

**TOWN OF MORAGA  
PLANNING COMMISSION REGULAR MEETING**

Via teleconferenced locations

August 16, 2022  
6:30 p.m.

**MINUTES**

**THIS MEETING WAS CONDUCTED PURSUANT TO THE PROVISIONS OF GOVERNMENT CODE SECTION 54953 (AS AMENDED BY AB 361) WHICH AUTHORIZED TELECONFERENCED MEETINGS UNDER THE BROWN ACT DURING CERTAIN PROCLAIMED STATES OF EMERGENCY, THE GOVERNOR OF CALIFORNIA PROCLAIMED A STATE OF EMERGENCY RELATED TO COVID-19 ON MARCH 4, 2020. THIS TELECONFERENCED MEETING WAS NECESSARY SO THAT THE TOWN COULD CONDUCT ESSENTIAL BUSINESS AND WAS PERMITTED UNDER GOVERNMENT CODE 54953 IN ORDER TO PROTECT THE PUBLIC HEALTH AND SAFETY OF ADDENDEES**

Online meetings (i.e. teleconferenced meetings) were encouraged, where practical, as these meetings presented the lowest risk of transmission of SARS CoV-2, the virus that caused COVID-19. This was particularly important when community prevalence rates were high. Our current trends as of April 15, 2022 in COVID-19 case rate and COVID-19 hospitalizations have plateaued at this time, but wastewater surveillance data and COVID-19 test positivity had been increasing. In addition to this, the predominant variant of COVID-19 being identified continued to be the Omicron variant, the impact of which on the spread of COVID-19 had shown to dramatically increase COVID-19 transmission.

Chairperson Hillis described the Zoom Webinar format and identified the available Town of Moraga website links allowing the public to participate with the Planning Commission in order to provide public comment.

**1. CALL TO ORDER**

Chairperson Hillis called the Regular Meeting of the Planning Commission to order at 6:31 p.m.

**A. ROLL CALL**

Present: Commissioners Bode, Davis, Helber, Polsky, Thiel, Vice Chairperson Luster\*,  
Chairperson Hillis  
\*Arrived after Roll Call

Absent: None

Staff: Afshan Hamid, Planning Director  
Denise Bazzano, Assistant Town Attorney  
Bret Swain, Senior Civil Engineer  
Mark Summers, Associate Civil Engineer  
Ashley James, Principal Planner  
Mio Mendez, Assistant Planner

**B. Conflict of Interest (if any)**

There was no reported conflict of interest.

C. Contact with Applicants

There was no reported contact with applicant(s).

2. **PLEDGE OF ALLEGIANCE**

Commissioner Helber led the Pledge of Allegiance.

3. **PUBLIC COMMENTS**

Chairperson Hillis reported there were no public comments for this item.

4. **ADOPTION OF CONSENT AGENDA**

A. June 28, 2022 Planning Commission Meeting Minutes

B. July 5, 2022 Planning Commission Meeting Minutes

On motion by Commissioner Helber, seconded by Commissioner Davis to adopt the Consent Agenda, as shown. The motion carried by the following Roll Call vote:

Ayes:	Bode, Davis, Helber, Luster, Polsky, Thiel, Hillis
Noes:	None
Abstain:	None
Absent:	None

5. **ADOPTION OF MEETING AGENDA**

On motion by Vice Chairperson Luster, seconded by Commissioner Bode to adopt the meeting agenda, as shown. The motion carried by the following Roll Call vote:

Ayes:	Bode, Davis, Helber, Luster, Polsky, Thiel, Hillis
Noes:	None
Abstain:	None
Absent:	None

6. **PUBLIC HEARINGS**

A. Design Review and CUP for 398 Rheem Boulevard Stars Gas

Planning Director Afshan Hamid introduced the item for Design Review and a Conditional Use Permit (CUP) for an existing gas station for the removal of auto bays and the addition of an area for pre-prepared food. The applicant had worked with staff on areas of improvement such as the landscaping, screening and overall architecture. The project was being presented to the Planning Commission as the Design Review Board (DRB) given its location in the scenic corridor.

Assistant Planner Mio Mendez provided a PowerPoint presentation for Stars Food Mart, 398 Rheem Boulevard request for the approval of a Conditional Use Permit (CUP) and Design Review to: 1) construct a 10 square-foot addition to and remodel of an existing 1,873 square-foot gas station and automotive maintenance services establishment; 2) establish a 1,883 square-foot convenience store within the existing building; and 3) install two (2) new wall signs on a building located within the scenic corridor at 398 Rheem Boulevard. The project was categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (Class 1-Existing Facilities) and 15303 (Class 3-New Construction or Conversion of Small Structures) of the CEQA Guidelines.

