



Town of Moraga	Agenda Item
Public Hearings	X. A.

Meeting Date: April 8, 2015

TOWN OF MORAGA

STAFF REPORT

To: Honorable Mayor and Councilmembers

**From: Ella Samonsky, Associate Planner
Ellen Clark, Planning Director**

Subject: Consider Continued Appeal of Planning Commission Decision to Approve the Conceptual Development Plan for the Moraga Town Center Homes Project, a 36-Unit Attached Single Family Residential Development and an Associated Zoning Amendment, Including Consideration of:

- 1. Introducing and Waiving the First Reading of an Ordinance Amending Moraga Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and Amending the Zoning Map for the Moraga Town Center Homes Property (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD); and**
- 2. Resolution __-2015 Denying the Appeal, Upholding the Planning Commission's Decision, Adopting CEQA Findings and Approving the Conceptual Development Plan for the Moraga Town Center Homes Project with Modifications (Continued from January 28, 2015)**

Request

Hold a public hearing to consider the appeal of the Planning Commission decision to approve the Conceptual Development Plan for the Moraga Town Center Homes project, continued from January 28, 2015, and consider approval of the project and an associated zoning text amendment to Chapter 8.48 and rezone of the project site. Two separate actions are to be considered by the Town Council:

1. Introduce and Waive the First Reading of an Ordinance Amending Moraga Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and Amending the Zoning Map for the Moraga Town Center Homes Property (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD); and
2. Resolution No. __-2015 Denying the Appeal, Upholding the Planning Commission's Decision, Adopting CEQA Findings and Approving the

1 Conceptual Development Plan for the Moraga Town Center Homes Project
2 with Modifications

3
4 **Background**

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6 Moraga Town Center Homes Conceptual Development Plan Approval

7 On November 17, 2014, the Planning Commission approved a Conceptual
8 Development Plan (CDP) for the Moraga Town Center Homes, a 36 unit attached single
9 family development located on a 3.06 acre site, within the Moraga Center Specific Plan.
10 At that meeting, the Planning Commission also recommended approval of a re-zoning
11 of the project site from Suburban Office to Planned Development, necessary to allow for
12 development of residential uses on this site, and consistent with the Moraga Center
13 Specific Plan's Mixed Office/Residential land use designation. The approval followed
14 an extensive review process, including numerous study sessions with the Design
15 Review Board and Planning Commission that resulted in revisions and refinements to
16 the site plan over time.

17
18 Appeal

19 On December 1, 2014, three residents, Scott Bowhay, Denise Coane and Richard
20 Olsen filed a joint appeal of the Planning Commission's approval of the Conceptual
21 Development Plan. (Attachment D). The appellants raised the following grounds for
22 appeal:

- 23
24 • Non-Conformance with the General Plan, the Moraga Center Specific Plan
25 (MCSP) and/or the Moraga Municipal Code (MMC), with concerns that
26 focused on visual impacts and consistency with the Scenic Corridor
27 guidelines and neighborhood compatibility
28 • Failure to address regional traffic impacts and cumulative impacts of projects
29 within the Town
30 • Failure to address traffic safety along Country Club Drive
31 • Failure to acknowledge the precedent-setting consequences of approving the
32 project
33 • Failure to respond to Moraga-Orinda Fire District and Moraga Country Club
34 Homeowners Association (HOA) concerns

35
36 Town Council Hearing January 28, 2015

37 On January 28, 2015 the Town Council conducted a public hearing and considered the
38 above-referenced appeal. The Town Council also considered the associated text
39 amendment MMC Chapter 8.48, the Planned Development zoning district to add a 12
40 dwelling units per acre residential land use classification; and the applicant's request to
41 rezone the project site to a Planned Development district. A description of the project,
42 summary of the prior Planning Commission and Design Review Board decisions, and
43 evaluation of the contents of the appeal are found in the staff report for the January 28
44 meeting, included for reference as Attachment C.

45
46 Numerous members of the public testified during the appeal, including comments in
47 support of and against the proposed project, with concerns generally echoing similar
48 items to those raised in the appeal. The Council also received testimony from the

1 MOFD Fire Chief, who relayed concerns of the MOFD Board provided at a January 21,
2 2015 Board Meeting, that the residential land use was incompatible with the fire training
3 facility. The Town Council inquired about the historical circumstances of the fire station
4 and training facility, and directed staff to investigate additional mitigation to address
5 MOFD's concerns, but did not provide specific direction as to changes necessitated by
6 the comments.

7
8 During their discussion, Town Councilmembers' comments focused on the proposed
9 site plan, and in particular, building heights, setbacks, and massing as they related to
10 the project's consistency with scenic corridor standards, and compatibility with adjacent
11 uses, including existing residential land uses along Country Club Drive. The Council
12 discussed the consistency of scenic corridor guidelines at some length. This included
13 the project's effect on the streetscape elevation along Moraga Way, along with its
14 potential to create a "walled effect" and to obstruct views of natural landforms including
15 Indian Ridge. Councilmembers discussed the intent of the MCSP for infill residential
16 development, and there was consensus that further adjustments to the project were
17 necessary to allow the requisite findings for project approval to be made.

18
19 At the conclusion of their discussion of the appeal, the Town Council continued the
20 hearing and directed staff to engage in further dialogue with City Ventures, and
21 potentially the Moraga-Orinda Fire District, to address the issues that had been raised
22 and modify the project site plans.

23 24 **Discussion**

25
26 Following the Town Council hearing, staff worked with the applicant to develop a
27 revised site plan that responded to the issues raised.

28
29 Initially, the Applicant provided a revised site plan that would relocate one unit from
30 Building C (adjacent to Moraga Way) to the Country Club Drive side of the site; thereby
31 increasing the Moraga Way setback. The revised site plan also included changes to the
32 size and placement of Buildings I, J and K on Country Club Drive to increase setbacks
33 in this area. Although the plan did result in some increased setbacks, the changes also
34 reduced the area of the common open space¹ (pocket park) adjacent to the creek.

35
36 Following that submittal, staff discussed with the applicant the option of removing all of
37 the three story loft elements which would reduce the maximum building heights by
38 approximately 5 feet, to 35 feet in height or less. The applicant has stated that because
39 of the significant reduction in saleable square footage, this proposal would require the
40 addition of a 37th unit to the project. This unit could be added along Country Club Drive
41 (turning a duplex building into a triplex), a change that would also reduce the size of the
42 pocket park. After considering visual simulations of the all-two story option and the
43 initial configuration with three story buildings, staff concluded that there would be a de
44 minimus reduction in any scenic corridor impacts with a height reduction for Buildings A
45 and B. Moreover, any benefits of height reduction would be outweighed by the greater
46 impacts of the additional unit positioned along Country Club Drive.

¹ The 'pocket park' would be private recreation space owned by the HOA, but would be publicly accessible.

1
2 Staff believed that neither option (relocation of a unit or all two-story buildings) best
3 addressed the Council concerns and requested that the applicant produce additional
4 plan revisions, which would create a greater setback for all buildings on Moraga Way,
5 break up or reduce the mass of the townhome buildings, avoid increasing the total
6 number of units, and maintain the size of the pocket park.

7
8 The Applicant responded with a revised site plan where all buildings were set back a
9 minimum 15 feet from Moraga Road; Building A and B were split into four smaller
10 buildings to reduce the massing; and Buildings I and K on Country Club drive had
11 increased setbacks. This plan required minor reductions in the setbacks for some of the
12 buildings on Country Club Drive. After further review and analysis of siting, staff
13 requested that: there be no reduction in the minimum setbacks on Country Club Drive,
14 increased setbacks for Buildings F, I, and K; include the six units in Building B in a
15 single building (which would increase setback from Moraga Way); and Buildings C and
16 D be reduced to two-stories, with Buildings A and B retaining a third story loft.

17
18 Revised Conceptual Development Plan
19 Attachment E presents the applicant's revised Conceptual Development Plan pursuant
20 to staff suggested modifications. Table 1 summarizes the revised building heights and
21 setbacks, with changes shown in Redline/Strikeout. As shown, the proposed changes
22 would increase setbacks and reduce heights of residential buildings, while maintaining
23 the other development standards such as number of units, building separations, lot
24 coverage, and Floor Area Ratio.

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Table 1: Revised Conceptual Development Plan Development Standards

Site Standards	
Residential Density	12 dwelling units per acre
Lot Coverage	35%
Floor Area Ratio ¹	0.55
Setbacks and Building Separations	
Moraga Way Setback	Average Setback of 15' or greater
Building A	22' 25'
Building B	12' 23'
Building C	15'
Building D	11' 15'
Country Club Drive Setback	
Building E	10'
Building F	7' 10'
Building G	10'
Building H	10'
Building I	4' 6'
Building J	9'
Building K	9' 15'
Interior Side Setback	
Northwestern Property Line	6'
MOFD Property ² Line	20'
Southeastern Property Line (Creek)	90'
Minimum Building Separation ³	
Buildings A, B, C, D	25'
Buildings E, F, G, H, I, J, K, and A1 and A2	10'
Other Standards	
Maximum Building Height	39' 3-story ; 35' 2-story
Maximum Building Stories	3 for units 17-20, 23-26, 29, 30, 34, and 35 ; 2 for all other units
Private Outdoor Space	Minimum of 50 square feet with minimum dimension of 5 ft.
Parking Spaces	2 spaces per residence; 1 guest space per 2 residences
¹ Floor Area Ratio calculated on a pre-subdivision basis	
² MOFD Property identified as APN 257-190-056	
³ Distance measured from building face to building face, excluding steps, decks, balconies	

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Setbacks

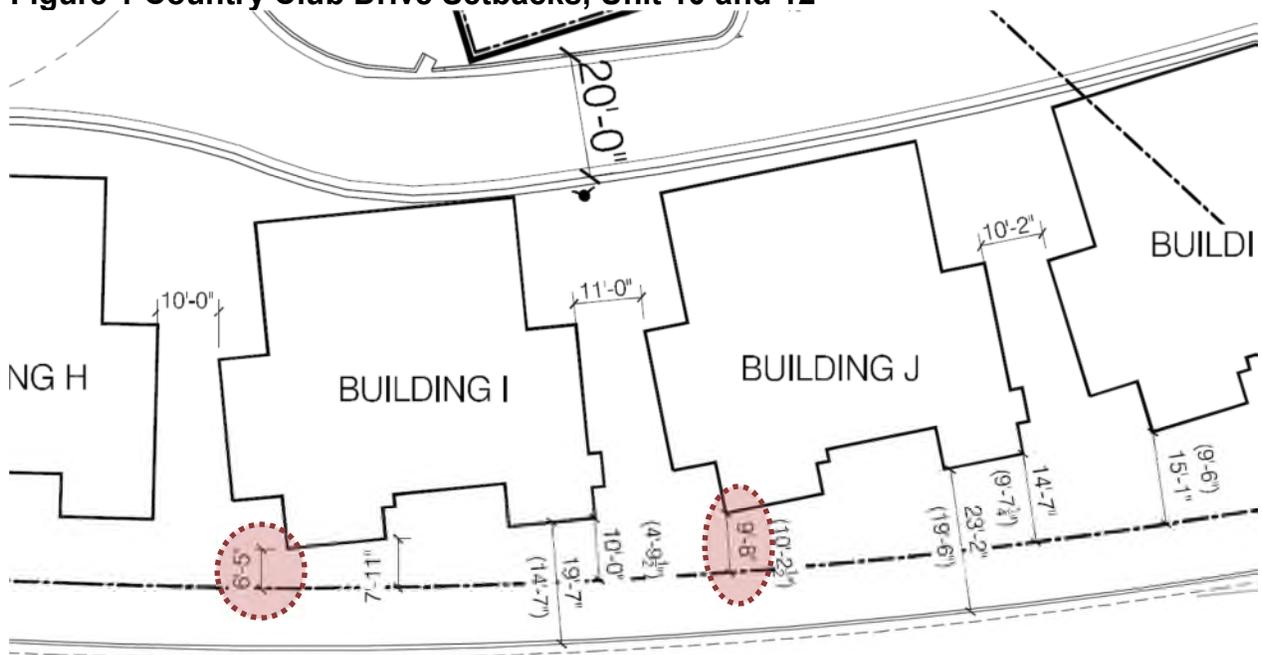
In the proposed CDP, Buildings A, B, and C setbacks were increased so that all buildings on Moraga Way have a minimum setback of 15 feet from the front property line. (This setback is in addition to the approximately 20 foot landscaped area between

1 the edge of roadway and the property line.) Buildings A and B setbacks, both of which
2 would exceed 20 feet, would be comparable to the front setback of a standard single-
3 family home in the 3DUA zoning district. The minimum 15 foot setback is consistent with
4 recommended landscape buffer for commercial and multifamily residential
5 developments in the scenic corridor design guidelines.
6

7 The setback for Building C could be increased by 9 feet (to a total of 24 feet) by
8 relocating one unit from this building to Country Club Drive (Attachment F). This would
9 increase the setback of Building C by 9 feet, to 24 feet. However, as discussed
10 elsewhere this change would create a second triplex on Country Club Drive and narrow
11 the active area of the pocket park by 10 feet, as well as reduce the landscape buffer
12 between Building K and the pocket park.
13

14 On Country Club drive, the modified site plan increases the setbacks of Buildings F, I,
15 and K; Buildings I and J were reoriented at an angle to follow the curve in the road to
16 increase the setback for one of the duplex. As a result all units are set back a minimum
17 of 10 feet from the property line, with the exception of units 10 and 12, which are
18 setback 6 feet and 9 feet respectively (Figure 1).
19

20 **Figure 1 Country Club Drive Setbacks, Unit 10 and 12**



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22
23 The revised setbacks would be more consistent with the setbacks found in the adjacent
24 Moraga Country Club neighborhood, and would allow for comparable landscaped front
25 yards. Many of the attached homes in the MCC are set back in the range of 10 to 15
26 feet from the property line (Figure 3 and 4), with the exception of a portion of the
27 townhomes on Country Club Drive that have 30 foot wide private access easement in
28 front (Figure 5 and 6). As shown in the aerial photograph (Figure 2), most of these
29 homes have small courtyards, lawns or planting areas, rather than extensive front
30 yards.

1 **Figure 2: Aerial Of Country Club Drive Townhomes**



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Figure 3: Townhomes, view from sidewalk on Country Club Drive



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1 **Figure 4: Townhomes, view from Country Club Drive**



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4 **Figure 5: Townhomes, view from sidewalk on Country Club Drive**



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7 **Figure 6: Townhomes, view from Country Club Drive**



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1 Building Massing and Height

2 During the Council discussion of the appeal, concerns were expressed regarding the
3 mass or size of the buildings relative to the length of the frontage, and that this could
4 present as a continuous building or a walled effect, which the Scenic Corridor guidelines
5 seek to avoid. The side elevations of the end units of Buildings A through D are
6 approximately 56 feet in width and have a minimum 25 foot separation between the
7 buildings. With these proportions, the spacing and massing, when viewed from Moraga
8 Way, would be comparable to the 3DUA single family residential zoning district.
9 Approximately 58% of the length of the frontage would be building, and 42% would be
10 void.

11
12 To reduce the appearance of bulk, the revised site plans have split Building A into two
13 triplexes, with an 11 foot separation between the two buildings. This breaks up the
14 overall mass and length of the building and further varies the appearance of the roofline
15 when viewed from the Moraga Way entrance driveway. Buildings C and D, which are
16 closest to Moraga Way, and therefore have the greater appearance of bulk from Moraga
17 Way, would be reduced to two stories, from the previous three, with a maximum height
18 of 35 feet which eliminates much of the appearance of bulk.

19
20 Ridgeline Views

21 At the request of staff, the applicant prepared additional visual studies of the project that
22 included the duplexes on Country Club Drive and the distant ridgeline as background
23 elements, to form a more realistic simulation of the view from Moraga Way. The “drive
24 by” video of the project (Attachment G) demonstrates that the ridgeline is visible at the
25 gaps provided by the separations between Buildings A through D and the adjacent
26 development (Figure 7 and 8). (As noted, on aggregate, buildings would occupy about
27 58% of the total Moraga Way frontage.) The rooftops of the duplex units do not obscure
28 these views. While the view of the ridgeline is intermittent, this pattern is consistent with
29 the current views of Indian Ridge from Moraga Way, looking across the existing
30 developed sites. The adjacent single-story Fire Station 41 obscures the ridgeline, when
31 viewed from the street, as does the two story office building, which is set back 72 feet
32 behind its parking lot (Attachment H). However, the ridgeline continues to be visible
33 between both of these buildings through their parking lots and driveways. Note that the
34 closer the viewpoint to the buildings, the greater the degree of visual obstruction. The
35 viewpoint selected for the drive by simulation is somewhat conservative, since it
36 conceptually shows the viewpoint travelling northbound on Moraga Way, but the
37 position of the viewpoint is somewhat more representative of the view from the closer,
38 southbound lane.

1 **Figure 7: Perspective at Auto Court between Building B and C**



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Figure 8: Perspective at Building D and 1150 Moraga Way



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In the Moraga Center Specific Plan EIR discussion of impacts to aesthetics and visual quality, it noted that the anticipated development of a vacant site would significantly change the vista and visual character. The MCSP anticipated more urban commercial and multifamily development of three stories and smaller (even zero) setbacks than in the proposed Moraga Town Center Homes. To mitigate for potential visual impacts, the EIR calls for the implementation of the MCSP and scenic corridor design guidelines,

1 and the inclusion of building separations and internal streets to maintain view corridors
2 and views of surrounding ridgelines.

3
4 As demonstrated in the simulated 'drive by' video the project design does create view
5 corridors across the site, retaining intermittent views of Indian Ridge. Thus, the revised
6 site plan minimizes view obstruction from the project, similar to the existing buildings.
7 However, without limiting buildings to a single story, or requiring setbacks substantially
8 larger than would be required by any of the Town's current zoning districts, some
9 obstruction of ridgeline views is still present.

10 11 Compatibility with the Moraga Orinda Fire Station

12 Staff met with the Fire Chief and an MOFD Board Member to discuss MOFD's concerns
13 about compatibility of the proposed residential uses with the existing MOFD training
14 facility, and particularly to determine if any additional design measures could be
15 integrated into the project to address those concerns.

16
17 Those discussions continued to reiterate the position of MOFD that the proposed use is
18 incompatible with the Fire District's use of the adjacent property. Staff inquired about
19 buffer distances for uses adjacent to the training area; however MOFD could not
20 recommend an adequate setback. Absent a wholesale revision to the project, to either a
21 completely different land use (such as an office), or by substantially reducing the
22 number of units such that residential development and recreation space would not be
23 located adjacent to the training facility, it appears that there are no staff supported
24 revisions that would eliminate the District's opposition to the project.

25
26 At this time, no additional mitigation measures to those previously agreed to by the
27 applicant, and included on the plans and in conditions, are proposed. The current
28 mitigation measures include:

- 29 • Record a disclosure on the deed of each home, and in the subdivision CC&Rs, of
30 MOFD activities at Station 41.
- 31 • Prepare and distribute disclosure information, including a video to potential home
32 buyers.
- 33 • Construct an 8-foot masonry wall on the shared property line
- 34 • Plant trees on the property line to form a landscape screen
- 35 • Install a 'warning signal' at the driveway on Moraga Way
- 36 • Remove the un-useable mound of dirt on MOFD property.
- 37 • Install sound rated windows on Buildings A, I, J and K (discussed more below)

38
39 The project's acoustical consultants, Edward L. Pack Associates, recommended that
40 the upper story windows and doors on units within 60 feet of the shared MOFD property
41 line be sound rated with an STC rating of 32 to ensure that interior noise levels will not
42 reach annoyance levels per State of California Land Use Compatibility Guidelines. This
43 recommendation was based on noise measurements taken during MOFD training
44 operations. Condition 21.c was revised to include the minimum sound rated standard.

45
46 At the January 28 meeting, some members of the Council suggested that extending the
47 length of the 8 foot sound wall could further reduce conflicts between the uses. Staff
48 considered this concept, but note that extending the wall would require removal of the

1 dense row of redwood trees along the property boundary, which are a significant
2 aesthetic element, and also provide screening. The majority of the noise associated
3 with training occurs in the rear of the property, and extending the wall along the
4 driveway would be of limited benefit to reducing that noise source.

5 6 Country Club Drive Improvements

7 During the January 28, 2015 Town Council hearing, staff was also asked to investigate
8 if there was a nexus to require the applicant to construct frontage improvements on the
9 south side of Country Club Drive or the length of Country Club Drive to the intersection
10 with St. Andrews Drive. Staff reviewed with the Town Attorney State law and the
11 Moraga Subdivision Ordinance, and determined there was not a nexus between the
12 proposed project and additional improvements beyond the centerline of the street on the
13 project frontage. However, the project currently provides landscape improvements for
14 the entirety of the median which would benefit the appearance of both sides of the
15 streets.

16 17 Traffic Impacts

18 During the January 28, 2015 meeting, the Council questioned whether the proposed
19 land use was more similar to detached single family homes and whether the trip
20 generation numbers were accurate. The Institute of Transportation Engineers (ITU)
21 develops its trip generation rates for each land use based on an average from traffic
22 studies of built developments across the country. For the proposed project, the traffic
23 memo used the ITU trip generation rate of 5.86 trips per unit for
24 Condominium/Townhome land use. This trip generation rate was not adjusted for
25 walkability, proximity to transit and services. For a Single Family Detached Housing, ITU
26 estimates 9.55 trips unit per day. However, the MCSP EIR projected traffic generation
27 based on the assumption that the site would be built-out at the highest permitted density
28 (20 DUA or 61 units), which would be approximately 356 vehicle trips per day. Using
29 the trip generation rate of Single Family Detached Housing, the project would generate
30 343.8 trips per day, which would be fewer trips than assumed for the site by the MCSP
31 EIR.

32 33 CEQA Analysis

34 The project is located within the boundaries of the Moraga Center Specific Plan, which
35 was evaluated under the California Environmental Quality Act (CEQA) in an EIR (SCH #
36 2000031129) certified by the Town Council on January 27, 2010. Staff evaluated the
37 applicability of the MCSP EIR pursuant to Sections 15162 and 15168 (c) of the CEQA
38 Guidelines and documented through use of the CEQA Checklist (Appendix G of the
39 CEQA Guidelines), that the proposed Town Center Homes project will not have any
40 potentially significant environmental effects that were not adequately analyzed in the
41 earlier EIR, and that the mitigation measures from the earlier EIR can be applied to the
42 proposed project. Furthermore, there is no new information of substantial importance
43 which was not known and could have been known with the exercise of reasonable
44 diligence at the time the MCSP EIR was certified that shows the project will have new
45 significant effects or more severe effects than analyzed in the MCSP EIR.

