



Planning Commission	Agenda Item
Public Hearings	6.A

TOWN OF MORAGA PLANNING COMMISSION

Meeting Date: April 11, 2023

PUBLIC HEARING STAFF REPORT

To: Planning Commission

From: Afshan Hamid, AICP, Planning Director
Barry Miller, FAICP, Planning Consultant

Subject: Consider Resolutions Recommending Adoption of Findings of Fact and a Statement of Overriding Consideration pursuant to the California Environmental Quality Act, General Plan Amendments, and Zoning Amendments for the Bollinger Canyon Special Study Area

(CEQA: Final Environmental Impact Report for the Comprehensive Advanced Planning Initiative was certified by the Town Council on January 25, 2023 - State Clearinghouse No 2022020106)

Request

Convene a public hearing and consider three resolutions recommending Town Council action on the 423-acre Bollinger Canyon Special Study Area. The resolutions would:

- Recommend Town Council adoption of CEQA findings and a Statement of Overriding Considerations for the Bollinger Canyon General Plan Amendments and Rezoning
- Recommend Town Council adoption of amendments to the Moraga General Plan replacing the "Study" designation for Bollinger Canyon with a combination of Non-MOSO Open Space, Rural Residential, and 1 Dwelling Unit/Acre designations
- Recommend Town Council adoption of amendments to the Moraga Municipal Code eliminating the "Study" zoning district, creating a new "Rural Residential" district, incorporating other conforming revisions, and amending the Zoning Map to match the new General Plan designations

The Council will consider the Planning Commission's recommendations at a future public hearing.

Background

The Town of Moraga is continuing to implement its Comprehensive Advanced Planning Initiative (Initiative). The Initiative includes 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. The proposed action under consideration does not approve a project; it adopts General Plan designations and zoning regulations that will govern future activities in the Study Area. Future projects would be subject to environmental review prior to consideration. There is no development project application under consideration at this time.

The Study Area consists of 423 acres in the central eastern part of the Town of Moraga. It is comprised of 20 parcels with 13 separate landowners and includes a mix of agricultural and residential uses. The area was designated “Study” on the first Moraga General Plan in 1979 and has retained this General Plan designation since that time. There is no residential density range associated with the “Study” designation, as it was intended to be temporary. The entire area is also currently zoned “Study,” a district created in 1980 to correspond to the General Plan designation. In 1983, the Town of Moraga participated in a multi-jurisdictional land use study with the City of Lafayette and the County of Contra Costa for a 3,400-acre area that included the Bollinger Canyon Special Study Area, which concluded that the area was a “fragile ecosystem where very low density residential use is to be a privilege and more intensive use would be inappropriate.”

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 included a dedicated task to replace the “Study Area” designation with new General Plan and zoning designations. The Town does not have a development application for the area and is undertaking this task as a policy measure to provide greater certainty and clarity to property owners and neighbors.

Staff prepared a “White Paper” presenting options for the Study Area in January 2022 and convened a virtual neighborhood meeting on these options on January 25, 2022. Residents were notified of the meeting and more than 40 residents attended. The Town Council convened a study session on February 9, 2022 to discuss zoning options in more detail. Links to the White Paper and February 9, 2022 Council Staff Report are provided below:

- [Bollinger Canyon Study Area White Paper](#)
- [February 9, 2022 Town Council Staff Report](#)

In the White Paper, the 20 parcels were grouped into three categories based on their common characteristics. The White Paper considered that the scale of development must recognize and respond to the area’s unstable soil conditions, creeks, public safety and emergency access constraints; as well as regional policies that new housing should be focused on urban infill sites and in transit-served areas such as Moraga’s two

commercial/mixed use districts. The parcel groups provided the foundation for the proposed zoning and General Plan designations:

- Parcel Group “1” includes the mostly developed residential properties at the east end of Joseph Drive, plus a single developed property on Bollinger Canyon Road. The area includes nine parcels ranging in size from 0.97 to 3.78 acres and totals 17.3 acres.¹
- Parcel Group “2” includes four parcels totaling 136 acres that are part of the Harvey Ranch. The owner is working with the John Muir Land Trust to dedicate all four parcels as open space.
- Parcel Group “3” includes seven parcels totaling 270 acres. The two easterly parcels, which together comprise 186.3 acres, were previously proposed as a 126-lot subdivision (commonly referred to as the Bollinger Valley project).

Staff incorporated Council and community feedback from the January 25 and February 9, 2022 meetings into a General Plan and zoning proposal for the Study Area. This proposal was presented to the Planning Commission in a study session on May 24, 2022. It was also presented to the Town Council in a study session on May 25, 2022. The purpose of these study sessions was not to “approve” the proposed designations, but rather to solicit early input from the Planning Commission, the Town Council, and the public on a working draft.

The General Plan and zoning proposal aimed to assign a single “best fit” zone to each parcel group that was consistent with the goals and policies of the Moraga General Plan. This approach recognizes existing land uses and parcelization patterns, responds to access and infrastructure limitations, respects natural resources and hazards, understands the physical constraints and environmental context, considers the rural character and provides certainty and opportunity for property owners, see Figure 1, Proposed General Plan and Zoning Map Amendments. The following proposal was made:

- Parcel Group 1: A General Plan and zoning designation of “Residential – 1 Dwelling Unit per Acre” (1 DUA) was proposed for Parcel Group 1. The median lot size in the parcel group is 1.77 acres, and the prevailing character is single family residential. All but one of the parcels is already developed with a single-family residence. Moreover, Parcel Group 1 is functionally part of the Bluffs neighborhood, which has a 1 DUA designation.
- Parcel Group 2: A General Plan and zoning designation of “Non-MOSO Open Space” was proposed for Parcel Group 2. All four of the parcels are in single ownership and have been acquired by the John Muir Land Trust. The proposed designation is consistent with the intent to retain these properties as open space for conservation and recreation.

¹ The initial White Paper placed 11 parcels in Group 1 and five parcels in Group 3. Two of the property owners in Group 3 requested to be moved to Group 1, citing the agricultural uses on their properties and adjacency to larger open space areas. This change was made.

- Parcel Group 3: A new General Plan designation and zoning district was proposed for Parcel Group 3. This designation—Rural Residential—has a density of one dwelling unit per 5 acres, and is intended to provide a transition between the Bluffs neighborhood to the west and the open space and agricultural areas to the north and east. Similar density limits apply to the north in Lafayette and to the east in Contra Costa County. Staff developed draft General Plan and zoning text for this new district, including development standards and permitted uses.

The Planning Commission and Town Council expressed general support for the proposed approach at their May 2022 study sessions. Property owners within the Study Area had mixed views. The largest landowner (owning two of the 20 parcels and representing 44 percent of the area) expressed that the designation was not economically feasible and should allow a larger number of homes. Most of those speaking at the study sessions or submitting written comments expressed an opposing perspective and indicated that the zoning allowed too many homes or that the area should remain open space due to wildfire hazards, poor access and concerns about traffic.

Following the May study session, minor changes were made to the proposed General Plan and zoning amendments in response to Commission and Town Council feedback. However, the amendments as currently proposed would enable the same number of housing units. Staff estimated a theoretical capacity of 51 additional housing units within the 423-acre area based on the proposed zoning. This figure was used in the program-level environmental analysis performed for the Comprehensive Advanced Planning Initiative.

On October 27, 2022, the Town published the Draft Environmental Impact Report (DEIR) for the Comprehensive Planning Initiative. The DEIR was structured so that the impacts of the Bollinger rezoning were considered in tandem with, but separately from, the 2023-2031 Housing Element. The DEIR was organized so that each section first analyzes the effects of Housing Element adoption and then the effects of the Bollinger Canyon Study area rezoning. Individual development projects will still be subject to future environmental review but may rely on the Program EIR for the evaluation of impacts that are not site-specific in nature.

The comment period for the DEIR closed on December 12, 2022. The Town responded to all comments received and published the Final EIR (FEIR) on January 5, 2023. The FEIR was considered by the Planning Commission on January 10, 2023 and was certified by the Moraga Town Council on January 25, 2023. The Council's January 25 action also included a Mitigation Monitoring and Reporting Program (MMRP) for the entire project, and a Statement of Overriding Consideration (SOC) and Findings of Fact for the portion of the EIR addressing the Housing Element. The Council did not adopt a SOC or Findings for Bollinger Canyon, as that item was not before the Council at its January meeting.

Discussion

Staff has prepared three resolutions for Planning Commission consideration. These are discussed below.

Environmental Review

The first resolution (Attachment 1 to this Staff report) references the previously certified FEIR and finds that the Town has followed all requirements of the California Environmental Quality Act (CEQA) related to approval of the Bollinger Canyon General Plan and zoning amendments. It further recommends that the Town Council adopt Findings of Fact and a Statement of Overriding Considerations specifically related to Bollinger Canyon.

Compliance with CEQA has been achieved by preparing and certifying an Environmental Impact Report for the Comprehensive Planning Initiative. As noted earlier in this report, the FEIR was certified by the Town Council on January 25, 2023. As indicated, the January 25 action included adoption of Findings and a Statement of Overriding Considerations for Housing Element-related actions but not for Bollinger Canyon.

To complete the CEQA process for the Bollinger Canyon General Plan Amendment and Rezoning, the Town must adopt additional Findings and an additional Statement of Overriding Considerations (SOC) for this action. The Draft Findings/SOC is included as Exhibit A to Attachment 1. The Findings/SOC conclude that the benefits of rezoning outweigh the potential significant adverse effects.

The FEIR evaluated the impacts of applying the proposed General Plan and zoning designations to the Study Area, in lieu of the existing designations. It is based on a theoretical assumption about the number of new housing units (and accompanying infrastructure) that could result under the proposed zoning. The FEIR further assumed that the allowable number of units would be spread across the area. There is no development currently proposed in the Bollinger Canyon Study Area, so the analysis is hypothetical and was conducted at a programmatic level. Actual projects would be subject to their own environmental review processes based on site-specific conditions and the plans for those sites.

The FEIR found that the inclusion of mitigation measures as part of project approval would substantially reduce environmental impacts. However, a few of the impacts would remain potentially significant, even after mitigation. These impacts relate to air quality, biological resources, greenhouse gas emissions, transportation, utilities and service systems, and wildfire. Section 15093 of the CEQA guidelines states that “if the specific legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered acceptable.”

Specifically, the FEIR found that future development accommodated by the proposed Bollinger Canyon zoning could have the following significant, unavoidable impacts, even after mitigation measures are imposed:

- The project would not be consistent with the Bay Area Air Quality Management District’s Clean Air Plan due to increased trips, vehicle miles traveled (VMT), and emissions that exceed the levels assumed by the Clean Air Plan. Residences would be located in areas with limited alternative modes of travel and would not be proximate to employment or services. (EIR Impact AQ-2)

- 1 • The project could affect wildlife movement due to construction and additional
2 development in the area. Multiple mitigation measures are included in the EIR to
3 address potential biological impacts, but significant impacts could still occur. (EIR
4 Impact BIO-6)
5
- 6 • The project would not be consistent with the greenhouse gas (GHG) reduction goals
7 in the CARB 2017 Scoping Plan. This is due to the low density, lack of public
8 transportation, and likely dependence of future development on motor vehicles. (EIR
9 Impact GHG-4)
10
- 11 • For the same reason cited for air quality and GHG impacts, the project would have a
12 significant unavoidable transportation impact. The VMT per resident would likely
13 exceed the thresholds established by the Town and regional agencies, even after
14 transportation demand management measures are implemented. (EIR Impact TR-4)
15
- 16 • The project would have significant unavoidable impacts on utilities, principally
17 because the area lacks utilities and their construction/ extension could affect biological
18 resources. (EIR Impact UTIL-2)
19
- 20 • The project would have a potentially significant impact on wildfire hazards. Although
21 a wildfire assessment plan and guidelines would be required for future development,
22 it would not be possible to ensure that future development would not substantially
23 impair an adopted emergency response plan or emergency evacuation plan. (EIR
24 Impact WFR-2)
25

26 The FEIR considered alternatives to the proposed project as a way to lessen the
27 environmental impacts. These included a “no project” alternative, an employment-
28 focused alternative (relating to the Housing Element), and an alternative in which the
29 allowable number of units in the Bollinger Canyon was clustered. The no project
30 alternative achieved none of the objectives of the project, which made it infeasible. The
31 employment-focused alternative would make it more difficult for the Town to meet its
32 housing targets. The clustered development alternative was found to be environmentally
33 superior, as it would conserve more of the area as open space. The proposed zoning
34 would accommodate this alternative (through future planned development applications)
35 but would not mandate it.
36

37 The Statement of Overriding Considerations concludes that the benefits of approving the
38 project outweigh the potential impacts. These benefits include opportunities for housing
39 (including accessory dwelling units), parks and other amenities, and improvements
40 related to investment in infrastructure. The designations also provide for certainty in
41 development for both the Town and property owners. The areas proposed to be
42 designated and zoned for 1-DUA are consistent with the current development and existing
43 uses. The areas proposed to be designated and zoned for Open Space are also
44 consistent with the proposed use and ownership by the John Muir Land Trust. Lastly,
45 the Rural Residential designation strikes an appropriate balance that creates a buffer
46 between the Bluffs neighborhood and uses in the County, while responding to
47 environmental conditions, surrounding land use context, community feedback and
48 regional planning goals.
49

General Plan Amendments

The second resolution (Attachment 2 to this Staff report) recommends Town Council adoption of General Plan Amendments specifically related to the Bollinger Canyon Special Study Area. This includes the creation of a new General Plan Rural Residential designation, with a density of one dwelling unit per five acres. It also includes the elimination of the “Study” designation and updating the General Plan Map to show the new designations for Parcel Groups 1, 2, and 3. The amendments also update policy language in the Land Use Element related to Bollinger Canyon, remove an implementation program related to the “special study” envisioned by the 2002 (and earlier) plans, and reference the new Rural Residential designation where appropriate in other policies in the Land Use Element.

Currently, Goal LU-6 (Bollinger Canyon Study Area) 1 and Policy LU-6.1 of the 2002 Moraga General Plan designate the 423 acres as “Study Area” and indicates that the property owner must prepare a detailed study for the Town’s review to guide future uses in the area. Both the Goal and the policy for Bollinger Canyon Special Study Area are proposed to be deleted through this amendment (see Exhibit A to Attachment 2). Policy LU-1.2 (which lists residential density ranges) would be amended to add the Rural Residential designation. Policy LU-1.8 (which lists minimum lot sizes and special allowances for Planned Developments) would be amended to allow 40,000 square foot lots in the Rural Residential designation, the same allowance provided to lots in MOSO and Non-MOSO Open Space areas. Minor edits to Policy LU-1.10, LU-1.11 and LU-1.14 are proposed to acknowledge the new Rural Residential designation. Policy LU-1.16 would be added to state the land use designations in Bollinger Canyon and to identify requirements for future site plans in the area. Implementation Measure IP-K7 (Bollinger Canyon Special Study) would be removed from the General Plan.

The proposed amendments only affect the Land Use Element and the Action Plan (Chapters 3 and 11). No changes to the other chapters of the General Plan are proposed.

The proposed amendments also would add definitions of the Town’s General Plan land use categories to General Plan Appendix A. Adding definitions will help provide certainty and ensure compliance with Government Code 65302(a), which requires the General Plan to include a “statement of the standards of population density and building intensity recommended for the various districts.” The definitions provide guidance for using the General Plan Map, and state typical land uses and the allowable density or intensity for each designation on the map.

In addition to the text amendments above, the General Plan Map would be updated as shown in Figure 1. Parcel Group 1 would be shown as 1 DU/AC on the map, Parcel Group 2 would be shown as Non-MOSO Open Space, and Parcel Group 3 would be shown as Rural Residential. The “Study Area” designation would be removed from the map.

Municipal Code (Zoning) Amendments

The third resolution (Attachment 3 to this staff report) recommends that the Town Council amend the Moraga Municipal Code to eliminate the Study District and create a Rural

1 Residential zoning district. These changes require that other conforming amendments
2 are made to the Code where lists of specific zoning districts are included. The Code
3 Amendments also affect the zoning map, which is proposed to be modified to match the
4 General Plan Amendments.

5
6 No zoning text amendments are necessary for Parcel Groups 1 and 2 since these
7 properties will be zoned with existing zoning districts (Residential 1 DUA and Non-MOSO
8 Open Space). Exhibit A to Attachment 3 contains the proposed text of the new Rural
9 Residential zoning district for Parcel Group 3. Exhibit B shows the deletion of the Study
10 District. Exhibit C identifies other conforming amendments to the Municipal Code. Exhibit
11 D shows the proposed Zoning Map Amendments.

12 *Overview of the Rural Residential Zone*

13
14
15 The new district would be known as the “RR zone” and would be Chapter 8.22 of the
16 Moraga Municipal Code. The stated purpose of the district is “to promote a rural character
17 by providing for very low density single-family residential uses, agricultural uses, and
18 preservation of the natural environment consistent with the General Plan.” As with
19 residential development in all zones, projects in the RR zone would be subject to the
20 Town’s design guidelines. The RR zone designation is consistent with Council direction
21 from February 2022, General Plan policies as well as State housing mandates and
22 initiatives.

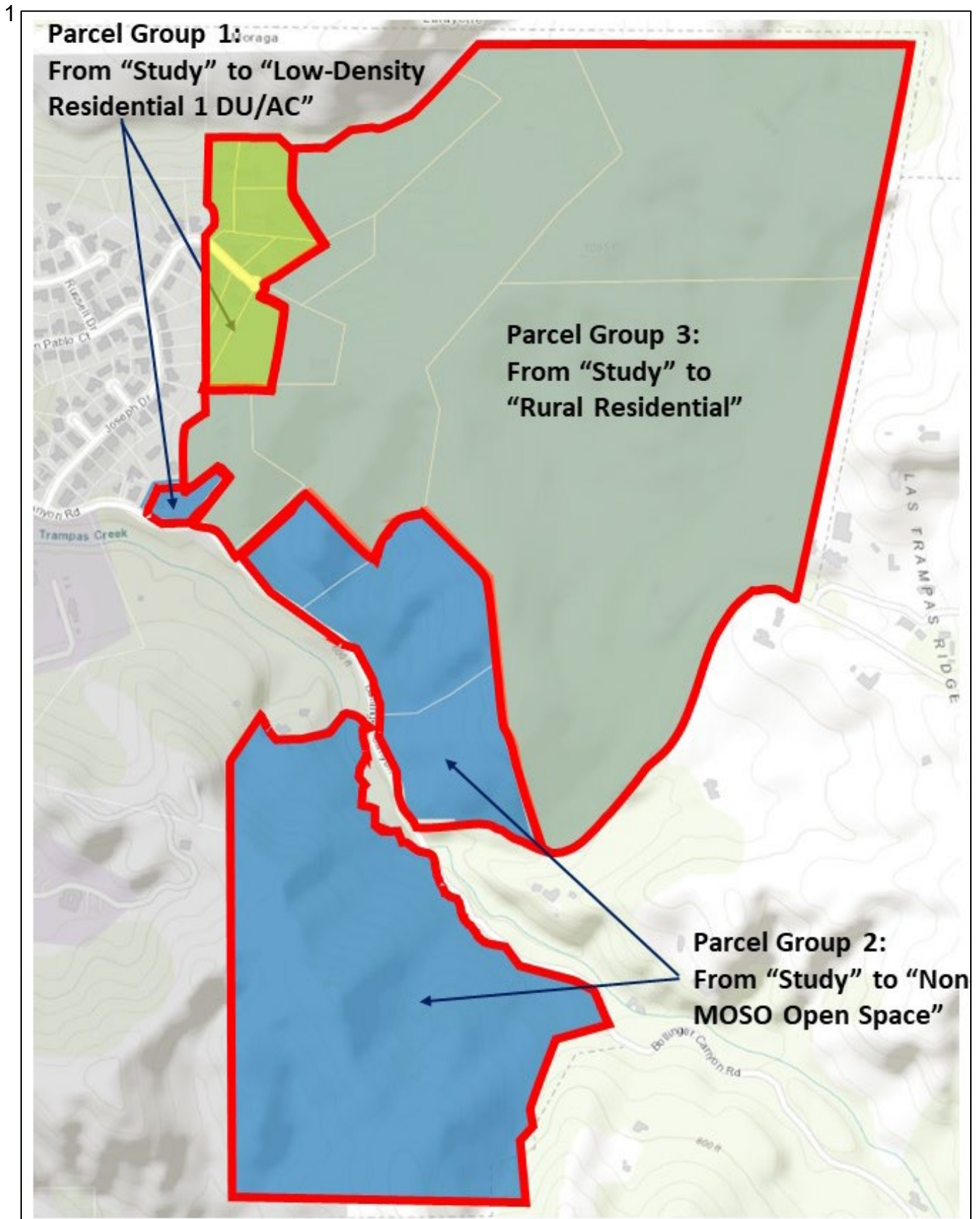


Figure 1: Proposed General Plan and Zoning Map Amendments

Section 8.22.030 of the proposed Chapter lists permitted uses. These include detached single family homes (and related accessory structures), agriculture, certain types of animal keeping, dog care/ training, home occupations, and various activities that are permitted in all residential districts (accessory dwellings, special housing types, child care). Conditional uses include additional animal keeping activities, religious facilities, park facilities, and animal boarding

The zone would be subject to a minimum lot size requirement of five acres, minimum lot dimensions of 140 feet in depth and 140 feet in width, minimum street frontage of 100 feet, and 25-foot setback requirements along all property lines. The zone would be further subject to a 35-foot height limit, with special provisions on sloped sites. The provisions for accessory buildings and fences established elsewhere in the Code would also apply.

Property owners in this zone would have the option to cluster the number of units permitted on their site(s) through a Planned Development (PD) district application. Section 8.22.100 of the new Chapter sets forth specific application requirements for this zone. This builds on the requirements for PD applications elsewhere in the town, including submittal of a conceptual development plan showing topography, relationship to surrounding land uses, circulation, infrastructure, etc. Section 8.22.100 specifies additional requirements for geotechnical, hydrologic, and biological studies in the RR zone to ensure that existing site-specific conditions are analyzed and potential impacts may be mitigated.

In response to Council comments from May 2022, the initial draft has been modified to ensure that any clustering of the allowable density would address visibility from nearby residential uses. The intent is to minimize the potential for visual impacts on adjacent residential areas through site planning and design. This would be considered through the Planned Development (PD) application process.

Elimination of the Study District

Chapter 8.60 of the Municipal Code, which had been created expressly as an interim designation for Bollinger Canyon, is being rescinded in its entirety as it would no longer apply to any properties in Moraga.

Conforming Amendments to the Municipal Code

Conforming amendments to other sections of the Code are needed to add the RR zone to lists where other residential zones are mentioned, and to provide specific guidance related to planned developments (PD) and animal-keeping.

The conforming amendments to Chapter 8.48 (Planned Development) would allow lots of 40,000 square feet where a PD is allowed (similar to the allowance in the MOSO and non-MOSO Open Space districts). Staff initially proposed allowing 30,000 square foot lots, but this was modified in response to Town Council feedback provided at the May 25, 2022 study session. Lots smaller than 40,000 square feet may still be permitted, consistent with Section 8.48.040(D) of the Code, so long as the aggregate density does not exceed the total allowable density.

Another conforming amendment is a change to the definition of “Agriculture” in Chapter 8.04. This responds to an issue raised by property owners and discussed by the Planning Commission in their review of the earlier draft of the RR zoning regulations in May 2022. The intent of the change is to ensure that the definition accommodates accessory processing activities that make agriculture more viable, while still maintaining land use compatibility. Similarly, proposed changes to the Animal Keeping standards at Chapter 8.92 would allow the keeping of small farm animals in the RR, MOSO, and Non-MOSO open space zones without the limitations present in residential zones. The RR zone would be subject to the same rules for livestock that apply in the open space zones, rather than those applying to residential zones.

Process for Review

The proposed General Plan, Zoning and development standards for the new Rural Residential district establish standards for development. If a development application proposes a higher density than the required standards, then it would require a General Plan Amendment and/or a Zoning text amendment requiring Town Council approval. For clustering of allowable density, a Planned Development process would be used pursuant to Chapter 8.48. A development application with five lots or more would trigger a major subdivision review process under the Subdivision Map Act with a public hearing through the Planning Commission.

Any application would trigger an environmental review analyzing all potential impacts such as biological, wildfire, safety, grading, slopes, landslides, traffic, aesthetics etc. This ensures public input and review as part of the process.

Recommendation and Next Steps

Staff’s recommendation is to approve the three resolutions in the order presented.

The Town Council is tentatively scheduled to consider the Planning Commission’s recommendations and take action on this item at its regular meeting on April 26, 2023. The matter will be presented to Council as two resolutions (covering CEQA and the General Plan Amendments) and an ordinance (covering the zoning amendments). The ordinance would require a second reading on May 10, 2023.

ATTACHMENTS

1. Resolution **XX**-2023: CEQA Compliance and Adoption of a Findings and a Statement of Overriding Considerations for the Bollinger Canyon Study Area General Plan and Zoning Amendments
 - Exhibit 1-A: CEQA Findings and Statement of Overriding Considerations for Bollinger Canyon (separate document, link only)
2. Resolution **XX**-2023: Adoption of General Plan Amendments for the Bollinger Canyon Study Area
 - Exhibit 2-A: General Plan Text Amendments (separate document, link only)
 - Exhibit 2-B: Proposed General Plan Map Changes (pt of Resolution)

- Exhibit 2-C: Proposed Moraga General Plan Map (pt of Resolution)
- 3. Resolution **XX**-2023: Adoption of Zoning Text and Map Amendments for the Bollinger Canyon Study Area
 - Exhibit 3-A: Chapter 8.22 of MMC: Rural Residential Zone (pt of Resolution)
 - Exhibit 3-B: Chapter 8.60 of MMC: Study Zone to be Rescinded (pt of Resolution)
 - Exhibit 3-C: Conforming Amendments to MMC Title 8 related to creation of RR district and deletion of Study district (pt of Resolution)
 - Exhibit 3-D: Proposed Zoning Map Changes (pt of Resolution)

Other Relevant Links

- [Draft EIR for the Comprehensive Planning Initiative](#)
- [Final EIR for the Comprehensive Planning Initiative](#)
- [Final Mitigation Monitoring and Reporting Program \(includes Bollinger Canyon\)](#)
- [Findings and Statement of Overriding Considerations](#) (Housing Element only)
- [Minutes of Town Council meeting on May 25, 2022](#) (Bollinger Canyon discussion)
- [Minutes of Planning Commission meeting on May 24, 2022](#) (Bollinger Canyon discussion)

EXHIBIT 1

Resolution CEQA Compliance

BEFORE THE PLANNING COMMISSION OF THE TOWN OF MORAGA

In the Matter of:

Resolution No. ##- 2023

Recommending that the Town Council	)	
Adopt California Environmental Quality	)	
Act (CEQA) Findings and a Statement of	)	CEQA Compliance and Adoption of a
Overriding Considerations for the	)	Findings and a Statement of
Bollinger Canyon General Plan	)	Overriding Considerations for the
Amendments and Rezoning, and find	)	Bollinger Canyon Study Area General
that the Project has been completed in	)	Plan and Zoning Amendments
compliance with CEQA	)	

WHEREAS, the Town of Moraga has undertaken a Comprehensive Advanced Planning Initiative (“Planning Initiative”), including a Housing Element Update with related General Plan and Zoning Amendments, and a separate action related to General Plan and Zoning Amendments for the Bollinger Canyon Study Area; and

WHEREAS, CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Cal. Code of Regulations, Title 14, Section 15000 et seq.) require an analysis and determination regarding a project’s potential environmental impacts; and

WHEREAS, the Planning Initiative consists of long-term planning policies and standards that will guide future development in the Town and do not approve any specific developments, and is therefore appropriately covered by a program-level Environmental Impact Report (“EIR”) pursuant to CEQA Guidelines Section 15168; and

WHEREAS, the Town released a Notice of Preparation (“NOP”) for the Planning Initiative to the Office of Planning and Research (“OPR”) State Clearinghouse and interested agencies and persons on February 3, 2022 for a 32-day review period, during which interested agencies and the public could submit comments about the Project. The Town held a public scoping meeting on February 17, 2022. The NOP comment period ended on March 7, 2022. Comments on the NOP were received and considered during preparation of the Draft EIR; and

WHEREAS, a Notice of Availability (“NOA”) was issued and the Draft EIR was made available for public review on October 27, 2022 for a 46-day public review period ending on December 12, 2022; and

WHEREAS, no California Native American tribes requested consultation; and

WHEREAS, the Draft EIR was filed with the California Office of Planning and Research on October 27, 2021 and was made available on the Town’s website, with paper copies available at Town offices and at the Town Library; and

WHEREAS, the Moraga Planning Commission convened a public meeting on November 7, 2022 to receive comments on the Draft EIR, and the Moraga Town Council convened a public meeting on November 16, 2022 to receive comments on the EIR; and

WHEREAS, on January 6, 2023, the Town published a Response to Comments Document that contains all of the comments received on the Draft EIR during the public comment period, including those received at the public hearing, and prepared written responses to those comments in accordance with CEQA and the CEQA Guidelines. The Draft EIR and Response to Comments Document, together with Minor Revisions to the Draft and a determination that recirculation is not required, constitute the Final EIR; and

WHEREAS, the project evaluated in the DEIR is comprised of multiple separate actions, including: (1) adoption of the 2023-2031 Housing Element; (2) adoption of internal consistency amendments to the General Plan and amendments to the Safety and Circulation Elements to comply with State law; (3) adoption of zoning text and map amendments to ensure an adequate supply of sites to meet the Regional Housing Needs Allocation; and (4) adoption of General Plan and zoning amendments for Bollinger Canyon; and

WHEREAS, Actions (1) through (3) above were considered separately from Item 4 due to the State-mandated timeline for Housing Element adoption; and

WHEREAS, the Planning Commission convened a duly noticed public hearing on January 10, 2023, and adopted Resolution 2023-01 recommending Town Council certification of the EIR, adoption of the Mitigation Monitoring and Reporting and Program, and adoption of Findings and a Statement of Overriding Considerations covering Actions (1) through (3) above; and

WHEREAS, the Moraga Town Council convened a study session on January 18, 2023 to consider Actions (1) through (3) above, and the related CEQA documents; and

WHEREAS, the Moraga Town Council convened a duly noticed public hearing on January 25, 2023, at which time they adopted a Resolution certifying the EIR, adopting the Mitigation Monitoring and Reporting and Program, and adopting Findings and a Statement of Overriding Considerations for Actions (1) through (3) above; and

WHEREAS, the Town has prepared Draft General Plan and zoning amendments for the Bollinger Canyon Study Area for Planning Commission and Town Council consideration; and

WHEREAS, additional public notice was provided in the East Bay Times on March 31, 2023 to apprise the public of hearings related to Bollinger Canyon CEQA compliance, General Plan Amendments, and rezoning, and postcard notices were mailed within 500 feet of the subject property; and

WHEREAS, after notices having been lawfully given, a duly noticed public hearing was held before the Moraga Planning Commission on April 11, 2023 at which all persons interested had the opportunity to appear and comment and at which the Planning Commission considered and made recommendations to the Town Council regarding the Findings and Statement of Overriding Considerations specifically for the Bollinger Canyon General Plan Amendments and Rezoning; and

WHEREAS, the Final EIR identified certain potentially significant adverse effects on the environment caused by the proposed Bollinger Canyon General Plan Amendments and Rezoning, referred to in the Final EIR as the "Bollinger Canyon Rezoning"; and

WHEREAS, the Planning Commission specifically finds that where more than one reason for recommending the Bollinger Canyon Rezoning and rejecting alternatives is given in its findings

or in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, it would have made its recommendation on the basis of any one of those reasons; and

WHEREAS, the Planning Commission desires, in accordance with CEQA, to declare that, despite the potential for significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social, and other considerations for recommending the Bollinger Canyon Rezoning that justify the occurrence of those impacts; and

WHEREAS, the Planning Commission fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter and determined that a Statement of Overriding Considerations is warranted.

NOW, THEREFORE, BE IT RESOLVED by the Moraga Planning Commission as follows:

SECTION 1: Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

SECTION 2: Certification of Final EIR for Comprehensive Advanced Planning Initiative

On January 25, 2023, the Moraga Town Council certified the Final EIR for the Comprehensive Advanced Planning Initiative (State Clearinghouse No 2022020106), including the Bollinger Canyon Rezoning. In so doing, the Town Council found that the Final EIR was prepared, published, circulated, reviewed and completed in full compliance with State law and CEQA Guidelines; that there had been adequate public review of the Draft EIR; that all comments on the Draft EIR had been considered; that the Final EIR adequately discussed all significant environmental issues; and that the Final EIR reflected the independent judgment and analysis of the Town Council. The Town Council further found that the information added in the Final EIR did not constitute significant new information requiring recirculation pursuant to CEQA Guidelines Section 15073(b), but rather that additional information clarified or amplified the EIR.

SECTION 4: MMRP

On January 25, 2023, pursuant to CEQA Section 21081.6 and CEQA Guidelines section 15091 and in support of its approval of the Housing Element Update, the Moraga Town Council adopted the Mitigation Monitoring and Reporting Program (MMRP). The MMRP requires all mitigation measures described in the Final EIR to be implemented, including those applying to the Bollinger Canyon Rezoning. The Planning Commission recommends that the MMRP be readopted, to the extent necessary, for the Bollinger Canyon Rezoning.

SECTION 5: CEQA Findings and Statement of Overriding Considerations

Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15091, and in support of its recommendation to approve the Bollinger Canyon General Plan and Zoning Amendments now under consideration, the Planning Commission has reviewed and considered the CEQA Findings of Fact and Statement of Overriding Considerations that have been prepared expressly for actions relating to the Bollinger Canyon Rezoning. These Findings and the Statement of Overriding Considerations are attached as Exhibit A and are incorporated herein by reference. The Planning Commission finds that such Findings of Fact are supported by substantial evidence and recommends that the Town Council adopt the Findings of Fact and Statement of Overriding Considerations for the Bollinger Canyon General Plan Amendments and Rezoning.

