine beauty of the hillside to remain.

Tim Meltzer, Moraga, agreed with the members of the public on the issue of the protection of the ridgelines and the hillsides, and commented that expanding the views would be important. The exhibit provided showed little area between the top of the roof and the ridgeline, and if there were several homes the views of the ridgeline would be obscured. He read into the record a quote from the Mayor as to the importance of getting back to the spirit of MOSO, and added that policies in the General Plan also clearly covered many of those topics.

#### PUBLIC COMMENTS CLOSED

Mr. Early acknowledged the concerns related to whether they were working primarily to address the separation of the ridgeline, and whether there needed to be additional consideration to address separation with regard to views of the hill face. Part of the recommendation from the Steering Committee was to change both the language in the General Plan and the way the language was implemented to provide additional blending of development with the hillside through vegetation and landscaping to ensure quality development, and that the visual amenity was as high as possible, which was not the same as saying there shall be no development. He suggested that adding preservation of the hill face would be a departure from the scope and would result in a larger area of non-development around the ridgelines. The regulations were being developed for the Non-MOSO areas, and if it included protection of the hill faces along the Non-MOSO ridgelines, that would be a greater restriction than the restrictions on the MOSO ridgelines of 500 feet. He sought input from the Town Council on that issue. Based on the comments thus far, he found that the Town Council was comfortable with the proposal in some combination of the three recommendations.

**Mayor Metcalf** spoke to the intent of the originators behind the MOSO Initiative which had been adopted by the voters, concerns with respect to takings, and potentially more restrictive regulations, and questioned at what point that would become abusive to property owner rights. While he understood Councilmember Onoda's recommendation, he questioned how it would be implemented since a point could be reached where nothing would be allowed on the face of a hill, which could be indefensible in the courts.

Ms. Murphy affirmed that such concern would continue to be reviewed throughout the process, which had been alluded to in the staff report, to ensure the regulations did not go too far and open the Town up to the risk for a taking challenge.

**Mayor Metcalf** commented that every hill face in the Town could be involved where potentially no development would be allowed in a town full of hills. He recognized many who had submitted written comments did not want more development in the Town, although he emphasized that could be problematic for the Town.

Mr. Early recommended that issue be left to staff and the Town Attorney to continue to work on the options. If the Town Council wanted to define a goal to minimize invasion of the hill faces and hillsides, staff and the consultants could come back and provide information on the most that could be done, and address concerns with respect to takings. He understood the goal was to protect the ridgeline viewsheds, and not the hill faces. He too was concerned with a more restrictive set of rules in terms of the land that could be developed. He added that a hillside or a hill face had not been defined, the hillsides would have to be mapped, and it would then have to be determined how to regulate them. He sought direction from the Town Council.

**Councilmember Wykle** commented that he was not satisfied with the three recommended options. It was important to see where the viewer was located, have views of the ridgeline, and then have a discussion of how much of the ridgeline was visible above the structure. He sought a hard buffer, suggested 200 feet would be reasonable, and stated it would be important to better define and provide a better objective definition for the horizontal separation. He cited the City Ventures project and the concerns with the views between the homes. He wanted to protect the ridgelines and some of the hillside views.

Mr. Early affirmed with Councilmember Wykle that his concern related to the hill face, although the amount of hill face was still a function of how much was being seen relative to the development amount below, and that enough be seen to allow views of the hills and ridgeline but not the whole hill face.

**Vice Mayor Trotter** agreed that a 200-foot hard buffer was reasonable, and urged Legal Counsel to consider language with a possible escape clause to protect the Town. He commented that when the protection of hillsides and ridgelines had been discussed, it had included the viewsheds, which included hillsides, with language in the current General Plan which spoke to the existing viewsheds and hillsides. Councilmember Onoda's recommendation to protect the hill face and have views of the actual hill was a concept that had not been quantified, although the question was whether there was a quantifiable standard such as the structure was not to obscure more than a set percentage of the total hillside plane, a fourth standard, offering another way to look at this topic in addition to the three recommendations and put into quantifiable terms what Councilmember Onoda had suggested.

**Councilmember Arth** suggested if there was a change in the recommendation from 25 feet to 40 feet would allow more views of the hill face, although whether that would result in a taking would have to be addressed by Legal Counsel. While he would like to see some hill face, he did not need to see all of it. He suggested there had to be something for the owners of the property, and if the ridgelines were protected with some hill face that would be acceptable.

**Councilmember Onoda** referenced the Via Moraga 17 home development where, because of the setback, the homes would be close to the street along Moraga Road obscuring views of the hillsides. Had the homes been pushed back, the hillside would have been more visible. She found that the Town's Design Guidelines had no power, and suggested now was the time to consider mandatory standards as opposed to guidelines.