46
47 The revised Conceptual Development Plan increased setbacks and reduced the height
48 and floor area of some of the residential units. As amended, the revised Conceptual

1 Development plan does not increase the intensity of the land use and would lessen
2 visual impacts. Therefore the revisions do not modify the conclusions from the prior
3 analysis of the project.
4

5 **Conclusion**

6 The project design is based on the standards of the MCSP, which intended for medium
7 to high density housing, but has been modified due to the location adjacent to existing
8 residential development, office and emergency services uses and the scenic corridor.
9 The setback from the Moraga Way scenic corridor was increased to allow for more
10 landscaping and greater buffer. The third story loft was removed from Buildings C and
11 D, and Building A was divided into triplexes to reduce the visual mass of the
12 townhomes. The footprint of the duplex and triplex units on Country Club Drive was
13 reduced and buildings F I, J and K were reoriented to increase the setback, so that all
14 but the corner of two units are set back a minimum 10 feet from the property line. While
15 the project is of a more urban character than existing development in Moraga, it still
16 provides architecture, landscaping and view corridors through the site consistent with
17 the character of Moraga.
18

19 **Fiscal Impact**

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21 None. Per the Town's Master Fee Schedule, the private party appellants submitted a
22 \$1000 fee upon filing the appeal; however, the applicant is responsible for the full cost
23 of processing the appeal.
24

25 **Alternatives**

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27 Alternative A:

- 28 1. Introduce and Waive the First Reading of an Ordinance Amending Moraga
29 Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and
30 Amending the Zoning Map for the Moraga Town Center Homes Property (APNs:
31 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA
32 Planned Development (12-DUA-MC-PD); and
33
34 2. Adopt Resolution No. __-2015 Denying the Appeal, Upholding the Planning
35 Commission's Decision and Approving the Revised Conceptual Development
36 Plan for the Moraga Town Center Homes Project with Modifications; or
37

38 Alternative B:

39 Direct staff to return with a resolution granting the appeal and denying the project; or
40

41 Alternative C:

42 Provide alternate direction to staff and/or the applicant.
43

44 **Recommendation**

45
46 It is recommended that the Town Council take the following actions:
47

- 1 1. Introduce and Waive the First Reading of an Ordinance Amending Moraga
2 Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and
3 Amending the Zoning Map for the Moraga Town Center Homes Property (APNs:
4 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA
5 Planned Development (12-DUA-MC-PD); and
6
- 7 2. Adoption of Resolution No. __-2015 Denying the Appeal, Upholding the Planning
8 Commission's decision, Adopting CEQA Findings and Approving the Conceptual
9 Development Plan for the Moraga Town Center Homes Project with
10 modifications.
11

12 **Report reviewed by: Jill Keimach, Town Manager**
13 **Michelle Kenyon, Town Attorney**
14

15 **Attachments:**

- 16 **A.** Draft Ordinance No. __-2015 Amending Moraga Municipal Code Chapter 8.48 to add
17 12-DUA PD Land Use Classification, and Amending the Zoning Map for the Moraga
18 Town Center Homes Property (APNs: 257-180-082-6 and 257-190-057-6) from
19 Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD)
- 20 **B.** Resolution No. __-2015 Considering the Appeal, Upholding the Planning Commission's
21 Decision and Approving the Conceptual Development Plan for the Moraga Town Center
22 Homes Project with Modifications
- 23 **C.** Staff Report, January 28, 2015 Town Council Hearing
- 24 **D.** Appeal, December 1, 2014
- 25 **E.** Conceptual Development Plan, March 26, 2015
- 26 **F.** Alternative Conceptual Development Plan, March 26, 2015
- 27 **G.** 'Driveby' Simulation: <http://bit.ly/1MGKIR8>
- 28 **H.** Photographs
- 29 **I.** Applicant Response Letter
- 30 **J.** Correspondence

ATTACHMENT A

Draft Ordinance __-2015 Amending Moraga Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and Amending the Zoning Map for the Moraga Town Center Homes Property from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD)

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

**Amending Moraga Municipal Code)
§8.48.040 to Add 12-DUA-PD Zoning)
District (12-PD) and Amending the)
Zoning Map to Zone the Site of the)
Proposed Town Center Homes Project)
(APNs: 257-180-082-6 and 257-190-057-)
6) 12-PD)**

ORDINANCE NO. XXXX

WHEREAS, General Plan Policy LU3.3 allows for the Residential 16-DUA density, which includes a density range of 11-16 DUA, within Specific Plan areas; and

WHEREAS, the Town adopted the Moraga Center Specific Plan in January of 2010; and

WHEREAS, the Moraga Center Specific Plan Land Use Diagram designates Area 13, between Country Club Drive and Moraga Way, as Mixed Office-Residential and identifies various land uses for this area, including residential development at 12-20 dwelling units per acre; and

WHEREAS, on January 30, 2014 City Ventures (applicant) and Russell Bruzzone, Inc. (owner) filed an application to develop a thirty six (36) unit attached single-family residential subdivision on the subject property, a 3.06 acre infill site located in Area 13 of the Moraga Center Specific Plan, between Moraga Way and Country Club Drive, (APNs: 257-180-082-6 and 257-190-057-6); and

WHEREAS, the application includes a request to re-zone the property from Suburban Office to Planned Development-12 Dwelling Units Per Acre (PD-12) to accommodate the proposed project density, uses and development standards, and to amend the Zoning Ordinance to reflect the proposed residential density, consistent with the Moraga Center Specific Plan; and

WHEREAS, MMC Section 8.48.040 specifies development standards for single family planned developments at various densities, but does not include a PD-12 Land Use classification or minimum lot size; and

WHEREAS, State Law requires the General Plan to be internally consistent, and for the Zoning Ordinance to be consistent with the General Plan; and

WHEREAS, the proposed amendments would serve to make consistent policies and regulations of the Town with regard to permitted residential uses in the Moraga Center Specific Plan Area; and

WHEREAS, public hearing notices for consideration of the Conceptual Development Plan, Rezoning to Planned Development District and Amendment to the text of the Planned Development Zoning District were published in the newspaper on November 7, 2014 and mailed to all property owners within 750 feet of the subject property on November 4, 2014; and

WHEREAS, on November 17, 2014 the Planning Commission held a public hearing to consider the applications, and adopted Resolutions 19-14 recommending the Zoning Ordinance Amendment, Rezoning and Zoning Map Amendment and Resolution 20-14 approving a Conceptual Development Plan based on the revised proposal submitted on June 26, 2014; and

WHEREAS, prior to approving the project, the Planning Commission considered the Moraga Center Specific Plan Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Plan certified by the Town of Moraga in January 2010 and the Environmental Documentation that provides an analysis of the consistency of the Town Center Homes project with the development analyzed in the Moraga Center Specific Plan EIR and is attached to the November 17, 2014, staff report as Attachment G and incorporated herein by reference (the "Environmental Documentation"); and

WHEREAS, public hearing notices for consideration of the proposed rezone, text amendment and an appeal from the Planning Commission's decision on the Conceptual Development Plan were published in the newspaper on January 16, 2015 and mailed to all property owners within 750 feet of the subject property on January 12, 2015; and

WHEREAS, the Town Council considered the proposed rezone, text amendment and an appeal from the Planning Commission's decision on the Conceptual Development Plan at a public hearing on January 28, 2015, and received detailed input and testimony from the appellants and Applicant, as well as others; and

WHEREAS, the Town Center Homes project is located within the boundaries of the Moraga Center Specific Plan, which was evaluated under CEQA in an EIR (SCH # 2000031129) certified by the Town Council on January 27, 2010. As allowed by CEQA Guidelines Section 15168(c) the Moraga Center Specific Plan is a program EIR, which may be relied upon as the CEQA document for specific subsequent activities, such as site specific development projects, which are included in the program. As documented in the Environmental Documentation, the proposed project will not have any potentially significant environmental effects that were not adequately analyzed in the earlier EIR, and the mitigation measures from the earlier EIR can be applied to the proposed project, and;

WHEREAS, a Mitigation Monitoring and Reporting Plan adopting and applying those mitigation measures to the proposed project has been prepared, included as Exhibit G of the November 17, 2014 staff report and is incorporated herein by reference.

THE TOWN COUNCIL OF THE TOWN OF MORAGA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Town Council hereby finds that:

A. Pursuant to CEQA Guidelines Sections 15162 and 15168(c)(2) and based on the entire record, the Town Council finds that no new environmental effects could occur and no new mitigation measures are required as a result of this rezone. There is no involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Further, there is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the MCSP EIR was certified that shows the project will have new significant effects or more severe effects than analyzed in the MCSP EIR or that new mitigation measures or previously infeasible mitigation measures would reduce any significant environmental effect.

B. The Town Council hereby finds as follows in support of the Zoning Ordinance Amendment, Rezoning, and Zoning Map Amendment:

(i) The change proposed is consistent with the objectives, policies, general land uses and programs specific in the general plan and applicable specific plan because the Moraga General Plan designates the project site as within the Moraga Center Specific Plan, which calls for a mixed office and residential used at twelve to twenty units per acre (12-20 DUA). Medium density residential land use will revitalize the existing Moraga Center through increasing nearby residents that will support the expansion of retail opportunities in and around the Center. The new residential development will also support the development of a ‘village’ within the Specific Plan that is walkable and promotes transit. Rezoning for the project will allow development consistent with the minimum density in the mixed office-residential land use designation of the Moraga Center Specific Plan;

(ii) In the case of a general land use regulation, the change proposed is compatible with the uses authorized in, and regulations prescribed for, the land use district for which it is proposed. No amendment to the General Plan is proposed. However, the proposed amendment of the zoning district map to rezone the project site to Planned Development allows for residential uses and permits flexible development standards to permit a project consistent with the density and design standards in the Moraga Center Specific Plan, which implements the General Plan. The proposed municipal code amendments will allow for development to occur as a planned development for medium density residential at 12 Dwelling Units per Acre, which is not allowed in any other residential zoning district in the Municipal Code but is specified in the Specific Plan area.

(iii) A community need is demonstrated for the change proposed because by amending the PD district text, rezoning the project site as a PD and amending the zoning map would allow new residential development at a higher density, such as townhomes, duplexes and triplexes, that would meet the community’s need to diversify housing options, as identified in General Plan Policy H2.1. and in conformance with the adopted Specific Plan. In addition, the residential land use would be located near retail commercial areas, transit and trails implementing the Moraga General Plan sand Specific Plan policies that call for a walkable community in the Town center; and

(iv) Its adoption will be in conformity with public convenience, general welfare and good zoning because the project site would be developed with medium density housing that would provide a transition in density from nearby lower density residential neighborhoods and the higher density residential and commercial land uses envisioned for the center of the Specific Plan area. The zoning of the project site for 12-PD will direct growth to an urban infill parcel and not involve the development of environmentally sensitive greenfield, hillsides and ridgelines. The project will landscape and maintain the Moraga Way right-of-way and provide sidewalk and bikes lane along its frontages providing for the convenience of pedestrians and bicyclists.

SECTION 2. Subsections (A) and (B) of Section 8.48.040, Development standards for single-family residential uses in planned development district, of the Moraga Municipal Code are hereby deleted and replaced with the following:

“A. When the planned development district consists of single-family residential use, it shall be designated (depending upon the density applicable to it) either:

1. N-OS-PD;
2. 1-PD;
3. 2-PD;
4. 3-PD;
5. 6-PD.
6. 10-PD, as to the Rheem Park Specific Plan Area as defined in the General Plan (RP)
7. 12-PD-MC, as to the Moraga Center Specific Plan Area as defined in the General Plan (MC)

B. Except as provided in subsection D of this section the minimum lot sizes shall be as designated on the following table:

Land Use Classification	Minimum Lot Size
N-OS-PD	40,000 sq. ft.
X-PD ¹	5, 10, 20 or more acres depending upon the development standards imposed under Section 8-3606
1-PD	30,000 sq. ft.
2-PD	20,000 sq. ft.
3-PD	10,000 sq. ft.
6-PD	10,000 sq. ft. ²
10-PD-RP ³	2,500 sq. ft. ⁴
<u>12-PD-MC⁵</u>	<u>2,500 sq. ft.⁴</u>

1 Any Planned Development District

2 Except for condominium development as provided in Section 8.32.060(C)

3 Applies to properties in the Rheem Park Specific Plan area only

4 For detached single-family residences

5 Applies to properties in the Moraga Center Specific Plan area only

SECTION 3. The 3.06 acre parcel identified by Assessor Parcel Numbers 257-180-082 and 257-190-057 is rezoned from the Suburban Office (SO) to the Planned Development (PD) District.

SECTION 4. The zoning map described in Section 8.044.030 of the Municipal Code is amended to reflect the rezoning described in Section 3 above.

SECTION 5. The Town Council hereby declares that it would have passed this Ordinance, sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that any provisions in this Ordinance are severable and, if for any reason any sentence, paragraph or section of this Ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 6. This Ordinance shall be published and posted according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Moraga held on April 8, 2015 and was adopted and ordered published at a regular meeting of the Town Council on May 13, 2015 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Roger N. Wykle, Mayor

Attest: _____
Marty C. McInturf, Town Clerk

ATTACHMENT B

Draft Resolution __-2015 Considering the Appeal, Upholding the Planning Commission's Decision and Approving the Conceptual Development Plan for the Moraga Town Center Homes Project with Modifications

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

Denying the Appeal, Upholding the)
Planning Commission's Decision, Adopting)
CEQA Findings and Approving a Revised)
Conceptual Development Plan for the Town)
Center Homes Project with Modifications)

Resolution No. XX - 2015

WHEREAS, on January 30, 2014 City Ventures (applicant) and Russell Bruzzone, Inc. (owner) filed an application to develop a thirty six (36) unit attached single-family residential subdivision on the subject property, a 3.06 acre infill site located within the Moraga Center Specific Plan, between Moraga Way and Country Club Drive, (APNs: 257-180-082-6 and 257-190-057-6); and

WHEREAS, prior to filing of the application, the Town of Moraga has held a series of public workshops and study sessions since June 2012 to consider and provide input on the project which included study sessions before the Design Review Board, Planning Commission and joint sessions of the Planning Commission/Design Review Board; and

WHEREAS, the applicant has made eight revisions to the proposed plans to respond to comments provided by the Planning Commission, Design Review Board and by members of the public at those workshops and at five public workshops independently conducted by the applicant; and

WHEREAS, on May 27 and July 14, 2014, the Design Review Board held duly-noticed public meetings to consider design-related aspects of the project, including conformance of the project site plan, grading, circulation, architecture, and landscaping; and

WHEREAS, on July 14, 2014, the Design Review Board recommended that the project be forwarded to the Planning Commission for consideration for approval; and

WHEREAS, on July 31, 2014, the Applicant submitted additional project revisions to the Town of Moraga including modifications to setbacks of residential structures from Moraga Way and various modifications to the plans to respond to comments from the Public Works Department and the Moraga-Orinda Fire District; and

WHEREAS, public hearing notices for consideration of the Conceptual Development Plan were published and mailed to all property owners within 750 feet of the subject property on September 4, 2014; and

WHEREAS, on September 18, 2014 the Planning Commission continued the public hearing to October 6, 2014; and

WHEREAS, at the request of the applicant, the October 6, 2014 hearing was postponed to November 17, 2014; and

WHEREAS, public hearing notices for consideration of the rezoning to Planned Development District and amendment to the text of the Planned Development Zoning District (“Zoning Ordinance Amendment”) and the Conceptual Development Plan were published in the newspaper on November 7, 2014 and mailed to all property owners within 750 feet of the subject property on November 4, 2014; and

WHEREAS, on November 17, 2014, prior to acting on the project application, the Planning Commission considered the Moraga Center Specific Plan (MCSP) Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Plan certified by the Town of Moraga in January 2010 and Environmental Documentation for the project, included as Attachment G to the November 17, 2014, staff report and incorporated herein by reference, that provides an analysis of the consistency of the Town Center Homes project with the development analyzed in the Moraga Center Specific Plan EIR (the “Environmental Documentation”); and

WHEREAS, on November 17, 2014, the Planning Commission opened the public hearing and heard testimony on the application for Zoning Ordinance Amendment and for a Conceptual Development Plan; and

WHEREAS, on November 17, 2014 the Planning Commission voted to adopt Resolution 19-14 recommending that the Town Council rezone the Project site to Planned Development District and adopt the Zoning Ordinance Amendment, and Resolution 20-14 approving the Conceptual Development Plan; and

WHEREAS, on December 1, 2014, Richard Olsen, Scott Bowhay and Denise Coane filed an appeal of the Planning Commission approval of the proposed project; and

WHEREAS, public hearing notices for consideration of the proposed Zoning Ordinance Amendment and an appeal from the Planning Commission’s decision on the Conceptual Development Plan were published in the newspaper on January 16, 2015 and mailed to all property owners within 750 feet of the subject property on January 12, 2015; and

WHEREAS, on January 28, 2015 the Town Council held a public hearing accepting testimony from the appellant, the applicant and the public, discussed the appeal and Zoning Ordinance Amendment; and continued the hearing to a date uncertain and directed staff to continue to work with the applicant regarding revising the site plans to address the issues that had been raised with respect to compatibility, setbacks, building height, and scenic corridor guidelines compliance; and

WHEREAS, the Applicant submitted additional information and draft project revisions to the Town of Moraga including modifications to setbacks, height and massing of residential structures; and

WHEREAS, public hearing notices for consideration of the proposed Zoning Ordinance Amendment and an appeal from the Planning Commission's decision on the Conceptual Development Plan were published in the newspaper on March 27, 2015 and mailed to all property owners within 750 feet of the subject property on March 24, 2015; and

WHEREAS, on April 8, 2015, the Town Council waived the first reading and introduced the Zoning Ordinance Amendment.

NOW, THEREFORE, BE IT RESOLVED, the Town Council of the Town of Moraga, based on the project plans, the staff report, the CEQA documentation and all attachments, all written and oral testimony and comments and all other information presented in this matter, determines as follows:

PART 1: CEQA FINDINGS:

1. The project is located within the boundaries of the Moraga Center Specific Plan, which was evaluated under CEQA in an EIR (SCH # 2000031129) certified by the Town Council on January 27, 2010. As allowed by CEQA Guidelines Section 15168(c) the Moraga Center Specific Plan is a program EIR, which may be relied upon as the CEQA document for specific subsequent activities, such as site specific development projects, which are included in the program. As documented in the Environmental Documentation, the proposed project will not have any potentially significant environmental effects that were not adequately analyzed in the earlier EIR, and the mitigation measures from the earlier EIR can be applied to the proposed project.
2. A Mitigation Monitoring and Reporting Plan adopting and applying those mitigation measures to the proposed project has been prepared, included as Exhibit G of the November 17, 2014 staff report and is incorporated herein by reference.
3. Pursuant to CEQA Guidelines Sections 15162 and 15168(c)(2) and based on the entire record, the Town Council finds that no new environmental effects could occur and no new mitigation measures are required as a result of the proposed Revised Conceptual Development Plan. There is no involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Further, there is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the MCSP EIR was certified that shows the project will have new significant effects or more severe effects than analyzed in the MCSP EIR or that new mitigation measures or previously infeasible mitigation measures would reduce any significant environmental effect.

PART 2: CONCEPTUAL DEVELOPMENT PLAN FINDINGS:

The Town Council of the Town of Moraga makes the following findings necessary to approve the Revised Conceptual Development Plan and deny the appeal, pursuant to Moraga Municipal Code Section 8.48.100:

- (a) The total development and each unit of development can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that this objective will be attained and that the uses proposed will not be detrimental to present and potential surrounding uses.**

The project is designed to have varied architectural styles and detail on each of its buildings, including individual entrances, private open space in the form of a patio or rear yard and a two car garage for each unit. Units will have between three and four bedrooms and 1,814 and 2,384 square feet of living space, providing livable and desirable units. The development will have an approximately 10,000 square foot private park, including recreational amenities, located adjacent to Laguna Creek for the use of the residents, as well as internal passive open space and landscaping along the Moraga Way scenic corridor. Conditions of approval require design review of the final architectural, landscape, lighting and streetscape plans by the Design Review board to ensure the development will be attractive and high quality. A Homeowners Association will be formed, whose responsibility will include maintenance of common areas and amenities, to ensure their ongoing upkeep and attractiveness.

The development is designed with two-story duplex and triplex units fronting along Country Club Drive to provide a transition in density from the existing residential neighborhood to the two and three story townhomes located adjacent to Moraga Way. The project is designed so that landscaping, parking and an internal driveway are adjacent to the western property line to provide separation between the existing office building and the future residences. The project will construct a sound wall and will locate internal drives, parking and landscaping along the property line adjacent to the Moraga-Orinda Fire District Station (MOFD) to minimize possible disturbance of residents from MOFD activities. Conditions of Approval specify that the development include notification of adjacent land uses to prospective homebuyers and in the CC&Rs of the development so as to reduce potential conflicts between these uses.

The duplexes and triplex along Country Club Drive will have six to fifteen foot minimum setbacks from Country Club Drive and the building facades will be articulated with projections and inlets that provide variation in streetscape and break up the massing of the buildings. Approximately 40% of the second story on each building will be stepped back from the first floor by 5 to 8 feet. A condition of approval requires an additional 30 percent of each building be stepped back by at least three feet from the lower story building face, further recessing the upper story massing and diminishing the sense of height of the two story elements as viewed from the street.

The proposed residential development will be served by two driveways off Country Club Drive and Moraga Way, with internal sidewalks and pedestrian paseos that will allow for independent access of the units by vehicles, bicycles and pedestrians from the public street. Eighteen guest parking spaces will be provided onsite. The project will not rely upon access from adjacent properties and community utilities and services have been found to be adequate to serve the level of proposed development.

(b) The street proposed is suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the development.

The project is located within the boundaries of the Moraga Center Specific Plan, the land use and policies of which were evaluated under the California Environmental Quality Act (CEQA) in an EIR (SCH # 2000031129) certified by the Town Council on January 27, 2010. The proposed Town Center Homes project would generate about 210 vehicle trips per day, based on Institute of Traffic Engineers (ITE) trip generation rates for residential condominiums/townhomes, approximately 150 fewer trips than was assumed for the site when the EIR was prepared because the project will have 36 units, while the Specific Plan assumed up to 61 units. This reduction in traffic generation would result in 2.9% decrease in the Specific Plan's overall trip generation (estimated at 5,060 trips). Even with a more conservative calculation based on the higher ITE rates for traditional detached single family homes, the 36 units would generate approximately the same number of trips as was assumed for the site in the MCSP EIR. Such rates do not account for the likelihood that trip generation will be lower given the walkable and transit-oriented character of the Moraga Center.

(c) Development other than single family residential can be properly justified and is consistent with the general plan.

