

TOWN OF MORAGA
PLANNING COMMISSION MEETING

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

August 7, 2006
7:30 P.M.

MINUTES

I. CALL TO ORDER

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

II. ROLL CALL

Present: Commissioners Brown, Chew, Cummins, Evans, Sos, Whitley, Kirkpatrick
Absent: None
Staff: Lori Salamack, Planning Director
David Storer, Town Consultant (Rancho Laguna Project)

B. Conflict of Interest

Commissioners Chew and Sos reported a conflict of interest with respect to CDP-01-2005, the Rancho Laguna Project, which was item VIII A. on the meeting agenda.

III. ADOPTION OF MEETING AGENDA

On motion by Commissioner Brown, seconded by Commissioner Cummins and carried unanimously to adopt the meeting agenda, as posted.

IV. ANNOUNCEMENTS

Planning Director Lori Salamack announced that the Town had hired Kelly Suronen as the Town's new Assistant Planner.

V. PUBLIC COMMENTS

Ric Cone, Moraga, requested a multi-use paved bicycle/pedestrian path along the north side of Rheem Bouelvard, to be separated from traffic. He submitted a map of his proposal, which would be similar to what existed along St. Mary's Road. He volunteered to assist in developing the proposal.

VI. ADOPTION OF THE CONSENT CALENDAR

to consider the merit of the DEIR and not the project at this time. A Final EIR, which was a summation of the responses to comments from the public and the Commission, would be prepared for the project after the appropriate hearings.

Mr. Storer explained that at the last hearing the Commission had directed staff to address the issue of extending the public review period, to calculate the impact of fixing Rheem Boulevard on the Town's budget, and to address geological concerns with respect to a valley butress fill.

Mr. Storer commented that staff had been discussing with the applicant the possibility of conducting a workshop where more detail on the technical issues could be discussed.

In response to Commissioner Whitley as to when the DEIR was available on the Town's website, Mr. Storer noted his understanding that it had been available the day after the last hearing.

PUBLIC HEARING OPENED

Larry Cord, Rheem Boulevard, Moraga, whose home was situated immediately below the Rancho Laguna Project, objected to the DEIR and suggested that the plan for the valley butress fill completely ignored the fact that the plan would bring more water into the creek parallel to Rheem Boulevard that would dump into existing properties. He noted that he had experienced extensive damage to his home as a result of the property in question from landslides caused by cattle trails and by run-off from the property. He objected to the proposal and the negative effects it would impose on adjacent landowners. He supported the applicant's direct consultation with the affected property owners. He also recommended a one thousand foot buffer zone from existing properties and recommended the planting of a thousand trees to protect those property owners from the impacts of the development. A

Ric Cone, Moraga, agreed with the need for the applicant's direct consultation with the affected property owners. He reiterated his earlier request for a bicycle/ pedestrian trail along Rheem Boulevard and suggested that was a separate issue that would have to be addressed. He was concerned whether or not there could be a paved safe path adjacent to Rheem Boulevard. B

Bill Nuser, 157 Fernwood Drive, Moraga, whose home was located across the street from the project, commented that he had not been able to find the C

various layouts in the DEIR. He also had a concern for the valley buttress fill process and expressed a desire to participate in a workshop to learn exactly how the road would be stabilized.

An unidentified Hardy Drive resident stated that as a resident of the Town since 1961, she had witnessed the numerous landslides on the subject property since that time. She also noted the historic instability of the Rheem Boulevard roadway in the area. She did not see how that historically unstable land could be developed. D

John Garvey, 601 Rheem Boulevard, Moraga, commented that he had attended several of the meetings on the subject over the last two years. He suggested that the proposal would jeopardize the Town's natural environment. E.1

Mr. Garvey expressed concern for the run-off from the site and the historical damage to adjacent homes as a result of that run-off. E.2

Mr. Garvey also commented that in July 1998 he had found a stone cross in the creek as well as several arrowheads, a discovery that he had earlier reported. He stated that the applicants had not contacted him to look at those pieces. He suggested that the area should be investigated for its archeological value. He added that the development of the proposal on the ridgeline would ruin the Town's character. E.3

Suzanne Jones, 1285 Bollinger Canyon Road, Moraga, speaking on behalf of Preserve Lamorinda Open Space, noted the statement by the Planning Director at the last hearing that in order for the Town to require the developer to repair Rheem Boulevard the proposal would have to include enough homes to trigger a nexus between the project and the impact on the road. She also referred to a comment from the applicant's attorney at the last hearing who had explained the relationship between the ridgeline lots and the applicant's preferred method of repairing the road. She understood that building lots on the ridgeline required excavation of greater fill, the amount of which would be too significant to transport off site. As such, there was a need to dispose of that soil on site, which she understood would be into the creek. F.1

Ms. Jones suggested that there was a completely different approach that could be taken with the property. She referred to Figure 2.00-4 of the DEIR, a conceptual remedial grading plan for the valley buttress fill. Commenting that figure was actually not the valley buttress fill, she provided copies of what should have been included as Figure 2.00-4. She explained that while F.2

the valley buttress fill would require a great deal of grading and fill dumped into the creek, in contrast a below grade retaining wall would require no remedial grading and no fill dumped into the creek.

