Town of Moraga	Agenda Item
Public Hearings	X. A.

Meeting Date: May 13, 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 and April 8, 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 and April 8, 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

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

Background

Moraga Town Center Homes Conceptual Development Plan Approval

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

Appeal

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

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

Town Council Hearing January 28, 2015

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

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

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

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

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

Town Council Hearing April 8, 2015

On April 8, 2015 the Town Council continued the hearing to May 13, 2015. The public hearing was not opened and no discussion or public testimony on the project was received by Town Council. Late correspondence received at the April 8, 2015 meeting has been added to Attachment J and correspondence received since the previous hearing date has been included as Attachment K.

Discussion

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

Initially, the Applicant provided a revised site plan that would relocate one unit from Building C (adjacent to Moraga Way) to the Country Club Drive side of the site; thereby increasing the Moraga Way setback. The revised site plan also included changes to the size and placement of Buildings I, J and K on Country Club Drive to increase setbacks in this area. Although the plan did result in some increased setbacks, the changes also reduced the area of the common open space[1] (pocket park) adjacent to the creek.

Following that submittal, staff discussed with the applicant the option of removing all of the three story loft elements which would reduce the maximum building heights by approximately 5 feet, to 35 feet in height or less. The applicant has stated that because of the significant reduction in saleable square footage, this proposal would require the

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

addition of a 37th unit to the project. This unit could be added along Country Club Drive (turning a duplex building into a triplex), a change that would also reduce the size of the pocket park. After considering visual simulations of the all-two story option and the initial configuration with three story buildings, staff concluded that there would be a de minimus reduction in any scenic corridor impacts with a height reduction for Buildings A and B. Moreover, any benefits of height reduction would be outweighed by the greater impacts of the additional unit positioned along Country Club Drive.

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

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

Revised Conceptual Development Plan

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

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

Setbacks

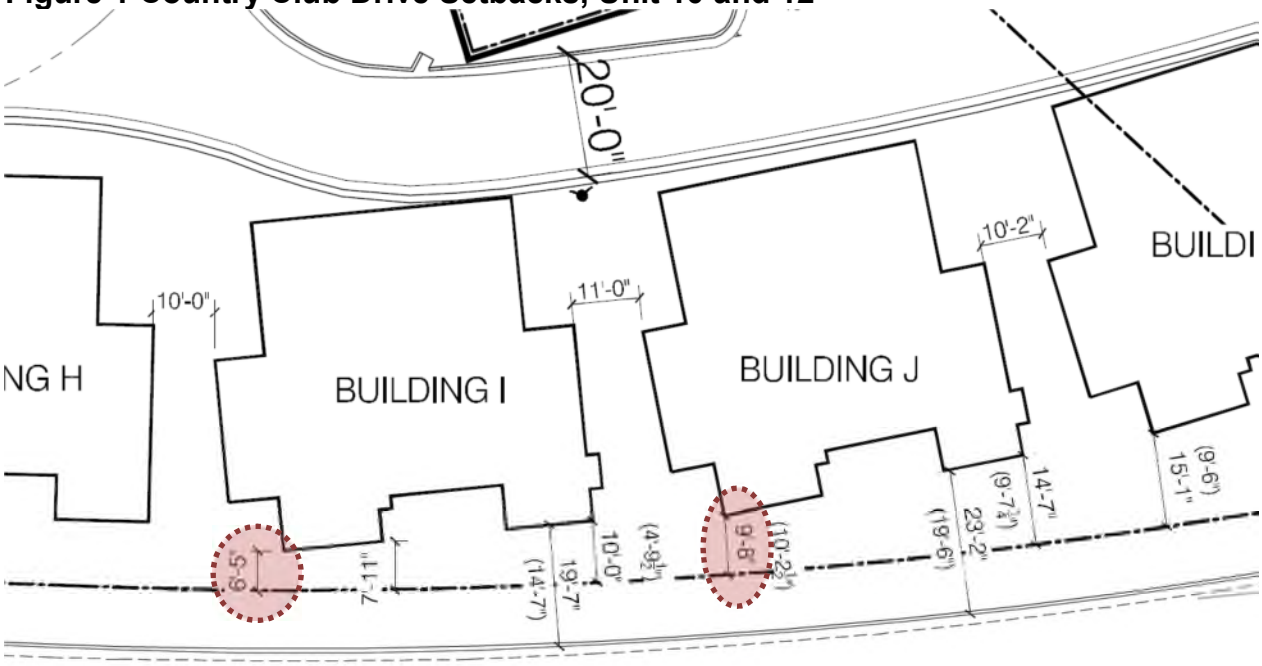
In the proposed CDP, Buildings A, B, and C setbacks were increased so that all buildings on Moraga Way have a minimum setback of 15 feet from the front property line. (This setback is in addition to the approximately 20 foot landscaped area between the edge of roadway and the property line.) Buildings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

would exceed 20 feet, would be comparable to the front setback of a standard single-family home in the 3DUA zoning district. The minimum 15 foot setback is consistent with recommended landscape buffer for commercial and multifamily residential developments in the scenic corridor design guidelines.

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

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

Figure 1 Country Club Drive Setbacks, Unit 10 and 12



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

Figure 2: Aerial Of Country Club Drive Townhomes

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

Figure 4: Townhomes, view from Country Club Drive

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

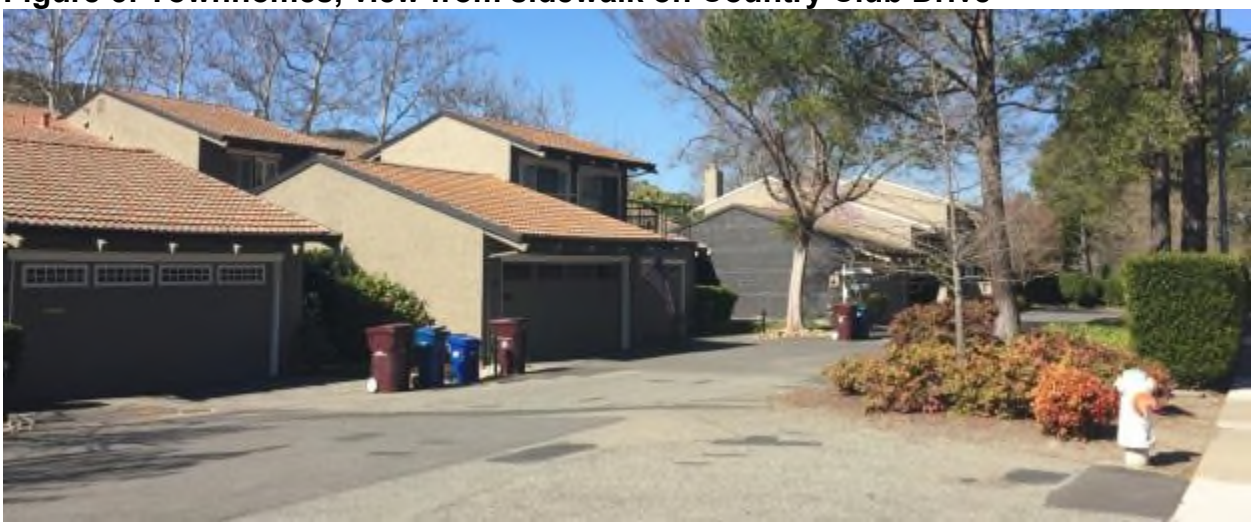


Figure 6: Townhomes, view from Country Club Drive

Building Massing and Height

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

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

Ridgeline Views

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

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

Figure 8: Perspective at Building D and 1150 Moraga Way

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,

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

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

Compatibility with the Moraga Orinda Fire Station

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

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

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

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

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

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

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

Country Club Drive Improvements

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

Traffic Impacts

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

CEQA Analysis

The project is located within the boundaries of the Moraga Center Specific Plan, which was evaluated under the California Environmental Quality Act (CEQA) in an EIR (SCH # 2000031129) certified by the Town Council on January 27, 2010. Staff evaluated the applicability of the MCSP EIR pursuant to Sections 15162 and 15168 (c) of the CEQA Guidelines and documented through use of the CEQA Checklist (Appendix G of the CEQA Guidelines), that the proposed Town Center Homes project will not have any potentially significant environmental effects that were not adequately analyzed in the earlier EIR, and that the mitigation measures from the earlier EIR can be applied to the proposed project. Furthermore, there is no new information of substantial importance which was not known and could 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.

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

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

Conclusion

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

Fiscal Impact

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

Alternatives

Alternative A:

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 Denying the Appeal, Upholding the Planning Commission's Decision and Approving the Revised Conceptual Development Plan for the Moraga Town Center Homes Project with Modifications; or

Alternative B:

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

Alternative C:

Provide alternate direction to staff and/or the applicant.

Recommendation

It is recommended that the Town Council take the following actions:

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. Adoption of Resolution No. __-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.

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

Attachments:

A. Draft Ordinance No. __-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 (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD)
B. 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 with Modifications
C. Staff Report, January 28, 2015 Town Council Hearing
D. Appeal, December 1, 2014
E. Conceptual Development Plan, March 26, 2015
F. Alternative Conceptual Development Plan, March 26, 2015
G. 'Driveby' Simulation: http://bit.ly/1MGKIR8
H. Photographs
I. Applicant Response Letter
J. Correspondence, April 8, 2015 meeting
K. Correspondence, May 13, 2015 meeting

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 the hearing was continued to April 8, 2015; and

WHEREAS, on April 8, 2015 the town Council continued public hearing to May 13, 2015; and

WHEREAS, the Town Council continued the proposed rezone, text amendment and an appeal from the Planning Commission's decision on the Conceptual Development Plan at a public hearing on May 13, 2015 received testimony from the public, appellants and Applicant; 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]
12-PD-MC[5]	2,500 sq. ft. [4]

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 May 13, 2015 and was adopted and ordered published at a regular meeting of the Town Council on May 27, 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

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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 continued the public hearing to May 13, 2015; and

WHEREAS, on May 13, 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.

