R I C H A R D T. L O E W K E, A I C P
U R B A N & E N V I R O N M E N T A L P L A N N I N G

December 18, 2009

Moraga Planning Commission
C/O Lori Salamack, Planning Director
Town of Moraga
329 Rheem Blvd.
Moraga, CA 94556

SUBJECT: R-20 District Ordinance & Build It Green Program

Dear Commissioners:

On December 7th, the Commission recommended adoption of the MCSP and Housing Element, but deferred its recommendation on the R-20 District ordinance in order to consider Commissioner Goglia's request for inclusion of additional minimum development standards targeted at improving the "green rating" of future senior and workforce housing. This letter provides background on the authority and nexus requirements for such targeted restrictions on new housing construction within the MCSP area, and outlines the purposes and procedures for administration of the *GreenPoint Rated* program operated by Build It Green (http://www.builditgreen.org/greenpoint-rated).

Ordinance 8.34 (the R-20 Ordinance) was drafted for the purpose of implementing several key goals and objectives of the draft Moraga Center Specific Plan (MCSP) and draft Housing Element, including the accommodation of Moraga's 2007-2014 RHNA for lower income households as outlined in correspondence from California HCD[1] and mandated under state housing law. The R-20 District is the principal site within the MCSP where Moraga's senior and workforce housing is to be accommodated, and therefore makes provision for approval of such housing through a "ministerial" process on 6.1 acres in the District. Future housing projects within the R-20 District will serve to implement the traffic reduction, energy and water conservation, and environmental sensitivity ("green building") attributes inherent in the Specific Plan program.

Policy ID13.13 of the Moraga Design Guidelines[2] indicates that "*New subdivision development should meet Build It Green requirements for new residences or equivalent*." While these community-wide design guidelines have been replaced by a customized set of guidelines for the MCSP[3], Section 8.34.070A(16) of the draft R-20 Ordinance similarly requires that "*All Residential Dwelling Units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*."

The Draft and Final EIR documents prepared for the MCSP have concluded that no significant land use, energy, air quality, natural resource or water quality/capacity impacts would result from implementation of the MCSP program, including future development within the R-20 District. The EIR further concludes that the program's contribution to cumulative traffic impacts would be less than that contemplated under the current 2002 Moraga General Plan. As part of your review of the EIR earlier this year, the Commission concluded that no additional mitigation measures were needed in order to avoid potentially significant environmental impacts of the program or R-20 District development.

[1] August 28, 2009. Letter from Cathy Creswell, Deputy Director HCD, to Town of Moraga.
[2] July 11, 2007, as amended.
[3] May 2008. The Dahlen Group; MCSP Design Guidelines.

547 Wycombe Ct., San Ramon CA 94583 • Phone 925.831.8016 • FAX: 925.831.8019 • www.LoewkeAICP.com

Build It Green created an evaluation program consisting of a Checklist and evaluation process for individual housing projects, based on the organization's mission statement to "*promote healthy, energy and resource efficient buildings in California*". The Checklist created by Build It Green for evaluation of multifamily housing developments requires a minimum point score of 50 in order to achieve a GreenPoint Rating. Build It Green requires that the minimum overall score of 50 points include the following minimum points in each of five topical categories: (1) Community - 6 points; (2) Energy - 30 points; (3) Indoor Air Quality/Health - 5 points; (4) Resources - 6 points; and (5) Water - 3 points. In addition, Build It Green also requires that certain other prerequisites and standards identified in the Checklist be satisfied. In order to achieve a GreenPoint Rating, sponsors are required to complete and submit the Checklist for their individual multifamily projects to Build It Green for review and verification by one of their certified GreenPoint raters.

The staff has provided you with two alternative versions of the original sub-committee endorsed R-20 ordinance. The first alternative ordinance raises the minimum point score above that adopted by Build It Green from 50 to 70 points, and in addition superimposes 14 new prescriptive restrictions and revised minimum standards as "redline" changes obtained from the Build It Green Checklist. The second alternative avoids imposing new prescriptive items from the Build It Green Checklist, but further elevates the minimum point scope for a project in the R-20 District from 50 to 90 points.