Mr. Early reiterated that the Steering Committee's recommendations included amendments to the Town's Design Guidelines. He understood that Councilmember Onoda was recommending

amendments to the Town's Design Guidelines, to include additional standards to clarify the requirements for all development in the hillside and ridgeline areas, with the consultants to work on those amendments. He also understood the concern for standards, not guidelines, and noted that the Steering Committee had agreed.

Mr. Early restated the Vice Mayor's recommendation for a fourth standard to address from the viewer's perspective how much of the ridgeline would be seen above the development, which could be expressed as a percent of the hill face being obscured, a percentage of the height of the building itself, or the highest building, which he found to be a middle ground; not trying to deal with the hill face at all versus protection of the whole hill face and somewhere in between ensure there was enough of the hill face below the ridgeline and above the house where there were still some views of the hill.

**Councilmember Onoda** agreed with the Vice Mayor's recommendation.

**Mayor Metcalf** recommended that the consultants work on that recommendation and bring it back to the Steering Committee level with information as to how it would be implemented.

Mr. Early summarized the Town Council's discussion on the topic of Ridgeline and Viewshed Protection with the Town Council, again cited the recommendations from the Steering Committee, and noted that the consultants had been directed to also review the three recommendations, with a fourth recommendation that would somehow be a function of what the viewer would see in regard to the percentage of development versus the percentage of hill face and ridgeline above. He also acknowledged that most Councilmembers were of the opinion that the horizontal standard was also important to retain. He understood that the consultants were not being asked to create a full design regulatory ordinance that would be adopted by the Town Council, or the voters, but that there be some interpretation during the individual project review. The guidelines would include fewer advisory guidelines and more specific standards to ensure that review but would continue to be more objective than what currently occurred.

Mr. Early clarified the Town Council had also discussed that with increased regulations, perhaps through the amount of hillside visible between the home and the ridgeline, an escape clause should also be included to avoid potential takings issues.

**Vice Mayor Trotter** recommended the second bullet point of the Steering Committee's recommendation be revised to read:

- *Review all General Plan policies, not only CD-1.5, and amend as needed to support Town's policies for ridgeline and hillside protection.*

### **Steep Slope Limitations in MOSO Open Space**

Mr. Early detailed the discussion of the Steering Committee and the Planning Commission on the topic of Steep Slope Limitations in MOSO Open Space, as outlined in the staff report. He recommended that the Town Council direct staff and consultants to address the Steep Slope Limitations in MOSO Open Space by proceeding with the Steering Committee's recommendation, outlined below, in a manner consistent with the MOSO Initiative.

In MOSO Open Space, the MOSO Guidelines prohibit development in areas with an average existing slope of 20 percent or more. MOSO regulations require that slope be calculated for a "cell," but the size and shape of a cell is not regulated, and there

is concern that some applicants circumvent the intent of the slope development limitation by calculating average slope for very large or irregularly shaped cells. The Town also needs to clarify if development is allowed in particularly high-slope areas within a cell if the average slope of the cell as a whole is less than 20 percent. This latter approach would be more consistent with the letter of the MOSO Initiative, which does not speak to "average" grade.

## PUBLIC COMMENTS OPENED

Gordon Nathan, Moraga, spoke to adding the driveway to the development envelope, noting that the Moraga-Orinda Fire District (MOFD) was involved in the overall plan review but suggested that the consultants work with the MOFD to determine whether 20 feet in width was an acceptable standard. He opposed the use of the term "conflict" as part of what he described as lively discussions of what the community needed and wanted, and the perceptions of what the Town Council needed and wanted. He believed the Town Council had already adopted an ordinance that involved the taking of property rights, although that ordinance had yet to be tested.

Suzanne Jones, PLOS, commented that the discussion now related to MOSO lands that were subject to the terms of the MOSO Initiative, with the overarching goal to implement the MOSO Initiative as adopted by the voters, which clearly prohibited development on slopes with grades of 20 percent or greater. She noted, however, that in practice that rule had not been followed because the slope averages had been taken over wide areas and significant slopes in excess of 20 percent had been developed. PLOS fully supported the building envelope approach to address the problem provided it included a reasonable upper limit on the area over which the slope could be averaged. PLOS had recommended an area not-to-exceed 10,000 square feet, a quarter of an acre, which would accommodate a building envelope that was typical for new residences in Moraga. In addition, a proposed building envelope that was greater than 10,000 square feet could still be accommodated by the concept by breaking up the building envelope into two or more smaller subareas for the purpose of averaging slopes, and those two could be developed provided that both areas visually complied with the 20 percent standard.