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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.

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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 May 13, 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 May 13, 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.

<u>Planning Special Conditions of Approval</u>

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

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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.

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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

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and A2	
Other Standards	
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.

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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 May 13, 2015 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Roger N. Wykle, Mayor

ATTEST:

_____
Marty C. McInturf, Town Clerk

DRAFT

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

De Novo Review

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

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

Background

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

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

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

Regulatory Context

Moraga Center Specific Plan

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

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

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

Moraga General Plan

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

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

general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.[1]"

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

Scenic Corridor

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

Planned Development District, General Plan and Zoning Designations

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

MMC Chapter 8.48 applies the PD Designation in combination with a residential land use designation corresponding to the allowed density of the site. The MMC currently includes land use designations and standards for the following residential densities: 3-DUA, 6-DUA, 10-DUA-RP[2] and 20-DUA districts.

<u>Site Setting and Site Description</u>

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

[1] Planner'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.

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

Figure 1: Project Site and Vicinity

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

<u>CEQA Determination</u>

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

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

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

In particular, the analysis finds that there is no involvement of new significant environmental effects nor 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 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. A Mitigation Monitoring and Reporting Plan adopting and applying those mitigation measures to the proposed project has been prepared.

Project Description

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

Zoning Text Amendment and Rezoning

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

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

8.48.040 Development standards for single-family residential uses in planned development district.

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 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]
12-PD-MC[5]	***2,500 sq. ft.[4]***

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

Conceptual Development Plan

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

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

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

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

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

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.

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

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

Circulation and Parking

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

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

Architecture

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

Landscaping and Streetscape

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

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

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

Design Review Board Review

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

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

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

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

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

Planning Commission Review

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

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

Neighbor/Community Concerns

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

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

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

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

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

Appeal of Planning Commission Decision

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

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

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

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

Discussion

A. Visual Impacts and Conformance with the Scenic Corridor Guidelines

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

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

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

General Plan policy Community Design (CD) 1.3, View Protection, states that the Town should "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, protecting ridgelines, hillside areas, mature native tree groupings, and other significant natural features." Other Community Design Element policies such as CD 1.4 Canyon and Valley Areas, CD 1.5, Ridgelines and Hillside Areas and CD 1.6 Vegetation, all encourage preservation of certain natural areas from development and preservation of natural resources, such as mature trees and waterways that promote the semi-rural character of Moraga. In the context of these and other Community Design policies, a reasonable interpretation is that the Town preserves views through protecting scenic resources, among which is the visual quality of the Town's scenic corridors.

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

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

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

Building Design and Articulation

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

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

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

Building Height

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

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

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

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

Consistency with the Scenic Corridor Guidelines

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

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

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

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

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

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

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

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

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

Image 1: Rendering Suburban Office Building from Moraga Way

Image 2: Rendering Proposed Project from Moraga Way

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

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

B. Neighborhood Compatibility and Concerns of MOFD and the Moraga Country Club Homeowners Association

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

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

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

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

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

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

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

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

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

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

Compatibility with the Moraga Country Club Residential Neighborhood

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

Figure 3: Aerial of Townhomes on Country Club Drive

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

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

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

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

Compatibility with Public Safety Facility

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

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

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

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

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

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

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

C. Lamorinda Traffic Impacts

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

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

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

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

D. Streetscape on Country Club Drive

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

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

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

E. Precedence of Project Approval

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

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

Findings for Approval of Rezone and Conceptual Development Plan

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

- 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 streets and thoroughfares proposed are 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;
- Development other than single-family residential can be properly justified and is consistent with the general plan;
- Any proposed exception from standard ordinance requirements is warranted by the design and amenities incorporated in the conceptual development plan, in accord with adopted policy of the planning commission and town council;
- The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- The development conforms with the general plan; and
- Existing or proposed utility services will be adequate for the population densities proposed.

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

Conclusion

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

Fiscal Impact

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

Alternatives

Alternative A:

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. __-2014 the Appeal, Upholding the Planning Commission's decision and Approving the Conceptual Development Plan for the Moraga Town Center Homes Project; or

Alternative B:

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

Alternative C:

Provide alternate direction to staff and/or the applicant.

Recommendation

It is recommended that the Town Council take the following actions:

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. __-2014 Considering the Appeal, Upholding the Planning Commission's decision and Approving the Conceptual Development Plan for the Moraga Town Center Homes Project.

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

Attachments:

- **A.** Draft Ordinance No. __-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 (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office (SO) to 12-DUA Planned Development (12-DUA-MC-PD)
- **B.** 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
- **C.** Planning Commission Resolutions 19-14
- **D.** Planning Commission Resolution 20-14
- **E.** Appeal Letter, Bowhay, Coane and Olsen, December 1, 2014
  - I. Letter Correcting Appeal Information, Olsen, January 22, 2015
- **F.** Staff Report to Planning Commission, November 17, 2014
  - **I.** Draft Resolution No. #-2014 Approving the Conceptual Development plan
  - **II.** Draft Resolution No. #-2014 Recommending Amending Chapter 8.48 and Rezoning to a Planned Development District
  - **III.** Design Review Board Action Memorandum
  - **IV.** Moraga 2002 General Plan Conformance Analysis
  - **V.** Moraga Center Specific Plan Design Guidelines Conformance Analysis
  - **VI.** CEQA Document and Mitigation Monitoring and Reporting Plan
  - **VII.** Correspondence Received
  - **VIII.** Parking Scenarios for Country Club Drive
  - **IX.** Project Plans, received July 31, 2014
- **G.** MOFD Communication, September-November , 2014
- **H.** MOFD Memorandum, January 21, 2015
- **I.** Communications
- **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:

-<u>LU1.3 Residential Building Height</u> -- 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 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

meyers | nave riback silver & wilson
professional law corporation

Steven R. Meyers
Attorney at Law
510.808.2000

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's[1] 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

1122003.5

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 <u>and its need for future expansion</u>"(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

MORAGA
COUNTRY CLUB

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".

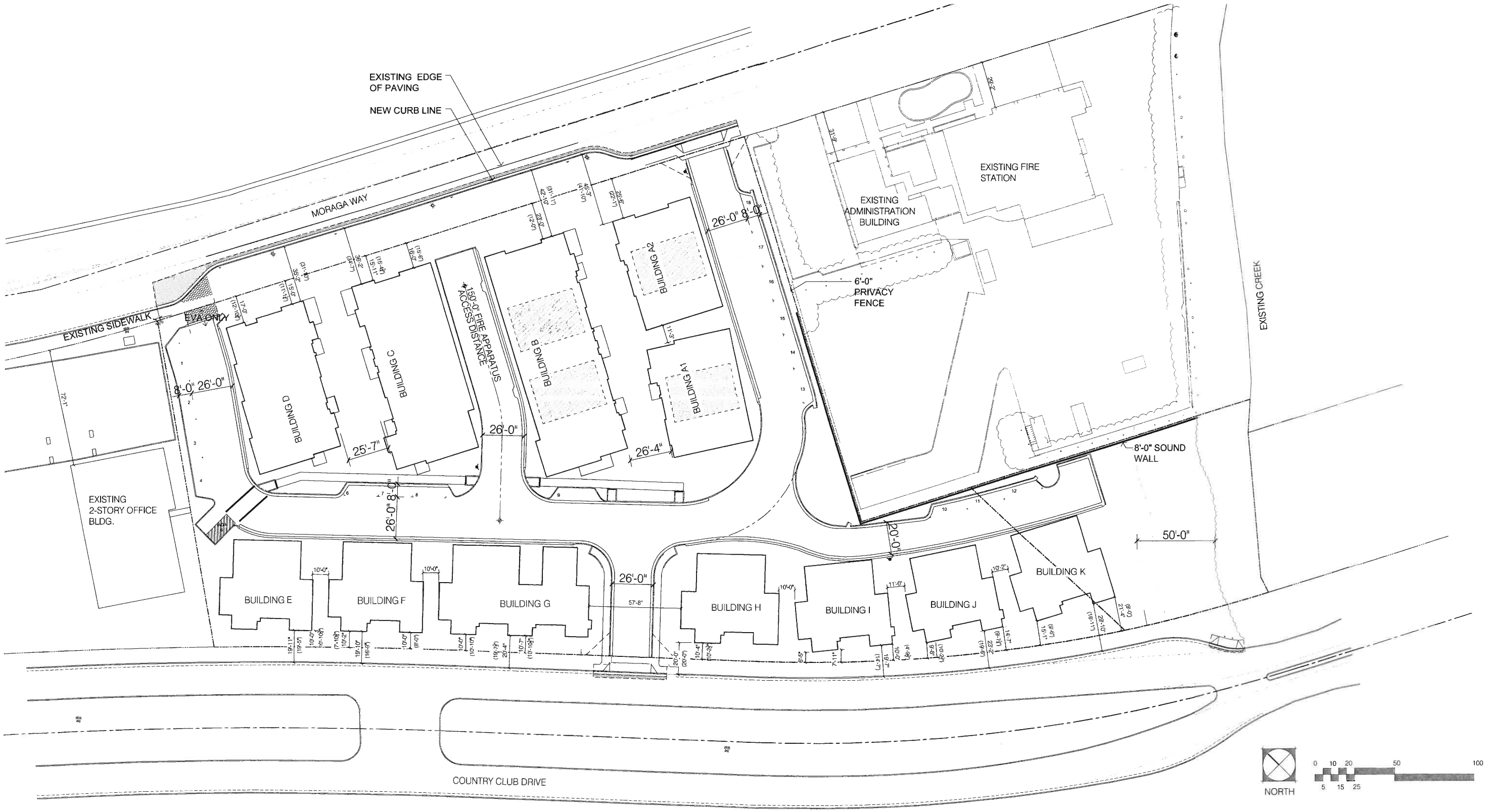
Sincerely,

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

Cc: Board of Directors

ATTACHMENT E

Conceptual Development Plan
March 26, 2015



City Ventures

MORAGA TOWN CENTER HOMES

CITY VENTURES

COUNTRY CLUB DRIVE AND MORAGA WAY

MORAGA, CA

HUNT HALE JONES

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 3 (36 UNITS)

