



Town of Moraga
 PLANNING DEPARTMENT
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*Form Updated 2020
For Staff Use Only*

File #: _____
 Deposit Amount: \$ _____
 Deposit #: _____

HILLSIDE DEVELOPMENT PERMIT APPLICATION FORM

PROPERTY ADDRESS: _____ ZONING: _____

ASSESSORS PARCEL NUMBER: _____

APPLICANT INFORMATION	OWNER INFORMATION
NAME: _____	NAME: _____
ADDRESS: _____	ADDRESS: _____
CITY/STATE/ZIP: _____	CITY/STATE/ZIP: _____
PHONE: _____	PHONE: _____
EMAIL: _____	EMAIL: _____

An application for a Hillside Development Permit requires a fee of \$1,500.00 for Zoning or Design Review Administrator review, an initial deposit of \$3,000.00 for Design Review Board or Planning Commission review, and \$9,600.00 for Town Council review. This deposit covers staff time which includes time to receive the application, review it for completeness, prepare and distribute a public notice, write a staff report, prepare and distribute packets to Town Officials, attend the meeting, prepare meeting minutes, and finalize the decision. This deposit also covers the anticipated cost of geotechnical peer review. Clear, complete and consistent applications require less staff time and thus are less expensive to process.

APPLICANT / OWNER AUTHORIZATION
<p>CHOOSE ONE:</p> <p><input type="checkbox"/> I am the property owner and hereby authorize the filing of this application.</p> <p><input type="checkbox"/> I am the applicant and am authorized by the owner to file this application.</p> <p>By signing below the applicant acknowledges the Town of Moraga deposit account system and agrees to pay any additional charges that may be incurred beyond the initial deposit.</p> <p>SIGNATURE AND DATE: _____</p>

Indemnification/Reimbursement Agreement

Project Address and description of project ("Project")

As part of the application for the Project, the applicant and/or property owner (collectively "Applicant") agree to defend, indemnify, and hold harmless the Town of Moraga, its agents, officers, council members, employees, boards and commissions from any and all claims, actions or proceedings (collectively "Claims") brought against any of the foregoing individuals or entities, seeking to attack, set aside, void or annul any approval of the application or related decision, or the processing or adoption of any environmental documents or negative declarations which relate to the approval. This indemnification shall include, but is not limited to, all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of the application or related decision, whether or not there is concurrent, passive or active negligence on the part of the Town of Moraga, its agents, officers, council members, employees, boards, commissions. If for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

The Town of Moraga may, but is not obligated to, defend such Claims as the Town of Moraga, in its sole discretion, determines appropriate, all at Applicant's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the Town of Moraga, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, Town of Moraga, and/or parties initiating or bringing such proceeding. If the Applicant is required to defend the Town of Moraga as set forth above, the Town of Moraga shall retain the right to select the counsel who shall defend the Town of Moraga. Per Government Code Section 66474.9, the Town of Moraga shall promptly notify Applicant of any proceeding and shall cooperate fully in the defense. The Financially Responsible Party acknowledges and agrees that additional deposits may be required while the application is processed, in such amounts and at such times as the Town deems necessary to cover the Town's incurred and projected processing costs including but not limited to environmental studies. Deposit accounts are required to maintain a minimum balance of 20% of the original deposit amount at all times. If your account drops below that threshold, you will be asked to remit the balance due plus the 20% maintenance balance. Failure to maintain your account in this standing will result in a hold placed on the account and work will stop on all project processing until the necessary payment has been remitted. The payment and acceptance of requested deposits does not constitute an approval of permits, entitlements, or authorizations to begin work.

The Financially Responsible Party agrees to be jointly and severally liable with the Property Owner for payment of all fees referenced above. The sale or other disposition of the property does not relieve the Financially Responsible Party of their obligation to maintain a positive balance in the deposit account unless the Town grants prior approval. The Financially Responsible Party agrees to notify the Town in writing prior to any change in ownership or status of any option agreements. The Financially Responsible Party is required to submit a written request for withdrawal of the application or written assumption of the obligations under this agreement signed by the new owner or his/her authorized agent.

Withdrawal or denial of an application does not relieve the Financially Responsible Party of its obligation to pay for costs incurred in connection with this application. The Financially Responsible Party shall be liable for and will pay all costs incurred for the project, up through the date of the written request for application withdrawal or date of approval or denial, whether or not such work is complete and whether or not the costs have previously been billed. Any funds remaining in the account after all associated processing activities have been completed shall be returned to the Financially Responsible Party.

