



Town of Moraga	Agenda Item
Ordinances, Resolutions, Requests for Action	10. A

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Meeting Date: February 9, 2022

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5 **TOWN OF MORAGA**

6 **STAFF REPORT**

7

To: Honorable Mayor and Councilmembers

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From: Afshan Hamid, Planning Director
Barry Miller, Barry Miller Consulting

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Subject: Discuss and Provide Direction to Staff on General Plan Amendment
13 and Rezoning of Bollinger Canyon Special Study Area

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Request

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Background

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The Town of Moraga is implementing its Comprehensive Advanced Planning Initiative. The Initiative includes several components, including the State-mandated 6th Cycle (2023-2031) Housing Element Update, conforming amendments to the Moraga General Plan, rezoning of key sites and amendments to the zoning ordinance to meet required housing targets, rezoning of the Bollinger Canyon Special Study Area, and a program-level Environmental Impact Report (EIR) for the above actions. The rezoning of the Bollinger Canyon Special Study Area (hereinafter “Study Area”) is the subject of this report. In 2019, and each year thereafter, the Town Council identified rezoning of the Study Area as one of its goals and priorities for the coming year.

The work program for the Advanced Planning Initiative includes a dedicated task to replace the “Study Area” designation in Bollinger Canyon with new General Plan and zoning designations. Key tasks include a “White Paper” laying out possible zoning approaches and a neighborhood meeting to solicit input on these approaches. The White Paper has been drafted and is being presented to the Council for feedback. Future tasks include draft zoning text and map revisions, General Plan amendments for the Study Area, and adoption of final zoning and General Plan language and map changes by the Council. The program-level EIR for the Advanced Planning Initiative will consider the impacts of the new zoning, as well as the impacts of any policy changes.

The Bollinger Canyon White Paper is included as Attachment A to this staff report. The staff report includes a summary of key recommendations, but the White Paper should be

1 consulted for more detail on study area history, characteristics, and zoning options. The
2 White Paper also includes a series of maps and figures, as well as attachments
3 corresponding to General Plan and Zoning maps dating back to the Town's incorporation.
4

5 The purpose of the Town's zoning regulations is to establish standards for the use of
6 property, including permitted uses and development standards such as parcel size and
7 building height. Zoning regulations divide the Town into districts, with the rules for each
8 district intended to reflect the character of the area, provide reasonable rights to property
9 owners, and implement the community's long-range plans. Zoning by itself does not
10 automatically grant approval to specific development projects. Such projects may be
11 initiated by property owners in the future and would be subject to separate processes and
12 development review procedures. The subject of this staff report, and the action under
13 consideration by the Town Council, does not approve a project; it merely provides
14 direction to Town staff to develop zoning regulations that will govern future activities in
15 the Study Area. The draft regulations will be subject to environmental review prior to
16 consideration for adoption. There is no development project application under
17 consideration at this time.
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19 **Discussion**

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21 **Study Area Characteristics**

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23 The Bollinger Canyon Study Area covers 423 acres on the eastern edge of Moraga along
24 both sides of Bollinger Canyon Road. The Study Area is bordered by the City of Lafayette
25 on the north, unincorporated Contra Costa County on the east and south, and the Bluffs
26 neighborhood and St. Mary's College on the west. The area consists of 20 parcels, with
27 13 separate landowners, and includes a mix of rural residential and agricultural uses.¹
28

29 A map of the Study Area showing parcels and key features is included as Figure 1.
30

31 **Planning and Zoning History**

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33 The Town's first General Plan, adopted in 1979, designated the 423-acre area as "Study"
34 and called for further evaluation of the site to determine an appropriate land use. There
35 is no residential density range associated with the "Study" designation, as it was intended
36 to be temporary.
37