Ms. Jones stated that the DEIR's alternative analysis did not include any alternatives that looked at using a below grade retaining wall method of stabilizing the road. She noted that while the geology and soils section of the DEIR had mentioned that there were several methods that would work, it had indicated that the below grade retaining wall would cost between \$3 and \$4.7 million more than the valley buttress fill approach.

F.3

While a below grade retaining wall had not been mentioned again in the DEIR, Ms. Jones noted that the applicant's application to the US Army Corps of Engineers had included a more detailed analysis which had indicated that a below grade retaining wall would cost less than \$2 million more than a valley buttress fill.

F.4

Ms. Jones presented a new alternative and asked that the DEIR consider that alternative. In that alternative, she stated that the ridgeline lots would be eliminated and there would be no visual impacts. The massive amount of soil that would need to be disposed of on site would also be eliminated and the road would be repaired with a below grade retaining wall as opposed to a valley buttress fill. In that case, most of the trees would remain and the natural creek channel could be retained, restored and enhanced. In that alternative as well, the homes would be located in a single cluster in the north end of the valley on top of an artificial flat fill area. If the homes were clustered, she stated that the remainder of the property would be left in open space.

F.5

Ms. Jones urged that the DEIR analyze the alternative of a below grading retaining wall method. She stated that the rest of her comments would be offered in writing.

F.6

Victoria Mathers, 600 Moraga Road, Moraga, asked for assistance in resolving an affordable housing issue that she was advised did not relate to the Rancho Laguna project. She was advised that the current hearing related only to the Rancho Laguna project and she was referred to the Town Council or the Town's other public venues to offer her concerns.

G

Cliff Tong, 9 Diane Court, Lafayette, representing burtonvalley.com, commented that in his review of the DEIR, the pictures presented had not been magnified and did not do justice to the degree of visual impact to the specific sites. He commented that he had taken pictures from several

H.1

venues. He recommended the use of a digital camera between 3x and 5x magnification to identify the true impacts.

With respect to the landscaping plan, Mr. Tong stated that in his experience it was difficult to get vegetation to grow on bare hillsides. As such, he recommended that mature trees be included in the landscape plan. H.2

Lech Nomovich, 5718 Dover Street, Oakland, representing the East Bay Chapter of the California Native Plant Society, a local and Statewide non-profit, characterized the DEIR as a fairly well-written environmental impact statement that considered a number of vegetation communities that appeared to have been prepared by ecologists. He suggested that the California Environmental Quality Act (CEQA) process focused on rare species and rare communities and did not take into account existing functioning communities. I.1

Mr. Nomovich referred to a closed canopy riparian corridor along the creek in the property which could be lost with the development. He suggested that the development be modified to avoid that one creek on the property. He did not support the alteration of any riparian areas and noted that the riparian area on the subject property was rare for the East Bay. I.2

Mr. Nomovich added that the Town's General Plan Policy OS2.2 required the preservation of riparian environments as well as creeks, streams and other waterways in their natural state, when available. He also suggested that the designation of the creek as an intermittent stream might not be biologically correct. He suggested therefore that the impacts would have to be reassessed as significant and unavoidable, requiring more attention.

With respect to Rheem Boulevard, Mr. Nomovich supported a below grade retaining wall to a valley buttress fill to avoid damage to the creek. He urged the Commission to consider the impacts of the project on the riparian areas and streams. I.3

Joan Merrimal, Valley Hill Drive, Moraga, objected to what she described as row housing proposed for the project from a 1950 mentality. She suggested that the applicant could be more creative in developing the proposal. She did not want the houses to be placed on the ridgelines and she suggested that the houses be grouped in such a way as to ensure open space around them. She too urged careful attention to the riparian area. J

Mark Armstrong, speaking on behalf of Rancho Laguna LLC, advised of the willingness to provide a workshop forum for the Commission where the firm's expert consultants could address the stabilization of Rheem Boulevard K

and hillside stabilization issues, as well as hydrology issues. He stated that a photo visualist could also be available to provide a presentation in terms of visual questions.