The project will be attached single family homes consistent with the Moraga Center Specific Plan because it would propose medium-density residential uses within Area 13, which is designated Mixed Office-Residential in the Specific Plan and which allows for residential development of the type and density proposed. The project conforms to the development standards for the Specific Plan Mixed Office Residential District, as follows:

- 1) The project site exceeds the minimum site area, lot frontage and site depth standards for the District; and
- 2) The development density, at 12 units per acre, is within the 12 - 20 units per acre density standard; and
- 3) The building setbacks of 15 to 25 feet along Moraga Way and 6 - 15 feet along Country Club Drive exceed the District's minimum setback requirement (zero feet); and
- 4) The maximum height of the proposed buildings (38 ft. 4 in.) is below the maximum height standard of 45 feet; and
- 5) The 2 and 3 story buildings are within the 3-story maximum building envelope allowed; and
- 6) The lot coverage of the proposed project of 33.3% is below the allowable maximum lot coverage of 60%; and
- 7) The project's Floor Area Ratio (FAR) of 0.53 is below the allowable maximum FAR of 0.85; and
- 8) The proposed number of parking spaces (2.5 per unit/90 spaces total) meets the parking standards specified in the MCSP.

(d) Any proposed exception from standard ordinance requirements is warranted by the design and amenities incorporated into the conceptual development plan in accord with adopted policy of the planning commission and town council.

The building separations between the proposed duplex and triplex units, while narrower than the recommended design standard in the Specific Plan Mixed Office Residential district, are appropriate and reasonable because the smaller-scale duplex and triplex units create an effective transition between the larger townhouse buildings elsewhere on the site, and the lower-density residential development across Country Club Drive. Further, the duplex and triplex units are smaller structures than the townhome buildings and the smaller separation is proportionate to that scale, while continuing to provide adequate open spaces and individual yards.

(e) The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development.

The project is within the Moraga Center Specific Plan, which was adopted to provide coordinated and more detailed planning for this area, considering existing and future development of this site and properties adjacent to it. The site is designated for mixed residential and office development that reflects the office and residential uses that abut the property and transition between existing and planned residential uses. The proposed residential use would support the commercial uses of the Moraga Center by providing higher density housing in proximity and convenient walking distance to these uses. The project is consistent with the permitted density range of 12-20 DUA, and therefore with the overall land use plan and future development in the Moraga Center. A zoning ordinance amendment and zoning change are being separately processed to create the 12-DUA-MC-PD classification and rezone the site to a Planned Development District. The Conceptual Development Plan approval is effective upon the effectiveness of the Zoning Ordinance Amendment.

(f) The development conforms with the general plan and specific plan.

General Plan Policy LU3.1 is the impetus for the Moraga Center Specific Plan, which directs the long-range transformation of the Town Center area. The Moraga Center Specific Plan conforms to, and is an implementation program of, the General Plan. The proposed project conforms to General Plan Policy LU3.1 because it will further the goals of the specific plan, including introducing new residential uses that would help to revitalize the Moraga Center, expand retail opportunities, and create a mixed use "village" that serves as an activity center for the community. The project is also located in close proximity to the commercial center, transit stops, and community facilities, thereby supporting these facilities and promoting pedestrian, bicycle and transit travel within the Specific Plan Area.

Community Design Element policies CD3.2 Visual Character and CD 3.5 Landscaping and Amenities, promotes improvement of the visual character of the scenic corridor with landscaping, lighting and attractive signs and street furnishing. The proposed project would landscape a 35 to 45-foot wide buffer along the Moraga Way scenic corridor that is both on the subject property and in the shoulder of the roadway, in the Town's right-of-way. The conceptual landscaping includes a variety of trees, shrubs and groundcover, winding sidewalk and split rail fences that would add visual interest and enhance the appearance of the scenic corridor. Details of the lighting and signage are not provided with the Conceptual Development Plan, but would be subject to design review and consideration by the Planning Commission as part the General Development Plan to ensure quality design.

General Plan Policy CD1.3 View Protection encourages the protection of important elements of the natural setting, such as protecting ridgelines, hillside areas, and mature native tree groupings, and maintenance of viewsheds along the Town's scenic corridors. The proposed project is development on previously disturbed land within the Town center, and will not remove or disturb hillsides or other significant natural features. View corridors between buildings and through internal drives of the project will continue to provide views of Indian Ridge from the scenic corridor, similar to those of existing developed parcels along this portion of Moraga Way.

General Plan Policies CD5.1 Location, CD5.2 Design, CD5.3 Open Space, and CD5.4 Pedestrian Amenities address the siting of new development, encourage new housing close to commercial centers, transit stops, and community facilities, attractive architecture and the provision of open space and high quality pedestrian environments. The project is located near the commercial center and transit and trails, and so is consistent with the General Plan policy direction for the location of new housing. The project proposes multiple smaller buildings of townhomes and duplexes, rather than one large residential building, and each building is articulated with projections, inlets, porches, and trellises that break up the façade. Each home has a private garage and outdoor open space in the form of a patio or rear yard.

Policy LU4.6: Public Safety Facility Compatibility calls for new development to be of a type and design as to compatible with public safety facilities. Fire stations are frequently located within or near the residential land uses that they serve. The MOFD Fire Station 41, adjacent to the project, also operates as a training facility, and has existed for a number of years in proximity to the existing residential development of the Moraga Country Club. The project is designed with measures to address the additional visual, noise and light impacts from the training activities, including the construction of an 8-foot masonry wall, landscape screening, sound rated windows and doors, and notification to homeowners recorded against the property and in the CCRs, disclosing and acknowledging the adjacent uses.

The project is consistent with Housing Element policies H1.4 Design Excellence and H2.1 Housing Variety because the proposed project would add townhomes and duplexes, which are a less common housing product in Moraga, and could serve to allow current Moraga residents to downsize their home and remain within the community. The project would be attractively designed with well-articulated facades, varied rooflines and quality building materials and finished, and useable private and shared open space for residents.

The project is also consistent with the MCSP as it would create medium-density residential uses within Area 13 that would support the economic vitality of the nearby shopping center, businesses and offices and locate new population within walking and biking distance of trails, transit and community facilities.

(g) Existing or proposed utility services will be adequate for the population densities proposed.

The MCSP EIR evaluated the impact of full implementation of the MCSP, with 720 units of new housing and a projected increase of 1,614 people, on utilities services. The EIR found that there would be no significant impact on sanitary sewer, water, stormwater and solid waste service. The project would be subject to payment of development impact fees to address the project's incremental contribution for new and upgraded infrastructure and facilities. The proposed amount of development is less than that analyzed in the MSCP for this site, and therefore the project would have a lower demand on utilities and services than anticipated in the MCSP EIR.

PART 3: DENIAL OF APPEAL, UPHOLDING PLANNING COMMISSION ACTION AND APPROVAL OF CONCEPTUAL DEVELOPMENT PLAN:

The Town Council of the Town of Moraga hereby denies the appeal, upholds the Planning Commission action and approves the Conceptual Development Plan to allow 36 residential units on the subject property, subject to the following conditions of approval and effective upon the effective date of the Zoning Ordinance Amendment.

Planning Standard Conditions

1. This approval authorizes the Revised Conceptual Development Plan approval of the "Town Center Homes" project as approved by the Town of Moraga Town Council on April 8, 2015, and consisting of the Site Plan Option 3, dated March 25, 2015 and supporting architectural, civil and landscape plans, dated November 12, 2014. The Site Concept Plan approval allows for development of up to 36 multi-family duplex units and townhomes and associated improvements on the 3.06 acre site (APN 257-180-082 and 257-190-057).
2. Further Approvals. Further approvals necessary to allow development of the site include, but may not be limited to General Development Plan, Precise Development Plan, Vesting Tentative Map, Final Map, Improvement Plans, Building Permit Plans, Final Design Review and off-site improvements in the public right-of-way for Moraga Way and Country Club Drive adjacent to the site. All such plans shall be in substantial conformance with the approval listed in Condition #1, above, as approved by the Town Council on April 8, 2015 and more fully described in this Resolution and its Exhibits and as modified by these conditions of approval. Additional conditions of approval, or modification/refinement of these Conditions of Approval may be required with these further approvals.
3. CEQA Compliance. All required mitigation measures identified in the Mitigation Monitoring and Reporting Program (MMRP) Moraga Center Specific Plan EIR, (SCH#2000031129) as adapted to this project and included as Exhibit G of the Planning Commission Staff Report on November 17, 2014, shall be implemented and monitored in accordance with Town procedures.
4. Applicant Responsible for Compliance with Conditions. The applicant shall ensure compliance with all of the conditions herein, including submittal to the project planner of required approval signatures at the times specified. Notice of failure to comply with any condition shall be provided to the applicant by the Town, and a reasonable opportunity to gain compliance provided. Applicant's failure to comply with any condition may result in

construction being stopped, issuance of a citation, and/or modification or revocation of the approval.

5. Town staff (including authorized agents) shall have the right to enter the subject property to verify compliance with these conditions. The holder of any permit associated with this project shall make the premises available to Town staff during regular business and shall, upon request, make records and documents available to Town staff as necessary to evidence compliance with the terms and conditions of the permit.
6. Where compliance with the conditions of approval or applicant initiated changes to the Town Center Homes Subdivision requires additional staff work, that time shall be billed at the Town's established billing rates.
7. All new improvements constructed on the site shall be in compliance with all local State and federal laws, statutes, ordinances, regulations, rules, orders, judgments, decrees, permits, approvals and the like requirements applicable thereto and in force the time thereof ("applicable law"), and as may legally modified by a development agreement. "Local, state and federal" applicable law shall include without limitation, the applicable law of the Town of Moraga; Contra Costa County; Moraga-Orinda Fire District, Bay Area Air Quality Management District, San Francisco Bay Area Regional Water Quality Control Board; California Department of Fish and Wildlife, US Army Corps of Engineers; State of California; and United States of America.

Planning Special Conditions of Approval

8. The Site Plan shall be modified to reflect the following:
 - a. The landscape area in front of the project adjacent to Moraga Way shall be revised to include raised landscaped berms or grade changes that are contoured to blend with the surrounding landscape.
 - b. The second story of the buildings located along Country Club Drive shall be stepped back from the first story building face by a minimum of 3 feet for 30% of the façade length and stepped back a minimum of 5 feet for 40% of the façade length.
 - c. All third story lofts shall be stepped back a minimum of 2 feet from the second story.
9. The final plans for reconfiguration of Country Club Drive shall be consistent with Option 1 in the plan by C2C Consultants, including, a 14-foot travel lane, 5-foot bike lane and parking lane. This final design and landscaping for Country Club Drive shall be consistent with Public Works standards and subject to review and approval by the Design Review Board prior to approval of the improvement plans.
10. Final architecture and home designs for all homes shall include varied materials, articulation and high quality building materials that substantially conform to the conceptual plans and elevations included in the July 31, 2014 Plan Set, as may be modified based on final Design Review Board review approval. Modifications to the existing plans and the completion of additional plans and submittals shall be undertaken in accordance with the

Design Review Memorandum adopted by the Design Review Board on July 14, 2014, and shall include:

- a. Final site plan;
- b. Final architectural building, floor, exterior elevation and roof plans;
- c. Complete color and material palette;
- d. Final landscape plan including irrigation, walls, fences, and detailed site improvements and signage for the Rock Park;
- e. Final exterior lighting plan, including location and specifications of all light fixtures to demonstrate compliance with lighting-related Design Guidelines.
- f. Final streetscape plan, including landscaping, paving treatments, community signage and street furniture.
- g. Subdivision signage.
- h. Design of any public improvements specified by Conditions of Approval that have not yet been reviewed by the DRB.

11. The final site and landscape plan shall include:

- a. A clear internal pedestrian path connecting the development to the pocket park.
- b. Bicycle facilities, including bicycle racks in the common areas and pocket park.

12. The applicant, or project sponsor, shall form a Homeowners Association (HOA) for the purposes of owning, managing and maintaining all the subdivision features not in private ownership, including the pocket park, the bio-retention areas, the entrance driveways, street and sidewalks, common area landscaping, and front yard landscaping.

13. The HOA shall manage and maintain all the subdivision features within the Town of Moraga Right of Way, including landscaping along the Moraga Way and Country Club Drive frontages. The HOA shall record a landscape maintenance agreement and easement with the Town for improvements in the public ROW.

14. The applicant shall install enhanced landscaping and irrigation in the Country Club Drive median. Proposed landscaping shall use drought tolerant and native plants and be approved by Public Works Department. The HOA shall maintain the median landscaping for a minimum of five years, exclusive of the required two year warranty period, or shall contribute a lump sum amount to the Town upon turn-over of the facilities for Town maintenance equivalent to five years of maintenance costs.

15. The applicant shall include in the CC&Rs for the development requirements that:

- a. Residents park their vehicles in their garage.
- b. Restrict the on-site unenclosed parking space for use by guests and visitors.
- c. Prohibit the conversion of garage spaces to non-parking uses.

16. To comply with General Plan policy H1.5 and OS5.2, all homes shall be designed to meet at least 90 points on the "Build it Green" checklist or equivalent certification checklist, demonstrating energy efficiency and sustainability beyond current code requirements. Photovoltaic panels shall be offered to buyers as an option.

17. An approximately 10,450 square foot private “pocket” park shall be provided within the area adjacent to Laguna Creek, and shall provide accessible open space and associated amenities for use by the residents, including a picnic table, seating and BBQ, trail and other facilities determined by the Planning Director to offer an equivalent or better level of amenity to residents of the subdivision. This park shall not be counted against the required park dedication or in-lieu fees specified by the Town.

Development Standards

18. The Development Standards for the project are set forth below.

a. **Development Standards**

Site Standards	
Residential Density	12 dwelling units per acre
Lot Coverage	35%
Floor Area Ratio ¹	0.55
Setbacks and Building Separations	
Moraga Way Setback	Minimum 15'
Building A	25'
Building B	23'
Building C	15'
Building D	15'
Country Club Drive Setback	
Building E	10'
Building F	10'
Building G	10'
Building H	10'
Building I	6'
Building J	9'
Building K	15'
Interior Side Setback	
Northwestern Property Line	6'
MOFD Property ² Line	20'
Southeastern Property Line (Creek)	90'
Minimum Building Separation ³	
Buildings A, B, C, D	25'
Buildings E, F, G, H, I, J, K and A1	10'

¹ Floor Area Ratio calculated on a pre-subdivision basis

² MOFD Property identified as APN 257-190-056

³ Distance measured from building face to building face, excluding steps, decks, balconies

and A2	
<i>Other Standards</i>	
Maximum Building Height	39' 3 stories; 35' 2 stories
Maximum Building Stories	3 for units 17-20 and 23-26; 2 for all other units
Private Outdoor Space	Minimum of 50 square feet with minimum dimension of 5 ft.
Parking Spaces	2 spaces per residence; 1 guest space per 2 residences

- b. **Future Homeowner Modifications:** The applicant shall include in the CC&Rs for the development restrictions on future expansion of the building footprints, enclosure of deck and patio areas and covering yard areas from the sky.

Moraga-Orinda Fire District

- 19. The applicant, broker or real estate agent shall prepare and provide potential homebuyers with a written disclosure informing them of the Moraga-Orinda Fire District (MOFD) training facility activities and a video of those activities.
- 20. The applicant shall include a disclosure in the CC&Rs notifying residents of the adjacent fire station and potential temporary light, noise and visual impacts from training exercises.
- 21. The applicant shall along the shared property line with the MOFD property, APN 257-190-056:
 - a. Construct an 8 foot solid masonry wall and 6 foot solid wood privacy fence adjacent to the driveway and parking lot, as shown on the Site Plan, Sheet A.3.1. The wall is to have a decorative finish that shall be included in the landscape plans for review by the Design Review Board.
 - b. Plant trees along the southern property line, adjacent to Building I, J and K, that shall grow as high as the height of the duplexes and provide landscape screening of the MOFD yard.
 - c. Use sound rated doors and windows, with a minimum STC rating of 32, on the second and third stories of the residences within 60 feet of the property line.
- 22. The applicant shall investigate, in consultation with the Town of Moraga Public Works Department and the MOFD, the necessity of installing a 'Fire Station Ahead Beacon' at the driveway entrance on Moraga Road to alert vehicles when fire engines are exiting onto Moraga Way. The design and location of the beacon to be reviewed and approved by MOFD and the Public Works Department, and included in the streetscape plans for review by the Design Review Board.
- 23. The applicant shall grade and resurface the MOFD property to remove the mound of dirt that extends onto the project site.

Other Conditions

24. This approval and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest. Subsequent approvals shall be subject to additional conditions of approval.

25. Applicant shall indemnify, hold harmless and defend (with legal counsel approved by the Town Attorney) the Town, its officials, employees and representatives (the "Town Indemnitees") from and against any and all claims, damages, liabilities, actions or proceedings, including any CEQA challenge, arising out of the Town's approvals associated with the application for the Moraga Town Homes Subdivision 9381 (the "Project Approvals"). Applicant shall also pay all filing court costs and similar out-of-pocket expenses required for Town and applicant to defend Litigation.

PASSED AND ADOPTED by the Town Council of the Town of Moraga at a regular meeting on April 8, 2015 by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

Roger N. Wykle, Mayor

ATTEST:

Marty C. McInturf, Town Clerk

ATTACHMENT C

Town Council Staff Report
January 28, 2015



Town of Moraga	Agenda Item
Public Hearings	X.A.

Meeting Date: January 28, 2015

TOWN OF MORAGA

STAFF REPORT

To: Honorable Mayor and Councilmembers

From: Ella Samonsky, Associate Planner

Subject: Consider Moraga Town Center Homes Project and Appeal of Planning Commission Decision to Approve the Conceptual Development Plan for the Moraga Town Center Homes project, a 36-Unit Attached Single Family Subdivision and an Associated Zoning Amendment, Including Consideration of:

- 1. Introducing and Waiving the First Reading of an Ordinance Amending Moraga Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and Amending the Zoning Map for the Moraga Town Center Homes Property (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD); and**
- 2. Adoption of Resolution No. __-2015 Considering the Appeal, Upholding the Planning Commission's decision and Approving the Conceptual Development Plan for the Moraga Town Center Homes Project**

Request

Hold a public hearing, accepting testimony from the appellants, the applicant, and the public, discuss the appeal of the Planning Commission decision to approve the Conceptual Development Plan for the Moraga Town Center Homes project, and consider approval of the project and an associated zoning text amendment to Chapter 8.48 and rezone of the project site. Two separate actions are to be considered by the Town Council:

- 1. Introduce and Waive the First Reading of an Ordinance Amending Moraga Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and Amending the Zoning Map for the Moraga Town Center Homes Property (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD); and**
- 2. Adopt Resolution No. __-2015 Considering the Appeal, Upholding the Planning Commission's decision and Approving the Conceptual Development Plan for the Moraga Town Center Homes Project**

1 **De Novo Review**

2
3 As indicated in the Moraga Municipal Code, Section 8.12.200, the Town Council shall
4 consider an appeal as a new matter (De Novo), and can review the project in its
5 entirety, irrespective of the precise details of the appeal. The Town Council must also
6 adopt the required findings to approve or deny the Conceptual Development Plan.

7
8 The proposed rezone is a legislative action that requires approval by the Town Council
9 irrespective of the appeal.

10
11 **Background**

12
13 The proposed Moraga Town Center Homes project has been under consideration by
14 the Town since mid-2012, with submittal of various concepts reviewed at a series of
15 study sessions, the outcomes of which have informed the development proposal
16 currently under review. As indicated in the project chronology (Table 1), prior to the
17 current submittal, the applicant presented three different development proposals for the
18 site, all for residential projects ranging from 50 to 54 units. The applicant held study
19 sessions with the Planning Commission and Design Review Board, and conducted
20 several community meetings in 2013 to solicit input on these proposals. At these 2013
21 meetings, the Planning Commission, Design Review Board and applicant heard public
22 concerns about the project density, height, neighborhood compatibility and impacts on
23 public facilities. Following these meetings, the applicant elected to redesign the project
24 to the current 36-unit proposal, which was submitted in 2014.

25
26 An Irrevocable Offer of Dedication for an approximately 84-foot wide right-of-way
27 extends across a portion of the site. The dedication was based on a previous project
28 condition of approval and was recorded but never formally accepted by the Town. On
29 July 25, 2012, the Town Council held a public meeting and reviewed a request from the
30 property owner to vacate the offer of dedication. The Council adopted Resolution 61-
31 2012 and agreed to consider the vacation of the Offer of Dedication along with the City
32 Ventures development application, at which time the Town would also consider the
33 project's conformance to certain standards, such as the inclusion of a pedestrian/bike
34 trail along the segment of Laguna Creek between Moraga Way and Country Club Drive,
35 landscaping along Moraga Way consistent with the nearby Sonsara development, and
36 the development of a park on-site.

37
38 **Table 1: Project Chronology**

Date	Milestone
June 25, 2012	Pre-application plan submitted (52 units)
July 12, 2012	Pre-application plan submitted (50 units)
July 25, 2012	Town Council agreed to consider vacating Offer of Dedication
August 3, 2012	Revised pre-application plans submitted (50 units)
November 5, 2012	Joint Planning Commission and Design Review Board study session

February 1, 2013	Application submitted for proposed 54-unit project
March 1, 2013	Letter deeming application incomplete
April 11, 2013	Additional plans and application materials submitted
May 6, 2013	Second letter deeming application incomplete
May 20, 2013	Planning Commission study session
June-August, 2013	Five community meetings held by project applicant, City Ventures
January 30, 2014	Application submitted for proposed 36-unit project
February 25 & 27, 2014	Community meetings held by project applicant, City Ventures
February 28, 2014	Letter deeming application incomplete
March 10, 2014	Design Review Board study session
April 21, 2014	Additional plans and reports submitted
May 27, 2014	Design Review Board preliminary design review
June 16, 2014	Revised Plans submitted
July 2, 2014	Project conceptual design review, conceptual development plan application deemed complete; subdivision and grading applications incomplete
July 14, 2014	Design Review Board meeting; Recommend Design Review approval
July 21, 2014	Planning Commission meeting; on a 3-2-1 vote recommends Town Council approve SO Zoning Text Amendments
July 31, 2014	Revised subdivision application materials submitted.
August 19, 2014	Letter deeming vesting tentative map application incomplete
September 4, 2014	Public meeting notices mailed/posted
September 18, 2014	Planning Commission Hearing: Item continued to October 6, 2014
October 6, 2014	Planning Commission Hearing: Item rescheduled to November 17, 2014
November 4, 2014	Public meeting notices mailed/posted
November 7, 2014	Public meeting notice published in newspaper
November 17, 2014	Planning Commission Hearing
December 1, 2014	Appeal submitted to Planning Department
January 12, 2015	Public meeting notices mailed
January 16, 2015	Public meeting notice published in newspaper
January 28, 2015	Town Council Hearing

1 Regulatory Context

2
3 *Moraga Center Specific Plan*

4 The project site is located within the Moraga Center Specific Plan area, and is therefore
5 subject to the policies, regulations and requirements established by the Specific Plan,
6 including Design Guidelines. The MCSP was adopted in 2010, following a seven-year
7 community process that involved local stakeholders, property and business owners, and
8 Town decision-makers including the Design Review Board, Planning Commission and
9 Town Council. The Specific Plan defines a land use and circulation plan, goals, policies
10 and actions that regulate future development in a 187-acre area centered around the
11 existing Moraga Center shopping district. The MCSP includes, along with the land use
12 plan, development standards intended to promote higher intensity mixed use, residential
13 and infill development. The MSCP allocates land within the Specific Plan Area into 17
14 “sub-areas” and establishes the amount, type, and location of future land uses and
15 corresponding development that will be permitted. It also calls for pedestrian-oriented
16 design, creeks and waterways preservation, and creating a central focus or “village” for
17 the Town.