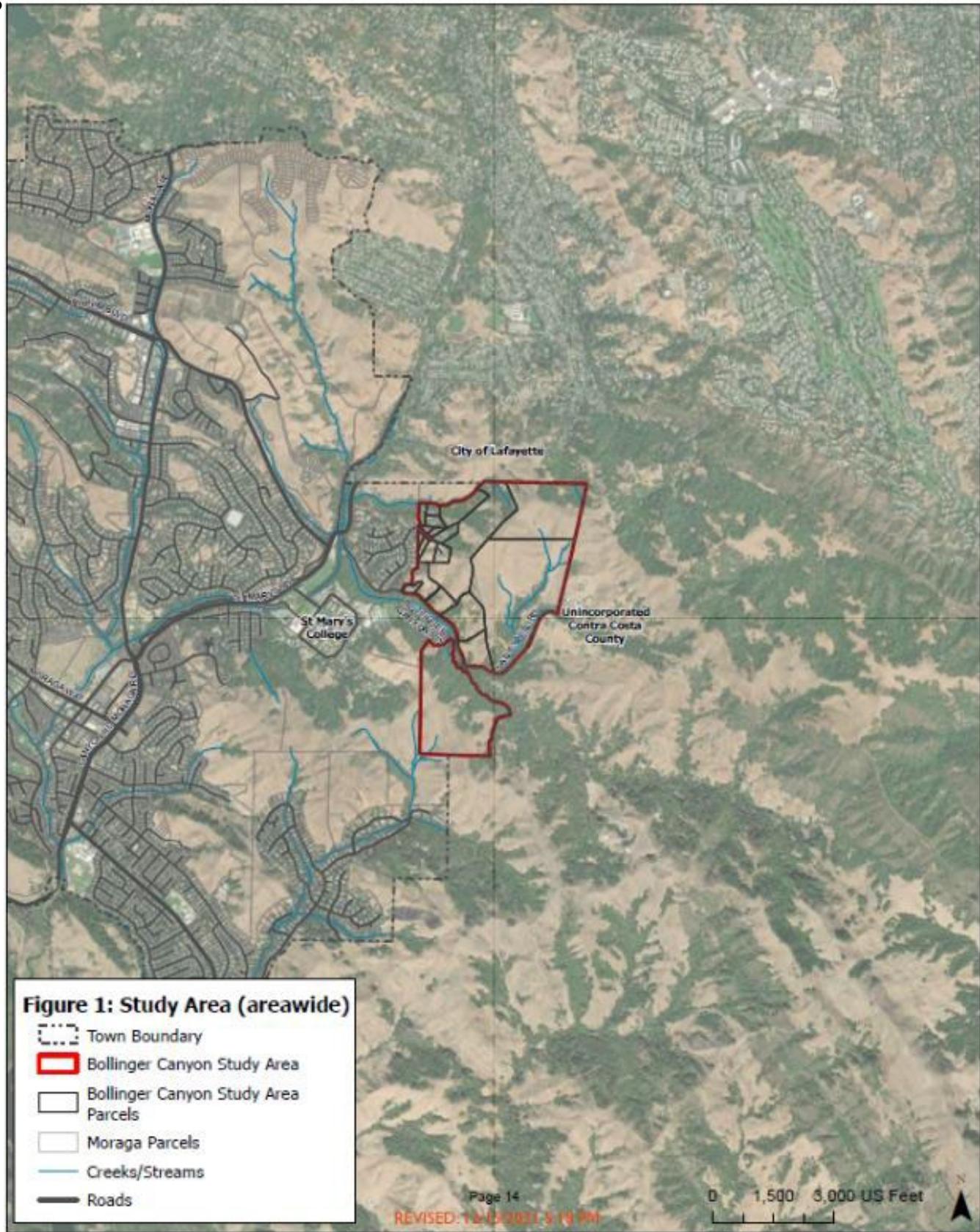
38 Prior to the Town's incorporation in 1974, the area was subject to County R-15 and R-20
39 zoning. These zoning districts allowed one dwelling unit per 15,000 square feet (roughly
40 3 units per acre) and one dwelling unit per 20,000 square feet (roughly 2 units per acre)
41 respectively. When the Town adopted its first zoning map in 1980, the western one-third
42 of the area was rezoned as open space, while the eastern two-thirds was zoned "Study"
43 to match the General Plan designation. In 2018, the open space parcels were rezoned
44 to "Study" as part of the Town's adoption of new hillside and ridgeline regulations. Thus,
45 the General Plan and zoning designations for all 20 parcels are now "Study."

¹ There are 20 separate Assessor Parcels in the Study Area. Two of the parcels (APNs 258-012-043 and 258 258-012-044) are actually a single property under one owner. They are recorded by the County as two parcels to reflect the EBMUD service area boundary, which bisects the property. Parcel -043 has water service; parcel -044 does not.

