

Letter from David Bruzzone
January 24, 2023

DAVID R. BRUZZONE
PO BOX 97 • MORAGA, CA • 94556
PHONE: 925-376-1921

January 24, 2023

SENT VIA EMAIL

Mayor Sos and Town Council
Town of Moraga
329 Rheem Blvd.
Moraga, CA 94556

Re: Town Council, January 25, 2023, Agenda Item 9B. Comprehensive Advanced Planning Initiative (CAPI)/Housing Element (HE) Update.

Dear Mayor Sos and Town Council:

The Comprehensive Advanced Planning Initiative (CAPI)/Housing Element (HE) Update still requires substantial corrections and revisions. There remain many unidentified defects, items not adequately corrected, as well as important systemic faults unnoticed. Issues, constraints, and concerns that have been identified by HCD, and others, have either been brushed aside with an inadequate response or an ineffective program, or have had their impacts either minimized, discounted, and even avoided.

These essential rectifications if left undone will lead to the same horrendous RHNA results as past years. We can't achieve a fair CAPI, or HE without taking immediate action to correct these abuses, both current and past.

Before getting into specific details on CAPI defects, I'd like to acknowledge the tremendous amount of work, again even though flawed and imperfect, that was done by planning staff. Planning Director Hamid and the consultant team led by Barry Miller have diligently pursued their task while exhibiting clear thinking, excellent organizational skills, and, at times showed clever insight to important planning issues, such as identifying development constraints.

It would be great to be able to stop here, but as the staff report states and from their viewpoint, we still have Phase 2 of General Plan amendments and other revisions to pursue. This is the Town's view, which acknowledges that we, as a Town, didn't get everything done, the way we wanted it, or within the timeframes required.

From my outlook, I've dug a little deeper, and with many past Housing Elements under my belt and tempered with my perspective (as a member of a family which has owned and developed property in Moraga for a long time), it is easy to see the same glaring mistakes that Moraga continually creates. What is that mistake? It's similar to a "slight of hand" maneuver, or a misdirection, but generally it is saying one thing and then doing another. We continue to make the same errors and avoid the necessary corrections that have plagued our Town since our first General Plan and our first RHNA requirements.

Moraga’s response to HCD Comments, although very extensive, do not give a fully accurate, or complete reply to those comments. Saying we are correcting things by “fast tracking” and facilitating improvements by adopting so called **“objective standards” - while ignoring SB330 rules** - really don’t correct problems. They in fact increase the corruption and festering and lead to inequities and failed opportunities.

1

Do we have a statutorily compliant Housing Element? I don’t think so. I know we had many opportunities to correct past and current faults, and adopt different policies and programs that would further increase housing, including affordable housing, while making Moraga a much better place and in a manner acceptable to our citizens – but we didn’t. Here is my quick summary of problems, in no specific order, which need correction or additional review:

MCSP, No Streamlining, just more Red Tape –

1. With respect to the MCSP and other Town actions/programs, there has been no streamlining, no fast track, or expedited approvals; MCSP took 8 years to approve (2002 GP with SP approved in 2010); Since 2010, developments in MCSP took up to 7 years to get approved, Moraga Via, housing project in Rheem without a SP, or certified SP EIR, was approved faster; MCSP wasn’t fully implemented until 2020.
2. During Moraga Center Specific Plan Implementation Process (MCSP-IP approved November 10, 2020), Moraga “doubled down” and made development **more difficult/restrictive** and pretty much made these **previously approved MCSP projects impossible to build** with their new MCSP-IP development standards.
3. After approval of MCSP-IP, even with a helpful planning staff, two current MCSP application projects were not deemed complete for almost a full year. Even then, the staff’s position is that **our projects still have “inconsistencies” with Town policies and design guidelines.** Furthermore, there doesn’t seem to be any CEQA streamlining. Extra CEQA work and study is still required, even after a very detailed EIR was certified for the MCSP. All of which will add more delay and uncertainty about future approvals and development exactions.

2

3

4

Senior Housing, including Congregate Care Housing –

1. Senior Housing, especially housing that combines Independent Living (IL), Assisted Living (AL), and/or Memory Care was a key component of the MCSP – it allowed 150 units for this type of housing, which was above the 630 units already approved. I’ve requested modifications to the SP rules to assist us in bringing a viable project to Town, but we need more “density” to achieve our goals. Current Development standards don’t allow that.