I have read and agree with all of the above.

Applicant (please print name)

Applicant signature

Date

Property owner name (if different from the applicant)

Property owner signature (if different from the applicant)

Date

OTHER CONTACT INFORMATION AND PROJECT CONSULTANTS

PROJECT GEOTECHNICAL ENGINEER	PROJECT CIVIL ENGINEER
NAME: _____	NAME: _____
ADDRESS: _____	ADDRESS: _____
CITY/STATE/ZIP: _____	CITY/STATE/ZIP: _____
PHONE: _____	PHONE: _____
EMAIL: _____	EMAIL: _____

PROJECT ARCHITECT OR DESIGNER	LANDSCAPE ARCHITECT
NAME: _____	NAME: _____
ADDRESS: _____	ADDRESS: _____
CITY/STATE/ZIP: _____	CITY/STATE/ZIP: _____
PHONE: _____	PHONE: _____
EMAIL: _____	EMAIL: _____

REQUIREMENT FOR A HILLSIDE DEVELOPMENT PERMIT

"Hillside area" or "hillside land" means either of the following:

- (a) A parcel with an average predevelopment slope of twenty (20) percent or greater; or*
- (b) The area of a parcel where (i) the area of disturbance of a development project and/or (ii) the footprint of the primary structure, has an average predevelopment slope of twenty (20) percent or greater. These particular areas of a parcel shall be classified as a "hillside area" or "hillside land" regardless of the average predevelopment slope of the entire site or parcel in which the area of disturbance or the footprint of the primary structure is located.*

The percent slope is calculated by the formula below:

$$\begin{array}{c}
 \text{Vertical Drop} \\
 \text{divided by} \\
 \text{Horizontal Distance}
 \end{array}
 \frac{\boxed{}}{\boxed{}} = \boxed{} \times 100 = \boxed{}$$

A Hillside Development Permit (HDP) is required where such development is subject to a building permit, and where the development is in a Hillside Area as defined in [Section 8.04.020](#) (Definitions):

- A. Construction of a new primary structure.*
- B. Construction of an accessory building or structure over 400 square feet in size.*
- C. Expansion of the footprint of an existing building or structure, either as a single project or when construction spans over a five-year period and the addition or expansion would add more than 500 square feet, or 35 percent of the footprint of the habitable building area, whichever is smaller.*
- D. A project involving grading or construction of retaining walls where the project would be subject to Design Review.*
- E. Subdivisions of land.*

HILLSIDE DEVELOPMENT PERMIT APPLICATION PROCESS

1. After an application is submitted to the Town it will be reviewed for completeness. If the HDP application is found to be incomplete, then a letter will be sent to the applicant stating the additional materials and information required to complete the submittal.
2. If all the submittal requirements listed on this application form have been submitted, then the planning staff will send the applicant's geotechnical report to the Town's geotechnical peer review consultant. Generally, the application will not be considered "complete" until the Town receives a report from our geotechnical peer review consultant that the geotechnical report submitted for the project adequately addresses slope stability, soil characteristics and seismic factors in accordance with General Plan Policy PS4.2.
3. After the geotechnical report and recommendations have been found acceptable by the Town's geotechnical peer review consultant, the HDP application will be put on the next available Design Review Board (DRB) or Planning Commission (PC) meeting agenda for consideration. The choice of DRB or PC depends on the nature of the project and other ordinance requirements. For example, if grading is proposed on a slope over 20% but less than 25%, then the DRB can review the project, but if the grading is on a slope over 25% then the PC must review the project and make a recommendation to the Town Council.
4. Notices will be mailed to neighbors within 300 feet of the proposed project 10 days in advance of the DRB or PC hearing.
5. A staff report will be written for the DRB or PC. The staff report is typically available five days prior to the hearing. It is the responsibility of the applicant or property owner to pick up the report from the Planning Department; however, a copy can be emailed if the applicant provides the email address.
6. Applicants are expected to attend the DRB or PC meeting. The applicant is encouraged to prepare a brief presentation of the project to the board or commission. The DRB members or Planning Commissioners may have questions, so the applicant should be in attendance to respond.
7. Following the presentation, the board or commission opens up the meeting to public testimony, after which they will discuss the project and render a decision.
8. The decision of the Board or Commission can be appealed within 10 days of the action (with a fee).
9. Applications are processed on a staff-time basis. It is to the advantage of the applicant to submit a complete and accurate application. If approved, the project may require a grading permit from the Town's Engineering Department.