1 **Figure 1: Study Area Location and Boundary**

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1 **Bollinger Canyon Zoning Principles**

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3 The staff/consultant team has developed principles to guide the rezoning effort. All of
4 these principles support the larger goal of replacing the temporary “Study Area”
5 designation with permanent zoning districts:

6

- 7 • **Pursue Shared Goals.** Look for and pursue shared goals between the community,
8 the City, property owners, neighbors, partner agencies, and other stakeholders.
- 9 • **Take a Fresh Look at the Area.** Focus on current best planning practices, trade-
10 offs, and goals for the area, not past property owner applications or studies.
- 11 • **Understand Physical Site Constraints.** Understand and respect existing physical
12 constraints, hazards, and environmental context when determining appropriate
13 zoning.
- 14 • **Consider the Rural Character.** Accommodate and encourage the area’s existing
15 rural character in all potential zoning scenarios, reflecting its unique location at the
16 edge of town adjacent to extensive natural open space and habitat.
- 17 • **Provide Zoning Standards, not Project Design or Approval.** Provide planning-
18 level zoning parameters and requirements for the existing Bollinger Canyon Study
19 Area; do not prescribe or endorse any particular future project design or
20 development application – if this occurs, it should be left to a future process.
- 21 • **Utilize Existing Zones to the Extent Possible.** When possible, seek to apply
22 existing zoning districts from the Town of Moraga Municipal Code instead of creating
23 new districts, encouraging consistency in the Municipal Code; however, new zones
24 or overlays could be created if existing zones are not suitable.
- 25 • **Avoid “Spot Zoning.”** Stay away from parcel-by-parcel “spot zoning” and look to
26 apply consistent standards to the whole study area or contiguous portions of the
27 Study Area.

28

29 **Zoning Options**

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31 Based on existing land use, ownership, and parcel sizes, parcels in the Study Area have
32 been grouped into three categories, as shown in Figure 2. Different General Plan and
33 zoning approaches have been proposed for each group of parcels.

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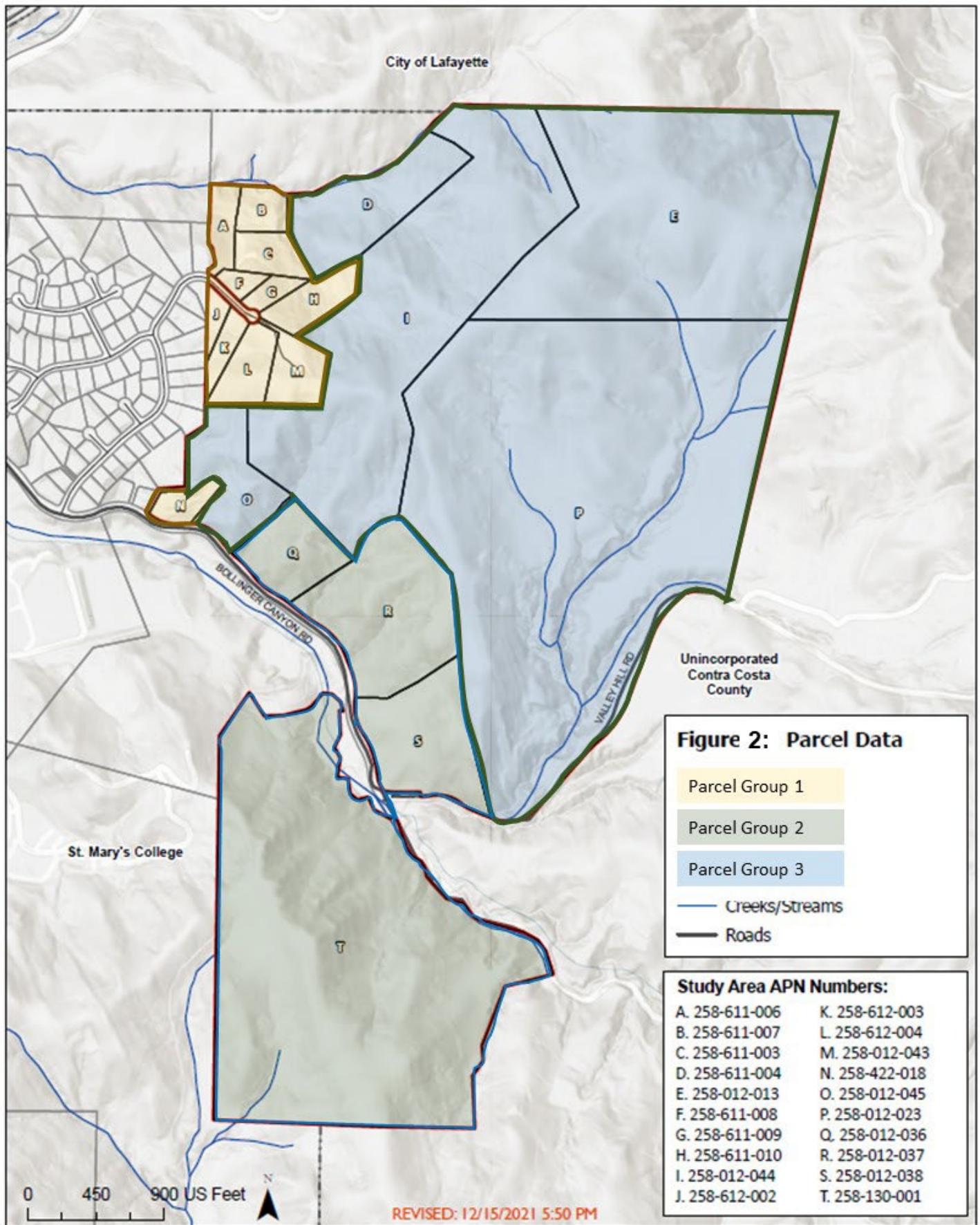
35 Parcel Group 1