Ms. Jones suggested that concept could work for the road issue, and a developer could have whatever shape of development envelope desired for the intermediate areas of common spaces, utilities, and the like, but still needed to maintain the upper limit on the total cell area to avoid the types of abuses that had occurred in the past. She had no concerns with contorted cells with MOSO prohibiting development on slopes greater than 20 percent. She read into the record a statement on Page 28 of the staff report in relation to improvements located outside of the development envelope of each home, such as streets and utilities to serve the subdivision, where it might be necessary to allow development on slopes of 20 percent or greater, but emphasized that would not be allowed under the MOSO Initiative.

Dave Bruzzone, Moraga, expressed concern that a property owner would not be able to install a road to reach their property because of the new proposed definition of development. He emphasized that development under MOSO was houses, not roads. The original intent of the MOSO Initiative was to prohibit development of houses on the ridgelines. He expressed concern that there was a perception in the community that if the rules were not modified and made more restrictive, the ridgelines would be full of houses, which was not the case.

Tim Meltzer, Moraga, cited recent letters submitted to the Town Council, and commented that the perception they were all supportive of no development was not accurate, although residents were supportive of the protection of the Town's assets and treasures which had attracted many to move to Moraga.

Richard Immel, Moraga, again cited the history of the MOSO Initiative and commented that ridgeline development had triggered the initiative.

## PUBLIC COMMENTS CLOSED

In response to Councilmember Wykle, **Vice Mayor Trotter** spoke to the background of the Steering Committee's recommendations and discussions of the maximum size for the building envelope, where the building envelope should not exceed 10,000 square feet, and where the cells could be strung together to allow development of a larger estate home. He recommended a cap on the building envelope for the purpose of analyzing slope in MOSO lands, and stated that 10,000 square feet was workable, for a typical home, and for an estate home some aggregation of those areas would be required. A developer would not have to go to the next 10,000-square foot area, as an example, if an area could be found that was less than that and met the not-steeper-than-20-percent-average-slope requirement. He suggested the recommendation and work by the Steering Committee was solid, the Town Council should proceed, but suggested more work should be done on the development envelope. He agreed with Ms. Jones that building roads was within the definition of development and the question was how, and whether it could work on a site-specific basis.

**Councilmember Onoda** supported the Vice Mayor's recommendation, as described.

Mr. Early summarized the comments from the Town Council to proceed with the Steering Committee's recommendation and add to it the 10,000-square foot limitation, with the understanding that if a single development envelope legitimately needed to be more than 10,000 square feet, it should be essentially divided into two parts, each of which were under 10,000 square feet and each of those two parts must have a slope under 20 percent.

**Mayor Metcalf** declared a recess at 8:35 P.M. The Special Town Council meeting reconvened at 8:41 P.M. with all Councilmembers present.

## **Remediation of High Risk Areas**

Mr. Early detailed the discussion and recommended options offered by the Steering Committee, noting in the case of the Planning Commission that no consensus had been reached. The discussions had been outlined in the staff report. He advised that staff did not have a specific recommendation on this issue. Instead, he suggested that the Town Council direct staff and consultants to address the Remediation of High Risk Areas based on the results of a discussion of the High Risk Remediation and Increased Density Options Table, as shown on Page 31 of the staff report, and related questions, in a manner consistent with the MOSO Initiative.

In order to provide clarity on the discussion, two types of grading for remediation were identified including:

"Extensive" grading, *"The movement or redistribution of large quantities of earth over large areas that results in the disruption of the majority of the on-site surface terrain, modifies, or eliminates major and minor natural landforms, significantly disrupts the natural character of the site"* and

"Non-Extensive" *"Relatively non-invasive subsurface engineering solutions for landslide repair that preserves natural landforms and existing hillside and slope contours."*

For each type of grading in the high risk areas, The Town Council should consider four options:

Option A: Never allow repair or remediation in high risk areas, hence also prohibiting increases in density in these areas.

Option B: Allow repair and remediation in high risk areas under specific circumstances but do not allow increases in density as a result of this remediation.

Option C: Allow repair and remediation in high risk areas under specific circumstances and allow increases in density as a result of this remediation.

Option D: Allow repair and remediation in high risk areas under all circumstances and allow increases in density as a result of this remediation.

Mr. Early detailed tables he had prepared that he asked the Town Council to complete based on the above information.

**Councilmember Wykle** read into the record the requirements of the MOSO Initiative related to High Risk areas, to be limited to a maximum density of one-dwelling unit per 20 acres. Based on that requirement, his position was if it was identified in MOSO as High Risk, subject to the stated requirement, it could not be changed without going back to the voters.

**Councilmember Onoda** agreed.

**Councilmember Arth** also agreed with Councilmembers Onoda and Wykle, but suggested the land could be remediated but not add to the density.

