

BEFORE THE PLANNING COMMISSION OF THE TOWN OF MORAGA

In the Matter of:

Resolution Approving the Conceptual Development Plan for the Rancho Laguna II 27 Lot Residential Project, Conditions of Approval and Mitigation Monitoring and Reporting Program, and Adopting Findings)))))))	RES. XX-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, on March 26, 2005, the Town sent an “Incomplete” letter to the Applicant requesting additional information in order to continue the review of the development applications; and

WHEREAS, on May 25, 2005, the Applicant provided additional information to the Town for its consideration; and

WHEREAS, on June 24, 2005, the Town again requested additional information (in a second “Incomplete” letter) which had not been previously submitted; and

WHEREAS, on July 5, 2005, the Applicant provided the requested information as stated in that second “Incomplete” letter; and

WHEREAS, on August 3, 2005, the Town deemed the application “Complete” for processing and proceeded with the review of the proposed project; and

WHEREAS, on September 13, 2005 the Town issued a Notice of Preparation (for the preparation of an Environmental Impact Report (EIR)) for the project pursuant to the California Environmental Quality Act (CEQA); ~~[the Whereas paragraphs in Resolution X-2009 concerning the preparation and circulation of the Draft EIR are incorporated in this Resolution by this reference];~~ and

WHEREAS, the Planning Commission hereby incorporates by reference in these recitals the recitals to Resolution X-2009 regarding the preparation and circulation of the Draft Environmental Impact Report; 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 the Rancho Laguna II project area site; and

WHEREAS, Title 8 of the Moraga Municipal Code ~~in Title 8~~ guides the development of the Town regarding Planning and Zoning; and

WHEREAS, Chapter 8.48 of the Municipal Code contains standards and development regulations for private development projects; 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, prior to the Planning Commission meetings held on January 22, 2008, February 4, 2008, February 19, 2008, March 17, 2008, April 21, 2008 and May 19, 2008, Town staff mailed, in the manner and time prescribed by law, public notices to all property owners within 300 feet of the Rancho Laguna II property and to members of the public who had spoken at prior Planning Commission meetings and provided address information and a requested notification (“Public Notice”); and

WHEREAS, on January 22, 2008, February 4, 2008, February 19, 2008, March 17, 2008, April 21, 2008 and May 19, 2008, the Planning Commission held public meetings (study sessions) on the Rancho Laguna II project and received testimony from interested parties and from the Applicant and the Applicant’s consultants; and

WHEREAS, on August 18, 2008, the Town released for public review a final Environmental Impact Report (~~F~~final 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 and Responses to Comments Document (Volumes 1-3) and (iv) Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, included in the Final EIR~~ose 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 copies of Volumes 1-3 and the MMRP were provided to the Planning Commissioners; and the documents were posted on the Town website and made available at the Planning Department for public review and comment; and

WHEREAS, the Applicant revised the 35 lot project described in that final EIR, based on its 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 conceptual development plan submitted to the Town by the Applicant in late August, 2008, is comprised of the following plans: Conceptual Site Plan (one sheet) and Preliminary Grading Plan (two sheets, the second one shows grading sections for streets and lots) dated August, 2008, and Preliminary Landscape Plan (one sheet) dated August 19, 2008 (*see Attachment 4a to Staff Report*); 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 at earlier meetings 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 noticed public hearings (~~preceded by Public Notice~~) to consider the Rancho Laguna II residential development and the Applicant's associated request for the approval of a Conceptual Development Plan and Conditional Use Permit, and to hear and consider any comments regarding the final EIR; 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 are not incorporated in the Ffinal EIR; and

WHEREAS, the Town staff and EIR consultants concluded that~~determined~~ the 31 lot project with the mitigations in the August, 2008 Final 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 (3.35 #3), but that 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, at its public hearing on October 20, 2008, the Planning Commission took public testimony and considered the 31 lot conceptual development plan proposed by the Applicant; 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 to be more consistent with General Plan policy, 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 believed 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 return 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 in 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 buttress 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 Exhibits as the Rancho Laguna II 27 Lot Project” or the “27 Lot Project;” and

WHEREAS, an Update for Final EIR (–i.e., an update to the Ffinal EIR released in August, 2008) has been prepared which describes the 27 Lot Project and the reduction in project impacts, and confirms 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 is incorporated by reference as part of the Update for the Ffinal 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 in Resolution **X - 2009** as Exhibit A (*see Attachment 2 to Staff Report*), and are part of the final 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 for this meeting, and the administrative record as a whole; and

