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**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

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

July 17, 2006

7:30 P.M.

MINUTES

I. CALL TO ORDER

Chairman Kirkpatrick called the special session of the Planning Commission to order at 7:30 P.M.

II. ROLL CALL

Present: Commissioners Brown, Cummins, Evans, Sos, Whitley, Kirkpatrick

Absent: Commissioner Chew

Staff: Lori Salamack, Planning Director
Richard Chamberlain, Senior Planner
Jill Mercurio, Town Engineer
Megan Azevedo, Deputy Town Attorney
David Storer, Town Consultant (Rancho Laguna Project)
Nadine Sponamore, Town Consultant (DEIR)

B. Conflict of Interest

Commissioner Sos reported an apparent conflict of interest with respect to CDP-01-2005, the Rancho Laguna Project which was item VIII B. on the meeting agenda.

III. ADOPTION OF MEETING AGENDA

The meeting agenda was adopted, as posted.

IV. ANNOUNCEMENTS

There were no announcements.

V. PUBLIC COMMENTS

There were no public comments.

VI. ADOPTION OF THE CONSENT CALENDAR

visual analysis had shown specific locations where those impacts would occur.

Mr. Armstrong emphasized the balancing required and expressed the willingness to work with staff and the Commission to identify ways to further mitigate those visual impacts through design.

Mr. Armstrong added that those impacts had been identified as significant unavoidable in part because of policies in the General Plan related to the preservation of open space views. He suggested with respect to the application of the General Plan that one was not expected to be able to meet and comply with each and every policy of the General Plan. Instead, he noted that the courts had been clear that what was required was substantial compliance with the General Plan and its policies. He suggested based on the analysis in the EIR that the project, as proposed, substantially complied with the General Plan.

Mr. Armstrong reiterated his willingness to work with staff and the Commission on other mitigations to address the issues that had been identified in the mitigated plan. He suggested that the proposal would substantially comply with the General Plan and its policies.

PUBLIC HEARING OPENED

Larry Beans, 20 Carr Drive, Moraga, referred to a recent situation in the City of Pittsburg where a landslide associated with development had jeopardized adjacent homes. He wanted to know what guarantees there would be that the work would hold up over time. He questioned whether or not a bond would be required of the developer to address any damage that might occur from landslides after the project had been completed. A

David Trotter, 119 Allen Court, Moraga, distributed a letter to the Planning Commission. He suggested that the public was playing "catch-up." He commented that the public had not seen the DEIR which had only been available for a few days. He noted that his letter requested that the Commission and the Town extend the public comment period an additional 45 days, to provide for a total comment period of 90 days. He suggested that the extension would be in the public interest and should be granted for the reasons he had listed in his letter. He did not want to see the process be unnecessarily rushed. B

Mr. Trotter referred to the last major subdivision considered by the Planning Commission, the Palos Colorados project, and noted that the Town had two years in that case on hearings for the EIR. He added that the public

comment period had been extended in that case because it was the right thing to do in the public interest. He suggested that the Commission had ample discretion to extend the public comment period.

Commenting that it had taken the Town and its EIR Consultant nearly a year to produce an EIR that was several hundred pages in length, given the size and complexity of the significant environmental impacts and the issues presented in the proposed project and discussed in the DEIR, Mr. Trotter suggested it was unreasonable to expect members of the public to be able to review that document in 45 days.

If extending the public comment period consistent with what had occurred with the Palos Colorados project, at least through the end of September, Mr. Trotter stated that would allow residents who were on vacation and those who would be back in school an opportunity to comment on the project. He suggested that was particularly important given the several significant and unavoidable environmental impacts identified by the DEIR.

Given those findings, Mr. Trotter suggested it was not surprising that the proposed development was controversial and had attracted opposition. He urged that the public be allowed more than the bare minimum. He asked for the additional time to allow the public to provide the information required to allow a full and complete review and decision on the process. He suggested that under the CEQA Guidelines, public agencies were required to seek and respond to public comments given that process would allow for the sharing of expertise, the solicitation of counter proposals, to detect and advise of possible omissions and errors in the DEIR, and allow a complete airing and disclosure of public concerns.

