

**TOWN OF MORAGA
PLANNING COMMISSION REGULAR MEETING**

Via teleconferenced locations

January 4, 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 CITY COULD CONDUCT ESSENTIAL BUSINESS AND WAS PERMITTED UNDER GOVERNMENT CODE SECTION 54953 IN ORDER TO PROTECT PUBLIC HEALTH AND THE SAFETY OF ATTENDEES.

Consistent with Government Code Section 54953, this meeting was held via teleconference only, and was not physically open to the public. Town Councilmembers, Planning Commissioners and staff teleconferenced into the meeting by audio and/or video. The meeting was conducted via Zoom Webinar.

Chairperson Luster 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 Luster called the Regular Meeting of the Planning Commission to order at 6:30 p.m.

A. ROLL CALL

Present: Commissioners Bode, Davis, Helber, Lueder, Thiel, Vice Chairperson Hillis, Chairperson Luster

Absent: None

Staff: Afshan Hamid, Planning Director
Mio Mendez, Assistant Planner
Bret Swain, Senior Civil Engineer
Karen Murphy, Assistant Town Attorney

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

There was no reported contact with applicant(s).

2. PLEDGE OF ALLEGIANCE

Commissioner Lueder led the Pledge of Allegiance.

3. PUBLIC COMMENTS

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

4. ADOPTION OF CONSENT AGENDA

- A. November 2, 2021 Planning Commission Meeting Minutes
- B. December 7, 2021 Planning Commission Meeting Minutes

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

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

5. ADOPTION OF MEETING AGENDA

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

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

6. PUBLIC HEARING

- A. **Informational Report on New Vehicle Miles Traveled (“VMT”) Standards for Evaluating Transportation Impacts**

CEQA Determination: The informational report itself has no CEQA impact. However, the subject of the report relates to new state requirements for how transportation impacts may be evaluated in CEQA documents.

Planning Director Afshan Hamid introduced Barry Miller, Barry Miller Consultants, the lead for the Advanced Planning Initiative, with a more focused presentation to be provided by Ellen Poling, Fehr & Peers, on Vehicle Miles Traveled (VMT), which had become effective pursuant to Senate Bill (SB) 743 as of July 1, 2020, to be implemented as part of the overall Housing Element which would also require a General Plan Update.

VMTs were intended to streamline projects near transportation, infill housing, centrally located offices, local serving retailers, transit projects, pedestrian enhancements and safety improvements, and where Mixed Use was encouraged in central downtowns or along major roadways. The Contra Costa Transportation Authority (CCTA) had been working on VMT guidance and methodology for all jurisdictions in Contra Costa County. The CCTA is the responsible agency for transportation planning with the overall framework set by the state.

After the PowerPoint presentation was provided to the Planning Commission, staff would like general guidance on the information with staff to return with adjustments based on that guidance through a formal public hearing with a recommendation to the Town Council.

Ellen Poling, Fehr & Peers, reiterated that Fehr & Peers would be conducting the transportation planning for the Advanced Planning Initiative. She detailed Fehr & Peers background and work with other jurisdictions and provided a PowerPoint presentation that included an overview of SB 743; SB 375, Transportation planning, travel demand models, sustainable communities strategy and environmental review; and Assembly Bill (AB) 32, Air pollution greenhouse gases, California Global Warming Solutions Act of 2006.

SB 743 required an appropriate balance of the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions (GHGs). As a whole, the benefits of VMT streamlined projects that were near transit, infill housing, centrally located office, locally serving retail, transit projects, bike projects, pedestrian enhancements, livability enhancements, and street safety improvements. SB 743 required a shift in traffic analysis methodology from Level of Service (LOS) and local street operations to Vehicle Miles Traveled (VMT). The intent was to reduce the amount of driving and the length of vehicle trips associated with new development. With the use of VMTs, the longer a vehicle travelled from origin to destination, the greater the impact. The intent of SB 743 was to reduce the vehicle-related GHG increases that contributed to global climate change. Simply increasing roadway capacity to accommodate more cars may potentially undermine the statewide goal of reducing GHGs.

SB 743 had been signed into law in 2013, and updates to the California Environmental Quality Act (CEQA) Guidelines related to analyzing transportation impacts pursuant to SB 743 had not been finalized until December 2018. The updated guidelines stipulated that the new CEQA provisions would apply statewide beginning on July 1, 2020. Effective that date, all transportation impact analyses for CEQA related to land use plans and projects must rely on VMT. The new requirements did not preclude cities and counties from continuing to use LOS for planning purposes, and did not affect existing fee programs that had been adopted by local jurisdictions.