5

R-20 Zoning –

1. Current R-20 ministerial zoning and other recent MCSP zoning can be used as case studies, to understand constraints analysis, some of which was included in Chapter 5 of the HE. If an ordinance is badly written or has defects, bad design standards, and internal conflicts, or has other problems in it, the project won’t be built. (Some examples are: setbacks are too restrictive; parking standards don’t

6

work; minimum size of lots, or FAR; spacing between buildings, etc.). Generally if rules are too confusing, unclear, and prescriptive, the project won't be build, or the applicant will look for another processing route like going through a discretionary process, or a PD process. The Town's discretionary process, and PD process, is rife with conflicts, it is an outrageous process because of the Town's web or matrix of restrictive rules, policies and design guidelines. Until recently that is, when California started enacting laws to encourage and facilitate new development and to hold local jurisdictions to account.

6

2. Only areas within the MCSP are designated for R-20, and was initiated with the 2010 MCSP approval. This 20 DUA density and zoning was used as the **“default density”** which fulfills RHNA **for affordable housing**.
3. R-20 zoning only applies to MCSP land, not to Rheem area. R-20 Ordinance, as originally written, clearly didn't work. Faults and conflicts within the ordinance, coupled with recent MCSP-IP changes (including MCSP design standards) in November 10, 2020, created new “inconsistencies” with Town's rules which subjects the projects to a denial in a discretionary application process.
4. Our vacant sites with R-20 zoning are much more difficult to develop than the other new zoning rules for Rheem Center (RMCR). Developed RMCR sites (sites with existing viable and operating businesses) are allowed greater density, have less restrictive setbacks, don't place lot sizes for Townhouse, don't include FAR, etc.). This leaves the MCSP at an extreme disadvantage.
5. R-20 allowed two types of approvals: 1. a strict, prescribed “Ministerial process”, and; 2. a more flexible discretionary approval process.
 - a. As mentioned, the Ministerial process is deemed too prescriptive, which forces the application through the discretionary route, which has been made more difficult and murky because of **MCSP-IP illegal missteps**, which incorrectly **applied new rules and restrictions to both the ministerial and discretionary processes**.
6. MCSP-IP process **changed density from a gross area calculation** (e.g. site of 6.135 gross acres (without deduction for roads/or circulation) x 20 DUA = 122 units. , to a net area calculation for residential zones in MCSP area. (e.g. see Ch 8.34.040 A. Density, where it changed a gross area calculation into a net area, by adding “exclusive of streets”).
7. Large section, approximately 12.4 acres of R-20 district in MCSP Area 5, isn't being allowed a density increase to 24 DUA, as other areas are. It is being discriminated against, which is highly unusual because it was the first default density affordable area designated in Town. Development Standards are more prescriptive in this area compared to other high density areas (currently 24 DUA).

7

8

9

10

11

Bruzzone - Bollinger Valley (BV) Property –

1. Contrary to 2002 GP, Town didn't coordinate and support efforts in preparing a special study for BV. They didn't certify an EIR or approve any development alternative, which included options covering the whole range of all of the Town's housing densities.

12

- 2. BV is **currently undergoing a drastic downzoning**, contrary to response to HCD, of property to a maximum of 1 dwelling unit per 5 Acres. Adjacent Moraga properties were allowed previously to be subdivided into smaller lots. Bluffs area was developed at approximately 3 DUA, but has a land use and zoning of 1 DUA. 13
- 3. **BV not being shown as a Housing Opportunity Site**, when site is vacant and owner has shown they are willing to development. Site obviously provides housing for above Moderate (M+) housing, as well as affordable units, in the guise of ADUs. 14

New Inclusionary Housing, Affordable Housing Ordinance Ch. 8.180 –

- 1. New ordinance, even though it has some positive parts, has imposed discriminatory clauses which restrict BMR Accessory Dwelling units from Residential districts with housing density greater than 6 DUA (e.g. prohibits them in R-12, R-20 and R-24 areas). It also restricts ADUs to certain minimum sizes which keeps them out of the Extremely Low, Very Low, and Low income categories. 15

Accessory Dwelling Units ADUs –

- 1. I proposed a program (though not accepted), that when combined with a revised Ch. 8.180 Affordable Housing Ordinance, would have created more, by far, BMR ADUs, including those for ELI, VLI, and LI, and would allow them to be spread throughout Town in compliance with AFFH.
- 2. ADUs, just based on size of units, would automatically comply with the extremely and very low categories. 16
- 3. Other HE's using ABAG Sept 2021 numbers - allocated 30% very low, 30% low, 30% moderate and 10% above moderate. These numbers, surely, would be skewed even more towards the lower categories based without using Town's much more conservative numbers.