SP3

SCALE: 1" = 30'-0"
DATE: 03/26/2015
PROJECT: 317003.00

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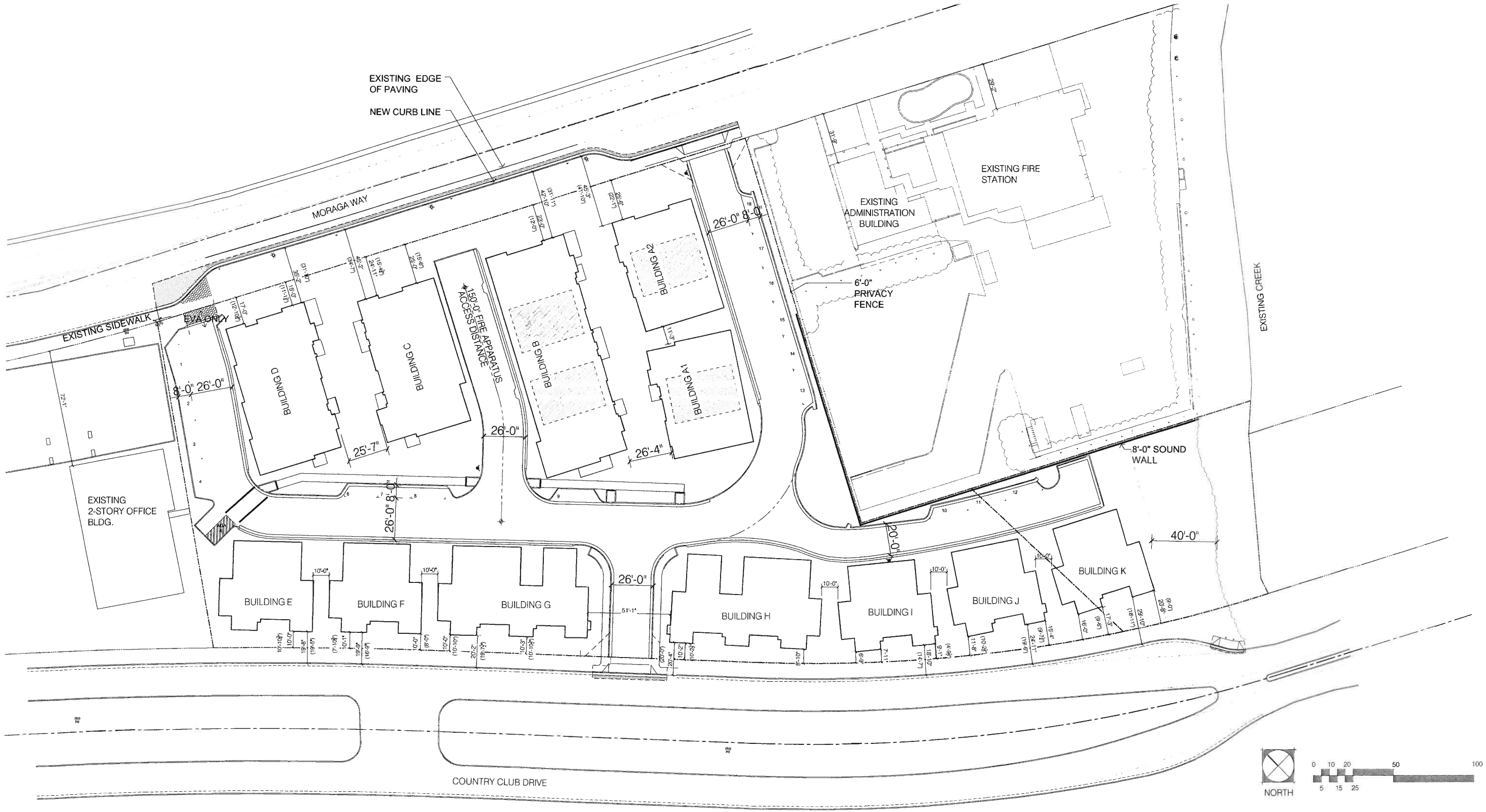
©HUNT HALE JONES ARCHITECTS

ATTACHMENT F

Alternative Conceptual Development Plan
March 26, 2015



City Ventures

MORAGA TOWN CENTER HOMES

CITY VENTURES

COUNTRY CLUB DRIVE AND MORAGA WAY

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SITE PLAN OPTION 4 (36 UNITS)

SP4

SCALE: 1" = 30'-0"
DATE: 03/26/2015
PROJECT: 317003.00

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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

City Ventures
REAL ESTATE INVESTMENT

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 a 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
April 8, 2015

Town of Moraga

TOWN CLERK'S DEPARTMENT

MORAGA TOWN COUNCIL MEETING
APRIL 8, 2015

LATE CORRESPONDENCE RECEIVED FOR ITEM:

PUBLIC HEARINGS

A. Moraga Town Center Homes Project

Conduct a Public Hearing and 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 §8.48.040 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)*

From:	William Booth
To:	rwykle@moraga.ca.us; parth@moraga.ca.us; mmetcalf@moraga.ca.us; dtrotter@bowlesverna.com; tonada@moraga.ca.us
Cc:	Charity Wagner; "Sarah Horvitz"
Subject:	City Ventures Project
Date:	Wednesday, April 08, 2015 9:04:20 AM

Mayor Wykle and Members of the Town Council --

My name is Bill Booth and my wife, Christie, and I have lived in Moraga since 1976. We both support the proposed City Ventures Project to construct new town homes on the currently vacant lot located between Moraga Way and Country Club Drive, and we urge the Council to approve this much needed new housing project for our community.

We live at 67 Carr Drive, we are golf members of the Moraga Country Club and we drive along Country Club Drive several days each week. We also are loyal customers of CICi Cafe and we walk our dog along Country Club Drive. We have considered this vacant lot an eyesore for many years and wondered why it had not been developed. The office buildings at the western end of the block are attractive, as is the fire station facility closer to the eastern end of the block, but the weed-infested lot in the middle is simply an ugly introduction to Moraga. An attractive new housing development on the site will be an enormous improvement to the visual approach to the Town Center.

My wife and I have also been concerned for years over the state of the shopping center; the condition of the physical plant, the empty suites and the lack of quality retail establishments are all matters of concern. We suspect that Moraga may have the worst Safeway store in the company's entire inventory, and it's the only grocery option left in the Town. Clearly, Moraga needs a substantial upgrade of the facilities in and around the shopping center. It needs a "center", a focal point where residents congregate, interact and maintain their business and social ties. Thus, we were heartened when the Town approved its Moraga Center Specific Plan. Its vision of an improved retail center surrounded immediately by new residential units offers the promise of creating that "center". We find the idea that residents might be able to, and choose to walk to retail very attractive.

Thus, we were pleased to hear of the City Ventures Project. It offers the first of what are hopefully a number of new residential housing projects surrounding the Town Center. We are stuck by its design as well - it encourages its new residents to leave their cars in the garage and to walk to retail. The feature of front doors and porches immediately facing Country Club Drive is attractive, particularly in stark contrast to what is currently a solid wall of garage doors on the south side of Country Club Drive. The proposed building has architectural interest as well.

We understand that some residents have raised concerns over increased traffic on either or both Country Club and Moraga Way. We think these concerns are overstated. The number of home swim meets at Moraga Country Club is actually quite limited (less that 10 per year) and we are aware of no other MCC events that create parking stress on Country Club Drive. Our understanding is that the project will provide sufficient off-street parking for all of the new units to have 2 plus spaces. We have also heard concerns regarding the width of Country Club Drive and its median strip. We agree that Country Club should be widened by narrowing the median strip, indeed we think this should occur regardless of the proposed City Venture project. With this new housing project, Country Club Drive could be a really attractive street and alternative entry to Moraga.

Perhaps most important to us, however, is the fact that this new project will breath some economic life into our little town. Every community needs to continue to invest in its infrastructure. Each needs to grow and evolve. New investment is absolutely essential for the economic and social health of the Town. Every community risks becoming stale and stagnant; those who place the status quo on a pedestal run the serious risk that said status quo deteriorates over time. This is certainly the case with our shopping center. The proposed City Ventures Project is an opportunity to breath some life into our Town and we certainly hope that you will vote to approve it.

Sincerely, William and Christine Booth

Kelly Clancy

From: Marty McInturf
Sent: Wednesday, April 08, 2015 4:07 PM
To: Roger Wykle; Mike Metcalf; Phillip Arth; Teresa Onoda; Dave Trotter
Cc: Jill Keimach; Ellen Clark; Kelly Clancy
Subject: FW: 4/8 Town Council Meeting - City Ventures Project

FYI – Correspondence regarding the City Ventures project.

Marty

Marty McInturf
Town Clerk
Town of Moraga
925-888-7022
mmcinturf@moraga.ca.us

From: Lucy Dendinger [mailto:ddendinger@comcast.net]
Sent: Wednesday, April 08, 2015 4:04 PM
To: Marty McInturf
Subject: 4/8 Town Council Meeting - City Ventures Project

To The Moraga Town Council,

I am submitting my written support for the City Ventures project on Moraga Way. I have paid close attention to the project and believe that City Ventures has proved themselves to be a company that has listened to and accommodated the numerous requests made of them over the last several years.