18
19 The project site is in MCSP Area 13, which is designated Mixed Office/Residential. The
20 MCSP Mixed Office/Residential Use designation allows offices for professional and
21 personal services, high-density residential at 12-20 units per acre, residential care,
22 certain recreation, education and public assembly uses, and public services (fire and
23 police).

24
25 The Specific Plan was adopted by resolution rather than by ordinance, meaning that it
26 provides policy guidance; similar to that of the General Plan, as opposed to constituting
27 zoning for the area. As stated in the Specific Plan, its implementation is to occur
28 through adoption of corresponding amendments to the Zoning Ordinance and Zoning
29 Map that would reflect the policies and land use program, including the Mixed Office
30 Residential district, called for by the Specific Plan. Although the Town adopted a
31 Residential 20 Dwelling Units per Acre (R20) zoning district at the time the Specific Plan
32 was adopted, other necessary zoning changes have not yet been enacted.

33
34 *Moraga General Plan*

35 The 2002 General Plan states the long-range guiding principles for the physical
36 development of the Town of Moraga. It provides a framework for developing specific
37 plans, ordinances and other long-range planning documents, which in turn implement
38 the policies and strategies of the General Plan. State statutes require that a General
39 Plan be internally consistent, and that implementing documents, such as a Specific Plan
40 or Zoning Ordinance be consistent with the General Plan.

41
42 At the level of project review, analyzing the project’s consistency with applicable policies
43 and regulations is a critical component and key finding for almost all land use approvals.
44 In the planning context consistency means that policies, programs or projects are in
45 agreement or harmonious with one another, but does not imply exact duplication. The
46 Governor’s Office of Planning and Research (OPR) provides as a general rule for
47 determination of consistency that “an action, program, or project is consistent with the

1 general plan if, considering all its aspects, it will further the objectives and policies of the
2 general plan and not obstruct their attainment.¹”
3

4 The General Plan identifies and assigns the “Moraga Center Specific Plan” land use
5 designation, and called for the preparation of a Specific Plan for this area (Policy LU
6 3.1). Further, General Plan Policy LU1.2 lists a Residential 16-DUA designation, with a
7 density range of 11 to 16, which may currently only be used in the Rheem Park Specific
8 Plan and Moraga Center Specific Plan areas. At the time the MCSP was adopted, the
9 Town Council adopted findings of consistency with the General Plan and the General
10 Plan was amended in order to ensure that the two documents were consistent, pursuant
11 to State Law. For example, Land Use Policy LU2.1 which regulates building height was
12 modified to include a sentence allowing for taller buildings (greater than two stories) for
13 development within the specific plan areas.
14

15 *Scenic Corridor*

16 The project fronts onto Moraga Way, a designated Scenic Corridor. Development along
17 or near (within 500 feet) a scenic corridor is subject to additional regulation and design
18 review consistent with MMC §8.132, Scenic Corridors. The Scenic Corridor regulations
19 and guidelines establish additional design regulations intended to preserve the aesthetic
20 quality of these corridors and to ensure high quality design.
21

22 *Planned Development District, General Plan and Zoning Designations*

23 The purpose of the PD District is to apply flexible regulations to a large-scale integrated
24 development to provide an opportunity for cohesive design, and to allow for
25 diversification in the relationship of uses, building structures, lot sizes and open spaces
26 while ensuring compliance with the General Plan. Moraga Municipal Code Chapter
27 8.48 prescribes a three-step Planned Development process that includes approval of a
28 Conceptual Development Plan, General Development Plan, and Precise Development
29 Plan. The proposed project is the first step, the Conceptual Development Plan, of this
30 three step process.
31

32 MMC Chapter 8.48 applies the PD Designation in combination with a residential land
33 use designation corresponding to the allowed density of the site. The MMC currently
34 includes land use designations and standards for the following residential densities: 3-
35 DUA, 6-DUA, 10-DUA-RP² and 20-DUA districts.
36

37 Site Setting and Site Description

38 The project site is located within the southwestern portion of the Moraga Center Specific
39 Plan in Area 13, which is generally bounded by Moraga Way to the north, Country Club
40 Drive to the south, and the Sonsara subdivision and residential subdivisions to the north
41 and west (Figure 1). The project site is outside the commercial core of the Specific Plan
42 Area and is adjacent to the existing Moraga Country Club development. The portion of
43 the Country Club development located closest to the project mostly comprises one-to-
44 two story attached residences. To the immediate northwest, along Moraga Road, are

¹Planner’s Guide to Specific Plans, Governor’s Office of Planning and Research, Sacramento, 2001.

² The 10-DUA RP classification was adopted by the Town Council on September 10, 2014, in conjunction with their approval of the Via Moraga Conceptual Development Plan and applies only to the Rheem Park area.

1 commercial office buildings, and then the Moraga Country Club golf course. Across
2 Moraga Way is a large undeveloped lot. This vacant lot is designated in the MCSP for
3 future use as mixed office residential along Moraga Way, transitioning to a medium to
4 high density residential designation on portions of the site to the east. Bordering the
5 project site to the southeast is the Moraga Orinda Fire District Station and
6 Administrative Offices and Laguna Creek. Across the creek is a mix of office and
7 commercial uses.

8
9

Figure 1: Project Site and Vicinity



10
11

12 Two public roadways, Moraga Way and Country Club Drive, border the site. Moraga
13 Way, a designated scenic corridor is north of the site, and is approximately 80-foot wide
14 and includes two travel lanes with wide gravel or partially paved shoulders. To the south
15 of the site is Country Club Drive, which is approximately 100-foot wide with two travel
16 lanes, separated by a wide 40-foot median extending from near Laguna Creek to St.
17 Andrews Drive. Street parking is currently permitted on Country Club Drive and Moraga
18 Way.

19

20 CEQA Determination

21 The project is located within the boundaries of the Moraga Center Specific Plan, which
22 was evaluated under the California Environmental Quality Act (CEQA) in a program EIR
23 (SCH # 2000031129) certified by the Town Council on January 27, 2010. The “tiering”
24 provisions of CEQA allow that additional environmental is not required for a subsequent
25 project or activity that is within the scope of activities analyzed in a program EIR, and
26 that would not have any effects not previously analyzed, or require any additional
27 mitigation measures.

28

29 As documented in the Environmental Document (Attachment F, Exhibit VI), staff
30 evaluated the applicability of the MCSP EIR pursuant to Sections 15162 and 15168 (c)
31 of the CEQA Guidelines and through use of the CEQA Checklist has documented
32 (Appendix G of the CEQA Guidelines), that the proposed Town Center Homes project
33 will not have any potentially significant environmental effects that were not adequately

1 analyzed in the earlier EIR, and that the mitigation measures from the earlier EIR can
2 be applied to the proposed project.

3
4 In particular, the analysis finds that there is no involvement of new significant
5 environmental effects nor a substantial increase in the severity of previously identified
6 significant effects. Further, there is no new information of substantial importance which
7 was not known and could have been known with the exercise of reasonable diligence at
8 the time the MCSP EIR was certified that shows the project will have new significant
9 effects or more severe effects than analyzed in the MCSP EIR, or that new mitigation
10 measures or previously infeasible mitigation measures would reduce any significant
11 environmental effect. A Mitigation Monitoring and Reporting Plan adopting and applying
12 those mitigation measures to the proposed project has been prepared.

13 **Project Description**

14
15
16 The Moraga Town Center Homes project proposes a 36-unit attached single-family
17 subdivision on the project site. Two different housing types are proposed: attached
18 townhomes and duplexes, referred to as 'cottages' in the application. A private street
19 would provide access between Moraga Way and Country Club Drive, with internal auto
20 courts accessing garages and the individual townhomes. The project requires a
21 rezoning of the project site to a Planned Development District and a zoning text
22 amendment to the Planned Development District to add the 12 dwelling-unit per acre
23 designation, consistent with development densities within the specific plan area.

24 **Zoning Text Amendment and Rezoning**

25
26 As previously described, the Municipal Code does not currently include a corresponding
27 zoning district allowing for the Specific Plan's-designated densities. The applicant has
28 therefore applied for a rezoning to Planned Development (PD) District, and an
29 amendment of Chapter 8.48 to add a 12-PD land use classification. This designation
30 would not correspond completely with the 11-16 DUA residential density categories
31 listed in General Plan Policy LU1.2 since it would not reflect the full range of residential
32 densities permitted, but it would accommodate the proposed project density of 12
33 dwelling units per acre and be within the corresponding density range listed in the
34 General Plan and Moraga Center Specific Plan.

35
36 In addition to the rezoning, certain text changes to the Zoning Ordinance are needed to
37 ensure that Municipal Code provisions and General Plan policies are consistent with
38 each other, and with the proposed project. The requested text changes include the
39 following, with proposed amendments shown in bold/italic.

40 41 **8.48.040 Development standards for single-family residential uses in planned** 42 **development district.**

43 A. When the planned development district consists of single-family residential
44 use, it shall be designated (depending upon the density applicable to it)
45 either:

46 1. N-OS-PD;

- 1 2. 1-PD;
- 2 3. 2-PD;
- 3 4. 3-PD;
- 4 5. 6-PD.
- 5 6. 10-PD, as to the Rheem Park Specific Plan Area as defined in the
- 6 General Plan (RP)
- 7 7. **12-PD as to the Moraga Center Specific Plan Area as defined in**
- 8 **the General Plan (MC)**

9 B. Except as provided in subsection D of this section the minimum lot sizes
 10 shall be as designated on the following table:

Land Use Classification	Minimum Lot Size
N-OS-PD	40,000 sq. ft.
X-PD ¹	5, 10, 20 or more acres depending upon the development standards imposed under Section 8-3606
1-PD	30,000 sq. ft.
2-PD	20,000 sq. ft.
3-PD	10,000 sq. ft.
6-PD	10,000 sq. ft. ²
10-PD-RP ³	2,500 sq. ft. ⁴
12-PD-MC⁵	2,500 sq. ft.⁴

11 1 Any Planned Development District
 12 2 Except for condominium development as provided in Section 8.32.060(C)
 13 3 Applies to properties in the Rheem Park Specific Plan area only
 14 4 For detached single-family residences
 15 5 **Applies to properties in the Moraga Center Specific Plan area only**

16
 17 Conceptual Development Plan

18 The proposed Conceptual Development Plan (CDP), includes a conceptual site plan,
 19 architecture, and landscaping to reflect the proposed development standards of the site,
 20 and is based on the standards listed in MSCP Table 4-9 for the Mixed Office Residential
 21 land use designation.

22
 23 For a PD, the development standards shall be those the “planning commission finds are
 24 most appropriate for the use or uses proposed and which are consistent with the
 25 General Plan and Town of Moraga Design Guidelines” (MMC §8.48.060.A). In the case
 26 of the proposed 12-DUA district, the Moraga Center Specific Plan provides base
 27 development standards to which the project is in general conformance, with a
 28 modification to the standard for building separation (Table 2). The development
 29 standards approved by the Planning Commission were more restrictive than those in
 30 MCSP Table 4-9 and detailed to be site and project specific (Table 3).
 31

1 **Table 2: Mixed Office Residential Designation Development Standards and**
 2 **Project Characteristics**
 3

Moraga Center Specific Plan, Table 4-9: Mixed Office-Residential Land Use Standards		Proposed Project	
Minimum Lot Area (sq. ft.)	10,000 sq. ft. Min.	3.06 Acres	
Minimum Lot Frontage	100 ft.	368 ft.	
Minimum Lot Depth	100 ft.	110 ft.	
Maximum Residential Density	20 DUA	12 DUA	
Dwelling Units	36-61	36	
Maximum Height (ft.)	45 ft.	38 ft. 4 in.	
Maximum Stories	3	2 3 (units 17-20, 23-26, 29-30, 34-35)	
Building Setbacks (ft.)	Moraga Way	0	11.1 - 22.5 ft.
	Country Club Drive	0	4.9 – 10 ft.
	West Side	0	6.5 – 49 ft.
	East Side	0	45-91.5. ft.
Minimum Building Separation	25 ft. (2 Stories) 35 ft. (3 Stories)	25 ft. (Townhomes) 10 ft. (Duplexes)	
Floor Area Ratio	0.85	0.53	
Lot Coverage (%)	60%	33.9%	
Parking	Automobile	90	90
	Bicycle	36+	NA

4
 5 **Table 3: Conceptual Development Plan Development Standards**

Site Standards	
Residential Density	12 dwelling units per acre
Lot Coverage	35%
Floor Area Ratio ¹	0.55
Setbacks and Building Separations	
Moraga Way Setback	Average setback of 15' or greater
Building A	22'
Building B	12'
Building C	15'
Building D	11'
Country Club Drive Setback	
Building E	10'
Building F	7'
Building G	10'
Building H	10'

Building I	4'
Building J	9'
Building K	9'
Interior Side Setback	
Northwestern Property Line	6'
MOFD Property ² Line	20'
Southeastern Property Line (Creek)	90'
Minimum Building Separation ³	
Buildings A, B, C, D	25'
Buildings E, F, G, H, I, J, K	10'
Other Standards	
Maximum Building Height	39'
Maximum Building Stories	3 for units 17-20, 23-26, 29, 30, 34, and 35; 2 for all other units
Private Outdoor Space	Minimum of 50 square feet with minimum dimension of 5 ft.
Parking Spaces	2 spaces per residence; 1 guest space per 2 residences
¹ Floor Area Ratio calculated on a pre-subdivision basis	
² MOFD Property identified as APN 257-190-056	
³ Distance measured from building face to building face, excluding steps, decks, balconies	

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Site Plan

The 36 units are laid out on the site with 15 units in duplexes and a triplex fronting along Country Club Drive, and 21 units in four buildings that are internally oriented towards pedestrian paths or paseos. The duplexes and triplex are separated from the townhomes by an internal drive. There are common areas located within the pedestrian paseos, adjacent to building A and B and adjacent to the creek on Country Club Drive.

The residences fronting on Country Club Drive would be two-story homes designed as six duplexes and one triplex. Units would range in size from 1,973 to 2,380 sq. ft. and include 3 or 4 bedrooms. Each home would have a private yard, of approximately 230 square feet, a front porch and an attached private 2-car garage. Each duplex or triplex would be separated by 10 feet between buildings. The applicant's intent is to create a residential street frontage that reflects the development style of the existing neighborhood across Country Club Drive by dividing the units into multiple smaller two-story buildings that have front entries facing the street.

The two- to three-story townhome buildings are located within the central portion of the site and front on Moraga Way, with the long axis of each building oriented perpendicular to Moraga Way. Units would range from 1,846 to 2,398 sq. ft., each with 4 bedrooms. The larger units would have a loft feature (partial 3rd level). The front entrances of the homes would face an internal pedestrian path or paseo. Each townhome would have a small private front patio of approximately 70 to 100 square feet in area along a pedestrian paseo, and an attached 2-car garage accessed along a shared drive aisle.

1 The rows of townhomes would be separated by a distance of 25 feet or greater. Along
2 the pedestrian paseos the buildings would be 25 to 33 feet apart, and the autocourts
3 would have a separation of 30 to 35 feet. An internal road, parking and landscaping
4 would separate the duplex units by 48 feet from the nearest townhome units. All of the
5 homes would incorporate green design features including solar panels as a standard
6 feature on each home.

7
8 A 10,460-square foot pocket park (“Rock Park”) would be located along Laguna Creek
9 in the southeastern corner of the site. It would have a lawn area, natural play features
10 for children, BBQ and benches, and a trail alongside the creek. Approximately 3,200
11 square feet of the park would be riparian vegetation buffer along the Laguna Creek
12 corridor. The park would be private, i.e. not formally designated as a public park,
13 although public access would be granted.

14 15 *Circulation and Parking*

16 Vehicular and bicycle circulation to and through the site would include a new private
17 roadway from Moraga Way through the site to Country Club Drive and internal drives
18 within the project would provide vehicular access to the garages and homes. The
19 access way shown on the western edge of the project site (adjacent to the existing
20 office building) would be limited to emergency vehicles only. All roadways within the
21 project are designed to be consistent with emergency access requirements. Pedestrian
22 circulation would be provided by paseos between the rows of townhomes and by an
23 interior sidewalk that connects the terminus of the paseos to Country Club Drive.
24 Sidewalks would be provided along Moraga Way and Country Club Drive, and internally
25 connect the two streets.

26
27 A total of 90 spaces would be provided through standard two-car (side-by-side) garages
28 for each home, and an additional eighteen (18) on-site guest parking spaces.

29 30 *Architecture*

31 The applicant characterizes the architecture as ‘Timeless Bay Area Traditional’,
32 intended to be consistent with architecture found in the Lamorinda area. The residences
33 have pitched roofs, gables, bay windows, trellises, and awnings. The buildings are
34 finished with combinations of shingles, siding, stucco and stone veneer. Entry features,
35 window treatments, siding treatments and architectural features of the individual
36 buildings are varied so that no two buildings are identical. Front and rear yards and
37 covered porches are provided for each duplex unit and covered porches and patios are
38 provided for each townhouse facing and visible from the paseos or street. The garage
39 doors all face interior drives and auto courts. Wood corbels, trellises and window boxes
40 frame the garage doors, which are recessed by approximately 1 foot from the face of
41 the building, creating some relief in the plane of the ground floor and softening the
42 appearance of the auto courts.

43 44 *Landscaping and Streetscape*

45 The landscaping concept includes an approximately 35-foot landscaping buffer along
46 Moraga Way, 20 feet of which would extend into the Moraga Way public right-of-way in
47 line with the curb line immediately east of the creek and 12-22 feet of which would be on
48 the project site. The applicant has agreed to provide landscaping in the public right of

1 way, which would occupy the area that is currently a dirt and gravel shoulder between
2 the paved roadway and the property line of the project site. The proposed bicycle lane
3 and landscape frontage improvements along Moraga Way would remove the informal
4 parking spaces adjacent to the project site. Existing redwood trees along the boundary
5 with the Fire District property would remain, but the other existing trees on the site
6 would be removed. The project would include interior landscaping (hardscape and
7 softscape) of common areas, in addition to the private yards.

8
9 The Country Club Drive frontage is proposed to be modified to widen the travel lane and
10 add a bicycle lane. Parking would still be available for the length of the frontage and a
11 sidewalk and landscape strip would be installed. Along with the roadway improvement,
12 the landscaping in the median would be irrigated and enhanced with additional trees
13 and shrubs.

14 **Design Review Board Review**

15
16
17 At a March 10, 2014 study session the Design Review Board took comment from the
18 public. Various individuals commented on the architecture, location of the park and site
19 circulation, and encouraged more articulation on the facades and along the auto courts
20 and more variation in the rooflines and setback. The applicant responded with plan
21 revisions and a separate study of options for parking along Country Club Drive adjacent
22 to the site.

23
24 On May 27, 2014 the Design Review Board reviewed the revised plans, and expressed
25 support for the revisions made. The DRB recommended additional revisions including
26 further varying the setback along Moraga Way, providing recessed garage doors and/or
27 better screening on the auto courts; and reducing the median to accommodate a bike
28 lane and parking on one side along Country Club Drive (Per the Town's requirements,
29 the project is required to improve up to the centerline of streets fronting the project).
30 The DRB then continued the meeting to July 14 to allow for completion of the
31 environmental review and a Draft Action Memo.

32
33 In response to the comments from the DRB the applicant setback Buildings A and C
34 and pulled forward buildings B and D to create a staggered setback on Moraga Way.
35 The garage doors were all recessed one foot and trellises, window boxes and corbels
36 were added on the auto courts. The architecture was modified to create greater
37 variation in the facades, add articulation along Moraga Way and increase the depth of
38 the porches.

39
40 On July 14, the Design Review Board continued the public hearing, completed
41 preliminary design review and recommended design review approval of the project to
42 the Planning Commission with the requirement that subsequent plans and detailed
43 architecture, landscape and streetscape plans return to the DRB for final design review
44 and approval. The approved Action Memo included conditions requiring an internal
45 pedestrian pathway to the pocket park, minimum porch dimensions of 5 feet, preferably
46 6 feet, clustering and screening of roof penetrations, screening trash holding areas and
47 a recommendation to modify the Country Club frontage to widen the travel lane and add
48 a bicycle lane.

1 During the July 14th hearing, the DRB discussed garage design, on-site parking, the
2 proximity of the MOFD facility and proposed driveway, and potential impacts of the
3 development on the views of the hills, including how such views should be assessed
4 absent a Town policy on viewsheds. The Board acknowledged the neighborhood's
5 existing parking issues, noting, however, that those issues are not of the project's
6 making, and that the project would meet the Town's parking standards. Nonetheless the
7 DRB encouraged the applicant to try to add more on-site parking. The Design Review
8 Board felt that some of the issues raised were land use issues best addressed by the
9 Planning Commission. No changes to the parking, driveway location or to address
10 viewsheds were recommended. Considering the streetscape aesthetics and Scenic
11 Corridor Design Guidelines, the Design Review Board did not favor allowing parking
12 along the Moraga Way frontage.

13

14 **Planning Commission Review**

15

16 On November 17, 2014 the Planning Commission held a public hearing to consider the
17 Conceptual Development Plan and proposed zoning text amendment and zoning.
18 Commissioner Onoda did not participate in the hearing or decision. During the hearing,
19 the Commission discussed the relationship between the MCSP and General Plan as it
20 applied to the project. The Planning Commission established that they were considering
21 the project's consistency with the MCSP guidelines when approving the development
22 standards in the CDP. The majority of the Commissioners could make the findings to
23 approve, remarking on the MCSP design and policy guidance. Some Commissioners
24 were expressly in favor of the residential use of the site and the addition of duplexes
25 and townhomes to Moraga's housing stock as a means to diversify housing options.
26 Commissioner Comprelli noted that he could not make the findings, expressing concern
27 over the park location and size and project density. The Commission voted 5-1 to
28 recommend the Town Council adopt the amendment to MMC Chapter 8.48 to add the
29 12-DUA land classification designation and rezone the project site (Resolution 19-14,
30 Attachment C), and 5-1 to approve the Conceptual Development Plan with some
31 modifications to the conditions of approval (Resolution No. 20-14, Attachment D).

32

33 During the discussion, Commissioners were generally supportive of the project
34 architecture and the use of duplex units on Country Club Drive. The Commission heard
35 from the public about the shortage of street parking in the neighborhood, which was
36 further exacerbated by parking demand for swim meets and practices at the Moraga
37 Country Club. The Commission discussed the interface with Moraga Way and the use
38 of the right-of-way for landscaping. The Commission had differing opinions about the
39 pocket park; some felt the park was too small and should be more centrally located and
40 others felt that the open space, which was for resident use, was best situated adjacent
41 to the creek. Although small, the Commission felt that the private park should be
42 publically accessible, and modified Condition 17 to that effect.