PROJECT DESCRIPTION:

OTHER TOWN APPROVALS

Other Town approvals in addition to a hillside development permit may be required for your project. Some of the more common additional application types are listed below.

1. Will the project require removing any trees that are indigenous to Moraga, such as Oak, Bay, Redwood, Toyon and Knobcone Pine, where the trunk is 5" or more in diameter or where there are multiple trunks with a total perimeter of 40" or more measured 3-feet above grade? **(YES/NO)**

If "YES", a **tree removal permit** will be required. Exceptions can be made for any trees located closer than five (5) feet to an existing structure and trees located in a right-of-way and deemed to be hazardous by the Public Works Superintendent.

2. Will more than 500 cubic yards of soil be imported or removed from the project site? **(YES / NO)** If "YES", you must file a **hauling permit** application for review by the Town Engineer and approval by the Town Council. Planning Staff will review the application and a permit will be prepared for issuance, subject ratification by the Town Council. The normal procedure will be to place permits that are ready for ratification on the Town Council's consent calendar. The Council may ratify staff action or remove the item to be discussed as a separate agenda item. If the hauling operation will occur over private streets, then letters authorizing the haul route that was approved by the owner/owners of the private drive must accompany the application.

3. Are any retaining walls proposed in your project? **(YES / NO)**

If "YES", is the wall visible from off-site? **(YES / NO)**

What is the proposed maximum height of the retaining wall? _____

What is the shortest distance between a proposed retaining wall and a property line? _____

Are there any retaining walls stacked or terraced above another retaining wall? **(YES / NO)**

If "YES", what is the maximum height of the walls and the distance between the walls?

Height of Wall #1 _____, Height of Wall #2 _____ Distance between Walls _____

If any retaining wall is greater than 5 feet in height or if the retaining wall is visible from off-site and is more than 3 feet in height, **Design Review Board approval** is required. If a retaining wall is located closer than 3-feet to a property line an applicant must request an exception to design guideline ID11.5. If stacked retaining walls are closer together than twice the height of the highest adjacent retaining wall, then an exception to design guideline ID11.4 will be required.

4. Will the floor elevation of any proposed structure built over a slope, such as a home addition, deck or gazebo, exceed 4-feet above the existing grade? **(YES / NO)** If "YES", **Design Review Board approval** is required and special treatment of the skirt wall below the structure may be required or submittal of a landscape plan to mitigate the height of the skirt wall. If the structure is higher than 6-feet above grade then an exception is required to design guideline SFR2.11 if the structure is visible from off-site. Decks that exceed 6-feet in height must be substantially screened by landscaping or an exception to design guideline SFR2.12 will be required.

5. Will the project require: (1) more than 50 cubic yards of soil to be moved; (2) a cut deeper than 3-feet from the existing ground surface; (3) any fill on a slope of 20% or more; (4) grading within 100-feet of a natural watercourse; (5) placement of unretained earthwork within 9-feet of any adjacent property? **(YES / NO)** If "YES", you must also submit an application for a **grading permit** as specified under MMC Section 14.04.031. Grading permits are issued and inspected by the Town's Engineering Department; however, depending upon the average pre-development slope of the area of disturbance for the grading, **Design Review Board or Planning Commission and Town Council approval** may be required.

SUBMITTAL REQUIREMENTS FOR HILLSIDE DEVELOPMENT PERMITS

Carefully review the plan submittal requirements for the Hillside Development Permit application. Please be advised that an incomplete application will take longer and be more expensive to process.

A. Completed application form and appropriate fee

B. Site Plan / Topographic Survey (7 copies initially – after the application is determined complete, 6 additional copies will be required). Plan shall contain:

