

BEFORE THE PLANNING COMMISSION OF THE TOWN OF MORAGA

In the Matter of:

Resolution Certifying the Legal Adequacy of the Final Environmental Impact Report for the Rancho Laguna II 27 Lot Residential Project))))))	RES. X- 2009 PC
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WHEREAS, Rancho Laguna, LLC (“Applicant”), owns approximately 180 acres of property within the Town of Moraga along Rheem Boulevard (more specifically referred to as APN: 256-040-024); and

WHEREAS, on February 25, 2005, the Applicant applied to the Town of Moraga for the development of its property, requesting approval of a Conditional Use Permit (CUP) and Conceptual Development Plan (CDP) for a 35 lot single-family residential project with associated open space and other public amenities, entitled Rancho Laguna II; and

WHEREAS, the Town retained Sponamore & Associates, a well-qualified environmental consulting firm, to prepare an environmental impact report (“EIR”) for the proposed Rancho Laguna II 35 lot project; and

WHEREAS, on June 4, 2002, the Town of Moraga adopted the Moraga 2002 General Plan which is a statement of community values and priorities; and

WHEREAS, the purpose of the Moraga General Plan is to provide a framework for development decision-making and directing the orderly growth of the Town, and to provide an adequate level of services to the community; and

WHEREAS, the Moraga 2002 General Plan was prepared as a strategic tool for guiding the physical development of the Town and governs the development of Rancho Laguna II project area site; and

WHEREAS, a final Environmental Impact Report for the Rancho Laguna II project has been prepared in order to comply with the California Environmental Quality Act (CEQA) and provide information to facilitate the planning of a Rancho Laguna II project that, in meeting project objectives, avoids or mitigates to less than significant all significant environmental impacts, the thresholds of which are informed by the goals and policies of the 2002 Moraga General Plan; the process to complete that final Environmental Impact Report is described below; and

WHEREAS, on September 13, 2005, the Town of Moraga published and circulated through October 10, 2005, a Notice of Preparation (NOP) regarding the preparation of an Environmental Impact Report (EIR) for the Rancho Laguna II project; and

WHEREAS, during the public circulation period for the NOP, on September 19, 2005, the Planning Commission held a public meeting regarding the preparation and scope of the Draft EIR; and

WHEREAS, the Rancho Laguna II Draft EIR was first published on July 11, 2006 and circulated for a public review period through September 25, 2006; and

WHEREAS, On July 17, 2006 and August 1, 2006, the Planning Commission held public hearings to receive comments on the Draft EIR; and

WHEREAS, on September 20, 2006, the Planning Commission held a study session regarding the Rancho Laguna II project to allow the Applicant and its consultants to make presentations and provide information regarding visual quality, slope stability, Rheem Boulevard stabilization, drainage, and hydrology, and to give the public the opportunity to provide testimony and ask questions concerning these and other topics of interest; and

WHEREAS, on August 18, 2008, the Town released for public review a final Environmental Impact Report (Ffinal EIR) for the 35 lot project pursuant to CEQA; and

WHEREAS, that Ffinal EIR, consists of the following ~~volumes~~: (i) Draft EIR, (ii) its Appendices, ~~and~~ (iii) Comments Received on the Draft EIR, Responses to Comments Document (Volumes 1-3), and (iv) Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, included in those documents are the contents required for a final EIR as set forth in CEQA Guideline Section 15132 (a)-(d); and

WHEREAS, in compliance with Public Resources Code section 21092.5 (a), copies of the Responses to Comments, Volume 1, were provided to public agencies who commented on the Draft EIR; and Volumes 1-3 and the MMRP were provided to the Planning Commissioners; and the documents were posted on Town website and made available at the Planning Department for public review; and

WHEREAS, after that final EIR was released, the Applicant modified the 35 lot project described therein, based on that environmental review and input received during the planning process from Town staff, EIR consultants, members of the public, and the Planning Commission; and

WHEREAS, the revised project submitted to the Town by the Applicant (*see Attachment 4a to Staff Report*) proposed 31 lots, with 21 reconfigured lots in the southern plateau

area and 10 clustered lots in the upper Rheem valley area; it included a revised preliminary landscape plan and other changes intended to address environmental impacts and planning concerns; it did not include a lower valley buttress because no homes were proposed there and the lower valley buttress was not required in order to develop the project, and the Planning Commission expressed an interest in preserving the lower valley in essentially its current condition, with that section of Rheem Boulevard to be stabilized by the Town in the future by a buried retaining wall/tie-back system and geogrid slope reinforcement; and