36 This group includes 11 parcels that range in size from 0.97 acres to 3.78 acres. This is
37 essentially an easterly extension of the Bluffs neighborhood, with ten of the parcels
38 accessed from Joseph Drive. One of the 11 parcels is vacant—the others contain one
39 single family residence each. This area also includes a single 1.77-acre parcel with an
40 existing home accessed from Bollinger Canyon Road.

41

42 The General Plan and zoning designation recommended for the 11 parcels is 1 DU/AC
43 (dwelling unit/acre), reflecting the fact that this is an established residential area with
44 densities in this range. This is also the zoning district in the adjacent Bluffs neighborhood.
45 Existing uses in this parcel group conform to the permitted uses in the 1 DU/AC zone and
46 generally meet the applicable development standards. The potential for any future
47 subdivision would be extremely limited based on current parcel sizes and dimensions.

1 **Figure 2: Proposed Parcel Groups in the Bollinger Canyon Special Study Area**
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1 Another option that was considered for this area was to apply Non-MOSO Open Space
2 zoning. This was the zoning designation in place prior to 2018.² Staff has concluded that
3 this designation is less appropriate since it does not reflect actual uses or the intent of the
4 Non-MOSO Open Space district. Residential uses would be considered “conditional” in
5 this zone, rather than permitted uses, and none of the parcels in Group 1 are already
6 developed.

7

8 Parcel Group 2

9 This group includes four parcels totaling 136 acres all under one ownership. The
10 properties are part of Harvey Ranch and are in agricultural use. The owner is currently
11 working with the John Muir Land Trust to dedicate all four parcels as permanent open
12 space.

13

14 The General Plan designation recommended for this area is “Open Space” and the zoning
15 recommendation is Non-MOSO Open Space. Three of the four parcels had an open
16 space designation prior to 2018, and this essentially restores that designation. The fourth
17 parcel has been zoned “Study” since 1980. The Non-MOSO Open Space zoning district
18 is consistent with the current and planned future use of all four parcels and is the best fit
19 zoning designation.

20

21 Parcel Group 3

22 This group includes five parcels which collectively represent 62 percent of the Study Area
23 (262.7 acres). Existing uses are primarily agriculture and open space, with two rural
24 residences. The two easterly parcels, which together comprise 186.3 acres, were
25 previously proposed as a 123-lot subdivision (commonly referred to as the Bollinger
26 Valley project).

27

28 The other parcels in Group 3 are owned by three different parties. One is a rural
29 residence on 8.6 acres accessed from Bollinger Canyon Road. Another is a 56.1 acre
30 agricultural/open space parcel owned by an adjacent property owner in Parcel Group 1.
31 The third parcel is 11.7 acres and is open space, with the owner also residing on an
32 adjacent property in Parcel Group 1.

