Meeting Date: January 4, 2010

TOWN OF MORAGA STAFF REPORT

To: **Town of Moraga Planning Commission**

From: **Lori Salamack, Planning Director**

Subject: **Continued Public Hearing to Consider a Recommendation to the Town Council regarding a Draft Ordinance to Re-zone 24 acres within the Moraga Center Specific Plan area to a new 20 Dwelling Units per Acre Zone and a Draft Ordinance to Establish the Zoning Requirements for the new 20 Dwelling Units per Acre Zone.**

Request

Conduct a public hearing and adopt the attached draft resolution recommending approval of the draft ordinances.

Background

In order to implement the Town of Moraga Housing Element update and Moraga Center Specific Plan (that were recently recommended for approval by the Planning Commission) it is necessary to create a new 20 dwelling unit per acre district in the Town of Moraga. The attached draft ordinances would create such a district. The district is necessary to identify adequate sites for the development of housing that would be affordable to lower income families (including seniors). In the current planning period (2007-2014) the Town must plan for a total of 307 dwelling units in accordance with the income distribution identified below:

Town of Moraga RHNA

Income Group	Number of Dwelling Units
Very Low Income (< 50% of median income)	84
Low Income (<80% of median income)	64
Moderate Income (<120% of median income)	97
Above Moderate Income (> or = 120% of median income)	62
Total	307

In order to identify adequate sites for the development of 245 dwelling units for very low to moderate income households, the Town is primarily relying on

residential opportunities in the Moraga Center Specific Plan area. Some of the dwelling units in this area are proposed to be developed at a density of 20 dwelling units per acre, the density that the state recognizes as adequate for the production of affordable housing for lower income household. In the Moraga Center Specific Plan, the draft ordinance would allow the development of dwelling units for senior citizens at a density of up to 30 dwelling units per acre.

Discussion

The attached draft zoning ordinance identifies the locations within the MCSP area where housing could be developed at a density of 20 dwelling units per acre. The two areas are generally described as “near Aegis” and “in the orchard across the creek from the shopping center”. According to the draft ordinance, land within this district could either be approved for development through a ministerial process or through a discretionary one. The standards for development under the ministerial process are identified in the draft ordinance. Projects subject to discretionary review would be subject to the development standards in the draft ordinance as well as the Town’s usual design review process.

In order to comply with State law, however, at least 6 acres needs to be subject to the ministerial process that does not allow consideration of the application in accordance with the Town’s usual design review process. In recognition of this fact, the Planning Commission asked at its last meeting that further consideration be given in the draft ordinance to “green building concepts”. In response to this request, staff has revised the draft ordinance for consideration by the Planning Commission. Staff is also prepared to recommend three alternatives to the Planning Commission with respect to this topic. The alternatives are that the Planning Commission:

1. Recommend approval of the draft ordinance that was considered by the Planning Commission on 12/7/09 with minor changes.
2. Recommend approval of the staff revised draft ordinance that incorporated elements from the “Build It Green” checklist into the ordinance and assures a minimum 70 point rating on the Green Point Rated system.
3. Recommend approval of either the original draft ordinance or the staff revised draft ordinance and require a minimum of 90 points on the “Build It Green” checklist but do not specify the means to achieve the points.

Alternatives

1. The original draft ordinance that was reviewed by the Planning Commission on 12/7/09 was the result of numerous meetings of a special committee consisting of two Council members, two Planning Commissioners and two Design Review Board members, as well as input from the property owners and the public. The original draft ordinance addresses the topic of green building as follows: 16. All Residential Dwelling Units shall meet “Build It Green” or equivalent requirements

applicable to all other similar housing in Moraga, in effect at the time the application for a permit is filed.

One advantage to this approach is that it treats all project the same. However, the Town does not currently have a green building ordinance and these issues are typically addressed through the discretionary design review process that would not apply to all dwelling units in the 20 DUA district. The current language does not guarantee that ministerial projects would be required to comply with the Build It Green checklist because the Town only requires compliance with Build It Green as a Design Guideline and then only as it pertains to new residences in new subdivisions. If the 20 DUA site was developed as a multifamily project not a subdivision, the current Build It Green Design Guideline would not apply.

2. The staff revised draft ordinance incorporates simple elements from the new Build It Green Multi-family checklist. The purpose of this revision was to demonstrate that with minor changes in the draft ordinance, any project would be assured a minimum rating of 70 points on the Green Point Rated scale. The 70 point rating is 20 points higher that the 50 points required to be considered “green building”. The 70 point rating is a reflection of the fact that the MCSP is “smart growth” and naturally incorporated green building concepts. In the staff review of the checklist, staff determined that any ministerial project would be eligible for at least 28.5 point in the community category where only 6 points are required. This fact means that without even trying to incorporate additional measures, any project would be at least 20 points above the minimum 50 point requirement. This fact acknowledges the efforts that the Town has taken to date to make the MCSP a smart growth project.
3. The third alternative requires a minimum on 90 points on the Green Point Rated checklist and would modify the language in the original ordinance as follows: 16. All Residential development shall achieve a minimum of 90 points on the “Build It Green, Green Point Rated ” scale or equivalent requirement.

   Staff recognizes that the Town of Moraga incorporated a 90 point requirement into the Palos Colorados project and that the Planning Commission included such a requirement in its recent approval of Rancho Laguna II. Staff, however, is concerned about this approach for the 20 DUA district for three reasons. First, this approach could add costs to the project that would make the delivery of affordable housing more difficult and thus jeopardize the approval of our Housing Element by the State Department of Housing and Community Development. Second, the Build It Green program only requires 50 points for a project to be determined “green”. If 90 points is required for a green project, then the Build It Green program should require it. Lastly, the required ministerial process in the draft ordinance does not allow discretion or a variance so it could make compliance with this requirement a problem as the Build It Green program allows points for innovation but discretion is required to determine if the innovation qualifies.

<u>Fiscal Impact</u>

Failure to achieve a state-certified housing element could result in lost funding opportunities for the town and potential litigation.

Recommendation(s)

Conduct the public hearing and recommend adoption an ordinance.

Attachments:

A. Draft zoning ordinance
B. Original (12/7/09) draft 20 dwelling unit per acre ordinance (MMC 8.34)
C. Staff revised draft 20 dwelling unit per acre ordinance incorporating Green Point Rated Checklist items for a minimum score of 70 points
D. Revised original ordinance requiring a minimum of 90 points on the Green Point Rated scale.
E. Build It Green, Green Point Rated, multi-family checklist
F. Correspondence
G. Draft resolution