Bill Vaughn, 282 Birchwood Drive, Moraga, a former Town Planning Commissioner and Town Councilmember, agreed with the need to expand the public comment period. C.1

Speaking to the adequacy of the DEIR, Mr. Vaughn commented that the proposal was for theoretically the maximum possible to be placed on the property. He suggested that the proposal was for the absolute theoretical maximum, which he stated he had never seen. He suggested that the property had been left undeveloped because the property was extremely problematic. As such, he suggested that the alternatives mentioned in the DEIR were the more realistic case. He suggested that the more realistic alternative scenarios listed in the DEIR needed more work, and that additional alternatives should be considered. C.2

Referring to the General Plan Land Use section, Mr. Vaughn cited the guiding principles, one of which was to preserve the Town's natural setting including its undeveloped ridgelines. He suggested that would need to be addressed as to how the project would be consistent with the General Plan.

C.3

With respect to another guiding principle, Mr. Vaughn stated that land use needed to be consistent with the enhancement of the Town's scenic corridor and consistent with the Town's high standards. He stated that Rheem Boulevard was designated as a scenic corridor and there would need to be more in the DEIR as to how the proposal would represent an enhancement to the scenic corridor.

C.4

In addition, Mr. Vaughn referred to a policy item, that development shall be avoided on slopes of 20 percent or steeper. He suggested that the areas on the ridgeline had slopes in excess of 60 percent. He wanted to see why those policies were being disregarded in the DEIR.

C.5

Further with respect to community design, Mr. Vaughn referred to the General Plan policy that building sites shall be developed such that visual impacts are minimized. He suggested that the placement of the homes across the ridge would maximize the visual impacts in direct contradiction to that General Plan policy.

C.6

Mr. Vaughn emphasized that the project was significant and as such he suggested that time, detail and quality needed to be applied to the project. He also suggested that the project would not be the only way to pay for the necessary repairs to Rheem Boulevard.

Edie Schwartz, Hepfield Place, Moraga, commented that she had been working for the last eighteen months to get people in Moraga involved in the Town. She suggested that had occurred. She noted that she had no opportunity to be able to evaluate the voluminous DEIR. As a lay person, she asked for more time to be able to evaluate the document. She commented that her group was hoping to get groups of people to research pieces of the EIR given that it would be impossible for individual residents to accomplish that task.

D

Aida Peterson, 603 Rheem Boulevard, Moraga, commented that it was difficult for the audience to hear the proceedings. She suggested that there should be some way to provide microphones to allow the audience to be able to hear what was going on. She noted prior discussions related to the project where the houses were to have been placed on the other side of the ridge to screen the homes, a particular concern since the ridge in question was the last ridge left in the Town. She objected to the loss of the country

E.1

atmosphere and suggested that Rheem Boulevard was the last of the countrified areas in the Town.

Ms. Peterson also suggested that the traffic associated with 14 homes would create an impossible situation. She noted that the area was already congested with traffic and it would just get worse. She further expressed concern for where the six foot wide bike lanes would be placed and whether or not those lanes would take away part of the yards of existing homes. She expressed her concern that the value of those homes, and hers, would be lost in that parts of the yards would be lost. She did not see a need for bicycle lanes on each side of the road. She also noted that there was an existing staging area on St. Mary's Road.

E.2

Ms. Peterson emphasized that residents needed time to understand what was being proposed. She suggested that the Town was pursuing the development simply to allow Rheem Boulevard to be repaired at the expense of the developer. She supported Ms. Schwartz' suggestion that groups of people evaluate the EIR incrementally. She did not believe that 14 homes would be appropriate on Rheem Boulevard, particularly given the current speed of traffic along Rheem Boulevard.

E.3

Ms. Peterson expressed concern that the proposal would result in the loss of the old town flavor of the Town of Moraga.

E.4

Amelia Wilson also requested that the comment period be extended. Given the associated environmental impacts, she stated that the proposal was of interest to people beyond the Town of Moraga. She verified with staff that at some point the DEIR would be available on the Internet. She too commented on the difficulty in being able to hear comments from Commissioners. She urged that the Town find a way to make the proceedings audible to all present.

