

**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. 45 - 2015

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**WHEREAS**, on April 8, 2015 the Town Council 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.**

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

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

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

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

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

Community Design Element policies CD3.2 Visual Character and CD 3.5 Landscaping and Amenities, promotes improvement of the visual character of the scenic corridor with landscaping, lighting and attractive signs and street furnishing. The proposed project would landscape a 35 to 45-foot wide buffer along the Moraga Way scenic corridor that is both on the subject property and in the shoulder of the roadway, in the Town's right-of-way. The conceptual landscaping includes a variety of trees, shrubs and groundcover, winding sidewalk and split rail fences that would add visual interest and enhance the appearance of the scenic corridor. Details of the lighting and signage are

not provided with the Conceptual Development Plan, but would be subject to design review and consideration by the Planning Commission as part the General Development Plan to ensure quality design.

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

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

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

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

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

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

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

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

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

**Planning Standard Conditions**

1. This approval authorizes the Revised Conceptual Development Plan approval of the "Town Center Homes" project as approved by the Town of Moraga Town Council on 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.

#### **Planning Special Conditions of Approval**

8. The Site Plan shall be modified to reflect the following:
  - a. The landscape area in front of the project adjacent to Moraga Way shall be revised to include raised landscaped berms or grade changes that are contoured to blend with the surrounding landscape.
  - b. The second story of the buildings located along Country Club Drive shall be stepped back from the first story building face by a minimum of 3 feet for 30% of the façade length and stepped back a minimum of 5 feet for 40% of the façade length.
  - c. All third story lofts shall be stepped back a minimum of 2 feet from the second story.
9. The final plans for reconfiguration of Country Club Drive shall be consistent with Option 1 in the plan by C2C Consultants, including, a 14-foot travel lane, 5-foot bike lane and parking lane. This final design and landscaping for Country Club Drive shall be consistent with Public Works standards and subject to review and approval by the Design Review Board prior to approval of the improvement plans.
- 10.a 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 provided at the January 28, 2015 Town Council hearing on the Conceptual Development Plan, reflecting the modifications to the site plan approved by Town Council on May 13, 2015, and as may be modified based on final Design Review

Board review approval. Modifications to the existing plans and the completion of additional plans and submittals shall be undertaken in accordance with the Design Review Memorandum adopted by the Design Review Board on July 14, 2014, and shall include:

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

**10. b** The project design and construction shall reflect high quality design and materials, consistent with the renderings submitted in conjunction with the January 28, 2015 Town Council hearing for the Conceptual Development Plan. Design Review of the project shall include consideration of materials, finishes and detailing incorporating to the greatest extent possible, as determined by the Town, elements such as the following:

- i. All windows should be recessed a minimum of 2.5 inches measured from the window glass surface to the exterior (window surround thickness shall not count towards the recess dimension).
- ii. Divided lite windows may use true or simulated divided lites. Muntins should project at least 3/8" from the glass surface. Sandwich muntins (muntin located between two panes), roll on or tape muntins should not be used. For simulated divided lights, spacers should be used between panes.
- iii. Roof overhangs should be a minimum of 18 inches.
- iv. Eave overhangs may be 'open' using exposed rafters or 'boxed' using concealed rafters. Open eave overhangs should be terminated with a fascia, decorative gutters or shaped rafter tails.
- v. Bay windows should have windows on all projecting surfaces.
- vi. Roof line of bay windows should be treated with a roof form, parapet, trim or moulding.
- vii. Roof materials should be of high quality.
- viii. Window surrounds should not project more than two inches from the wall surface
- ix. Window surrounds should be of a high quality material such as wood, smooth stone, or pre-cast concrete. Stucco, exterior insulation and finish systems, or other foam products should not be used for window surrounds.
- x. Window sills should be wood, stone, brick, metal, smooth stucco, or of other similar quality approved by the Town and should project between one and two inches.
- xi. Vinyl or fiberglass windows should be integrally colored. Wood, aluminum or steel may be painted.
- xii. Entry doors and garage doors should be made of a high quality, durable material that complements the architectural style.
- xiii. Garage doors should be recessed a minimum of 6 inches from the wall surface.

**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 approved by the Town shall be included on all units.
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**

<b>Site Standards</b>	
Residential Density	12 dwelling units per acre
Lot Coverage	35%
Floor Area Ratio <sup>1</sup>	0.55

<sup>1</sup> Floor Area Ratio calculated on a pre-subdivision basis

<b>Setbacks and Building Separations</b>	
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 <sup>2</sup> Line	20'
Southeastern Property Line (Creek)	84'
Minimum Building Separation <sup>3</sup>	
Buildings A, B, C, D	25'
Buildings A1 and A2	11'
Buildings E, F, G	10' first floor, 15' second floor
Buildings H and I	12' first floor, 15' second floor
Buildings I and J	13' first floor, 15' second floor
Buildings J and K	12-2" first floor, 15' second floor
<b>Other Standards</b>	
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

<sup>2</sup> MOFD Property identified as APN 257-190-056

<sup>3</sup> Distance measured from building face to building face, excluding steps, decks, balconies

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

### **Moraga-Orinda Fire District**

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

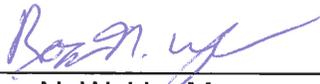
### **Other Conditions**

24. This approval and each condition contained herein shall be binding upon applicant and any transferor, or successor in interest. Subsequent approvals shall be subject to additional conditions of approval.
25. Applicant shall indemnify, hold harmless and defend (with legal counsel approved by the Town Attorney) the Town, its officials, employees and representatives (the "Town Indemnitees") from and against any and all claims, damages, liabilities, actions or proceedings, including any CEQA challenge, arising out of the Town's approvals

associated with the application for the Moraga Town Homes Subdivision 9381 (the "Project Approvals"). Applicant shall also pay all filing court costs and similar out-of-pocket expenses required for Town and applicant to defend Litigation.

**PASSED AND ADOPTED** by the Town Council of the Town of Moraga at a regular meeting on May 13, 2015 by the following vote:

**AYES:** Mayor Wykle, Vice Mayor Metcalf, Councilmembers Arth and Trotter  
**NOES:** Councilmember Onoda  
**ABSTAIN:** None  
**ABSENT:** None

  
\_\_\_\_\_  
Roger N. Wykle, Mayor

ATTEST:

  
\_\_\_\_\_  
Marty C. McInturf, Town Clerk