33

34 Option A: Rural Residential, 5-acre minimum (RR-0.2). This General Plan and zoning
35 designation does not currently exist in Moraga but would be created through the
36 Advanced Planning Initiative process. The zone would be patterned after a similar zone
37 immediately east of the Study Area in unincorporated Contra Costa County, and to the
38 northeast of the site in Lafayette. The corresponding General Plan and zoning density
39 would be 0.2 units/ acre, or one unit per every 5 acres. Single family residences would
40 be a permitted use, as they are in the County’s A-2 (Agricultural Lands) zone and
41 Lafayette’s L-R-5 zone. Agricultural uses also would be permitted. A variety of
42 conditional uses, consistent with natural character and scenic resources, also would be
43 considered. Development standards would be consistent with very low densities and very
44 high severity fire hazards.

45

² MOSO is the Moraga Open Space Ordinance, which was approved by Town voters in 1986. Non-MOSO Open Space is a zoning district used to identify open space not explicitly designated as “Open Space Lands” by the Ordinance, but with low development capability and characterized by such factors as steep slopes, unstable soils, fault zones or high visibility.

1 Under this designation, the theoretical maximum number of dwelling units that could
2 possibly be built in the 262-acre area would be 52. Parcelization and ownership patterns,
3 as well as requirements for access easements or rights-of-way, would likely result in a
4 somewhat smaller number of units.

5
6 *Option B: Rural Residential, 10-acre minimum (RR-0.1).* This General Plan and zoning
7 designation does not currently exist in Moraga but could be created through the Advanced
8 Planning Initiative process. This zone is in an area immediately north of the Study Area
9 in the City of Lafayette (L-R-10). The corresponding zoning density would be 0.1 units/
10 acre, or one unit per every 10 acres. Single family residences would be a permitted use,
11 as they are in Lafayette's L-R-10 zone. Agricultural uses also would be permitted.
12 Development standards would be consistent with very low densities and very high
13 severity fire hazard levels.

14
15 Under this designation, two of the five properties would have no further subdivision
16 potential. The theoretical maximum number of future dwelling units that could possibly
17 be built in the 262-acre area would be 26. Parcelization and ownership patterns, as well
18 as requirements for access easements or rights-of-way, would likely limit actual potential
19 to a smaller number of units.

20
21 *Option C: Non-MOSO Open Space (N-OS).* The N-OS designation is intended for
22 agricultural and open space uses not explicitly covered by the 1986 Moraga Open Space
23 Ordinance. The corresponding General Plan designation in this instance is "Open
24 Space." The stated intent of the N-OS district to identify and regulate areas "that have
25 low development capability and are characterized by such factors as steep slopes,
26 unstable soils, fault zones or high visibility." Single family residences are conditionally
27 permitted in N-OS areas at densities of one unit per 5 acre, 10 acres, or 20 acres. The
28 density on any particular site is prescribed by the Planning Commission upon review of a
29 development application and depends on such factors as steepness of slope, adjacent
30 land uses, visibility, soil stability, hazards, grading requirements, and impacts to
31 vegetation and natural resources.

32
33 The maximum theoretical number of potential units that could possibly be built under this
34 designation would be 52. However, the Planning Commission and Town Council could
35 determine that lower densities are appropriate given the area conditions, limiting the total
36 to 26 units (i.e., one unit per 10 acres), or 13 units (at one unit per 20 acres).³ In addition,
37 because residential uses are a "conditional" use rather than a "permitted" use, the
38 Commission and Council would need to make specific findings before approving any
39 residential development. Single family residences would not be permitted "by right."

40
41 *Option D: Residential, 1 DU/AC.* This General Plan designation and zoning district is
42 currently used in the Bluffs neighborhood to the west of the Study Area. The Town could
43 consider this designation if it wishes to facilitate future suburban density single family
44 residential development in this area. If applied to the entire Study area, the theoretical
45 maximum number of units that could possibly be built would be 262; the actual number
46 would be lower due to requirements for interior roads and easements. The Town could

³ The actual number of potential new units would be slightly lower than these theoretical totals, given the parcelization and ownership patterns and the presence of existing residences on the five parcels.

1 also apply the 1 DU/AC designation to just a portion of the Study Area, based on further
2 analysis of topography, natural resources, and hazards.