WHEREAS, on September 2, 2008 and September 15, 2008, the Planning Commission held public hearings on the project, in part to discuss that final EIR and receive comments from the public and members of the Planning Commission on its content; and

WHEREAS, at the public hearing on the project on October 20, 2008, the Town EIR consultants responded to written and oral testimony provided by members of the public concerning the contents of that Ffinal EIR, which responses are included as part of the administrative record but not incorporated in the Ffinal EIR; and

WHEREAS, the Town staff and EIR consultants determined the 31 lot project with the mitigation in the August, 2008 Ffinal EIR reduced to less than significant the visual quality impacts with respect to change in community character (Impact 3.35 # 1), ridgeline development (Impact 3.35 #2) and site characteristics (Impact 3.35 #3), but the visual quality impact of the project as seen from Rheem Boulevard, a scenic road (Impact 3.35 #4) while less than before, remained significant; and

WHEREAS, the Planning Commission directed additional project changes recommended by Town staff: (i) reducing the number of lots in the upper Rheem valley area to six in order to create wider and more spacious lots and locate the debris benches outside the lots, and (ii) stabilizing Rheem Boulevard along the entire project frontage by including a lower valley buttress; Commissioners agreed with the Town Engineer that the prospect was very unlikely for the Town to secure funding for it to complete the alternative method of repair for that intervening unstable section, and Commissioners determined that a restored intermittent drainage represented high quality mitigation and an aesthetic improvement over the existing, degraded condition of that intermittent drainage; and

WHEREAS, the Planning Commission directed Town staff to come back at a later public hearing with a project that includes the foregoing changes and to evaluate whether the remaining significant impact of the project, the change it makes in the visual character of the project site as seen from Rheem Boulevard, a scenic road, could be reduced to less than significant with different mitigation; and

WHEREAS, Town staff and EIR consultants further analyzed the 31 lot project and prepared memoranda with recommendations to the Applicant on design changes to the project, including reconfiguration of “D” Drive and landscape modifications to maintain open views of the valleys, hillsides and ridgeline as seen by travelers along Rheem

Boulevard and still screen the six single-story homes on “D” Drive (*see Attachment 9 to Staff Report*); and

WHEREAS, in response, the Applicant prepared the “Rheem Boulevard Visual Quality Mitigation Exhibits,” comprised of the “27 Lot Preliminary Grading Plan for Rheem Boulevard Visual Quality Mitigation” (one sheet) by the Applicant’s engineer dated January, 2009, and the “Rheem Boulevard Visual Quality Mitigation Exhibit” by the Applicant’s landscape architect dated January, 26, 2009, which are included as Exhibit A-1 to this Resolution and incorporated herein by this reference (*see Attachment 4b to Staff Report*); and

WHEREAS, the Rheem Boulevard Visual Quality Mitigation Exhibits (“Mitigation Exhibits”) include the lower Rheem valley buttness and six wider lots on “D” Drive in the upper Rheem valley with the debris benches located outside the lots, as directed by the Planning Commission, and the subsequent design changes recommended by Town staff and the EIR consultant and design sub-consultant; and

WHEREAS, the EIR biology sub-consultant has reviewed the Mitigation Exhibits and recommended changes in riparian and wetland plant species to be planted in the areas of the recreated wetland swale in the upper Rheem valley and the recreated and preserved intermittent drainage in the lower Rheem valley, so that the visual quality mitigation and biological restoration mitigation are compatible (*see Attachment 9 to Staff Report*); and

WHEREAS, Town staff and the EIR consultant and design sub-consultant have determined that by requiring revisions to the project consistent with the Mitigation Exhibits (as modified as recommended by the EIR biology sub-consultant with respect to plant species and location for biological restoration), the remaining significant environmental impact of the project is mitigated to less than significant; and

WHEREAS, Town staff and EIR consultants have determined that with the additional mitigation set forth in Mitigation Measure 3.35 # 4 in the revised Mitigation Monitoring and Reporting Program referenced below, requiring that the General Development Plan and Precise Development Plan ~~to~~ include design changes to the Applicant’s proposed 31 lot Conceptual Development Plan that are consistent with the Rheem Boulevard Visual Quality Mitigation Exhibits (as modified per the recommendations of the EIR biology sub-consultant), and with all other recommended Mitigation Measures , all impacts of the 27 lot project will be less than significant; and