Cities and towns may still require developers to pay traffic impact fees provided those fees were linked to planned transportation improvements listed in the General Plan and supported by a nexus study. VMT measured the amount and distance of vehicle travel attributed to a specific project or activity, and focused on determining the theoretical origin and destination of trips to and from a project. Unlike LOS, VMT did not assess a project's impacts on a local intersection or road/highway segment and rather assessed the effects of the project on regional traffic and use of transit and non-motorized travel.

The CCTA had developed a methodology for VMT for member jurisdictions including the Town of Moraga, and had included a process for evaluating projects and a transportation model to be used in evaluating VMT impacts. The approach proposed for Moraga fully incorporated this guidance, although the CCTA's guidance gave local governments discretion on how to implement certain aspects of the VMT requirements. An overview of the CCTA methodology had been outlined in depth in the January 4, 2022 staff report.

Fehr & Peers summarized the VMT methodology developed by the CCTA including a flow chart showing how projects would be evaluated, and the Offices of Planning and Research's (OPR's) Technical Advisory for evaluating VMT impacts, as reflected in a memorandum from Fehr & Peers dated December 3, 2021, included as Attachment A to the staff report.

Once the Town had adopted new VMT thresholds and procedures, those requirements would be used in all future environmental review documents including the Environmental Impact Report (EIR) for the Advanced Planning Initiative, which would provide CEQA clearance for future projects that were consistent with the General Plan.

The Planning Commission was asked to accept the informational report and provide guidance and feedback to staff on the following:

- Does the CCTA guidance make sense for the Town of Moraga? Should the Town average be used as the baseline to measure against or the countywide average?
- Consider the Transportation Mitigation Demand (TDM) strategies that would make most sense for projects in Moraga.
- The CEQA approach for the General Plan Update and Housing Element had been considered holistic clearance and mitigation. After mitigation analyses had been done and if the impacts remained significant, and if the Town chose to make a Statement of Overriding Considerations it would help the Town to streamline development consistent with the General Plan. This approach was worthwhile for the Town to consider. If the Town had good reasons to adopt the plan anyway even with significant impacts and with all of the mitigations that made sense and did everything feasible in the Town's control to reduce the VMT impacts in the Town of Moraga, that would be the most efficient way to mitigate the VMT impacts in Moraga. Such an approach was being considered by many jurisdictions and would be a key question to be revisited with the Planning Commission as it further discussed the Advanced Planning Initiative.

Responding to the Commission, Ms. Poling, and Barry Miller, Barry Miller Consulting clarified the following:

- CCTA's Traffic Demand Model would be used to establish the baseline for the Town's VMTs. Otherwise, it would be established through street light data and the vendors who provided information on transportation, which source could be looked at in conjunction with the model to ensure the model's accuracy.
- Fehr & Peers had already started work on what the CCTA map model had shown in terms of VMT generation by traffic analysis zone for both residential and office uses in Moraga. The data may or may not clearly show the areas in the Town that were clearly 15 percent or below the County average. Once the maps were available, able to be presented to the Planning Commission and able to be used for screening it would be recommended for such use.
- Project generated VMTs were used for project generated impact criteria. Project effects on the VMTs required a cumulative analyses to be inserted into a future model to be analyzed in a more regional way.
- Project analyses may require a project to contribute to its impacts on capacity outside of the CEQA process, which would be part of the General Plan compliance process and the permitting process. Metrics could still be established to evaluate the LOS through the General Plan. As part of the Transportation Element Update, there may still be LOS standards but they would no longer be CEQA thresholds. Most smaller suburban communities had chosen this process.
- SB 743 advisory from the OPR and the CCTA guidelines were again detailed. OPR suggested residential projects would be found to have less than significant impacts if their VMT per capita was no more than 85 percent of the Bay Area average. OPR's 85 percent benchmark had become a standard that had been widely adapted by transportation agencies and communities across the state, although it had sometimes been applied at the county or city level rather than at the regional average.