3
4 Staff's recommendation, which was presented at a Neighborhood meeting on January
5 25, is Option "A" (rural residential, 1 DU/5 acres). This option is generally consistent with
6 Moraga General Plan policies as well as State housing mandates and initiatives.
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8 **Justification for Selecting Option A**

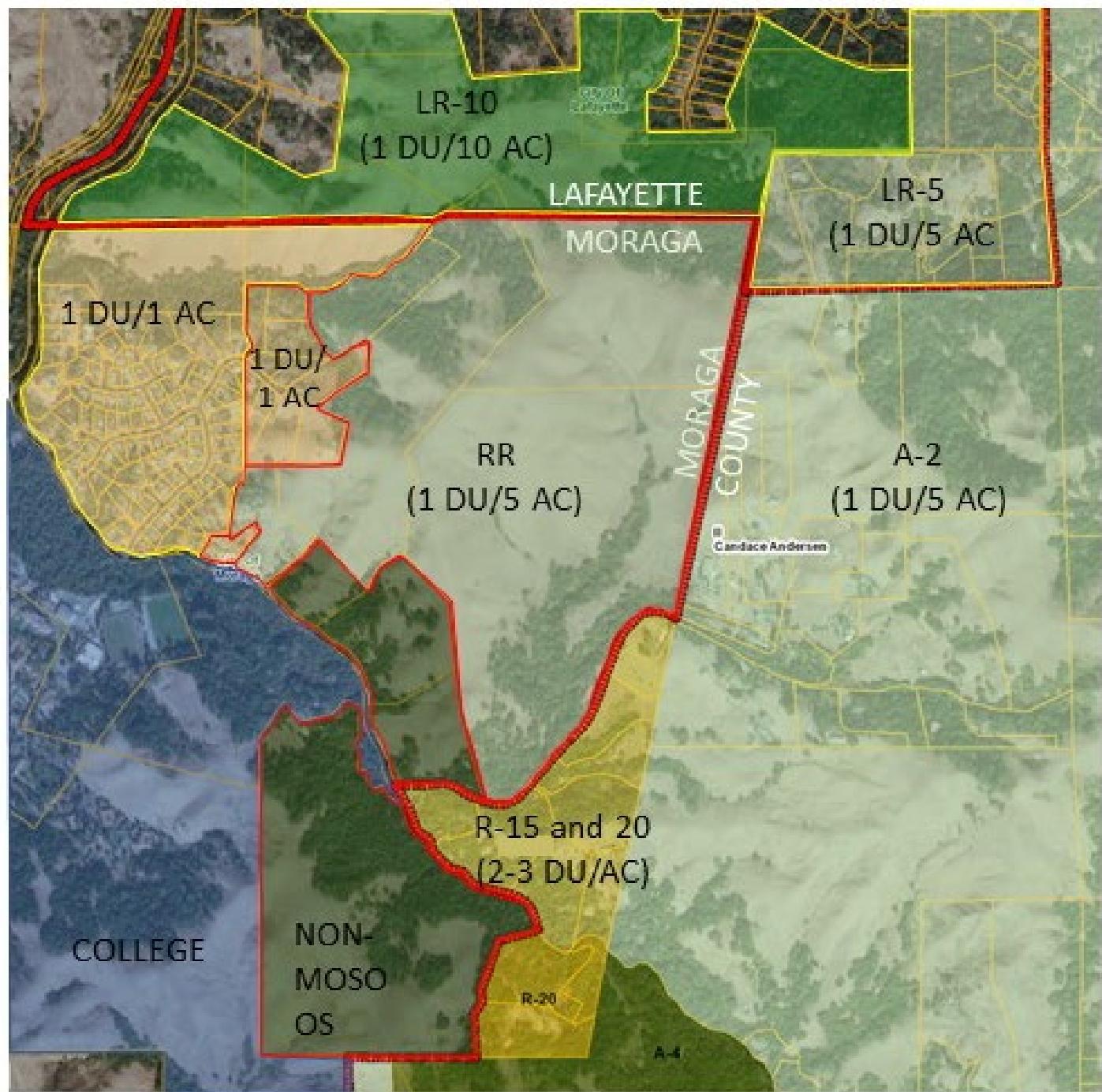
9 Option A (5 acre minimum) has been recommended for Parcel Group 3 for a number of
10 reasons, as indicated below:
11