Impact Fees and Construction Costs –

- 1. Highest fees in Contra Costa County when water service is included (as other jurisdictions do). Please correct. 17

Old constraints ignored, while new Constraints added -

- 1. MCSP-IP illegally changed development standards contrary to SB330. It lowered density calculations from gross area to net area when determining total units allowed on site.
- 2. It changed development standards, it instituted new minimum lot dimensions and lots sizes and home sizes, it changed permitted uses, FAR was lowered, it increased setback requirements for lots, along the scenic corridor and along creek 18

setbacks, instituted new design review guidelines, etc., – all contrary to the approved MCSP and SB330.

- 3. Town is also trying to take FAR design guidelines and make them into an objective standard, when they are, in fact, actual guidelines and not mandatory rules. More importantly these FAR guidelines, were not meant to apply to major subdivisions or large projects. If allowed, this will change to MCSP by placing unreasonably strict FAR requirements, which are contrary to the MCSP.
- 4. Town has taken stricter “R-20 ministerial zoning development standards” and illegally applied to other areas in the MCSP. These discretionary areas, both residential and mixed-use didn’t prohibit slopes over 3:1, or retaining wall prohibitions.
- 5. Town is Adding new policy, **Preference for ground floor commercial**. It will create a huge potential conflict in mixed-use area. Should be option, at discretion of owner/developer.
- 6. VMT and LOS analysis will both be on the books now, clearly confusion will reign. Opportunity for abuse will ensue, with concerns about exactions and added costs and delays to projects.

19

20

21

22

Failure to accurately describe existing neighborhoods, which shields rampant discrimination on adjacent undeveloped parcels –

- 1. Existing Senior Housing developments like Aegis and Moraga Royale (is licensed for 120 beds, but also has 95 rooms), limited to two-story building, have 40 to 60 beds/rooms per acre, or 20 to 30 units per floor per acre. MCSP, which allows 3 stories, (or up to 45’-0 in height) should be allowed to have an “extra” floor of development, to a total of 60 to 90 bed/units per acre. Town has ignored my repeated request to correct this even while keeping the FAR requirement in 8.34.060 B. 5. (allows up to 1.5 FAR with enclosed parking).
- 2. The Rheem area has existing R-6 zoning, with the actual densities up to 35 DUA range, on hilly topography. Moraga, still doesn’t the same density in the MCSP even at an upgraded 24 DUA. Furthermore, even lower densities are required in the MCSP, such as R-12 (up to 12 DUA) and R-3 (3 DUA). These densities respectively apply to Area 4 and Area 3 in the MCSP.
- 3. The Bluffs area is developed at approximately at 3 DUA, but the land use and zoning show 1 DUA. Vacant Munger parcel (B-15), will not be able to be developed without increased density on our BV parcels, commensurate with the Bluffs build density.

23

24

25

R-20 area is surprisingly being counted, not as default affordable site, but as above Moderate units (M+). -

- 1. Is HE, correctly counting and allocating the correct number of units for each RHNA income groups? Are we including more M+ units than proper, by counting previously designated default density affordable sites?

26

MCSP Area4/Area 3/Area 5 – the area bounded by Camino Richard, Moraga Way, and Rancho Laguna Creek, sometimes referred to the “orchard” –

- 1. This is the key undeveloped parcel in village area of MCSP downtown. Zoning and development standards, and other Town policies, current and proposed, are

27

focused to make development here more costly and restrictive. Compare development standards with Rheem's new rules. New Inclusionary Housing ordinance, Affordable Housing Ordinance, doesn't allow ADUs as BMR units in R-12 and R-20 zones. Stricter grading standards, coupled with dev. Stds. Makes construction more expensive (currently Moderate housing, for sale, is approximately around \$500,000. R-12 units, using CV as a guide will sell around \$1,300,000 leaving an \$800,000 short fall. Moderate housing subsidy from IH is a huge expense and quite possibly makes project unviable, certainly much less profitable. Lower number of units allowed in R-3 area, means less number of units to spread out huge costs. Town is making development here more difficult, not easier!

I appreciate your attention and consideration on these matters.