F

Jack Northup, 19 Via Barcelona, Moraga, opposed the project given his environmental and geological concerns as a result of the unstable land area on both sides of Rheem Boulevard from Moraga Road to St. Mary's Road. He suggested that the developer proposed to solve the problem by using experimental theory to fill in a neighboring creek and build a recreated creek on top. He was concerned that there was no assurance that procedure would be effective over the long term. He added that the valley buttress fill proposal to stabilize the 2,400 feet was a concern to him with respect to the cost of maintaining that stabilization over the long term. He sought assurances for that stabilization.

G.1

Mr. Northrup spoke to the traffic issue and noted that the entrance to Via Barcelona from Rheem Boulevard was at the top of the hill on a blind curve with cars coming from St. Mary's Road to Moraga Road and across the road from one of the proposed entrances to Rancho Laguna. He suggested that entrance would become an ever greater concern with the additional traffic from the project.

G.2

Mr. Northrup also noted that the turn from Rheem Boulevard onto St. Mary's Road at the bottom of the hill was currently very dangerous with a blind curve area for the cars approaching Rheem Boulevard from Lafayette. He commented that Moraga Road into Lafayette had recently been closed for a few days due to a slide and traffic had been forced to use Rheem Boulevard as an alternate route. As a result, traffic had backed up almost to the top of the hill.

G.3

Mr. Northrup referred to the impacts the proposal would have on the native trees and the wildlife species that existed in and above the open space proposed as part of the project. He stated that the loss of those trees and wildlife would have a significant negative effect on the Town. He added that the Town would also lose a large area of open space to the Palos Colorados project. He emphasized that the citizenry had been fighting for many years to preserve the existing open space in the community.

G.4

Malcolm Sproul, 45 Williams Drive, Moraga, commented that he too had been unable to evaluate the DEIR given its limited availability. He requested another public hearing to allow residents to address his/her concerns. He urged a continued public hearing not at the August 7 meeting, as advised by staff, but after the summer and potentially later in October.

H.1

Mr. Sproul did not see the need to rush the process and he urged that residents be allowed the opportunity to review the document.

With respect to traffic on Rheem Boulevard, Mr. Sproul suggested that the problem was not the condition of the road but the excessive speed of traffic. He suggested that improvements to the roadway would actually increase speeds and create a more dangerous situation. He urged that issue be taken into consideration as well.

H.2

Joseph Wargo, 21 Birchwood Place, Moraga, as a California registered geologist, suggested that the method of buttress fill would presume that one big pile of dirt would stop the movement of another bigger pile of dirt. He stated that method sometimes worked and sometimes did not work. He asked the Planning Department and its engineers to look carefully at the

I.1

entire concept of buttress fill. He stated that there were other ways to accomplish the same thing, although he noted that the DEIR had indicated that those other ways were too costly.

Mr. Wargo commented that the DEIR had indicated that the view corridor would be severely impacted. He suggested that the view corridor would actually be destroyed and would disappear. He also suggested that the repair of Rheem Boulevard had become the purpose of the project and that repair would result in the loss of views. I.2

Mr. Wargo verified with Ms. Salamack that the DEIR had been prepared by the same company that had prepared the prior DEIRs. He suggested that the DEIR relied heavily on the Engeo report but was not very critical of that report and did not look to see whether or not there were other ways of doing things. He suggested that the strength of the DEIR was that there had been an increased effort to evaluate wildlife corridors and the like. I.3

Mr. Wargo questioned whether or not the mailing for the current meeting had been Town-wide. When advised by Ms. Salamack that was not the case, he emphasized that the proposal was a Moraga proposal that should solicit the comments from all Moraga residents. He suggested that every person in Moraga should be apprised, by mail, of what was going on. He also expressed concern that there were too few copies of the DEIR available to residents for review. He urged a wider distribution of that material to the Town at large. He too supported an extension of time to consider the DEIR. I.4

Lloyd Sunalula, Moraga, supported the proposal because he wanted to see new growth in the Town. He otherwise urged that the process not be rushed. He wanted to see the project done right, addressing the tree and wildlife issues. He stated that surrounding residents were essentially sitting on watershed land, which had its own issues. J