- 12 • It is the prevailing zoning in the County areas to the east of the site and in Lafayette
13 to the northeast of the site
- 14 • It is consistent with the rural residential/ ag-residential zoning used in nearby
15 communities, including Contra Costa County, Lafayette, Orinda, and Danville
- 16 • It is consistent with the prevailing parcel sizes in the areas along Valley Hill Road and
17 Bollinger Canyon Road to the east of the Study Area.
- 18 • It reflects the constrained topography, limited access, scenic value, natural resources,
19 and high fire dangers
- 20 • It corresponds to the minimum parcel size in the Town's open space zones
- 21 • It establishes a logical transition between the 1 unit per acre zoning in the Bluffs
22 neighborhood to the west and the large-scale ranchland, regional park, and watershed
23 lands located to the east and southeast.
24

25 Staff completed an analysis of parcels in the unincorporated area east of the Bollinger
26 Canyon Study Area as part of its determination. The findings of this analysis are provided
27 below:
28

- 29 • The County lands immediately southeast of the study area are zoned R-15 and R-20,
30 which allows 2-3 units per acre (see Figure 3). This zoning has been in place for over
31 50 years. The actual development pattern in this area is much less dense, with parcel
32 sizes, access and infrastructure constraints, and steep topography that limit
33 development at this density in this area. In fact, there are 12 parcels in the
34 unincorporated R-15/R-20 zoned area, and the median area of these parcels is 5.7
35 acres.
- 36 • The County lands immediately east of the study area are zoned A-2, which allows one
37 unit per 5 acres (see Figure 3). Topography is similar to the Study Area, and the two
38 areas have other common physical characteristics. There are 14 parcels in this area,
39 with a median size of 5.5 acres. Beyond these 14 parcels, parcel sizes are
40 substantially larger and the land is in more active agricultural use.
41

1 **Figure 3: Surrounding Zoning and Preliminary Zoning Recommendations for**
2 **Study Area**
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1 Option B (10 acre minimum) is not recommended because it would result in allowable
2 densities that are even lower than the “base” density allowed in the Town’s open space
3 district (5 acres/ DU).

4
5 Option C (Non-MOSO Open Space) is not recommended because it would continue to
6 create uncertainty about future densities.

7
8 Option D is not recommended because it would be potentially inconsistent with General
9 Plan policies and have more substantial environmental impacts.

10
11 **Potential Zoning Tools**

12
13 Once a zoning option has been selected, the Town may consider further measures to
14 reduce the impacts of potential future development in the Study Area. This could include
15 zoning provisions for clustering the allowable number of units within the Study Area on
16 flatter or less visible areas.

17
18 There are also provisions in the Moraga Municipal Code to allow the transfer of
19 development rights (“TDR”) from open space to land that is more appropriate for
20 residential development. If TDR is used, the development potential of certain parcels in
21 the Study Area would be transferred to “receiving parcels” in another part of Moraga, such
22 as the MCSP area. Incentives could be created by the Town to make this more attractive
23 to landowners.

24
25 As noted in the attached White Paper, the Town will need to amend Moraga Municipal
26 Code Chapter 8.104 to make density transfer provisions viable. The Code currently only
27 allows density to be transferred to residentially zoned properties. It should be revised to
28 permit density to be transferred to properties zoned for mixed use.

29
30 **Neighborhood Meeting**

31
32 As noted above, Staff convened a “virtual” (Zoom) neighborhood meeting regarding
33 zoning proposals for the Bollinger Canyon Study Area on the evening of January 25,
34 2022. All property owners in the Study Area, and all properties within 500 feet of the
35 Study Area boundary, received a flyer announcing the meeting. The meeting was also
36 noticed in the Town’s newsletter and on the Town’s website. Approximately 40 residents
37 attended, along with Planning staff, consultants, the Town Manager, and the Police and
38 Fire Chiefs. A presentation was delivered, followed by an hour of feedback, questions,
39 and discussion. Most of those commenting were residents of the Bluffs neighborhood or
40 lived along Valley Hill and Bollinger Canyon Roads.