**Vice Mayor Trotter** understood with respect to the MOSO Guidelines that a concept had crept in that remediation of High Risk areas could be pursued, and although not in the MOSO Initiative, there was some legal strength to the positions set forth by other Councilmembers that it would not be allowed to be a basis for increasing density, which he supported. He sought input from the public where remedial grading should be allowed and if so doing there would be a less steep slope area, which would be within MOSO and be developable, although development would not be allowed if there was to be a public health, safety, and welfare issue. He understood based on Councilmember Wykle's comments, that remediation could not be used to increase density although he was not hearing Councilmember Wykle suggest one could never grade in High Risk areas if so doing that would make other non-High Risk areas safe. He sought input from the Council and the public on that issue.

**Mayor Metcalf** noted that if there was a piece of property at 20 acres and it had real problems with slides, which was likely in Moraga, those slides could come down onto public roads, as an example, and cause problems for the Town and become a nuisance. If there was an interest in correcting that situation, someone other than the Town would have to pay for it. He cited Bollinger Canyon Road which had a steep escarpment, with rocks and a tree falling down, and which had been built by the County long ago, and stated that some developer would have to be approached to pay for it. In the case of Rheem Boulevard, the developer for Rancho Laguna II had proposed a project where the Town and the developer would share the costs equally. He emphasized that if the Town wanted to get something done, someone other than the Town would have to do it, and one way to pay for it would be to allow a density bonus, which was the reason why the 1 to 5 or 1 to 10 density, depending on the type of remediation, had come into play.

**Vice Mayor Trotter** stated that the density bonus concept had been brought into the guidelines immediately after MOSO had been adopted, later amended, and maintained after work on the

cell concept and the guidelines in 1991/1992, at which time he had been a member of the Planning Commission. He commented the notion that was being done for a quid pro quo had never come up during those discussions.

**Mayor Metcalf** understood the only reason for allowing a developer a density bonus was if the developer was doing something to benefit the Town.

**Vice Mayor Trotter**, referring to the bluffs over Bollinger Canyon Road, commented it made no sense to have a density bonus in the context of the discussion since the Town owned the bluff, it was public property, and the Town had to deal with it.

**Councilmember Wykle** stated that to do something outside of what had been specifically described in the MOSO Initiative would be in violation of a voter approved ordinance and the Town would not be able to increase the density without going back to the voters.

As to how the density bonus issue had come up and in response to the Mayor, Mr. Early understood that others had read the language in the MOSO Initiative in a different way. Some were of the opinion if the land had the characteristics to be categorized as High Risk, its density shall be no more than "x," but once those characteristics were changed, that land was no longer in the High Risk category and its density would change. He reiterated the reason the matter had come up was that the language had been interpreted in different ways, although he recognized that four of the five Councilmembers were reading the language that if the property was designated High Risk it was that way forever, even if remedial grading occurred.

**Councilmember Arth** recalled that Mr. Immel, as one of the MOSO Initiative sponsors, had stated at a prior meeting that MOSO required taking the land as is, and if the land started out as High Risk, it would remain High Risk.

#### PUBLIC COMMENTS OPENED

Suzanne Jones, PLOS, explained that she had reviewed the first set of MOSO Guidelines which had been adopted after the passage of MOSO, which did not contain a provision for reclassification via remediation, although that policy had been added to the MOSO Guidelines as part of a first revision in the 1980s. PLOS agreed that MOSO should be followed as written; there should be no reclassification for a density bonus; she supported Option B, as shown in the staff report, but noted that Option B still allowed for necessary remediation to occur to the extent necessary for development at a maximum density of one unit for every 20 acres of High Risk land. She believed that neither remedial grading to repair a landslide on slopes steeper than 20 percent, nor remedial grading within the 500-foot setback from the ridgeline was allowed given that once the maximum number of homes allowed under the High Risk classification had been set, the next step would be to site those homes to comply with all of MOSO's remaining requirements.

Ms. Jones noted that all of the development associated with those homes, grading, and the like would be required to comply with the MOSO Guidelines related to slope and ridgeline restrictions, and if there were not enough building sites that conformed to all of the MOSO slope and ridgeline requirements to accommodate that full number of houses that were allowed under the High Risk classification, only those houses that followed all of the MOSO remaining requirements could be approved. The only reasonable exception by which a home could be approved on slopes steeper than 20 percent or within a protected ridgeline buffer, would be if to do otherwise would deprive the landowner of all economic use of the property. While the density bonus idea might have merit, density increases in exchange for such benefits had not

been contemplated in MOSO or in the MOSO Initiative itself, and had no place in the implementation of the MOSO Initiative that was currently in effect.