Sincerely,

David Bruzzone

Cc: California Department of Housing and Community Development

Letter from Todd Williams (Fennemore Wendel)

January 25, 2023

January 25, 2023

VIA ELECTRONIC MAIL ONLY
townclerk@moraga.ca.us

Mayor Sos and Town Council
Town of Moraga
329 Rheem Blvd.
Moraga, CA 94566

Re: Town Council Meeting re Comprehensive Advanced Planning Initiative and 6th Cycle Housing Element and EIR

Dear Mayor Sos and Town Council:

Our office represents the Joan and David Bruzzone and Lafayette Bollinger Development LLC (collectively, the “Bruzzone Family”) with regard to their properties within the Town of Moraga, including 186 acres in Bollinger Valley (“Bollinger Property”) within the Bollinger Canyon Special Study Area, and property in the Bluffs neighborhood area to west (currently zoned 1/du per acre), as well as property in the Moraga Shopping Center and related parcels (“MCSP Property”) located in the Moraga Center Specific Plan (“MCSP”) area. This letter follows our letter dated December 12, 2023 (incorporated by this reference)¹, and David Bruzzone’s letter (with attachments) submitted on January 24, 2023. This letter provides comments on the Town of Moraga’s Comprehensive Advanced Planning Initiative and 6th Cycle Housing Element (collectively, the “6th Cycle HE”), as well as the related Environmental Impact Report (“EIR”) pursuant to the California Environmental Quality Act (“CEQA”).

1

In summary, the Town’s 6th Cycle HE fails to substantially comply with the requirements of the State Housing Element Law (Article 10.6 of the Government Code). This letter will not repeat all the comments raised previously, but will focus on some of the more egregious shortcomings of the 6th Cycle HE.

1. Violations of SB330 and Illegal Reduction of Density in Bollinger Valley and Elsewhere: The 6th Cycle HE fails to acknowledge and adequately analyze the density-reducing impacts caused by the Town’s adoption of the Hillside and Ridgeline Regulations, as well as the

2

¹ That letter was in addition to letters submitted on behalf of the Bruzzone Family relating to the Housing Element and/or the Comprehensive Advanced Planning Initiative, dated October 19, 2022; July 13, 2022; May 17, 2022; February 17, 2022; February 9, 2022, January 21, 2022 that are incorporated herein by this reference.

January 25, 2023

Page 2

Town's *application* of said regulations to certain areas of the Town, including, but not limited to, the Bruzzone's Bollinger Valley property. At the time of their adoption, the Town staff acknowledged that those rules would result in a decrease in density. Moreover, the Bruzzones' planning consultant Richard Loewke submitted numerous comment letters (including ones dated February 8, 2017 and February 27, 2017), providing substantial evidence that the Hillside and Ridgeline regulations would limit density in Bollinger Valley. (Copies of these letters are submitted herewith, and incorporated by this reference.)

2

Despite these well-documented facts, the 6th Cycle HE does not adequately address the constraints on housing development imposed by the Hillside and Ridgeline Regulations, in Bollinger Valley and elsewhere. Moreover, the Town intends as part of the CAPI process (in the near future) to downzone Bollinger Valley to Rural Residential ("RR") which would allow (in theory) fewer than 40 units on the Bruzzone Family's 186 acres, rather than the over 500 units that were allowed by the County's R-15 designation that was in place when the Town applied the illegal "Study" designation.² Such action, if implemented, would violate Government Code section 66300.³

3

Instead of downzoning Bollinger Valley, the Town should designate the Bruzzone Property in Bollinger Valley as a housing opportunity site (rather than create an island between the already developed Bluffs property (built at approximately 3 units per acre) and the Burton Valley neighborhood to the north. Why in the midst of a housing crisis, the Town is missing a huge opportunity to plan for, and accommodate both above-moderate housing (for which it has very little available land) as well as affordable housing (e.g., in the form of accessory dwelling units ["ADUs"]) to accommodate its low and very low income RHNA requirements is baffling and not adequately addressed in the 6th Cycle HE.

4

Development in Bollinger Valley would be in close proximity to Saint Mary's College and ADUs could be used by students as well as other persons (teachers, service providers, first responders), so that they need not commute into Moraga from such remote areas. Bollinger Valley is also located closer to Highway 24 and the Lafayette BART station than much of the

5

² The EIR estimates that the entire 423-acre Bollinger Canyon area would have a housing potential of only 51 units. This number is far less than the existing Bluffs development that is located in Bollinger Canyon.