43

44 **Neighbor/Community Concerns**

45

46 Notices of all prior Design Review Board, and Planning Commission public meetings
47 and hearings, and this Town Council hearing were mailed to property owners within a
48 750 foot radius of the property (approximately 136 addresses). The applicant installed

1 story poles on the site between late June and early December 2014 to demonstrate the
2 project's height and massing along Moraga Road and Country Club Drive.

3
4 Public comments during the November 17 Planning Commission hearing focused on
5 the following issues:

- 6 • Traffic: Concerns about increased traffic due to the development
- 7 • Height and Massing: Concern the buildings are too tall and dense or large for the
8 site.
- 9 • Duplex Setbacks: Concern the residences are too close to Country Club Drive
10 and felt there should be a greater second story step back.
- 11 • Scenic Corridor: That the project does not reflect the semi-rural character of the
12 scenic corridor nor does it conform to the scenic corridor guidelines. Buildings too
13 large and close to scenic corridor, some felt the setback should match adjacent
14 buildings.
- 15 • Parking: Comments that there is insufficient on-street parking in the
16 neighborhood, especially during MCC events. Concern that the on-site guest
17 parking would not be sufficient and future residents will use on-street parking.
- 18 • Country Club Frontage: Felt the median on Country Club Drive could be
19 improved and needs more landscaping to screen cars and light.
- 20 • ROW Landscaping: Concern about allowing the landscaping of the public ROW
21 in case the ROW is needed to widen the road and that it would benefit the future
22 residents more than the Town.
- 23 • Proximity to the MOFD Fire Station and Training Facility: Concern about potential
24 conflict with future residences and potential restriction of MOFD operation or
25 service. Concern Country Club Drive is too narrow which could be issue if there
26 was an emergency during an event.
- 27 • Housing: Support for new housing and more diverse housing types in Moraga.

28
29 In addition to the public comments at this and other study sessions and hearings, the
30 Town has received numerous mail and email comments during the course of project
31 review. All of this written correspondence was provided to the Planning Commission for
32 the November 17 public hearing, and is included in the public record for this Town
33 Council hearing. All letters and emails received since the November 17, 2014 hearing
34 are included in Attachment I.

35 36 **Appeal of Planning Commission Decision**

37
38 The Planning Commission decision to approve the Conceptual Development Plan was
39 appealed on December 1, 2015 by three residents, Scott Bowhay, Denise Coane and
40 Richard Olsen (Attachment E). The three appellants, in their joint appeal, raised the
41 following grounds for appeal:

- 42
43 • Non-Conformance with the General Plan, the MCSP and/or the Moraga
44 Municipal, with concerns that focused on visual impacts and consistency with the
45 Scenic Corridor guidelines and neighborhood compatibility
- 46 • Failure to address regional traffic impacts and cumulative impacts of projects
47 within the Town
- 48 • Failure to address traffic safety along Country Club Drive

- 1 • Failure to acknowledge the precedent-setting consequences of approving the
2 project
- 3 • Failure to respond to Moraga-Orinda Fire District and Moraga Country Club HOA
4 concerns

5
6 The following discussion section addresses each of the issues raised in the appeal
7 letter and provides some additional information on broader concerns related to those
8 issues that were discussed during the Planning Commission review of the project.
9

10 **Discussion**

11 **A. Visual Impacts and Conformance with the Scenic Corridor Guidelines**

12
13
14 The appellant maintains that the project is not consistent with General Plan policies, the
15 MCSP and the Municipal Code, as noted in detail on pages 2 to 6 of the appeal letter.
16 The letter specifically notes that the project is not consistent with certain General Plan
17 policies intended to preserve visual quality, or with the Town’s policies and regulations
18 for scenic corridors.
19

20 The Town’s General Plan recognizes and reflects the importance of views for the
21 aesthetic quality and character of the Town. General Plan Policies CD 1.3 View
22 Protection and LU1.3 Residential Building Height both make reference to protecting
23 views and viewsheds. Although, the Town of Moraga has not adopted a definition of a
24 viewshed or measurable standards as to the extent of a view or viewshed that must
25 remain unobstructed or the vantage points from which a view must be accessible.
26

27 A viewshed is often considered as a range of sight from a given vantage point,
28 comprising both distant vistas and objects in the foreground (near view). The Town
29 Center Homes project would have effects on the viewshed in that it would change the
30 appearance of the site by introducing buildings and development to a currently vacant
31 property. Development of the site would affect certain views of more distant hillsides
32 that are currently available across the vacant parcel, particularly as viewed from the
33 sidewalk and street in the immediate vicinity of the project site. Also, the proposed
34 building and landscape improvements would be visible from in the near view, and their
35 appearance would become part of the viewshed from the scenic corridor.
36

37 General Plan policy Community Design (CD) 1.3, View Protection, states that the Town
38 should “protect important elements of the natural setting to maintain the Town’s semi-
39 rural character. Give particular attention to viewsheds along the Town’s scenic
40 corridors, protecting ridgelines, hillside areas, mature native tree groupings, and other
41 significant natural features.” Other Community Design Element policies such as CD 1.4
42 Canyon and Valley Areas, CD 1.5, Ridgelines and Hillside Areas and CD 1.6
43 Vegetation, all encourage preservation of certain natural areas from development and
44 preservation of natural resources, such as mature trees and waterways that promote
45 the semi-rural character of Moraga. In the context of these and other Community
46 Design policies, a reasonable interpretation is that the Town preserves views through
47 protecting scenic resources, among which is the visual quality of the Town’s scenic
48 corridors.

1 Therefore the design quality and character of what is being created on site influences
2 the view, as does the effect of that development on the composite character of the near
3 and distant views of the site, including views from and along scenic corridors. The
4 Specific Plan anticipates development on this and other vacant sites in the area, as
5 does the zoning designation that predated the Specific Plan. Such development will
6 inevitably have some effect on the character and quality of views.

7
8 Therefore, the Town, in considering approval of a project must consider whether the
9 development allowed by the Specific Plan inappropriately or excessively degrades
10 scenic views and viewsheds, in a way that would not be consistent with the above-
11 referenced goals and policies. The consideration of other related policies, such as
12 those related to project design, size, scale, height and compatibility with surrounding
13 neighborhoods and development, is important with respect to the findings for a project
14 decision.

15
16 General Plan Policy, CD5.2, Design, aims to ensure “developments are planned,
17 designed and constructed to enhance the local area, reflecting the scale and quality of
18 their surroundings.” This policy is implemented through development standards, design
19 review and the application of design guidelines.

20 21 *Building Design and Articulation*

22 Among other goals, the MCSP’s design guidelines were developed to create a
23 compatible appearance for the pedestrian friendly mixed-use ‘village’ of the specific plan
24 and reflect the recommendations of Policy CD 5.2: Design to “encourage designs that
25 help to break up large building masses, for example by breaking one large building into
26 several smaller buildings; providing variations in rooflines; creating a three-dimensional
27 façade rather than a massive, flat façade; and using landscaping to soften building
28 edges”.

29
30 The proposed project underwent several rounds of design review during which the
31 Design Review Board and Planning Commission considered its conformance with the
32 MCSP development standards and design guidelines for residential project, providing
33 recommendations for changes and adjustments to that design to better meet those
34 standards.

35
36 The Design Review Board recommended various changes to the project design to
37 further articulate and break up the facades, individualize the building designs, vary the
38 roofline and soften the auto courts with landscaping. As conditioned, the DRB
39 recommended the Planning Commission approve the preliminary design review, based
40 on findings that the project will conform to the Town’s standards of good design and will
41 not have an adverse impact on surrounding properties (Attachment C , Exhibit III).

42 43 *Building Height*

44 General Plan Policy LU1.3 Residential Building Height states that in order to “limit visual
45 impacts on adjacent properties and protect views” those residential buildings should not
46 have more than two stories, with the exception of the sites within the specific plan
47 areas. This implies that the height of a two story building is generally non-intrusive, with
48 additional height acceptable within the Specific Plan areas provided that it is designed

1 to reduce or minimize the visual impact of the building when viewed from adjacent
2 properties.

3
4 The majority of the units, or 66%, (15 duplex units and 9 of the townhomes) are two
5 stories. The maximum building height of the townhome units (12 of the 36 units) that
6 include a third story loft is 38' 4", which is about six feet less than the 45 foot maximum
7 height described in the MCSP (MCSP Table 4-9), and 3' 4" higher than the 35 foot
8 maximum height for a two-story structure in other zoning districts in Moraga. The
9 physical height of the townhome buildings is closer in dimension to a two story building.

10
11 Units with third story lofts are all located in the center of the site; set back some
12 distance from Moraga Way and separated from Country Club Drive by the duplexes and
13 the internal driveway. The Planning Commission considered the design and height of
14 the Townhomes and conditioned the project to restrict the units that could have a third
15 story and to require the third story, when included, to be stepped back a minimum of 2
16 feet from the second story, both from the front (pedestrian paseo) and rear (auto
17 courts). This provision is so that a person on the sidewalk or in the paseos would not be
18 able to see three stories in the same view plane.

19
20 *Consistency with the Scenic Corridor Guidelines*

21 The Community Design Element includes policies specific to the scenic corridors. In
22 turn these are implemented through MMC Chapter 8.132: Scenic Corridors, and the
23 scenic corridor design guidelines. General Plan Policies CD3.2 Visual Character and
24 CD 3.5 Landscaping and Amenities, promote improvement of the visual character of the
25 scenic corridor through placement and design of structures, "lighting, landscaping and
26 signage" and additional "street tree planting, berms, fencing and ornamental
27 landscaping". The appellants raised concerns that the project is inconsistent with the
28 scenic corridor guidelines, in particular that the project would create a 'walled' effect, be
29 visually dominant and be incompatible with the surrounding development.

30
31 As previously noted, the MCSP's standards and policies articulate a village concept,
32 including medium and higher density mixed use and residential development of a
33 somewhat more urban character than other areas of Moraga. The Specific Plan does
34 not suggest alternate guidelines for scenic corridors beyond those included in the
35 Municipal Code. There is thus some degree to which the Town, in approving a project
36 located on a scenic corridor yet within the Specific Plan, has to balance the intent of the
37 Specific Plan with the Town's regulations that support a rustic and semi-rural character
38 for scenic corridors.

39
40 While the MCSP development standards allow for buildings of 45 feet in height and do
41 not set a minimum setback, the project's proposed development standards limits all
42 units facing the scenic corridor to two stories in height with setbacks an average of 15
43 feet from Moraga Way. The two story townhomes have a pitched roof that slopes
44 upwards away from the scenic corridor, decreasing the sense of mass and wall height
45 as viewed from the roadway.

46
47 Along the scenic corridor the townhome units are divided into four buildings, each
48 separated by 25 feet or more, which would allow for views between the buildings and

1 more frequent variations in mass and void. The four buildings have a varied setback
2 from the property line, ranging from 11 to 22 feet, and the facade of each building is
3 further articulated and broken up with projections, trellises, awnings and a variation in
4 material. This provides articulation along the scenic corridor frontage as demonstrated
5 in the Building Mass Diagram on Sheet A 5.1.1 and Section A on Sheet A3.2 of the
6 project plans.

7
8 Beyond the townhomes, the duplex units provide smaller but more frequent separation
9 of 10 feet between buildings. This would allow for some limited view corridors through
10 the site when viewed from the street. However, given the internal landscaping and
11 difference in separation distance and placement of the townhomes as compared to the
12 duplex units, a completely unobstructed view from Moraga Way to Country Club Drive
13 at the ground level is unlikely. The separation between the duplex units (approximately
14 10 feet) is less than the standard building separation in MCSP Table 4-9. The Planning
15 Commission determined, that although different from the MCSP guidelines, that this
16 separation was appropriate for the duplex units to transition in building form and density
17 between the project site and the adjacent Moraga Country Club development.

18
19 The design guidelines for scenic corridors recommend a 15-foot landscape buffer for
20 commercial and multifamily residential developments. A buffer is a more generalized
21 term speaking to the separation from the road and may not correspond exactly to a
22 setback. A setback may limit the location of structures but allow driveways, pavement
23 and parking, different from the intent of a landscape buffer. The project proposes a
24 landscaped buffer, more than 30 feet wide located along Moraga Way; 20 feet of this
25 area located within the right of way and 11 to 22 feet on the property, in front of the
26 townhomes. The proposed landscape plan includes a variety of trees, shrubs and
27 groundcovers with different heights and textures, incorporates a low berm, and rustic
28 design elements such as a split rail fence and winding path.

29
30 Because the underlying Suburban Office zoning establishes a somewhat different set of
31 standards from those in the proposed PD, the applicant has provided a rendering of an
32 office building that could be built in conformance with the SO development standards
33 (Image 1). Given the current zoning, an office building would be the anticipated use for
34 the site. The building depicted is 35 feet in height, two stories and setback
35 approximately 27 feet from the property line.

36
37 The rendering of the office building demonstrates the visual effect of a uniform setback,
38 and flat, rather than more well-articulated façade more typical of a commercial building.
39 Also the comparison building is somewhat larger than the several separate structures in
40 the proposed project. As can be seen in the rendering (Image 2), the project's smaller
41 buildings allow for more variation in the setback and variation in roof pitch that helps to
42 reduce the appearance of bulk.

1 **Image 1: Rendering Suburban Office Building from Moraga Way**



2
3
4

Image 2: Rendering Proposed Project from Moraga Way



5
6

7 During their deliberations, the Design Review Board and Planning Commission
8 considered building height and associated visual impacts. The Design Review Board
9 discussed the relationship and difference between the viewshed (including distant
10 views) and the appearance of the scenic corridor streetscape (near view). While views
11 were acknowledged as important to the Town, Board members also commented that
12 they were considering adopted Town policies, including land use standards and design
13 guidelines in the MCSP. The Planning Commission affirmed the fact that, in its adoption
14 the MCSP was determined to be consistent with the General Plan, and thus
15 appropriately set the development standards for the project site. Based on the design
16 and layout, the Commission voted 5-1 to approve the project, based on findings that the

1 project was consistent with the General Plan, including policies in the Community
2 Design Element related to the scenic corridors, and Scenic Corridor standards.

3
4 **B. Neighborhood Compatibility and Concerns of MOFD and the Moraga Country**
5 **Club Homeowners Association**
6

7 The appeal letter states that the project is the antithesis of requirements for preservation
8 of the Town's semi-rural environment. As noted above, the appeal maintains that the
9 project does not conform with Moraga's General Plan and cites a number of concerns
10 about neighborhood compatibility, including issues of conformance with General Plan
11 policies, LU4.6: Public Safety Facility Compatibility, CD 4.3: Residential Infill and CD
12 5.2: Design and two associated implementing programs IP-E2: Residential Design
13 Guidelines and IP-E3: Multi-Family Residential Design Guidelines, that call for new
14 development to respect the character and quality of surrounding existing development.
15

16 The project site is a vacant parcel at the southern edge of the Moraga Center Specific
17 Plan area. The site is surrounded by a mix of residential, commercial/office and public
18 safety uses. Nearby development on Moraga Way includes the existing office
19 developments to the west, which are also in the Specific Plan area and consistent with
20 the MCSP's Mixed Office/Residential designation. Across Moraga Way there are larger,
21 vacant parcels in the specific plan area that are planned for mixed office-residential,
22 medium density residential and higher density senior residential uses. Accordingly, the
23 project's "neighborhood" is defined, in part, by future development that could occur per
24 the MCSP's land use plan, as well as by adjacent existing development.
25

26 General Plan policy CD 4.3: Infill Development directs that new residential development
27 in existing neighborhoods should reflect "the size, scale, height, setbacks, and character
28 of existing development" and "should not create adverse impacts on adjacent properties
29 or detract from overall neighborhood character." The project site represents a
30 transitional zone between a commercial district and a mixed use district, and from those
31 areas in the MCSP to the adjacent Country Club residential neighborhood.
32

33 This transitional location presents a challenge when considering "neighborhood
34 compatibility." On one hand, the Specific Plan (and related General Plan policy CD6.5)
35 seeks to "create a community focal point and mixed-use activity center of businesses
36 and higher density residences with a unified 'village' character" – on the other, the
37 General Plan respects the residential character of neighborhoods like the Country Club.
38 The Town must balance these policy objectives in considering the approval of the
39 project.
40

41 As mentioned under the section on visual impacts, General Plan policy CD 5.2: Design,
42 is implemented through design review and the application of design guidelines, as
43 called for in IP-E2 and IP-E3 for single family and multifamily developments
44 respectively. The guidelines for single family and multifamily residential design were
45 created for the Town's lower density neighborhoods, and more general in design
46 direction than those created for the MCSP. Since the project is within the MCSP area, in
47 a mixed use neighborhood, the design guidelines developed for the MCSP apply to the
48 project. The MCSP design guidelines will apply to all development in the MCSP, which

1 represent the future character of the mixed use district (which include the properties on
2 three sides of the project).

3
4 During the discussion at the Planning Commission hearing, members of the public and
5 Commission raised concerns about the use of portions of the Moraga Way right of way
6 for landscaping and the potential constraint this might present for future needs, such as
7 road widening. The appeal raised a similar issue and further questions if the Town
8 giving right-of-way to the developer to accommodate improvements that should be on
9 private property.

10
11 The proposed improvements do not constitute a gift or grant of public property within the
12 Moraga Way or Country Club Drive right of way to the property owner or developer.
13 Under State law, when a property is developed, the developer is responsible for
14 constructing any necessary public improvements in the public right of way, such as
15 sidewalks, curb and gutter and striping, for the length of the property frontage. The right-
16 of-way remains public property, and the Town will accept the improvements once
17 construction is complete and the improvements have been inspected to meet town
18 standards.

19
20 In the case of Country Club Drive, the right of way is 100 feet in width, well over the
21 standard width for a two lane collector street (48 feet, 60 feet with sidewalks and
22 landscape strip). The Town owns ample right of way within which to accommodate the
23 proposed widened travel lane and bicycle lane. Regardless of the configuration of the
24 proposed improvements, the Town would not require a dedication of land to complete
25 the street.

26
27 The Moraga Way right-of-way is approximately 80 feet wide, resulting in large unpaved
28 shoulders of over 20 feet. The project is proposing, in addition to installing a sidewalk
29 and bike lane, landscaping a portion of the right-of-way. The HOA would be required to
30 maintain the landscaping, but would not own or have any interests in the property. The
31 Town could, at its discretion, remove the landscaping at any time for road widening or to
32 add parking. As mentioned under the section on scenic corridors, the proposed
33 landscaping would enhance the landscape buffer along the scenic corridor, however a
34 buffer does not correspond to a setback and therefore the addition or removal of the
35 landscaping in the ROW would not affect the building setbacks. The 11 to 22 feet of
36 landscaping would provide a buffer on-site.

37
38 *Compatibility with the Moraga Country Club Residential Neighborhood*

39 The appeal also states that Town planning staff and the Planning Commission failed to
40 acknowledge and respond to concerns of the Moraga Country Club Homeowners
41 Association and that the project is incompatible with the existing residential
42 neighborhood. The existing Moraga Country Club (MCC) neighborhood to the south of
43 the project site is a planned development, outside of the Moraga Center Specific Plan
44 area. Along Country Club Drive are townhomes, clustered in groups of two to four units,
45 with narrow side yards (Figure 3). The homes are generally two-story with single story
46 garages and other elements. A 32 foot-wide shared driveway/access road parallels,
47 with homes set back between 20 and 50 feet from the curb of Country Club Drive.

1 **Figure 3: Aerial of Townhomes on Country Club Drive**



2
3

4 The applicant, during the course of project review, modified the proposed unit types
5 along the Country Club Drive frontage to duplex/triplex units, in part to create a better
6 transition in form and density to the homes across the street. The duplex/triplex units
7 reflect MCC's development pattern in that the frontage consists of a larger number of
8 small buildings, all two story in height, with more frequent breaks between the buildings
9 and side and rear yards.

10

11 Despite some similarities, the proposed duplexes have smaller setbacks than the MCC
12 units, at 4 to 10 feet from the property line and 14 to 20 feet from the curb of Country
13 Club Drive. However, because these units do not have paved driveways or garages
14 fronting on Country Club Drive, the front yards can provide more dense and continuous
15 landscaping along the project frontage. In its project approval, the Planning
16 Commission further conditioned the project to require additional stepping back of the
17 second story of the duplex and triplex units to create greater variation in the facades
18 and to break up the front wall height, reducing the sense of building height and mass
19 along Country Club Drive.

20

21 Country Club Drive is one of the wider streets in Moraga with a 100 foot right of way and
22 41 foot wide landscaped median that provides a significant separation and buffer
23 between the existing homes and the proposed project site. The July 9, 2014, letter from
24 Donald Maddison, President of the Moraga Country Club's (MCC) Board of Directors,
25 requested that the project be conditioned to landscape the median on Country Club
26 Drive with berms, trees and shrubs and that traffic calming be considered. As part of the
27 project approval, the Planning Commission required the applicant to landscape the
28 entire width of the median, as suggested by the MCC, to improve the appearance and
29 provide screening for headlights of cars entering and leaving the project driveway. The
30 landscaping, which would be required to be irrigated, would be designed with Public
31 Works to ensure that it can be maintained to Town standards, and would be reviewed
32 and approved by the Design Review Board as part of the General Development Plan.

1 With these conditions, and in consideration of the overall design of the project, the
2 Planning Commission was able to make the findings necessary for project approval,
3 including findings related to compatibility with adjacent residential uses.

4
5 *Compatibility with Public Safety Facility*

6 The appeal states that Town planning staff and the Planning Commission failed to
7 acknowledge and respond to concerns of the Moraga-Orinda Fire Protection District.
8 To the east, the existing MOFD fire station, administration office, and training yard is a
9 periodic source of noise and training activities that could disturb residents of the
10 proposed project. Fire training operations occur outside of typical business hours and
11 produce light and noise as well as potential over-spray from hoses.

12
13 The appeal cited concerns raised in letters from MOFD dated July, 2008 and June,
14 2014, that MOFD training and operations may be considered a nuisance by future
15 residents of the proposed subdivision and that they will come to object to the fire station
16 and training facility continuing operation. In addition, development of the project site
17 would deprive the MOFD of an opportunity to have a second EVA from the rear of their
18 property to Country Club Drive.