- CEQA addressed congestion in a way that was more “meta.” Actual congestion in intersections and on roadways was no longer an allowed metric under CEQA, but it was not prohibited for towns and cities to use just outside CEQA, and many towns and cities had done so. The new paradigm was asking cities to look at things a little more comprehensively. The Town could still look at things that were needed to be done to make the roadways function but the art was in the balance of both of those things.
- Travel Demand Models had typically been updated every five to ten years. Those models could factor in potential uses, such as senior housing, where the model could reflect the potential that only 10 percent of the residents had vehicles.
- If the CCTA guidelines were followed, it could make it difficult to screen a project and make it more difficult to mitigate down to the 15 percent or below threshold. Using the Town average for the 15 percent or below threshold would exempt or streamline a greater number of projects. Most of the projects envisioned in the Housing Element were mostly higher density projects located in the Rheem Center and the Moraga Center Specific Plan (MCSP) Area, places that would generate fewer VMTs than a project that involved a single-family home development, since those projects would be smaller units designed for greater walkability and use of public transportation. If using the countywide average, the threshold would be more difficult to meet requiring more of those projects to go through a VMT analysis.

Mr. Miller reiterated that staff planned to return to the Planning Commission in the next couple of months with a VMT policy that answered many questions and that would eventually go to the Town Council. He did not recommend a deep dive into the screening criteria at this time given the technicalities other than the topics Ms. Poling had asked for feedback from the Planning Commission.

PUBLIC HEARING OPENED

Chairperson Luster reported there were no comments from the public.

PUBLIC HEARING CLOSED

Chairperson Luster suggested in terms of the mitigation strategies an increase in residential densities and improved street connectivity was important given the one way in/out of the Town. She wanted to see more ride sharing programs provided and possibly through the Town or the County have school buses covered which would be huge given that the existing congestion on Town roads occurred during school drop-off and pick-up times. Providing network pedestrian improvements was also important such as installing missing sidewalks in locations where needed and along the main streets. She also suggested an extension of the transit network coverage and an extension of the hours and frequency of transit services.

Commissioner Davis questioned the number of buses that provide services to Moraga each day noting that bus services had been reduced. Unless the Town required coordination with AC Transit to provide services to Moraga, and unless the Town could require projects to coordinate with AC Transit for bus services any discussion of buses was silly. He also questioned the number of people who ride BART during the commute hours, asked of the capacity on the BART trains, and found that planning on BART for mitigation for housing in Moraga was also not realistic. He pointed out the lack of parking at BART makes it a challenge to use BART. Public transit assets should be realistic and viable if they were to be taken into account since they were not at this time. If that could be changed that would be the best thing. He was a strong proponent of public transit and suggested the Town should not base its planning on public transit until it had a strong public transit system.

Mr. Swain pointed out that County Connection ran routes from the Orinda BART Station through the Town of Moraga and into the City of Lafayette every day and on a half hour schedule.

Commissioner Lueder noted that County Connection recently announced it would be eliminating Route 603, one of the lines into the Town of Moraga, and had increased its headways significantly over the last few years.

In terms of the VMT per capita number, it was noted the OPR finding was that residential projects would have less than significant impacts if their VMT per capita was no more than 85 percent of the Bay Area average. Employment-generating projects (offices and the like) would also have less than significant impacts if their VMT per employee was no more than 85 percent of the Bay Area average.

Ms. Poling reported the City of Vallejo's choice was for an interim threshold no worse than the citywide average as opposed to the requirement that a development outperform the citywide average, but many cities had not adopted their own thresholds. Given the OPR guidance, and in the case of the City of Vallejo, its rationale had been to avoid thwarting good development and until it could do a citywide process and potentially look at the overall citywide impact, do all it could do at a citywide level and then accept the significant impact with a Statement of Overriding Considerations. She suggested the same could be considered for the Town of Moraga to indicate that it would not accept poor development.

Ms. Hamid explained that the item before the Planning Commission was an informational item, essentially a study session. As the topics of discussion were brought to the Planning Commission and as it moved forward, there would be a site assessment and analysis meeting with the Town Council and more discussions on where more dense housing should be located given the Regional Housing Needs Allocation (RHNA) statewide mandate. Staff was asking for general guidance and not a discussion of the real detail needs at this time. More meetings would be needed with input and discussion.

Chairperson Luster suggested the Planning Commission table its discussion on the 15 percent below threshold issue until it had a recommendation from the consultants.

Ms. Hamid clarified that staff was looking at policies over the next eight years that would align with the bigger Bay Area 2050 Plan, which had a lot of issues that must be taken into consideration for not only the Town but the region, countywide, and with statewide goals given the state mandates.

Commissioner Helber encouraged the use of the Housing Element to do the heavy lifting of the analysis to establish the VMTs. If there was a Statement of Overriding Considerations and if there were significant impacts, the Town could be in a position to encourage development that was compliant with the General Plan, expediting that review.