SECTION 6: Record of Proceedings

Pursuant to CEQA Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the Planning Commission has based its recommendation are located in and may be obtained from, the Office of the Town Clerk at 329 Rheem Boulevard, Moraga, California. The Town Clerk is the custodian of records for all matters before the Town.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga at a regular meeting held on April 11, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

AFFIRMED:

Ben Helber, Chair

ATTEST:

Afshan Hamid, AICP, Planning Director

ATTACHMENTS

Exhibit A: CEQA Findings and Statement of Overriding Considerations for Bollinger Canyon

**CEQA Findings and
Statement of Overriding Considerations
for the
Bollinger Valley Rezoning
Comprehensive Advanced Planning Initiative
Pursuant to CEQA Guidelines Sections 15091 and 15093
and Public Resources Code Section 21081**

The Final Environmental Impact Report (Final EIR) prepared by the Town of Moraga (Town) for the Comprehensive Advanced Planning Initiative consists of the Draft EIR and Response to Comments on the Draft EIR (State Clearinghouse No 2022020106). The Comprehensive Advanced Planning Initiative consists of the Housing Element and Bollinger Valley Rezoning, as described in the Draft EIR. The Final EIR was adopted by the Town Council of the Town of Moraga on January 25, 2023. The Final EIR identifies significant environmental impacts that will result from implementation of the both the Housing Element and Bollinger Valley Rezoning. This document focuses on the Bollinger Valley Rezoning (“project”). Separate findings and statements were adopted for the Housing Element, which was approved on January 25, 2023.

The Town finds that the inclusion of certain mitigation measures as part of approval of the Bollinger Valley Rezoning will reduce all but the following significant impacts to levels that are less than significant: air quality, biological resources, greenhouse gas emissions, transportation, utilities and service systems, and wildfire. No feasible mitigation measures have been identified to reduce these impacts to a less-than-significant level or mitigation measures have been identified but would not reduce impacts to a level of less than significant; these impacts will remain significant unavoidable impacts of the project. These impacts are required to be overridden due to specific considerations that are described within this document.

As required by the California Environmental Quality Act (CEQA), the Town has adopted a Mitigation Monitoring and Reporting Program (MMRP) for the project. The Town finds that the MMRP, which is incorporated by reference, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project. In accordance with CEQA and the *CEQA Guidelines*, the Town adopts these findings as part of the project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the Town has also found that the Final EIR reflects the Town’s independent judgment as the lead agency for the project.

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1 Introduction

1.1 Statutory Requirements for Findings

California Environmental Quality Act (CEQA) Guidelines Section 15091 states that:

- (a) No public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.¹

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.² The CEQA Guidelines state in Section 15093 that:

“If the specific economic, legal, social, technological, or other benefits of a propos[ed] project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

1.2 Procedural Findings

The Town Council of the Town of Moraga finds as follows:

Based on the nature and scope of the Comprehensive Advanced Planning Initiative, State Clearinghouse No. 2022020106, the Town Council of Moraga determined, based on substantial evidence, that the project may have a significant effect on the environment and prepared an Environmental Impact Report (EIR). The EIR was prepared, noticed, published, circulated, reviewed

¹ CEQA Guidelines Section 15091 (a), (b).

² Public Resources Code Section 21081(b).

and completed in full compliance with the CEQA Public Resources Code Sections 21000 et seq. CEQA and the CEQA Guidelines (14 California Code of Regulations Sections 15000 et. Seq.), as follows:

- **Notice of Preparation and Initial Study.** After deciding that an EIR is required, the lead agency (the Town) must file a Notice of Preparation soliciting input on the EIR scope to the State Clearinghouse, other concerned agencies, and parties previously requesting notice in writing (CEQA Guidelines Section 15082; Public Resources Code [PRC] Section 21092.2). The NOP must be posted in the County Clerk's office for 30 days. The NOP may be accompanied by an Initial Study that identifies the issue areas for which the project could create significant environmental impacts. The Town prepared an NOP of the Draft EIR for a 30-day agency and public review period that began on February 3, 2022 and ended on March 7, 2022.
- **Draft EIR Prepared.** The Draft EIR must contain a) table of contents or index; b) summary; c) project description; d) environmental setting; e) discussion of significant impacts (direct, indirect, cumulative, growth-inducing, and unavoidable impacts); f) a discussion of alternatives; g) mitigation measures; h) discussion of irreversible changes, and i) any identified areas of controversy. The Town prepared a Draft EIR and circulated the Draft EIR for a 46-day public review period that began on October 27, 2022 and ended on December 12, 2022. A corresponding Notice of Availability (NOA) was published to provide notification when the Draft EIR became available for public review.
- **Notice of Completion (NOC).** The lead agency must file a notice of completion with the State Clearinghouse when it completes a Draft EIR and prepare an NOA. The lead agency must place the notice of completion in the County Clerk's office for 30 days (PRC Section 21092) and send a copy of the notice of completion to anyone requesting it (CEQA Guidelines Section 15087). Additionally, public notice of Draft EIR availability must be given through at least one of the following methods: a) publication in a newspaper of general circulation; b) physical signage posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must solicit input from other agencies and the public and respond in writing to all comments received (PRC Sections 21104 and 21253). An NOC was prepared and submitted to the State Clearinghouse with the Draft EIR on October 27, 2022.
- **Final EIR.** A Final EIR must include a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments. The Town prepared a Final EIR, which was published and submitted to the State Clearinghouse on January 6, 2023.
- **Certification of Final EIR.** Prior to making a decision on a proposed project, the lead agency must certify that a) the Final EIR has been completed in compliance with CEQA; b) the Final EIR was presented to the decision-making body of the lead agency; and c) the decision-making body reviewed and considered the information in the Final EIR prior to approving a project (CEQA Guidelines Section 15090).
- **Lead Agency Project Decision.** The lead agency may a) disapprove the project because of its significant environmental effects; b) require changes to the project to reduce or avoid significant environmental effects; or c) approve the project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (CEQA Guidelines sections 15042 and 15043).
- **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the lead agency must find, based on substantial evidence, that a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should

be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (CEQA Guidelines Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision.

- **Mitigation Monitoring Reporting Program.** When the lead agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures adopted or made conditions of project approval to mitigate significant effects.
- **Notice of Determination (NOD).** The lead agency must file a NOD after deciding to approve a project for which an EIR is prepared (CEQA Guidelines Section 15094). A local agency must file the NOD with the county clerk. The NOD must be posted for 30 days and sent to anyone requesting notice previously. Posting of the NOD starts a 30-day statute of limitations on CEQA legal challenges (PRC Section 21167[c]).

1.3 Findings Required Under CEQA

The Town Council (the final decision-making body) of the Town of Moraga (the CEQA Lead Agency) will determine whether to certify the EIR for the Project. Because the Draft EIR identified a potentially significant environmental impact, the Town Council must also make certain “findings” as part of its action to certify that the EIR has been completed in compliance with CEQA and to approve the Bollinger Valley Rezoning. Pursuant to CEQA Guidelines Section 15091 and CEQA Section 21081, no public agency shall approve or carry out a project for which an environmental impact report has been certified, which identifies one or more significant effects on the environment that would occur if the project is approved or carried out, unless the public agency makes one or more findings for each of those significant effects, accompanied by a brief explanation of the rationale of each finding. The possible findings, which must be supported by substantial evidence in the record, are:

- Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

1.4 Record of Proceedings

For purposes of CEQA and these findings, the record before the Town Council includes the following:

- The Draft EIR and all appendices to the Draft EIR
- The Final EIR including an errata, comments on the Draft EIR and responses to comments, and all appendices to the Final EIR
- Public notices required by CEQA

- Studies conducted for Comprehensive Advanced Planning Initiative and contained in, or referenced by, the Draft EIR or the Final EIR
- Documentary and oral evidence received and reviewed at public hearings, study sessions, and workshops and transcripts and minutes of those hearings related to Comprehensive Advanced Planning Initiative the Draft EIR and the Final EIR
- For documentary and informational purposes, the Findings and Statement of Overriding Conditions, Mitigation Monitoring and Reporting Program, and other documentation relevant to planned growth in the area
- Additional items not listed above if otherwise required by law

1.5 Findings

The Final EIR is incorporated into these findings in its entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, and the reasons for approving the Bollinger Valley Rezoning in spite of the potential for associated significant and unavoidable adverse impacts.

For the purposes of these findings, the impact discussions include the relevant policies and actions, as well as the separate mitigation measures imposed to reduce the impacts where the policies did not result in a less than significant impact. In the findings that follow, impact numbers are provided. The impact numbers correspond to sections of the Draft EIR that contain an expanded discussion of impacts. Please refer to the referenced impact sections of the EIR for more detail.

2 Comprehensive Advanced Planning Initiative

2.1 Project Objectives

Pursuant to CEQA Guidelines Section 15124(b), the EIR project description must include “[a] statement of objectives sought by the proposed project. The statement of objectives should include the underlying purpose of the project.” The Comprehensive Advanced Planning Initiative is intended to achieve the following project objectives:

- A State-certified Housing Element for 2023-2031 that responds to local and regional needs.
- An internally-consistent, easy-to-use General Plan that is legally compliant and addresses emerging issues.
- Updated long-range planning policies and programs that respond to recent State legislation related to vehicle miles travelled (VMT), climate change and resilience, fire hazards, evacuation, and other pertinent topics.
- General Plan land use and zoning designations for the Bollinger Canyon Study Area.
- Rezoning consistent with the Housing Element to meet the Town’s Regional Housing Needs Allocation (RHNA).
- Opportunities for meaningful public participation, including the engagement of residents who have not historically participated in planning processes.
- New objective development standards consistent with state law.

2.2 Project Description

The Planning Initiative includes an update to the Town’s Housing Element, rezoning of key sites within the Town’s jurisdiction, and amendments to the 2002 General Plan. The Planning Initiative would provide a cohesive long-term framework for future growth and development in the Town. The Initiative was catalyzed by the RHNA allocation, as well as Plan Bay Area 2050 and other initiatives that support denser housing in “Priority Development Areas” around the region. The Planning Initiative is meant to ensure the Town has a sufficient number of appropriately zoned sites to meet its housing allocation. It is also intended to provide supportive housing goals, policies, programs, and quantitative objectives to meet the Town’s future housing needs. It is further intended to provide objective design and development standards so that projects may be approved more quickly and efficiently, thus reducing development costs and making housing easier to build.

The Town of Moraga is consolidating long range planning efforts through this initiative, namely the Housing Element Update and corresponding rezoning of the Moraga Center Specific Plan and Rheem Park areas, rezoning of the Bollinger Canyon Study Area, and 2002 General Plan amendments to achieve internal consistency and meet recent State requirements. The location of the three study areas are Moraga Center Specific Plan area, Rheem Park area, and Bollinger Canyon Study Area. The Planning Initiative would ensure a refreshed vision for growth throughout the Town that meets the community’s needs.

Housing Element Update

The Housing Element Update presents a comprehensive set of housing policies and actions for the years 2023-2031. It would provide Moraga with a “road map” for accommodating its future housing demand and would guide decisions that impact housing for the next 8 years. The document aims to achieve several overarching goals, including:

- Accommodating projected housing demand to meet RHNA, as mandated by the State
- Increasing housing production to meet this demand
- Improving housing affordability
- Preserving existing affordable housing
- Improving the safety, quality and condition of existing housing
- Facilitating the development of housing for all income levels and household types, including special needs populations; and
- Improving the livability and economic prosperity of all Moraga residents; and promoting fair housing choice for all.

The Housing Element Update is based on the Town’s RHNA, plus a buffer of units to ensure ongoing compliance with the No Net Loss provisions of State housing law. The 2023-2031 RHNA for Moraga has been set at 1,118 housing units. This is an increase of more than 400 percent relative to the allocation for 2015-2022 and therefore requires the rezoning of the three areas as shown in Figure 2-3 in Section 2, *Project Description*, of the Draft EIR. The Housing Element site inventory also accounts for projects that have been fully entitled but not yet constructed (also called “pipeline” projects). The 225 units shown include Palos Colorados (123 single family homes plus 30 accessory dwelling units), Country Club Extension (65 single family homes), and Hetfield Estates (7 single family homes). These three projects were also listed in the 2015-2023 Housing Element but remain undeveloped. No changes to these three projects are proposed. The Town of Moraga also anticipates new housing may be created through the addition of Accessory Dwelling Units (ADUs) to existing homes. ADUs are an important tool to help meet local housing needs.

The “No Net Loss” Law (Government Code Section 65863) requires maintenance of sufficient sites to meet the RHNA for all income levels throughout the planning period. The recommendation from the California Department of Housing and Community Development is to adopt a housing site inventory with a buffer of at least 20 percent over the allocated RHNA. Moraga’s buffer exceeds this guideline. Consistent with the 2002 General Plan, the Town is strategically directing most residential growth to infill sites and sites in commercial areas that are already urbanized. This helps achieve complementary 2002 General Plan objectives such as supporting the Town’s shopping centers and businesses, creating community gathering places, encouraging walking and bicycling, and conserving hillsides and natural resources.

State law requires that housing elements are updated every 8 years (California Government Code Sections 65580 to 65589.8). The proposed update, the 2023-2031 Housing Element, identifies sites adequate to accommodate a variety of housing types for all income levels and needs of special population groups defined under state law (California Government Code Section 65583); analyzes governmental constraints to housing maintenance, improvement, and development; addresses conservation and improvement of the condition of existing affordable housing stock; and outlines policies that promote housing opportunities for all persons.

The update to the Housing Element ensures compliance with State legislation passed since adoption of the General Plan and the 2015-2023 Housing Element.

The Housing Element was adopted by the Moraga Town Council on January 25, 2023.

Rezoning

It is important to note that not every parcel within the rezoned areas is considered a “Housing Opportunity Site.” Zoning boundaries are used to define “districts” comprised of multiple parcels where particular uses are allowed, and particular development standards apply. Although all of the parcels in a given zoning district are subject to common regulations, each parcel contains unique uses and activities. Some parcels are vacant or underutilized and have the potential for housing. Others are developed with active uses and are likely to remain as they are today in the future. Development potential has only been calculated for those rezoned properties that are likely to redevelop with housing. For example, the Town offices are within one of the areas being rezoned—but they are not expected to redevelop by 2031.

Likewise, the 24 unit/acre zoning limit is subject to density bonuses, including those available under State law and those that could be provided by the Town through future incentive programs. Such bonuses could result in a larger number of housing units on individual sites than was presumed in the Housing Element. These larger yields are covered by this EIR to the extent that the total number of housing units produced in the Town does not exceed the total number of units presumed by the EIR. If a project would cause the Townwide “buildout” numbers in this EIR to be exceeded, additional environmental review would be required.

Moraga Center

Moraga Center is an approximately 187-acre area generally located around the intersection of Moraga Road and Moraga Way. Land use in this area is governed by a Specific Plan adopted in 2010, as well as new zoning regulations adopted in 2020. The Moraga Center Specific Plan used a buildout range of 510-630 units (the higher number includes increased density for senior housing) for CEQA analysis and planning purposes. The previous 2015-2023 Housing Element assumed that the entire 510-630 units would occur on residentially zoned land and did not quantify any housing potential on mixed use properties. To meet the higher RHNA for the 6th cycle, the Housing Element Update would consider several of the Moraga Center Specific Plan mixed use sites as Housing Opportunity Sites.

Rheem Park Area

The Rheem Park area is an approximately 60-acre area located at the intersection of Rheem Boulevard and Moraga Road in north-central Moraga. The Rheem Park area includes the Rheem Shopping Center, the Rheem Theater, Town of Moraga Offices, a Saint Mary’s College administration facility, private office buildings, a convalescent facility, miscellaneous commercial uses, and vacant land. Current zoning in the area includes Suburban Office, Limited Commercial, and Community Commercial. Multi-family residential uses are not listed as a permitted use in these zoning districts. Proposed zoning changes in this area would rezone some of the commercial parcels to mixed use to permit residential development. Rezoning of this area is required not only to meet the RHNA, but also to meet new state requirements for Affirmatively Furthering Fair Housing (AFFH). Input from property owners supports the Town’s efforts to rezone the sites. The Town is strongly encouraged to distribute lower-income housing opportunities in multiple geographic areas rather than concentrating them in a single location (Moraga Center). Rheem Park is the only other

viable location in the Town for higher densities, given natural hazards, infrastructure, and environmental considerations.

The rezoning cited above was adopted by the Town of Moraga Town Council on February 22, 2023.

General Plan Amendments

The Housing Element Update and resulting rezoning would require amendments to the 2002 Moraga General Plan. The amendments are required to maintain internal consistency, respond to new State laws, and provide a framework for zoning changes. Amendments to the 2002 Moraga General Plan, specifically new and modified goals, policies, and implementation programs, apply to the Planning Initiative in its entirety, including development within the Moraga Center area, and Rheem Park area.

These General Plan Amendments were adopted by the Town of Moraga Town Council on January 25, 2023.

Bollinger Canyon Study Area General Plan Amendment and Rezoning

Bollinger Canyon, located in the east central portion of the Town, is identified as “Study Area” on Moraga’s General Plan and Zoning maps. The Study Area is approximately 423 acres and includes 20 parcels with 13 different owners. The Study Area designation does not have an associated density range. The Moraga Town Council has expressed the goal of replacing the Study Area designation, which was intended to be temporary, with permanent General Plan, zoning designations and development standards.

The Comprehensive Advanced Planning Initiative would eliminate the Study Area designation from both the General Plan and zoning maps and apply new General Plan and zoning designations for both areas. A community process was implemented in late 2021 and early 2022 to consider new designations. Three “parcel groups” were identified based on shared characteristics, and different zoning strategies were adopted for each group. Open Space (General Plan)/Non-MOSO Open Space (Zoning)

A total of 136 acres, comprised of four parcels and commonly referred to as Harvey Ranch, would receive an “Open Space” General Plan designation and be rezoned to “Non-MOSO Open Space.”³ The Non-MOSO zoning designation allows for residential uses with a conditional use permit (at densities of one unit per 5, 10, or 20 acres per unit, depending on conditions). However, no future development potential is presumed on these parcels since they are being acquired by the John Muir Land Trust for conservation purposes.

Residential – 1 Dwelling Unit per Acre (General Plan/Zoning)

A total of 17 acres, including nine parcels, would receive a General Plan and zoning designation of one dwelling unit per acre. This area is already developed with existing residences, generally ranging from just under one acre to about 3.5 acres. There is one vacant lot, presumed to have the potential for two residential units under the proposed zoning.

³ MOSO is the Moraga Open Space Ordinance. Open Space in the Town includes “MOSO” Open Space, which was covered by the Ordinance, and non-MOSO Open Space, which includes parcels not expressly covered by the Ordinance.

Rural Residential – 1 Dwelling Unit per 5 Acres (General Plan/Zoning)

The remaining 270 acres would receive a General Plan and zoning designation of “Rural Residential” consistent with properties to the northeast and north in adjacent jurisdictions. This designation does not currently exist but would be created as part of the project. Residential and agricultural uses would be permitted by right; a number of additional uses would be conditionally permitted.

Given existing land uses (including several existing residential units) and parcelization patterns, the theoretical number of parcels that could be created through future subdivision is approximately 51. The analysis in this EIR assumes 49 new residential units on the entire 270 acres. The Rural Residential zoning district would allow for density to be clustered, achieving a higher density in a defined area but with the same total number of units, while allowing for open space. A minimum lot size of 40,000 square feet would apply in such instances. As in other low-density residential zoning districts, the Rural Residential zoning would also allow for density to be transferred to another part of Moraga. This would include commercial and mixed-use districts. As a result of the rural densities being proposed in Bollinger Canyon and the surplus of existing sites in the Town for above moderate-income housing, the area is not considered a Housing Opportunity Site under the Housing Element Update.

Total new housing potential for the entire 423-acre Bollinger Canyon Study area, including the Non-MOSO Open Space area, the 1 DU/Acre area, and the RR area, is 51 units.⁴

These Findings and Statement of Overriding Considerations is for the Bollinger Canyon Rezoning.

2.3 Alternatives

Based on the project objectives and anticipated environmental consequences, and pursuant to CEQA Guidelines Section 15126.6, the following project alternatives were selected for analysis:

- **Alternative 1: No Project.** The No Project Alternative assumes there is no change in zoning or General Plan land use designations for the parcels identified by the Planning Initiative. Current uses on the sites would continue under this alternative, with buildout of the proposed Housing Opportunity Sites regulated by existing zoning and General Plan designations. No development would occur within the Bollinger Canyon Study Area since existing zoning and General Plan designations require a study to determine the appropriate number of units that the area can support prior to development.
- **Alternative 2: Employment-Focused Growth.** Alternative 2 assumes that nine of the Housing Opportunity Sites identified under the Planning Initiative would be developed for office/retail uses instead of residential uses. These sites are vacant or currently used for office or commercial purposes. Development would occur within the Bollinger Canyon Study Area as envisioned in the Planning Initiative and described in Section 2, *Project Description*. The purpose of Alternative 2 is to achieve the Town’s RHNA obligations while creating jobs and services in the vicinity of housing to reduce VMT.
- **Alternative 3: Clustered Bollinger Canyon Development.** Alternative 3 assumes that buildout would be the same as proposed under the Planning Initiative, except development within the Bollinger Canyon Study Area would be required to be clustered. The exact location of clustered development is not specified under Alternative 3, but development would likely cluster adjacent to existing residential development west of the Bollinger Canyon Study Area or near Bollinger

⁴ 2 units in 1 DUA and 49 units in RR.

Canyon Road. The purpose of Alternative 3 is to reduce impacts to biological resources, cultural resources, geology and soils, hydrology and water quality, tribal cultural resources, and utilities by minimizing ground disturbance and maximizing remaining contiguous open space within the Study Area.

A number of alternatives were also considered but rejected. The Town considered an alternative that would allow a greater intensity of development, but that alternative was rejected as the impacts would be further exacerbated by the greater ground disturbance and air quality impacts. In addition, the Town considered a number of alternatives to reduce noise impacts, which were rejected due to cost concerns and ability of developers and the Town to control noise measures over time. Refer to Chapter 6, *Alternatives*, of the Draft EIR for the complete alternatives analysis.

3 Topical Areas Determined to have Less than Significant or No Impacts

The Town finds that, based upon substantial evidence in the record, as discussed below, the Bollinger Valley Rezoning's impacts associated with the following topical areas would be less than significant.

Aesthetics

Impact AES-2

Implementation of the Bollinger Canyon Rezoning would result in new development that could have adverse effects on scenic vistas. However, compliance with the Town's Design Guidelines, Municipal Code, and General Plan policies would ensure that new development does not have a substantial adverse effect on scenic vistas. Impacts would be less than significant.

Impact AES-4

Development facilitated by the Bollinger Canyon Rezoning would not substantially degrade existing visual character or quality of public views of development sites due to the large minimum lot sizes in the central and northeastern portions of the study area; and the maintenance of open space in other portions of the study area, as well as through compliance with Moraga Municipal Code, applicable Design Guidelines, and General Plan goals and policies. Impacts would be less than significant.

Impact AES-6

Development facilitated by the Bollinger Canyon Rezoning would introduce new sources of light and glare. Given the low-intensity of development and with adherence to existing ordinances that regulate light and glare for new development, impacts would be less than significant.

Air Quality

Impact AQ-4

Construction of development facilitated by the Bollinger Canyon Rezoning would result in the temporary generation of air pollutants, which would affect local air quality. Policies in the Moraga General Plan incorporate the BAAQMD Basic Construction Measures, which would reduce construction emissions. Impacts would be less than significant. Operation of the Bollinger Canyon Rezoning would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state ambient air quality standard. Impacts would be less than significant.

Impact AQ-8

Construction and operation toxic air contaminant (TAC) emission from the development facilitated by the Bollinger Canyon Rezoning would be less than significant.

Construction and operation of the development facilitated by the Bollinger Canyon Rezoning would not result in substantial other emissions, such as odors and impacts would be less than significant.

Biological Resources

Impact BIO-8

Development facilitated by the Bollinger Canyon Rezoning would be required to conform with applicable local policies protecting biological resources. Impacts would be less than significant.

Impact BIO-10

Future development facilitated by the Bollinger Canyon Rezoning would not conflict with an adopted HCP, NCCP, or other approved local, regional, or state habitat conservation plan. No impact would occur.

Cultural and Tribal Cultural Resources

Impact CUL-2

Development facilitated by the Bollinger Canyon Rezoning may result in the alteration or demolition of historical resources in the Plan Area. Proposed General Plan Implementation Programs would reduce impacts to historical resources. Impacts to historical resources would be less than significant.

Impact CUL-4

Development facilitated by Bollinger Canyon Rezoning would have the potential to impact archaeological resources in the Study Area. With implementation of proposed General Plan Implementation Programs requiring surveys for and protection of archaeological resources, impacts would be less than significant.

Impact CUL-6

Development facilitated by the Bollinger Canyon Rezoning could result in damage to or destruction of human burials in the Study Area. However, compliance with existing regulations on human remains would ensure less than significant impacts.

Impact TCR-2

Development facilitated by the Bollinger Canyon Rezoning may involve grading and excavation during construction, which has the potential to impact previously unidentified tribal cultural resources. Proposed General Plan Implementation Programs would reduce impacts to a less than significant level.

Energy

Impact ENG-2

Development facilitated by the Bollinger Canyon Rezoning would not result in a significant environmental impact due to the wasteful, inefficient, or unnecessary consumption of energy resources during construction or operation. Impacts would be less than significant.

Impact ENG-4

The Bollinger Canyon Rezoning would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Impacts would be less than significant.

Geology/Soils

Impact GEO-2

Development facilitated by the Bollinger Canyon Rezoning would not be subject to rupture of a known earthquake fault; therefore, there would be no impact.

Impact GEO-4

Development facilitated by the Bollinger Canyon Rezoning could be located in areas that would be exposed to seismic events, including ground shaking, liquefaction, and landslides. Compliance with the California Building Code (CBC), Grading Ordinance, and Safety Element policies would reduce impacts related to ground shaking, liquefaction, and landslide hazards. However, with required adherence to existing policies and regulations that require geologic hazard investigations where warranted, control siting of development, and require safe construction practices, impacts would be less than significant.

Impact GEO-6

Development facilitated by the Bollinger Canyon Rezoning would include ground disturbance such as excavation and grading that would result in loose or exposed soil. Disturbed soil could be eroded by wind or during a storm event, which would result in the loss of topsoil. Adherence to permit requirements, Town regulations, and General Plan policies would ensure that this impact would be less than significant.

Impact GEO-8

Development facilitated by the Bollinger Canyon Rezoning could be located on a geologic unit or soil that is unstable or could become unstable resulting in on or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. Compliance with the CBC and Safety Element policies would reduce hazards resulting from expansive soils and impacts would be less than significant.

Impact GEO-10

Development facilitated by the Bollinger Canyon Rezoning may use septic tanks or alternative wastewater disposal systems. General Plan policy would require new development to connect to a sewage system. However, if a sewer connection is demonstrated as not feasible, a competent technical expert must determine viability and safety of a septic system. By adhering to recommendations provided by a qualified technical expert regarding the use of onsite septic systems on a potential development site, Impacts related to the use of septic tanks or alternative wastewater disposal systems would be less than significant.

Impact GEO-12

Development facilitated by the Bollinger Canyon Rezoning has the potential to impact paleontological resources. Proposed General Plan Implementation Program PAL-A would reduce impacts to paleontological resources. Impacts would be less than significant.

Greenhouse Gas Emissions

Impact GHG-2

GHG emissions from development facilitated by the Bollinger Canyon Rezoning would not exceed the BAAQMD interpolated 2031 project-level or plan-level thresholds. This impact would be less than significant.

Hazards and Hazardous Materials

Impact HAZ-2

Development facilitated by the Bollinger Canyon Rezoning could involve the use, storage, disposal, or transportation of hazardous materials. Upset or accident conditions in the Bollinger Canyon Study Area could involve the release of hazardous materials into the environment. Compliance with existing regulations would ensure that impacts would be less than significant.

Impacts HAZ-HAZ-4

Development facilitated by the Bollinger Canyon Rezoning could result in the release of potentially hazardous materials within 0.25 mile of a school. However, compliance with regulations related to hazardous materials would minimize the risk of releases and exposure to these materials. Impacts would be less than significant.

Impact HAZ-6

Development facilitated by the Bollinger Canyon Rezoning would not be located on a site included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5. Compliance with applicable regulations would minimize impacts from development on previously unknown contaminated sites and impacts would be less than significant impact.

Impact HAZ-8

The Bollinger Canyon Study Area is not located in an airport land use plan or in the vicinity of a private airstrip. No impacts related to safety hazard or excessive noise due to airports would occur.

Impact HAZ-10

Development facilitated by the Bollinger Canyon Rezoning would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant.

Hydrology and Water Quality

Impact HYD-2

Development facilitated by the Bollinger Canyon Rezoning would not violate water quality standards or Waste Discharge Requirements, or otherwise substantially degrade surface or groundwater quality. Individual development projects would be required to comply with best management practices in accordance with State and local regulations and permit requirements. Impacts would be less than significant.

Impact HYD-4

Development facilitated by the Bollinger Canyon Rezoning would not interfere substantially with groundwater supplies and recharge and the Planning Initiative would not impede sustainable groundwater management of local groundwater basins. Impacts would be less than significant.

Impact HYD-6

Development facilitated by the Bollinger Canyon Rezoning may alter drainage patterns and increase runoff on individual Housing Opportunity Sites but would not result in substantial erosion or siltation on or off site, increased flooding on or off site, contribute increased runoff that would exceed the capacity of existing or planned stormwater systems, or contribute substantial additional sources of polluted runoff. Impacts would be less than significant.

Impact HYD-8

Development facilitated by the Bollinger Canyon Rezoning could alter drainage patterns on or increase runoff. However, no areas of the Bollinger Canyon Study Area are within a 100-year or 500-year floodplain. Nonetheless, development would be at risk from post-wildfire flooding and would be required to comply with applicable State, County, and Town regulations and General Plan policies to reduce impacts from redirection of post-fire flows. Impacts would be less than significant.

Impact HYD-10

Development facilitated by the Bollinger Canyon Rezoning would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. Compliance with the basin plan would be a requirement of all development facilitated by the Bollinger Canyon Rezoning. Impacts would be less than significant.

Land Use and Planning

Impact LU-2

Development facilitated by the Bollinger Canyon Rezoning would continue orderly development in the Plan Area and would not physically divide an established community. Impacts would be less than significant.

Impact LU-4

Development facilitated by the Bollinger Canyon Rezoning would not result in a significant environmental impact due to a conflict with Plan Bay Area 2050 or the Moraga General Plan. Therefore, this impact would be less than significant.

Noise

Impact NOI-2

Construction of development facilitated by the Bollinger Canyon Rezoning would temporarily increase noise levels but would not affect noise-sensitive land uses. Further, provisions in the Moraga Municipal Code would limit construction noise disturbance to the extent feasible. Construction would not exceed noise standards and impacts would be less than significant.

Impact NOI-4

Development facilitated by the Bollinger Canyon Rezoning would introduce new operational noise sources but increased noise levels would be less than significant.

Impact NOI-6

Development facilitated by the Bollinger Canyon Rezoning could temporarily generate groundborne vibration during construction, but vibration would be below distinctly perceptible vibration levels for humans and structures. Impacts would be less than significant.

Population and Housing

Impact POP-2

Development facilitated by the Bollinger Canyon Rezoning could accommodate an additional 135 new residents and 51 new housing units in the Town. When considered in conjunction with the increase in population and housing units facilitated by the Housing Element Update, this would exceed Plan Bay Area 2040 population and housing forecasts. ABAG's next Plan Bay Area would incorporate growth projected by the Housing element and Development facilitated by the Bollinger Canyon Rezoning, and therefore, resulting growth would be anticipated and would not result in unplanned population growth. Therefore, impacts would be less than significant.

Impact POP-4

Development facilitated by the Bollinger Canyon Rezoning would not result in the displacement of a substantial number of existing housing units to accommodate the planned increase in development intensity since the proposed rezoning of the area would allow for an overall increase in housing units as compared to existing conditions. Impacts would be less than significant.

Public Services and Recreation

Impact PS-2

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which would increase demand for fire protection services. However, this increase would not require additional and/or expanded fire protection facilities. Impacts would be less than significant.

Impact PS-4

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which would increase demand for police protection services. However, this increase would not require additional and/or expanded police protection facilities. Impacts would be less than significant.

Impact PS-6

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which could result in the need for additional and/or expanded school facilities. However, Government Code 65995 (b) would require funding for the provision or expansion of new

school facilities to offset impacts from the Bollinger Canyon Rezoning. Therefore, this impact would be less than significant.

Impact PS-8

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which would increase demand for parks and recreation services. However, the Town would not exceed its threshold of three acres of parkland per 1,000 residents. Therefore, this impact would be less than significant.

Impact PS-10

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the town, which would increase demand for the use of public facilities such as libraries, possibly resulting in the need for additional open hours and staffing and the expansion of the Moraga Library. However, any future plans to expand the Moraga Library would be subject to environmental review under CEQA and given that the Moraga Library is on an infill site expansion is unlikely to result in significant impacts. Therefore, this impact would be less than significant.

Transportation

Impact TRA-2

Development facilitated by the Bollinger Canyon Rezoning would not conflict with an applicable program, plan, ordinance, or policy establishing measures of effectiveness for the performance of addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. This impact would be less than significant.

Impact TRA-6

Development facilitated by the Bollinger Canyon Rezoning would not result in designs for on-site circulation, access, and parking areas that fail to meet Town or industry standard design guidelines. Impacts would be less than significant.

Impact TRA-8

Development facilitated by the Bollinger Canyon Rezoning would not result in inadequate emergency access to development sites. Impacts would be less than significant.

Utilities and Service Systems

Impact UTIL-4

Development facilitated by the Bollinger Canyon Rezoning would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. The Bollinger Canyon Rezoning would not impair the attainment of solid waste reduction goals and development facilitated by the Bollinger Canyon Rezoning would comply with federal, State, and local statutes and regulations related to solid waste. Impacts would be less than significant.