19
20 The July 2008 letter commented on the Draft EIR for the Moraga Center Specific Plan,
21 and was not specifically directed at the current project, which was not then an active
22 application. At the time, the Town responded to the MOFD's comments in the Final EIR,
23 (letter #37), and added new information and analysis on the consistency with General
24 Plan Policy LU4.6 to Section 4.L. based on information provided in MOFD's letter.
25 Included in the discussion was that MCSP buildout would have a potentially significant
26 impact on fire protection services because MOFD would require new staff, equipment,
27 and facilities to maintain service standards, and that service could be restricted by the
28 design and location of new signals, as well as circulation and access of projects in the
29 MCSP area. The Town also revised MCSP EIR Mitigation Measure 4.L-1b to require
30 development impact fees for fire protection services and coordination with MOFD for
31 review of project plans and circulation and emergency vehicle access, to reduce
32 potentially significant impact to fire protection services to less than significant levels.
33 The Final EIR with the revised information and mitigation measures was certified by
34 Town Council with the adoption of the MCSP, as complete and adequate, in
35 conformance with CEQA. Mitigation Measures specified in the MCSP EIR are
36 applicable to the project.

37
38 In their June 4, 2014 letter MOFD requested that the project CC&Rs include disclosures
39 to all prospective buyers acknowledging that the project is adjacent to a fire station and
40 training area where there could be impacts from temporary noise, unexpected water off-
41 site, and visual impacts from equipment, ladders and personnel and that the broker and
42 developer show a video of MOFD training operations and provide written disclosure to
43 potential homebuyers. In subsequent communication with staff and the applicant
44 MOFD reiterated their concern about reducing potential conflict with future neighbors
45 and requested the project incorporate a sound wall, sound rated windows and doors,
46 landscape screening and a 'fire station ahead' beacon near the driveway on Moraga
47 Road (Attachment G). MOFD reviewed the development plans for fire safety and access
48 and did not request or require an EVA extending across the property from the rear of

1 the fire station training yard or a secondary entrance connecting to the project site. CDP
2 Conditions of Approval 19 through 23 reflect MOFD's recommendations.

3
4 During the public hearing, the MOFD Fire Chief Healy gave testimony on the training
5 operations at Fire Station 41 and responded to resident concerns about safety and
6 access. When asked, the Fire Chief reported no known issues or constraints presented
7 by the width of Country Club Drive, with vehicles legally parked. He added that MOFD
8 did not have a position in support or opposition to the project and was principally
9 concerned with being 'good neighbors'. The Planning Commission reviewed the
10 conditions placed in the CDP to minimize potential for conflict with Fire Station 41, and
11 added a further condition (#20) stating that the applicant shall record a deed restriction
12 outlining (MOFD) station operations and training activities in a form approved by the
13 Town. In approving the project, the Planning Commission found that the project would
14 be compatible with the MOFD facility and relevant General Plan policies in this regard.

15
16 Subsequent to the hearing, on January 22nd, Chief Healy reported to the MOFD Board
17 of Directors the ongoing communication with the Town and applicant, and that the
18 Planning Commission had addressed MOFD concerns and incorporated all the
19 recommended measures into the project conditions (Attachment H). At the meeting the
20 MOFD Board stated that they consider residential uses incompatible with the fire station
21 and training facility.

22 23 **C. Lamorinda Traffic Impacts**

24
25 The appeal notes that Planning staff and the Commission failed to recognize and act
26 upon regional traffic impacts of the proposed project and the cumulative impacts of
27 other already-approved, pending and projected projects within the Town. Traffic
28 impacts for a residential development on the proposed project site were analyzed as
29 part of the cumulative traffic impacts in the Moraga Center Specific Plan EIR. Among
30 other aspects, the traffic analysis considered, in some detail, long and short-range
31 impacts to regional routes of significance connecting through the cities of Lafayette and
32 Orinda. The MCSP EIR traffic analysis projected future traffic based on a scenario of full
33 build-out (at the highest density or greatest number of new residential units and
34 commercial spaces) of the MCSP area. At full build-out, the overall trip generation for
35 the MCSP is estimated at 5,060 trips. The EIR concluded that implementation of the
36 Specific Plan would have significant, unavoidable traffic impacts, and the Town Council
37 acknowledged this significant impact and adopted a Statement of Overriding
38 Considerations when the Specific Plan was approved and the EIR certified.

39
40 Staff required the applicant to provide a traffic memo for the proposed project which was
41 peer-reviewed by the Town's consultant. For the project site, the MCSP projected traffic
42 generation based on the assumption that the site would be built-out at the highest
43 permitted density (20 DUA). The proposed project, at 36 units (12 DUA) is estimated to
44 generate 210 vehicle trips per day, approximately 150 fewer trips than was assumed for
45 the site when the EIR was prepared. This reduction in traffic generation would result in
46 2.9% decrease in the Specific Plan's overall projected trip generation. Based on the
47 above information, the Planning Commission was able to make the finding that the

1 streets were adequate to carry anticipated traffic, and increased densities will not
2 generate traffic in such amounts as to overload the street network.

3
4 CEQA does not require the lead agency for a project that “tiers” from an approved
5 environmental document, as is the case with this project, to re-analyze or re-make
6 findings of overriding consideration when such a project is consistent with the scope of
7 impacts previously identified.

8 9 **D. Streetscape on Country Club Drive**

10
11 The appeal maintains that the Planning Commission failed to recognize and act upon
12 severe traffic safety problems on Country Club Drive that currently exist and would be
13 exacerbated by the proposed changes to the roadway and median. Many residents at
14 the public hearings, and in written comments, reported a shortage of street parking in
15 the neighborhood and stated that they felt the travel lane on Country Club Drive was too
16 narrow to safely park at the curb. At the Town’s request the applicant provided four
17 alternatives for frontage improvements that would correct the deficiencies in the road
18 width and potentially add parking (Attachment F, Exhibit VIII).

19
20 After reviewing the four designs, including options for angled or double loaded parking
21 configurations, the Design Review Board recommended frontage improvements similar
22 to the existing configuration that would include a 14 foot wide travel lane, five foot wide
23 bicycle lane, sidewalk and parking lane adjacent to the curb. (The developer would be
24 required to extend the roadway improvement beyond the project frontage to taper the
25 median and provide a safe lane transition.) The widening of the travel lane and addition
26 of bike lane would require the existing 41 foot median to be reduced in width by 7.5 feet.
27 However, even with the reduction, the median would be over 30 feet wide (greater than
28 the travel, bike, and parking lane combined.)

29
30 The Planning Commission discussed the options for frontage improvements on Country
31 Club Drive and included conditions of approval that the final design should include a full
32 width travel lane, parking lane, and a bike lane, but that the ultimate design should be
33 reviewed and approved by the Planning Commission with the General Development
34 Plan and Tentative Map. The final design of the frontage improvements and lane
35 transitions would also be reviewed by the Public Works department to ensure they meet
36 traffic safety standards.

37 38 **E. Precedence of Project Approval**

39
40 The appeal states that the Planning Commission failed to acknowledge the precedent-
41 setting consequences of approving the project relative to all the similarly-designated
42 parcel in the MCSP. The proposed project includes a zoning amendment from
43 Suburban Office to a Planned Development (PD) District, which allows for residential
44 development based on site specific development standards. While the proposed zoning
45 must be consistent with the MCSP Mixed Office Residential District, the design and
46 development standards for each PD are considered independently and apply only to the
47 project site for which they are approved. Therefore, approval of the Conceptual
48 Development Plan for the Moraga Town Center Homes project would not entitle any

1 other property, or confer those standards to other properties within or outside the
2 MCSP.

3
4 **Findings for Approval of Rezone and Conceptual Development Plan**

5
6 In considering the proposed rezone and Conceptual Development Plan, the Town
7 Council must consider the required findings from the Moraga Municipal Code. The
8 findings are as follows:

- 9
- 10 • The total development and each unit of development can exist as an
11 independent unit capable of creating an environment of sustained desirability and
12 stability or that adequate assurance will be provided that this objective will be
13 attained and that the uses proposed will not be detrimental to present and
14 potential surrounding uses;
 - 15 • The streets and thoroughfares proposed are suitable and adequate to carry
16 anticipated traffic, and increased densities will not generate traffic in such
17 amounts as to overload the street network outside the development;
 - 18 • Development other than single-family residential can be properly justified and is
19 consistent with the general plan;
 - 20 • Any proposed exception from standard ordinance requirements is warranted by
21 the design and amenities incorporated in the conceptual development plan, in
22 accord with adopted policy of the planning commission and town council;
 - 23 • The area surrounding the development can be planned and zoned in
24 coordination and substantial compatibility with the proposed development;
 - 25 • The development conforms with the general plan; and
 - 26 • Existing or proposed utility services will be adequate for the population densities
27 proposed.

28 As described in detail in the attached Planning Commission staff report and draft
29 ordinance and resolution, the Planning Commission found that the findings could be
30 made.

31
32 **Conclusion**

33
34 The proposed project is the first within the MCSP Mixed-Use Office Residential
35 designation. The MCSP's standards and policies aim for mixed use 'village', which
36 includes medium and high density residential development that are, to some extent,
37 different from the existing housing in Moraga. There exists an inherent tension in
38 balancing the slightly more urban character of the Specific Plan area and other policies,
39 such as those related to the scenic corridor, that emphasize a rustic and semi-rural
40 character of the Town. The project design is based on the standards of the MCSP but
41 has been adapted, including modification made by the Design Review Board and
42 Planning Commission, based on the site context. Changes include the product type and
43 density on Country Club Drive, height/stories and setbacks of the townhomes. The
44 Town Council should consider the balance of these factors and whether the project
45 overall furthers the objectives and policies of the Town and the requisite finding can be
46 made.

1 **Fiscal Impact**

2
3 None. The Town’s adopted fee schedule is based on the actual costs to process a
4 project, and thus all of the costs incurred for the review and hearings for the CDP,
5 zoning text amendment and zoning change have been borne by the applicant.
6

7 **Alternatives**

8
9 **Alternative A:**

- 10 1) Introduce and Waive the First Reading of an Ordinance Amending Moraga
11 Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and
12 Amending the Zoning Map for the Moraga Town Center Homes Property (APNs:
13 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA
14 Planned Development (12-DUA-MC-PD); and
15
16 2) Adopt Resolution No. __-2014 the Appeal, Upholding the Planning Commission’s
17 decision and Approving the Conceptual Development Plan for the Moraga Town
18 Center Homes Project; or
19

20 **Alternative B:**

21 Direct staff to return with a resolution approving the appeal and denying the
22 project or a resolution and ordinance approving the project with modifications,
23 based on findings articulated by the Council; or
24

25 **Alternative C:**

26 Provide alternate direction to staff and/or the applicant.
27
28

29 **Recommendation**

30
31 It is recommended that the Town Council take the following actions:
32

- 33 1) Introduce and Waive the First Reading of an Ordinance Amending Moraga
34 Municipal Code Chapter 8.48 to add 12-DUA PD Land Use Classification, and
35 Amending the Zoning Map for the Moraga Town Center Homes Property
36 (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-
37 DUA Planned Development (12-DUA-MC-PD); and
38
39 2) Adopt Resolution No. __-2014 Considering the Appeal, Upholding the
40 Planning Commission’s decision and Approving the Conceptual Development
41 Plan for the Moraga Town Center Homes Project.

1 **Report reviewed by: Jill Keimach, Town Manager**
2 **Karen Murphy, Assistant Town Attorney**
3

4 **Attachments:**

- 5 **A.** Draft Ordinance No. __-2015 Amending Moraga Municipal Code Chapter 8.48 to
6 add 12-DUA PD Land Use Classification, and Amending the Zoning Map for the
7 Moraga Town Center Homes Property (APNs: 257-180-082-6 and 257-190-057-
8 6) from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-
9 PD)
- 10 **B.** Resolution No. __-2015 Considering the Appeal, Upholding the Planning
11 Commission's decision and Approving the Conceptual Development Plan for the
12 Moraga Town Center Homes Project
- 13 **C.** Planning Commission Resolutions 19-14
- 14 **D.** Planning Commission Resolution 20-14
- 15 **E.** Appeal Letter, Bowhay, Coane and Olsen, December 1, 2014
- 16 **I.** Letter Correcting Appeal Information, Olsen, January 22, 2015
- 17 **F.** Staff Report to Planning Commission, November 17, 2014
 - 18 **I.** Draft Resolution No. #-2014 Approving the Conceptual Development plan
 - 19 **II.** Draft Resolution No. #-2014 Recommending Amending Chapter 8.48 and
20 Rezoning to a Planned Development District
 - 21 **III.** Design Review Board Action Memorandum
 - 22 **IV.** Moraga 2002 General Plan Conformance Analysis
 - 23 **V.** Moraga Center Specific Plan Design Guidelines Conformance Analysis
 - 24 **VI.** CEQA Document and Mitigation Monitoring and Reporting Plan
 - 25 **VII.** Correspondence Received
 - 26 **VIII.** Parking Scenarios for Country Club Drive
 - 27 **IX.** Project Plans, received July 31, 2014
- 28 **G.** MOFD Communication, September-November , 2014
- 29 **H.** MOFD Memorandum, January 21, 2015
- 30 **I.** Communications
- 31 **J.** Applicants Response to Appeal

ATTACHMENT D

Appeal Letter
December 1, 2014

RECEIVED

DEC 01 2014

TOWN OF MORAGA

December 1, 2014

Ms. Ellen Clark, Planning Director
Town of Moraga
329 Rheem Boulevard
Moraga, CA 94556

Re: Appeal of Actions Taken by the Town of Moraga Planning Commission
at its 11/17/14 Public Hearing relative to City Ventures Proposed Moraga
Town Center Homes Project

Dear Ms. Clark:

In conformance with Moraga Municipal Code Section 8.12, Article 4, SubSection 8.12.200 ("Appeal of decision"), the undersigned parties hereby Appeal the findings of and decisions made by the Town of Moraga Planning Commission at a Public Hearing on November 17, 2014 on Items 5A1 and 5A2 on that meeting's Agenda, which items relate to City Ventures proposed Moraga Town Center Homes development.

The intended result of this Appeal is that a Public Hearing shall be held before the Moraga Town Council as required by Moraga Municipal Code SubSection 8.12.190 ("Designation of hearing body on appeal"), which hearing should be a De Novo Hearing as required by Moraga Municipal Code SubSection 8.12.200, Paragraph D.

Appellants have standing to bring this Appeal, as they are residents of and property owners in the Town of Moraga.

Enclosed with this document is a Cashier's Check in the amount of \$1,000.00 U.S., payable to the Town of Moraga, which is provided in order to satisfy the Town of Moraga-required Appeal Fee.

Following are the grounds on which this Appeal is based. We believe these grounds have all been previously raised in public testimony and/or in written correspondence and/or via oral communications with the Town's staff and the Town's Agencies (i.e. the Design Review Board and/or the Planning Commission):

Non-conformance with the Town of Moraga's General Plan and/or the Moraga Center Specific Plan and/or the Moraga Municipal Code –

We believe that both the Town's Planning Staff, in recommending the actions taken by the Town of Moraga's Planning Commission at the cited November 17th, 2014 Public Hearing relative to City Ventures proposed Moraga Town Center Homes Project -- and the Planning Commission, in approving the Town Planning Staff's recommendations -- failed to follow the provisions of the Town of Moraga General Plan and/or the Moraga Center Specific Plan and/or the Moraga Municipal Code in the following regards and that those failures either singly, or in combination, constitute more than sufficient grounds for the acceptance of this Appeal.

Throughout all of the above-cited Town of Moraga Planning-related documents, **a dominant requirement is the preservation of the Town's Semi-Rural Environment. The proposed project is, in fact, the antithesis of that requirement.** It is an urban, high-density development that in its size, scale, building masses, siting, setbacks, view impacts and density is totally inconsistent with, and totally out of character with, anything previously developed anywhere within the municipal boundaries of the Town of Moraga, both before Moraga's incorporation and in the 40 years since then. The proposed project makes a mockery of Town's ambition of preserving its semi-rural environment.

The proposed project clearly does not conform to the Town's Scenic Corridor requirements. The proposed project is sited on Moraga Way, which roadway is designated in the General Plan as a "major scenic corridor". Per SubSection 8.132.020 Subparagraph A ("Area subject to regulations"): "Land located within five hundred (500) feet of a major scenic corridor is subject the regulations set forth in this chapter." Therefore, the site of the proposed development is clearly required to conform to the Development guidelines in SubSection 8.132.050. It does not appear to conform to any of the following requirements of 8.132.050:

-Paragraph B1requires that: "The design and location of each building and landscaping shall create a compatible visual relationship with surrounding development and with the natural terrain..." We contend that the proposed development is not at all visually compatible with the adjacent Moraga Country Club townhouses on Country Club Drive, which are

smaller in mass, significantly shorter in height, are set back farther from the street and are much more intensely landscaped than the developer's proposed landscaping

-Paragraph B2 – requires that: “Buildings and landscaping shall be so located that each does not create a walled effect along the scenic corridor. Setbacks and building heights may be made more restrictive than otherwise permitted by the applicable zoning regulations. In general, the greater the mass or bulk, the greater the setback should be.”

We submit that the design of the project's buildings along Moraga Way does, in fact, create a walled effect. We further contend that the Town's Planning Staff and Planning Commission failed in their responsibilities by failing, in the case of the Planning Staff, to recommend – and, in the case of the Planning Commission, to then impose -- more restrictive limits on the bulk and mass of the project's buildings and by also failing to impose greater setbacks and lower building heights.

-Paragraph B4 – requires that: “Each structure or feature reviewable under this chapter shall be limited to scale and siting to reduce visual dominance or obstruction of existing landforms...”. One of the most prominent (if not the most prominent) of the existing landforms anywhere within the Town of Moraga that are proximal to a major scenic corridor is Indian Ridge, which ridge lies immediately west of the project's site. The masses and heights of the buildings proposed to be constructed within this development would materially impact -- in fact, would virtually eliminate -- any views of Moraga Ridge from the Moraga Way Scenic Corridor for practically the entire length of the proposed project along Moraga Way.

We question the methodology used by and the concessions to the developer that were suggested by the Town Planning Staff and the Town's Director of Public Works in order to establish that the project would be set back 15 feet from the Moraga Way Scenic Corridor . At the November 17th hearing, the Town's Planning Staff reported that, in order to augment the 15 foot setback ,the Town is offering, gratis, an easement to use 20 feet of the publicly owned Moraga Way right-of-way. That concession by the Town would then enable the portions of the project's buildings that are closest to Moraga Way to protrude way beyond the actual physical setbacks of the adjoining buildings on Moraga Way (i.e. the Administration Building of the Moraga-Orinda Fire District at 1280 Moraga and the Office

Building at 1150 Moraga Way). Further, the 15 foot “average” setback is composed of distances as short as 11 feet, which is much too close to the property line for such extreme building heights (38 feet), which heights result in a nearly 3½ to 1 height-to-setback ratio. The result, which is easily recognizable when one views the project’s story poles, is a jarring obtrusion of the proposed massive 3-story buildings that is totally inconsistent with the alignments of the surrounding buildings on Moraga Way.

We would further suggest that, as a result of traffic that would be generated to and from Moraga Way by the proposed subdivision and will be generated as a result of the very significant traffic flows that will also be generated in the not-too-distant future from the development of MCSP Areas 2 and 5, the Town of Moraga may soon need to add a two-way turning lane to the middle of this section of Moraga Way (like the ones that already exist on Moraga Way immediately south of School Street) -- or even signal controlled turning lanes. Any such Moraga Way improvements would then require the Town to reclaim the land it had been allowing the Moraga Town Center Homes to use for Moraga Way setback purposes. That would then result in significant aesthetic consequences to the Moraga Way frontage of the proposed project and to the Moraga Way Scenic Corridor.

It is worth sharing that at an August 28, 2014 presentation to the Moraga Valley Kiwanis Club, former Town of Moraga Planning Director Shawna Brekke-Read offered that she personally had a problem with the way that the supposed 15 foot setback from Moraga Way requirement was proposed to be accomplished!

The proposed project also fails to conform to the following General Plan requirements:

-LU1.3 Residential Building Height -- requires that the Town: “Restrict residential building heights to limit visual impacts on adjacent properties and protect views.” As previously noted, the proposed project’s structures will have significant adverse visual impacts on the adjacent properties that are located in the Moraga Country Club along Country Club Drive. As also previously noted, due to their excessive height, the proposed buildings will block the views of Indian Ridge from the Moraga Way Scenic Corridor.

-CD1.3 View Protection – requires that the Town: “Protect important elements of the natural setting to maintain the town’s semi-rural character. Give particular attention to viewsheds along the town’s scenic corridors...” As we previously submitted and now again note: The project does nothing to maintain the town’s semi-rural character. Rather, if allowed to proceed, it would significantly impair that character. The project would also destroy the view of Indian Ridge from the Moraga Way scenic corridor for most of the length of the proposed project along Moraga Way.

-IP-E2 Infill Development – requires the Town: “to promote more sensitive building additions and infill projects that preserve the scale and character of the existing neighborhood” We contend that the proposed project would have exactly the opposite effect. It is absolutely inconsistent with the scale and character of the existing Moraga Country Club neighborhood. Because of that clear inconsistency, it would also be likely to adversely affect the values of those properties in the Moraga Country Club.

-IP-E3 Multi-Family Residential Design Guidelines – require the Town: “...to encourage buildings that reflect the scale and quality of their surroundings and which fit the character of existing residential neighborhoods.” We submit that it is clear, beyond any doubt, for the reasons previously stated and restated in the preceding recitals of the project’s many failings to conform to the Town’s requirements, that the proposed project does not satisfy the immediately preceding requirements.

-CD4.3 Infill Development – requires that the Town: “Ensure that new residential development in existing neighborhoods reflect the size, scale, height, setbacks and character of existing development.” Further, “...new homes... should not create impacts on adjacent properties or detract from overall neighborhood character.” It should be readily apparent from Appellants’ preceding analyses of this project that the proposed project does not comply with those requirements.

-CD5.2 Design – requires that the Town: “Ensure that new multi-family developments are planned, designed and constructed to enhance the local area, reflecting the scale and quality of their surroundings.” We submit that the building masses, heights, insufficient setbacks and other negative elements of the proposed project do not conform to the preceding

requirement. Rather than “enhance” the project will demonstrably detract from the local area.

-LU4.6 – requires that: “uses and buildings located in the vicinity of public safety facilities and training operations are compatible.” We submit that the proposed project is clearly incompatible with the activities and training operations that are conducted at the immediately adjoining Moraga-Orinda Fire District (MOFD) Station 41 and on the MOFD’s District Training Grounds that lie immediately behind that station. This obvious incompatibility was originally cited in a letter dated July 31, 2008 (attached) that was authored by the MOFD’s then-District Legal Counsel Steven R. Meyers of Meyers, Nave, Riback Silver and Wilson, which letter was addressed to former Moraga Planning Director Lori Salamack. Accordingly, the Town and its Planning Staff were long ago made well aware of this specific General Plan non-conformity. Additional details as to the specific elements of that non-conformity were contained in an E-mail to the Planning Commission by Richard J. Olsen dated November 12, 2014 (copy also attached).