It is my understanding that City Ventures has held 7 community meetings and the meeting tonight (April 8th) is the 10th public hearing. They have been open to ideas and responded to countless comments during these meetings held over the last 2 years. The project has change a lot in response to the concerns of community leaders and residents. They have also been receptive to receiving direct phone calls from the community, as the phone number of the director of development is posted on a large sign on the proposed site. That certainly speaks to transparency and an open door policy.

I also understand that the changes proposed in the most current revised plans respond to the council comments received at the last meeting in January.

- All homes are setback further along Moraga Way and Country Club Drive.
- All cottages are smaller footprints in order to provide increased setbacks.
- There were 12 three story homes in the January plan and now there are only 6.
- Views of the ridgeline are still prominent and visible through the walkways between buildings.

As well, regarding the scenic corridor, I would like to point out that as I drive down Moraga Way, I am struck by the lack of "charm". I see a dilapidated walnut shelling facility, an rv/trailer storage yard, an unmaintained lot over grown with weeds (project site) and several vacant office buildings and units. What I would like to see is a sidewalk lined with maintained landscaping and a thoughtfully designed development, which I think City Ventures has provided.

Everyday during the summer I ride bikes with my daughters to swim practice. We ride on Country Club Drive where there is little to no bike lane and sidewalks that are not wide enough to accommodate children on bikes. As well, it is covered in weed over-growth. It is a precarious ride. I saw in the City Ventures design that they would rework that section of roadway to enhance the landscape of the sad, purposeless yet enormous median, add bike lanes, and increase sidewalk accessibility. This would be an enormous benefit to increasing pedestrian traffic and bicycle safety in our Town.

The City Ventures proposal is consistent with the vision for growth as laid out in the Moraga Center Specific Plan and I respectfully request that it be approved by the Council. Moraga deserves a chance to thrive.

Thank you.

Lucy Dendinger

From:	Mark Mosher
To:	Charity Wagner
Cc:	Sarah Horvitz; John Whitehurst
Subject:	Fwd: Yes on Town Center Homes
Date:	Tuesday, April 07, 2015 11:58:30 AM

Mark Mosher
Principal and Creative Director
Whitehurst Mosher Campaign Strategy and Media
Barnes Mosher Whitehurst Lauter and Partners
660 Mission Street, Second Floor
San Francisco, CA 94105
www.whitehurstmosher.com
www.bmwlandpartners.com
415-812-7500
mark_mosher@bmwl.net

Sent from my iPhone

Begin forwarded message:

From: "Evans, Jason" <jason.evans@camoves.com>
Date: April 7, 2015 at 11:55:44 AM PDT
To: <rwykle@moraga.ca.us>, 'Mike Metcalf' <mmetcalf@moraga.ca.us>, <dtrotter@bowlesverna.com>, <parth@moraga.ca.us>, <tonada@moraga.ca.us>
Cc: <jkeimach@moraga.ca.us>, <markm@bmwl.net>, <carolevans205@gmail.com>
Subject: Yes on Town Center Homes

Mayor Wykle and Town Council,

Vote **YES** to support the Moraga Town Center Homes.

New families will shop at the local stores increasing selection, quality, sales tax, property tax, and road tax.
Service providers will have an increase client base such as dentists, eye, veterinarians and maybe even attract a new doctor. I know there have been doctors looking at Moraga.
Schools will benefit from increase property tax base and student enrollment.

Public services will benefit from increased tax base such as Fire, Police, Parks, Planning and Town Administration.

Price points of the homes will attract new families, area empty nesters and the soon to be retired, keeping existing people in the area and attracting new people.

This small, well designed project will support the Town of Moraga community.

Jason

Jason Evans, SRES
47 San Pablo Court, Moraga
925-788-3889
Jason.Evans@camoves.com
www.JasonEvansRealEstate.com
55+ Senior Real Estate Specialist

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From: Sarah Horvitz
To: Charity Wagner
Subject: Fwd: Supporting Moraga Town Center Homes
Date: Wednesday, April 08, 2015 9:56:02 AM

---------- Forwarded message ----------
From: **Massage Envy - Lamorinda** <clinicmanager699@massageenvy.com>
Date: Mon, Apr 6, 2015 at 9:41 PM
Subject: Supporting Moraga Town Center Homes
To: rwykle@moraga.ca.us, parth@moraga.ca.us, mmetcalf@moraga.ca.us, dtrotter@bowlesverna.com, tonada@moraga.ca.us

To:

Mayor Roger Wykle

Vice Mayor Michael Metcalf

Councilmember Phil Arth

Councilmember Teresa Onoda

Councilmember Dave Trotter

Subject: Please support the Moraga Town Center Homes

Dear Councilmembers:

My name is Joy Moore and I am a small business owner in Moraga. We opened the Massage Envy franchise last year. We found both support and dissention when we opened our business. I believe we have proven to be a valuable addition to the town.

We provide PROFESSIONAL, convenient and affordable massage and facial services. We help our members and guests with pain relief and stress reduction. We have over 500 members and we see approximately 1,000 clients per month. Approximately 50% reside in Moraga and approximately 50% come from surrounding areas and often shop at the Rheem center when they visit our location. We expect to double in size over the next year.

We are very active in the community. I am a board member of the Moraga Chamber of Commerce, and we participate in many community events either as a sponsor, providing chair massage, or donating to local schools, non-profits and events. I believe that our coming to Moraga has been extremely positive for the town and the shopping center.

I say all of this because I want you to know why I support the Moraga Town Center

Homes project and I encourage you to do the same. Change is hard. It is especially hard when you love the area where you live and work because it brings change can generate fear that instead of being a positive, change will somehow be a negative. However, our business is proof that change can bring positive things. Many people were afraid of what our business would bring. We took over 3 vacant storefronts – one had been vacant for almost 10 years. We revitalized our little area of the shopping center. We have brought additional business traffic to the center and we support the community. Change turned out to be positive.

I have looked at the Town Center Homes and I would personally buy one of these homes. I am at a stage in life where I do not need a big single family home, a condo or apartment is not my style, and these homes would be perfect for me. The town needs additional housing and some revitalization in order to keep local businesses and attract some business from surrounding areas. Adding these homes will maintain the character while providing housing for new families like mine.

Ultimately we must all work together to make Moraga the best it can be. Change will happen. Let's work together to make positive change in Moraga and support the Moraga Town Center Homes project and free up the time and energy to work on additional positive change for the community we love.

Sincerely,

Joy Moore

Joy Moore

Spa Director/Co-Owner

Massage Envy Spa Lamorinda

558 Center St

Moraga CA 94556

925-376-3689 (spa)

505-803-3248 (cell)

--

Sarah Horvitz | Vice President Internal Affairs and Membership Chair
San Francisco Young Democrats
240-593-0906 | sarah.r.horvitz@gmail.com

Kelly Clancy

From: Marty McInturf
Sent: Wednesday, April 08, 2015 11:28 AM
To: Ellen Clark; Kelly Clancy
Subject: FW: Moraga Town Center Homes Comments

Categories: Red Category

From: Brent Meyers [mailto:bpmeyers@comcast.net]
Sent: Wednesday, April 08, 2015 11:24 AM
To: Roger Wykle; Mike Metcalf; Phillip Arth; Teresa Onoda; dtrotter@bowlesverna.com
Cc: Jill Keimach; Marty McInturf
Subject: Moraga Town Center Homes Comments

Dear Councilmembers:

I am writing to express my support for the Appeal of the above-captioned item on tonight's agenda and, similarly, expressing my opposition to any amendments to the municipal code, re-zoning, easement provisions, and the proposed resolution denying the appeal and approving the conceptual development plan.

My primary objections to the conceptual development plan are as follows:

- Myriad easements, variances, amendments and rezoning are required. This alone ought to be an indication that the proposed development is inconsistent with our Town's codes and policies, and is ill-suited as proposed (including the most recent revision). The number and nature of proposed changes to the aforementioned items violates the letter and spirit of the laws and standards designed to ensure smart and consistent development in Town. Actually implementing the proposed changes effectively shoehorns an otherwise-incompatible development and favors a nonconstituent, private entity over community members who voted directly for our Town's policies or for the representatives who enacted them.
- The size, height, configuration and proximity to roads of the proposed development significantly blocks views in the town's most important scenic corridor and is inconsistent with our semi-rural environment and purported commitment to protect views and ridgelines, especially in scenic corridors.
- In my opinion, this type of development is better suited for the area on School Street (between Safeway and Moraga Commons) where the Town Center plan envisioned this type of housing along with pedestrian/plaza areas.

Thank you for considering my comments in lieu of being able to attend tonight's meeting.

Best,

Brent Meyers

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Kelly Clancy

From: Marty McInturf
Sent: Wednesday, April 08, 2015 2:33 PM
To: Roger Wykle; Mike Metcalf; Phillip Arth; Teresa Onoda; Dave Trotter
Cc: Ellen Clark; Kelly Clancy; Kenyon, Michelle Marchetta; Karen Murphy (kmurphy@bwslaw.com)
Subject: FW: Town Council 4/8 Continued City Ventures Appeal Hearing - Procedure?

Correspondence regarding the City Ventures item.

Marty

Marty McInturf
Town Clerk
Town of Moraga
925-888-7022
mmcinturf@moraga.ca.us

From: Roger Wykle [mailto:rnwykle@gmail.com]
Sent: Wednesday, April 08, 2015 7:06 AM
To: Marty McInturf; Jill Keimach
Subject: Fwd: Town Council 4/8 Continued City Ventures Appeal Hearing - Procedure?

Hi Marty,

Can we please get this out to all the other council members.