4 Topical Areas Determined to have Potentially Significant Impacts Mitigated to a Less Than Significant Level

These topical areas contain impacts of the Bollinger Valley Rezoning that are reduced to a less-than-significant level through the implementation of mitigation measures. Pursuant to California Public Resources Code Section 21081(a)(1) and CEQA Section 15091(a)(1), as to each impact, the Town, based on the evidence in the record before it, finds that changes or alterations incorporated into the project mitigate, avoid, or substantially lessen to a level of insignificance these environmental impacts of the project. The basis for the finding for each impact is set forth below.

Air Quality

Impact AQ-6

Development facilitated by the Bollinger Valley Rezoning could potentially expose sensitive receivers to toxic air contaminants during construction. New sensitive receivers from resulting from the Housing Element could be exposed to toxic air contaminants (TAC). However, the Bollinger Valley Rezoning would adhere to policies in the Moraga General Plan that would limit incompatible land uses in proximity to each other and minimize health risks from sources of TAC upon sensitive receptors. Impacts would be less than significant with mitigation.

MITIGATION MEASURE AQ-1 CONSTRUCTION EQUIPMENT EMISSION CONTROL MEASURES

Based on BAAQMD *CEQA Guidelines* (2017), construction-related TAC and PM impacts should be addressed on a case-by-case basis, taking into consideration the specific construction-related characteristics of each project and proximity to off-site receptors. Construction activity from the projects developed under the Housing Element or Bollinger Canyon Rezone that are within 1,000 feet of sensitive receptors; utilize more than three pieces of construction equipment simultaneously onsite; have a duration of construction longer than two months; and exclude Tier 4 Final construction equipment shall be required to prepare an HRA assessment. An HRA shall be conducted prior to the issuance of a permit to construct. The applicant would be required to have it prepared by a third party or by if Town staff would be capable. The HRA would be reviewed by the Town in-house, or a contracted consultant. If the findings of the HRA assessment exceed BAAQMD health risk thresholds, then development projects under the Housing Element or Bollinger Canyon Rezone shall incorporate the following construction equipment emission control measures to the maximum extent feasible:

- Implement diesel construction equipment meeting USEPA Tier 4 Final emission standards for off-road heavy-duty diesel engines. If use of USEPA Tier 4 equipment is not feasible, diesel construction equipment meeting Tier 4 Interim or Tier 3 emission standards shall be used. Tier 3 equipment shall use a CARB Level 3 diesel particulate filter.
- Perform periodic site inspections during construction to verify compliance of USEPA Tier 4 (Final or Interim) or USEPA Tier 3 equipment.
- Use alternative fueled or catalyst equipped diesel construction equipment.
- Minimize idling time to five minutes or less.

- Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.
- Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable diesel generator set).
- Curtail construction during periods of high-ambient-pollutant concentrations; this may include ceasing of construction activity during the peak-hour vehicular traffic on adjacent roadways.
- Implement activity management (e.g., rescheduling activities to reduce short-term impacts).

Finding

The Town finds that with incorporation of Mitigation Measure AQ-1, which would require incorporation of BAAQMD Basic Construction Measures, would reduce temporary construction impacts and fugitive dust emissions to a less than significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Bollinger Valley Rezoning that avoid or substantially lessen the significant environmental effect to the extent feasible.

Biological Resources

Impact BIO-2

Future development facilitated by Bollinger Canyon Rezoning may result in direct or indirect impacts to special-status plant species or their associated habitats including impacts to migratory bird nest sites. Impacts would be less than significant with mitigation.

MITIGATION MEASURE BIO-1 BIOLOGICAL RESOURCES SCREENING AND ASSESSMENT

For development projects facilitated by the Housing Element that would require vegetation trimming or removal, prior to consideration of the application, the project applicant shall hire a qualified biologist to perform a preliminary biological resources screening, for the Town's review and approval, to determine whether the project has any potential to impact special status biological resources, inclusive of special status plants and animals, sensitive vegetation communities, jurisdictional waters (including creeks, drainages, streams, ponds, vernal pools, riparian areas and other wetlands), critical habitat, wildlife movement area, or biological resources protected under local or regional ordinances. If it is determined that the project has no potential to impact biological resources, no further action is required under this mitigation measure.

If the project would have the potential to impact biological resources, a qualified biologist shall conduct a project-specific biological analysis to document the existing biological resources within a project footprint plus a minimum buffer of 50 feet around the project footprint, as is feasible, and to determine the potential impacts to those resources, as approved by the Town. The project-specific biological analysis shall evaluate the potential for impacts to all biological resources including, but not limited to special status species, nesting birds, wildlife movement, sensitive plant communities, critical habitats, and other resources judged to be sensitive by local, State, and/or federal agencies. If the project would have the potential to impact these resources, additional measures may be required and recommendations developed to enhance wildlife movement (e.g., installation of wildlife friendly fencing), as applicable, to reduce impacts to less than significant levels. Additional measures may also include compensatory mitigation when avoidance of a biological resource is not possible. Pending the results of the project-specific biological analysis, Town review, design alterations, further technical studies (e.g., protocol surveys) and consultations with the USFWS,

NMFS, CDFW, and/or other local, State, and federal agencies may be required as determined by the Town.

MITIGATION MEASURE BIO-2 PRE-CONSTRUCTION BIRD SURVEYS, AVOIDANCE, AND NOTIFICATION

For construction activities at development sites under the Housing Element initiated during the bird nesting season (February 1 – September 15) involving removal of vegetation or other nesting bird habitat, including abandoned structures and other man-made features, a qualified biologist hired by the Town shall conduct a pre-construction nesting bird survey no more than five days prior to initiation of vegetation removal activities. The nesting bird pre-construction survey shall be conducted on foot and shall include a buffer around the construction site at a distance determined by a qualified biologist, including staging and storage areas. The minimum survey radii surrounding the work area shall be the following: 250 feet for non-raptors and 1,000 feet for raptors. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in California Bay Area communities (i.e., qualified biologist). If construction lapses for seven days or longer, the qualified biologist shall conduct another focused survey before project activities are reinitiated. If nests are found, an avoidance buffer shall be determined by a qualified biologist dependent upon the species, the proposed work activity, and existing disturbances associated with land uses outside of the site. The qualified biologist shall observe the active nest to establish a behavioral baseline of the adults and nestlings, if present. The qualified biologist shall continuously monitor the active nests to detect signs of disturbance and behavioral change as a result of construction impacts, such as noise, vibration, odors, or worker/equipment motion. If signs of disturbance and behavioral changes are observed, the qualified biologist shall cease work causing those changes and may contact CDFW or USFWS for guidance. The buffer shall be demarcated by the biologist with bright orange construction fencing, flagging, construction lathe, or other means to demarcate the boundary. All construction personnel shall be notified as to the existence of the buffer zone as an “Ecologically Sensitive Area” and to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within the buffer until the biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist on the basis that the encroachment will not be detrimental to an active nest. A report summarizing the pre-construction survey(s) shall be prepared by a qualified biologist and shall be submitted to the Town prior to the commencement of construction activities.

Future project site plans proposed at development sites shall include a statement acknowledging compliance with the federal MBTA and California Fish and Game Code that includes avoidance of active bird nests and identification of Best Management Practices to avoid impacts to active nests, including checking for nests prior to construction activities during February 1 to September 15 and what to do if an active nest is found so that the nest is not inadvertently impacted during grading or construction activities.

MITIGATION MEASURE BIO-3 ROOSTING BAT SURVEYS AND AVOIDANCE PRIOR TO REMOVAL

Prior to tree or vacant structure removal, a qualified biologist shall conduct a focused survey of all trees and structures to be removed or impacted by construction activities to determine whether active roosts of special-status bats are present on site. Tree or structure removal shall be planned for either the spring or the fall and timed to ensure both suitable conditions for the detection of bats and adequate time for tree and/or structure removal to occur during seasonal periods of bat activity exclusive of the breeding season, as described below. Trees and/or structures containing

suitable potential bat roost habitat features shall be clearly marked or identified. If no bat roosts are found, the results of the survey will be documented and submitted to the Town within 30 days of the survey, after which no further action will be required.

If day roosts are present, the biologist shall prepare a site-specific roosting bat protection plan to be implemented by the contractor following the Town's approval. Additionally, the qualified biologist shall determine compensatory mitigation for temporary or permanent habitat loss due to tree removal, in conjunction with CDFW. The plan shall incorporate the following guidance as applicable:

- When possible, removal of trees/structures identified as suitable roosting habitat shall be conducted during seasonal periods of bat activity (outside the breeding and hibernation periods), including the following:
 - a) Between September 1 and about October 15, or before evening temperatures fall below 45 degrees Fahrenheit and/or more than 0.5 inch of rainfall within 24 hours occurs.
 - b) Between March 1 and April 15, or after evening temperatures rise above 45 degrees Fahrenheit and/or no more than 0.5 inch of rainfall within 24 hours occurs.
- If a tree/structure must be removed during the breeding season and is identified as potentially containing a colonial maternity roost, then a qualified biologist shall conduct acoustic emergence surveys or implement other appropriate methods to further evaluate if the roost is an active maternity roost. Under the biologist's guidance, the contractor shall implement measures similar to or better than the following:
 - a) If it is determined that the roost is not an active maternity roost, then the roost may be removed in accordance with the other requirements of this measure.
 - b) If it is found that an active maternity roost of a colonial roosting species is present, the roost shall not be disturbed during the breeding season (April 15 to August 31).
- Tree removal procedures shall be implemented using a two-step tree removal process. This method is conducted over two consecutive days and works by creating noise and vibration by cutting non-habitat branches and limbs from habitat trees using chainsaws only (no excavators or other heavy machinery) on day one. The noise and vibration disturbance, together with the visible alteration of the tree, is very effective in causing bats that emerge nightly to feed to not return to the roost that night. The remainder of the tree is removed on day two.
- Prior to the demolition of vacant structures within the project site, a qualified biologist shall conduct a focused habitat assessment of all structures to be demolished. The habitat assessment shall be conducted enough in advance to ensure the commencement of building demolition can be scheduled during seasonal periods of bat activity (see above), if required. If no signs of day roosting activity are observed, no further actions will be required. If bats or signs of day roosting by bats are observed, a qualified biologist will prepare specific recommendations such as partial dismantling to cause bats to abandon the roost, or humane eviction, both to be conducted during seasonal periods of bat activity, if required.
- If the qualified biologist determines a roost is used by a large number of bats (large hibernaculum), bat boxes shall be installed near the project site. The number of bat boxes installed will depend on the size of the hibernaculum and shall be determined through consultation with CDFW. If a maternity colony has become established, all construction activities shall be postponed within a 500-foot buffer around the maternity colony until it is determined by a qualified biologist that the young have dispersed. Once it has been determined that the roost is clear of bats, the roost shall be removed immediately.

MITIGATION MEASURE BIO-4 ALAMEDA WHIPSNAKE PRE-CONSTRUCTION SURVEYS AND IMPACT AVOIDANCE

Throughout the Bollinger Canyon Study Area, which is likely to contain suitable habitat for Alameda whipsnake, a qualified biologist shall conduct a focused pre-construction survey within 14 days prior to initiation of construction activities within the Bollinger Canyon Study Area. The USFWS and CDFW will be notified should any Alameda whipsnake be observed within any site of future development. Additionally, the following mitigation measures will be implemented to reduce impacts to the Alameda whipsnake:

- Prior to the start of construction, wildlife exclusion fencing (e.g., Animex or Ertec brand fencing) will be installed along the project footprint boundary. The location, extent, and specifications of the wildlife exclusion fencing will be identified by a qualified biologist and included on the final project plans. The fencing will remain in place throughout the duration of the construction activities and will be regularly inspected and fully maintained. Repairs to the fence will be made within 24 hours of discovery. Upon completion of construction activities, the fence will be completely removed; the area cleaned of debris and trash and returned to natural conditions.
- Construction crews shall be trained during the Worker Education and Awareness Program (WEAP) training to check beneath the staged equipment each morning prior to commencement of daily construction activities. Should Alameda whipsnake occur within the staging areas, construction activities shall be halted until the Alameda whipsnake vacates the project site on its own and approval to begin again is provided by the USFWS and CDFW.
- A qualified biologist shall be present during grading activities. Should Alameda whipsnake be observed within the project site, the USFWS and CDFW shall be notified, and construction shall be halted until the Alameda whipsnake exits the site and approval to begin again is provided by the USFWS and CDFW.
- To prevent the entrapment of Alameda whipsnake and other wildlife, monofilament plastics shall not be used for erosion control.
- All construction activities shall take place during daylight hours or with suitable light so that whipsnakes can be seen. Vehicle speeds on the construction site shall not exceed five miles per hour.
- Site vegetation management shall take place prior to tree removal, grading, excavation, or other construction activities. Construction materials, soil, construction debris, or other material shall be deposited only on areas where vegetation has been mowed. Areas shall be re-mowed if grass or other vegetation on the project site becomes high enough to conceal whipsnakes during the construction period.

Finding

The Town finds that implementation of mitigation measures BIO-1 through BIO-4 would reduce potential impacts to special-status species including Alameda whipsnake, nesting birds and roosting bats, habitat for special-status species, and locally important species to less than significant levels by requiring biological resources screening and assessments of sites, pre-construction surveys, and avoidance of Alameda whipsnake, nesting birds, and roosting bats. Impacts to special status species would be mitigated to less than significant levels. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Comprehensive Advanced Planning Initiative that avoid or substantially lessen the significant environmental effect the extent feasible.

Impact BIO-4

Development associated with the Bollinger Valley Rezoning may adversely impact riparian habitat, other sensitive natural communities, or protected wetlands. Implementation of federal, State, and local regulations and policies would reduce impacts to riparian habitat and wetlands. However, impacts could be significant and mitigation measures would be required.

MITIGATION MEASURE BIO-5 CONDUCT JURISDICTIONAL DELINEATION

If required pursuant to Mitigation Measure BIO-1, and in areas determined by the Biological Resources Screening and Assessment as likely to impact waters, wetlands, or riparian habitat a jurisdictional delineation shall be required. A qualified biologist shall complete a jurisdictional delineation of all features within the project site. The jurisdictional delineation shall determine the extent of the jurisdictions for CDFW, United States Army Corps of Engineers (USACE), and Regional Water Quality Control Board (RWQCB), and shall be conducted in accordance with the requirement set forth by each agency. The result shall be a preliminary jurisdictional delineation report that shall be submitted to the implementing agency, USACE, RWQCB, and CDFW, as appropriate, for review and approval. Jurisdictional areas shall be avoided to the maximum extent possible. If jurisdictional areas are expected to be impacted, then the RWQCB would require a Waste Discharge Requirements permit and/or Water Quality Controls (depending upon whether the feature falls under federal jurisdiction). If CDFW asserts its jurisdictional authority, then a Lake and Streambed Alteration Agreement pursuant to Section 1600 et seq. of the California Fish and Game Commission would also be required prior to construction within the areas of CDFW jurisdiction. If the USACE asserts its authority, then a permit pursuant to Section 404 of the Clean Water Act would likely be required.

MITIGATION MEASURE BIO-6 PERFORM RESTORATION FOR IMPACTS TO WATERS AND WETLANDS

If waters and/or wetlands cannot be avoided and will be impacted by construction, a compensatory mitigation program shall be implemented. Impacts to waters and wetlands shall be mitigated through one or more options to meet the required amount of mitigation as required based on direct impacts from project development under the mitigation ratios outlined below. Mitigation for impacts to waters and wetlands can be achieved through the acquisition and in-perpetuity management of similar habitat and/or through the in-lieu funding of such through an existing mitigation bank. Funding and management of internal mitigation areas can be managed internally. Funding and management of off-site mitigation lands shall be provided through purchase of credits from an existing, approved mitigation bank or land purchased by implementing entity and placed into a conservation easement or other covenant restricting development (e.g., deed restriction). Internal mitigation lands and/or in-lieu funding sufficient to acquire lands shall provide habitat at a minimum ratio of 1:1 for impacted lands, comparable to habitat to be impacted by individual project activity. Compensatory mitigation for sensitive vegetation communities can be combined with other compensatory mitigation (e.g., sensitive vegetation communities) as applicable. All temporary impacts to waters and wetlands shall be fully restored to natural condition.

Finding

The Town finds that with implementation of mitigation measures BIO-5 and BIO-6 would reduce potential impacts to riparian habitat, wetlands, and waters to less than significant. Pursuant to

CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Bollinger Valley Rezoning that avoid or substantially lessen the significant environmental effect to the extent feasible.

5 Topical Areas Determined to have Significant and Unavoidable Impacts

Air Quality

Impact AQ-2

The Bollinger Canyon Rezone would not be consistent with BAAQMD's 2017 Clean Air Plan and impacts would be significant and unavoidable.

Mitigation Measure TRA-1, described in Impact TRA-4, would be required.

Finding

The Town finds that rezoning to facilitate development in the Bollinger Canyon Study Area would result in increased trips, VMT, and associated emissions. The proposed densities and associated increases in air quality emissions due to increased VMT are not consistent with the transportation measures in the 2017 Clean Air Plan, such as the TRA-5: Transit Efficiency and Use and TRA- 9: Bicycle and Pedestrian Access and Facilities, which encourage improving bike routes and parking and making transit more convenient. While Mitigation Measure TRA-1 would be implemented to reduce VMT, future development could still locate residences within inadequate alternative modes of transportation and away from areas with employment and services. Therefore, the impacts would be significant and unavoidable.

Biological Resources

Impact BIO-6

Development facilitated by the Bollinger Canyon Rezoning may result in substantial impacts to wildlife movement through habitat modification during construction or due to density increases the area. Impacts would be significant and unavoidable.

MITIGATION MEASURE BIO-7 PROJECT DESIGN FOR WILDLIFE CONNECTIVITY

If required pursuant to Mitigation Measure BIO-1, and in areas determined by the Biological Resources Screening and Assessment in Bollinger Canyon that provide wildlife movement corridors, projects shall be designed to minimize impacts to wildlife as set forth below and determined by the Town. Fencing or other project components shall not block wildlife movement through riparian or other natural habitat. Where fencing or other project components that may disrupt wildlife movement is required for public safety concerns, they shall be designed to permit wildlife movement by incorporating design features that include one or more of the following, as required based on site-specific conditions:

- A minimum 16 inches between the ground and the bottom of the fence to provide clearance for small animals.
- A minimum 12 inches between the top two wires, or top the fence with a wooden rail, mesh, or chain link instead of wire to prevent animals from becoming entangled.

- If privacy fencing is required near open space areas, openings at the bottom of the fence measure at least 16 inches in diameter shall be installed at reasonable intervals to allow wildlife movement, or the fence may be installed with the bottom at least 16 inches above the ground level.
- If fencing or other project components must be designed in such a manner that wildlife passage would not be permitted, wildlife crossing structures shall be incorporated into the project design as appropriate.
- Lighting installed as part of any project shall be designed to be minimally disruptive to wildlife.

MITIGATION MEASURE BIO-8 MAINTAIN CONNECTIVITY IN DRAINAGES

No permanent structures that would impede wildlife movement shall be placed within any drainage or riverine feature in the Bollinger Canyon Study Area (i.e., no hardened caps or other structures in the stream channel perpendicular to stream flow that would be exposed or at moderate to high risk of exposure because of natural bed scour during high flow events, and thereby potentially create impediments to passage). In addition, upon completion of construction within any drainage or riverine feature, areas of stream channel and banks that are temporarily impacted shall be returned to pre-construction contours and in a condition that allows for unimpeded passage through the area. If water is to be diverted around work sites, a diversion plan shall be submitted to the Town for review and approval prior to issuance of project construction permits/approvals. The diversion shall be designed in such a way as to not impede movement while the diversion is in place.

MITIGATION MEASURE BIO-9 CONSTRUCTION BEST MANAGEMENT PRACTICES TO MINIMIZE DISRUPTION TO WILDLIFE

The following construction best management practices shall be incorporated into all grading and construction plans in the Bollinger Canyon Study Area to minimize temporary disruption of wildlife:

- A 20 mile per hour speed limit shall be designated in all construction areas.
- Daily construction work schedules shall be limited to daylight hours only.
- Mufflers shall be used on all construction equipment and vehicles shall be in good operating condition.
- All trash shall be placed in sealed containers and shall be removed from the project site a minimum of once per week.
- No pets shall be permitted on project site during construction.

Finding

The Town finds that compliance with mitigation measures BIO-7 through BIO-9 would reduce impacts to wildlife movement by requiring development to be designed in a way that maintains connectivity. However, it cannot be guaranteed that movement of terrestrial species will not be impeded at the regional scale due to future development in the Bollinger Canyon Study Area. No additional feasible mitigation measures are available to reduce impacts on wildlife movement. Thus, this impact would remain significant and unavoidable.

Greenhouse Gas Emissions

Impact GHG-4

Development facilitated by the Bollinger Canyon Rezoning would not be consistent with GHG reduction goals contained in the CARB 2017 Scoping Plan, and Moraga General Plan. Development facilitated by the Bollinger Canyon Rezoning would conflict with the transportation policies in State and local plans by locating residents in a high VMT per capita area and far from transit services and alternative modes of transportation. Impacts would be significant and unavoidable.

Mitigation Measure TRA-1, described in Impact TRA-4, would be required.

Finding

The Town finds that the Bollinger Canyon Study Area encompasses approximately 423 acres of vacant land. It is unknown at this time where development would occur but it would likely have a high VMT per capita given the lack of services, workplaces, transit, and bicycle/pedestrian facilities in this area. While Mitigation Measure TRA-1 would be implemented to reduce VMT (which would reduce GHG emissions), future development could still result in VMT impacts that exceed thresholds, and therefore result in high GHG emissions from locating residences away from areas with employment, services, or transit. Therefore, development in Bollinger Canyon would not be consistent with the transportation strategies in the 2017 Scoping Plan, and 2002 General Plan that were adopted for the purpose of reducing GHG emissions and impacts would be significant and unavoidable.

Transportation

Impact TRA-4

Development facilitated by the Bollinger Canyon Rezoning would generate home-based VMT per resident that is greater than 85 percent of the countywide average home-based VMT per resident. Impacts would be significant and unavoidable.

MITIGATION MEASURE TRA-1 VMT REDUCTION MEASURES

Individual housing project development proposals that do not screen out from VMT impact analysis shall provide a quantitative VMT analysis using the methods applied in this EIR, with modifications if appropriate based on future changes the Town of Moraga practices and CCTA VMT analysis methodology guidelines. Projects which result in a significant impact shall include measures to reduce VMT. These shall include travel demand management measures and physical measures to reduce VMT, including but not limited to the measures below, which have been identified as potentially VMT reducing in the California Air Pollution Control Officers Association (CAPCOA) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (December 2021). Potential VMT reduction estimates are included below, but detailed requirements, calculation steps, and limitations are described in the CAPCOA Handbook. In addition, application of one or more transportation demand measures (TDM) is generally expected to result in a net VMT reduction of 10 percent or less for development projects in suburban settings such as Moraga.

- Unbundle parking costs (i.e., sell or lease parking separately from the housing unit).
Effectiveness: up to 15.7 percent reduction in GHG from VMT per the CAPCOA Handbook.

- Provide car-sharing, bike sharing, or scooter sharing programs. Effectiveness: 0.15 – 0.18 percent reduction in GHG from VMT for car share, 0.02 – 0.06 percent for bike share, and 0.07 percent for scooter share, per the CAPCOA Handbook. The higher car share and bike share values are for electric car and bike share programs.
- Subsidize transit passes for residents of affordable housing. Effectiveness: up to 5.5 percent reduction in GHG from VMT per the CAPCOA Handbook.

In addition to the on-site measures noted above, individual housing projects that are above the VMT threshold could potentially contribute to future VMT mitigation fee programs, banks, or exchanges. No regional VMT mitigation programs currently exist; however, the CCTA is currently evaluating different mitigation program frameworks which may lead to a countywide or sub-regional VMT mitigation program. Should such a program be implemented, development projects could potentially pay into a fee program or purchase mitigation credits to achieve needed VMT mitigation instead of, or in addition to, onsite TDM measures.

Finding

The Town finds that because the effectiveness of the above measure in reducing an individual project's VMT impact to a less than significant level cannot be determined in this analysis, the impact for projects which do not screen out from VMT impact analysis would remain significant and unavoidable even with mitigation.

Utilities and Service Systems

Impact UTIL-2

Development facilitated by the Bollinger Canyon rezoning would increase demand for wastewater treatment, storm water drainage, electric power, natural gas, and telecommunications. In addition, the Bollinger Canyon Study area is not currently served by utility providers, and new infrastructure would need to be extended in previously undeveloped areas to accommodate the development facilitated by the Bollinger Canyon Rezoning. Even with implementation of the mitigation measures listed below, impacts would be significant and unavoidable.

Mitigation measures BIO-1 through BIO-9 (See Section 4.3, *Biological Resources*).

Implementation Programs CR-A through CR-D (Historical and Archaeological Resources Survey, Protect Potential Historic and Archaeological Resources, Construction Monitoring, and Unanticipated Discovery of Cultural Resources).

Implementation Program PAL-A (Paleontological Survey), and Implementation Programs TCR-A and TCR-B (Suspension of Work Around Tribal Cultural Resources and Tribal Cultural Resource Treatment Plan), which would reduce impacts to tribal cultural resources to a less than significant level.

Finding

The Town finds that the installation of new utilities due to the Bollinger Canyon Rezoning (water, wastewater, electrical, natural gas, and telecommunications) would result in a physical impact on the environment on biological resources. Despite implementation of mitigation measures BIO-1 through BIO-9, impacts related to wildlife movement in the Bollinger Canyon Study Area would be

significant and unavoidable due to new utilities impeding the movement of wildlife species at a regional scale.

Wildfire

Impact WFR-2

Development facilitated by the Bollinger Canyon Rezoning would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Compliance with applicable State and local regulations relating to evacuation would reduce the extent to which the project would impair emergency response and evacuation. Nonetheless, this impact would be significant and unavoidable.

MITIGATION MEASURE WFR-1 DEVELOP WILDFIRE ASSESSMENT PLAN AND GUIDELINES

The Town shall require a Wildfire Assessment Plan and Guidelines prior to approval of projects where deemed necessary to protect public safety. The Plan and Guidelines shall be developed for the project site, approved by Moraga-Orinda Fire District, and shall address but shall not be limited to the following:

- Well-maintained, fire district approved landscape and vegetation management plan.
- Adequate roadway and driveway widths, designed to accommodate two-way traffic and large firefighting apparatus.
- Adequate water supply and water flow for firefighting efforts.
- Vegetation modification zones surrounding the community.
- Buildings are built to current Building Code standards, ignition-resistant eaves, ember resistant construction, defensible space, residential fire sprinklers, a Class A ignition-resistant roof, dual pane (one being tempered) glass windows, and chimneys with spark arrestors containing a minimum of 0.5-inch screen.

Finding

The Town finds that with implementation of Mitigation Measure WFR-1, a wildfire assessment plan and guidelines would be adopted for projects in the Bollinger Canyon Study Area and could reduce impairment of an adopted emergency evacuation plan. However, it is not possible to ensure that future development from Bollinger Canyon Rezoning would not substantially impair an adopted emergency response plan or emergency evacuation plan, despite implementation of mitigation. Thus, this impact would remain significant and unavoidable.

Impact WFR-4

The Bollinger Canyon Study Area is located near a Very High FHSZ. Development facilitated by the Bollinger Canyon Rezoning would expose project occupants and structures to wildfire risks. Wildfire risk would be significant and unavoidable.

MITIGATION MEASURE WFR-2 CONSTRUCTION WILDFIRE RISK REDUCTION

The Town of Moraga shall require the following measures during project construction:

1. Construction activities with potential to ignite wildfires shall be prohibited during red-flag warnings issued by the National Weather Service for the site. Example activities include welding and grinding outside of enclosed buildings.
2. Portable pumps shall be available onsite during project construction. Portable pumps shall be maintained to function according to manufacturer specifications. Construction personnel shall receive training on the proper methods of using a fire extinguisher.
3. Construction equipment powered by internal combustion engines shall be equipped with spark arresters. The spark arresters shall be maintained pursuant to manufacturer recommendations to ensure adequate performance.

At the Town's discretion, additional wildfire risk reduction requirements may be required during construction. The Town shall review and approve the project-specific methods to be employed prior to building permit approval.

MITIGATION MEASURE WFR-3 PROJECT DESIGN WILDFIRE RISK REDUCTION

Project landscape plans shall include fire-resistant vegetation native to Contra Costa County and/or the local microclimate of the site and prohibit the use of fire-prone species, especially non-native, invasive species.

Finding

The Town finds that with implementation of mitigation measures WFR-2 and WFR-3, the risk of loss of structures and the risk of injury or death due to wildfires would be reduced in the Bollinger Canyon Study Area. These measures would make structures more fire resistant and less vulnerable to loss in the event of a wildfire. These measures would also reduce the potential for construction to inadvertently ignite a wildfire. However, it is not possible to prevent a significant risk of wildfires or fully protect people and structures from the risks of wildfires, despite implementation of mitigation. Thus, this impact would remain significant and unavoidable.

5.1 Cumulative Impacts

With the exception of the unavoidable impacts to wildfire, utilities, operational noise, VMT, sensitive use noise exposure, GHG plan consistency, habitat modification and consistency with BAAQMD's 2017 Clean Air Plan, the Bollinger Valley Rezoning would have no impact, a less than significant impact, or a less than significant impact after mitigation with respect to all environmental issues.

Because the project is a general plan update, including related long-range planning components, cumulative impacts are treated somewhat differently than would be the case for a project-specific development. *CEQA Guidelines* Section 15130 provides the following direction relative to cumulative impact analysis and states that the following elements are necessary for an adequate discussion of environmental impacts:

A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Any such

document shall be referenced and made available to the public at a location specified by the lead agency.

By its nature, a general plan considers cumulative impacts insofar as it considers cumulative development that could occur within the town limits. For example, the transportation analysis considers the overall change in VMT due to implementing several development projects under the Planning Initiative that would add to the Town buildout. As such, the analysis in this EIR considers the cumulative impacts in the Town from implementation of the Housing Element. These cumulative VMT calculations are accounted for in the air quality, energy, greenhouse gas emissions, and noise analyses; therefore, these analyses would also be considered cumulative. Other impacts, such as geology and soils and cultural resources, are site specific and would not result in an overall cumulative impact from growth outside of the Town. Therefore, the analysis of project impacts in the Draft EIR also constitutes the cumulative analysis.

6 Feasibility of Project Alternatives

CEQA requires that an EIR include an analysis of a reasonable range of feasible alternatives to a project capable of avoiding or substantially lessening any significant adverse environmental impact associated with the Project. The discussion of alternatives is required to include the “No Project” alternative. CEQA requires further that the Town identify an environmentally superior alternative. If the “No Project” alternative is the environmentally superior alternative, an environmentally superior alternative must be identified from among the other alternatives (CEQA Guidelines, Section 15126.6).

A number of alternatives were also considered but rejected. The Town considered an alternative that would allow a greater intensity of development, with an increased density and greater number of units. The Town finds that this alternative was appropriately rejected as it would result in greater impacts due to the increased ground disturbance and air quality and greenhouse gas emissions.

In addition, the Town considered a number of alternatives to reduce noise impacts. The Town finds that these were appropriately rejected due to cost concerns and feasibility. It was not clear whether developers and the Town would be able to control noise measures over time to ensure appropriate mitigation.

6.1 Alternative 1: No Project Alternative

The No Project Alternative assumes there is no change in zoning or General Plan land use designations for the parcels identified by the Planning Initiative. Current uses on the sites would continue under this alternative, with buildout of the proposed Housing Opportunity Sites regulated by existing zoning and General Plan designations. No additional development would be assumed within the Bollinger Canyon Study Area since existing zoning and General Plan designations require a study to determine the appropriate number of units. Buildout of the proposed Housing Opportunity Sites under existing zoning would result in less residential development and reduced population growth than under the Planning Initiative. This alternative would not accomplish any of the project objectives.

Finding

The No Project Alternative would generally result in similar or decreased environmental impacts compared to the proposed project. By reducing the number of development sites, this alternative would reduce impacts related to aesthetics, air quality, biological resources, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, public services and recreation, transportation, tribal cultural resources, utilities and service systems, and wildfire. The No Project Alternative would have more severe impacts to the proposed project related to cultural resources, geology and soils, land use and planning, and population and housing. However, this alternative would not meet the project objectives, as it would not encourage the development of housing in the Town of Moraga and it would not enable the Town to meet its fair share housing obligations.

The Town rejects Alternative 1 as infeasible because it would not achieve the objectives of the Comprehensive Advanced Planning Initiative. Furthermore, Alternative 1 would result in greater

impacts to cultural resources, geology and soils, land use and planning, and population and housing than the proposed project.

The findings for the Bollinger Canyon Rezoning set forth in this document and the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations provide support for the proposed project and the elimination of this alternative from further consideration.

6.2 Alternative 2: Employment-Focused Growth

Alternative 2 pertains to the Housing Element and is not applicable to the Bollinger Canyon Rezoning.

6.3 Alternative 3: Clustered Bollinger Canyon Development

Alternative 3 assumes that buildout would be the same as proposed under the Planning Initiative, except development within the Bollinger Canyon Study Area would be required to be clustered. The exact location of clustered development is not specified under Alternative 3, but development would likely cluster adjacent to existing residential development west of the Bollinger Canyon Study Area or near Bollinger Canyon Road. The purpose of Alternative 3 is to reduce impacts to biological resources, cultural resources, geology and soils, hydrology and water quality, tribal cultural resources, and utilities by minimizing ground disturbance and maximizing remaining contiguous open space within the Study Area. Buildout of Alternative 3 would result in the same number of residential units and level of population growth as under the Planning Initiative. Alternative 3 would accomplish all of the project objectives.