Chairperson Luster looked forward to future presentations.

B. Consider Adoption of Resolution -2021 Recommending the Town Council Adopt an Ordinance of Title 8, Planning and Zoning, Establishing Chapter 8.178 – Model Water Efficient Landscaping, in Order to Require Water Efficient Landscaping Design and Irrigation Practices Consistent with the Requirements of the State of California.

CEQA Determination: Exempt Pursuant to CEQA Guidelines Section 15061 [b][3]
– General Rule Exemption

Ms. Hamid introduced the Model Water Efficient Landscaping Ordinance (MWELo) a state model as of 2015, part of the Town's Climate Action Plan (CAP) and Town Council Goals. She reported that Article 8 of SB 1383 required MWELo compliance as it related to compost and mulching as of January 1, 2022. As part of RecycleSmart, the Contra Costa County agency coordinating efforts with all jurisdictions on the implementation of SB 1383, staff submitted reports on an annual basis but the Town had not yet adopted the ordinance. Adoption of the ordinance would allow the alignment of practices that were already being conducted.

The purpose of the MWELo was to prevent water from being wasted on irrigation landscapes, encourage native plants and groups of plants in accordance with water usage, and use smart principles for irrigation and conservation. The ordinance had been scheduled for Town Council consideration on January 12, 2022, with a recommendation from the Planning Commission.

Assistant Planner Mio Mendez provided a PowerPoint presentation which included an overview of the MWELo as detailed in the staff report. He recommended the Planning Commission adopt the resolution contained in Attachment A to the staff report.

Responding to the Commission, Mr. Mendez and Ms. Hamid clarified the following:

- The Town must adopt a MWELo Ordinance in order to comply with state law. The adoption of the ordinance would be by reference only. If the state ordinance were to be modified in the future with new technical data, as an example, the Town would always be in compliance with the state. The criteria for MWELo standards for all jurisdictions, as outlined in the staff report, had come from the state and were non-negotiable.
- It had taken time to implement the ordinance due to limited staff resources. The ordinance had moved up on the priority list due to SB 1383, and like all cities in Contra Costa County the ordinance would be adopted by reference only.
- The burden of enforcing the ordinance would be on an applicant who would be required to obtain self-certification via a certified Landscape Architect or Civil Engineer during the building permit process/entitlement phase where all calculations would be reviewed and verified.
- Once a project triggered the MWELo specific criteria would be required to be followed, as outlined in the staff report.
- As described in the staff report, the criteria for MWELo for all jurisdictions applied to new construction projects with an aggregate landscape area equal to or greater than 500 square feet. New construction was defined as a new building with landscape or other new landscape, such as a park, playground or greenbelt without an associated building, and rehabilitated landscape projects with an aggregate landscape area equal to or greater than 2,500 square feet. Rehabilitated landscape was defined as any re-landscaped project that required a permit, plan check, or design review, and the modified landscape area (all planting areas, turf areas, and water features) was equal to or greater than 2,500 square feet.
- A landscape plan would be required as part of an application to be deemed complete and final sign-off would not be provided until a project had MWELo review.

Commissioner Helber expressed concern with unintended consequences. Given the criteria for the MWELo, he sought more clarity on what projects would require a landscape plan.

Commissioner Davis commented that for an average three dwelling units to the acre (3-DUA) property in the Town of Moraga, as an example, a homeowner may want to redo a yard but that could not be done by a standard gardener or landscaper, but would require a licensed engineer or certified Landscape Architect greatly increasing the cost of such a project.

Ms. Hamid reiterated the criteria for the MWELO had come from the state and was a state requirement with established minimum thresholds.

Mr. Mendez again walked through the criteria for the MWELO standards and clarified it would not apply to a home addition or a remodel. The MWELO criteria would apply if building a new home, a new structure that was greater than 500 square feet. When discussing 500 square feet of new landscaping, that would be more so when considering a park, playground or greenbelt without an associated building.

There was disagreement amongst some members of the Planning Commission on staff's interpretation of the MWELO criteria as compared to the 2015 State of California MWELO, as shown in Attachment B of the staff report. Staff again clarified the criteria for MWELO standards for all jurisdictions as: *New construction projects with an aggregate landscape area equal to or greater than 500 square feet. New construction is defined as a new building with a landscape or other new landscape, such as a park, playground or greenbelt without an associated building. Rehabilitated landscape projects with an aggregate landscape area equal to or greater than 2,500 square feet. Rehabilitated landscape is defined as any re-landscaping project that requires a permit, plan check, or design review, and the modified landscape area (all planting areas, turf areas, and water features) is equal to or greater than 2,500 square feet.*

Ms. Hamid reiterated the criteria for MWELO had come from the state and was a state requirement with the state having established the minimum threshold for the square footages, as reflected in Attachment B to the staff report.