Thanks,

Roger
---------- Forwarded message ----------
From: **Richard J. Olsen** <rjolsen@pacbell.net>
Date: Tue, Apr 7, 2015 at 5:41 PM
Subject: Town Council 4/8 Continued City Ventures Appeal Hearing - Procedure?
To: Roger Wykle <rwykle@moraga.ca.us>
Cc: Denise Coane <denisecoane@comcast.net>, Scott Bowhay <scottbowhay@comcast.net>

Dear Mayor Wykle,

My fellow Appellants and I would greatly appreciate your guidance as to what will be the procedure that the Town Council will follow at tomorrow evening's Continued Public Hearing on the Planning Commission's previous approval of the City Ventures plans for its proposed Moraga Center Townhomes Project. Immediately below is an exchange of E-mails between my fellow Appellant Denise Coane and Town Associate Planner Ella Samonsky in which Ella has suggested that the proceedings will be at your discretion.

As we noted in the letter we sent to the Town Council yesterday, given the timing of the posting of the Town Council meeting notice and the simultaneous release of the related 103 page packet of documents, we have not had adequate time to evaluate City Ventures revised plans. In that circumstance, we believe that the best course would be for the Town Council to simply continue the matter -- without any public, developer or Appellant

comments -- to a date at least 30 days hence. That timing would then afford sufficient time for all parties to evaluate what City Ventures claims are major changes to their plans. If, the changes are, in fact, as major as City Ventures asserts, it might even be appropriate for the Town Council to remand those plans back to the Town Planning Commission for its evaluation.

If, instead, the Town Council were to decide that it wishes to proceed to hear the matter tomorrow evening, then we would request that the public comment period be reopened and that first the Developer (who needs to present their new plans) and then the Appellants, each be given equal and sufficient time to provide their analyses and arguments. In that circumstance, the Appellants will undoubtedly be at a huge disadvantage relative to the Developer, given that City Ventures has had two months to develop their plans, while we will effectively have had only three business days to start evaluating them.

Thank you very much for your consideration of the above and any guidance you are able to provide.

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

On 4/3/2015 4:43 PM, Ella Samonsky wrote:

> Good Afternoon Denise,
>
> Thank you for checking in with me on this. I consulted with the Town Clerk, and since the meeting on 4/8 is a continuation of the Town Council discussion from 1/28, at which the public hearing was closed, it will be at the discretion of the Mayor whether to reopen the public hearing. There is not a standard time period for comment from the applicant, appellant and public in a continued hearing. While I suspect the Council will grant additional time for comment, it is at their discretion.
>
> Sincerely,
>
> Ella
>
> ---
>
> **From:** Denise Coane [mailto:denisecoane@comcast.net]
> **Sent:** Friday, April 03, 2015 3:44 PM
> **To:** Ella Samonsky
> **Cc:** Olsen, Dick
> **Subject:** Appeal 4/8 request for information on the process at the TC meeting
>
> Hi Ella,
>
> You were going to provide us the procedure for the Wednesday 4/8 resumed appeal regarding comment period and etc. It's getting late in the day and I am just getting to the request. Can you send to us today?
>
> Thank you!

Kelly Clancy

From: Marty McInturf
Sent: Wednesday, April 08, 2015 10:53 AM
To: Ellen Clark; Kelly Clancy
Subject: FW: Moraga Town Center Homes project

Categories: Red Category

Correspondence on the Moraga Town Center Homes Project.

Marty

Marty McInturf
Town Clerk
Town of Moraga
925-888-7022
mmcinturf@moraga.ca.us

From: Tony Rodriguez [mailto:tonyrodriguezinmoraga@gmail.com]
Sent: Wednesday, April 08, 2015 10:49 AM
To: Mike Metcalf; Roger Wykle; Phillip Arth; Teresa Onoda; dtrotter@bowlesverna.com
Cc: Marty McInturf; Jill Keimach
Subject: Moraga Town Center Homes project

Dear Mayor and Councilmembers,

I am glad to see that Staff has succeeded in obtaining the developer's agreement to various modifications. I thought the Staff report was one of the most thorough reports that I have read over my 15 years as a Moraga resident. I think the modifications are thoughtful and fair attempts to meet various concerns. But I think the Council should not approve the project without securing further modifications along these lines:

1. All setbacks should be at least 15 feet. I think a lot of the ire about this project stems from it having a crammed layout, and, on a policy level, reflects (1) unhappiness with developers being given the green light to squeeze numerous large homes into small lots (see Via Moraga), and (2) concern about the density of projects that are in the pipeline. In contrast, the proposed Carr development (Tharp/Camino Pablo) appears to reflect a concerted effort to have home/lot ratios that are compatible with the neighborhood and avoid a crammed arrangement. If the MTCH developer cannot find room on that lot to pick up a few feet more of setback, then I think that only confirms that this is indeed a crammed-in project. It is unfortunate that Staff and the Planning Commission did not push back harder and earlier on the setbacks of as little as 4 feet. And I am disappointed that the developer even asked for such minimal setbacks in the first place.

2. The artist's renditions of the landscaping are nice and would enhance the scenic corridor, but the Town should have written commitments as to the quantity/quality of the landscaping on the Country Club Drive and Moraga Way sides. I don't mean itemizing each flower that is to be planted, but I do mean maturity/height/minimum quantities. I am skeptical of the approach that the developer has taken over the years in labeling or calculating things, whether it is the evolution of the use of the term "loft" or providing what I think were dubious traffic estimates, so I urge you to nail down the details.

3. The Staff report refers to MTCH as being walkable from the shopping center, but there is no sidewalk south of the fire station. It seems to me there is a nexus between requiring the developer to install that sidewalk and the construction of a bunch of homes that ostensibly are going to generate foot traffic to the shopping center. Hopefully the affected property owners won't mind too much - it would be an improvement to that somewhat tattered-looking section of the block.

4. The adopting resolution should state that compatibility of any other project with MTCH density, setbacks, etc., will not be a factor supporting approval of the other project. I think there is a lot of concern in the community that developers and/or Staff have or are going to get the impression from Via Moraga and from MTCH that densely arranged projects are "in" in Moraga and that approval of one such project helps to clear the path for future similar projects.

Thank you for your time and consideration. Good luck with the meeting tonight. I hope that the public comment period includes thoughtful and respectful articulations of what is best for our special town, without overheated rhetoric or worse.

Tony Rodriguez
1205 Larch Avenue

Kelly Clancy

From: Marty McInturf
Sent: Wednesday, April 08, 2015 2:07 PM
To: Ellen Clark; Kelly Clancy; Teresa Onoda
Cc: Jill Keimach
Subject: FW: Support for Moraga Town Center Homes Project

It appears the three of you did not receive this email.

Marty

Marty McInturf
Town Clerk
Town of Moraga
925-888-7022
mmcinturf@moraga.ca.us

From: David W. Trotter [mailto:DTrotter@bowlesverna.com]
Sent: Wednesday, April 08, 2015 1:57 PM
To: Marty McInturf
Cc: Jill Keimach
Subject: FW: Support for Moraga Town Center Homes Project

FYI.

From: Matt Shriner [mailto:mshriner@brightstarcare.com]
Sent: Wednesday, April 08, 2015 1:16 PM
To: rwykle@moraga.ca.us; parth@moraga.ca.us; mmetcalf@moraga.ca.us; David W. Trotter; tonada@moraga.ca.us
Cc: Matt Shriner
Subject: Support for Moraga Town Center Homes Project

Dear Mayor and City Council Members:

Please support the Moraga Town Center Homes project. As a business owner I feel it's location can help the restaurants and businesses thrive creating a walking friendly neighborhood. I also see this as a property owner's rights issues. If no new development is ever allowed, we diminish the land and property values that individuals own and invest in. This is a project that offers our town the opportunity for sensible and environmentally friendly development. In addition, this project will turn a what is now a dirt lot into a vibrant neighborhood for families. That's why I support this project and encourage you to do the same. Thank you.

Best regards,

MATT SHRINER, CSA
OWNER / PRESIDENT
BrightStar®

329 Rheem Blvd., Suite A
Moraga, CA 94556

P 925 284 8888 | **F** 925 262 2362

mshriner@brightstarcare.com
brightstarcare.com
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From:	Yank Eppinger
To:	rwykle@moraga.ca.us; parth@moraga.ca.us; mmetcalf@moraga.ca.us; dtrotter@bowlesverna.com; tonada@moraga.ca.us
Cc:	Charity Wagner; Sarah Horvitz; Bill Booth
Subject:	City Ventures Project
Date:	Sunday, April 05, 2015 8:37:57 AM

Town Council Board and Respected Mayor — My name is Yank Eppinger and reside on Hazelwood Place, one and one half blocks, from the long debated site of the City Ventures project. I am also a long time member in good standing of the Moraga Country Club. Unfortunately or maybe not I will be unable to attend your meeting on April 8th due to long standing travel commitments. You have heard from me prior via the written word and in person on this subject many times.

First I respect your patience. For many days, weeks, months, and years you have heard and others before you, from the same greying community uttering the same irrational reasons not to approve this development. I, as resident, for over forty years, could not disagree more. Our lovely community needs a development like this to perhaps stimulate our stagnant community. While this 36 unit by itself will not cure all of our ills it may pave the way for younger families, opportunity for long time residents to down size, and help the Moraga community grow at positive pace not seen since the 1990s.

I know one argument is a traffic concern. Valid yes - Whether you put one additional car, ten cars, thirty six cars on the road in Moraga this will increase traffic - no debate but a price we pay for living in this cul de sac community.

Scenic corridor - let me just add one element to this definition - As i walked Country Club Drive from School Street to the MCC I counted 17 garages facing or seen from Country Club drive … Scenic corridor I think not … The City Ventures I believe does not have one garage to be seen from that corridor …

I will not go into specifics as I have done so in prior discussion but our Town has not grown since the early ‘90s… We are aging, we are stagnant as witnessed by the long discussed lack of retail and culinary development. Will approval of this development be the total answer? - no - it will help.

Lastly your own Planning Commission has worked diligently with your concerns and City Ventures to create a viable living community within the guidelines of the approved parcel. I urge you to finally approve this much needed home development for our town.