Finding

Alternative 3 is the environmentally superior alternative as it would reduce the severity of air quality, biological resources, cultural resources, energy, geology and soils, GHG emissions, hydrology and water quality, land use and planning, public services and recreation, transportation, tribal cultural resources, and utilities and service systems compared to the Planning Initiative. Alternative 3 would increase construction noise impacts. Alternative 3 would have reduced cumulative impacts as discussed in each of the resource areas and would remain consistent with the goals outlined in the Comprehensive Advance Planning Initiative.

Based on the analysis in the EIR, Alternative 3 would have lesser cumulative impacts overall and reduced impacts air quality, biological resources, cultural resources, energy, geology and soils, GHG emissions, hydrology and water quality, land use and planning, public services and recreation, transportation, tribal cultural resources, and utilities and service systems. Impacts to aesthetics, hazards and hazardous materials, population and housing, and wildfire would be similar to the proposed project. Impacts to noise under Alternative 3 would be incrementally greater.

The Town rejects Alternative 3 as infeasible because it will result in more significant impacts to noise than the proposed project.

The findings for the Bollinger Valley Rezoning set forth in this document and the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations provide support for the proposed project and the elimination of this alternative from further consideration.

7 Statement of Overriding Considerations

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable (CEQA Guidelines Section 15093(a)). CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record (CEQA Guidelines Section 15093(b)). The Bollinger Canyon Rezoning could result in significant unavoidable impacts related to air quality, biological resources, greenhouse gas emissions, transportation, utilities and service systems, and wildfire even after incorporation of feasible mitigation measures. These significant unavoidable impacts are identified and discussed in Section 5 of these Findings.

The Town adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the Bollinger Canyon Rezoning and the anticipated benefits of Bollinger Canyon Rezoning. The Town finds that each of the benefits set forth below in this Statement constitutes a separate and independent ground for finding that the benefits of the Bollinger Canyon Rezoning outweigh the risks of their potential significant adverse environmental impacts. The benefits of the Bollinger Canyon Rezoning, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Bollinger Canyon Rezoning are as follows:

- Through numerous legislative actions in the past several years, the State of California has identified the lack of housing as a significant area of public concern, leading to an unsustainable lack of housing affordability, increased homelessness, social stress related to increased poverty and a reduction in economic prosperity for many state residents. The additional 51 units allowed would allow housing units to be constructed in lower density areas, while responding to environmental conditions, surrounding land use context, community feedback and regional planning goals.
- The General Plan and zoning amendments recognize existing land uses and parcelization patterns and provide certainty for property owners.
- The new Rural Residential designation provides an appropriate transition between the Bluffs neighborhood to the west and the open space and agricultural areas to the north and east.
- The Comprehensive Advanced Planning Initiative, including the Bollinger Canyon Rezoning, was shaped by an extensive public outreach process that engaged the community and decision-makers. The Town hosted a series of community workshops, online forums, stakeholder interviews, and Planning Commission/Town Council study sessions. The Bollinger Canyon Rezoning was developed with this public input and consideration.
- The Bollinger Canyon Rezoning would achieve a number of economic benefits that address both Town and regional goals for fiscal sustainability, housing supply and affordability, and enhancement of public infrastructure and facilities.

On balance, the Town finds that there are specific considerations associated with the Bollinger Canyon Rezoning that serve to override and outweigh the Bollinger Canyon Rezoning's significant

unavoidable effects. Therefore, pursuant to CEQA Guidelines Section 15093(b), these adverse effects are considered acceptable.

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**CEQA Findings and
Statement of Overriding Considerations**
for the
Bollinger Valley Rezoning
Comprehensive Advanced Planning Initiative
**Pursuant to CEQA Guidelines Sections 15091 and 15093
and Public Resources Code Section 21081**

The Final Environmental Impact Report (Final EIR) prepared by the Town of Moraga (Town) for the Comprehensive Advanced Planning Initiative consists of the Draft EIR and Response to Comments on the Draft EIR (State Clearinghouse No 2022020106). The Comprehensive Advanced Planning Initiative consists of the Housing Element and Bollinger Valley Rezoning, as described in the Draft EIR. The Final EIR was adopted by the Town Council of the Town of Moraga on January 25, 2023. The Final EIR identifies significant environmental impacts that will result from implementation of the both the Housing Element and Bollinger Valley Rezoning. This document focuses on the Bollinger Valley Rezoning (“project”). Separate findings and statements were adopted for the Housing Element, which was approved on January 25, 2023.

The Town finds that the inclusion of certain mitigation measures as part of approval of the Bollinger Valley Rezoning will reduce all but the following significant impacts to levels that are less than significant: air quality, biological resources, greenhouse gas emissions, transportation, utilities and service systems, and wildfire. No feasible mitigation measures have been identified to reduce these impacts to a less-than-significant level or mitigation measures have been identified but would not reduce impacts to a level of less than significant; these impacts will remain significant unavoidable impacts of the project. These impacts are required to be overridden due to specific considerations that are described within this document.

As required by the California Environmental Quality Act (CEQA), the Town has adopted a Mitigation Monitoring and Reporting Program (MMRP) for the project. The Town finds that the MMRP, which is incorporated by reference, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project. In accordance with CEQA and the *CEQA Guidelines*, the Town adopts these findings as part of the project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the Town has also found that the Final EIR reflects the Town’s independent judgment as the lead agency for the project.

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1 Introduction

1.1 Statutory Requirements for Findings

California Environmental Quality Act (CEQA) Guidelines Section 15091 states that:

- (a) No public agency shall approve or carry out a project for which an Environmental Impact Report (EIR) has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.¹

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.² The CEQA Guidelines state in Section 15093 that:

“If the specific economic, legal, social, technological, or other benefits of a propos[ed] project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

1.2 Procedural Findings

The Town Council of the Town of Moraga finds as follows:

Based on the nature and scope of the Comprehensive Advanced Planning Initiative, State Clearinghouse No. 2022020106, the Town Council of Moraga determined, based on substantial evidence, that the project may have a significant effect on the environment and prepared an Environmental Impact Report (EIR). The EIR was prepared, noticed, published, circulated, reviewed

¹ CEQA Guidelines Section 15091 (a), (b).

² Public Resources Code Section 21081(b).

and completed in full compliance with the CEQA Public Resources Code Sections 21000 et seq. CEQA and the CEQA Guidelines (14 California Code of Regulations Sections 15000 et. Seq.), as follows:

- **Notice of Preparation and Initial Study.** After deciding that an EIR is required, the lead agency (the Town) must file a Notice of Preparation soliciting input on the EIR scope to the State Clearinghouse, other concerned agencies, and parties previously requesting notice in writing (CEQA Guidelines Section 15082; Public Resources Code [PRC] Section 21092.2). The NOP must be posted in the County Clerk's office for 30 days. The NOP may be accompanied by an Initial Study that identifies the issue areas for which the project could create significant environmental impacts. The Town prepared an NOP of the Draft EIR for a 30-day agency and public review period that began on February 3, 2022 and ended on March 7, 2022.
- **Draft EIR Prepared.** The Draft EIR must contain a) table of contents or index; b) summary; c) project description; d) environmental setting; e) discussion of significant impacts (direct, indirect, cumulative, growth-inducing, and unavoidable impacts); f) a discussion of alternatives; g) mitigation measures; h) discussion of irreversible changes, and i) any identified areas of controversy. The Town prepared a Draft EIR and circulated the Draft EIR for a 46-day public review period that began on October 27, 2022 and ended on December 12, 2022. A corresponding Notice of Availability (NOA) was published to provide notification when the Draft EIR became available for public review.
- **Notice of Completion (NOC).** The lead agency must file a notice of completion with the State Clearinghouse when it completes a Draft EIR and prepare an NOA. The lead agency must place the notice of completion in the County Clerk's office for 30 days (PRC Section 21092) and send a copy of the notice of completion to anyone requesting it (CEQA Guidelines Section 15087). Additionally, public notice of Draft EIR availability must be given through at least one of the following methods: a) publication in a newspaper of general circulation; b) physical signage posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must solicit input from other agencies and the public and respond in writing to all comments received (PRC Sections 21104 and 21253). An NOC was prepared and submitted to the State Clearinghouse with the Draft EIR on October 27, 2022.
- **Final EIR.** A Final EIR must include a) the Draft EIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments. The Town prepared a Final EIR, which was published and submitted to the State Clearinghouse on January 6, 2023.
- **Certification of Final EIR.** Prior to making a decision on a proposed project, the lead agency must certify that a) the Final EIR has been completed in compliance with CEQA; b) the Final EIR was presented to the decision-making body of the lead agency; and c) the decision-making body reviewed and considered the information in the Final EIR prior to approving a project (CEQA Guidelines Section 15090).
- **Lead Agency Project Decision.** The lead agency may a) disapprove the project because of its significant environmental effects; b) require changes to the project to reduce or avoid significant environmental effects; or c) approve the project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (CEQA Guidelines sections 15042 and 15043).
- **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the lead agency must find, based on substantial evidence, that a) the project has been changed to avoid or substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should

be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (CEQA Guidelines Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that sets forth the specific social, economic, or other reasons supporting the agency's decision.

- **Mitigation Monitoring Reporting Program.** When the lead agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures adopted or made conditions of project approval to mitigate significant effects.
- **Notice of Determination (NOD).** The lead agency must file a NOD after deciding to approve a project for which an EIR is prepared (CEQA Guidelines Section 15094). A local agency must file the NOD with the county clerk. The NOD must be posted for 30 days and sent to anyone requesting notice previously. Posting of the NOD starts a 30-day statute of limitations on CEQA legal challenges (PRC Section 21167[c]).

1.3 Findings Required Under CEQA

The Town Council (the final decision-making body) of the Town of Moraga (the CEQA Lead Agency) will determine whether to certify the EIR for the Project. Because the Draft EIR identified a potentially significant environmental impact, the Town Council must also make certain “findings” as part of its action to certify that the EIR has been completed in compliance with CEQA and to approve the Bollinger Valley Rezoning. Pursuant to CEQA Guidelines Section 15091 and CEQA Section 21081, no public agency shall approve or carry out a project for which an environmental impact report has been certified, which identifies one or more significant effects on the environment that would occur if the project is approved or carried out, unless the public agency makes one or more findings for each of those significant effects, accompanied by a brief explanation of the rationale of each finding. The possible findings, which must be supported by substantial evidence in the record, are:

- Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

1.4 Record of Proceedings

For purposes of CEQA and these findings, the record before the Town Council includes the following:

- The Draft EIR and all appendices to the Draft EIR
- The Final EIR including an errata, comments on the Draft EIR and responses to comments, and all appendices to the Final EIR
- Public notices required by CEQA

- Studies conducted for Comprehensive Advanced Planning Initiative and contained in, or referenced by, the Draft EIR or the Final EIR
- Documentary and oral evidence received and reviewed at public hearings, study sessions, and workshops and transcripts and minutes of those hearings related to Comprehensive Advanced Planning Initiative the Draft EIR and the Final EIR
- For documentary and informational purposes, the Findings and Statement of Overriding Conditions, Mitigation Monitoring and Reporting Program, and other documentation relevant to planned growth in the area
- Additional items not listed above if otherwise required by law

1.5 Findings

The Final EIR is incorporated into these findings in its entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, and the reasons for approving the Bollinger Valley Rezoning in spite of the potential for associated significant and unavoidable adverse impacts.

For the purposes of these findings, the impact discussions include the relevant policies and actions, as well as the separate mitigation measures imposed to reduce the impacts where the policies did not result in a less than significant impact. In the findings that follow, impact numbers are provided. The impact numbers correspond to sections of the Draft EIR that contain an expanded discussion of impacts. Please refer to the referenced impact sections of the EIR for more detail.

2 Comprehensive Advanced Planning Initiative

2.1 Project Objectives

Pursuant to CEQA Guidelines Section 15124(b), the EIR project description must include “[a] statement of objectives sought by the proposed project. The statement of objectives should include the underlying purpose of the project.” The Comprehensive Advanced Planning Initiative is intended to achieve the following project objectives:

- A State-certified Housing Element for 2023-2031 that responds to local and regional needs.
- An internally-consistent, easy-to-use General Plan that is legally compliant and addresses emerging issues.
- Updated long-range planning policies and programs that respond to recent State legislation related to vehicle miles travelled (VMT), climate change and resilience, fire hazards, evacuation, and other pertinent topics.
- General Plan land use and zoning designations for the Bollinger Canyon Study Area.
- Rezoning consistent with the Housing Element to meet the Town’s Regional Housing Needs Allocation (RHNA).
- Opportunities for meaningful public participation, including the engagement of residents who have not historically participated in planning processes.
- New objective development standards consistent with state law.

2.2 Project Description

The Planning Initiative includes an update to the Town’s Housing Element, rezoning of key sites within the Town’s jurisdiction, and amendments to the 2002 General Plan. The Planning Initiative would provide a cohesive long-term framework for future growth and development in the Town. The Initiative was catalyzed by the RHNA allocation, as well as Plan Bay Area 2050 and other initiatives that support denser housing in “Priority Development Areas” around the region. The Planning Initiative is meant to ensure the Town has a sufficient number of appropriately zoned sites to meet its housing allocation. It is also intended to provide supportive housing goals, policies, programs, and quantitative objectives to meet the Town’s future housing needs. It is further intended to provide objective design and development standards so that projects may be approved more quickly and efficiently, thus reducing development costs and making housing easier to build.

The Town of Moraga is consolidating long range planning efforts through this initiative, namely the Housing Element Update and corresponding rezoning of the Moraga Center Specific Plan and Rheem Park areas, rezoning of the Bollinger Canyon Study Area, and 2002 General Plan amendments to achieve internal consistency and meet recent State requirements. The location of the three study areas are Moraga Center Specific Plan area, Rheem Park area, and Bollinger Canyon Study Area. The Planning Initiative would ensure a refreshed vision for growth throughout the Town that meets the community’s needs.

Housing Element Update

The Housing Element Update presents a comprehensive set of housing policies and actions for the years 2023-2031. It would provide Moraga with a “road map” for accommodating its future housing demand and would guide decisions that impact housing for the next 8 years. The document aims to achieve several overarching goals, including:

- Accommodating projected housing demand to meet RHNA, as mandated by the State
- Increasing housing production to meet this demand
- Improving housing affordability
- Preserving existing affordable housing
- Improving the safety, quality and condition of existing housing
- Facilitating the development of housing for all income levels and household types, including special needs populations; and
- Improving the livability and economic prosperity of all Moraga residents; and promoting fair housing choice for all.

The Housing Element Update is based on the Town’s RHNA, plus a buffer of units to ensure ongoing compliance with the No Net Loss provisions of State housing law. The 2023-2031 RHNA for Moraga has been set at 1,118 housing units. This is an increase of more than 400 percent relative to the allocation for 2015-2022 and therefore requires the rezoning of the three areas as shown in Figure 2-3 in Section 2, *Project Description*, of the Draft EIR. The Housing Element site inventory also accounts for projects that have been fully entitled but not yet constructed (also called “pipeline” projects). The 225 units shown include Palos Colorados (123 single family homes plus 30 accessory dwelling units), Country Club Extension (65 single family homes), and Hetfield Estates (7 single family homes). These three projects were also listed in the 2015-2023 Housing Element but remain undeveloped. No changes to these three projects are proposed. The Town of Moraga also anticipates new housing may be created through the addition of Accessory Dwelling Units (ADUs) to existing homes. ADUs are an important tool to help meet local housing needs.

The “No Net Loss” Law (Government Code Section 65863) requires maintenance of sufficient sites to meet the RHNA for all income levels throughout the planning period. The recommendation from the California Department of Housing and Community Development is to adopt a housing site inventory with a buffer of at least 20 percent over the allocated RHNA. Moraga’s buffer exceeds this guideline. Consistent with the 2002 General Plan, the Town is strategically directing most residential growth to infill sites and sites in commercial areas that are already urbanized. This helps achieve complementary 2002 General Plan objectives such as supporting the Town’s shopping centers and businesses, creating community gathering places, encouraging walking and bicycling, and conserving hillsides and natural resources.

State law requires that housing elements are updated every 8 years (California Government Code Sections 65580 to 65589.8). The proposed update, the 2023-2031 Housing Element, identifies sites adequate to accommodate a variety of housing types for all income levels and needs of special population groups defined under state law (California Government Code Section 65583); analyzes governmental constraints to housing maintenance, improvement, and development; addresses conservation and improvement of the condition of existing affordable housing stock; and outlines policies that promote housing opportunities for all persons.

The update to the Housing Element ensures compliance with State legislation passed since adoption of the General Plan and the 2015-2023 Housing Element.

The Housing Element was adopted by the Moraga Town Council on January 25, 2023.

Rezoning

It is important to note that not every parcel within the rezoned areas is considered a “Housing Opportunity Site.” Zoning boundaries are used to define “districts” comprised of multiple parcels where particular uses are allowed, and particular development standards apply. Although all of the parcels in a given zoning district are subject to common regulations, each parcel contains unique uses and activities. Some parcels are vacant or underutilized and have the potential for housing. Others are developed with active uses and are likely to remain as they are today in the future. Development potential has only been calculated for those rezoned properties that are likely to redevelop with housing. For example, the Town offices are within one of the areas being rezoned—but they are not expected to redevelop by 2031.

Likewise, the 24 unit/acre zoning limit is subject to density bonuses, including those available under State law and those that could be provided by the Town through future incentive programs. Such bonuses could result in a larger number of housing units on individual sites than was presumed in the Housing Element. These larger yields are covered by this EIR to the extent that the total number of housing units produced in the Town does not exceed the total number of units presumed by the EIR. If a project would cause the Townwide “buildout” numbers in this EIR to be exceeded, additional environmental review would be required.

Moraga Center

Moraga Center is an approximately 187-acre area generally located around the intersection of Moraga Road and Moraga Way. Land use in this area is governed by a Specific Plan adopted in 2010, as well as new zoning regulations adopted in 2020. The Moraga Center Specific Plan used a buildout range of 510-630 units (the higher number includes increased density for senior housing) for CEQA analysis and planning purposes. The previous 2015-2023 Housing Element assumed that the entire 510-630 units would occur on residentially zoned land and did not quantify any housing potential on mixed use properties. To meet the higher RHNA for the 6th cycle, the Housing Element Update would consider several of the Moraga Center Specific Plan mixed use sites as Housing Opportunity Sites.

Rheem Park Area

The Rheem Park area is an approximately 60-acre area located at the intersection of Rheem Boulevard and Moraga Road in north-central Moraga. The Rheem Park area includes the Rheem Shopping Center, the Rheem Theater, Town of Moraga Offices, a Saint Mary’s College administration facility, private office buildings, a convalescent facility, miscellaneous commercial uses, and vacant land. Current zoning in the area includes Suburban Office, Limited Commercial, and Community Commercial. Multi-family residential uses are not listed as a permitted use in these zoning districts. Proposed zoning changes in this area would rezone some of the commercial parcels to mixed use to permit residential development. Rezoning of this area is required not only to meet the RHNA, but also to meet new state requirements for Affirmatively Furthering Fair Housing (AFFH). Input from property owners supports the Town’s efforts to rezone the sites. The Town is strongly encouraged to distribute lower-income housing opportunities in multiple geographic areas rather than concentrating them in a single location (Moraga Center). Rheem Park is the only other

viable location in the Town for higher densities, given natural hazards, infrastructure, and environmental considerations.

The rezoning cited above was adopted by the Town of Moraga Town Council on February 22, 2023.

General Plan Amendments

The Housing Element Update and resulting rezoning would require amendments to the 2002 Moraga General Plan. The amendments are required to maintain internal consistency, respond to new State laws, and provide a framework for zoning changes. Amendments to the 2002 Moraga General Plan, specifically new and modified goals, policies, and implementation programs, apply to the Planning Initiative in its entirety, including development within the Moraga Center area, and Rheem Park area.

These General Plan Amendments were adopted by the Town of Moraga Town Council on January 25, 2023.

Bollinger Canyon Study Area General Plan Amendment and Rezoning

Bollinger Canyon, located in the east central portion of the Town, is identified as “Study Area” on Moraga’s General Plan and Zoning maps. The Study Area is approximately 423 acres and includes 20 parcels with 13 different owners. The Study Area designation does not have an associated density range. The Moraga Town Council has expressed the goal of replacing the Study Area designation, which was intended to be temporary, with permanent General Plan, zoning designations and development standards.

The Comprehensive Advanced Planning Initiative would eliminate the Study Area designation from both the General Plan and zoning maps and apply new General Plan and zoning designations for both areas. A community process was implemented in late 2021 and early 2022 to consider new designations. Three “parcel groups” were identified based on shared characteristics, and different zoning strategies were adopted for each group. Open Space (General Plan)/Non-MOSO Open Space (Zoning)

A total of 136 acres, comprised of four parcels and commonly referred to as Harvey Ranch, would receive an “Open Space” General Plan designation and be rezoned to “Non-MOSO Open Space.”³ The Non-MOSO zoning designation allows for residential uses with a conditional use permit (at densities of one unit per 5, 10, or 20 acres per unit, depending on conditions). However, no future development potential is presumed on these parcels since they are being acquired by the John Muir Land Trust for conservation purposes.

Residential – 1 Dwelling Unit per Acre (General Plan/Zoning)

A total of 17 acres, including nine parcels, would receive a General Plan and zoning designation of one dwelling unit per acre. This area is already developed with existing residences, generally ranging from just under one acre to about 3.5 acres. There is one vacant lot, presumed to have the potential for two residential units under the proposed zoning.

³ MOSO is the Moraga Open Space Ordinance. Open Space in the Town includes “MOSO” Open Space, which was covered by the Ordinance, and non-MOSO Open Space, which includes parcels not expressly covered by the Ordinance.

Rural Residential – 1 Dwelling Unit per 5 Acres (General Plan/Zoning)

The remaining 270 acres would receive a General Plan and zoning designation of “Rural Residential” consistent with properties to the northeast and north in adjacent jurisdictions. This designation does not currently exist but would be created as part of the project. Residential and agricultural uses would be permitted by right; a number of additional uses would be conditionally permitted.

Given existing land uses (including several existing residential units) and parcelization patterns, the theoretical number of parcels that could be created through future subdivision is approximately 51. The analysis in this EIR assumes 49 new residential units on the entire 270 acres. The Rural Residential zoning district would allow for density to be clustered, achieving a higher density in a defined area but with the same total number of units, while allowing for open space. A minimum lot size of 40,000 square feet would apply in such instances. As in other low-density residential zoning districts, the Rural Residential zoning would also allow for density to be transferred to another part of Moraga. This would include commercial and mixed-use districts. As a result of the rural densities being proposed in Bollinger Canyon and the surplus of existing sites in the Town for above moderate-income housing, the area is not considered a Housing Opportunity Site under the Housing Element Update.

Total new housing potential for the entire 423-acre Bollinger Canyon Study area, including the Non-MOSO Open Space area, the 1 DU/Acre area, and the RR area, is 51 units.⁴

These Findings and Statement of Overriding Considerations is for the Bollinger Canyon Rezoning.

2.3 Alternatives

Based on the project objectives and anticipated environmental consequences, and pursuant to CEQA Guidelines Section 15126.6, the following project alternatives were selected for analysis:

- **Alternative 1: No Project.** The No Project Alternative assumes there is no change in zoning or General Plan land use designations for the parcels identified by the Planning Initiative. Current uses on the sites would continue under this alternative, with buildout of the proposed Housing Opportunity Sites regulated by existing zoning and General Plan designations. No development would occur within the Bollinger Canyon Study Area since existing zoning and General Plan designations require a study to determine the appropriate number of units that the area can support prior to development.
- **Alternative 2: Employment-Focused Growth.** Alternative 2 assumes that nine of the Housing Opportunity Sites identified under the Planning Initiative would be developed for office/retail uses instead of residential uses. These sites are vacant or currently used for office or commercial purposes. Development would occur within the Bollinger Canyon Study Area as envisioned in the Planning Initiative and described in Section 2, *Project Description*. The purpose of Alternative 2 is to achieve the Town’s RHNA obligations while creating jobs and services in the vicinity of housing to reduce VMT.
- **Alternative 3: Clustered Bollinger Canyon Development.** Alternative 3 assumes that buildout would be the same as proposed under the Planning Initiative, except development within the Bollinger Canyon Study Area would be required to be clustered. The exact location of clustered development is not specified under Alternative 3, but development would likely cluster adjacent to existing residential development west of the Bollinger Canyon Study Area or near Bollinger

⁴ 2 units in 1 DUA and 49 units in RR.

Canyon Road. The purpose of Alternative 3 is to reduce impacts to biological resources, cultural resources, geology and soils, hydrology and water quality, tribal cultural resources, and utilities by minimizing ground disturbance and maximizing remaining contiguous open space within the Study Area.

A number of alternatives were also considered but rejected. The Town considered an alternative that would allow a greater intensity of development, but that alternative was rejected as the impacts would be further exacerbated by the greater ground disturbance and air quality impacts. In addition, the Town considered a number of alternatives to reduce noise impacts, which were rejected due to cost concerns and ability of developers and the Town to control noise measures over time. Refer to Chapter 6, *Alternatives*, of the Draft EIR for the complete alternatives analysis.

3 Topical Areas Determined to have Less than Significant or No Impacts

The Town finds that, based upon substantial evidence in the record, as discussed below, the Bollinger Valley Rezoning's impacts associated with the following topical areas would be less than significant.

Aesthetics

Impact AES-2

Implementation of the Bollinger Canyon Rezoning would result in new development that could have adverse effects on scenic vistas. However, compliance with the Town's Design Guidelines, Municipal Code, and General Plan policies would ensure that new development does not have a substantial adverse effect on scenic vistas. Impacts would be less than significant.

Impact AES-4

Development facilitated by the Bollinger Canyon Rezoning would not substantially degrade existing visual character or quality of public views of development sites due to the large minimum lot sizes in the central and northeastern portions of the study area; and the maintenance of open space in other portions of the study area, as well as through compliance with Moraga Municipal Code, applicable Design Guidelines, and General Plan goals and policies. Impacts would be less than significant.

Impact AES-6

Development facilitated by the Bollinger Canyon Rezoning would introduce new sources of light and glare. Given the low-intensity of development and with adherence to existing ordinances that regulate light and glare for new development, impacts would be less than significant.

Air Quality

Impact AQ-4

Construction of development facilitated by the Bollinger Canyon Rezoning would result in the temporary generation of air pollutants, which would affect local air quality. Policies in the Moraga General Plan incorporate the BAAQMD Basic Construction Measures, which would reduce construction emissions. Impacts would be less than significant. Operation of the Bollinger Canyon Rezoning would not result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment under an applicable federal or state ambient air quality standard. Impacts would be less than significant.

Impact AQ-8

Construction and operation toxic air contaminant (TAC) emission from the development facilitated by the Bollinger Canyon Rezoning would be less than significant.

Construction and operation of the development facilitated by the Bollinger Canyon Rezoning would not result in substantial other emissions, such as odors and impacts would be less than significant.

Biological Resources

Impact BIO-8

Development facilitated by the Bollinger Canyon Rezoning would be required to conform with applicable local policies protecting biological resources. Impacts would be less than significant.

Impact BIO-10

Future development facilitated by the Bollinger Canyon Rezoning would not conflict with an adopted HCP, NCCP, or other approved local, regional, or state habitat conservation plan. No impact would occur.

Cultural and Tribal Cultural Resources

Impact CUL-2

Development facilitated by the Bollinger Canyon Rezoning may result in the alteration or demolition of historical resources in the Plan Area. Proposed General Plan Implementation Programs would reduce impacts to historical resources. Impacts to historical resources would be less than significant.

Impact CUL-4

Development facilitated by Bollinger Canyon Rezoning would have the potential to impact archaeological resources in the Study Area. With implementation of proposed General Plan Implementation Programs requiring surveys for and protection of archaeological resources, impacts would be less than significant.

Impact CUL-6

Development facilitated by the Bollinger Canyon Rezoning could result in damage to or destruction of human burials in the Study Area. However, compliance with existing regulations on human remains would ensure less than significant impacts.

Impact TCR-2

Development facilitated by the Bollinger Canyon Rezoning may involve grading and excavation during construction, which has the potential to impact previously unidentified tribal cultural resources. Proposed General Plan Implementation Programs would reduce impacts to a less than significant level.

Energy

Impact ENG-2

Development facilitated by the Bollinger Canyon Rezoning would not result in a significant environmental impact due to the wasteful, inefficient, or unnecessary consumption of energy resources during construction or operation. Impacts would be less than significant.

Impact ENG-4

The Bollinger Canyon Rezoning would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Impacts would be less than significant.

Geology/Soils

Impact GEO-2

Development facilitated by the Bollinger Canyon Rezoning would not be subject to rupture of a known earthquake fault; therefore, there would be no impact.

Impact GEO-4

Development facilitated by the Bollinger Canyon Rezoning could be located in areas that would be exposed to seismic events, including ground shaking, liquefaction, and landslides. Compliance with the California Building Code (CBC), Grading Ordinance, and Safety Element policies would reduce impacts related to ground shaking, liquefaction, and landslide hazards. However, with required adherence to existing policies and regulations that require geologic hazard investigations where warranted, control siting of development, and require safe construction practices, impacts would be less than significant.

Impact GEO-6

Development facilitated by the Bollinger Canyon Rezoning would include ground disturbance such as excavation and grading that would result in loose or exposed soil. Disturbed soil could be eroded by wind or during a storm event, which would result in the loss of topsoil. Adherence to permit requirements, Town regulations, and General Plan policies would ensure that this impact would be less than significant.

Impact GEO-8

Development facilitated by the Bollinger Canyon Rezoning could be located on a geologic unit or soil that is unstable or could become unstable resulting in on or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse. Compliance with the CBC and Safety Element policies would reduce hazards resulting from expansive soils and impacts would be less than significant.

Impact GEO-10

Development facilitated by the Bollinger Canyon Rezoning may use septic tanks or alternative wastewater disposal systems. General Plan policy would require new development to connect to a sewage system. However, if a sewer connection is demonstrated as not feasible, a competent technical expert must determine viability and safety of a septic system. By adhering to recommendations provided by a qualified technical expert regarding the use of onsite septic systems on a potential development site, Impacts related to the use of septic tanks or alternative wastewater disposal systems would be less than significant.

Impact GEO-12

Development facilitated by the Bollinger Canyon Rezoning has the potential to impact paleontological resources. Proposed General Plan Implementation Program PAL-A would reduce impacts to paleontological resources. Impacts would be less than significant.

Greenhouse Gas Emissions

Impact GHG-2

GHG emissions from development facilitated by the Bollinger Canyon Rezoning would not exceed the BAAQMD interpolated 2031 project-level or plan-level thresholds. This impact would be less than significant.

Hazards and Hazardous Materials

Impact HAZ-2

Development facilitated by the Bollinger Canyon Rezoning could involve the use, storage, disposal, or transportation of hazardous materials. Upset or accident conditions in the Bollinger Canyon Study Area could involve the release of hazardous materials into the environment. Compliance with existing regulations would ensure that impacts would be less than significant.

Impacts HAZ-HAZ-4

Development facilitated by the Bollinger Canyon Rezoning could result in the release of potentially hazardous materials within 0.25 mile of a school. However, compliance with regulations related to hazardous materials would minimize the risk of releases and exposure to these materials. Impacts would be less than significant.

Impact HAZ-6

Development facilitated by the Bollinger Canyon Rezoning would not be located on a site included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5. Compliance with applicable regulations would minimize impacts from development on previously unknown contaminated sites and impacts would be less than significant impact.

Impact HAZ-8

The Bollinger Canyon Study Area is not located in an airport land use plan or in the vicinity of a private airstrip. No impacts related to safety hazard or excessive noise due to airports would occur.

Impact HAZ-10

Development facilitated by the Bollinger Canyon Rezoning would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Impacts would be less than significant.

Hydrology and Water Quality

Impact HYD-2

Development facilitated by the Bollinger Canyon Rezoning would not violate water quality standards or Waste Discharge Requirements, or otherwise substantially degrade surface or groundwater quality. Individual development projects would be required to comply with best management practices in accordance with State and local regulations and permit requirements. Impacts would be less than significant.

Impact HYD-4

Development facilitated by the Bollinger Canyon Rezoning would not interfere substantially with groundwater supplies and recharge and the Planning Initiative would not impede sustainable groundwater management of local groundwater basins. Impacts would be less than significant.

Impact HYD-6

Development facilitated by the Bollinger Canyon Rezoning may alter drainage patterns and increase runoff on individual Housing Opportunity Sites but would not result in substantial erosion or siltation on or off site, increased flooding on or off site, contribute increased runoff that would exceed the capacity of existing or planned stormwater systems, or contribute substantial additional sources of polluted runoff. Impacts would be less than significant.

Impact HYD-8

Development facilitated by the Bollinger Canyon Rezoning could alter drainage patterns on or increase runoff. However, no areas of the Bollinger Canyon Study Area are within a 100-year or 500-year floodplain. Nonetheless, development would be at risk from post-wildfire flooding and would be required to comply with applicable State, County, and Town regulations and General Plan policies to reduce impacts from redirection of post-fire flows. Impacts would be less than significant.

Impact HYD-10

Development facilitated by the Bollinger Canyon Rezoning would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. Compliance with the basin plan would be a requirement of all development facilitated by the Bollinger Canyon Rezoning. Impacts would be less than significant.

Land Use and Planning

Impact LU-2

Development facilitated by the Bollinger Canyon Rezoning would continue orderly development in the Plan Area and would not physically divide an established community. Impacts would be less than significant.

Impact LU-4

Development facilitated by the Bollinger Canyon Rezoning would not result in a significant environmental impact due to a conflict with Plan Bay Area 2050 or the Moraga General Plan. Therefore, this impact would be less than significant.

Noise

Impact NOI-2

Construction of development facilitated by the Bollinger Canyon Rezoning would temporarily increase noise levels but would not affect noise-sensitive land uses. Further, provisions in the Moraga Municipal Code would limit construction noise disturbance to the extent feasible. Construction would not exceed noise standards and impacts would be less than significant.

Impact NOI-4

Development facilitated by the Bollinger Canyon Rezoning would introduce new operational noise sources but increased noise levels would be less than significant.