We would also like to share a related observation having to do with the MOFD’s operations from the Station 41 site that will prospectively affect the safety of the citizens of the Town of Moraga if the proposed project is approved as presently constituted: A member of the public who testified at the November 17, 2014 Planning Commission Hearing on this proposed project noted a negative impact of the proposed project on future fire district operations. At one time, the district used the property immediately behind the Fire District’s Training Grounds for emergency vehicle access to and from Country Club Drive. The property’s owner then terminated that access. The MOFD has long publicly indicated its desire to regain that access, as it would lead to safer access to and from the fire station – as opposed to the current sole MOFD property access point from Moraga Way. It would also provide an alternative exit for responses into the Moraga Valley were Moraga Way to be blocked or otherwise inaccessible. The siting of buildings directly behind the MOFD’s property would permanently deprive the MOFD of any future opportunity to regain direct access to Country Club Drive from the MOFD’s property -- to the detriment of the public safety of the citizens of the Town of Moraga.

Failure of the Planning Staff Planning Commission to Both Recognize and then Act Upon the Regional (Lamorinda) Traffic Impacts of the Proposed Project and the Cumulative Impacts of other Already-approved, Pending and Projected Developments within the Town of Moraga –

Based upon published Town of Moraga sources, it would appear that currently, the combined number of potential new residential units that have been approved, are pending, or are potentially developable in the 2015-2012 time period (i.e. the time period covered by the Town's pending Housing Element) could be as high as 1260 units. (The "Preserve Lamorinda Open Space" organization in a recent bulletin estimated that total number as 1207 units.) An estimate of between 1200 to 1260 units would therefore seem to be reasonable.

Absent very substantial mitigation, which is not currently on the horizon, the cumulative potential impacts of that many units would overwhelm the carrying capacities of the roadways into an out of Moraga and would also severely impact traffic flows within the City of Orinda and the City of Lafayette. The resultant traffic delays would engender significant economic losses in terms of time lost by income earning drivers entrapped on those roadways and through increased fuel consumption. Additional impacts of the resultant traffic jams would include increased vehicle emissions. The smog and ozone-producing results from that situation on the health of Moragans (and the health of the citizens of Orinda and Lafayette) -- and also the environmental and climate impacts -- would be totally unacceptable. Yet, those cumulative impacts were not addressed or analyzed in the Planning Staff's reports, nor were they discussed by the Planning Commission at the time it took the subject actions relative to City Ventures Moraga Town Center Project. We believe that omission to be a major flaw in the process that was followed leading up to the approval of the proposed project's Conceptual Development Plan. Any single development that contributes to an eventually very significant cumulative development number is significant in-and-of-itself.

We also question the estimates of the traffic impacts to be generated from the subject project as developed by the Developer's Traffic Engineer. It is our view that the Town's Staff and/or the Planning Commission should have insisted that the Town's Traffic Engineer independently assess those impacts (at developer expense).

Failure of the Planning Commission to Recognize and then Act Upon the Severe Traffic Safety Problems on Country Club Drive that Currently Exist and Will be Exacerbated by the Developer's Proposed Changes to the Roadway and the Median

Country Club Drive, which was originally rebuilt into its present form prior to Moraga's incorporation, is – and has long been – an unsafe roadway. Its many design deficiencies include inadequate roadway width to accommodate both on-street parking and a vehicle lane. (Exiting from the driver's side of a parked car onto the adjoining vehicle traffic lane can be a death-defying act!) From among four flawed Country Club redesign options prepared by the developer's Engineers, the Town's Design Review Board and the Planning Commission chose Option 1 as their preference. It involves removing 15.57 feet from the East side of the median, beginning at the north end of the bridge and extending up to (but not past) the north edge of the proposed project's boundary. A primary purpose of that change is to provide up to 37 additional on-street parking spaces that would primarily serve the project's residents and their guests. The proposed change to the roadway also involves the addition of a new 5 foot wide Bike Lane. The total roadway width on the East side of Country Club Drive for the relatively short length of that proposed change would consist of an 8 foot wide parking lane against the median, a 14 foot wide driving lane, a 5 foot wide Bike Lane and an 8 foot wide parking lane against the existing curb and gutter, for a total width of 35 feet. Once the north boundary of the project is reached, the developer's proposal is for the bike lane to abruptly terminate. Parking along the median would also terminate, and the median would immediately bulb back out to its present form.

We contend that the above-described abrupt termination of the revamped alignment would make it even more unsafe for both vehicle drivers and bicyclists to traverse the east side of Country Club Drive than the present alignment does.

It is our understanding from testimony provided by the Town's Planning Staff at the November 17, 2014 Public Hearing that the Town's Public Works Director was actually the person who suggested that 15.57 feet of Town-owned median be essentially "gifted" to the developer, with no compensation being paid to the Town. If that Median Carve-Out

concession were not offered by the Town, then, in order to accommodate the requisite 35 foot roadway width, the developer would instead need to setback their so-called “Cottages” by an additional 15.57 feet, which might then conceivably significantly impact the number of units that could be built within the proposed project.

Failure of the Planning Commission to Acknowledge the Precedent-Setting Consequences of Approving This Project relative to all the similarly-designated parcels within the Moraga Center Specific Plan

If the requested Appeal is denied, the proposed project would be the first approved higher-density development within the Moraga Center Specific Plan. As such, it would then constitute a precedent and a model for all future development in the areas of the MCSP that carry similar density designations (i.e. “Mixed Office/ Residential” or “10-12 du/ac”). That is, it would be applicable not just to Area 13, but also to Areas 3, 16 and 17. The Planning Commission did not consider -- let alone address -- what the impact on the Town’s semi-rural character and other environmental and aesthetic qualities would be if a Moraga Town Center Homes-like project were then to be built on each of those other areas. We consider that to be a major failing and clear evidence of a lack of thoughtful and thorough review on the part of the Planning Commission.

Failure of the Town Planning Staff and Planning Commission to fully and completely acknowledge and respond to correspondence expressing concerns from major local parties having significant interests in these proceedings – namely the Moraga-Orinda Fire Protection District and the Moraga Country Club Homeowners Association

In addition to the previously cited correspondence from the MOFD’s Legal Counsel to the Town with respect to the proposed project’s non-conformance with General Plan LU4.6, the MOFD also provided a letter to former Planning Director Shawna Brekke-Read dated June 4, 2014 concerning this project. The intent of that letter (copy attached) was to “document the concerns of the Moraga-Orinda Fire district regarding the proposed City Ventures project...” The letter, authored by MOFD Fire Chief Stephen Healy, related the MOFD Board of Directors desire that both the Town and City Ventures “...understand the consequences of the proposed project and its **potentially adverse effect** (emphasis added) on

both residents and the MOFD fire training site.” As Fire Chief Healy further reported to the Planning Commission at its November 17th Public Hearing on City Ventures proposed project, the MOFD has not yet reached any decision on whether to possibly oppose the project. That position was again reconfirmed by the MOFD’s Board during the Facilities Committee Report segment of that Board’s November 19th Regular Meeting. The Town’s Planning Staff, in recommending that the Planning Commission approve the Conceptual Plan for the proposed development without first receiving the MOFD’s concurrence in that action, and the Planning Commission in approving that staff recommendation, both have intentionally ignored the potential direct adverse impacts of City Ventures proposed project on the activities of the MOFD and the derivative impacts on the safety of the citizens of the Town of Moraga.

On July 9, 2014, Donald Maddison, President of the Moraga Country Club’s (MCC) Board of Directors, sent a letter to Town of Moraga Contract Planner, Doug Donaldson (copy attached), in which Mr. Maddison conveyed the MCC Board’s views on a vision of what appropriate improvements should be made to Country Club Drive to help mitigate some of the adverse impacts of City Ventures’ proposed development. Those suggested improvements included significantly increased landscaping within the median. It is undoubtedly safe to imply that the MCC Board’s letter did not envision carving 15.57 feet out of the median. During its November 17th proceedings the Planning Commission did not acknowledge or comment upon the MCC Board’s letter or request.

To conclude: We believe that the preceding contentions and observations are more than sufficient to enable the Town Council to ultimately either deny the Moraga Town Center Homes application or to conditionally grant it, after imposing material changes on the proposed project.

Thank you for your attention to and consideration of the above.

Sincerely,



Scott P. Bowhay
1671 Camino Pablo
Moraga, CA 94556



Denise L. Coane
38 Sea Pines
Moraga, CA 94556



Richard J. Olsen
1861 Saint Andrews
Moraga, CA 94556

Attachments:

- Letter Dated 7/31/08 from Steven R. Meyers (Meyers, Nave, Riback, Silver & Wilson) on behalf of the Moraga-Orinda Fire District (MOFD) Objecting to Prospective Impacts of the MCSP on the MOFD's Operations, in Violation of the Moraga General Plan

- E-mail Dated 11/ 12 /14 from Richard J. Olsen re the Impacts of the Proposed City Ventures Project on the MOFD's Operations and Training Activities

- Letter Dated 6/4/14 from MOFD Fire Chief Stephen Healy on behalf of the MOFD's Board of Directors Stating MOFD "Concerns" re the Proposed City Ventures Project

- Letter Dated 7/9/14 from Donald Maddison, President of the Moraga Country Club Board of Directors, Requesting Country Club Median Improvements to Mitigate Some of the Proposed City Venture Project's Potential Impacts

July 31, 2008

Lori Salamack
Director, Planning Department
Town of Moraga
329 Rheem Blvd
Moraga, CA 94556

Re: Comments on Moraga Center Specific Plan and Environmental Impact Report

Dear Ms. Salamack:

We represent the Moraga-Orinda Fire District (MOFD or District). We submit these comments on the Moraga Center Specific Plan (MCSP) and its environmental impact report (EIR) on behalf of MOFD. The provision of "a high level of fire and life safety services" is a main goal of the Town General Plan (Public Safety Element Goal PS2). MOFD is committed to providing this high level of service. It must have adequate staffing, equipment and facilities to meet this high standard. The MCSP and other proposed development in the District's service area will, without question, have a significant impact on fire and emergency services. However, without any analysis, the EIR simply dismisses the impact as less than significant and does not include any mitigation measures for impacts on fire and emergency services. This is in direct contradiction to General Plan and CEQA principles which require new development to pay the costs of its impacts on public services.

This flaw in the EIR will have grave consequences to existing and future Town and District residents. It is literally a life and death issue. The MCSP cannot be served by Fire Station 41's¹ current facilities, equipment and staff. The demands from the MCSP will reduce existing service levels and endanger people and property. This result contravenes core Town policies and will be unacceptable to Town residents. Therefore, the EIR must be revised to identify a significant impact on the District and require a mitigation plan to address these impacts.

MOFD also is concerned about the effect of the MCSP on the Station 41 property which is located within the Plan area. The proposed new land use regulations affect the status of the existing use and appear to constrain the ability of the District to expand its Station 41 facilities. MOFD's primary concern is that, under the proposed land use plan and regulations, the District's use is not a permitted use. The MCSP also must be consistent with the Town General Plan policies on maintaining MOFD service levels and addressing District needs.

¹ Station 41 is located at 1280 Moraga Way within the MCSP area. Therefore, it will be the station responding to fire and emergency services calls from the MCSP development.

development in the Town, such as the Indian Valley project (regardless of the number of homes actually built there), since it is the closest station to that proposed development.

- Building heights of up to 45 feet are permitted by the MCSP. The District has only one aerial ladder. In the event of a serious fire in the MCSP area, or simultaneous fires at St. Mary's College and the Plan area (in the aftermath of an earthquake or other disaster), a single aerial ladder will likely be insufficient to protect people and property. This lack of adequate equipment will create life threatening situations for people on upper floors and firefighters called upon to rescue them.
- The MCSP will result in significant traffic impacts on certain intersections. These traffic impacts will adversely affect the District's response times. The reduced level of service for intersections in Lafayette also may slow the response times for mutual aid assistance coming into the Town.

The significant impacts on MOFD must be addressed by mitigation measures. These measures should be included in the Final EIR. The following mitigation measures would support a finding of a less than significant impact on MOFD and the provision of fire and emergency services:

- (1) new building(s) and property to accommodate expansion and replacement of Station 41 and its administration building;
- (2) provision of a new ambulance and other equipment;
- (3) provision of a new aerial ladder fire engine; and
- (4) a fee for fire and emergency services impacts imposed on all MCSP development.

Other Issues of Concern with MCSP EIR

The MCSP includes a new traffic signal located adjacent to Station 41 on Moraga Way. The Town needs to coordinate with the District on the location and design of this new signal.

The EIR should analyze the compatibility of the proposed high density residential use surrounding the Station 41 property. The Station's operation and noise may not be compatible with the proposed residential use. The District is concerned that residents in these new developments will object to Station uses. General Plan Land Use Element Policy LU4.6 requires that "uses and buildings located in the vicinity of public safety facilities and training operations are compatible". The EIR Land Use chapter should address the Project's consistency with this compatibility standard.

The proposed street design and building setbacks should be reviewed by the District to assure they meet fire service standards.

The EIR inaccurately describes the fire flow tax. The revenue from this existing tax is not exclusively for use within the Town, but can be applied throughout the District for ongoing capital costs for facilities and equipment. The tax is imposed on all properties and does not address the impacts of new development. The EIR also inaccurately describes the District's fire flow requirements. The minimum required flow is 2,250 GPM (not 1,000 and 2,000 GPM) and the requirement may be higher if large wood frame buildings are constructed (which appear likely under the MCSP).

MCSP is Inconsistent with Town General Plan Policies on District and Fire Services

The MCSP is not consistent with the Town General Plan policies on fire and emergency services. The Public Safety Element of the Town General Plan requires a "high level of fire and safety services" (Public Safety Element Goal PS2). The General Plan also has numerous policies to address the impact of new development on fire and emergency medical services, including the following:

- Public Safety Element Policy PS3.1 Cooperation with Moraga-Orinda Fire District.

Cooperate with the Moraga-Orinda Fire District in developing standards, guidelines and local ordinances to assure provision of adequate fire protection and emergency medical service for all persons and property in the community.

- Public Safety Element Policy PS3.3 Response Times.

Provide maximum emergency driving times of 3 minutes and/or a travel distance of not more than 1.5 miles for response vehicles from the closest fire station to arrive and effectively control fires and respond to medical and other emergencies in the community.

- Public Safety Element Policy PS3.5 Development Review for Emergency Response Needs.

Evaluate new development proposals to ascertain and mitigate problems associated with emergency response needs.

The MCSP is not consistent with these policies. There is no evaluation of the Plan's impact on fire and emergency services. The EIR states, in conclusory fashion, that the MCSP is consistent with the General Plan policy because "in order to maintain services at existing levels, new development will be required to pay appropriate development impact fees". However, no development fee is imposed on the Project for fire and emergency services. Therefore, in order to be consistent with the General Plan, the MCSP must include the measures described above to address the development impacts on District services. The Public Service Element of the MCSP should be revised to address the impacts on fire and emergency services and describe the required mitigation plan. The Finance Plan should be revised to address funding for the mitigation plan.

The MCSP's land use plan and regulations that apply to the Station 41 property also are inconsistent with these General Plan policies. Station 41 is located within the Mixed Commercial Residential land use area. Public Services (fire & police) are not a permitted use under this land use category. This raises significant concerns about whether the existing Station will become a non-conforming use and whether expansion or renovation of the Station will be permitted. Also, the Specific Plan does not address the compatibility of the land uses allowed under the Mixed Commercial Residential area surrounding the District property with the Station 41 use. These issues should be addressed in the Specific Plan. The land use designation of the Station 41 property and surrounding area should be consistent with the current District use and its need for future expansion.

Conclusion

The District has significant concerns about the MCSP and its EIR. The EIR should be revised to describe the significant impact the MCSP and other new development will have on the District. The EIR should include a mitigation plan acceptable to the District to address impacts of the MCSP. The MCSP should be revised to make it clear that public services is a permitted use under the land use category applicable to the Station 41 property and the adjacent surrounding property.

Very truly yours,



Steven R. Meyers

cc: Chief Pete Nowicki
Moraga Orinda Fire District Board of Directors



Moraga-Orinda Fire District

Fire Chief Stephen Healy

DATE: June 4, 2014
TO: Shawna Brekke-Read, Planning Director
SUBJECT: City Ventures Project Adjacent to Fire Station-41

This letter is written to document the concerns of the Moraga-Orinda Fire District (MOFD) regarding the proposed City Ventures project to be built adjacent to Fire Station-41.

MOFD's principal concern regarding this project is the proximity of the housing units to the fire training grounds, located behind the fire station. During fire training activities, firefighters often use equipment and machinery that is very loud. As mitigation, Firefighters could conduct training exercises during business hours; conducting (required) night drills during early evening hours in the winter-time and minimizing week-end training exercises; however, these measures may impair the effectiveness of our training programs and there will still be periodic noise and visual effects that many residents will find unpleasant.

In addition, large hose-streams will be deployed, which can lead water inadvertently traveling off-site, both as air-borne streams and mist and as run-off. Obviously, with neighbors in close proximity, Firefighters would use caution, but there can be no guarantee that water will not be occasionally traveling over the property line. This water could impact people and damage private property.

The issue of privacy for residents is also of concern to MOFD. The present site map calls for six (6) units to have rear windows that face the training grounds, and certain MOFD equipment may be visible to other units. Particularly with respect to the six units, and possibly as to others, residents will occasionally be (inadvertently) observed by Firefighters in their homes, particularly at night or when Firefighters are above-ground on ladders, in training towers, or in the basket of the aerial ladder truck, which is stationed on site. These trainings are vitally important to the development and maintenance of key firefighting and rescue skills and there is no practical way to mitigate the privacy issues.

MOFD personnel inherently understand the impact of the fire training site on the residents because they live in this environment during their working hours. Therefore, MOFD is justifiably concerned about this and its ability to remain good neighbors.

With these concerns in mind, MOFD first voiced objection to the placement of residential housing units next to the fire training grounds in the 2000s during the development of the

Moraga Specific Plan. Today, as the project moves forward, MOFD remains concerned about the aforementioned issues as well as two new issues: 1) a walking trail proposed on or adjacent to the fire training grounds, and 2) the height of the proposed wall along the property line.

As proposed, the walking trail (which the MOFD Board of Directors has not yet considered) is planned to parallel the Moraga Creek. MOFD does not oppose a trail, so long as it is south of the fire training ground curb-line (on the creek-side) and separated by a wall which is high enough and properly constructed to reasonably protect the public and restrict their access to the MOFD site. MOFD cannot agree to a trail to the north of the curb-line, because it will encumber what is already a very limited training area. If the trail can be placed south of the curb-line, MOFD would consider selling its portion of the property to the south of the curb-line to facilitate the trail project moving forward.

At the March 19, 2014 Board of Directors meeting, MOFD staff was directed to continue working with the town of Moraga and City Ventures to ensure that both understand the consequences of the proposed project and its potentially adverse effect on both residents and the MOFD fire training site. As a result, MOFD staff is 1) researching an appropriate notification process for resident noise and water concerns, 2) producing a video for City Ventures sales staff that shows a general description of the training and operational impacts on and about the fire training grounds, and 3) working with town staff and the City Ventures to relocate the site EVA and main access to make the main driveway farther from the fire station property.

Since the March 19, 2014 Board of Directors meeting, staff has met with City Ventures representatives, who stated that a proposed children's playground has been eliminated from the project and that it will be replaced by boulders.

Staff was also directed to 1) ensure that the developer and the broker to show the video to prospective buyers and residents, (as well as provide written disclosure and proof of such to all prospective residents), and 2) engage City Ventures with the HOA CCRs to ensure that residents are aware of the issues with the fire district site and to take such steps as may be necessary to prevent future legal conflicts between the residents and MOFD over the conduct of training exercises. As to the latter point, we suggest that the six units mentioned above be moved or redesigned to reduce the impacts of MOFD training exercises and that a document be recorded against all the properties in the project, possibly in the CC&Rs, putting the residents and future purchasers on notice as to the MOFD site and its activities, and a separate document granting an easement to MOFD for water flows described above. We would be happy to have our counsel work with City Ventures' counsel on appropriate language.

MOFD and the Town of Moraga share the responsibility of providing services and safety to the community. Both agencies are committed to customer service and have the best intentions; in what they do, and with whom the work. Although the Specific Plan is presently in conflict with the MOFD, the fire district remains committed to working with both the Town and City Ventures to find solutions that work for everyone, yet allow the fire district to train its Firefighters to fulfill its important missions of saving lives and property.

Sincerely,



Stephen Healy,
Fire Chief

Cc: MOFD Board of Directors
Jill Keimach, Town Manager
Charity Wagner, City Ventures

Subject: High-Density Residential Uses Immediately Adjacent to the MOFD's Station 41 & District Training Grounds are Incompatible with Fire District Operations and Training Activities

From: "Richard J. Olsen" <rjolsen@pacbell.net>

Date: 11/12/2014 5:20 PM

To: planning@moraga.ca.us

BCC: Dick Olsen <rjolsen@pacbell.net>

Dear Members of the Town of Moraga Planning Commission:

I am writing to express my concerns about the impact of the proposed City Ventures high-density residential development immediately adjacent to Moraga-Orinda Fire District (MOFD) Station 41 at 1280 Moraga Way on the operations and training activities of the MOFD. Those concerns are based upon my prior experiences as a 12-year member of the Fire Commission for the former Moraga Fire District (MFD) and as a former Director of the MOFD. During those periods -- and subsequently -- I frequently observed the fire and rescue service training activities that are routinely conducted on the MOFD's District Training Grounds behind Station 41. Those activities -- which occur during the day and at night, during weekdays, weekends and on holidays -- are extremely noisy and at times potentially dangerous. They are inherently incompatible with any possible immediately adjoining residential uses. When I served on the former Moraga Fire Commission, that Commission regularly received complaints from residents of the Moraga Country Club townhouses located clear across Country Club Drive from Station 41 because of the noise generated by training activities behind Station 41. Any suggestion that the impacts of fire training activities on immediately adjoining residences can somehow be significantly mitigated is purely wishful thinking. The inevitable results of placing residences cheek-by-jowl against the MOFD's fire training grounds will be a continuous set of complaints from those adjoining residents, ill will directed towards the fire district and quite possibly, a politically imposed reduction in the level and intensity of those training activities conducted by the MOFD. That would then lead directly to a reduction in the life and property saving skill sets of the MOFD's firefighters. As current MOFD Board Director Fred Weil has suggested at more than one MOFD Board meeting, a planning policy decision that would allow the placement of residences immediately adjacent to a fire training center would be as foolish as approving the construction of housing at the end of an airport runway.

Even in Urban areas (e.g. Oakland and San Francisco), Fire Service Training Centers are not normally located adjacent to residential occupancies. Rather, they are usually situated in industrial zones. Here in Contra Costa County, the problem of noise impacts from fire training activities on nearby residential occupancies has also been felt by the Contra Costa County Fire Protection District (Con Fire). That district's training facility, located on Treat Boulevard in Concord across from De La Salle High School, has long been a source of

repeated noise complaints from adjacent residential property owners. As a result, Con Fire's long-term plan is to relocate its training center to a site at the Naval Weapons Station. Unfortunately, no similar alternative site exists anywhere within the Moraga-Orinda Fire District's boundaries. There is the alternative of sending MOFD units outside the district for training purposes. However, that would significantly degrade the district's emergency response capabilities for the time period those units are absent from the fire district.