Mr. Mendez clarified that Condition 12, as shown in the Conditions of Approval as part of Attachment A to the August 16, 2022 staff report had stated: *The applicant shall comply with Contra Costa County Department of Environmental Health and the Regional Water Quality Control Board for the removal of the waste oil tank*, but had been modified by staff to now read: *The applicant shall comply with the Contra Costa Health Services Department and Regional Water Quality Control Board for the removal of the Waste Oil Tank.*

Mr. Mendez recommended the Planning Commission adopt a resolution approving the CUP and Design Review subject to the conditions of approval as contained in Attachment A the Resolution of Approval, and find the project to be categorically exempt under CEQA.

Responding to the Planning Commission, Mr. Mendez clarified the convenience store would have no interior seating. He added that after review of the site plan, staff had found an eighth parking space proposed on the western portion of the property off Center Street in between the two entrances, which left a very small space between parking space 1 and what would be parking space 8. Given the turnaround space was inadequate and would not create a safe environment for vehicle and pedestrian traffic and due to the proximity of the bicycle racks, staff had recommended that parking space be eliminated as reflected in Condition 8.

Ms. Hamid acknowledged that Commissioner Davis had provided written comments to staff prior to the meeting and staff had responded to the comments. In terms of the plans submitted, she understood the applicant had provided symbols and a cover sheet with basic project information for the existing building. Given the level of improvements the applicant was making, staff determined the project was sufficient for Planning Commission review. She clarified this was not a planned development project and a demolition plan as part of construction had not been requested by staff for Planning Commission review. The information provided in the drawings was for what currently existed. She suggested the applicant be allowed to respond to any questions on the specifics of the plans. The role of the Planning Commission was to approve entitlements and the Planning Commission did not review demolition or building permits.

Ms. Hamid further clarified in response to Commissioner Davis that Sheet A1 had shown the new entry and two columns as noted in the staff report.

Mr. Mendez added in response to Commissioner Davis that there were no issues with the setback other than staff having reviewed the project for consistency with the Design Guidelines and conditions following the CUP findings. As to a statement in the staff report that the building was in the setback, that related to how the building had been placed on the site with setbacks in the Community Commercial District different from where the building was currently placed. Community Commercial District zoned properties had their own setbacks, and this property had no issue meeting that setback. The building was one-story, and the new construction would not exceed the height limit for a one story building.

As stated in the staff report: *The proposed addition and exterior remodel would increase the building height above the entrance by four (4) feet, ten (10) inches, resulting in a new height of eighteen (18) feet, which is significantly less than the maximum allowed height of two stories or thirty-five (35) feet, whichever is less (MMC §8.36.050(A)).*

Ms. Hamid explained that the project met the development standards with the inclusion of the height and setbacks to provide transparency. Sheet A2 depicted the existing floor plan and proposed remodel. The new entry had been called out and identified on Sheet A1. Sheet A3.1 had been distributed to the public and all updated sheets provided by the applicant had been attached to the meeting agenda.

Commissioner Davis and other Planning Commissioners reported they had not received the updated sheets of information which should have been provided prior to the meeting for review.

Commissioner Davis questioned whether or not the property had been properly backfilled and suggested that should be reflected in any Town permits to ensure proper remediation and no future sinkholes on the property.

Ms. Hamid explained that staff started with the project description and what was before the Planning Commission was the actual project which had been reviewed by staff. Some items had not been included in the project and were outside the Town or Moraga's purview.

Assistant Town Attorney Denise Bazzano responded to the issue of the sinkhole and commented that while it was true there had been sinkhole at the property that had been subject to code enforcement and abatement action by the Town of Moraga. Current litigation was pending between the parties on that issue, which was separate and apart from this application for entitlements and was not a topic of discussion.

Ms. Hamid suggested the status of the pump shed and the hours of operation for the convenience store be clarified by the applicant.

Mr. Mendez also clarified as part of the review of the project for design consistency that staff had reviewed the landscaping as compared to landscaping along Moraga Road and the Moraga Town Center Homes development, which had drought-tolerant landscaping consistent with the Town's Design Guidelines. The same tact would be taken with any new project within the scenic corridor to ensure cohesive landscaping along Moraga Road.