Several of the "redline" items in the first alternative ordinance focus on water and energy conservation, and are worthy of consideration as part of the design of individual project designs. However, in the absence of any individual projects, it is not currently possible to determine the appropriateness, effectiveness or compatibility of these selected new restrictions with the type, design characteristics, and market profile of the housing ultimately proposed. The particular restrictions included in the "redline" first alternative ordinance are not required in order to achieve a full GreenPoint Rating based on the Build It Green requirements described above, and may actually impede the program's ability to incorporate other Build It Green standards.

The first and second alternative ordinances would increase the minimum point requirement established by Build It Green by 40% and 80%, respectively (from 50 to either 70 or 90 points). Imposition of a higher standard for the R-20 District than adopted in the Town Design Guidelines would be arbitrary, and is unsupported by any nexus to the General Plan, the (inherently "green") Moraga Center Specific Plan or their respective environmental documents. Further, such a change is likely to interfere with accommodation of Moraga's RHNA housing, as relied upon in the Housing Element, and therefore compromise certification of the Housing Element.

The Checklist created by Build It Green is intended to encourage creativity, lifecycle cost-efficiency, and responsiveness to varying market conditions and user needs in new housing. Accordingly, the Checklist offers a range of alternative mechanisms by which to achieve the established minimum point scores. The Build It Green Checklist program recognizes the necessity of maintaining flexibility in the design and selection of program components, and therefore avoids a prescriptive approach to mandating any specific design standards. To demonstrate this point, we have attached a Multifamily Checklist for evaluation of prospective projects in the R-20 District. The Checklist has been completed to score a theoretical project using a "Baseline" approach that only includes points for those elements of the R-20 District that are already assured through elements of the original draft R-20 Ordinance, including for example proximity of housing to retail, reduced parking standards, low flow water faucets, riparian protection policies, etc.

The completed "Baseline" Checklist reflects a likely total scope of 59 points (well above the 50 minimum), but with a remaining deficiency in the Air Quality and Resources sub-categories. Several of the energy and water points scored on the Checklist are attributable to new regulations reflected in the attached materials from EBMUD and applicable current standards of the BAAQMD. Note also that concluding Section F.6 ("Innovation") lists several attributes of the MCSP that the R-20 District projects will help to implement. It will be up to the Build It Green Rater to determine whether additional points are warranted in Section F.6. Regardless, this "Baseline" Checklist exercise demonstrates the incredible strength of the MCSP's inherently "green" approach to accommodating senior and workforce housing in close proximity to a revitalized downtown, with an emphasis on pedestrian circulation, increased retail demand, and all of the other unique attributes of the MCSP.

Individual future housing projects may achieve additional points (above the 59) with enhanced component scores in all categories, depending on the cost-efficiency of the senior and workforce project designs. Note, however, that many of the potential additional points achievable may come at the cost of increased rents or sales prices, and that many of the amenities may not be compatible with certain project designs. The selection of such supplemental amenities is a complicated process that the builder will need to carefully weigh against affordability goals.

It is therefore both completely unnecessary and potentially damaging to future housing projects to either arbitrarily raise the minimum point score or include prescriptive "redline" changes, as outlined in the first and second alternative versions of Ordinance 8.34. Section 8.34.070A(16) of the original sub-committee endorsed R-20 Ordinance mandates that each housing project achieve the minimum 50 points needed for a full GreenPont Rating, or equivalent. Imposition of additional pre-selected design amenities would reduce flexibility in both project design and cost-efficiency, and could lead to an overall reduced point score, or even failure to achieve a GreenPoint Rating. Such pre-determination of individual project design amenities or alteration of the minimum point score could also unnecessarily inflate the cost of senior and workforce housing, inconsistent with HCD and Moraga Housing Element criteria. We urge the Commission not to interfere with the Build It Green process, but rather to retain the language of Section 8.34.070A(16) providing for full compliance with the Build It Green rating criteria.

Finally, we also wish to remind the Commission of our strong concern regarding the arbitrary, and now increased setback requirements in Section 8.34.060A.8 of the original ordinance exclusive to Ministerial projects. This proposed setback is completely unnecessary in order to achieve full compliance with all EIR Mitigation Measures, and to avoid impacts to riparian, wetland and other habitat resources. The setback would increase the cost of Ministerial housing by precluding use of up to 20% of the available unconstrained site area. This requirement should be omitted.

Sincerely,

Richard T. Loewke, AICP

cc: Bruzzone Family
Cathy Creswell, HCD
Moraga Town Council