- (1) North arrow (with plan oriented so north points to top of sheet).
- (2) Scale of Drawing. Scale should be 1 inch equals 20 feet or larger for the site and not less than 1 inch equals 200 feet for a vicinity sketch or other means of adequately indicating the site location.
- (3) Dimensioned property lines shown in true location with respect to the plan's topographic information. If the site is in the MOSO zoning district, the cell boundaries must also be indicated. If the site is not in the MOSO zoning district the proposed development/disturbance area must be identified (outlined).
- (4) Existing topography and source of topographic information. (Source subject to approval by the Town Engineer.) While 2 foot contours are acceptable outside the development area, 1 foot contours are required within the area proposed for development/disturbance.
- (5) Existing hillside vegetation. (Indicate all existing vegetation on slopes 20% or greater within the development area - all trees must be identified on the site plan but photographs may be submitted for other forms of vegetation).
- (6) Location of all existing improvements on the property including drainage facilities.
- (7) Show the total existing and proposed impervious surface area on the project site, including the area of all roofs and paved surfaces. This information is required to determine compliance with the Contra Costa Clean Water Program Stormwater C.3 Guidebook and the Hydromodification Management Plan (HMP) approved by the Regional Water Quality Control Board for Contra Costa County.
 - If your impervious surface area exceeds 10,000 sq. ft., then you will be required to submit a **Storm Water Control Plan** and have a minimum area equal to 4% of the impervious surface area dedicated to infiltration. Your project engineer should show a sufficient area of the site reserved to satisfy the infiltration requirements. Refer to the "C.3 Guidebook" for full Plan and report requirements.
 - If your total impervious surface area is less than 10,000 sq. ft. but your project will increase the existing impervious surface area, then your drainage plan will need to comply with the Best Management Practices (BMPs) required under the Town's NPEDS Permit. Typically, all roof drains and surface drains for new impervious surfaces must be routed through a biofilter, sand filter, or planted vegetated swale for ten or more feet prior to entering any storm drainage pipe or tight line drainage system.
 - For preliminary drainage planning, designing landscaped areas to drain away from paved areas prevents them from contributing to area that must have treated drainage water.
- (8) Location, name and width (including offers of dedication) of adjacent streets.
- (9) Location of curb and sidewalk improvements.
- (10) Location of all easements on the property. (Please also provide a copy of the title report that identifies the easements.)
- (11) Stamp and signature of the appropriately licensed professional who prepared the plan.

C. Grading Plan to be superimposed on site plan but submitted as a separate plan (6 copies initially – after the application is determined complete, 6 additional copies will be required). Plan shall contain:

- (1) North arrow (with plan oriented so north points to top of sheet)
- (2) Scale of drawing at a scale not less than 1 inch equals 20 feet.
- (3) Dimensioned property lines shown in true location with respect to the plan's topographic information. If the site is in the MOSO zoning district, the cell boundaries must also be indicated. If the site is not in the MOSO zoning district the proposed development/disturbance area must be identified (outlined).
- (4) Existing and proposed topography and source of topographic information. (Source subject to approval by the Town Engineer.) Proposed grading lines should be shown with heavy contour lines. While 2 foot contours are acceptable outside the development area, 1 foot contours are required within the area proposed for development/disturbance. Ninety percent (90%) of the contours shall be plotted within one contour interval of the true location. Include a daylight line, showing the limits of grading work or disturbed soil. Tabulate total amounts of cut and fill (try to balance grading on site).
- (5) Existing and proposed hillside vegetation. (Indicate all existing and proposed vegetation on slopes 20% or greater within the development/disturbance area - all trees must be identified on the grading plan but photographs may be submitted for other forms of vegetation).

- (6) Location of all existing and proposed improvements on the property including drainage facilities.
- (7) Location, name and width (including offers of dedication) of adjacent streets.
- (8) Location of curb and sidewalk improvements.
- (9) Location of all easements on the property.
- (10) Location of all active or dormant landslides and other geological hazards on the property with indication of whether or not the conditions may extend onto adjacent properties.
- (11) The *limit of grading line*, which will include the entire area of the site that will be disturbed, including the following areas:
 - All cut and fill areas
 - Areas to be used for stockpiling of soil
 - Areas needed for maneuvering grading equipment
 - Estimated limit of landslide remediation work
 - Graded debris benches or catchment areas recommended in the geotechnical reports
- (12) The project engineer must calculate the existing (predeveloped) average slope of the area within the limit of grading line on the property. **NOTE:** If the average slope is over 20% but less than 25%, then the Design review Board will be authorized to approve the grading. If the average slope is 25% or more, then approval by the Planning Commission and Town Council will be required.
- (13) Stamp and signature of the appropriately licensed professional who prepared the plan.