Ms. Hamid also responded to a recommendation for a potential crosswalk at Center Street and Rheem Boulevard and stated that while staff agreed a crosswalk was important to connect to the project, a crosswalk would be on Center Street which was part of the Rheem Center and which involved a different owner and property. Once improvements had been made to the Rheem Center such an improvement could be incorporated.

Steve Sutton, Lead Architect, Sutton & Associates Inc., explained that staff had provided the details on what the applicant hoped to accomplish and to bring the project up to speed, which was why updated drawings had been provided. He clarified the hours of operation for the convenience store that would be open from 6:00 a.m. to 10:00 p.m. The existing canopy would be painted to match the color of the building with no plans to change or remove the canopy since its removal would require removal of the piping system supplying fuel to the dispensers, was very expensive and would require various permitting from the County.

#### PUBLIC HEARING OPENED

There were no comments from the public.

#### PUBLIC HEARING CLOSED

Chairperson Hillis reopened the public hearing.

Commissioner Helber clarified with Mr. Sutton the eave lines would remain the same. Pursuant to Sheets A2 and A3, (north elevation) the existing eave line would come out vertical to the new tower element, terminate against a new wall, and stop at the edge of the new tower element.

Commissioner Helber commented that new architectural element would stand out as one faced the east elevation and described that element as “eyebrows” on either side. He suggested minor adjustments that would make the front elevation seem more pronounced at the front entry, such as possibly pushing the building out a few feet more if there was room.

Mr. Sutton advised that area was tight due to the proximity of the islands. The entry was the most appropriate location based on the design and on that side of the building. The overhang was significant to protect the walkway. He preferred not to clip it back, and suggested once done it would appear to be appropriate and the finishes would appear as if they had been there all along.

Commissioner Helber added the metal screen around the equipment came up above the ridgeline of the new entry and would be visible as one drove into Town if not obstructed by the canopy tower. He asked whether the metal screen would have a standing seam to mirror the board and batten, and Mr. Sutton confirmed a standing seam would be required to help support it. It would be a light metal structure but strong enough to withstand winds and the standing seam would be required to make it more rigid.

Chairperson Hillis asked for clarification of the different heights on the north and east elevations and why the window sizes were different.

Mr. Sutton explained he was using existing bays for the windows and installing new glass. This would be a steel structure and the mullions would support the windows and also serve as the support for the building. Moving them around would require that the steel structure be re-engineered.

#### PUBLIC HEARING CLOSED

Vice Chairperson Luster thanked the applicant for updating and improving the space which was a central and focal point for the Town of Moraga. As to the eighth parking space, she was not concerned given that people already parked in that space and they may find the parking was needed for the convenience store. She otherwise found the sign colors with bright red to be too red for the focal point of the Town but understood it was consistent with the Design Guidelines. She personally preferred to see something in an earth tone given the location.

Ms. Bazzano asked that any motion include the modification to Condition 12 as staff had outlined in the PowerPoint presentation.

Ms. Hamid added that staff proposed a new 6-inch wide curb along Center Street where the existing driveways were located, to be widened to two feet since it would potentially be a safety and maintenance issue and widening it would create a buffer.

Ms. Bazzano noted that Condition 9 addressed the staff recommendation to increase the width of the curb.

Mr. Mendez also added that Condition 8 included the removal of the eighth parking space off of Center Street and the Planning Commission may want to discuss whether or not to retain the condition.

Vice Chairperson Luster spoke to Condition 8 and did not want to require the applicant to comply with something that was above and beyond and possibly unreasonable.

Commissioner Davis suggested due to the convenience store and open street nature, any way to better define where traffic should go would be beneficial and a wider curb would provide that and allow cars to turn shorter than make the turn protruding over a 6-inch curb. He supported Condition 9 as written.

Mr. Sutton commented that while he did not like Condition 9 he was not opposed and it would involve minimal cost.

Commissioner Polsky suggested there were benefits to providing safety measures for the site and if the financial impact was minimal he could support Condition 9.

Associate Civil Engineer Mark Summers, suggested the curb was located on the wrong side of the sidewalk and the driveway should be defined as a curb cut for the sidewalk. From the Engineering Department's perspective, it would be better to raise the sidewalk to a normal level with the grade as such it would transition appropriately to the property on-site for the bicycle parking.

Chairperson Hillis understood the recommendation to change the design of the entry into a curb cut and widen the curb to 24-inches but asked whether the curb cut would change the discussion on the widening of the curb to two feet.