Respectfully,

Yank Eppinger
yeppinger@comcast.net
c 415 990 7271
h 925 376 6110

RECEIVED
APR 06 2015
TOWN OF MORAGA

April 6, 2015

Town Council
Town of Moraga
329 Rheem Boulevard
Moraga, CA 94556

Re: Moraga Town Council Continued Public Hearing Scheduled for April 8, 2015 on the Appeal of the Planning Commission's Decision to Approve the Conceptual Plan for the Moraga Town Homes Project

Dear Town Council Members:

We are in receipt of the Agenda and 103 pages of Packet materials for the above-subject proceeding. We wish to offer the following initial objections to the new development proposal and to the Staff's report and exhibits:

1.**The timing of the posting of the materials for public review failed to provide sufficient notice and opportunity for the public's and the Appellants' review prior to the currently scheduled Continued Public Hearing date and thus will result in the denial of due process to the Appellants and other interested parties (if the Council plans to vote as the Staff suggests)**.

The packet was not posted for public review until Friday, April 3, 2015 at 4:54 PM PDT – which, as you know, was both during the Good Friday services that commenced Easter Weekend and the first night of Passover. It was also during the Spring Break/Family Vacations period observed by both the Moraga Elementary School District and the Acalanes Union High School District. Many of those involved in these religious and family activities will not even become aware of the Town's posting until today. Accordingly, the Town's late Friday notice was inadequate to allow the Appellants and others time to review and respond to the changes proposed to the development plan before the Town Council's proposed April 8th vote on those revised plans.

The new packet is 103 pages long, with many technical changes and descriptions, which will require expert review and consideration, which

exacerbates the inadequate notice by effectively eliminating Appellants' and the public's opportunities to adequately prepare to be heard on the new proposal.

For those reasons alone, if the Town council decides to hold the April 8 Hearing on the new plan, we urge the Council not to vote on the new draft proposal. Instead, the Council should continue public comment on, and the Town Council's discussion of, the revised proposal for at least one month.

2. **The Town violated the Public Records Act regarding the new proposal**.

On April 1st, 2015, Appellants Denise Coane and Richard Olsen asked Town Staff for the opportunity to review and copy the new draft site plans and other related materials. Instead of providing a copy of the now-posted revised plan and the related documents, the Town Staff (through Ms. Ella Samonsky) only briefly shared the two sheets of the alternate Site Plans and orally described changes from City Ventures previous plans. Neither action was adequate for a complete analysis of the changes made to the development or to consider the merits of the new plan.

Ms. Samonsky refused to provide any other related materials in advance of the packet's public distribution, and refused to provide a copy of the site plans. That decision violated Government Code section 6253, the relevant portion of which is set out below:

> (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided.
> Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.
>
> (b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, <u>upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the</u>

records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

3. Based upon our very preliminary review, the modified site plan continues to suffer from violations of the Town of Moraga General Plan.

The minimal setback and building footprint shifts and slight height change that City Ventures has proposed will have almost no practical impact on the project's visually disruptive mass which would create a walled effect along the Moraga Way Scenic Corridor. If story poles were erected that were faithful to the developer's proposed changes, Moragans would not notice any appreciable difference between them and the story poles that previously revealed what would be the project's unsightly visual impact on our Town.

The project continues to be completely inconsistent with the Town's semi-rural character. It would destroy the appearance of the Moraga Way Scenic Corridor – the main entrance into the Moraga Valley half of our Town – and would severely damage that Scenic Corridor's viewshed. The proposed project remains inconsistent in its design, scale and character with the adjoining Moraga Country Club properties. If approved, it will undoubtedly result in a loss of economic value for those property owners. The proposed project's setbacks are out of alignment with the setbacks of the adjoining office properties. In multiple other ways the project would inflict severe damage upon our Town's appearance, while also serving as a precedent for future, potentially equally destructive developments.

As was fully described in our Appeal, which is incorporated here by reference, the proposed project does not conform to the Town's Scenic Corridor requirements as contained in the General Plan Development Guidelines Subsection 8.132.050 Paragraphs B1(compatible visual relationship with the natural terrain); B2 (buildings should not create a walled effect) and B4 (limiting scale and siting in order to reduce visual dominance and obstruction of existing landforms).

The revised Site Plans also do not conform to multiple other General Plan requirements including the following:

- LU1.3 restricts residential building heights in order to limit visual impacts on adjacent properties (*e.g.*, in the Moraga County Club) and protect views;
- CD1.3 protects views that are important to the natural setting and which maintain the town's semi-rural character, with particular attention to viewsheds along Scenic Corridors;
- IP-E2 restricts infill developments to preserve the scale and character of the existing neighborhood;
- IP-E3 requires that multiple family residential design reflect the scale and character of and fit with existing residential neighborhoods;
- CD4.3 requires that infill developments in existing neighborhoods should reflect the size, scale, height, setbacks and character of existing development and not create impacts that detract from overall neighborhood character;
- CD5.2 requires that the design of new multi-family developments should enhance the local area and reflect the scale and quality of their surroundings; and
- LU4.6 requires that buildings located in the vicinity of public safety training operations must be compatible with those operations.

The new revised plans for the proposed development continue to violate all of the foregoing General Plan requirements.

We note, again, that the General Plan controls other legislative adoptions, including the specific plan created for the Moraga Center. The Moraga Center Specific Plan (a) is inconsistent with the General Plan, (b) suffers from internal inconsistencies, (c) does not authorize this development, (d) should not (and, we believe, cannot legally) be modified or supplemented through piecemeal spot-zoning changes that undermine the purpose and intent of the General (and Specific) Plans and (e) must be reconsidered in light of the obvious misuse of that Plan by the proposed developer to construct something far different from the vision of the Council members and citizens who tried to create a vision for the Moraga Center.

As a reminder, below is the opening statement of the Moraga Center Specific Plan:

> Lush landscaping, decorative paving, and a gentle curve in the road combine to form a captivating new "Main Street" in the center of Moraga. Welcoming benches, sturdy bicycle racks and attractive window displays draw residents into the commercial core to linger, shop and socialize. Vintage street lamps extend the day as residents embark on an evening stroll or assemble for dinner at a new creekside café. Fresh coffee, warm cookies and icy cold gelato satisfy the cravings of a community enjoying itself. The pace is relaxed. The quality is high and it is all within walking distance in the heart of Moraga.

The proposed project is far from that vision.

Thank you very much for your attention to 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

Cc: Ms. Ellen Clark

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

ATTACHMENT K

Correspondence
May 13, 2015

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
1900 Main Street, 5th Floor | Irvine, CA 92614-7321
Telephone: 949.553.1313 | Facsimile: 949.553.8354
www.allenmatkins.com

Nicholas S. Shantar
E-mail: nshantar@allenmatkins.com
Direct Dial: 949 851 5406 File Number: 373833-00003/OC1067040.01

Via Email/U.S. Mail

May 7, 2015

Roger Wykle, Mayor
Michael Metcalf, Vice Mayor
Phil Arth, Councilmember
Teresa Onoda, Councilmember
Dave Trotter, Councilmember
Town of Moraga, Town Offices
329 Rheem Blvd., Second Floor
Moraga, California 94556

Town Clerk, Town of Moraga
329 Rheem Blvd., Second Floor
Moraga, California 94556
mmcinturf@moraga.ca.us

Re: May 13, 2015, Hearing on Appeal of Planning Commission Decision to Approve the Conceptual Development Plan for the Moraga Town Center Homes Project and Ordinance Amending Moraga Municipal Code § 8.48.040 (APNs: 257-180-082-6 and 257-190-057-6) from Suburban Office to 12-DUA Planned Development (*Continued from April 8, 2015 and January 28, 2015*)

Dear Moraga Town Council and Town Clerk:

We represent City Ventures, LLC, the developer of the Moraga Town Center Homes Project ("Project") in the Town of Moraga. We request that this letter be included in the administrative record for the above-referenced hearing.

As you know, over the past several years, City Ventures has been working diligently with the Town on various Project approvals. The purpose of this letter is to encourage the Town to move forward with the Project by approving the requested zoning amendment and denying the appeal of the Conceptual Development Plan, as we believe the Town is legally obligated to do under numerous sections of the Planning and Zoning Law. Before delving into City Venture's specific points and authorities, however, we

believe that the Project represents a unique opportunity for the Town to "lock in" zoning for the Project site at the *lowest possible* density anticipated under the applicable 2010 Moraga Center Specific Plan. In this regard, City Ventures believes that prompt approval of the Project at the May 13, 2015, meeting, represents a "win-win" scenario for both the Town and City Ventures, and we encourage the Town to take advantage of that opportunity.

1. <u>The Moraga Town Center Homes Project</u>.

The Project is a townhome community located generally at the intersection of Moraga Way and St. Andrews Drive and bounded by Moraga Way to the north, Country Club Drive to the south, and the Sonsara subdivision and residential subdivisions to the north and west. Since mid-2012, City Ventures has worked closely with the Town in submitting over a dozen application packages to the Town. City Ventures' original plans included 52 townhomes that were mostly three stories in height. Following review and direction from Town planning staff, the application was revised to provide 55 townhomes with more unit variability and enhanced pedestrian and vehicular connectivity. The Planning Commission and Design Review Board considered the 55-unit plan at a study session on November 5, 2012. Commissioners and Board Members provided design-related comments and provided favorable direction for residential development on the project site.

City Ventures subsequently submitted a revised application upon receipt of comments at the study session to include 54 townhomes, increased open space, and improved pedestrian connectivity. The Planning Commission reviewed the 54-unit plan at a study session on May 20, 2013. The May 2013 study session also resulted in favorable direction for residential development, and further directed City Ventures to submit a revised plan to eliminate vehicular access from Moraga Way.