Assistant Town Attorney Karen Murphy added the code also noted that if a project required a building permit, plan check, or design review, and if a landscape redo that does not otherwise require a permit and would not otherwise be before the Planning Department would not trigger the MWELO criteria.

PUBLIC HEARING OPENED

Chairperson Luster reported there were no comments from the public.

PUBLIC HEARING CLOSED

Commissioner Lueder clarified with Ms. Hamid the MWELO had been codified as state law and could not be less restrictive. He supported what other municipalities had done and supported the adoption of the MWELO by reference. Although the Town did not have MWELO codified in the Moraga Municipal Code (MMC), he understood it would also apply to individuals in Moraga.

Ms. Hamid reiterated the Town had been providing annual reports to the State Water Agency and were now formalizing MWELO by reference. She again noted MWELO was already technical and thorough and agencies in Contra Cosa County had adopted the MWELO by reference.

Commissioner Helber commented that every project must have a Stormwater Control Plan and he wanted assurance that remained a requirement, and Mr. Mendez clarified if the project triggered the MWELO, a Stormwater Control Plan would be required.

Ms. Murphy explained that the Town must comply with state law. The Town must also comply with the National Pollutant Discharge Elimination System (NPDES) permit requirements and all C.3 water requirements. Projects that go through the Town typically include conditions that an applicant submit plans consistent with the C.3 Stormwater Control Plans.

Commissioner Davis offered a motion, seconded by Commissioner Bode to adopt the resolution contained in Attachment A.

On the motion, Commissioner Helber asked whether the MWELO could be recommended for approval by the Planning Commission, with staff to clarify the resolution as drafted would apply unless staff later determined that Section 18.178.030, Stormwater Management as shown in Attachment A to the staff report, did not have the same thresholds. He wanted assurance the Town would not be more restrictive than state law.

Ms. Murphy confirmed staff could confirm that information. She commented that Section 18.178.030 did stand on its own, although it had been encapsulated in the MWELO as a separate requirement. The intent was that the stormwater plan comply with the requirements of the NPDES Permit. Staff could ensure that it was not triggered when it did not need to be.

Commissioner Helber clarified he did not want a Stormwater Control Management Plan to be required by the Town unless required by the state.

Ms. Murphy suggested that Section 8.178.030, Stormwater Management of Attachment A could be revised to read:

Proposed landscape and irrigation plans shall comply with all state requirements of the stormwater control plan (C.3) and the National Pollutant Discharge Elimination System (NPDES) intended to implement stormwater best management practices into the planting, irrigation, and grading plans to minimize runoff and to increase on-site retention and infiltration.

Ms. Murphy stated that language could also be added to that section to ensure the intent was to comply with the state requirements.

The Planning Commission accepted the clarification and Ms. Murphy and Mr. Swain also clarified the C.3 requirements, which required appropriate source control, site design, and stormwater treatment measures in new development and redevelopment projects to address both soluble and insoluble stormwater runoff pollutant discharges and prevent increases in runoff flows from these projects.

On motion by Commissioner Davis, seconded by Commissioner Bode to adopt Resolution -2021 Recommending the Town Council adopt an Ordinance of Title 8, Planning and Zoning, Establishing Chapter 8.178 – Model Water Efficient Landscaping, in Order to Require Water Efficient Landscaping Design and Irrigation Practices Consistent with the Requirements of the State of California. The motion carried by the following Roll Call vote:

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

Chairperson Luster identified the 10-day appeal period of a decision of the Planning Commission in writing to the Town Clerk.

7. **ROUTINE AND OTHER MATTERS**

A. None

8. **REPORTS**

A. Planning Commission

There were no reports.

B. Staff

Ms. Hamid reported there were openings on the Planning Commission. Interested individuals were encouraged to apply, with interviews scheduled for February 2022. Planning Commissioners had also been e-mailed information on the California League of Cities Training Academy, which would be held in-person this year in the City of San Ramon.

9. **ADJOURNMENT**

On motion by Chairperson Luster, seconded by Commissioner Davis and carried unanimously to adjourn the Planning Commission meeting at approximately 8:49 p.m.

A Certified Correct Minutes Copy

Secretary of the Planning Commission