Mr. Sutton asked that there be a condition that allowed a discussion between the Engineering and Planning Departments to address the staff recommendation as part of Condition 9.

Commissioner Davis agreed the applicant and planning staff should work together to resolve the question as to which side of the sidewalk the curb would go and how wide it should be.

Mr. Mendez advised that planning staff would likely lean towards the expertise of the Public Works and Engineering Departments on the regulations.

On motion by Vice Chairperson Luster, seconded by Commissioner Bode to adopt Resolution No. \_\_-2022, Approving Conditional Use Permit ((UP-04-21) and Design Review Board Application (DRB-06-21) to: 1) construct a 10 square-foot addition and to remodel an existing gas station; 2) establish a 1,883 square-foot convenience store within the existing automobile maintenance service area; and 3) install two (2) new wall signs on a building located within the scenic corridor at 398 Rheem Boulevard, Moraga, CA (APN: 255-150-018). (CEQA Status: Categorically Exempt), subject to:

- Condition 12 to be modified as recommended by staff to read: *The applicant shall comply with the Contra Costa Health Services Department and Regional Water Quality Control Board for the removal of the Waste Oil Tank;*
- Condition 9 to be amended to: "The western entry of 398 Rheem Boulevard requires changes to the configuration of the parking, circulation, and curbs to comply with Town of Moraga Engineering Department regulations. The updated configuration requires approval from the Town of Moraga Planning and Engineering Department."

The motion carried by the following Roll Call vote:

Ayes:	Bode, Davis, Helber, Luster, Polsky, Thiel, Hillis
Noes:	None
Abstain:	None
Absent:	None

**B. EVCS Ordinance**

Principal Planner, Ashley James provided a PowerPoint presentation on the Electric Vehicle Charging Stations (EVCS) Zoning Amendments and recommended the Planning Commission adopt the resolution contained in Attachment A to the staff report dated August 16, 2022.

The Planning Commission welcomed Ms. James to the Town of Moraga Planning Department.

Responding to the Commission, Ms. James clarified the Ordinance allowed for swapping out a required parking space with an Electric Vehicle (EV) charging space while still meeting the parking requirements. She agreed with the analogy it would be similar to providing dedicated handicapped parking spaces.

**PUBLIC HEARING OPENED**

There were no comments from the public.

**PUBLIC HEARING CLOSED**

As the owner of an electric vehicle, Chairperson Hillis appreciated the expansion of EV charging station access and was pleased the Town would be conforming to State law.

On motion by Vice Chairperson Luster, seconded by Commissioner Davis Recommending the Town Council Adopt an Ordinance Amending Section 8.04.020 – Definitions, Section 8.72.030 – Design review procedure for additions or alterations, Section 8.72.060 – Generally, Section 8.72.180 – Design review of above ground installations, and Section 8.76.050 – Design and Layout, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to streamline permitting procedures for electric vehicle charging stations, in accordance with Government Code Section 65850.7. The motion carried by the following Roll Call vote:

Ayes:	Bode, Davis, Helber, Luster, Polsky, Thiel, Hillis
Noes:	None
Abstain	None
Absent:	None

**7. ROUTINE AND OTHER MATTERS**

There were no Routine and Other Matters.

**8. REPORTS**

**A. Planning Commission**

There were no Planning Commission reports.

**B. Staff**

Commissioner Davis inquired whether or not there would be a State mandate for solar panel installation similar to the EVCS Ordinance, and inquired of the status of the Bruzzone project which was planned behind Moraga Royale.

Ms. Hamid reported the State provided legislative updates on a regular basis but she was unaware of any regulations related to solar panel installation. As to the Bruzzone project, the

developer had submitted an application which had been deemed complete. Staff was working with the applicant on some technical issues.

Ms. Hamid also reported the Draft Housing Element had recently been submitted to the State Department of Housing and Community Development (HCD) and the Town had received confirmation of receipt. HCD would provide comments on the draft in October or November. She added the Town Council was currently on summer recess and would resume Town Council meetings on August 24, 2022. She confirmed a discussion on inclusionary housing would be one of the items on that agenda.

## 9. ADJOURNMENT

On motion by Vice Chairperson Luster, seconded by Commissioner Bode and carried unanimously to adjourn the Planning Commission meeting at 7:56 p.m.

A Certified Correct Minutes Copy

A handwritten signature in blue ink, appearing to be 'M. Hamid', is written over the text 'A Certified Correct Minutes Copy'.

Secretary of the Planning Commission