Edy Schwartz, Moraga, suggested the health, safety, welfare, and sustainability was also in MOSO and should be taken into account. She supported Option C, as written, which would allow repair and remediation in High Risk areas under specific circumstances and allow increases in density as a result of this remediation. She also supported the ability to choose mass grading when it was determined that a hillside would benefit from that type of procedure. She referenced a landslide that had occurred in her neighborhood and which had taken months to remediate through mass grading, with extensive movement of land, and with the visual impacts the same as before the hillside had been repaired. She expressed her hope that any example of mass or extensive grading would be modified to show what would happen when complete given that there could be extenuating circumstances why the repair was needed and it could have visual impacts.

Richard Immel, Moraga, recalled the same group which had been active in the MOSO Initiative had worked with the Town to review the drafts. He recalled that when mitigation had come up, it had been stricken since it was neither part of nor contemplated in MOSO but had eventually been brought in. He explained that one of the reasons the land had been classified as MOSO and Study by the Town was that it was poor quality land, as borne out by geotechnical studies that had been prepared after the MOSO Initiative had been passed. He commented that some of the projects in progress leading to the MOSO Initiative had involved massive or extensive grading of lands in poor condition, which was what the community did not want to see happen again.

Dave Bruzzone, Moraga, questioned the discussion of a density bonus and quoted from MOSO that "... private open space shall be limited to a maximum density of one DUA per 20 acres, 10 acres or 5 acres but at no point should exceed one DUA per 5 acres." He questioned whether it would be good policy to prohibit or prevent people from being able to improve their property whether MOSO lands or any other property; questioned if the land was designated High Risk there could not be a density greater than that in MOSO; spoke to the expense of grading and the possibility of preventing a property owner from improving their property; and spoke to the inaccuracy of the development capability maps where some of the areas designated as High Risk were incorrect. He suggested that MOSO did not state that the High Risk could not be remediated and could not be improved to a lesser state. If the Town was to prohibit someone from making their property more stable, the Town could be creating a safety issue for the rest of the community. He expressed concern how the subject had grown into what were already large restrictions on MOSO lands making it more difficult for someone to improve the community and contrary to what was needed in the community.

Malcom Sproul, Moraga, found that the existing MOSO Guidelines conflicted with the language in MOSO and needed to be eliminated since it allowed development on MOSO lands in which the MOSO Initiative intended to protect. He suggested that remediation should never be allowed for the reclassification of High Risk areas or as a tool to increase site density. The identification of High Risk areas had been intended to determine avoidance areas and create a mechanism to steer development away from unsuitable areas and to prevent the extensive grading needed to make them safe from development, and that concept had been reflected by the low density established in MOSO, one DUA per 20 acres, with the notion that a building site would be able to be found in that area without having to completely eliminate the land. He suggested that remediation should only be allowed to protect existing structures and public facilities, such as roads, with no intended increase in density.

Tim Meltzer, Moraga, suggested that the density bonus concept had resulted from those who had been deciding the issue at the time, which was the fatal defect in the concept. He agreed with those Councilmembers who suggested that remediation would not alter the original classification, and argued that Option B made the most sense.

#### PUBLIC COMMENTS CLOSED

Mr. Early again commented that four of the five Councilmembers were of the opinion that whether remediation was extensive or non-extensive it was in the category of Option B; and that likely those Councilmembers would check the second boxes of the table he had prepared for both extensive and non-extensive.

**Mayor Metcalf** questioned the real impacts in preventing the increase in density on High Risk areas of MOSO lands, and suspected the real impacts would be small, to which Mr. Early affirmed was likely correct.

Mr. Early added that one of the tasks that had been created through the Consent Items approved by the Town Council to move forward was the creation of a map of High Risk areas, which would be brought back to the Steering Committee, and which would include identification of the percentage of the High Risk areas in MOSO and the percentage of the High Risk areas in the Town of Moraga. Referring to the table he had prepared, he suggested the consensus was to only remediate and not add density for both extensive and non-extensive grading, and suggested the consensus was not to allow remediation in areas where slopes were currently over 20 percent or otherwise undevelopable because grading was development, and if over 20 percent development would not be allowed. He also suspected the Town Council would allow grading in areas under 20 percent as long as it was consistent with the lower density of MOSO, and allow it to protect existing roads, homes, and other existing development.

#### **Building Size on Large Lots**

Mr. Early detailed the discussions and recommended options offered by the Steering Committee and the Planning Commission and explained that neither had reached a consensus on this topic. He recommended the Town Council consider the following:

Specify a maximum floor area for lots greater than 20,000 square feet using a Floor Area Ratio (FAR) formula similar to that currently used for lots 20,000 square feet or less, but apply the limit only to homes in a hillside area visible from a public place, without any cap on home size on lots of one acre or more. The exact details of the new size limitations for lots between 20,000 square feet and one acre would be developed in the next phase of the project.