The Bruzzones, who are the owners of the property now being proposed for development, have long been made aware -- first by the former Moraga Fire District and more recently its successor the Moraga-Orinda Fire District -- of both fire districts' intent to acquire the lands around Fire Station 41, in order to expand the training center and by means of such land acquisition to also further isolate the fire and rescue training center from any and all adjoining land uses. During my tenure on the former Moraga Fire Commission, we attempted to acquire the property that lies between the training area behind Station 41 and Country Club Drive for a future expansion of that training area. Unfortunately, we were rebuffed in that attempt by the late Mr. Russell Bruzzone. We then decided that, in the interests of trying to maintain the best possible relations with the Bruzzone family, we would not pursue acquisition of the property via Eminent Domain proceedings. In retrospect, that may have been a mistake.

The former Moraga Fire District and its successor, the Moraga-Orinda Fire District have also long made the Town of Moraga aware of both fire districts' desire to acquire the properties adjoining Station 41 and their reasons for doing so. I specifically recall during my service as Chair of the former Moraga Fire Commission authoring a letter to the Town on the Moraga Fire District's behalf requesting that, as part of a General Plan review, the zoning surrounding the Station 41 site be designated as "Public Institution", in order to reserve the property for the fire district's future use. More recently, during the reviews of the Moraga Center Specific Plan (MCSP) and its EIR, the Moraga-Orinda Fire District's then Legal Counsel, Steven Meyers of Meyers Nave, submitted a five page letter of comment to the Town's then-Planning Director Lori Salamack. Mr. Meyers letter on behalf of the MOFD contained numerous critical comments relative to the perceived failures of both the MCSP and the related EIR to fully describe and then mitigate the MCSP's prospective impacts on the MOFD. On page 3 of that letter,, Mr. Meyers stated: "**The Station's operation and noise may not be compatible with the proposed residential use. The District is concerned that residents in these new developments will object to Station uses. General Plan Land Use Element Policy LU4.6 requires that 'uses and buildings located in the vicinity of public safety facilities and training operations are compatible'**" (emphasis added). On page 5 of Mr. Meyers' letter he further observed: "Also the Specific Plan does not address the compatibility of the land uses allowed under the Mixed Commercial Residential area surrounding the District property with the Station 41 use." and "The land use designation of the Station 41 property and surrounding area should be consistent with the current District use and its need for future expansion"(underlining

added).

Subsequently, an MOFD Board Ad Hoc Facilities Committee, which I Chaired, performed an eight-months-long study of the MOFD's future facilities needs. The resultant report was publicly presented to the full MOFD Board at two Public Meetings and was formally adopted by the MOFD's Board as district policy. In so far as I am aware, it remains district policy today. (The report continues to be posted on and accessible via the MOFD's website.) That Facilities Report specifically raised the question: "Should consideration be given to relocating Station 41?" In order to address that question, former MOFD Fire Chief Bradley and I met with Planning Director Lori Salamack and then newly hired Town Manager Jill Keimach to discuss that specific issue -- including potential alternative locations for the station. The advice we received from the Town's staff was that Station 41 should remain in its present location. That recommendation was then included in the resultant Facilities Committee Report. A personal comment: Had I been advised by Ms. Salamack at that time that the Town would be willing to seriously contemplate the possibility of allowing high density residential development immediately adjacent to Station 41 and the fire district's Training Grounds, I would most definitely not have authored and then supported the Facilities Committee Report's recommendation that Station 41 should remain at its present site.

Finally, based upon my understanding of planning law (I was a member of the Town's first planning body -- the Interim Design Review Board -- and also a significant participant in the preparation of the Town's first General Plan) in order to approve the concept of building a high-density residential project smack dab up against Station 41 and the MOFD's District Training Grounds, your Commission would have to find that City Ventures proposal complied with the above-cited Town of Moraga General Plan Land Use element Policy LU4.6. Based upon my above analysis and arguments, I cannot see how you could possibly legally or logically make that finding.

Thank you very much for your consideration of the above.

Sincerely,

Richard J. ("Dick") Olsen
1861 Saint Andrews Drive
Moraga, CA 94556-1057
Phone: 925/376-4386
Fax: 925/376-4319
Mobile: 925/286-8114
E-mail: rjolsen@pacbell.net



July 9, 2014

Town of Moraga
Design Review Board
Attn: Doug Donaldson, Contract Planner
329 Rheem Blvd.
Moraga CA 94556

Re: Applicant – City Ventures
444 Spear Street, Suite 105
San Francisco, CA 94105

Owner – Russell Bruzzone Inc. and Moraga General Properties, LLC
899 Hope Lane
Lafayette CA 94595

Dear Mr. Donaldson,

As you may know, the scenic corridor along Country Club Drive was the original entrance into the Town of Moraga. We ask the Town to preserve the key elements of this historic piece of land for all citizens of Moraga by landscaping the median on Country Club Drive. The Town has an opportunity to create a beautiful corridor showcasing the historic bridge and original urns located in the median.

On behalf of the members of the Moraga Country Club that reside on Country Club Drive, I ask that the Town of Moraga require, as a 'Condition of Approval', landscaping along the median strip located between the existing homes along Country Club Drive and the proposed City Ventures' development (that also has frontage on Moraga Way). The landscaping, which is necessary to mitigate noise and light from the City Ventures development, would include the installation of appropriate berms, trees and shrubs to create a scenic corridor along Moraga's first entrance, known today at Country Club Drive.

We ask this of the Town in order to mitigate noise and light from the increased traffic resulting from the proposed City Ventures' development. Median modifications could have the additional benefit of "traffic calming".

Sincerely,

Donald Maddison, D.Eng.
President, Moraga Country Club Board of Directors

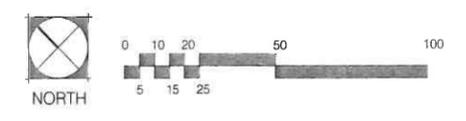
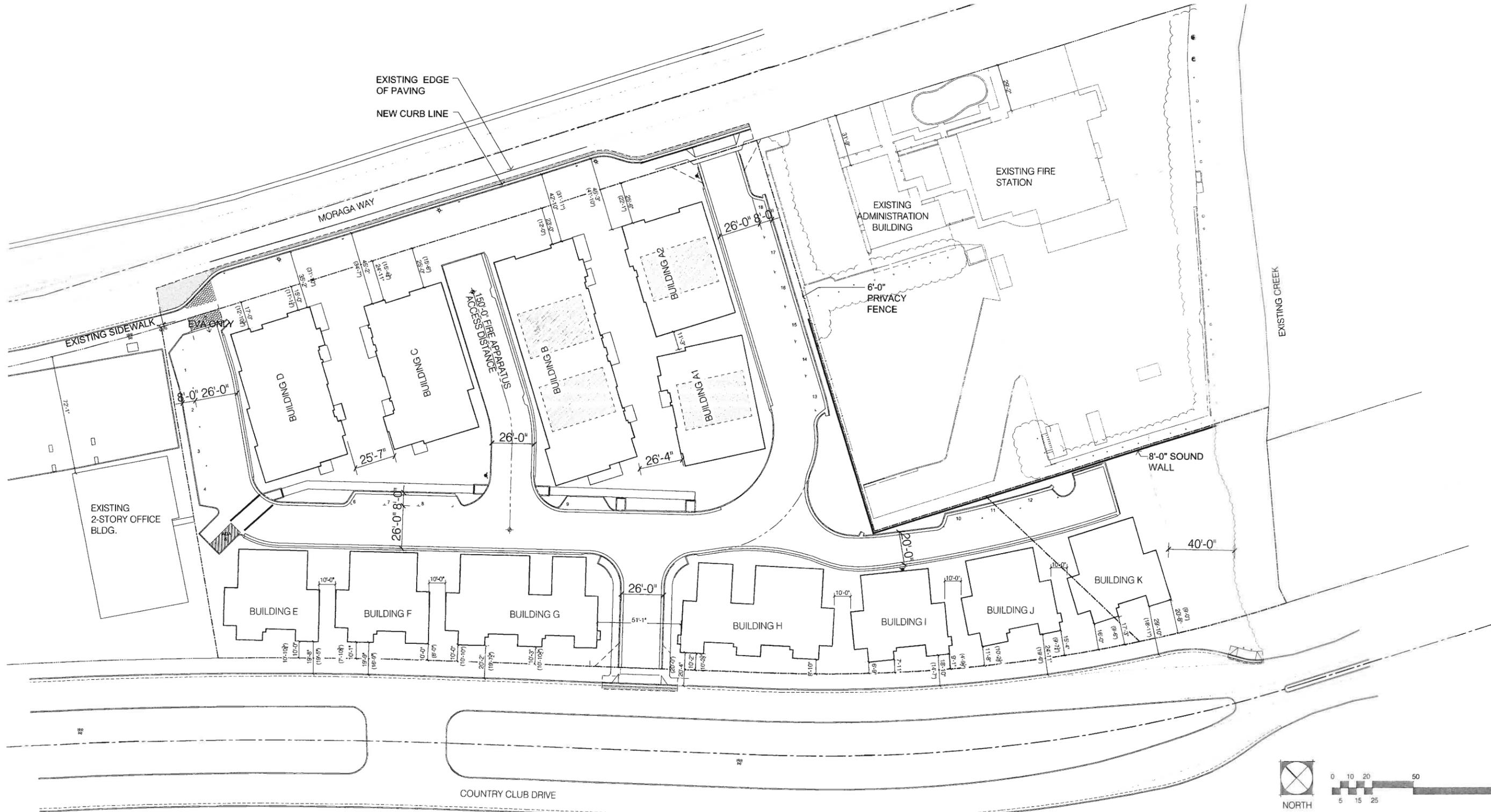
Cc: Board of Directors

ATTACHMENT E

Conceptual Development Plan
March 26, 2015

ATTACHMENT F

Alternative Conceptual Development Plan
March 26, 2015



MORAGA TOWN CENTER HOMES
 CITY VENTURES
 COUNTRY CLUB DRIVE AND MORAGA WAY
 MORAGA, CA



Architecture | Planning | Interiors
 444 Spear Street, Suite 105
 San Francisco, CA 94105
 www.hunthalejones.com
 t. 415-512-1300
 f. 415-288-0288

SITE PLAN OPTION 4 (36 UNITS)
SP4
 SCALE: 1" = 30'-0"
 DATE: 03/26/2015
 PROJECT: 317003.00

ATTACHMENT G

'Driveby' Simulation: <http://bit.ly/1MGKIR8>

ATTACHMENT H

Photographs

Picture 1: View from sidewalk, 1100 Moraga Way



Picture 2: View from sidewalk, 1150 Moraga Way



Picture 3: View from sidewalk, driveway between 1150 and 1100 Moraga Way



Picture 4: View from sidewalk, Moraga Orinda Fire Station 41



Picture 5: View from sidewalk, project site looking southwest towards Indian Ridge



Image 1: Perspective of Building A and B, three stories



Image 1: Perspective of auto court between Building B and C



Image2: Perspective of paseo between Building C and D, two stories



Image3: Perspective of driveway adjacent to Building D



ATTACHMENT I

Applicant Response Letter



March 31, 2015

Ella Samonsky
Associate Planner
Town of Moraga
Planning Department
329 Rheem Boulevard
Moraga, CA 94556
Via email

Re: Moraga Town Center Homes Project, Response to Town Council Comments

Dear Ella:

The Moraga Town Center Homes project was continued at the January 28, 2015, Town Council meeting to allow time for staff to work with us on modifications to the project in response to comments from the Council and concerned citizens regarding building height, massing, and setbacks. Following multiple meetings and conference calls with staff, 8 iterations and modifications to setbacks, height, elevations and building footprints we provided a revised plan for consideration by the Council. The purpose of this letter is to describe the revised plan and the changes that have been made to the Moraga Town Center Homes project design. Additional clarification on the project's traffic analysis and MOFD design considerations is also provided.

Project Modifications

City Ventures is committed to building high quality homes in Moraga and is confident that implementation of the revised plan will contribute to the fabric of Moraga in a way that is consistent with the Moraga Town Center Specific Plan. The revised plan includes the following revisions to address the concerns of Council:

- Remove 3rd story loft element from Buildings C and D. Removal of the 3rd story loft element reduces the maximum building height from 38 feet 4 inches to 35 feet. Removal of the third story loft element decreases the size of 6 townhomes by 546 square feet each, thereby reducing these 6 homes from 2,360-2,384 square feet down to 1,814-1,838 square feet.
- Reduced size of all cottage homes in effort to provide increased setbacks.
- Increased setbacks along Moraga Way. All homes along Moraga Way would be setback 15 to 25 feet 6 inches from the property line (previous plan was 11 to 22 feet) and 35 to 45 feet from the curb (previous plan was 31 to 41).
- Increased setbacks along Country Club Drive. All homes along Country Club Drive would be setback 6 feet 5 inches to 21 feet from the property line (previous plan was 4 feet 9 inches to 10

feet 11 inches) and 19 feet 7 inches to 29 feet 10 inches from the curb (previous plan was 14 feet 7 inches to 20 feet).

- Reduced massing of Building A by breaking apart the six-unit building into two three-unit buildings.
- Adjusted the bend in the roadway behind Buildings H, I, J and K to alter the building placement and increase setbacks.

The revised site plan is the result of many meetings and conversations with town staff, consultants and designers. The proposed revisions address concerns for development along the scenic corridor by reducing height and mass and increasing setbacks. City Ventures understands the Council's concerns regarding building mass and height with respect to the scenic corridor and views of existing ridgelines beyond the project site, and understands removal of the 3rd story loft element on Buildings C and D could help address this concern. City Ventures feels that removal of the 3rd story loft element on Buildings C and D negatively impacts the livability of these homes and negatively affects the architectural design and articulation of the front and rear facades. The 3rd story loft element provides for 546 square feet of living area, provides for articulation along the roof line of the townhome building and is only a moderate reduction to the overall building height. City Ventures appreciates the direction that town staff has provided and is willing to remove the 3rd story loft element as presented in the revised plan if the council concurs.

Traffic Analysis

Fehr & Peers Transportation Consultants provided a traffic analysis for the proposed project, including trip generation. The project trip generation was estimated using rates in the Institute of Transportation Engineers (ITE) Trip Generation (8th Edition) land use number 230 (Residential Condominium/ Townhouse). The resulting trip generation estimates are: 210 daily trips, including 16 AM peak hour vehicle trips and 19 PM peak hour vehicle trips. To present a conservative estimate of vehicle trips, no discounts were taken to reflect transit use or walk/bike trips to adjacent uses. The Specific Plan EIR analysis anticipated development of up to 61 homes on the project site, and the project's generation is about 150 less trips than were included in the EIR analysis.

There was some discussion at the last Council meeting regarding the validity of the ITE Residential Condominium/Townhouse trip rate due to the size of the proposed homes and the nature of the project as an 'attached single-family home' project. ITE defines a Residential Condominium/ Townhouse as ownership units that have at least one other owned unit within the same structure. ITE does not have a land use code for 'large townhomes' or 'attached single-family homes' that could be prescribed to this project. ITE includes a Single-Family Detached land use code and if used for the project would result in the following trip generation rates: 350 daily trips, including 27 AM peak hour vehicle trips and 36 PM peak hour vehicle trips. Even at the inflated rate of Single Family Detached, the project would still be less than analyzed in the Specific Plan EIR.

MOFD Design Considerations

City Ventures has met with MOFD on numerous occasions to review the project and discuss design measures to reduce potential impacts to/from the MOFD station and training operations, including meetings with former Chief Bradley, current Chief Healy, and the MOFD facilities committee. Additionally, MOFD has reviewed and commented on several planning application submittals over the

past two years. At no point in our discussion with MOFD did they challenge the compatibility with housing next to Station 41. Concerns were expressed and solutions were presented at every turn. There was also a time that MOFD ascertained selling a portion of their property to City Ventures for inclusion in the proposed project. It wasn't until the week before the January 2015 Town Council meeting that the MOFD Board directed the Chief to speak the Council hearing about compatibility. City Ventures is concerned that the MOFD's actions indicate an attempt at adverse condemnation of the property.

It's worth noting that infill housing development poses unique design challenges to make sure that the project fits in well within the surrounding development context. City Ventures has developed thriving communities with very happy homeowners in neighborhoods that have adjacent noise generating uses like train tracks, industrial buildings and other business and land uses that may not appear on the surface to be the perfect neighbors. Modern windows and building designs allow noise concerns to be mitigated in ways that was not previously possible. As an example, in the City of Mountain View, City Ventures developed a property adjacent to an Auto Repair Shop with an outdoor air compressor that operated continuously. Those homes are selling for over \$1Million. We've looked around the Bay Area and it is not uncommon to have fire stations and fire training facilities in residential neighborhoods and City Ventures has previously provided numerous examples of those locations and uses.

The development of the proposed project site is regulated by the Moraga General Plan, Moraga Center Specific Plan (MCSP), and Moraga Zoning Ordinance. These documents considered residential development on the proposed project site and provided for policies to help ensure that any new development is compatible with MOFD Station 41. City Ventures has paid close attention to these Town policies and the project's relationship and adjacency to the MOFD training facility has been carefully considered in the design and siting of the project.

1. All homes are designed to back on to the MOFD property. No homes face or have their front door/private patio adjacent to the MOFD property.
2. An eight foot high masonry wall is designed along the shared property line along the rear of the MOFD property and along the shared side property line. The masonry wall stops short of Moraga Way and becomes a six foot wood fence to prevent views of a large block wall for passersby on Moraga Way. The wall transitions to a fence just before the administration building so as to maintain the existing mature trees. (COA 21a)
3. All upper story doors and windows within 60 feet of the shared property line will be sound-rated with an STC rating of 32. Installation of STC 32 rated windows will ensure that interior noise levels will be less than the annoyance level design goals (60 A-weighted decibels (dBA) averaged over a 10 minute period and 50 dBA averaged over 1 hour). (COA 21c)

Items two and three above were influenced by an acoustical report. As part of the site planning and review process, Jeff Pack, acoustical expert, conducted a noise assessment of the MOFD station and training facility. Mr. Pack coordinated with MOFD Battalion Chief Jerry Lee to ensure that the noise monitoring would capture training activities that occur on the MOFD training facilities. The report states that noise from the training and station operations can be mitigated to reduce impacts to residents with implementation of items two and three noted above. Of note, City Ventures commonly incorporates similar sounds attenuation design solutions into our infill housing projects – some of which are located immediately adjacent to active train tracks and freeways.

4. City Ventures shall record a disclosure on each home in the project. The disclosure shall outline MOFD activities at Station 41 and serve as notice to homeowners of on-going training activity and regular station operations. The disclosure shall be recorded on all homes such that this carries through with each subsequent sale in effort to notify the initial owners as well as all future home owners. The language and form of the disclosure shall be reviewed and approved by the Town Attorney and the MOFD Fire Chief. In addition to the Deed Restriction, the project CC&Rs shall include a disclosure of MOFD training and operation activity including a video demonstration of training operations. (COA 19 and 20)
5. The landscape planter area located south of the MOFD property, adjacent to cottage Buildings J and K as shown on the Conceptual Landscape Plan Sheet L1.0 shall be planted with trees to form a landscape screen so as to limit the visibility of training operations from the interior of the new homes. The Final Landscape Plan shall include specific tree types and sizes to provide for adequate landscape screening. (COA 21b)
6. The project shall include a 'warning signal' at the driveway on Moraga Way. The purpose of the 'warning signal' is to stop vehicles from exiting the project site onto Moraga Way when Fire Engines are exiting the station. The design and location of the 'warning signal' shall be reviewed and approved by MOFD as part of Final Design Review. (COA 22)
7. The design of the park area located adjacent to the MOFD property shall be developed as a passive park area and shall not include playground equipment.
8. The final elevations for Buildings H-K will carefully consider placement of operable windows. If feasible, operable windows will be placed on the side elevations so as to eliminate operable windows adjacent to the rear property line of MOFD.
9. The limits of grading for the project shall extend onto the MOFD property so as to remove the un-useable mound of the dirt that extends from the project site onto the MOFD property. The removal of the dirt mound on the MOFD property would create additional usable surface area for MOFD and would also avoid the need for a retaining wall on the project site. (COA 23)

Please feel free to contact me directly with any questions.

Sincerely,



Charity Wagner
Director of Development
444 Spear Street, Suite 200
San Francisco, CA 94105
Charity@cityventures.com

ATTACHMENT J

Correspondence

Dear Ms. Keimach,

Thank you so much for answering, and so promptly. I greatly appreciate it.

Thank you.

Margaret

On 2/3/15 12:55 PM, "Jill Keimach" <jkeimach@moraga.ca.us> wrote:

Thank you for the email Margaret. I can forward it to the Council.

From: M.P, [<mailto:jms74@earthlink.net>]

Sent: Tuesday, February 03, 2015 10:46 AM

To: Jill Keimach

Subject: Business in Moraga

Dear Ms. Keimach,

At this week's Town council meeting there was a lot of talk about the **loss of commercial success** in Moraga. Much of this is because of the following (not because of lack of development): **The rents for decades have been 3 times more than San Francisco and coastal offices. Rheem's leases and practices are unfair to the tenants.** They have triple net leases and are constantly surprised by enormous pass through costs. *Tuesday Morning moved out because their rent was increased.* The realtor has admitted to only wanting big box stores and discouraging small businesses. Well he seems to be driving the big boxes out. I wanted to bring my business to Moraga for decades, but stayed in San Francisco and a coastal town because it was much cheaper. I would not be able to run my business successfully with such high Moraga rent. So I spend hours commuting. The fact is we are an "end of the road, commuting, bedroom community" and some big business won't come here for that reason. Plus since the Specific Plan was created, the entire world of commerce has changed with the internet...It appears the Specific Plan which was created 10 years ago (according to Mr. Metcalf) and commercialization in Moraga is also a victim of the changing times.

Change is also one of the reasons many of us want a separate EIR done for the CV project and times. Things are different now since the plan was written, especially the issue of **water**. Furthermore, it is a known fact that EIRs for Specific Plans are very general.

Please do not give City Ventures the 20 feet of **Moraga Way easement** or the Country Club Drive 5 - 6 feet. Especially for free! It is basic city engineering sense to keep Moraga Way available for expansion considering all of the development you intend on doing. Placing the sidewalk farther into the road on CCD is not efficient. Make City Ventures fit their project on their own land, not the town's. It was the easement that made Commissioner Comprelli so furious and made him vote *against* the project. He said the city engineer should be fired for allowing that.

Please honor Moraga's plans, codes and "semi-rural" nature. Please only build smart development in our gorgeous town.

A longtime Moraga resident.

Margaret