Impact NOI-6

Development facilitated by the Bollinger Canyon Rezoning could temporarily generate groundborne vibration during construction, but vibration would be below distinctly perceptible vibration levels for humans and structures. Impacts would be less than significant.

Population and Housing

Impact POP-2

Development facilitated by the Bollinger Canyon Rezoning could accommodate an additional 135 new residents and 51 new housing units in the Town. When considered in conjunction with the increase in population and housing units facilitated by the Housing Element Update, this would exceed Plan Bay Area 2040 population and housing forecasts. ABAG's next Plan Bay Area would incorporate growth projected by the Housing element and Development facilitated by the Bollinger Canyon Rezoning, and therefore, resulting growth would be anticipated and would not result in unplanned population growth. Therefore, impacts would be less than significant.

Impact POP-4

Development facilitated by the Bollinger Canyon Rezoning would not result in the displacement of a substantial number of existing housing units to accommodate the planned increase in development intensity since the proposed rezoning of the area would allow for an overall increase in housing units as compared to existing conditions. Impacts would be less than significant.

Public Services and Recreation

Impact PS-2

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which would increase demand for fire protection services. However, this increase would not require additional and/or expanded fire protection facilities. Impacts would be less than significant.

Impact PS-4

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which would increase demand for police protection services. However, this increase would not require additional and/or expanded police protection facilities. Impacts would be less than significant.

Impact PS-6

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which could result in the need for additional and/or expanded school facilities. However, Government Code 65995 (b) would require funding for the provision or expansion of new

school facilities to offset impacts from the Bollinger Canyon Rezoning. Therefore, this impact would be less than significant.

Impact PS-8

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the Study Area, which would increase demand for parks and recreation services. However, the Town would not exceed its threshold of three acres of parkland per 1,000 residents. Therefore, this impact would be less than significant.

Impact PS-10

Development facilitated by the Bollinger Canyon Rezoning would increase the population in the town, which would increase demand for the use of public facilities such as libraries, possibly resulting in the need for additional open hours and staffing and the expansion of the Moraga Library. However, any future plans to expand the Moraga Library would be subject to environmental review under CEQA and given that the Moraga Library is on an infill site expansion is unlikely to result in significant impacts. Therefore, this impact would be less than significant.

Transportation

Impact TRA-2

Development facilitated by the Bollinger Canyon Rezoning would not conflict with an applicable program, plan, ordinance, or policy establishing measures of effectiveness for the performance of addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. This impact would be less than significant.

Impact TRA-6

Development facilitated by the Bollinger Canyon Rezoning would not result in designs for on-site circulation, access, and parking areas that fail to meet Town or industry standard design guidelines. Impacts would be less than significant.

Impact TRA-8

Development facilitated by the Bollinger Canyon Rezoning would not result in inadequate emergency access to development sites. Impacts would be less than significant.

Utilities and Service Systems

Impact UTIL-4

Development facilitated by the Bollinger Canyon Rezoning would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure. The Bollinger Canyon Rezoning would not impair the attainment of solid waste reduction goals and development facilitated by the Bollinger Canyon Rezoning would comply with federal, State, and local statutes and regulations related to solid waste. Impacts would be less than significant.

4 Topical Areas Determined to have Potentially Significant Impacts Mitigated to a Less Than Significant Level

These topical areas contain impacts of the Bollinger Valley Rezoning that are reduced to a less-than-significant level through the implementation of mitigation measures. Pursuant to California Public Resources Code Section 21081(a)(1) and CEQA Section 15091(a)(1), as to each impact, the Town, based on the evidence in the record before it, finds that changes or alterations incorporated into the project mitigate, avoid, or substantially lessen to a level of insignificance these environmental impacts of the project. The basis for the finding for each impact is set forth below.

Air Quality

Impact AQ-6

Development facilitated by the Bollinger Valley Rezoning could potentially expose sensitive receivers to toxic air contaminants during construction. New sensitive receivers from resulting from the Housing Element could be exposed to toxic air contaminants (TAC). However, the Bollinger Valley Rezoning would adhere to policies in the Moraga General Plan that would limit incompatible land uses in proximity to each other and minimize health risks from sources of TAC upon sensitive receptors. Impacts would be less than significant with mitigation.

MITIGATION MEASURE AQ-1 CONSTRUCTION EQUIPMENT EMISSION CONTROL MEASURES

Based on BAAQMD *CEQA Guidelines* (2017), construction-related TAC and PM impacts should be addressed on a case-by-case basis, taking into consideration the specific construction-related characteristics of each project and proximity to off-site receptors. Construction activity from the projects developed under the Housing Element or Bollinger Canyon Rezone that are within 1,000 feet of sensitive receptors; utilize more than three pieces of construction equipment simultaneously onsite; have a duration of construction longer than two months; and exclude Tier 4 Final construction equipment shall be required to prepare an HRA assessment. An HRA shall be conducted prior to the issuance of a permit to construct. The applicant would be required to have it prepared by a third party or by if Town staff would be capable. The HRA would be reviewed by the Town in-house, or a contracted consultant. If the findings of the HRA assessment exceed BAAQMD health risk thresholds, then development projects under the Housing Element or Bollinger Canyon Rezone shall incorporate the following construction equipment emission control measures to the maximum extent feasible:

- Implement diesel construction equipment meeting USEPA Tier 4 Final emission standards for off-road heavy-duty diesel engines. If use of USEPA Tier 4 equipment is not feasible, diesel construction equipment meeting Tier 4 Interim or Tier 3 emission standards shall be used. Tier 3 equipment shall use a CARB Level 3 diesel particulate filter.
- Perform periodic site inspections during construction to verify compliance of USEPA Tier 4 (Final or Interim) or USEPA Tier 3 equipment.
- Use alternative fueled or catalyst equipped diesel construction equipment.
- Minimize idling time to five minutes or less.

- Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use.
- Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable diesel generator set).
- Curtail construction during periods of high-ambient-pollutant concentrations; this may include ceasing of construction activity during the peak-hour vehicular traffic on adjacent roadways.
- Implement activity management (e.g., rescheduling activities to reduce short-term impacts).

Finding

The Town finds that with incorporation of Mitigation Measure AQ-1, which would require incorporation of BAAQMD Basic Construction Measures, would reduce temporary construction impacts and fugitive dust emissions to a less than significant level. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Bollinger Valley Rezoning that avoid or substantially lessen the significant environmental effect to the extent feasible.

Biological Resources

Impact BIO-2

Future development facilitated by Bollinger Canyon Rezoning may result in direct or indirect impacts to special-status plant species or their associated habitats including impacts to migratory bird nest sites. Impacts would be less than significant with mitigation.

MITIGATION MEASURE BIO-1 BIOLOGICAL RESOURCES SCREENING AND ASSESSMENT

For development projects facilitated by the Housing Element that would require vegetation trimming or removal, prior to consideration of the application, the project applicant shall hire a qualified biologist to perform a preliminary biological resources screening, for the Town's review and approval, to determine whether the project has any potential to impact special status biological resources, inclusive of special status plants and animals, sensitive vegetation communities, jurisdictional waters (including creeks, drainages, streams, ponds, vernal pools, riparian areas and other wetlands), critical habitat, wildlife movement area, or biological resources protected under local or regional ordinances. If it is determined that the project has no potential to impact biological resources, no further action is required under this mitigation measure.

If the project would have the potential to impact biological resources, a qualified biologist shall conduct a project-specific biological analysis to document the existing biological resources within a project footprint plus a minimum buffer of 50 feet around the project footprint, as is feasible, and to determine the potential impacts to those resources, as approved by the Town. The project-specific biological analysis shall evaluate the potential for impacts to all biological resources including, but not limited to special status species, nesting birds, wildlife movement, sensitive plant communities, critical habitats, and other resources judged to be sensitive by local, State, and/or federal agencies. If the project would have the potential to impact these resources, additional measures may be required and recommendations developed to enhance wildlife movement (e.g., installation of wildlife friendly fencing), as applicable, to reduce impacts to less than significant levels. Additional measures may also include compensatory mitigation when avoidance of a biological resource is not possible. Pending the results of the project-specific biological analysis, Town review, design alterations, further technical studies (e.g., protocol surveys) and consultations with the USFWS,

NMFS, CDFW, and/or other local, State, and federal agencies may be required as determined by the Town.

MITIGATION MEASURE BIO-2 PRE-CONSTRUCTION BIRD SURVEYS, AVOIDANCE, AND NOTIFICATION

For construction activities at development sites under the Housing Element initiated during the bird nesting season (February 1 – September 15) involving removal of vegetation or other nesting bird habitat, including abandoned structures and other man-made features, a qualified biologist hired by the Town shall conduct a pre-construction nesting bird survey no more than five days prior to initiation of vegetation removal activities. The nesting bird pre-construction survey shall be conducted on foot and shall include a buffer around the construction site at a distance determined by a qualified biologist, including staging and storage areas. The minimum survey radii surrounding the work area shall be the following: 250 feet for non-raptors and 1,000 feet for raptors. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in California Bay Area communities (i.e., qualified biologist). If construction lapses for seven days or longer, the qualified biologist shall conduct another focused survey before project activities are reinitiated. If nests are found, an avoidance buffer shall be determined by a qualified biologist dependent upon the species, the proposed work activity, and existing disturbances associated with land uses outside of the site. The qualified biologist shall observe the active nest to establish a behavioral baseline of the adults and nestlings, if present. The qualified biologist shall continuously monitor the active nests to detect signs of disturbance and behavioral change as a result of construction impacts, such as noise, vibration, odors, or worker/equipment motion. If signs of disturbance and behavioral changes are observed, the qualified biologist shall cease work causing those changes and may contact CDFW or USFWS for guidance. The buffer shall be demarcated by the biologist with bright orange construction fencing, flagging, construction lathe, or other means to demarcate the boundary. All construction personnel shall be notified as to the existence of the buffer zone as an “Ecologically Sensitive Area” and to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within the buffer until the biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist on the basis that the encroachment will not be detrimental to an active nest. A report summarizing the pre-construction survey(s) shall be prepared by a qualified biologist and shall be submitted to the Town prior to the commencement of construction activities.

Future project site plans proposed at development sites shall include a statement acknowledging compliance with the federal MBTA and California Fish and Game Code that includes avoidance of active bird nests and identification of Best Management Practices to avoid impacts to active nests, including checking for nests prior to construction activities during February 1 to September 15 and what to do if an active nest is found so that the nest is not inadvertently impacted during grading or construction activities.

MITIGATION MEASURE BIO-3 ROOSTING BAT SURVEYS AND AVOIDANCE PRIOR TO REMOVAL

Prior to tree or vacant structure removal, a qualified biologist shall conduct a focused survey of all trees and structures to be removed or impacted by construction activities to determine whether active roosts of special-status bats are present on site. Tree or structure removal shall be planned for either the spring or the fall and timed to ensure both suitable conditions for the detection of bats and adequate time for tree and/or structure removal to occur during seasonal periods of bat activity exclusive of the breeding season, as described below. Trees and/or structures containing

suitable potential bat roost habitat features shall be clearly marked or identified. If no bat roosts are found, the results of the survey will be documented and submitted to the Town within 30 days of the survey, after which no further action will be required.

If day roosts are present, the biologist shall prepare a site-specific roosting bat protection plan to be implemented by the contractor following the Town's approval. Additionally, the qualified biologist shall determine compensatory mitigation for temporary or permanent habitat loss due to tree removal, in conjunction with CDFW. The plan shall incorporate the following guidance as applicable:

- When possible, removal of trees/structures identified as suitable roosting habitat shall be conducted during seasonal periods of bat activity (outside the breeding and hibernation periods), including the following:
 - a) Between September 1 and about October 15, or before evening temperatures fall below 45 degrees Fahrenheit and/or more than 0.5 inch of rainfall within 24 hours occurs.
 - b) Between March 1 and April 15, or after evening temperatures rise above 45 degrees Fahrenheit and/or no more than 0.5 inch of rainfall within 24 hours occurs.
- If a tree/structure must be removed during the breeding season and is identified as potentially containing a colonial maternity roost, then a qualified biologist shall conduct acoustic emergence surveys or implement other appropriate methods to further evaluate if the roost is an active maternity roost. Under the biologist's guidance, the contractor shall implement measures similar to or better than the following:
 - a) If it is determined that the roost is not an active maternity roost, then the roost may be removed in accordance with the other requirements of this measure.
 - b) If it is found that an active maternity roost of a colonial roosting species is present, the roost shall not be disturbed during the breeding season (April 15 to August 31).
- Tree removal procedures shall be implemented using a two-step tree removal process. This method is conducted over two consecutive days and works by creating noise and vibration by cutting non-habitat branches and limbs from habitat trees using chainsaws only (no excavators or other heavy machinery) on day one. The noise and vibration disturbance, together with the visible alteration of the tree, is very effective in causing bats that emerge nightly to feed to not return to the roost that night. The remainder of the tree is removed on day two.
- Prior to the demolition of vacant structures within the project site, a qualified biologist shall conduct a focused habitat assessment of all structures to be demolished. The habitat assessment shall be conducted enough in advance to ensure the commencement of building demolition can be scheduled during seasonal periods of bat activity (see above), if required. If no signs of day roosting activity are observed, no further actions will be required. If bats or signs of day roosting by bats are observed, a qualified biologist will prepare specific recommendations such as partial dismantling to cause bats to abandon the roost, or humane eviction, both to be conducted during seasonal periods of bat activity, if required.
- If the qualified biologist determines a roost is used by a large number of bats (large hibernaculum), bat boxes shall be installed near the project site. The number of bat boxes installed will depend on the size of the hibernaculum and shall be determined through consultation with CDFW. If a maternity colony has become established, all construction activities shall be postponed within a 500-foot buffer around the maternity colony until it is determined by a qualified biologist that the young have dispersed. Once it has been determined that the roost is clear of bats, the roost shall be removed immediately.

MITIGATION MEASURE BIO-4 ALAMEDA WHIPSNAKE PRE-CONSTRUCTION SURVEYS AND IMPACT AVOIDANCE

Throughout the Bollinger Canyon Study Area, which is likely to contain suitable habitat for Alameda whipsnake, a qualified biologist shall conduct a focused pre-construction survey within 14 days prior to initiation of construction activities within the Bollinger Canyon Study Area. The USFWS and CDFW will be notified should any Alameda whipsnake be observed within any site of future development. Additionally, the following mitigation measures will be implemented to reduce impacts to the Alameda whipsnake:

- Prior to the start of construction, wildlife exclusion fencing (e.g., Animex or Ertec brand fencing) will be installed along the project footprint boundary. The location, extent, and specifications of the wildlife exclusion fencing will be identified by a qualified biologist and included on the final project plans. The fencing will remain in place throughout the duration of the construction activities and will be regularly inspected and fully maintained. Repairs to the fence will be made within 24 hours of discovery. Upon completion of construction activities, the fence will be completely removed; the area cleaned of debris and trash and returned to natural conditions.
- Construction crews shall be trained during the Worker Education and Awareness Program (WEAP) training to check beneath the staged equipment each morning prior to commencement of daily construction activities. Should Alameda whipsnake occur within the staging areas, construction activities shall be halted until the Alameda whipsnake vacates the project site on its own and approval to begin again is provided by the USFWS and CDFW.
- A qualified biologist shall be present during grading activities. Should Alameda whipsnake be observed within the project site, the USFWS and CDFW shall be notified, and construction shall be halted until the Alameda whipsnake exits the site and approval to begin again is provided by the USFWS and CDFW.
- To prevent the entrapment of Alameda whipsnake and other wildlife, monofilament plastics shall not be used for erosion control.
- All construction activities shall take place during daylight hours or with suitable light so that whipsnakes can be seen. Vehicle speeds on the construction site shall not exceed five miles per hour.
- Site vegetation management shall take place prior to tree removal, grading, excavation, or other construction activities. Construction materials, soil, construction debris, or other material shall be deposited only on areas where vegetation has been mowed. Areas shall be re-mowed if grass or other vegetation on the project site becomes high enough to conceal whipsnakes during the construction period.

Finding

The Town finds that implementation of mitigation measures BIO-1 through BIO-4 would reduce potential impacts to special-status species including Alameda whipsnake, nesting birds and roosting bats, habitat for special-status species, and locally important species to less than significant levels by requiring biological resources screening and assessments of sites, pre-construction surveys, and avoidance of Alameda whipsnake, nesting birds, and roosting bats. Impacts to special status species would be mitigated to less than significant levels. Pursuant to CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Comprehensive Advanced Planning Initiative that avoid or substantially lessen the significant environmental effect the extent feasible.

Impact BIO-4

Development associated with the Bollinger Valley Rezoning may adversely impact riparian habitat, other sensitive natural communities, or protected wetlands. Implementation of federal, State, and local regulations and policies would reduce impacts to riparian habitat and wetlands. However, impacts could be significant and mitigation measures would be required.

MITIGATION MEASURE BIO-5 CONDUCT JURISDICTIONAL DELINEATION

If required pursuant to Mitigation Measure BIO-1, and in areas determined by the Biological Resources Screening and Assessment as likely to impact waters, wetlands, or riparian habitat a jurisdictional delineation shall be required. A qualified biologist shall complete a jurisdictional delineation of all features within the project site. The jurisdictional delineation shall determine the extent of the jurisdictions for CDFW, United States Army Corps of Engineers (USACE), and Regional Water Quality Control Board (RWQCB), and shall be conducted in accordance with the requirement set forth by each agency. The result shall be a preliminary jurisdictional delineation report that shall be submitted to the implementing agency, USACE, RWQCB, and CDFW, as appropriate, for review and approval. Jurisdictional areas shall be avoided to the maximum extent possible. If jurisdictional areas are expected to be impacted, then the RWQCB would require a Waste Discharge Requirements permit and/or Water Quality Controls (depending upon whether the feature falls under federal jurisdiction). If CDFW asserts its jurisdictional authority, then a Lake and Streambed Alteration Agreement pursuant to Section 1600 et seq. of the California Fish and Game Commission would also be required prior to construction within the areas of CDFW jurisdiction. If the USACE asserts its authority, then a permit pursuant to Section 404 of the Clean Water Act would likely be required.

MITIGATION MEASURE BIO-6 PERFORM RESTORATION FOR IMPACTS TO WATERS AND WETLANDS

If waters and/or wetlands cannot be avoided and will be impacted by construction, a compensatory mitigation program shall be implemented. Impacts to waters and wetlands shall be mitigated through one or more options to meet the required amount of mitigation as required based on direct impacts from project development under the mitigation ratios outlined below. Mitigation for impacts to waters and wetlands can be achieved through the acquisition and in-perpetuity management of similar habitat and/or through the in-lieu funding of such through an existing mitigation bank. Funding and management of internal mitigation areas can be managed internally. Funding and management of off-site mitigation lands shall be provided through purchase of credits from an existing, approved mitigation bank or land purchased by implementing entity and placed into a conservation easement or other covenant restricting development (e.g., deed restriction). Internal mitigation lands and/or in-lieu funding sufficient to acquire lands shall provide habitat at a minimum ratio of 1:1 for impacted lands, comparable to habitat to be impacted by individual project activity. Compensatory mitigation for sensitive vegetation communities can be combined with other compensatory mitigation (e.g., sensitive vegetation communities) as applicable. All temporary impacts to waters and wetlands shall be fully restored to natural condition.

Finding

The Town finds that with implementation of mitigation measures BIO-5 and BIO-6 would reduce potential impacts to riparian habitat, wetlands, and waters to less than significant. Pursuant to

CEQA Guidelines Section 15091 (a)(1), changes or alterations have been required in, or incorporated into, the Bollinger Valley Rezoning that avoid or substantially lessen the significant environmental effect to the extent feasible.

5 Topical Areas Determined to have Significant and Unavoidable Impacts

Air Quality

Impact AQ-2

The Bollinger Canyon Rezone would not be consistent with BAAQMD's 2017 Clean Air Plan and impacts would be significant and unavoidable.

Mitigation Measure TRA-1, described in Impact TRA-4, would be required.

Finding

The Town finds that rezoning to facilitate development in the Bollinger Canyon Study Area would result in increased trips, VMT, and associated emissions. The proposed densities and associated increases in air quality emissions due to increased VMT are not consistent with the transportation measures in the 2017 Clean Air Plan, such as the TRA-5: Transit Efficiency and Use and TRA- 9: Bicycle and Pedestrian Access and Facilities, which encourage improving bike routes and parking and making transit more convenient. While Mitigation Measure TRA-1 would be implemented to reduce VMT, future development could still locate residences within inadequate alternative modes of transportation and away from areas with employment and services. Therefore, the impacts would be significant and unavoidable.

Biological Resources

Impact BIO-6

Development facilitated by the Bollinger Canyon Rezoning may result in substantial impacts to wildlife movement through habitat modification during construction or due to density increases the area. Impacts would be significant and unavoidable.

MITIGATION MEASURE BIO-7 PROJECT DESIGN FOR WILDLIFE CONNECTIVITY

If required pursuant to Mitigation Measure BIO-1, and in areas determined by the Biological Resources Screening and Assessment in Bollinger Canyon that provide wildlife movement corridors, projects shall be designed to minimize impacts to wildlife as set forth below and determined by the Town. Fencing or other project components shall not block wildlife movement through riparian or other natural habitat. Where fencing or other project components that may disrupt wildlife movement is required for public safety concerns, they shall be designed to permit wildlife movement by incorporating design features that include one or more of the following, as required based on site-specific conditions:

- A minimum 16 inches between the ground and the bottom of the fence to provide clearance for small animals.
- A minimum 12 inches between the top two wires, or top the fence with a wooden rail, mesh, or chain link instead of wire to prevent animals from becoming entangled.

- If privacy fencing is required near open space areas, openings at the bottom of the fence measure at least 16 inches in diameter shall be installed at reasonable intervals to allow wildlife movement, or the fence may be installed with the bottom at least 16 inches above the ground level.
- If fencing or other project components must be designed in such a manner that wildlife passage would not be permitted, wildlife crossing structures shall be incorporated into the project design as appropriate.
- Lighting installed as part of any project shall be designed to be minimally disruptive to wildlife.

MITIGATION MEASURE BIO-8 MAINTAIN CONNECTIVITY IN DRAINAGES

No permanent structures that would impede wildlife movement shall be placed within any drainage or riverine feature in the Bollinger Canyon Study Area (i.e., no hardened caps or other structures in the stream channel perpendicular to stream flow that would be exposed or at moderate to high risk of exposure because of natural bed scour during high flow events, and thereby potentially create impediments to passage). In addition, upon completion of construction within any drainage or riverine feature, areas of stream channel and banks that are temporarily impacted shall be returned to pre-construction contours and in a condition that allows for unimpeded passage through the area. If water is to be diverted around work sites, a diversion plan shall be submitted to the Town for review and approval prior to issuance of project construction permits/approvals. The diversion shall be designed in such a way as to not impede movement while the diversion is in place.

MITIGATION MEASURE BIO-9 CONSTRUCTION BEST MANAGEMENT PRACTICES TO MINIMIZE DISRUPTION TO WILDLIFE

The following construction best management practices shall be incorporated into all grading and construction plans in the Bollinger Canyon Study Area to minimize temporary disruption of wildlife:

- A 20 mile per hour speed limit shall be designated in all construction areas.
- Daily construction work schedules shall be limited to daylight hours only.
- Mufflers shall be used on all construction equipment and vehicles shall be in good operating condition.
- All trash shall be placed in sealed containers and shall be removed from the project site a minimum of once per week.
- No pets shall be permitted on project site during construction.

Finding

The Town finds that compliance with mitigation measures BIO-7 through BIO-9 would reduce impacts to wildlife movement by requiring development to be designed in a way that maintains connectivity. However, it cannot be guaranteed that movement of terrestrial species will not be impeded at the regional scale due to future development in the Bollinger Canyon Study Area. No additional feasible mitigation measures are available to reduce impacts on wildlife movement. Thus, this impact would remain significant and unavoidable.

Greenhouse Gas Emissions

Impact GHG-4

Development facilitated by the Bollinger Canyon Rezoning would not be consistent with GHG reduction goals contained in the CARB 2017 Scoping Plan, and Moraga General Plan. Development facilitated by the Bollinger Canyon Rezoning would conflict with the transportation policies in State and local plans by locating residents in a high VMT per capita area and far from transit services and alternative modes of transportation. Impacts would be significant and unavoidable.

Mitigation Measure TRA-1, described in Impact TRA-4, would be required.

Finding

The Town finds that the Bollinger Canyon Study Area encompasses approximately 423 acres of vacant land. It is unknown at this time where development would occur but it would likely have a high VMT per capita given the lack of services, workplaces, transit, and bicycle/pedestrian facilities in this area. While Mitigation Measure TRA-1 would be implemented to reduce VMT (which would reduce GHG emissions), future development could still result in VMT impacts that exceed thresholds, and therefore result in high GHG emissions from locating residences away from areas with employment, services, or transit. Therefore, development in Bollinger Canyon would not be consistent with the transportation strategies in the 2017 Scoping Plan, and 2002 General Plan that were adopted for the purpose of reducing GHG emissions and impacts would be significant and unavoidable.

Transportation

Impact TRA-4

Development facilitated by the Bollinger Canyon Rezoning would generate home-based VMT per resident that is greater than 85 percent of the countywide average home-based VMT per resident. Impacts would be significant and unavoidable.

MITIGATION MEASURE TRA-1 VMT REDUCTION MEASURES

Individual housing project development proposals that do not screen out from VMT impact analysis shall provide a quantitative VMT analysis using the methods applied in this EIR, with modifications if appropriate based on future changes the Town of Moraga practices and CCTA VMT analysis methodology guidelines. Projects which result in a significant impact shall include measures to reduce VMT. These shall include travel demand management measures and physical measures to reduce VMT, including but not limited to the measures below, which have been identified as potentially VMT reducing in the California Air Pollution Control Officers Association (CAPCOA) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (December 2021). Potential VMT reduction estimates are included below, but detailed requirements, calculation steps, and limitations are described in the CAPCOA Handbook. In addition, application of one or more transportation demand measures (TDM) is generally expected to result in a net VMT reduction of 10 percent or less for development projects in suburban settings such as Moraga.

- Unbundle parking costs (i.e., sell or lease parking separately from the housing unit).
Effectiveness: up to 15.7 percent reduction in GHG from VMT per the CAPCOA Handbook.

- Provide car-sharing, bike sharing, or scooter sharing programs. Effectiveness: 0.15 – 0.18 percent reduction in GHG from VMT for car share, 0.02 – 0.06 percent for bike share, and 0.07 percent for scooter share, per the CAPCOA Handbook. The higher car share and bike share values are for electric car and bike share programs.
- Subsidize transit passes for residents of affordable housing. Effectiveness: up to 5.5 percent reduction in GHG from VMT per the CAPCOA Handbook.

In addition to the on-site measures noted above, individual housing projects that are above the VMT threshold could potentially contribute to future VMT mitigation fee programs, banks, or exchanges. No regional VMT mitigation programs currently exist; however, the CCTA is currently evaluating different mitigation program frameworks which may lead to a countywide or sub-regional VMT mitigation program. Should such a program be implemented, development projects could potentially pay into a fee program or purchase mitigation credits to achieve needed VMT mitigation instead of, or in addition to, onsite TDM measures.

Finding

The Town finds that because the effectiveness of the above measure in reducing an individual project's VMT impact to a less than significant level cannot be determined in this analysis, the impact for projects which do not screen out from VMT impact analysis would remain significant and unavoidable even with mitigation.

Utilities and Service Systems

Impact UTIL-2

Development facilitated by the Bollinger Canyon rezoning would increase demand for wastewater treatment, storm water drainage, electric power, natural gas, and telecommunications. In addition, the Bollinger Canyon Study area is not currently served by utility providers, and new infrastructure would need to be extended in previously undeveloped areas to accommodate the development facilitated by the Bollinger Canyon Rezoning. Even with implementation of the mitigation measures listed below, impacts would be significant and unavoidable.

Mitigation measures BIO-1 through BIO-9 (See Section 4.3, *Biological Resources*).

Implementation Programs CR-A through CR-D (Historical and Archaeological Resources Survey, Protect Potential Historic and Archaeological Resources, Construction Monitoring, and Unanticipated Discovery of Cultural Resources).

Implementation Program PAL-A (Paleontological Survey), and Implementation Programs TCR-A and TCR-B (Suspension of Work Around Tribal Cultural Resources and Tribal Cultural Resource Treatment Plan), which would reduce impacts to tribal cultural resources to a less than significant level.

Finding

The Town finds that the installation of new utilities due to the Bollinger Canyon Rezoning (water, wastewater, electrical, natural gas, and telecommunications) would result in a physical impact on the environment on biological resources. Despite implementation of mitigation measures BIO-1 through BIO-9, impacts related to wildlife movement in the Bollinger Canyon Study Area would be

significant and unavoidable due to new utilities impeding the movement of wildlife species at a regional scale.

Wildfire

Impact WFR-2

Development facilitated by the Bollinger Canyon Rezoning would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. Compliance with applicable State and local regulations relating to evacuation would reduce the extent to which the project would impair emergency response and evacuation. Nonetheless, this impact would be significant and unavoidable.

MITIGATION MEASURE WFR-1 DEVELOP WILDFIRE ASSESSMENT PLAN AND GUIDELINES

The Town shall require a Wildfire Assessment Plan and Guidelines prior to approval of projects where deemed necessary to protect public safety. The Plan and Guidelines shall be developed for the project site, approved by Moraga-Orinda Fire District, and shall address but shall not be limited to the following:

- Well-maintained, fire district approved landscape and vegetation management plan.
- Adequate roadway and driveway widths, designed to accommodate two-way traffic and large firefighting apparatus.
- Adequate water supply and water flow for firefighting efforts.
- Vegetation modification zones surrounding the community.
- Buildings are built to current Building Code standards, ignition-resistant eaves, ember resistant construction, defensible space, residential fire sprinklers, a Class A ignition-resistant roof, dual pane (one being tempered) glass windows, and chimneys with spark arrestors containing a minimum of 0.5-inch screen.

Finding

The Town finds that with implementation of Mitigation Measure WFR-1, a wildfire assessment plan and guidelines would be adopted for projects in the Bollinger Canyon Study Area and could reduce impairment of an adopted emergency evacuation plan. However, it is not possible to ensure that future development from Bollinger Canyon Rezoning would not substantially impair an adopted emergency response plan or emergency evacuation plan, despite implementation of mitigation. Thus, this impact would remain significant and unavoidable.

Impact WFR-4

The Bollinger Canyon Study Area is located near a Very High FHSZ. Development facilitated by the Bollinger Canyon Rezoning would expose project occupants and structures to wildfire risks. Wildfire risk would be significant and unavoidable.

MITIGATION MEASURE WFR-2 CONSTRUCTION WILDFIRE RISK REDUCTION

The Town of Moraga shall require the following measures during project construction:

1. Construction activities with potential to ignite wildfires shall be prohibited during red-flag warnings issued by the National Weather Service for the site. Example activities include welding and grinding outside of enclosed buildings.
2. Portable pumps shall be available onsite during project construction. Portable pumps shall be maintained to function according to manufacturer specifications. Construction personnel shall receive training on the proper methods of using a fire extinguisher.
3. Construction equipment powered by internal combustion engines shall be equipped with spark arresters. The spark arresters shall be maintained pursuant to manufacturer recommendations to ensure adequate performance.

At the Town's discretion, additional wildfire risk reduction requirements may be required during construction. The Town shall review and approve the project-specific methods to be employed prior to building permit approval.

MITIGATION MEASURE WFR-3 PROJECT DESIGN WILDFIRE RISK REDUCTION

Project landscape plans shall include fire-resistant vegetation native to Contra Costa County and/or the local microclimate of the site and prohibit the use of fire-prone species, especially non-native, invasive species.

Finding

The Town finds that with implementation of mitigation measures WFR-2 and WFR-3, the risk of loss of structures and the risk of injury or death due to wildfires would be reduced in the Bollinger Canyon Study Area. These measures would make structures more fire resistant and less vulnerable to loss in the event of a wildfire. These measures would also reduce the potential for construction to inadvertently ignite a wildfire. However, it is not possible to prevent a significant risk of wildfires or fully protect people and structures from the risks of wildfires, despite implementation of mitigation. Thus, this impact would remain significant and unavoidable.

5.1 Cumulative Impacts

With the exception of the unavoidable impacts to wildfire, utilities, operational noise, VMT, sensitive use noise exposure, GHG plan consistency, habitat modification and consistency with BAAQMD's 2017 Clean Air Plan, the Bollinger Valley Rezoning would have no impact, a less than significant impact, or a less than significant impact after mitigation with respect to all environmental issues.

Because the project is a general plan update, including related long-range planning components, cumulative impacts are treated somewhat differently than would be the case for a project-specific development. *CEQA Guidelines* Section 15130 provides the following direction relative to cumulative impact analysis and states that the following elements are necessary for an adequate discussion of environmental impacts:

A summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect. Such plans may include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions. A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan. Such projections may be supplemented with additional information such as a regional modeling program. Any such

document shall be referenced and made available to the public at a location specified by the lead agency.

By its nature, a general plan considers cumulative impacts insofar as it considers cumulative development that could occur within the town limits. For example, the transportation analysis considers the overall change in VMT due to implementing several development projects under the Planning Initiative that would add to the Town buildout. As such, the analysis in this EIR considers the cumulative impacts in the Town from implementation of the Housing Element. These cumulative VMT calculations are accounted for in the air quality, energy, greenhouse gas emissions, and noise analyses; therefore, these analyses would also be considered cumulative. Other impacts, such as geology and soils and cultural resources, are site specific and would not result in an overall cumulative impact from growth outside of the Town. Therefore, the analysis of project impacts in the Draft EIR also constitutes the cumulative analysis.