D. Conceptual Drainage Plan to be superimposed on grading plan but submitted as a separate plan (7 copies initially – after the application is determined complete, 6 additional copies will be required):

- (1) North arrow (with plan oriented so north points to top of sheet)
- (2) Scale of drawing at a scale not less than 1 inch equals 20 feet.
- (3) Dimensioned property lines shown in true location with respect to the plan's topographic information. If the site is in the MOSO zoning district, the cell boundaries must also be indicated. If the site is not in the MOSO zoning district the proposed development/disturbance area must be identified (outlined).
- (4) Existing and proposed topography and source of topographic information. (Source subject to approval by the Town Engineer.) Proposed grading lines should be shown with heavy contour lines. While 2-foot contours are acceptable outside the development area, 1-foot contours are required within the area proposed for development/disturbance. Ninety percent (90%) of the contours shall be plotted within one contour interval of the true location. Include a daylight line, showing the limits of grading work or disturbed soil. Contour intervals shall extend a minimum of 100 feet off-site, or a sufficient distance to show on-and off-site drainage patterns as determined by the Town Engineer. Indicate all proposed drainage basins and calculations.
- (5) Existing and proposed hillside vegetation. (Indicate all existing and proposed vegetation on slopes 20% or greater within the development/disturbance area - all trees must be identified on the drainage plan but photographs may be submitted for other forms of vegetation).
- (6) Location of all existing and proposed improvements on the property including drainage facilities. Plans shall indicate horizontal and vertical location (plan and profile views) of all existing and proposed drainage facilities. Included details of inlets, ditches, swales, specifications and plans must be accompanied by a report which provides hydraulic/hydrology calculations that demonstrate the proposed system has adequate capacity for a minimum ten (10) year event and that the discharge does not exceed predevelopment volumes or rates. Velocity of discharge must be non-erosive. Drainage plans shall be superimposed on the grading plan unless otherwise impractical.
- (7). Location, name and width (including offers of dedication) of adjacent streets.
- (8) Location of curb and sidewalk improvements.
- (9) Location of all easements on the property.
- (10) Location of all active or dormant landslides and other geological hazards on the property with indication of whether or not the conditions may extend onto adjacent properties.
- (11) Stamp and signature of the appropriately licensed professional who prepared the plan.

E. Engineering Geology and Geotechnical Engineering Reports (10 bound copies):

(1) The Engineering Geology report shall be prepared by a Registered Engineering Geologist and be based upon adequate test borings, excavations, geophysical testing, or field mapping. Recommendations included in the report and approved by the Town Engineering Geologic Consultant and the Town Engineer shall be incorporated in the grading plans and specifications. The report shall include, but not be limited to, the following information:

- (A) An adequate description of the geology of the site;
- (B) A scaled site geology map;
- (C) Conclusions and recommendations regarding the effect of geologic conditions of the site on the proposed development; and
- (D) Opinions and recommendations covering the adequacy of sites to be developed by the proposed grading.

(2) The Geotechnical (Soil) Engineering report shall be prepared by a registered Geotechnical Engineer. The report shall indicate the presence of unstable naturally occurring or man-made soil which has the potential to cause damage to structures, buildings, and other improvements. Unstable soil conditions could include but are not limited to, landslide deposits, critically expansive soils, deposits of colluvium or alluvium, liquefiable soils and undocumented fill. Recommended measures for mitigating the identified unstable soil conditions should be provided in the report.

The Town may require that the report be evaluated by the Town Geotechnical Engineering Consultant. The cost of the review shall be borne by the applicant. The focus of the review would be to advise the Town as to the adequacy of the report in addressing all relevant geotechnical issues concerning the site and the proposed development. The geotechnical report shall, at a minimum contain the following information:

- (A) Opinions and recommendations covering adequacy of sites to be developed by the proposed grading
- (B) Data regarding the nature, distribution, strength, liquefaction potential and erodibility of existing soils, and of soil to be placed on the site, if any.
- (C) Reports on the suitability of the earthen material for construction of stable embankments and excavation slopes, including those necessary for any artificial or natural drainage channels
- (D) Conclusions and recommendations for grading and construction procedures to obtain required stability
- (E) Design criteria for corrective measures when necessary.
- (F) Conclusions and design recommendations for interim soil stabilization devices and measures and for permanent soil stabilization after construction is completed; and
- (G) Any other recommendations concerning landslides, unstable soil conditions, springs and seepage conditions, erosion control planting, or drainage facilities to enable proper development of the site.
- (H) Recommendations included in the report and approved by the Town Geotechnical Consultant and Town Engineer shall be incorporated in the grading plans or specifications.

F. Any supplementary material required by the Town Engineer