41
42 The major issues raised are listed below:

43
44 • Wildfire safety and adequacy of emergency vehicle access
45 • Impacts of any additional housing on evacuation capacity
46 • Traffic volumes/ road condition and capacity
47 • Traffic safety (unsafe conditions for pedestrians, cyclists, dangerous intersections for
48 motorists, speeding vehicles, etc.)
49 • Landslide potential

1 • Lack of infrastructure; need to stabilize the road
2 • Relationship between the rezoning action and future development applications
3 • Potential for less dense zoning proposals

4
5 In addition, the applicant for the former Bollinger Valley project was present and
6 expressed his interest in a zoning solution that permitted a larger number of units, and
7 more proactive measures by the Town to address safety hazards and emergency vehicle
8 access.

9
10 **Fiscal Impact**

11
12 The February 9 item does not have a direct fiscal impact. Future zoning decisions will
13 have indirect fiscal impacts as they will shape future development potential within the
14 Study Area. Zoning will determine the number of residential units and the allowable uses
15 on each parcel, which ultimately will affect property tax generation, infrastructure costs,
16 and the cost of delivering local services to new development. These impacts would be
17 considered as individual developments are proposed in the Study Area.

18
19 **Environmental Review and Safety Considerations**

20
21 The rezoning of the Bollinger Canyon Study Area will be addressed in a Program-Level
22 Environmental Impact Report (EIR) to be developed for the Comprehensive Advanced
23 Planning Initiative. The EIR also will cover other aspects of the Initiative, including the
24 rezoning of sites in the Moraga Center and Rheem Center areas required to meet the
25 Town's 2023-2031 Regional Housing Needs Allocation, and adoption of the Housing
26 Element and conforming General Plan amendments. The EIR project description will
27 include a discussion of proposed zoning changes in the Bollinger Canyon Study Area.

28
29 The Impact discussions in the EIR will address the potential effects of future rezoning on
30 the various topics required by CEQA. With respect to fire safety, evacuation, traffic, and
31 other impacts that have been raised to date, these issues will be addressed at a
32 programmatic level, rather than a project level. In other words, the mitigation measures
33 listed in the EIR would typically be policies and procedures that the Town will apply to
34 potential future projects rather than measures associated with the design or physical
35 characteristics of a particular development application. These procedures would include
36 consultation with the Moraga Orinda Fire District regarding roadway design and access
37 standards, emergency vehicle access, and other measures to ensure public safety.

38
39 As noted earlier, the current action involves recommending land use regulations for
40 development only and does not approve or entitle a specific development project. Future
41 development projects in the area would continue to be subject to environmental review,
42 potentially including their own project-level EIRs. As appropriate, such projects would be
43 subject to site-specific mitigation measures based on their design attributes and potential
44 impacts.

45
46 A Notice of Preparation for the Program-Level EIR was issued on February 3, 2022. A
47 Scoping Session is scheduled for Thursday, February 17 at 6.00 PM via Zoom. The EIR
48 itself will be prepared later in 2022 and brought to the Planning Commission and Town

1 Council for adoption before the statutory deadline for Housing Element adoption, which
2 is January 31, 2023.

3

4 **Recommendation and Next Steps**

5

6 Staff is requesting that the Town Council receive a presentation on the planning and
7 zoning options presented in this report, take public comment on the subject matter, and
8 discuss the material presented. Staff is further requesting guidance and direction from
9 the Council on the recommended General Plan and zoning proposals and/or options for
10 the three parcel groups. Staff will take this direction to develop draft General Plan and
11 zoning ordinance text, including use regulations and development standards. Once
12 drafted, these regulations will be discussed by the Planning Commission and then by the
13 Town Council. Staff anticipates Planning Commission discussion in April and Council
14 discussion in May.

15

16 Following Council discussion, the draft regulations will be evaluated in the Program-level
17 EIR being developed for the Advanced Planning Initiative, including the Housing Element
18 and related rezoning. Formal action on the Bollinger Canyon Study Area rezoning is
19 scheduled for December 2022/January 2023 as part of the Council action on the Housing
20 Element, General Plan Amendments, and EIR certification.

21

22

23 **Report reviewed by:** **Cynthia Battenberg, Town Manager**
24 **Karen Murphy, Assistant Town Attorney**

25

26 **Attachment:**

27

28 A. [Bollinger Canyon White Paper link](#)

ATTACHMENT A

[Bollinger Canyon White Paper link](#)