6 Feasibility of Project Alternatives

CEQA requires that an EIR include an analysis of a reasonable range of feasible alternatives to a project capable of avoiding or substantially lessening any significant adverse environmental impact associated with the Project. The discussion of alternatives is required to include the “No Project” alternative. CEQA requires further that the Town identify an environmentally superior alternative. If the “No Project” alternative is the environmentally superior alternative, an environmentally superior alternative must be identified from among the other alternatives (CEQA Guidelines, Section 15126.6).

A number of alternatives were also considered but rejected. The Town considered an alternative that would allow a greater intensity of development, with an increased density and greater number of units. The Town finds that this alternative was appropriately rejected as it would result in greater impacts due to the increased ground disturbance and air quality and greenhouse gas emissions.

In addition, the Town considered a number of alternatives to reduce noise impacts. The Town finds that these were appropriately rejected due to cost concerns and feasibility. It was not clear whether developers and the Town would be able to control noise measures over time to ensure appropriate mitigation.

6.1 Alternative 1: No Project Alternative

The No Project Alternative assumes there is no change in zoning or General Plan land use designations for the parcels identified by the Planning Initiative. Current uses on the sites would continue under this alternative, with buildout of the proposed Housing Opportunity Sites regulated by existing zoning and General Plan designations. No additional development would be assumed within the Bollinger Canyon Study Area since existing zoning and General Plan designations require a study to determine the appropriate number of units. Buildout of the proposed Housing Opportunity Sites under existing zoning would result in less residential development and reduced population growth than under the Planning Initiative. This alternative would not accomplish any of the project objectives.

Finding

The No Project Alternative would generally result in similar or decreased environmental impacts compared to the proposed project. By reducing the number of development sites, this alternative would reduce impacts related to aesthetics, air quality, biological resources, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, public services and recreation, transportation, tribal cultural resources, utilities and service systems, and wildfire. The No Project Alternative would have more severe impacts to the proposed project related to cultural resources, geology and soils, land use and planning, and population and housing. However, this alternative would not meet the project objectives, as it would not encourage the development of housing in the Town of Moraga and it would not enable the Town to meet its fair share housing obligations.

The Town rejects Alternative 1 as infeasible because it would not achieve the objectives of the Comprehensive Advanced Planning Initiative. Furthermore, Alternative 1 would result in greater

impacts to cultural resources, geology and soils, land use and planning, and population and housing than the proposed project.

The findings for the Bollinger Canyon Rezoning set forth in this document and the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations provide support for the proposed project and the elimination of this alternative from further consideration.

6.2 Alternative 2: Employment-Focused Growth

Alternative 2 pertains to the Housing Element and is not applicable to the Bollinger Canyon Rezoning.

6.3 Alternative 3: Clustered Bollinger Canyon Development

Alternative 3 assumes that buildout would be the same as proposed under the Planning Initiative, except development within the Bollinger Canyon Study Area would be required to be clustered. The exact location of clustered development is not specified under Alternative 3, but development would likely cluster adjacent to existing residential development west of the Bollinger Canyon Study Area or near Bollinger Canyon Road. The purpose of Alternative 3 is to reduce impacts to biological resources, cultural resources, geology and soils, hydrology and water quality, tribal cultural resources, and utilities by minimizing ground disturbance and maximizing remaining contiguous open space within the Study Area. Buildout of Alternative 3 would result in the same number of residential units and level of population growth as under the Planning Initiative. Alternative 3 would accomplish all of the project objectives.

Finding

Alternative 3 is the environmentally superior alternative as it would reduce the severity of air quality, biological resources, cultural resources, energy, geology and soils, GHG emissions, hydrology and water quality, land use and planning, public services and recreation, transportation, tribal cultural resources, and utilities and service systems compared to the Planning Initiative. Alternative 3 would increase construction noise impacts. Alternative 3 would have reduced cumulative impacts as discussed in each of the resource areas and would remain consistent with the goals outlined in the Comprehensive Advance Planning Initiative.

Based on the analysis in the EIR, Alternative 3 would have lesser cumulative impacts overall and reduced impacts air quality, biological resources, cultural resources, energy, geology and soils, GHG emissions, hydrology and water quality, land use and planning, public services and recreation, transportation, tribal cultural resources, and utilities and service systems. Impacts to aesthetics, hazards and hazardous materials, population and housing, and wildfire would be similar to the proposed project. Impacts to noise under Alternative 3 would be incrementally greater.

The Town rejects Alternative 3 as infeasible because it will result in more significant impacts to noise than the proposed project.

The findings for the Bollinger Valley Rezoning set forth in this document and the overriding social, economic and other considerations set forth in the Statement of Overriding Considerations provide support for the proposed project and the elimination of this alternative from further consideration.

7 Statement of Overriding Considerations

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable (CEQA Guidelines Section 15093(a)). CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record (CEQA Guidelines Section 15093(b)). The Bollinger Canyon Rezoning could result in significant unavoidable impacts related to air quality, biological resources, greenhouse gas emissions, transportation, utilities and service systems, and wildfire even after incorporation of feasible mitigation measures. These significant unavoidable impacts are identified and discussed in Section 5 of these Findings.

The Town adopts and makes this Statement of Overriding Considerations regarding the significant unavoidable impacts of the Bollinger Canyon Rezoning and the anticipated benefits of Bollinger Canyon Rezoning. The Town finds that each of the benefits set forth below in this Statement constitutes a separate and independent ground for finding that the benefits of the Bollinger Canyon Rezoning outweigh the risks of their potential significant adverse environmental impacts. The benefits of the Bollinger Canyon Rezoning, which constitute the specific economic, legal, social, technological and other considerations that justify the approval of the Bollinger Canyon Rezoning are as follows:

- Through numerous legislative actions in the past several years, the State of California has identified the lack of housing as a significant area of public concern, leading to an unsustainable lack of housing affordability, increased homelessness, social stress related to increased poverty and a reduction in economic prosperity for many state residents. The additional 51 units allowed would allow housing units to be constructed in lower density areas, while responding to environmental conditions, surrounding land use context, community feedback and regional planning goals.
- The General Plan and zoning amendments recognize existing land uses and parcelization patterns and provide certainty for property owners.
- The new Rural Residential designation provides an appropriate transition between the Bluffs neighborhood to the west and the open space and agricultural areas to the north and east.
- The Comprehensive Advanced Planning Initiative, including the Bollinger Canyon Rezoning, was shaped by an extensive public outreach process that engaged the community and decision-makers. The Town hosted a series of community workshops, online forums, stakeholder interviews, and Planning Commission/Town Council study sessions. The Bollinger Canyon Rezoning was developed with this public input and consideration.
- The Bollinger Canyon Rezoning would achieve a number of economic benefits that address both Town and regional goals for fiscal sustainability, housing supply and affordability, and enhancement of public infrastructure and facilities.

On balance, the Town finds that there are specific considerations associated with the Bollinger Canyon Rezoning that serve to override and outweigh the Bollinger Canyon Rezoning's significant

unavoidable effects. Therefore, pursuant to CEQA Guidelines Section 15093(b), these adverse effects are considered acceptable.

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EXHIBIT 2

Resolution XX-2023
Adoption of General Plan Amendments

BEFORE THE PLANNING COMMISSION OF THE TOWN OF MORAGA

In the Matter of:

Resolution No. ##- 2023

Recommending that the Town Council Adopt Amendments to the Moraga General Plan to Re-designate the Bollinger Canyon Special Study Area.

Recommending adoption of General Plan Amendments for the Bollinger Canyon Special Study Area

WHEREAS, State law requires all cities and towns in California to adopt a General Plan for their long-term development, including a land use map showing the general distribution and intensity of land uses in the jurisdiction and its planning area; and

WHEREAS, the Town of Moraga adopted its first General Plan in 1979, including a Land Use Map that designated a 423-acre area along Bollinger Canyon Road as a “Study” Area; and

WHEREAS, in 1983, the Town of Moraga participated in a multi-jurisdictional land use study with the City of Lafayette and the County of Contra Costa for a 3,400-acre area that included the Bollinger Canyon Special Study Area, which concluded that the area was a “fragile ecosystem where very low density residential use is to be a privilege and more intensive use would be inappropriate” and further that the overall goal for this area should be preservation, protection, and maintenance of open space, scenic, and natural characteristics; and

WHEREAS, the Town updated its General Plan in 1990, retaining the Study Area designation for the Bollinger Canyon Special Study Area; and

WHEREAS, the Town updated its General Plan in 2002, retaining the Study Area designation for the Bollinger Canyon area; and

WHEREAS, the 2002 General Plan stated that the special character and unique development issues in Bollinger Canyon warranted a special study by area property owners to prepare a conceptual development plan consistent with the goals and policies of the General Plan; and

WHEREAS, a special study by area property owners was not completed, although a study was completed by one property owner for 186.3 acres within the 423-acre study area, including a request to amend the General Plan and approve zoning for a 126-unit subdivision; and

WHEREAS, the Planning Commission recommended denial of the proposed General Plan Amendment and rezoning, and the Town Council subsequently affirmed that recommendation and denied the request in November 2018, finding among other things that it was not consistent with General Plan goals and policies; and

WHEREAS, the Moraga Town Council has made the assignment of General Plan designations for the Bollinger Canyon Special Study Area a priority and has included it in the annual Council goals since 2019; and

WHEREAS, the Town of Moraga embarked on a Comprehensive Advanced Planning Initiative in August 2021, including the task of replacing the General Plan and Zoning Map “Study” designations for Bollinger Canyon with new land use designations; and

WHEREAS, the Town of Moraga published a “White Paper” in January 2022 providing context and background maps for the Bollinger Canyon Special Study Area, identifying opportunities and constraints to development, and presenting options for new General Plan and Zoning designations; and

WHEREAS, the White Paper considered the Town Council’s prior findings that the scale of development must recognize and respond to the area’s fragile and delicate ecosystem, unstable soil conditions, protected creeks, public safety and emergency access constraints; as well as regional policies that new housing should be focused on urban infill sites and in transit-served areas such as Moraga’s two commercial/mixed use districts rather than on open space and greenfield sites; and

WHEREAS, the Town convened a duly noticed virtual neighborhood meeting on January 25, 2022 to receive public input on options for the Study Area; and

WHEREAS, the Moraga Town Council convened a study session at its regular meeting on February 9, 2022 to consider the White Paper recommendations, discuss General Plan and zoning options, consider public comment, and provide direction to staff; and

WHEREAS, staff prepared Draft General Plan and Zoning amendments based on feedback provided by the Town Council; and

WHEREAS, the Moraga Planning Commission convened a Study Session on May 24, 2022 to review the Draft General Plan and Zoning amendments, provide an opportunity for public comment, and offer feedback for Town Council consideration; and

WHEREAS, the Moraga Town Council convened a Study Session on May 25, 2022 to review the Draft General Plan and Zoning amendments, provide an opportunity for public comment, consider Planning Commission recommendations; and provide direction to staff; and

WHEREAS, the Draft General Plan text has been revised to reflect feedback provided by the Planning Commission and Town Council; and

WHEREAS, the proposed amendments would allow for land uses and densities that are consistent with the uses and densities in the area, and responsive to the lack of infrastructure, topography, access issues, visual qualities, and environmental resources in the Study area; and

WHEREAS, the proposed amendments would provide certainty to property owners and surrounding neighbors; and

WHEREAS, approval of the General Plan amendments would not approve or entitle any specific development project and future projects will still be subject to the Town’s development review and environmental review procedures, including site-specific analysis; and

WHEREAS, the Town completed a Draft Environmental Impact Report (Draft EIR) for the Comprehensive Advanced Planning Initiative, which includes the Bollinger Canyon General Plan Amendments and Rezoning; and

WHEREAS, the Draft EIR was published on October 27, 2022, circulated for a 45-day public review period ending on December 12, 2022, and followed by a Final EIR published on January 6, 2023 that included responses to all comments received on the Draft EIR; and

WHEREAS, the Final EIR was certified by the Moraga Town Council on January 25, 2023; and

WHEREAS, the EIR identifies specific mitigation measures to be followed in the event any of the properties with new General Plan designations are developed, and includes a Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on April 11, 2023, the Planning Commission approved a Resolution finding that all requirements of the California Environmental Quality Act (CEQA) relative to the proposed General Plan Amendments for the Bollinger Canyon Special Study Area have been satisfied, and recommending that Findings and a Statement of Overriding Consideration related to the Bollinger Canyon Amendments be adopted by the Moraga Town Council; and

WHEREAS, all required public notices for the proposed General Plan Amendments were provided in the East Bay Times on March 31, 2023, and property owners living within 500 feet of the study area were notified via postcard of the April 11, 2023 public hearing by mail in accordance with Town requirements; and

WHEREAS, the Planning Commission held a public hearing on April 11, 2023 to consider the staff recommendation to adopt General Plan Amendments that replace the “Study” designation with Rural Residential, Residential 1 DU/A, and Non-MOSO Open Space designations;

NOW THEREFORE BE IT RESOLVED by the Planning Commission of the Town of Moraga that:

SECTION 1. Pursuant to the California Environmental Quality Act (CEQA), the Town prepared and certified a Final Environmental Impact Report (FEIR) that analyzes the potentially significant adverse environmental impacts associated with adoption of the Comprehensive Advanced Planning Initiative, including the proposed General Plan Amendments. The EIR identifies appropriate and feasible mitigation measures that significantly reduce or avoid the impacts identified in the EIR. The proposed General Plan Amendments are part of the “project” evaluated and would allow for development consistent with what has been analyzed in the certified FEIR. In addition, any development project proposed on would be required to comply with the MMRP adopted in connection with the FEIR and will be subject to site-specific environmental review. In a separate resolution, the Planning Commission has recommended that the Town Council adopt Findings of Fact and a Statement of Overriding Consideration for the proposed General Plan Amendments.

SECTION 2. Pursuant to Moraga Municipal Code Section 8.12.100, the Planning Commission makes the following findings to support its recommendation for the General Plan Amendment:

(a) The proposed General Plan Amendments are consistent with the other goals, objectives, policies, and general land uses and programs specified in the General Plan.

The proposed Land Use Map designations are consistent with the General Plan and in that they support preservation of the Town's natural setting, sustain Moraga's semi-rural environment, respond to circulation and infrastructure constraints, provide opportunities for new housing, and protect public health and safety. The Amendments would remove Goal 6 and Policy LU6.1 of the 2002 General Plan, which called for a Special Study to be completed by Bollinger Canyon area property owners. The Amendments would add Policy LU-1.16, expressing the same objectives as the deleted goal and policy, which is to ensure that future development in the Bollinger Canyon area protects natural resources, mitigates hazards, and meets access and fire safety standards. The Amendments also would implement Program IP-K7, which envisioned a future General Plan Amendment with appropriate land use designations based on a special study to be completed collaboratively by area property owners. While a special study was not collaboratively completed, past development proposals and other analyses have been summarized in a White Paper prepared by the Town and used to identify appropriate land use designations. Requirements for further site analysis and site-specific planning have been included in the Draft Rural Residential zoning district, thus implementing General Plan policies and ensuring that future projects respect the natural features and hazards within this area.

The amendments are consistent with the values and guiding principles expressed in the General Plan Chapter 2. The amendments modify Policy LU-1.2 by adding a new Rural Residential land use category and modify Policy LU-1.8 to allow for clustering on sites with this designation. As such, the amendments are consistent with Policy LU-1.11 (Clustering) in that they allow the total number of units on a given site to be clustered on smaller lots upon subdivision. Further, the amendments are consistent with General Plan Community Design policies, including Policy CD-1.1, which further supports clustering of allowable density in order to avoid steep areas and drainageways; Policy CD-1.5, which supports preservation of ridgelines and hillsides; and Policy CD-4.4, which encourages the layout of residential development to respect natural features.

(b) In the case of a *general* land use regulation, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed. The proposed use of the Non-MOSO Open Space designation on the four Harvey Ranch parcels (totaling 136.06 acres or 32 percent of the Study Area) supports the preservation of this area as open space for resource conservation, public safety, and recreation. The parcels have been acquired for conservation by the John Muir Land Trust. The proposed use of the 1 DU/Ac designation for eight parcels on Joseph Drive and the parcel at 970 Bollinger Canyon Road (collectively 17.33 acres, or 4 percent of the Study Area) recognizes the development pattern that has been in place for 50 years and supports the continuation of residential uses in the area. The proposed Rural Residential designation on the other seven parcels in the Study Area (totaling 270.05 acres, or 64 percent of the Study Area) provides the best fit given current conditions. The new designation closes a gap between the Moraga General Plan's open space categories and its residential categories and allows for a transition from rural to semi-rural and suburban areas within the town. The Rural Residential designation is well suited for privately owned undeveloped property with sensitive natural resources and environmental constraints. It allows for the continuation of existing agricultural and open space activities, while accommodating a limited amount of residential growth.

(c) **A community need is demonstrated for the proposed change.** Although no specific development project is proposed, the General Plan Amendments would create the opportunity for up to 51 additional housing units over an extended time period, plus an unspecified number of accessory dwelling units. Since housing is not a permitted use under the current “Study” designation, this opportunity does not exist today. Moreover, the potential for clustered development in this area creates the potential for publicly accessible open space amenities, including additional parkland and trail connections. A community need is further served by replacing the “Study” designation with traditional designations in that it provides certainty to property owners within the area, as well as neighbors and service providers.

(d) **Its adoption will be in conformity with public convenience, general welfare and good zoning practice.** The proposed amendments to the General Plan balance multiple objectives, including the protection of natural resources, mitigation of environmental hazards, and property owner certainty. The use of Rural Residential General Plan designations is consistent with best practices. Nearby jurisdictions, including Lafayette, Orinda, and Danville have similar designations, and utilize them in areas with similar physical characteristics. The amendments to General Plan Appendix A to include definitions of each land use category would comply with Government Code Section 65302(a) requiring a “statement of the standards of population density and building density” for each land use district shown on the General Plan Map.

SECTION 3: The Planning Commission hereby recommends that the General Plan text amendments attached to this Resolution and incorporated by reference as **Exhibit “A”** be adopted by the Moraga Town Council.

SECTION 4: The Planning Commission hereby recommends that the General Plan designations for the following parcels be changed from “Study” to “Low-Density Residential 1 DU/AC”:

- 258-611-003 (1951 Joseph Drive)
- 258-611-006 (1939 Joseph Drive)
- 258-611-007 (1945 Joseph Drive)
- 258-611-008 (1957 Joseph Drive)
- 258-611-009 (1963 Joseph Drive)
- 258-612-002 (1954 Joseph Drive)
- 258-612-003 (1960 Joseph Drive)
- 258-612-003 (1966 Joseph Drive)
- 258-422-018 (970 Bollinger Canyon Road)

The boundaries of the areas described above are shown in **Exhibit B**, attached hereto and incorporated herein by reference.

SECTION 5: The Planning Commission hereby recommends that the General Plan designations for the following parcels be changed from “Study” to Non-MOSO Open Space:

- 258-012-036 (unaddressed, Harvey Ranch)
- 258-012-037 (unaddressed, Harvey Ranch)
- 258-012-038 (unaddressed, Harvey Ranch)
- 258-130-001 (unaddressed, Harvey Ranch)

The boundaries of the areas described above are shown in **Exhibit B**, attached hereto and incorporated herein by reference.

SECTION 6: The Planning Commission hereby recommends that the General Plan designations for the following parcels be changed from “Study” to Rural Residential:

- 258-611-004 (1951 Joseph Drive)
- 258-611-010 (1969 Joseph Drive)
- 258-012-043 (1970 Joseph Drive)
- 258-012-013 (unaddressed)
- 258-012-023 (unaddressed)
- 258-012-044 (unaddressed)
- 258-012-045 (966 Bollinger Canyon Rd)

The boundaries of the areas described above are shown in **Exhibit B**, attached hereto and incorporated herein by reference.

SECTION 7: Exhibit C, attached hereto and incorporated herein by reference, shows the revised General Plan land use designations for the Town of Moraga, inclusive of the changes identified in Sections 3 through 6.

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga at a regular meeting held on April 11, 2023, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Recused:

Ben Helber, Chair

Attest: Afshan Hamid, AICP, Planning Director

EXHIBIT “2-B”: PROPOSED GENERAL PLAN MAP CHANGES

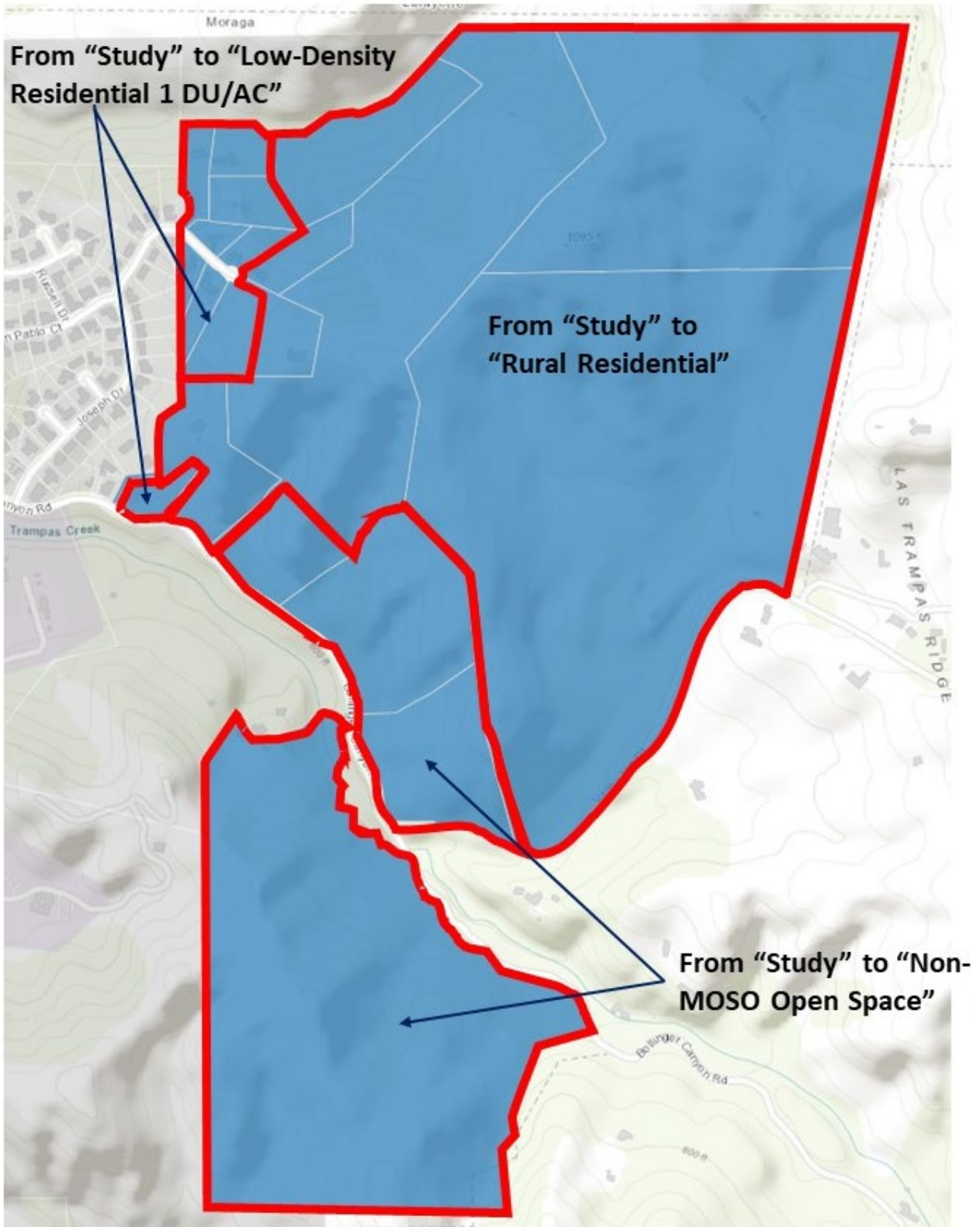


EXHIBIT “2-C”:
PROPOSED MORAGA GENERAL PLAN MAP

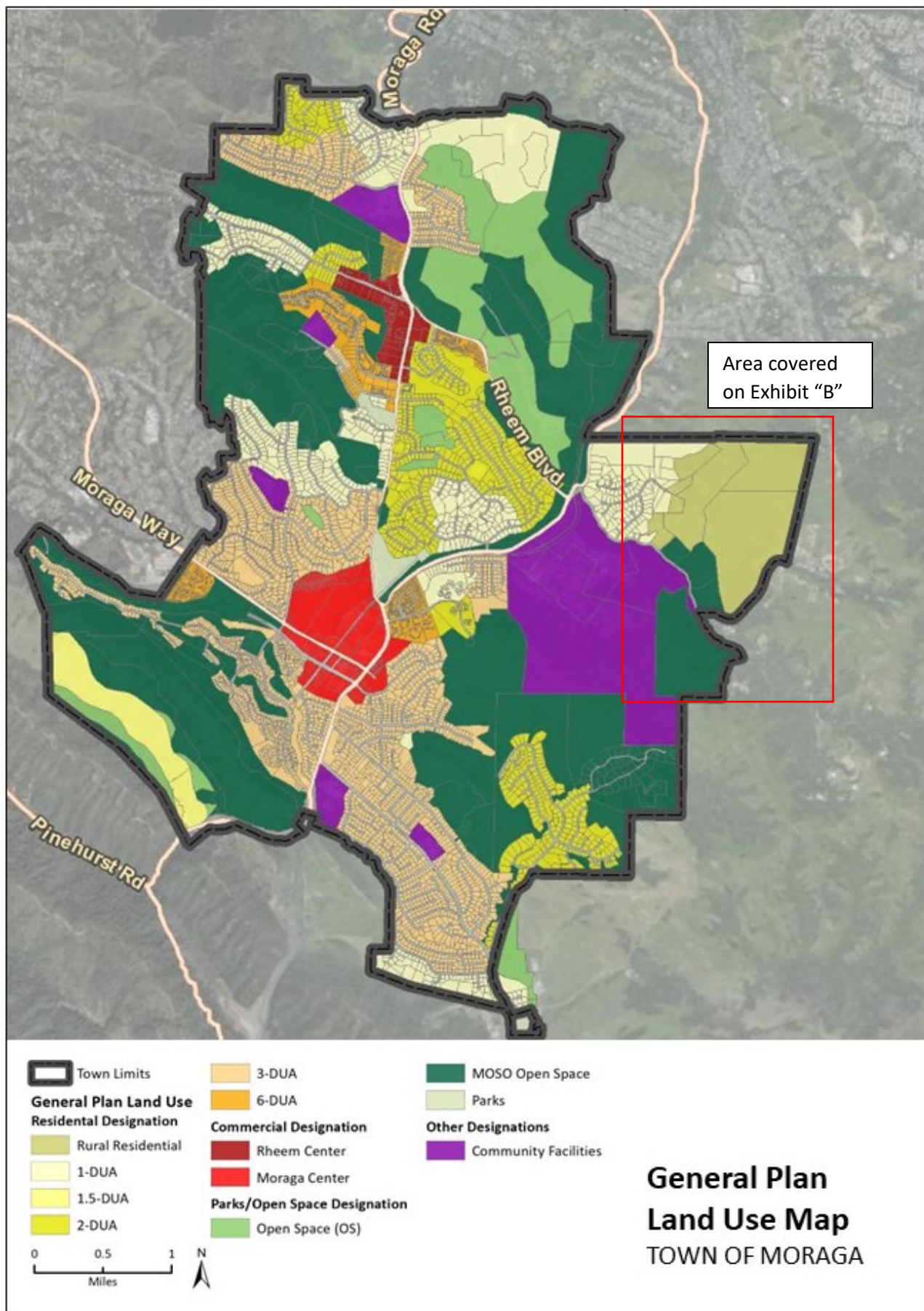


EXHIBIT 2-A

General Plan Text Amendments



Moraga General Plan

ADOPTED: June 4, 2002 (Resolution 21-2002)

AMENDED: January 27, 2010 (Resolution 15-2010)
June 22, 2011 (Resolution 26-2011)
September 10, 2014 (Resolution 70-2014)
January 28, 2015 (Resolution 07-2015)
April 11, 2018 (Resolution 21-2018)
January 25, 2023 (Resolution ##-2023)

[\[insert date of Bollinger amendments here\]](#)

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Note to the Reader

When it was initially adopted in 2002, the Moraga General Plan (Plan) culminated nearly three years of planning analysis and community discussion regarding Moraga's past, present and future, including more than a year of review and discussion in joint study sessions and public hearings with Moraga's Planning Commission and Town Council. The Plan is currently undergoing a two-phase update to reflect current conditions and move the planning horizon forward. At the conclusion of this process, much of the technical content will be updated. Many of the goals and policies will be retained, while others will be amended as needed to reflect new State laws (especially those related to housing) and emerging issues. The Town anticipates adopting the fully updated Plan in 2024.

The 2002 Plan was an update of the Town's 1990 General Plan and was intended to establish a framework for development decision making for the next twenty years. The Plan introduced new sections, including a summary of values and guiding principles, a Community Design Element, and an Action Plan. It included land use map changes and recommendations for specific plans, open space preservation and management strategies, and housing programs to meet the changing needs of Moraga residents.

The Plan has served the Town well and has helped to protect the quality of life in Moraga for the last two decades. The updated General Plan will respond to new challenges and look ahead to the Year 2040. The public is invited and encouraged to participate in this process.

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The contributions of the 2002 General Plan's original authors are acknowledged as follows:

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Strategic Economics, *fiscal analysis*
Farallon Geographics, Inc., *geographic information systems*
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Rob Brueck; EIR Manager

Acknowledgements for 2023 Plan Amendments

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1 INTRODUCTION

Purpose of the General Plan

A Statement of Community Values and a Shared Vision

The Moraga General Plan is a statement of community values and priorities. It describes the type of community we want to be in the future and sets forth goals, policies and action programs across a range of issue areas to help us achieve our aims. It also describes how the General Plan should be managed over time and identifies near-term priorities for putting the General Plan into action.

A Strategic, Pro-Active Planning Tool

The Moraga General Plan is a strategic tool for guiding the Town's physical development. It is based on a comprehensive understanding of the issues that we face and a clear sense of what we hope to accomplish. It has been developed with the extensive involvement of community members who have helped identify key planning issues; evaluate alternative planning strategies; and define the key policy directions to guide the Town successfully into the future.

A Guide for Land Use and Development Decisions

The General Plan guides the Town's long-term development by establishing the overall policy framework for development decision-making. As the Town faces tough development decisions, the Moraga General Plan will serve as a guide to ensure that each decision is made in the best interest of the Town's long-term future. It provides guidance for the preparation of specific plans, implementing ordinances, development policy statements, and ongoing planning activities.

The General Plan should be followed as closely as reason and justice make practical and possible. If a project is proposed that is considered inconsistent with the General Plan, then the project must be either modified or denied, or the General Plan must be amended.

A Balanced Approach

The goals, policies and action programs contained in the General Plan establish clear community priorities and development policies to ensure the protection of public health, safety and welfare and to further community goals while respecting the needs of individual property owners and businesses in the Town. The Plan does not take any land for

public purposes or place a cloud on the title to any property or require that any property be sold or dedicated to the public.

The General Plan also recognizes that many factors beyond the Town's control will have significant influence over future development activities. These include market forces that drive private development decisions, new requirements adopted by the State of California, and regional issues, as well as the land use and transportation decisions taken by other jurisdictions. The General Plan acknowledges and responds to these factors in its policies and action programs.

A Living Document and Action Plan

The Moraga General Plan has been written and designed to provide a user-friendly resource for Town staff and officials, property owners, developers, and residents. To ensure the Plan's usefulness and relevance over time, the Plan includes policies and programs regarding its ongoing management and coordination. Also, to ensure a close link between the long-term perspective of the Plan and near-term actions, the General Plan defines action programs across the full range of issue areas in a consolidated 'Action Plan' (Chapter 11) and identifies implementation priorities to respond to pressing issues and special planning needs (Appendix F). It is expected that the Action Plan and implementation priorities will be regularly reviewed and updated to monitor achievements and identify new implementation priorities.

A State Law Requirement

All local government jurisdictions in California are required to have a General Plan, and to keep it up to date. The previous Town of Moraga General Plan was adopted in 1990. The 2002 update brought the Plan into conformance with changes in State law and other legal requirements in effect at that time. The 2002 Plan has been amended over time to reflect changes in local issues and conditions; incorporate projections and assumptions regarding future growth; and respond to the issues, challenges and opportunities created by recent trends and developments.

A Plan In Transition

In 2021, the Town began a two-phase, four-year Comprehensive Advanced Planning Initiative to update the 2002 Plan. This edition of the General Plan represents an interim step on the path to an updated Plan. While the values, principles, and policies that form the foundation of the 2002 Plan are carried forward here, the Town has made important amendments required to comply with new State housing laws and address current issues. At this point, edits to the document are limited to those required for internal consistency, and those that reflect

planning and housing activities expected to occur in 2023-2031. An additional rewrite will occur in 2023-2024 as part of Phase Two.

Area Covered by the Plan

The Moraga General Plan provides a comprehensive, integrated and internally consistent statement of Moraga's development policies. It covers all lands located within the Town limits as well as the Town's Sphere of Influence area.

The Sphere of Influence is 'the probable ultimate physical boundaries and service area of a city or district as approved by the Local Agency Formation Commission of the County' (Government Code Section 56076). The Town Limits and Sphere of Influence area are illustrated in the General Plan Diagram (Appendix A).

The General Plan Diagram also identifies the Contra Costa County Urban Limit Line (ULL) in relation to the Town Boundary. County voters adopted the ULL in 1990 to preserve agricultural and open space uses in the County. The ULL was established based on a 65/35 Land Preservation Plan, which seeks to preserve at least 65 percent of all land in the County as agriculture, open space, wetlands, parks and other non-urban uses. Large-scale development is prohibited on lands outside the ULL under the County's General Plan. However, public facilities such as educational institutions are exempt from the ULL restrictions.