Following the May 2013 study session, City Ventures engaged the community in review and consideration of the Project design at seven community meetings (held between June 11, 2013, and February 27, 2014). City Ventures considered comments from the community meetings and submitted a revised application including 49 townhomes, increased parking, increased building setbacks, reduced building height, and incorporated vehicular access back onto Moraga Way due to concerns from area neighbors. City

Ventures presented the 49 unit plan to the community, and finally, after multiple study sessions, meetings with Planning staff and seven community meetings, City Ventures voluntarily reduced the Project to include just 36 townhomes, the minimum density anticipated in the Moraga Center Specific Plan, all 2 stories in height (with few homes having a 3 story loft element).

After two years and several design revisions described above, on July 14, 2014, the Design Review Board held a public hearing to consider preliminary design review of the Conceptual Development Plan. The Design Review Board approved the Preliminary Design Review and recommended the Project to the Planning Commission with some modifications to the conditions of approval. City Ventures was amenable to the accommodations requested by the Design Review Board and accepted those modifications.

Following action and recommendation by the Design Review Board, on November 17, 2014, the Planning Commission held a public hearing to consider the Conceptual Development Plan and proposed zoning amendment currently before the Town Council. The Planning Commission recommended the Town Council adopt the zoning amendment (Resolution 19-14, Attachment C). The Planning Commission further voted to approve the Conceptual Development Plan with some modifications to the conditions of approval. (Resolution 20-14, Attachment D). Once again, City Ventures was amenable to the accommodations requested by the Planning Commission and accepted these modifications.

On December 1, 2014, three residents appealed the Planning Commission's decision to approve the Conceptual Development Plan to the Town Council, raising numerous purported concerns. The Town staff fully addressed and debunked those concerns in a detailed report prepared in connection with the January 28, 2015, Town Council hearing on the appeal and the zone amendment. (See January 28, 2015, Staff Report, pp. 14-26; see also April 8, 2015, Staff Report, pp 3-11.) At the conclusion of the January 28, 2015, hearing, the Town Council continued the current matters to its April 8, 2015, meeting. At the conclusion of the April 8, 2015, hearing, the Town again continued the hearings, this time to its May 13, 2015, meeting. At the January 2015, Town Council meeting, the Council gave specific direction for City Ventures to work with planning staff to address concerns

related to building setbacks, height and massing. After several meetings and review of multiple site plan iterations with planning staff, City Ventures conceded to final design changes based on planning staff's direction to address each of the Council's directives. Once again, revised plans were submitted to the Town for consideration by the Town Council.

2. <u>The Project is Consistent With the 2010 Moraga Center Specific Plan, and the Town is Required to Approve It</u>.

Turning to the specific issues before the Town Council, the majority of the complaints regarding the Project are centered around the claim that the Project is somehow inconsistent with the Town's General Plan and the 2010 Moraga Center Specific Plan. Our office has reviewed the Project for consistency with the General Plan and the Specific Plan, and from a legal perspective, we have found the project consistent with both documents. As for the General Plan, the Town's staff correctly pointed out on page 4 of the January 28, 2015, Staff Report that the General Plan identifies and assigns the "Moraga Center Specific Plan" as the land use designation for the Project and calls for the preparation of the Specific Plan. Accordingly, because the General Plan simply points to the 2010 Moraga Center Specific Plan, the Project is entirely consistent with the General Plan to the extent it is consistent with the Specific Plan.

Regarding the 2010 Moraga Center Specific Plan, the Town's staff and the Planning Commission have both correctly concluded that the Project is, in fact, entirely consistent with that Specific Plan as well. The Project site is located within Area 13 of the Specific Plan, which designates the Project site as "Mixed Office Residential," and which allows for a mix of office and residential land uses, although City Ventures' understanding is that the Town intended this designation to operates as an "either/or" indicator (i.e., either residential or office space, but not both). Under the Specific Plan, City Ventures is permitted to develop up to 62 units on the Project site. Here, however, the Project proposes just 36 residential units, the *minimum* number of units anticipated under the Specific Plan. Moreover, all 36 units have been designed in accordance with all applicable requirements and guidelines, including with respect to the Project's setbacks, lot sizes, parking requirements, and building height and sizes. (See January 28, 2015, Staff Report, pp. 16-27; April 8, 2015 Staff Report, pp. 3-13.)

Given the lengthy review process to date, we strongly encourage the town to take into consideration the fact that the Project is at the lowest density anticipated in the Moraga Center Specific Plan. The Town is obligated by law to update the zoning to match the Specific Plan and approval of this Project is not only consistent with the Specific Plan, it is also an opportunity to lock in the lowest density anticipated in the Specific Plan. Among other things, the Town is *required* to amend its zoning ordinance to match the 2010 Moraga Center Specific Plan. (See Govt. Code, § 65860, subd. (c) ["In the event that a zoning ordinance becomes inconsistent with a general plan . . . the zoning ordinance *shall* be amended *within a reasonable time* so that it is *consistent* with the general plan as amended."]; see also *Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531 [a city or town's zoning ordinance *must* be consistent with its General Plan and any pertinent specific plan documents].) The Specific Plan itself recognizes this legal requirement, as it provides a detailed "Implementation Element," which states: "To fully implement the MCSP the town will adopt new ordinances to establish he 10 and 20 dwelling unit per acre residential districts and the new mixed use district. In addition, the Town will modify existing ordinances to create a permitted use determination exception for uses consistent with Permitted Uses specified in the Specific Plan." (Specific Plan, p. 57.)[1]

Additionally, under Government Code section 65589.5, subdivision (j), which applies to all housing development projects, not just "affordable housing" (See *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066), before denying or "downzoning" a qualifying project, subdivision (j) requires the Town to make specific findings, supported by substantial evidence, that (1) the project would have a specific, adverse impact on the

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[1] We further note that, under the Permit Streamlining Act (Govt. Code, §§ 65943, 65950) the Town was required to act on City Ventures' application for the Conceptual Development Plan within 60 days of July 2, 2014 – or September 1, 2014 at the latest. (See Govt. Code, § 65950.) Notwithstanding this obligation, so far, the Town has failed to render a decision on the plan, despite the passage of over nine months or 270 days, roughly *4.5 times* the maximum delay permitted under the Act. Indeed, so much time has passed that, *regardless* of the Town's CEQA determination, the *maximum* amount of time the Town has to render a decision on the plan (180 days) *necessarily* passed no later than *three months ago*. (See *ibid*.)

public health or safety, and (2) there is no feasible method to mitigate that impact, other than to disapprove the project.

Subdivision (j) applies to the Project, and we do not believe there are facts to support any findings that this project will have an adverse impact to public health or safety. Simply put, after more than two years of revisions, concessions, and accommodations, in our view there is nothing left to object about the Project from a health or safety standpoint, nor is there any substantial evidence to support any such objection, for several reasons: (1) the 2010 Moraga Center Specific Plan specifically designated the Project site for residential development, (2) the Project is already at the *minimum* density anticipated under the Specific Plan, and (3) there are significant mitigation measures in effect, such that the Town's staff supports "no additional mitigation measures to those previously agreed to by the applicant." (April 8, 2015, Staff Report, p. 11.) Thus, we believe the Town has an affirmative obligation to allow the Project to move forward pursuant to Government Code section 65589.5. (See also Govt. Code, §§ 65863, subd. (b) [precluding the denial of a project that would reduce the residential density of a project absent specific findings, including that the reduction is consistent with the general plan; here, the Project is completely consistent with the General Plan, as shown above]; *Village Laguna, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1033-1034 [boilerplate or conclusory findings that are not legally sufficient and do not constitute substantial evidence]; *Honey Springs Homeowners Association v. Board of Supervisors* (1984) 157 Cal.App.3d 1122,1151 [striking down a "finding" that was made "perfunctorily" and "without discussion or deliberation and thus does not show the Board's analytical route from evidence to finding."].)

In light of the foregoing, we see an opportunity for the Town to approve this project, which has the support of many in the community as well as the Town staff, Planning Commission, and Design Review Board, locking in the lowest density anticipated under the Specific Plan, rather than consider a higher density project on this site.

3. <u>The Moraga-Orinda Fire District's Stated Concerns Have Been Completely Considered and Addressed</u>.

We understand the Town's staff has had numerous meetings with the Moraga-Orinda Fire District ("MOFD") and board members (as has City Ventures) to discuss MOFD's stated concerns about compatibility of the proposed residential Project with the adjacent MOFD training facility. City Ventures has consistently demonstrated a willingness to work with MOFD on the design of the Project, which began with conversations initiated by MOFD in 2012 in which MOFD was interested in selling a portion of their property for expansion of City Ventures' residential project. Such a design would have brought new homes even closer to the station and training center. Unfortunately, MOFD continues to oppose the Project, despite significant mitigation measures, all of which City Ventures has agreed to implement. Those mitigation measures impose the following obligations on City Ventures (among others):

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

All or virtually all of MOFD's concerns are directed at the residents who would purchase the units. MOFD does not claim, and certainly presents no evidence, that 36 units will somehow impact MOFD's ability to operate its training center. Moreover, the above mitigation measures are so comprehensive, the Town's staff has concluded there are no further mitigation measures that can be implemented: "Absent a wholesale revision to

the project, to either a completely different land use (such as an office), or by substantially reducing the number of units such that residential development and recreation space would not be located adjacent to the training facility, it appears that there are no staff supported revisions that would eliminate the District's opposition to the project." (April 8, 2015, Staff Report, p. 11.) Residential development adjacent to fire training facilities and fire stations is a common land use pattern in the bay area, including residences immediately adjacent to the Santa Clara County Fire District Training Center and the Contra Costa County Fire Protection District Training Center. Tellingly, time and again, MOFD has failed to identify precisely (or for that matter even generally) *why* the above mitigation measures are insufficient to address its purported concerns, particularly where the future residents will be fully informed in writing of the training center and its activities prior to purchasing their units. In short, MOFD's opposition to the Project appears to be motivated by MOFD's desire to potentially condemn the Project site for its own purposes, rather than by any legitimate concerns about City Ventures' modest proposal to add just 36 units on over three acres.