Responding to Council, Mr. Early explained he was recommending no cap on the home size on lots of one acre or more. Given the way the lines could be drawn, the policy would be even with the cap at one acre and a home size in the 7,000 square foot range. He added that most homes in Moraga were not that large.

Ms. Clark clarified, when asked, that a large home located on the west side of Rheem Boulevard was approximately 6,000 square feet in size.

**Councilmember Wykle** referenced General Plan Policy CD 4.3 regarding infill development in existing neighborhoods and noted that the Town had struggled with that policy in the past.

Mr. Early identified four large homes that had been built in the Town which were all under 8,000 square feet in size. He clarified that the limitation following any formula would get above the

sizes of any of those homes, and acknowledged there had been suggestions for a cap in the public discussions. He added the regulations would be considered Town-wide.

Ms. Clark also affirmed that the home examples shown were based on assessor information and did not include the square footage of the garages.

#### PUBLIC COMMENTS OPENED

Suzanne Jones, PLOS, appreciated the Town's consideration of the issue and the need for Floor Area Ratios (FARs) for visually prominent lots over 20,000 square feet. She pointed out when the story poles for the Rancho Laguna II development had been installed, they had generated quite a bit of shock in the community and amongst some of the Town Council, with large homes in the heart of open space and within the scenic corridor. The table of the proposed FARs contained in the staff report would allow up to a 7,000-square foot home on a one-acre lot, with no limit on the size of homes for lots over an acre. Such a proposal would do nothing to prevent the current situation with the Rancho Laguna II homes or prevent the large home that had been built on Rheem Boulevard from being approved. Not suggesting a limit on home sizes that were not visible and not in prominent areas, she stated if the homes were visible from scenic corridors, a more reasonable cap for the one acre, at possibly 5,000 square feet, and specific to high visibility locations should be considered.

Dave Bruzzone, Moraga, described the topic as legislative creep given that the project had started with a discussion on ridgelines and hillsides, now considering a Town-wide restriction on FAR. He suggested the Town had more than enough regulations and controls in design review to limit the impacts of homes. He expressed concern with the unintended consequences of extending above the existing FAR, which were now guidelines. The Planning Commission had discussed the fact that in terms of the FAR, more often than not numbers came in that were higher than the allowed FAR or approaching that range. The Commission had recognized it was clear that people should build an appropriately sized home. He suggested that would not take away from the privacy of adjacent neighbors, or be completely out of scale with a neighborhood, but he wanted to see people allowed to improve their neighborhoods, lots, and not have to have an artificial barrier to development. He questioned adding the issue of FARs to the hillside and ridgeline discussion which he found to be inappropriate, and out of the scope of the direction of the Hillside and Ridgeline project. He urged no changes or enhancements to the FARs at this time.

#### PUBLIC COMMENTS CLOSED

**Mayor Metcalf** commented that when he had learned of the subject he had questioned what business the Steering Committee had limiting house sizes, noting the only connection between house size and the hillsides was how much of the mass of the home impacted the viewshed of the hills. He referenced property located outside the city limits of the City of Lafayette, in an unincorporated area of Contra Costa County, which was unattractive, visible, and four stories in height. In that case, the home was located on a prominent hillside and a regulation on building size on large lots would make sense. The only connection he could see of the house size was how much of the structure obscured the hillside. He suggested the issue was being addressed in terms of what was allowed on the hillside in terms of obstruction of views making him of the opinion the topic was less relevant.

**Mayor Metcalf** acknowledged that the large home depicted in the PowerPoint presentation located on Rheem Boulevard and in MOSO lands, should never have been allowed as it was out of scale with the neighboring buildings. He explained that the Town already had regulations in place and building out of scale with the neighborhood was not permitted, which was the

reason the Town had worked to get the scale right with the City Ventures development. He could not see a justification for the proposed policy.

**Councilmember Onoda** agreed that the Rheem Boulevard property should not have been allowed to be built. She supported restrictions that homes on one-acre lots could be no larger than 5,500 square feet as opposed to a 7,000-square foot maximum. She cited another residence on Merrill Circle, which was in character with the homes in that neighborhood, and the property was not located in the scenic corridor. More than guidelines, she wanted to see numbers that could be measured and suggested the current numbers were too large.

Mr. Early understood that Councilmember Onoda was recommending additional regulations along scenic corridors, and regulations from the current 4,600-square foot home at a 20,000-square foot lot, to 5,500 square feet at one acre that would be set as a cap.

**Councilmember Onoda** sought to strengthen the guidelines to mandatory standards for design review where homes would have to be built consistent with the neighborhood. She noted that a proposed new residence had recently been appealed to the Planning Commission since the design guidelines had not been enforced, which had occurred previously with some applications.

Mr. Early understood that the numbers would remain as they were outside of scenic corridors, although the Design Guidelines would be strengthened regarding compatibility with the adjacent homes.