Because of Moraga's geographic location and limited roadway access, the Moraga General Plan is also concerned with issues that extend beyond its boundaries and Sphere of Influence. This larger area of interest is generally defined as including those lands that (a) can be seen from Moraga; (b) provide access to and from Moraga; (c) have their primary source of access through Moraga; (d) may contain uses that significantly affect the air, water or other environmental quality of Moraga; and/or (e) could create demands for public service from Moraga. While the Town does not have planning authority in the area beyond the Town boundaries, it shall seek to proactively participate in the planning process for these lands through coordination with other jurisdictions and agencies, including the cities of Orinda and Lafayette, Contra Costa County, East Bay Municipal Utilities District, East Bay Regional Park District, Central Contra Costa Solid Waste Authority, Moraga-Orinda Fire District, and the Contra Costa Transportation Authority.

Organization of the General Plan

The Moraga General Plan is written and designed for use by all members of the Moraga community: residents, businesses, property owners, developers, Town staff, and elected and appointed officials.

Following is a brief overview of the Plan's key structural components to help you understand how the Plan is organized.

Values and Guiding Principles (Chapter 2)

These community values and guiding principles—developed through the public participation process—serve as overarching goals for the Moraga General Plan and provide the basic foundation for its goals, policies and implementing programs.

Goals, Policies, and Implementing Programs (Chapters 3 – 10)

The main body of the General Plan consists of eight 'elements':

Chapter 3	Land Use
Chapter 4	Community Design
Chapter 5	Housing
Chapter 6	Circulation
Chapter 7	Open Space and Conservation
Chapter 8	Safety
Chapter 9	Community Facilities and Services
Chapter 10	Growth Management

The specific issues addressed in each element are listed in the Table of Contents. A list of how the Plan's elements relate to the State's mandated and optional element is provided in **Figure 1** (page 1-6).

Each 'element' presents goals, policies, and implementing programs that state the Plan's intent across a range of planning and development issues.

- A **Goal** is a general statement of values or aspirations held by the community in relation to each issue area. It is the end towards which the Town will direct its efforts.
- A **Policy** is a more precise expression regarding the community's position on a particular issue, or how a particular goal will be interpreted or implemented. Policies may include guidelines, standards, objectives, maps, diagrams, or a combination of these components.
- An **Implementing Program** is something that is done by the Town to put the goals and policies into practice. This might include ongoing programs sponsored by the Town (e.g., road maintenance); discrete, time-specific actions (e.g., adopt an ordinance); or further planning actions (e.g., develop a specific plan).

Action Plan (Chapter 11)

To provide an integrated approach to the Plan's implementation, the Moraga General Plan presents a consolidated 'Action Plan,' summarizing all of the implementing programs in the Plan, organized by type.

Appendices

The General Plan appendices include:

- **General Plan Diagram**—a map illustrating the land use designations for all areas within the Town and its Sphere of Influence.
- **Definitions**—a glossary of key terms.
- **Action Plan Summary**—identifying the schedule for implementation of each program (including near-term priorities), responsibilities and quantified objectives.

Mandated and Optional Elements

Under California law, cities are required to address seven issue areas or 'elements' in their general plans: land use, transportation, housing, safety, open space, conservation, and noise. The State allows considerable flexibility in how these elements are organized and encourages the inclusion of additional elements to ensure that plans are truly comprehensive and effective in addressing local issues. Recent changes to State law also require that cities and towns with disadvantaged communities, as defined by the State of California, include an environmental justice component in their General Plans. No disadvantaged communities have been identified in Moraga.

The Moraga General Plan includes the seven State-mandated elements as well as several optional elements (Community Design, Community Facilities and Services, and Growth Management), although it organizes them in a modified format. Figure 1 lists both the State-mandated and optional elements, indicating where they are covered in the General Plan document. Although Growth Management is listed as an optional element, it is mandatory for jurisdictions in Contra Costa County under Measure J, the half-cent sales tax for transportation improvements.

Figure 1

State Mandated Elements and Optional Elements in the Moraga General Plan

State-Mandated Elements	Moraga General Plan
Land Use Element	3: Land Use
Transportation Element	6: Circulation
Housing Element	5: Housing
Open Space Element	7: Open Space and Conservation
Conservation Element	7: Open Space and Conservation
Safety Element	8: Safety
Noise Element	7: Open Space and Conservation
'Optional' Elements	
Community Design Element	4: Community Design
Community Facilities and Services Element	9: Community Facilities and Services
Growth Management Element(*)	10: Growth Management

(*) Mandatory for Contra Costa County jurisdictions

How the Plan Was Developed

The original Moraga 2002 General Plan was the product of a three-year planning effort involving community residents, staff, and elected and appointed officials in a series of meetings and workshops to identify key issues; review current plan policies; review data on current conditions and trends; define values and guiding principles, explore alternative planning strategies, and establish key policy directions.

The update process was overseen by a General Plan Steering Committee (GPSC) to ensure broad community representation in the update process and to provide the community with a direct voice in the Plan's development. The 15-member GPSC included representatives from the Town Council, Planning Commission, Parks and Recreation Commission, Design Review Board, Moraga-Orinda Fire District, Moraga School District, Saint Mary's College, and Chamber of Commerce as well as a representative from the Town's major landowner and four citizens at large. A complete list of GPSC members and alternates is provided in the acknowledgements at the beginning of this document. The planning process began with the GPSC's first meeting in July 1999 and culminated with adoption of the Plan in June 2002.

GPSC members and Town staff also played key roles in supporting community outreach and involvement activities, which involved more than 1500 Moraga residents in the update process. These activities included:

- **Three Special Issues of the Town Crier Newsletter** sent to every Moraga household and business address at three points in the update process, providing a summary of key information, an overview of the update activities, and an invitation for community participation.
- **Community Questionnaire** included in the first special issue of the Town Crier to get community input on key planning issues, alternative planning strategies, and community priorities. More than 650 Moraga households responded to the questionnaire.
- **Moraga 2000 Displays and Activities at the Town Festival** in October 1999, celebrating Moraga's 25th Anniversary, provided an opportunity to disseminate information on the update and the existing conditions analysis, and to foster community discussion on key planning issues. More than 500 people visited the Moraga 2000 festival area.
- **Nineteen (19) Community Workshops** in February and March 2000 led by GPSC members and Town staff to facilitate community discussion and input on the planning alternatives. The community workshops involved more than 300 Moraga residents and business owners in the alternatives analysis process.
- **Town Meeting** on March 29, 2000 to culminate the alternatives analysis process and begin to outline a preferred alternative for the Draft Plan. The meeting was attended by nearly 60 Moraga residents, business owners, and other interested parties.

Members of the public were also invited to attend all of the GPSC meetings (nine meetings were held between July 1999 and April 2000) as well as a special 'Preferred Alternative Workshop' with the Town Council and Planning Commission on April 20, 2000. Subsequent 'study sessions' and public hearings were held in joint meetings with the Town Council and Planning Commission. These meetings were also noticed and open to the public.

The public was kept informed on the project's progress through the Town newsletter, coverage in the local media, and the Town's website, where all of the project documents have been posted (www.ci.moraga.ca.us).

A subsequent planning process known as the Comprehensive Advanced Planning Initiative was implemented in 2021-2023 as part of the Housing Element update and rezoning of the Bollinger Canyon Study Area. This included an additional community engagement process in which more than 1,000 residents participated. The process included real-time and on-line workshops, numerous Planning Commission and Town Council meetings, and a community-wide survey on housing, growth, and development issues. A summary of this process may be found in the 2023-2031 Housing Element.

Reviewing, Amending and Managing the Plan

To remain a viable and effective planning tool, the Moraga General Plan must be reviewed on an annual basis and modified over time in response to changing conditions, needs, and priorities. This section of the Plan establishes basic guidelines for reviewing the General Plan and considering potential amendments to its text and/or diagram.

Annual Review

The General Plan is the Town's most significant policy document and, therefore, must receive regular, annual appraisal to ensure that its policies are consistent with social and economic conditions, the needs and desires of Town residents, and the public welfare in general.

The Planning Commission shall report annually to the Town Council regarding the status of the General Plan and progress in implementing its action programs. As part of the annual review process, the Planning Commission shall hold at least one public hearing.

Amendments to the General Plan

Each year, the Town may consider amendments to the General Plan in response to findings of the annual review; changes in the planning context; or requests from property owners. In undertaking amendments to the General Plan, Town staff, Planning Commission, and Council shall follow the provisions set forth below:

Types of Amendments

Amendments to the General Plan may take the form of either text changes (revisions to the Plan's goals, policies, or actions) or map changes (revisions to the General Plan Diagram).

Consideration of Amendments

State law (Government Code Section 65358) allows the General Plan to be amended up to four times per year. This process typically requires initial policy direction from the Town Council, followed by at least one public hearing by the Planning Commission and a final hearing by the Town Council to act on the amendment request. Amendments may be requested by members of the general public, property owners, or by the Town itself.

Fees

Fees for amendment requests shall be as prescribed by resolution of the Town Council. The Town Council may waive the prescribed fees if an application is accompanied by a petition of not less than fifty (50) affected registered voters of the Town.

Environmental Review

Each application shall be accompanied by statements and data justifying the application, including an appropriate environmental assessment when necessary. Upon receipt of the application by the Planning Commission, the application shall be reviewed by staff and the Planning Commission, as necessary, to assure compliance with the Town's environmental review guidelines and the California Environmental Quality Act.

Evaluation Criteria

General Plan amendments affect the entire Town and General Plan area and any evaluation must give primary concern to the community as a whole. Therefore, a fundamental question must be asked in each case: *Will this amendment, if adopted, generally improve the quality of the environment socially, economically and physically consistent with the life-style of the community in general?*

Additionally, in reviewing General Plan amendments the Town shall consider the relationship of the proposal to the status quo, the additional costs to the community that might be anticipated (social, economic or environmental), and if and how levels of public and private service might be affected. In each case, in order to take affirmative action regarding the application, it must be found that:

- *The General Plan amendment will maintain a balanced and logical land use pattern;*
- *The General Plan amendment will generally improve the quality of the environment socially, economically and physically, and is consistent with the lifestyle of the community;*
- *The Town and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service.*

From time to time, the Town may also need to amend its Plan to reflect new State laws and requirements. State legislation affects not only the contents of the General Plan, but the amount of growth the Town must plan for and characteristics of that growth (including housing density).

Ongoing Public Participation in the Planning Process

The Town shall continue to promote citizen participation in the development, review and implementation of the General Plan and its goals, policies and programs. This shall include residents of the community as well as those regularly employed or conducting business in the community. To support meaningful and effective citizen participation, the Town shall also strive to provide timely, accurate and adequate information on conditions in the Town and planning issues, constraints, resources, opportunities, and strategy options.

Relation to Other Documents

There are a number of other planning regulations adopted by the Town and planning activities that are undertaken on a regular basis that will help implement the General Plan. The General Plan is the guiding document for all these regulations and activities. Following adoption of the General Plan, any regulations that are not consistent with the Plan will be amended to ensure consistency. Likewise, as new plans and regulations are adopted, the General Plan itself must be amended to maintain internal consistency across plans.

Zoning Ordinance

Government Code Section 65860 requires that the Town's Zoning Ordinance be consistent with its General Plan. Consistency means that the land uses authorized by the Zoning Ordinance, and the distribution of these permitted land uses, must serve to implement the goals and policies of the General Plan. The Zoning Ordinance and Zoning Map are parcel-specific regulations pertaining to how land may be used, and the specific conditions of use that the Town will impose, consistent with the overall policy framework of the General Plan and General Plan Diagram.

Subdivision Ordinance

Government Code Section 66410 et seq. requires that local jurisdictions regulate and control subdivision activity through adoption and use of a Subdivision Ordinance. The Town may not approve a proposed subdivision map unless the subdivision, including its design and proposed land uses, is consistent with the General Plan. Similar to the consistency requirements of the Zoning Ordinance, the proposed subdivision must be consistent with the goals, policies, and implementing actions included in the General Plan. This requirement applies to subdivisions for which parcel maps (minor subdivisions) are filed, as well as tentative and final maps.

Capital Improvement Programs

Government Code 65401 requires the Town Council to obtain from Town officials and staff, and from special districts operating within the Town limits, lists of all public works projects recommended for study, design, or construction during each ensuing year. In Moraga, the Town's capital improvement programs are set forth in the annual Town budget. The Town must ensure that the budget and its components are consistent with the General Plan.

California Environmental Quality Act (CEQA)

The purpose of CEQA is to inform *government decisionmakers and the public about the potential environmental effects of proposed activities* and to reduce those impacts to the extent feasible, CEQA Section 15080 requires that the environmental review process be “combined with the existing planning, review, and project approval process” used by the Town. Section 15125(b) requires environmental review to discuss any inconsistencies between a proposed project and the General Plan. Projects that conflict with the General Plan may be found to have a “significant adverse effect on the environment.” Future public and private projects, even if they are consistent with the General Plan, are still subject to environmental review requirements under CEQA. Projects found to have a significant environmental impact may be approved, but only with a Statement of Overriding Considerations explaining why the benefits outweigh the impacts.

Building Codes and Standards

State Housing Law (Health and Safety Code Sections 17910 et seq.) requires the Town to adopt regulations imposing substantially the same standards as those contained in the various uniform industry codes. State law also imposes special standards, which may be more stringent than the uniform industry codes (e.g., the Uniform Building Code), designed to protect against certain types of hazards (fire, noise, earthquakes, unstable soils) and to achieve certain resource management goals (such as energy conservation). The Town of Moraga may adopt regulations and standards that vary from those mandated by State law, if justified by local conditions. If such variance is appropriate, the General Plan can serve as the vehicle for documenting local conditions and specifying the necessary regulatory response.

General Plan Background Report and EIR

The Moraga General Plan is a policy document designed for ease of use and readability. To achieve this goal, the Plan’s technical documentation and environmental analysis have been compiled separately in companion documents to the General Plan.

General Plan Background Report

In the process of preparing the Moraga General Plan, various technical data were collected, analyzed, and summarized. Much of this information was presented in two key reports prepared during the planning process: the *Existing Conditions and Trends Report* (November 1999) and the *Alternatives Analysis Technical Report* (April 2000). Additional information was compiled and presented as needed to support the discussions of the General Plan Steering Committee.

The *General Plan Background Report* is a compilation of this technical information. It also provides documentation of the project's various outreach activities and input received from the public through those activities. The information it contains serves as the technical appendix of the General Plan as well as supplemental baseline data for the Draft EIR.

A complete update of the Background Report will occur as the Town updates its General Plan in 2023-2024.

Environmental Impact Report

State law requires preparation of an Environmental Impact Report (EIR) if "any aspect of the general plan element or amendment, either individually or cumulatively, leads to a significant effect on the environment, regardless of whether or not its total effect is adverse or beneficial...." (Title 14, California Administrative Code, Section 15080).

The initial Moraga 2002 General Plan was accompanied by a EIR, under separate cover, analyzing and documenting the updated General Plan's potential environmental impacts and, where applicable, associated mitigation measures (i.e., actions that can be taken to reduce or eliminate adverse impacts). It also addressed other State-mandated components of a Draft EIR for a General Plan. Following circulation of the Draft Moraga 2002 General Plan and Draft EIR, responses were prepared for the comments received. The Final EIR was certified prior to adoption of the final Moraga 2002 General Plan.

A separate EIR was prepared for the Comprehensive Advanced Planning Initiative in 2021-2023, including the Housing Element, associated zoning changes in Rheem Park and Moraga Center, Bollinger Canyon rezoning, and conforming amendments to the 2002 General Plan. This EIR considered the impacts of changes to the General Plan Land Use Map that were necessary to meet the Town's Regional Housing Needs Allocation for 2023-2031, as well as other policies and actions that will shape Moraga's future.

Moraga Center Specific Plan

In 2010, the Town adopted a Specific Plan for the 187-acre Moraga Center area. The Plan includes policies, guidelines, and standards that address land use, urban design, circulation, and public services. Land use designations and policies in the General Plan are consistent with the Specific Plan and help advance its vision of a revitalized town center with new housing, office, shopping, dining, and recreational opportunities.

Hillsides and Ridgelines General Plan Amendments

On April 11, 2018, the Town Council adopted General Plan amendments as part of the Hillsides and Ridgelines project. Among other things, these amendments clarify the Town's regulations that apply to hillsides and ridgelines, maintain consistency with the voter-approved Moraga Open Space Ordinance (MOSO) and ensure that new development maintains Moraga's unique semi-rural feel and scenic natural setting. The Hillsides and Ridgelines General Plan Amendments adopted by the Town Council on April 11, 2018 are as follows (collectively, the "Hillsides and Ridgelines Amendments"):

- New policies LU1.6 and LU1.7 were added to the Land Use Element regarding development densities and grading in High Risk MOSO land.
- A new Section CD8 was added to the Community Design Element regarding hillside areas and designated ridgeline. This section contains a new map (Figure CD-1) that shows the location of designated ridgelines.
- New policies OS1.6, OS1.7, and OS1.8 were added to the Open Space Element regarding development restrictions within proximity of designated ridgelines.
- The definitions of the following terms in Appendix D (Definitions) were revised: *Development, Centerline or Crest, Hillside Area, Predevelopment Slope, and Ridgelines*.

The following types of development projects are exempt from the Hillsides and Ridgelines Amendments:

1. Proposed development projects within the Moraga Center Specific Plan (MCSP) area, which shall be governed by the provisions of the MCSP, as may be amended from time to time, and any amendments to the Moraga General Plan adopted in conjunction with any amendment to the MCSP.
2. Subdivisions approved by the Town where a Final Map has been recorded for the subdivision prior to the effective date of the Hillsides and Ridgelines Amendments.
3. Pending development project applications with a published Draft EIR or IS/MND as of the effective date of the Hillsides and Ridgelines Amendments, provided no entitlements have been granted. Such pending development project applications shall be governed by the provisions of the Moraga General Plan and all other applicable policies, standards and regulations in effect prior to the adoption of the Hillsides and Ridgeline Amendments. Notwithstanding such exemption, once any pending development project application has been acted upon by the final reviewing body or is withdrawn by the applicant, this exemption shall no longer apply to any such application.

For any development project not specifically exempt from the Hillsides and Ridgelines Amendments, such amendments govern in accordance with and to the fullest extent permissible under law.



2 VALUES and GUIDING PRINCIPLES

The initial Moraga 2002 planning process focused on the core values that define Moraga as a community and, based on those values, defined a set of principles that guided the update effort. These community values and guiding principles are summarized below, and serve as overarching goals for the Moraga General Plan.

Environmental Preservation

We value our beautiful natural setting, including its open spaces, environmental resources, and natural recreation opportunities.

Guiding Principle 1: Preserve the Town's natural setting and environmental resources, including its undeveloped ridgelines and significant open space areas.

Community Design and Character

We value our attractive community environment and our semi-rural setting, and we take pride in our well-maintained homes, abundant landscaping, and high design standards.

We value our sense of community and the opportunities we have to get together, formally and informally.

Guiding Principle 2: Protect and enhance the character and quality of residential neighborhoods: The Town will maintain its predominantly single family, semi-rural character while creating opportunities for more diverse housing types in Moraga Center and Rheem Park.

Guiding Principle 3: Ensure that the design and quality of new development contributes to a positive community aesthetic and enhancement of the Town's scenic corridors, in keeping with Moraga's natural setting and high standards for good design.

Guiding Principle 4: Create a community 'focal point' in the vicinity of the Moraga Center shopping area and Moraga Commons.

Mobility

We value being able to get to and from work in other communities with relative ease.

We value having convenient and free parking in our commercial areas.

We value being able to get around town easily and being able to bike and walk safely between our homes, schools, and other places we need to go.

We value the potential benefits offered by technologies that allow us to both live and work in Moraga, either in home offices or small office spaces within the Town.

Guiding Principle 5: Strive to improve traffic levels of service within the Town and to improve the traffic conditions on Lamorinda roadways leading to Highway 24.

Guiding Principle 6: Facilitate bicycle and pedestrian circulation in the Town for transportation and recreational uses, and encourage alternatives to single-occupancy motor vehicles on roadways leading to Highway 24 and BART.

Guiding Principle 7: Encourage land uses, development patterns, and utilization of new communication and transportation technologies that may help reduce automobile trips and air pollution, ensuring that new wireless communication facilities are sited and designed to preserve the Town's unique visual character.

Shopping and Services

We value our local business community and the convenient shopping and services they provide as well as their ongoing civic and community involvement.

Guiding Principle 8: Work closely with local businesses to ensure a positive business environment in keeping with local needs and priorities.

Housing

We value having a variety of quality housing options available in our community so that our children, seniors, and local work force can continue to call Moraga home.

Guiding Principle 9: Encourage a mix of housing types to help meet the needs of different households and different levels of affordability.

Community Facilities and Services

We value our excellent schools, beautiful parks, library, youth activities, senior services, community events, and recreational opportunities.

We value Saint Mary's College as part of our community and are committed to maintaining a positive, collaborative relationship with its administration, faculty and students.

Guiding Principle 10: Provide high quality, cost-effective community facilities to meet the needs of all age groups and people of all abilities, within the means of the Town.

Guiding Principle 11: Work closely with the local school districts and Saint Mary's College to ensure coordination on issues of mutual concern and enhance the quality of life in Moraga.

Public Safety

We value living in a safe environment.

Guiding Principle 12: Protect public health and safety, taking into consideration both natural and man-made hazards and the increasing risks associated with climate change and population growth.

Community Decision-making

We value our tradition of citizen activism and volunteerism, where all citizens have a voice in decision-making.

We value having productive working relations with our neighbors to ensure effective solutions to local and regional issues.

We value our working relationships with landowners and developers.

Guiding Principle 13: Ensure ongoing, meaningful citizen participation in the Town's decision-making processes.

Guiding Principle 14: Work closely with adjacent jurisdictions and other relevant agencies to ensure coordination on issues of mutual concern.



3 LAND USE

LU1 Residential Areas

GOAL: A high quality residential environment.

LU1.1 Neighborhood Preservation. Protect existing residential neighborhoods from potential adverse impacts of new residential development and additions to existing structures.

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-C3 Design Review

LU1.2 Residential Densities. Restrict residential densities to the maximum allowable indicated on the General Plan Diagram and in the table below, except where precluded by density bonuses or other provisions of State law. The densities indicated are not guaranteed and are contingent upon a review of environmental constraints, the availability of public services and acceptable service levels, proper site planning and the provision of suitable open space and recreational areas consistent with the applicable goals and policies of the General Plan.

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

NOTE: 'DUA' = Dwelling Units per Acre

Designation	Density Range (units per acre) ¹
Residential - Rural	up to 0.2
Residential – 1 DUA	up to 1
Residential – 1.5 DUA	up to 1.5
Residential – 2 DUA	up to 2
Residential – 3 DUA	up to 3
Residential – 6 DUA	4 – 6
Residential – 10/12 DUA	7 – 12
Residential – 20/24 DUA ²	16 - 24
Open Space (MOSO and Non-MOSO) ³	0.05, 0.1 or 0.2 max ⁴

- LU1.3 Residential Building Height. Restrict residential building heights to limit visual impacts on adjacent properties and protect views. Residential buildings should not have more than one story or portion thereof directly over another story, inclusive of garages. Exceptions to this rule may be allowed in the specific plan areas.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-C3 Design Review

- LU1.4 Housing Types. Maintain the low-density, single-family character of residential areas designated for 3 units per acre or less, as shown on the General Plan Diagram.

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

- LU1.5 Development Densities in Open Space Lands. Notwithstanding any other provision of the General Plan, any development on lands depicted on the General Plan Diagram or by the Moraga Open Space Ordinance as "Public Open Space-Study" or "Private Open Space" (now designated as MOSO Open Space in the General Plan Diagram) shall be limited to a maximum density of one (1) dwelling unit per twenty (20), ten (10), or five (5) acres, but in no case shall density on such lands exceed one (1) dwelling unit per five (5) acres. Areas identified as "high risk" areas, as defined by

¹ Excludes density bonuses for affordable and senior housing, as required by State law

² 30 DUA for senior housing

³ 'Open space' may be developed at very low densities, subject to site-specific review and restrictions to protect ridgelines, steep slopes, and high-risk areas. See LU1.5.

⁴ Density within Open Space areas is to be determined by the Town at the time of an application.

the Moraga Open Space Ordinance, shall be limited to a maximum density of one (1) dwelling per twenty (20) acres.⁵

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

- LU1.6 Development Densities in High Risk MOSO Open Space Lands. After the Town makes a final determination in accordance with the MOSO Guidelines that an area in MOSO Open Space is classified as “high risk” as defined in the Moraga Open Space Ordinance, the area may not be changed from that classification as a result of any physical alteration of the area, including but not limited to any remediation of geologic hazards that may occur on the site in connection with a development project. After a final determination that an area in MOSO Open Space is classified as “high risk,” the maximum permitted density in the area shall be 1 unit per 20 acres and may not be reduced for any reason.
- LU1.7 Grading Allowed in High Risk MOSO Open Space Lands. Within areas in MOSO Open Space classified as high risk, provided the grading complies with all applicable Town regulations, the Town may allow grading to: accommodate development at 1 unit per 20 acres; reasonably accommodate development in other areas adjacent to the high risk area; and protect the community from geological hazards. Grading shall comply with all applicable Town regulations, including permit requirements, and may not be considered as a basis to change the “high risk” classification of the area to allow increased density for future development on the site.

⁵ Wording from Section 3.c of the Moraga Open Space Ordinance. MOSO Open Space is identified as Open Space Lands in the Moraga Open Space Ordinance.

- LU1.8 Minimum Lot Sizes and Percentage Mix for Single Family Developments. Use the following table to establish minimum lot sizes for single family developments. To the extent allowed by law, the permitted mix of lot sizes may differ from the percentages indicated, provided the aggregate number of lots proposed does not exceed 100 percent of Theoretical Residential Holding Capacity, as initially calculated. Developments in areas designated Residential – 6 DUA should refer to Policy LU1.9.

General Plan Designation	Minimum Lot Size	Lot Size Mix
MOSO Open Space	40,000 sq. ft.	NA
Non-MOSO Open Space	40,000 sq. ft.	NA
<u>Rural Residential</u>	<u>40,000 sq. ft.</u>	<u>See (e) below</u>
1 DUA	30,000 sq. ft.	45% min.
	20,000 sq. ft.	45% max.
	10,000 sq. ft.	10% max.
1.5 DUA/ 2 DUA	20,000 sq. ft.	45% min.
	15,000 sq. ft.	45% max.
	10,000 sq. ft.	10% max.
3 DUA	10,000 sq. ft.	NA

NOTE: 'DUA' = Dwelling Units per Acre

When applying the preceding table, apply following qualifications, if supported by environmental analysis:

- Additional Lots for TDRs and Density Bonuses.* Allow additional lots of 10,000 square feet or larger (beyond the percentages listed) to accommodate Transfer of Development Rights or Density Bonus.
- Variations in the Mix of Lot Sizes.* Allow, subject to approval of the Town Council, any percentage category listed in the Table to be increased by no more than 20 percent of the specific percentage listed *as long as the total allowable lots are not increased in the aggregate.* Allow the mix of lot sizes to vary by more than 20 percent for projects incorporating major outdoor recreational facilities, subject to the review and determination of the Planning Commission.
- Clustering on Smaller Lot Sizes.* In 2 DUA and 3 DUA categories, allow units to be clustered on lots less than 10,000 square feet, subject to Planning Commission review and approval, so long as the clustered units result in permanent open space areas, the design of the units is compatible with the adjacent residential neighborhood, and existing single family developments are not adversely impacted.
- Lot Size and Slope.* Generally, locate smaller lots on the more level sites and larger lots on the steeper slopes. Require larger lot sizes if

necessary to mitigate negative visual impacts and/or geologic hazards.

- e) *Lot Sizes in Open Space Areas.* Lot sizes in areas designated “Non-MOSO Open Space,” ~~or~~ “MOSO Open Space,” or Rural Residential on the General Plan Diagram may be less than 40,000 sq. ft., but not less than 15,000 sq. ft., when part of the overall project will provide outdoor recreational facilities with guaranteed permanent access to the general public. This policy may not be used to alter the density on lands designated MOSO Open Space or Rural Residential. Project-wide densities shall be no greater than one unit per 5 acres in all cases.

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-C3 Design Review

- LU1.9 Residential - 6 DUA Developments. The Residential - 6 DUA designation provides for developments that include a mix of housing types, including single family zero lot line, attached, duplex, triplex, fourplex, and townhome units. It is also used to acknowledge existing areas of multi-family and “missing middle” housing, which are an essential part of the Town’s housing supply. Projects with recreational amenities are also appropriate in this designation
- LU1.10 Slope Restrictions. The soil characteristics in Moraga are prone to landslide conditions which can cause damage to property, injury to persons, public cost and inconvenience; therefore, development shall be avoided on slopes of 20 percent or steeper, but may be permitted if supported by site-specific analysis. No new residential structures may be placed on after-graded average slopes of 25 percent or steeper within the development area, except that this provision shall not apply to new residential structures on existing lots that were either legally created after March 1, 1951 or specifically approved by the Town Council after April 15, 2002. All new non-MOSO and Rural Residential lots shall contain an appropriate development area with an average after-graded slope of less than 25%. Grading on any non-MOSO or Rural Residential land with an average predevelopment slope of 25% or more within the proposed development area shall be prohibited unless formally approved by the Town Council where it can be supported by site-specific analysis and shown that a minimum amount of grading is proposed in the spirit of and not incompatible with all other policies of the General Plan.

Under the terms of the Moraga Open Space Ordinance, development is prohibited on slopes greater than 20 percent in areas designated MOSO Open Space. The Zoning Ordinance, Chapter 8.52 (Open Space District) of the Moraga Municipal Code, defines the methodology for MOSO Open Space designation.

Implementing Programs:

IP-B1 *Zoning and Subdivision Ordinances*
IP-B7 *High Risk Areas Zoning Overlay*
IP-B8 *Moderate Risk Areas Zoning Overlay*
IP-B9 *Hillside Zoning Overlay*
IP-C1 *Development Review*

- LU1.11 Cluster Housing to Protect Open Space. Provide for the permanent preservation of open space by allowing clustered housing designs in areas designated MOSO Open Space, Non-MOSO Open Space, or Residential (including Rural Residential) on the General Plan Diagram. However, minimize do not place cluster housing in locations that are visually prominent from scenic corridors or where it would adversely impact existing residential areas.

Implementing Programs:

IP-A1 *General Plan Diagram*
IP-B1 *Zoning and Subdivision Ordinances*
IP-C1 *Development Review*
IP-C3 *Design Review*

- LU1.12 Planned District Zoning. Apply Planned District zoning for all new residential development on parcels in excess of ten (10) acres. Parcels in MOSO Open Space areas, the Moraga Center Specific Plan Area, and Rheem Park shall be exempt from this requirement. The Planning Commission may, at its option and with the exceptions listed above, require any residential development to be processed by Planned District when issues relating to access, visual impact, geologic hazards, environmental sensitivity, community design and other related factors are deemed to be significant.

Implementing Programs:

IP-B1 *Zoning and Subdivision Ordinances*
IP-C1 *Development Review*
IP-C6 *Environmental Impact Reports*

- LU1.13 Animal Ownership and Maintenance. Recognizing animal ownership and maintenance on residential land as a privilege, control it in a manner consistent with surrounding land use and the well being of the animals. When appropriate and possible, the density and design of subdivisions in

selected locations may provide for the keeping of horses, bees, and small farm animals, as specified in the Municipal Code.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

- LU1.14 Residual Parcels as Open Space. Except in MOSO Open Space and Rural Residential designated areas, residual parcels characterized by constraints such as geologic hazards, restricted access, an established riparian habitat, an historically significant feature or visibility from a scenic corridor shall be designated Non-MOSO Open Space. Residual parcels within designated MOSO Open Space shall remain designated MOSO Open Space as required by the Moraga Open Space Ordinance.

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

- LU1.15 Development on Residual Parcels. Permit the development of residual parcels only when it is found that such development will: 1) not have an adverse visual impact and is compatible with existing development; 2) provide properly sited open space; 3) generally provide for lots that are larger than the average lot size of adjacent subdivisions with setbacks from property lines greater than those in adjacent subdivisions; and 4) respect the natural features and development patterns of surrounding areas.

Implementing Programs:

IP-C1 Development Review

IP-C3 Design Review

- LU1.16 Development in Bollinger Canyon. Apply a mix of Non-MOSO Open Space, Rural Residential, and Residential 1DUA zoning in the area formerly known as the Bollinger Canyon Special Study Area. Residential 1DUA shall apply to previously subdivided parcels where it reflects existing land use and density. Non-MOSO Open Space shall be applied to agricultural and ranchlands where long-term open space protection is envisioned. Other areas in Bollinger Canyon shall be designated Rural Residential, with a density of one dwelling per five acres. The allowable number of units on a given parcel or group of parcels under common ownership may be clustered, as described in Policies LU-1.8 and LU-

1.12. Site plans shall be based on studies provided by property owners demonstrating that natural resources will be protected and hazards will be mitigated to the greatest extent feasible. Development shall meet all applicable access and fire safety standards.

Implementing Programs:
IP-C1 Development Review

LU2 Commercial Areas

GOAL: A commercial environment that is compatible with Moraga's predominantly residential character.

- LU2.1 Commercial Building Height. Restrict heights for office and commercial structures to minimize visual impacts on adjacent properties and protect views. Outside of mixed use districts, office and commercial structures shall be limited to two stories or 35 feet, whichever is less, unless such height is found to create a significant adverse impact on neighboring residential properties or on scenic corridors, and in such cases, the maximum height shall be lowered. In mixed use districts, the height limit is 45 feet for new development.

Implementing Programs:
IP-B1 Zoning and Subdivision Ordinances
IP-C1 Development Review
IP-C3 Design Review

- LU2.2 New Commercial Uses. Encourage new business and office uses that enhance existing uses, respond to local resident and business needs, employ local residents, generate revenue, and strengthen the character and attractiveness of the Town's commercial centers.

Implementing Programs:
IP-C1 Development Review
IP-K1 Moraga Center / Rheem Park Area Plans

- LU2.3 Location of New Commercial Development. Locate new commercial developments in the vicinity of existing commercial areas (as designated on the General Plan Diagram and in the Moraga Center and Rheem Park Areas), with appropriate review and evaluation of potential traffic impacts to plan for adequate street capacity.