WHEREAS, the fully mitigated project described above and as recommended for the Rancho Laguna property is referred to in this Resolution and its Exhibit as the Rancho Laguna II 27 Lot Project” or the “27 Lot Project;” and

WHEREAS, an Update for Final EIR (i.e., it updates the Ffinal EIR released in August, 2008) has been prepared which describes the 27 Lot Project and the reduction in project impacts, and confirms that the changes to the 35 lot project do not result in any new significant impacts or an increase in the severity of any previously identified

environmental impacts, that there is no feasible project alternative to clearly lessen the significant environmental impacts of the project and that a project alternative is not required to reduce all environmental impacts to less than significant; and

WHEREAS, a revised Mitigation Monitoring and Reporting Program (“revised MMRP” for the Rancho Laguna II 27 Lot Project has been prepared, pursuant to Public Resources Code Section 21081.6, to ensure compliance with Mitigation Measures and project Conditions of Approval during implementation; ~~it~~ and is incorporated by reference as part of the Update for the final EIR and replaces the MMRP released in August, 2008; and

WHEREAS, the Significant Impacts and Mitigation Measures in the August, 2008 MMRP have been modified in the revised MMRP to better reflect the 27 Lot Project and for clarity (for example, see revised Mitigation Measure 3.35 #4); and

WHEREAS, the Update and revised Mitigation Monitoring and Reporting Program for the 27 Lot Project are included as Exhibit A (*see Attachment 2 to Staff Report*), and are ~~part of~~ incorporated into the Ffinal Environmental Impact Report for the project; and

WHEREAS, recirculation of the Environmental Impact Report prior to its certification is not required per the standards for such recirculation in CEQA Guideline 15088.5, for the reasons and based on the substantial evidence set forth in the Update for the Ffinal EIR, this Resolution, the Staff Report, and the administrative record as a whole; and

WHEREAS, on or before August 7, 2009, the Update for the Ffinal EIR, revised MMRP, Staff Report and its Attachments were released for review to interested public members and commenting agencies (which release includes posting on the Town website and making copies available for public review at the Town Planning Department), and hard copies were provided to Planning Commissioners; ~~and~~

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga makes the following findings and determinations with respect to the Ffinal Environmental Impact Report for the proposed Rancho Laguna II 27 Lot Project:

- 1) The Ffinal Environmental Impact Report has been prepared and completed in compliance with the provisions of CEQA and the State CEQA Guidelines; and
- 2) The Planning Commission has determined the Ffinal Environmental Impact Report reflects the Town’s independent judgment and analysis as to the environmental consequences of the 27 Lot Project; and
- 3) The Planning Commission, as the decision-making body, has considered the information and analysis in the Ffinal Environmental Impact Report and all written documentation and public comments prior to taking action on the recommended project; and

- 4) The documents and other materials, including without limitation staff reports, memoranda, maps, letters and minutes of all relevant meetings, which constitute the administrative record of proceedings upon which the Planning Commission's decision is based are located at the Town of Moraga, Planning Department, 329 Rheem Boulevard, Moraga, California 94556. The custodian of records is the Town Planning Director; and

BE IT FURTHER RESOLVED, that the Planning Commission of the Town of Moraga hereby certifies the legal adequacy of the final Environmental Impact Report for the Rancho Laguna II 27 Lot Project and, if and when a Conceptual Development Plan and Conditional Use Permit for the project receives final approval, directs the filing of a Notice of Determination with the County Clerk; and

BE IT FURTHER RESOLVED, that the Planning Commission provides notification that any interested person may appeal this decision of the Planning Commission to the Town Council within ten calendar days pursuant to Moraga Municipal Code ("MMC") Section 8.12.180(B), and any such appeal shall be in the form provided by MMC Section 8.12.200(B) and with payment of the fee provided by Resolution 23-2007, effective August 13, 2007.

PASSED AND ADOPTED, by the Planning Commission this 17th day of August, 2009, by the following vote:

AYES: Planning Commissioner:

NOES: Planning Commissioner:

ABSTAIN: Planning Commissioner:

ABSENT: Planning Commissioner:

Margaret Goglia, Chair

ATTEST:

Lori Salamack, Planning Director/Secretary