Mr. Armstrong suggested that the workshop would help the members of the Commission and the public to understand why the approach that had been proposed was being taken. He stated that the alternatives in the DEIR and those in the application for the US Army Corps of Engineers permit were alternatives that had been prepared by Engeo and the Biotic Consultant dealing with hydrology and stabilization.

Mr. Armstrong also suggested that a workshop forum would allow all those issues related to the project to be discussed in detail. He emphasized that the DEIR had adequately and effectively addressed the alternatives, the impacts and the mitigation measures, while a workshop forum would allow the project itself to be analyzed. He added that there had been thirty different plans developed over time for the project. The focus had been on a very narrow area of development with the stabilization that had been proposed for some sound reasons, which the workshop could explain.

PUBLIC HEARING CLOSED

In response to the Chair as to the question of an extension of time to review the DEIR, Ms. Salamack referred to Item IX. A. on the agenda to consider that issue. She noted that it had been recommended that the public review period be extended through September 11, 2006, which would allow for a 60-day public comment period. She added, when asked, that the minimum public comment period was 45 days.

Ms. Salamack clarified the two processes involved; that of the environmental document subject to a specified and official public comment period and the process of evaluating the project itself. She noted that an EIR could be certified and the project could be disapproved for different reasons. She added that the item could be scheduled for a study session where there could be interaction with the public.

Ms. Salamack explained that a study session/workshop could be scheduled during the public comment period on the DEIR or it could be scheduled after the close of comments. She suggested that if the Commission determined to have a workshop during the public comment period, the auditorium would be available on August 23 since the Town Council would not meet on that date.

Commissioner Cummins expressed concern with stream and drainage issues, which issues he stated would have to be resolved. He referred to recent land movement in the City of Pittsburg affecting several homes which emphasized the need to address those types of issues.

Commissioner Whitley commented that he would be available on August 23 or in September if a workshop were scheduled. He expressed a preference for a workshop prior to the closure of the public comment period for the DEIR to enable any concepts raised by the public during the public comment period to be addressed by the Final EIR.

Commissioner Brown supported an extension of the public comment period, did not know if he would be able to attend a meeting on August 23, and supported a workshop sometime in September since many residents would have returned from vacation by that time.

Commissioner Cummins commented that he would not be available on August 23. He too preferred a September workshop prior to the closing of the public comment period.

Commissioner Evans supported an opportunity for an open exchange with the applicant, the Commission and the public to discuss some of the issues. He supported a workshop but was unaware whether or not he would be available on August 23.

Mark Armstrong noted that there were no unusual circumstances to justify a long extension. While he was not concerned with an extension to allow the public an opportunity to make additional comments, he was concerned with an unnecessary extension of the entire comment period that could delay the process. He supported an extension of the comment period to September 11. He noted that any additional comments directly related to the analysis, information and questions answered in the workshop could then be accepted.

Commissioner Whitley did not believe that an extension of 30 days beyond the minimum legally required 45 day public comment period was unreasonable.

Commissioner Evans commented that he did not consider the extension as one for additional continued public comment. His view was that the extension allowed an opportunity for an open two-way dialogue.

After discussion, Chairman Kirkpatrick acknowledged the general consensus to hold a workshop the week of September 18, with an extension of the public comment period on the DEIR to September 25, 2006.

When asked as to any other items on the agenda for the September 18 meeting, Ms. Salamack commented that the Palos Colorados application could also be on that meeting agenda. There could also be additional items.

On the discussion of a date for the workshop, Ms. Salamack advised that staff would work around dates to secure a site and verify attendance. She advised that the workshop would be noticed on the Town's website.

On motion by Commissioner Whitley, seconded by Commissioner Evans to extend the period for the public comments for the Draft Environmental Impact Report for the Rancho Laguna project on Rheem Boulevard through Monday, September 25, 2006. The motion carried by the following vote:

Ayes: Commissioners Brown, Cummins, Evans, Whitley, Kirkpatrick
Noes: None
Absent: Commissioners Chew, Sos [Recused]

Chairman Kirkpatrick clarified that the workshop would be held on September 14 or September 20, date to be determined.

Commissioners Chew and Sos rejoined the Commission at this time.

VIII. NEW PUBLIC HEARINGS

A. None

IX. ROUTINE & OTHER MATTERS

A. CONSIDERATION OF A REQUEST TO EXTEND THE PUBLIC REVIEW PERIOD FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE RANCHO LAGUNA RESIDENTIAL SUBDIVISION PROJECT THROUGH MONDAY, SEPTEMBER 11, 2006 WHICH WOULD PROVIDE FOR A 60-DAY PUBLIC COMMENT PERIOD

The Commission had earlier moved to continue the public comment period for the DEIR for the Rancho Laguna residential subdivision to Monday, September 25, 2006, providing a 75-day comment period.

X. COMMUNICATIONS