³ This would be on top of the Town's 2018 adoption of the Hillside and Ridgeline Regulations which further limited density and made housing development more difficult through the adoption of more stringent restrictions on development in hillside and ridgeline areas (which includes much of Bollinger Valley) and well as increased view protections that limits development in areas with views to ridgelines.

rest of the Town of Moraga. Sufficient density should be allowed in order to justify the improvement of existing infrastructure to the benefit of current and future residents.

The proposal to reduce the density of the Bruzzone’s Bollinger Valley property from just shy of 3 units per acre to only one unit per five acre would also result in an unconstitutional taking of property as set forth in prior comment letters.

6

We also believe the EIR for the 6th Cycle HE improperly analyzes the potential impacts of development in Bollinger Valley and overstates impacts when compared to the project-level analysis contained in the Bollinger Valley project EIR that was completed (but not certified) in 2018. Moreover, we contend that the 6th Cycle HE EIR fails to adequately address displacement impacts that will result from the Town’s decision to downzone Bollinger Valley and push future development elsewhere.

7

2. Different Treatment for MCSP and Rheem. As set forth in David Bruzzone’s comment letter dated January 24, 2023, the 6th Cycle HE fails to adequately explain or justify the differing treatment for certain MCSP areas when compared to the Rheem Center areas which result in making the MCSP more difficult to develop and restricts the number of unit, for example in the “Orchard” area of the MCSP (Areas 3, 4 and 5), that includes restrictive standards (akin to those found in the Hillside and Ridgeline Regulations) on 50 percent of this undeveloped property.

8

3. FEIR Responses to Comments Are Inadequate. The FEIR for the 6th Cycle HE fails to adequately respond to the comments and concerns raised by the Bruzzones in various comment letter in violation of CEQA.

9

4. Town’s Updated 6th Cycle HE Fails to Adequately Respond to HCD’s Comment Letter. The Town’s updated 6th Cycle HE did not adequately respond to HCD’s comment letter dated November 10, 2022, including, but not limited to its discussion of the Town’s plan for Bollinger Valley.

10

The Bollinger Property is a tremendous opportunity for a win-win situation. A willing developer is interested in doing responsible residential development that would help the Town fulfill its part to address the housing crisis, meet its housing goals and RHNA requirements, including the inclusion of both above-moderate homes and affordable accessory dwelling units, improve infrastructure to alleviate critical public health and safety needs, comply with State Housing Element Law, and avoid a taking of the Bruzzone Family property. The Town should reconsider the preordained, anti-development path on which it is headed and as is reflected in the CAPI, the 6th Cycle HE and the EIR, and property respond to HCD’s comments.

11

Ultimately, the Town should change its ill-advised strategy and approach to Bollinger Valley which is embodied in the CAPI and 6th Cycle HE, by not adopting the 6th Cycle HE, but

12

January 25, 2023

Page 4

make further revisions consistent with this and previous comment letters in order to substantially comply with State Housing Element Law.

Sincerely,

FENNEMORE WENDEL



Todd A. Williams

TAWI/tawi

Attachments

Cc: Afshan Hamid, Planning Director (ahamid@moraga.ca.us)
Jamillah Williams, Analyst, Dept. of Housing and Community Development
(Jamillah.Williams@hcd.ca.gov)
Paul McDougall, HCD (paul.mcdougall@hcd.ca.gov)
David Bruzzone

Letter from David Weiland (Coleman & Horowitz, LLP)

January 25, 2023

WILLIAM H. COLEMAN*
DARRYL J. HOROWITT
DAVID J. WEILAND
GREGORY J. NORYS
ELIOT S. NAHIGIAN**
SHERYL D. NOEL
JUDITH M. SASAKI
STACY H. BOWMAN
C. FREDRICK MEINE III, APC***
SHERRIE M. FLYNN****
MICHAEL P. DOWLING
JENNIFER T. POOCHIGIAN

COLEMAN & HOROWITT, LLP

ATTORNEYS AT LAW

499 WEST SHAW AVENUE, SUITE 116
FRESNO, CALIFORNIA 93704
TELEPHONE: (559) 248-4820
FACSIMILE: (559) 248-4830
WEB: WWW.CH-LAW.COM