WHEREAS, on or before August 7, 2009, the Update for Final EIR, revised MMRP, Staff Report for this meeting 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

WHEREAS, in the Staff Report, dated August 17, 2009, for the public hearing, recommendations are made for (i) certification of the final Environmental Impact Report, (ii) adoption of the revised Mitigation Monitoring and Reporting Program for the Rancho Laguna II 27 Lot Project, (iii) adoption of findings of the Conceptual Development Plan and Conditional Use Permit for the 27 Lot Project, and (iv) approval of the Conceptual Development Plan and Conditional Use Permit for the 27 Lot Project subject to adopted Conditions of Approval and Mitigation Measures; and

WHEREAS, Public Notice of this August 17, 2009, public hearing having been provided on August 7, 2009, the Planning Commission opened the public hearing, took testimony from Town staff, the Applicant and the public on the recommended Rancho Laguna II 27 Lot Project, its environmental review (including the opportunity to comment on the Update for the final EIR and the revised Mitigation Monitoring and Reporting Program), and development of the property in general, then closed the public hearing; and

WHEREAS, the administrative record of the foregoing proceedings consists only of those materials submitted to and considered by the Planning Commission and includes, without limitation, the following materials which are kept with the Town's custodian of records at the Town of Moraga Planning Department, 329 Rheem Boulevard, Moraga, CA 94556:

1. The certified Ffinal Environmental Impact Report for the Rancho Laguna II 27 Lot Project and Resolution X-2009 and its Exhibit A; and
2. All applications, maps, diagrams, schematics, other documents and testimony submitted on behalf of Rancho Laguna, LLC relating to the project and its final Environmental Impact Report; and
3. All staff reports, maps, diagrams, schematics, other documents and testimony generated by Town staff relating to the project and its Ffinal Environmental Impact Report; and
4. All written and oral evidence received at all public meetings relating to the project and its Ffinal Environmental Impact Report; and
5. The agendas and minutes for all public meetings relating to the project and its Ffinal Environmental Impact Report; and
6. All applicable Town ordinances, resolutions and planning documents, including without limitation the Moraga General Plan; and
7. The content of this Resolution and its Exhibits.

WHEREAS, prior to consideration and adoption of this Resolution, the Planning Commission adopted Resolution **X - 2009**, wherein it certified the Ffinal Environmental Impact Report as adequate for consideration of the recommended Rancho Laguna II 27 Lot Project, and confirmed the Planning Commission has reviewed and considered it prior to taking action on the project; ~~and~~

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the Town of Moraga incorporates by reference the above ~~administrative record~~ recitals and the administrative record they describe, which it has relied upon, and makes and approves the following findings and determinations with respect to the Rancho Laguna II 27 Lot Project, the Conceptual Development Plan and the certified final Environmental Impact Report;

- A. Pursuant to Moraga Municipal Code Section 8.48.100, the Planning Commission adopts the “Findings for Approval of the 27 Lot Conceptual Development Plan as Mitigated” and the “General Plan Consistency Statement and Matrix,” included as Exhibit C to this Resolution and incorporated herein by this reference (*see Attachment 6 to Staff Report*); and
- B. Pursuant to Public Resources Code Sections 21081 and CEQA Guidelines Sections 15091 through 15093, the Planning Commission adopts the “CEQA Findings Required to Approve the

27 Lot Project,” included as Exhibit D to this Resolution and incorporated herein by this reference (*see Attachment 7 to Staff Report*).

BE IT FURTHER RESOLVED, that the Planning Commission of the Town of Moraga hereby approves the Conceptual Development Plan for the Rancho Laguna II 27 Lot Project as modified by the Rheem Boulevard Visual Quality Mitigations Exhibits, included as Exhibits A and A-1 to this Resolution and incorporated herein by this reference (*see Attachments 4a and 4b to Staff Report*), and subject to Conditions of Approval, included as Exhibit B to this Resolution and incorporated herein by this reference (*see Attachment 5 to Staff Report*), and which include as Conditions the Mitigation Measures in the revised Mitigation Monitoring and Reporting Program (*see Attachment 2 to Staff Report*) that is part of the certified final Environmental Impact Report for the 27 Lot Project; and

BE IT FURTHER RESOLVED, that the Planning Commission of the Town of Moraga, pursuant to Public Resources Code Section 21081.6, hereby approves and adopts the revised Mitigation Monitoring and Reporting Program, which is included as Exhibit A to Resolution X-2009 certifying the final Environmental Impact Report, and incorporated in this Resolution by this reference, and which shall be applied in further processing of the 27 Lot Project; 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 that 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, 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