**Councilmember Onoda** supported a maximum home size of 5,500 square feet in the scenic corridors, to then be scaled down based on lot size.

**Councilmember Arth** supported no limitation on the size of one acre lots anywhere as long as the structure was consistent with the homes in the neighborhood. He saw no reason to treat scenic corridors any differently from any other non-scenic corridor area of the Town if the home was compatible with the neighborhood. He also saw no reason to place an artificial hard number of maximum square footage on properties one acre and above. While he would support a tightening of the Design Guidelines, he would not make any changes in the numbers in any part of the Town for 20,000 square feet or above.

**Vice Mayor Trotter** suggested there was precedence on capping the square footage of homes. He cited the 123-home Palos Colorados project, which had set a cap of 5,500-square foot maximum size for the homes, which would not take any property rights, and which would provide some visual enhancement and regulation of homes along the scenic corridor and along Moraga Road. He could support a 5,500-square foot maximum along the scenic corridors, and was ambivalent as to whether that should be required Town-wide.

**Mayor Metcalf** questioned the connection between the issue of house size and the issue of ridgelines and hillsides.

Mr. Early understood that there was a 3-2 Town Council majority support for a cap with the reasons expressed by those Councilmembers in support. He clarified with Councilmember Wykle he would be comfortable with a 5,500-square foot cap, and asked that the majority of the Council for consensus as to whether the cap should be 5,500 square feet Town-wide or only in the scenic corridor.

**Vice Mayor Trotter** suggested scenic corridor was shorthand for *visually prominent*.

On the discussion, Mr. Early reiterated the recommendation to:

Specify a maximum floor area for lots greater than 20,000 square feet using a Floor Area Ratio (FAR) formula similar to that currently used for lots 20,000 square feet or less, but apply the limit only to homes in a hillside area visible from a public place, and without any cap on home size on lots of one acre or more. The exact details of the new size limitations for lots between 20,000 square feet and one acre would be developed in the next phase of the project.

Mr. Early commented that PlaceWorks could continue to review the issue and attempt to determine the number of lots that were not visible from a public place. He clarified the discussion was that the Town Council essentially supported the staff recommendation with the addition of a cap at 5,500 square feet, and create a shallow curve that would get from 4,600 square feet at 20,000 square feet up to 5,500 square feet at one acre, and otherwise follow the staff recommendation.

Mr. Early thanked the Town Council for the input and discussion.

**B. Consider Hillside and Ridgeline Steering Committee**

1. Consider Resolution \_\_-2016 Amending the Hillside and Ridgeline Steering Committee Charter to Extend the Term of the Committee; and
2. Consider Resolution \_\_-2016 Amending the Hillside and Ridgeline Steering Committee Charter to Extend the Term of the Committee and Modify the Composition of the Committee

Ms. Clark presented the staff report and asked the Town Council to consider the alternatives outlined in the staff report and provide direction regarding the composition of the Steering Committee. Regardless of the decision on the composition of the Committee, she also recommended the Town Council adopt a resolution amending the Charter to extend the sunset date of the Steering Committee.

**PUBLIC COMMENTS OPENED**

Tim Meltzer, Moraga, suggested that continuity, expertise, experience, and knowledge for the process and effort should be maintained. He supported Option 3, making no change to the composition of the Hillside and Ridgeline Steering Committee, except if currently serving members wished to step down from their appointment, in which case staff would seek new appointments from each Board and Commission as needed.

Rob Lucacher, Moraga, also spoke to the importance of continuity during the process, with his participation in the process having been based on that continuity. He would like to finish what he had started and saw no reason to make any changes to the Steering Committee. He expressed concern with the potential for increased costs and a less effective work product if changes were made mid-stream, and reiterated his willingness to continue to serve on the Steering Committee.

Christine Kuckuk, a member of the Planning Commission, stated the Hillside and Ridgeline Steering Committee was the only Committee that did not have an active Planning Commissioner represented. She supported at least one currently active Planning Commissioner on the Steering Committee, recognized the benefits of continuity, and saw no reason to remove any member of the Steering Committee who was currently serving and who would like to continue to serve.

John Glover, a current member of the Hillside and Ridgeline Steering Committee, questioned expanding the Committee to ten members. He too recognized the importance of continuity, and while his term on the Design Review Board (DRB) had expired, he was willing to continue to serve on the Steering Committee.

#### PUBLIC COMMENTS CLOSED

**Councilmember Onoda** suggested that ten members was an unwieldy number. She found that the Steering Committee was a well-balanced group, and adding more people on the Committee at this point would not serve the process well. She opposed the addition of another member to the Steering Committee and supported the retention of the current members.