CRAIG A. TRISTAO
STEVEN C. CLARK
ROBERT K. ASHLEY
MICHELLE S. LOGAN
ANDREA M. CHAPMAN
JARED R. CLEMENCE
MATTHEW B. HOLDER
****AISHA O. OTORI
MATTHEW R. NUTTING
RUSSELL W. REYNOLDS
LAWRENCE E. WESTERLUND
GARY S. SHUSTER
DANIEL L. RUDNICK

January 25, 2023

*RETIRED
**CERTIFIED SPECIALIST: TAXATION LAW,
ESTATE PLANNING, TRUST AND PROBATE LAW
***A PROFESSIONAL CORPORATION LICENSED
IN CALIFORNIA AND WASHINGTON
**** REGISTERED PATENT ATTORNEY

WRITER'S E-MAIL
DWEILAND@CH-LAW.COM

VIA EMAIL ONLY

Client No. 1061.28

Brian Dolan
Interim Town Manager
329 Rheem Boulevard
Moraga, CA 94556
bdolan@moraga.ca.us
townclerk@moraga.ca.us
swoehleke@moraga.ca.us
tonoda@moraga.ca.us
rsos@moraga.ca.us
khillis@moraga.ca.us
dshapiro@moraga.ca.us

Re: Comprehensive Advance Planning Initiative/ Housing Element Update
Moraga Center Specific Plan area and Rheem Park area

Dear Mr. Dolan:

Coleman & Horowitz, LLP has been retained by Kin Properties ("Kin"), the manager of certain commercial properties located within the Moraga Center Specific Plan area and/or Rheem Park area currently under consideration by the Moraga Town Council for rezoning pursuant to the referenced Comprehensive Advance Planning Initiative and Housing Element Update. The purpose of this letter is to formally object to the adoption of the following three Resolutions and two Ordinances:

- 1) Resolution certifying the Final Environmental Impact Report for the Comprehensive Advanced Planning Initiative and adopting the Mitigation Monitoring and Reporting Program, CEQA findings and Statement of Overriding Considerations for the Housing Element Update and related General Plan amendments and rezoning.



Primerus
Member

Brian Dolan
January 25, 2023
Page 2

- 2) Resolution adopting the 2023-2031 Town of Moraga Housing Element, including findings of substantial compliance.
- 3) Resolution adoption amendments to the Moraga General Plan to maintain internal consistency with the updated Housing Element, implement State law (SB 743) with respect to the Circulation Element and the use of Vehicle Miles Traveled as a metric for evaluating environmental impacts, and implement State law (AB 747, SB 99) with respect to the Safety Element.
- 4) Ordinance adopting Moraga Center Zoning Amendments, including:
 - a. An increase in the allowable density in the MCSP Mixed Use Retail-Residential (MU-13 RR) District and MCSP Mixed Use-Office Retail (MU-OR) District zones from 20 dwelling units per acre to 24 dwelling units per acre.
 - b. amend the Moraga Zoning Map on selected Moraga Center parcels from R-20 to R-24, allowing 24 dwellings units per acre where 20 dwelling units per acre is allowed today.
 - c. amend the Moraga Zoning Map on selected Moraga Center parcels from MCSP-Commercial (C) District to MCSP Mixed Use-Retail Residential (MU-20 RR) District.
- 5) Ordinance adopting Rheem Park Zoning Amendments, including:
 - a. establish new chapters within Title 8 of the Moraga Municipal Code creating the Rheem Park Mixed Office-Residential District Zone (RMOR) and the Rheem Park Mixed Commercial-Residential District Zone (RMCR).
 - b. rescind the Suburban Office (SO) zone and the Research and Development Overlay Zone.
 - c. amend the Moraga Zoning Map on selected Rheem Park Area parcels from Suburban Office (SO) to Rheem Park Mixed Office-Residential (RMOR)
 - d. amend the Moraga Zoning Map on selected Rheem Park Area parcels from Community Commercial (CC) to Rheem Park Mixed Commercial-Residential (RMCR)
 - e. amend the Moraga Zoning Map on selected Rheem Park Area parcels from 33 Limited Commercial (LC) to Rheem Park Mixed Commercial-Residential 34 (RMCR).