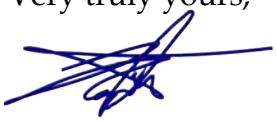
Regardless of MOFD's motivations, as already noted, the 2010 Moraga Center Specific Plan designated the Project site to allow for residential development *over five years ago*, and the use of the site for residential purposes was thoroughly studied in the EIR prepared for the Specific Plan. MOFD is not permitted to undermine the Specific Plan by raising purported concerns with the Town's long-standing approval of the Specific Plan, by collaterally attacking the Project in 2015. Rather, notwithstanding MOFD's recent opposition, for the reasons discussed above, the Town is precluded from reversing course on the Specific Plan, particularly as the Project more than complies with all applicable components of that plan and all other Town requirements and regulations.

4. <u>Conclusion</u>.

City Ventures continues to be appreciative of the Town's time and consideration of these matters. City Ventures looks forward to the May 13, 2015, Town meeting and to building a first-rate, minimum-density housing community that will serve the Town's constituents and add critically needed housing units for many years to come.

Should you have any questions, please feel free to contact us at your convenience.

Very truly yours,



Nicholas S. Shantar

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Moraga-Orinda Fire District

Fire Chief Stephen Healy

May 7, 2015

Honorable Mayor Wykle and Members of the Town Council
c/o Jill Keimach, Town Manager
Town of Moraga
329 Rheem Boulevard
Moraga, CA 94556

Re: Moraga Orinda Fire District Comments on
City Ventures Moraga Town Center Homes Project

Honorable Mayor Wykle and Members of the Town Council,

The Moraga Orinda Fire District regrets to inform the Town Council that it remains opposed to Conceptual Site Plan for the Moraga Town Center Homes Project in its present form.

The District's opposition is focused on the District's view that the Project fails to satisfy the requirements of General Plan Policy LU4.6. It provides as follows:

> Public Safety Facility Compatibility. Ensure that uses and buildings located in the vicinity of public safety facilities and training operations are compatible by design and siting.

Other relevant policies in the General Plan—which Policy LU4.6 references—provide that development and design review should ensure compliance with General Plan policies, such as LU4.6, and more specifically ensure that designs "orient sensitive portions of buildings away from noise sources" and that "emergency response planning" is appropriately considered. (See General Plan Policies, IP-C1–IP-C2.)

The District firmly believes that the design and siting of the Project is incompatible with its existing training facility operations at Station 41. The District's concerns are of long standing. In 2008 when the Town was considering the Specific Plan, MOFD advised the Town of its concerns about the compatibility of high-density residential use adjacent to Station 41. (Letter from District Counsel Meyers to Planning Director Salamak, dated July 31, 2008, attached.) In particular, the District stated that its operations and noise may not be compatible with the proposed residential use and that it was concerned that new residents will object to the Station uses.

The District is not concerned about residential development on all portions of the site. Rather, the District's concern is entirely focused on the residential development proposed opposite the western boundary of the MOFD property. When the Project was initially proposed, the District specifically detailed its concerns to the Town. (Letter from Chief Healy to Planning Director Brekke-Read, dated June 4, 2014, attached.) In that letter, various mitigation measures were suggested, but the District specifically requested that 6 units adjacent to the western boundary of the District property be moved or redesigned. The District has no objection to the presence of residential units elsewhere on the Project site, so long as none of them are directly opposite the western boundary of its property. Other appropriate and compatible uses could be placed in that location. City Ventures should be asked to come up with something.

The District acknowledges and greatly appreciates that City Ventures and Town staff have developed and implemented various measures into the project that minimize the potential conflict between the Project and the District's facility and operations. Nonetheless, the District does not believe that those measures go far enough to eliminate its compatibility concerns. No matter what, future residents in that location are sure to complain about the District's preexisting training operations.

As has been clearly stated in the District's previous correspondence (for example the Letter from Chief Healy to Town Manager Keimach, dated January 28, 2015), the training facility is of critical importance to the District's public-safety mission. General Plan Policy LU4.6, which references training facilities specifically, exists to protect the District's training facility from incompatible uses. The District requests that the Town Council do what its General Plan anticipates it would do: Please grant the appeal so that City Ventures can submit a Conceptual Site Plan that is compatible with the District's facility and operations.

Very truly yours,

Alex Evans
President

Attachments (3)

meyers | nave riback silver & wilson
professional law corporation

Steven R. Meyers
Attorney at Law
510.808.2000

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's[1] 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.

MCSP EIR Must Identify Significant Impact on Fire and Emergency Services and Require Mitigation

The MCSP will have a significant impact on the District's provision of fire and emergency services. The EIR incorrectly determines that the MCSP will have a less than significant impact on fire and emergency medical services because the existing service capacity is adequate to meet new demand. MOFD personnel did not provide any statements or information to support that the existing staffing level, facilities and equipment would be adequate to meet new demand from the MCSP. The EIR also does not adequately analyze the significant impacts of the Plan in conjunction with proposed future development in the District service area. Since the MCSP will have significant impacts on fire and emergency services, the EIR must include mitigations to address the impacts.

The MCSP itself, and in conjunction with other proposed future development, will have significant impacts on the District. The following facts show the impact will be substantial:

- There will be a significant increase in the number of residents within the District's service area during the life of the Specific Plan. The large increase in residents will substantially increase the number of service calls. According to the Specific Plan, the project will result in 1,614 new residents, 720 new dwelling units, 100,000-140,000 square feet of commercial office space, and a new recreation facility. Other proposed development in the Town (including the MCSP) will result in a total of 2,563 new residents and about 1,000 new homes. This new growth does not even include potential growth in the District service area outside the Town and additional population from new employment-generating uses.

- The large number of new buildings also will increase demand for services. 720 homes, 100,000-140,000 square feet of commercial office space, and a new recreation facility will be built under the MCSP. Overall, new development in the Town will add about 1,000 new homes, which is about a 15% increase to the number of existing homes (estimated in the EIR to be about 5,800).

- The MCSP's large number of senior and assisted living facilities (450 units) will cause a large increase in medical response calls. Over 70% of the District's service calls are for medical response, and the vast majority of these calls are from seniors (approximately 60%). Existing senior housing/care facilities in the District average about 1 call per unit/bed per year. Therefore, the MCSP senior units alone will result in 450 new medical calls per year, almost a 25% increase to existing call levels. Paramedic staff and equipment (including ambulances) at Station 41 are not adequate to meet this increased demand from senior housing.

- The MCSP impacts will disproportionately affect Station 41. Station 41 is physically incapable of handling the additional staff and equipment necessary to meet the increased demands imposed by the MCSP. The site lacks the space for the expansion and remodeling of the Station 41 facilities that would be required. This Station also will be particularly impacted by other proposed

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

1122003.5

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

MORAGA-ORINDA FIRE DISTRICT

MEMORANDUM

TO: Moraga Town Council

FROM: Stephen Healy, Fire Chief

THROUGH: Jill Keimach, Town Manager

DATE: January 28, 2015

SUBJECT: Proposed City Ventures Project adjacent to Station-41

At the January 21, 2015 MOFD Board meeting, staff was directed to notify the Town Council that the Fire District does not believe that the proposed residential housing development adjacent to Fire Station 41 is compatible with the Fire District's fire training site.

Since the 2000s, the Fire District has repeatedly expressed concerns about the development of residential units in close proximity to the Fire Station, which will affect the District's need to maintain a fully functional, active fire training site, and could affect the efficient movement of emergency vehicles in and out of the fire station. Many of these concerns were expressed in a letter to the Town in 2008 regarding the zoning of the site (mixed office/residential) as well as restricting the District's training site, functionality, and compatibility with other properties. Subsequent (and on-going) concerns were again expressed in June of 2014, during attempts to mitigate the District's ongoing concerns.

The concerns of privacy, safety, traffic, land use, and community relations have been extensively discussed at various public meetings, with Town staff and separately with City Ventures. When it became apparent that the Planning Commission might approve the project under the existing zoning, the MOFD board appointed an ad hoc Facilities Committee to assist me in trying to mitigate the District's concerns.

Our staff has worked with Town staff and, in addition, members of the Facilities Committee and I have met with City Ventures representatives to try to mitigate the issues. However, after much effort the Board believes that the issues of proximity, noise and traffic cannot be effectively mitigated. Regardless of the measures we have tried to put into place with City Ventures, the Board believes that it is inevitable that there will be complaints from people living in the homes to be built there and pressure to curtail training activities. Curtailing fire training activities is an unacceptable consequence to the Fire District. Fire stations can be noisy; fire training facilities even more so. Therefore our Board believes that it would be best to limit the use of the property to uses that are not likely to be adversely affected by the activities at the fire training facility.

The training facility is vital to the mission of the District, which is to save lives and to protect and save property. Training and practice go on for the entire careers of our firefighters and paramedics. It never stops. Old skills need to be refreshed and new skills need to be learned as equipment and techniques change over time. Training can never stop if we are to have an effective staff that meets the life-saving and property saving needs of our communities.

There are great advantages to our communities to maintain a fire training site within the community. We have a small staff. If staff must leave the District for training, that could mean fewer staff available in an emergency and/or more costs if we have to pay overtime to be certain that the positions are filled while some staff members are in Concord or elsewhere being trained.

The District wants to acknowledge the efforts of both the Town staff and City Ventures. All have, in my opinion, acted in good faith to try to address District concerns. We also want to acknowledge that it is unusual for the District to become so involved in a zoning and land use issue. We know that these issues lie outside our role, but we believe that this decision, unlike most, is very important to the functioning of the District. Thus, we are asking that the project not proceed, but we know that we must leave the decision in your hands. We thank you for your patience in hearing our concerns.