**Councilmember Arth** also supported the retention of the Steering Committee as it was but sought input from the Council representatives on the Committee.

**Vice Mayor Trotter** concurred with the comments, recognized that the other members of the Steering Committee were non-active members of their respective Boards and Commissions, but individuals who had been appointed at the time they were serving on the Town Boards and Commissions who had done a very good job representing the broader community. He too saw no reason to replace or augment them, particularly for those members who would like to continue to serve. He explained that all of the issues would go to the Planning Commission which would continue to have input in the process. He saw no reason to change the Charter.

**Mayor Metcalf** explained that he had no issue with the existing members of the Steering Committee other than his issue with the representation from the Planning Commission which would be responsible for carrying out the Town's regulations. In his opinion, active members of the Planning Commission should be involved in formulating the regulations. He believed it could improve the process given there had been some problems achieving a quorum during Steering Committee meetings. He suggested that augmentation of the Steering Committee was not a bad thing, and agreed the Steering Committee should be kept small with representation from active members of the Planning Commission who would be responsible for carrying out the Town's regulations.

**Councilmember Wykle** agreed that the currently serving Steering Committee members should remain on the Steering Committee. He recognized that continuity was important although he also understood the concerns of the Mayor, and suggested possibly one more Planning Commissioner could be added to the group, which would still keep the group small while allowing an active member of the Planning Commission to participate.

By consensus, the Town Council supported one additional active Planning Commissioner to the Steering Committee.

Ms. Clark also affirmed that Stacia Levenfeld, a non-active member of the Planning Commission, would like to continue serving on the Steering Committee. She noted that the current Steering Committee Charter stated that each Board or Commission shall appoint its own representative.

Ms. Murphy affirmed the Steering Committee Charter could be modified to allow the Town Council to override the Board or Commission selection of a member and after that modification was approved a future appointment could be agendaized, or the Charter could be left as is allowing the Board or Commission to make a selection.

**Vice Mayor Trotter** offered to override the Board or Commission selection given concerns with slowing down the process where new members of the Steering Committee might have to revisit

issues that had already been covered, and the possibility of having to start from scratch. He emphasized the three-year process and explained that the Town Council's goal was to complete the process in 2016. He added that there was language in the staff report that the Steering Committee sunset in March 2017; however he would like to see the Committee sunset in 2016 to ensure completion of the project in 2016.

**Vice Mayor Trotter** recommended that the Steering Committee Charter be modified to expand the Charter to November 30, 2016. If it must be extended again, that could be considered at a later date. Also, he questioned whether the choice of the Planning Commission should be representative should be left to the Planning Commission or to the Town Council.

Ms. Clark advised that the Planning Commission had discussed the matter and Planning Commissioners Kuckuk and Woehleke had expressed an interest in serving on the Steering Committee.

Ms. Murphy clarified the appointment from the Planning Commission had not been agendized, and if it was the desire of the Council to make an appointment from the Planning Commission it would have to come back to a future Town Council meeting.

**Mayor Metcalf** stated while he would have preferred two active Planning Commissioners on the Steering Committee, he suggested either Commissioner interested in serving on the Steering Committee would do the job well, and suggested the Planning Commission should make the selection as to who should serve.

**Councilmembers Arth and Wykle** agreed that the Planning Commission should make the selection of which active member should serve on the Steering Committee.

Ms. Murphy and Ms. Clark offered the following modifications to Attachment A, Resolution 23-2016, Amending the Hillside and Ridgeline Steering Committee Charter to Extend the Sunset Date of the Committee:

- Revise the Number of Members: to read: Up to Seven (7)
- Revise Composition to read:

Two (2) members of the Moraga Town Council

One (1) current member and up to (2) former members of the Moraga Planning Commission

One (1) member of the Design Review Board;

One (1) member of the Park and Recreation Commission; and

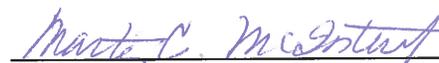
- Revise the Term of the Committee: To sunset on December 1, 2016 subject to extension by the Town Council.

**ACTION: It was M/S (Trotter/Onoda) to adopt Resolution 23-2016 Amending the Hillside and Ridgeline Steering Committee Charter to Extend the Sunset Date of the Committee to December 1, 2016; and to Modify the Composition of the Steering Committee with the revisions put forward by the Assistant Town Attorney and the Planning Director, as indicated. Vote: 5-0.**

5. ADJOURNMENT

**ACTION: It was M/S (Wykle/Trotter) to adjourn the meeting at 10:14 P.M. Vote: 5-0.**

Respectfully submitted by:

  
\_\_\_\_\_  
Marty C. McInturf, Town Clerk

Approved by the Town Council:

  
\_\_\_\_\_  
Michael Metcalf, Mayor