Our objections to this initiative are two-fold. First, this rezoning initiative, if adopted, will overnight reduce the investment value of Kin's commercial properties to near zero by making them all non-conforming uses. This will 100% prevent Kin's clients from selling their properties for full commercial value, prevent them from making further improvements to their properties, and prevent them from obtaining funding in the market place for such improvements. Second, the initiative will deprive Kin's clients of all or substantially all of the reasonable use of their properties and without just compensation as required by the "Takings Clause" of the California Constitution found at Article I, Section 19. Without access to private capital markets and considering the overnight loss of value to be experienced by all commercial property owners within the two areas designated for rezoning, the members of the Town Council would be well advised to more

Brian Dolan
January 25, 2023
Page 3

carefully consider their actions in this matter. Please consider this letter as formal opposition to the proposed Resolutions and Ordinances for the reasons stated.

2

Very truly yours,

COLEMAN & HOROWITT, LLP

David J. Weiland

DAVID J. WEILAND

DJW/js
cc: Client

Letter from Hazelwood Place residents
January 25, 2023

From: Adam Williams <awilliams@savionenergy.com>
Sent: Tuesday, January 24, 2023 4:44 PM
To: Steve Woehleke <swoehleke@moraga.ca.us>; Teresa Onoda <tonoda@moraga.ca.us>; Renata Sos <rsos@moraga.ca.us>; Kerry Hillis <khillis@moraga.ca.us>; David Shapiro <dshapiro@moraga.ca.us>; Town Clerk <townclerk@moraga.ca.us>
Subject: RE: Request for amendment to Housing Element

January 24, 2023

Dear Moraga Town Council Members,

In preparation for tomorrow's Town Council meeting, am resending this letter with a few additional names signed.

Thanks,
Adam Williams

We, the undersigned write to request an amendment to the 2023 – 2031 Housing Element to be submitted to the State on Jan 31. We residents of Moraga's School Street neighborhood request the removal of APN 257500006 from the group of parcels to be rezoned from 20 to 24 DUA.

The Planning Commission voted on Jan 10, 2023 to recommend that the Council adopt the Housing Element with zoning changes for several of the parcels in the Moraga Center Specific Plan (MCSP). Nearly all the parcels impacted by the rezoning recommendation are either currently commercial / office zones or adjacent to such. APN 257500006 is immediately adjacent to a neighborhood of single-family homes.

In its review process the Commission considered the reasonableness of rezoning and developing high-density housing on proposed parcels. In doing so the Commission determined that APN 257190029 (owned by AT&T and occupied by the Moraga School District) was not a reasonable candidate for housing development over the next eight years and removed it from the Housing Element. We believe that rezoning the southern acreage of APNs 257500006 from 20 to 24 DUA similarly does not meet the reasonableness test, as the impacts associated with developing buildings with a potential height of 45' adjacent to the homes on Hazelwood Place would be significant and non-mitigatable. Furthermore, the southern section of APN 257500006 is a wetland, with standing water across much of the terrain for 4-6 months of the year.

On Jan 10, 2023 the Planning Commission also voted to adopt the Final Environmental Impact Report for the Comprehensive Advanced Planning Initiative. In doing so the staff and Commission acknowledged several significant and unavoidable impacts of the planned Initiative. For the MCSP the report highlighted noise, transportation, and wildfire. The most critical and long-lasting of these would seem to be Moraga residents' safety in the event of wildfire or other evacuation. The School Street neighborhood requires a safe egress. Surrounding our exits with not only more vehicles but even higher levels of density (from 20 to 24 DUA) increases risk to all residents, current and future.

We recognize the necessity of adding housing and increasing fair housing in our town, and we commend the good work done to date by generations of Planning Commissioners, staff, and hired consultants. However, we strongly believe that the proposed increase in DUA from 20 to 24 on APN

257500006 does not meet the reasonableness test applied in other recent amendments to the MCSP and request that the rezoning recommendation from 20 to 24 DUA on that APN be rejected.

Respectfully yours,

Adam and Kristen Williams	Hazelwood Place Moraga
<u>David and Susan Hernandez</u>	<u>Hazelwood Place Moraga</u>
<u>Scott and Mick Coane</u>	<u>Hazelwood Place Moraga</u>
<u>Michael Gurtler and Julie Miller</u>	<u>Hazelwood Place Moraga</u>
<u>Yank and Barbara Eppinger</u>	Hazelwood Place Moraga
Lisa, Atiq and Monica Taymuree	Hazelwood Place Moraga
Annie Claymore	Hazelwood Place Moraga
Colin and Cathy Taylor	Hazelwood Place Moraga
Amy and Jeff Fara	Rick Court Moraga
Rita Keeperman	Hazelwood Place Moraga