Joan Merrimal, Valley Hill Drive, Moraga, suggested that the design of the project was not well thought out. She commented that it was stuck in 1950s mentality with a little row of houses across the ridgeline. She emphasized that the ridgelines had to be respected. She suggested that the houses could be clustered in ways to protect the ridgeline. She also emphasized that the area was part of a larger wildlife corridor. With the changes proposed for the creek, she stated that the US Department of Fish and Game, US Army Corps of Engineers and other jurisdictional agencies would have to become involved. She also asked who would manage the open space in perpetuity. K.1

Ms. Merrimal did not believe it was appropriate to rely on the developer just to fix the road and she expressed her hope that was not the intent of the project. Further, she urged the Town to provide microphones for its public meetings suggesting that the Town was in violation of the Brown Act because the audience could not hear the proceedings.

K-2

Suzanne Jones, 1285 Bollinger Canyon Road, Moraga, speaking on behalf of Preserve Lamorinda Open Space, an association of nearly 700 local residents with an interest in development issues and open space preservation issues in the area, stated that her substantive comments would be provided after a more comprehensive review of the document. She described the difficulties she had securing a copy of the DEIR for review. She expressed concern that with six days into the comment period, there had been little access to the document.

L

Due to the height of the vacation season, Ms. Jones supported a continuation of the comment period. Further, since the DEIR was so long and so expensive to buy since it was \$75 at the Planning Department, she requested that more than one copy be placed at the different locations and that at least one copy be made a circulating copy.

Bill Grobach, 1125 Bollinger Canyon Road, Moraga, commented that as one who traveled Rheem Boulevard daily, he would rather pass on the project than fix the road. Speaking to an earth buttress, he stated that he had installed an earth buttress at his home which had worked just fine, although the area around that buttress had failed. He therefore expressed concern for what had been proposed to stabilize the roadway.

M

Peter Bennett, Natalie Drive, Moraga, concurred with all the comments and supported an extension of the hearing to allow the rest of the Town an opportunity to review the proposal.

N

Mark Armstrong acknowledged the questions and uncertainties of the speakers with respect to the kind of stabilization required to address Rheem Boulevard as it related to the project. He stated that Engeo would provide a report at the next meeting as to how that stabilization would be addressed.

O.1

Mr. Armstrong expressed a willingness to meet with residents outside of the process to explain the stabilization required, the different alternatives available and why the proposed alternative made sense.

Mr. Armstrong emphasized the time that had been spent by the applicant's consultants and the Town's consultants to determine how to deal with the stabilization issue. He was confident that the approach suggested by Engeo

and identified as part of the proposed plan was the right way to go. He added that the consensus was that dirt for the repair had to come from the site and could not come from off-site given what would be an incredible importation of fill.

With respect to an extension of the comment period, Mr. Armstrong noted that the hearing item was to take public comment and not for Planning Commission to take action with respect to the DEIR or with respect to the project. He suggested it was premature to be asking for an extension when the DEIR had been distributed for less than a week. He suggested that the issue of an extension could be addressed by staff and the Commission at the August 7 meeting. 0.2

When asked, Mr. Armstrong advised that he had received a copy of the DEIR on July 14. He stated that the applicant would provide a written response within the comment period to the DEIR, and perhaps provide oral comments.

Mr. Trotter spoke to the request for an extension to the comment period of the DEIR. He noted the lengthy agenda item, the NOA that had been published with respect to the DEIR, the fact that the DEIR had been made available and the public hearing with respect to the DEIR. As such, he suggested that the Commission had the power to consider a request from the public to extend the written comment period on the DEIR. P

Deputy Attorney Azevedo responded to Mr. Trotter although her comments were not audible on tape. Q

Susan Spario, Valley Hill Drive, Moraga, commented that she had traveled Rheem Boulevard for years. During that time the road had been closed on several occasions. She stated that the top of the road had successfully been stabilized with fill from another area at little cost to the City at that time. R

Aida Peterson, 603 Rheem Boulevard, Moraga, spoke to the drainage problems in the area and expressed concern for how that would affect neighboring properties. S

PUBLIC HEARING CLOSED

Commissioner Whitley asked how the stabilization of Rheem Boulevard fit into the environmental aspect of the proposal, reported by Ms. Salamack that in this case it had to do with what the Town could require of an applicant.