Implementing Programs:
IP-A1 General Plan Diagram

IP-C1 Development Review
IP-C5 Traffic Impact Studies
IP-K1 Moraga Center / Rheem Park Area Plans

- LU2.4 Phased Development. Require that office and commercial areas be master-planned when development on a phased basis is proposed.

Implementing Programs:
IP-C1 Development Review
IP-K1 Moraga Center / Rheem Park Area Plans

- LU2.5 Traffic Access and Impacts. Design commercial ingress and egress in a way that minimizes traffic impacts.

Implementing Programs:
IP-C1 Development Review
IP-C5 Traffic Impact Studies
IP-K1 Moraga Center / Rheem Park Area Plans

- LU2.6 Buffering from Adjacent Uses. Properly buffer commercial uses from adjacent noncommercial uses.

Implementing Programs:
IP-C1 Development Review
IP-K1 Moraga Center / Rheem Park Area Plans

- LU2.7 Automobile Service Uses. Locate automobile service and related uses only in areas where compatible with adjacent uses, and ensure that any needed outside areas are properly screened from view. Properly mitigate noise, light, glare and other adverse impacts.

Implementing Programs:
IP-C1 Development Review
IP-K1 Moraga Center / Rheem Park Area Plans

- LU2.8 Home-Based Occupations. Allow Moraga residents to operate home-based businesses, provided that adverse impacts on adjacent residences (such as increased traffic, noise, exterior signage, or other nuisances) are not created.

Implementing Programs:
IP-B1 Zoning and Subdivision Ordinances
IP-C1 Development Review

LU3 Community Focal Points

GOAL: Vibrant, attractive, and functional community focal points in and around the Moraga Center and Rheem Park shopping centers that enhance community character and livability, foster a healthy business environment, and create new housing opportunities.

LU3.1 Moraga Center Specific Plan. Implement the Moraga Center Specific Plan and coordinate as appropriate with the planning for the Rheem Park Area.

Implementing Programs:

IP-K1 Moraga Center / Rheem Park Area Plans

LU3.2 Rheem Park Area Planning. Undertake future planning processes for the Rheem Park area to identify public realm improvements, infrastructure and circulation changes, and other modifications that reinforce the area's role as a mixed use district and focal point. Address the following issues through the planning process:

- a) *Vision.* Define a long-term vision for the area's development and redevelopment as a community focal point and activity center, defining specifically the area's role within the larger structure of the Town and its relation to the Moraga Center Specific Plan Area.
- b) *Public Realm.* Establish design and streetscape plans that support private investment, create civic gathering places, and create a more attractive and walkable environment.
- c) *Infrastructure.* Identify the water, sewer, storm drainage, street lighting, and dry utility needs to support the level of development envisioned by the 2023-2031 Moraga Housing Element.
- d) *Traffic Access, Circulation and Parking.* Address traffic access and circulation issues and provide adequate parking to meet current and projected needs, located and designed consistent with the area's pedestrian orientation.
- e) *Pedestrian and Bicycle Circulation.* Create an environment that encourages walking and biking, with appropriate amenities and connections to adjacent residential neighborhoods. Consider providing some flexibility in parking standards in return for effective strategies and amenities that promote the use of alternative transportation modes.

- f) *Transit.* Provide a comfortable and attractive central transit stop with park and ride facilities, passenger amenities, and pedestrian/bicycle connections to residential areas.

Implementing Programs:

IP-K1 Moraga Center / Rheem Park Area Plans

- LU3.3 Residential Densities in Moraga Center and Rheem Park. Allow base densities of up to 24 units per acre in the Moraga Center and Rheem Park areas, and 30 units per acre for senior housing in these two areas. These densities exclude bonuses that may be awarded for projects including affordable units, as required by State law. All future mixed use and residential projects in the Moraga Center and Rheem Park areas shall meet objective design standards to be adopted as part of the Moraga Municipal Code. On all sites where the maximum density of 24 units per acre is permitted, a minimum density of 12 units per acre also shall apply.

Implementing Programs:

IP-K1 Moraga Center / Rheem Park Area Plans

LU4 Institutional Uses

GOAL: Promotion and preservation of public and private institutional uses that serve the public interest and enhance the quality of life in Moraga, including Saint Mary's College, churches, and public and private schools.

- LU4.1 Institutional Building Heights. Apply building height standards in areas designated "Community Facilities" on the General Plan Diagram in accordance with approved master plans, Specific Plans, or the zoning district within which the structure is located.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-K1 Moraga Center / Rheem Park Area Plans

- LU4.2 Off-Street Parking and Circulation. Require adequate off-street parking and circulation for all institutional facilities.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

- IP-C1 Development Review*
- LU4.3 Community Access. Locate institutional uses so that they have easy access to and from the community, with direct access to major arterials.
- Implementing Programs:*
IP-C1 Development Review
- LU4.4 Access for People with Disabilities. Design institutional uses to facilitate access by people with disabilities.
- Implementing Programs:*
IP-C1 Development Review
IP-C3 Design Review
- LU4.5 Facility Siting. Site institutional facilities so that they complement the natural environment and so that they will not intrude upon areas of adjacent land uses.
- Implementing Programs:*
IP-C1 Development Review
- LU4.6 Public Safety Facility Compatibility. Ensure that uses and buildings located in the vicinity of public safety facilities and training operations are compatible by design and siting.
- Implementing Programs:*
IP-C1 Development Review
IP-C2 Development Review for Emergency Services
- LU4.7 Saint Mary's College. Continue the 'good neighbor' relationship between the Town and the College to maintain the College's viability as an integral part of the Town and enhance Moraga's image as a "college town." Work with the College on opportunities for new affordable housing in the Rheem Park area.
- Implementing Programs:*
IP-L10 Coordination with Saint Mary's College

LU5 Agriculture

GOAL: Promotion and preservation of Moraga's remaining agricultural resources as an important part of the Town's heritage and character.

- LU5.1 Agricultural Uses and Activities. Allow agricultural and horticultural uses and activities on lands within the Town so long as they are low intensity and compatible with adjacent uses. Examples include small orchards and cattle grazing.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

- LU5.2 Preservation of Agricultural Resources. Strive to preserve the Town's remaining agricultural resources, such as pear and walnut orchards, where preservation would not conflict with the designation of a property as a Housing Opportunity Site.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-K1 Moraga Center / Rheem Park Area Plans

LU6—Bollinger Canyon Special Study Area

~~GOAL: Consideration of development of this area is subject to completion of a detailed study and preparation of an area plan by the property owner for the Town's review and approval to guide development and conservation efforts in the Bollinger Canyon area.~~

~~LU6.1—Bollinger Canyon Study Area. Due to the special character of the Bollinger Canyon area, its unique development issues, and its status as one of the few remaining areas of development potential in the Town, the Bollinger Canyon Area will be the subject of a 'special study' conducted by area property owners to document the site's opportunities and constraints and define a conceptual plan of development consistent with the goals and policies of the Town's General Plan. This study will focus on that area identified on the General Plan Diagram as 'Study Area'. The Action Plan may include:~~

- ~~• An 'Opportunities and Constraints' Analysis.~~
- ~~• A Conceptual Development and Conservation Plan~~
- ~~• A General Plan Amendment to Implement the Conceptual Development and Conservation Plan in Town Policies~~

~~———— Implementing Program:
IP-K7—Bollinger Canyon Special Study~~

General Plan Land Use Map

The Moraga General Plan Land Use Map may be found in Appendix A, which is adopted by reference as part of this General Plan. In addition to the Map, Appendix A includes definitions of the Town's land use categories. These categories provide the framework for the Town's zoning regulations, including the zoning map.



4 COMMUNITY DESIGN

CD1 Natural Setting

GOAL: Protection and preservation of the natural scenic qualities that make Moraga unique.

- CD1.1 Location of New Development. To the extent possible, concentrate new development in areas that are least sensitive in terms of environmental and visual resources, including:
- a) Areas of flat or gently sloping topography outside of flood plain or natural drainage areas.
 - b) The Moraga Center area and Rheem Park area.
 - c) Infill parcels in areas of existing development.

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-B2 Moraga Open Space Ordinance

- CD1.2 Site Planning, Building Design and Landscaping. Retain natural topographic features and scenic qualities through sensitive site planning, architectural design and landscaping. Design buildings and other improvements to retain a low visual profile and provide dense landscaping to blend structures with the natural setting.

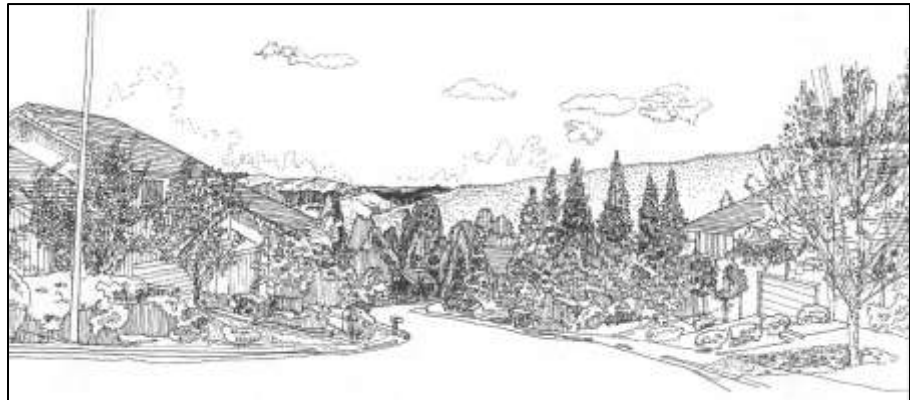
Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-C3 Design Review

IP-E1 thru E4 Design Guidelines



Development should follow natural contours, with low-profile buildings and landscaping to enhance the natural setting.



Subdivision design should retain natural topographic features.

- CD1.3 View Protection. Protect important elements of the natural setting to maintain the Town's semi-rural character. Give particular attention to viewsheds along the Town's scenic corridors, protecting ridgelines, hillside areas, mature native tree groupings, and other significant natural features. Consideration should be given to views both from within the Town and from adjacent jurisdictions. Likewise, the Town should work with adjacent jurisdictions to protect views from Moraga to adjacent areas.

Implementing Programs:

IP-B2 Moraga Open Space Ordinance

IP-C1 Development Review

IP-C3 Design Review

IP-E1 Scenic Corridor Design Guidelines

- CD1.4 Canyon and Valley Areas. Protect the scenic and environmental qualities of canyon and valley areas to retain the Town's semi-rural character. Preserve both close-up and distant views of the natural hillside landscape from valley areas, and preserve significant linear open spaces in major canyons and grassland valleys with floodplain zones as the visual focus.

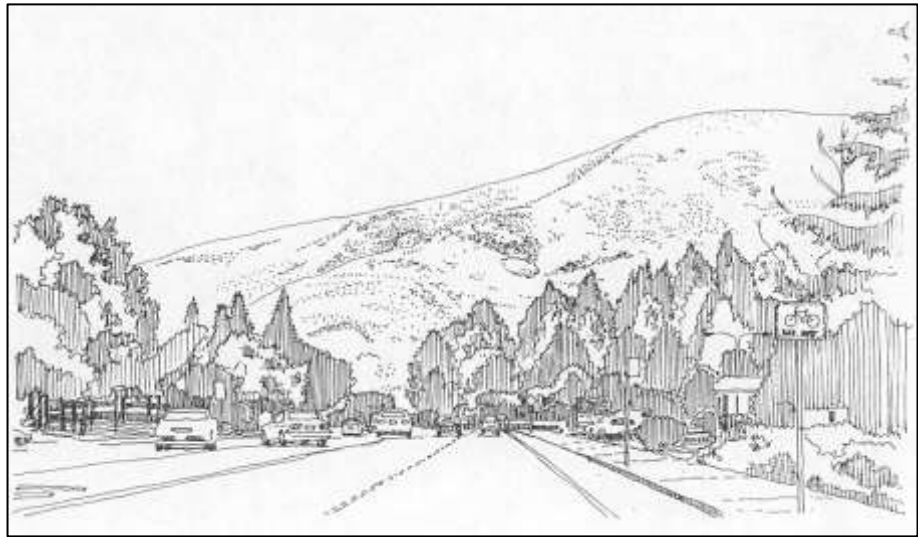
Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-C3 Design Review

IP-E1 thru E4 Design Guidelines



Viewsheds such as this one on Moraga Road contribute to the Town's semi-rural character and should be protected.

- CD1.5** **Ridgelines and Hillside Areas.** Protect ridgelines from development. In hillside areas, require new developments to conform to the site's natural setting, retaining the character of existing landforms preserving significant native vegetation and with respect to ridgelines, encourage location of building sites so that visual impacts are minimized. When grading land with an average slope of 20% or more, require 'natural contour' grading to minimize soil displacement and use of retainer walls. Design buildings and other improvements in accordance with the natural setting, maintaining a low profile and providing dense native landscaping to blend hillside structures with the natural setting.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-B2 Moraga Open Space Ordinance

IP-C1 Development Review

IP-C3 Design Review

IP-E1 thru E3 Design Guidelines

- CD1.6** **Vegetation.** Emphasize and complement existing mature tree groupings by planting additional trees of similar species at Town entries, along major street corridors, in and around commercial centers, in areas of new development, and along drainageways. Encourage the use of native, fire-resistive, and drought-tolerant species.

*Implementing Programs:**IP-C1 Development Review**IP-C3 Design Review**IP-E1 Scenic Corridor Design Guidelines**IP-G5 Beautification Program**IP-G6 Tree Planting Program*

- CD1.7 Wireless Communications Facilities. Regulate the location and design of wireless communications facilities, satellite dishes and other miscellaneous antennas in accordance with the Town's Ordinance No. 176 and the Federal Communications Act.

*Implementing Programs:**IP-C1 Development Review**IP-C3 Design Review*

Enhance scenic corridors with additional tree plantings (emphasizing native and drought-tolerant species) and through conversion of overhead utility lines to underground utilities.

- CD1.8 Utility Lines. Whenever and wherever possible, convert overhead utility lines to underground and require underground utilities in areas of new development.

*Implementing Programs:**IP-L9 Underground Utilities Program*

CD2 Public Places

GOAL: A network of accessible and prominent public places with clear visual and circulation connections between them.

CD2.1 Public Places as Focal Points. Provide and maintain public parks and facilities that serve as community focal points, gathering places, and activity centers, with pedestrian and bicycle path connections to residential neighborhoods and commercial centers. Provide public views and inviting pedestrian entries into public places from adjacent streets and neighborhoods.

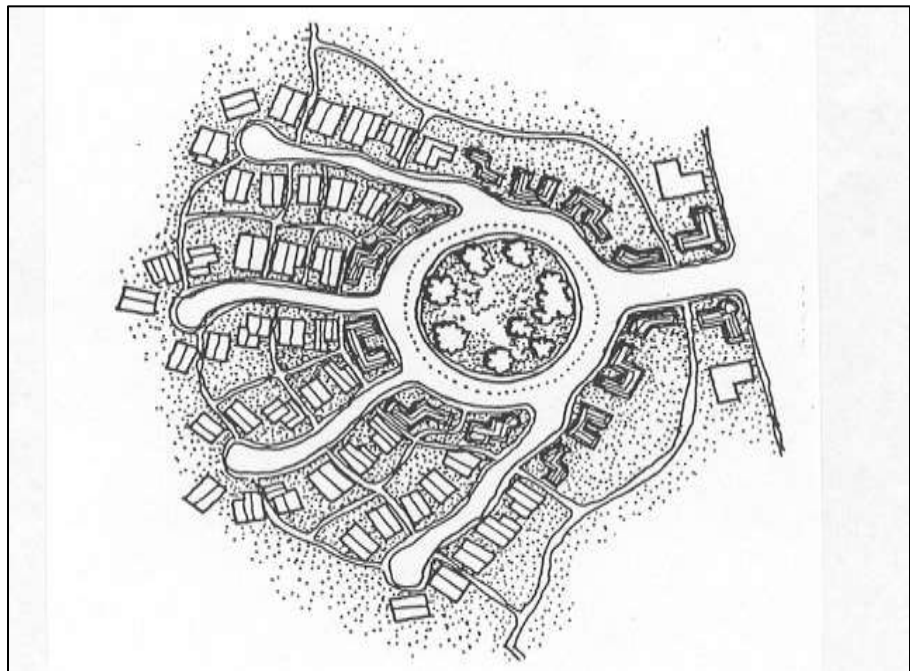
Implementing Programs:

IP-A1 General Plan Diagram

IP-C3 Design Guidelines

IP-K1 Moraga Center / Rheem Park Area Plans

IP-K2 Pedestrian, Bicycle and Trails Master Plan



Preservation of natural features, such as the small hilltop area in this example, can enhance neighborhood quality by providing neighborhood open space areas or small neighborhood parks.

- CD2.2 Town Center Facility. Promote development of the potential Town Center facility as a central community-gathering place and activity center, utilizing the Specific Plan process to ensure the facility has both visual and physical access from adjacent roadways and public areas.

Implementing Programs:

IP-K1 Moraga Center / Rheem Park Area Plans

- CD2.3 Commercial Centers as Community Places. Encourage design improvements at the Moraga Center and Rheem Park centers to create a stronger pedestrian orientation and support their role as community gathering spots and activity centers. Incorporate amenities such as plaza spaces, outdoor seating, shade, and landscaping to promote their use as social spaces. Consider the use of flexible setbacks (for example, with new buildings at or near the public sidewalk and parking located to the side or rear) to achieve pedestrian-oriented design goals.

Implementing Programs:

IP-K1 Moraga Center / Rheem Park Area Plans

- CD2.4 Schools, Schoolyards and Playfields as Neighborhood Places. Work with the school districts to enhance the function of schools, schoolyards and playfields as neighborhood gathering places and activity centers during after-school hours and on weekends, addressing design, access, use, safety, management and maintenance issues.

Implementing Programs:

IP-L11 Coordination with Moraga School Districts

- CD2.5 Connections. Designate pedestrian and bicycle routes that connect selected public places with each other and with residential neighborhoods, schools, and commercial centers.

Implementing Programs:

IP-K2 Pedestrian, Bicycle and Trails Master Plan

CD3 Scenic Corridors

GOAL: Scenic roadways leading into and through the Town that strengthen community identity and reflect Moraga's semi-rural character.

CD3.1 Designation of Scenic Corridors. Designate the following routes as the Town's 'Scenic Corridors':

- a) St. Mary's Road
- b) Canyon Road
- c) Moraga Way
- d) Moraga Road
- e) Rheem Boulevard
- f) Camino Pablo
- g) Bollinger Canyon Road

Implementing Programs:

IP-A1 General Plan Diagram

CD3.2 Visual Character. Improve the visual character along Scenic Corridors with lighting, landscaping and signage.

Implementing Programs:

IP-E1 Scenic Corridor Design Guidelines

IP-G5 Beautification Program

CD3.3 Gateways. Create prominent 'gateways' at Town entrance points with landscaping and signage improvements.

Implementing Programs:

IP-E1 Scenic Corridor Design Guidelines

IP-G5 Beautification Program

CD3.4 Moraga Road. Improve the design quality and consistency of Moraga Road as the Town's primary boulevard linking the two major commercial centers.

Implementing Programs:

IP-E1 Scenic Corridor Design Guidelines

IP-K1 Moraga Center / Rheem Park Area Plans

IP-G5 Beautification Program

CD3.5 Landscaping and Amenities. Use additional street tree planting, berms, fencing and ornamental landscaping to enhance the visual continuity along the Town's Scenic Corridors. Require appropriate landscaping for both public and private developments located on designated Scenic Corridors, including pedestrian lighting and street trees within existing commercial areas. Encourage use of native

and drought-tolerant species and, where applicable, preservation of orchard trees.

Implementing Programs:

IP-C3 Design Review

IP-E1 Scenic Corridor Design Guidelines

IP-G5 Beautification Program

IP-G6 Tree Planting Program

- CD3.6 Development Standards and Design Guidelines. Adopt development standards and design guidelines for Scenic Corridors to control site design and setbacks, landscaping, infrastructure locations, grading and signage. Ensure that standards and guidelines for properties in the Moraga Center and Rheem Park areas are appropriate and support the goals for these areas.

Implementing Programs:

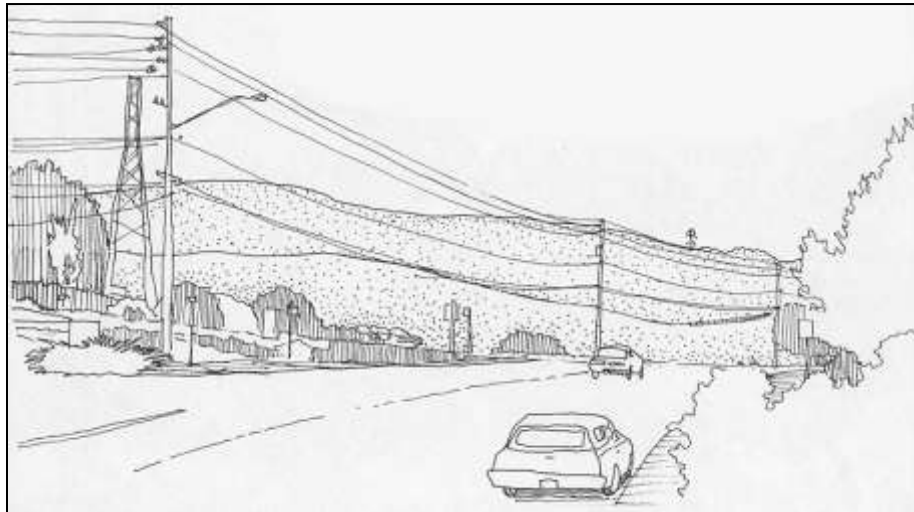
IP-B1 Zoning and Subdivision Ordinances

IP-E1 Scenic Corridor Design Guidelines

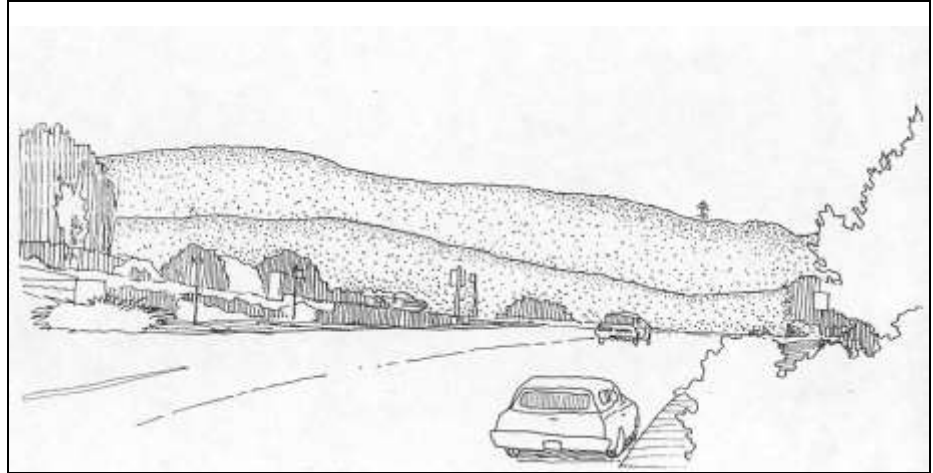
- CD3.7 Underground Utilities in Scenic Corridors. Convert all overhead wiring in scenic corridor areas to underground as soon as possible.

Implementing Programs:

IP-L9 Underground Utilities Program



TODAY – Moraga Road at Via Granada



FUTURE – Moraga Road at Via Granada

A typical roadway segment as it appears today and as it might appear after implementation of policies to place utilities underground, screen parking areas with shrubs and trees, and protect ridge views.

CD4 Single Family Neighborhoods

GOAL: High quality residential neighborhoods that preserve their existing scale, character and quality and provide an inviting pedestrian environment to promote walking and biking between neighborhoods.

- CD4.1** Property Development Standards. Maintain and enforce existing property development standards for the Town's single-family residential neighborhoods.

Implementing Programs:

IP-C1 Development Review

- CD4.2** Neighborhood Character and Improvements. Work with individual neighborhoods to define their architectural and landscape character and identify improvements to strengthen and enhance that character. Examples of potential improvements include tree planting, sidewalks, bike paths and landscaping.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-E2 Residential Design Guidelines

IP-G5 Beautification Program

IP-G6 Tree Planting Program

CD4.3 **Infill Development.** Ensure that new residential development in existing neighborhoods reflects the size, scale, height, setbacks, and character of existing development. While new homes, home additions, and remodels should be allowed, they should not create adverse impacts on adjacent properties or detract from overall neighborhood character. All projects should be subject to review by staff and consistent with objective design and development standards, where such standards have been adopted.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

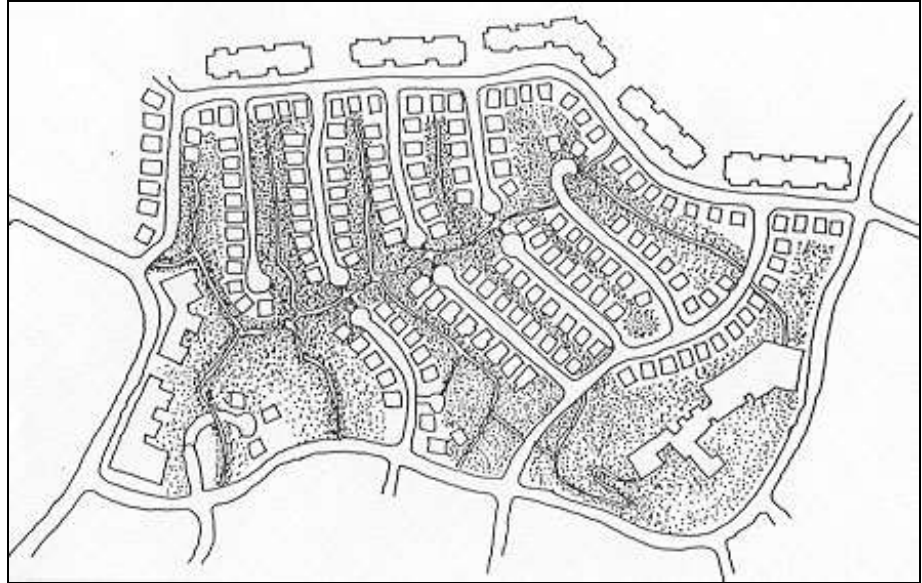
IPC3 Design Review

IP-E2 Residential Design Guidelines

IP-G5 Beautification Program



New housing should be consistent with the scale and character of existing neighborhoods.



Residential developments should provide high quality pedestrian environments with connections to adjacent neighborhoods and, where feasible, commercial areas.

- CD4.4** **New Residential Developments.** Design new single family developments to create high quality pedestrian environments with pathways to adjacent neighborhoods and, where feasible, commercial areas. Ensure that the layout of new residential lots respects the site topography and natural features. Where feasible, avoid standard repetitive lot sizes and shapes in hillside areas.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IPC3 Design Review

IP-E2 Residential Design Guidelines

CD5 Multi-Family Residential Developments

GOAL: Multi-family developments that are centrally located, well designed, and appropriate to Moraga's context and character.

- CD5.1 Location. Locate new multi-family developments in close proximity to commercial centers, transit stops, and community facilities such as parks and schools, with site design and landscaping to create buffers between adjacent uses while providing connection to pedestrian and bicycle paths.

Implementing Programs:

IP-A1 General Plan Diagram

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Design Review

IP-E3 Multi-Family Residential Design Guidelines

- CD5.2 Design. Adopt standards so that new multi-family developments are planned, designed and constructed to enhance the local area, reflecting the scale and quality of their surroundings. Encourage designs that help to break up large building masses, for example by breaking one large building into several smaller buildings; providing variations in rooflines; creating a three-dimensional façade rather than a massive, flat façade; and using landscaping to soften building edges. Architectural styles and materials should reflect the character of walkable, pedestrian-oriented residential neighborhoods, with landscaping to enhance the natural setting.

Implementing Programs:

IP-C1 Development Review

IP-C3 Design Review

IP-E3 Multi-Family Residential Design Guidelines

- CD5.3 Open Space. Require usable private and common open space in all new multi-family residential development.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C3 Design Review

IP-E3 Multi-Family Residential Design Guidelines

- CD5.4 Pedestrian Amenities. Design new multi-family developments to create high quality pedestrian environments, with connections to the Town's pedestrian path and trail system.

*Implementing Programs:**IP-C3 Design Review**IP-E3 Multi-Family Residential Design Guidelines**IP-K2 Pedestrian, Bicycle and Trails Master Plan*

The design of multi-family residential developments should reflect the scale and character of nearby residential developments. Through proper site and architectural design, high-density developments can look and feel less dense than they actually are and help create a positive, pedestrian-friendly neighborhood environment.

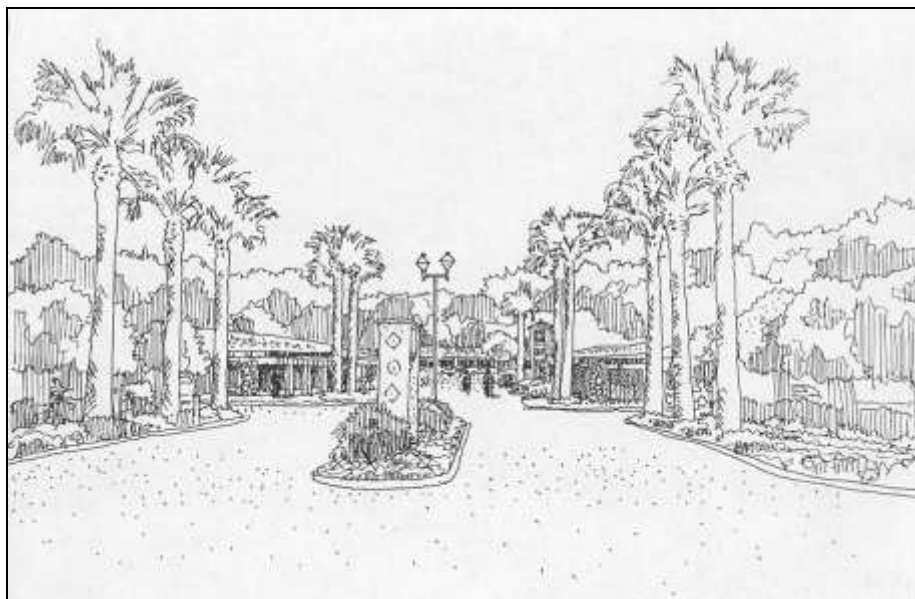


CD6 Commercial and Mixed Use Areas

GOAL: High quality commercial and mixed use districts that serve as important community focal points, gathering places, living places, and activity centers.

- CD6.1** Design Quality. Improve the design quality of the Town's commercial centers, creating an attractive and inviting environment for shopping and socializing and enhancing their function as community focal points and mixed use neighborhoods. Enhancements might include more landscaping; configuration of parking areas to incorporate more landscaping and create better pedestrian connections and entrances; architectural improvements to create visual focal points; a preference for housing above active ground floor commercial uses; creation of pedestrian walkways, plazas and seating areas; and signage improvements.

*Implementing Programs:**IP-C3 Design Review**IP-E4 Commercial Design Guidelines**IP-K1 Moraga Center / Rheem Park Area Plans*



Entrances to commercial areas can be enhanced through reconfiguration of parking areas, landscaping, signage, lighting and a stronger pedestrian orientation.

- CD6.2 **Traffic Access and Circulation.** Provide for adequate traffic access, circulation and parking in the Town's commercial centers. Reduce potential safety hazards by minimizing the number of driveway openings onto public streets, encouraging side street access to commercial developments, and encouraging connections between developments.

Implementing Programs:

IP-C1 Development Review

IP-C3 Design Review

IP-E4 Commercial Design Guidelines

IP-K1 Moraga Center / Rheem Park Area Plans

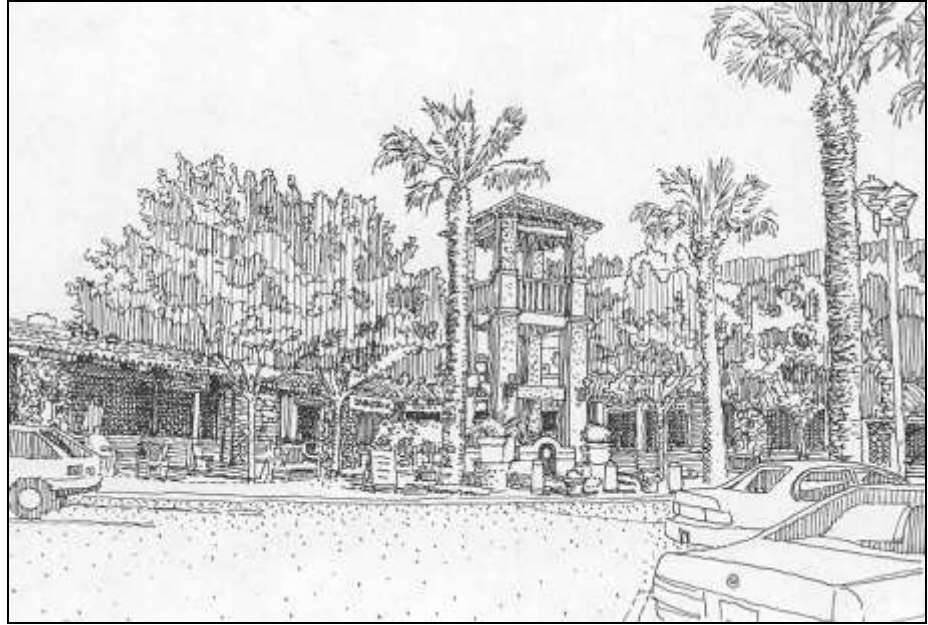
- CD6.3 **Pedestrian Orientation.** Create a safe, inviting and functional pedestrian environment in commercial areas, with interconnected walkways; pedestrian amenities (e.g., seating, lighting, signage, landscaping); buildings located closer to the front property line on selected streets to create pedestrian spaces; plaza areas; and outdoor café spaces. Where pedestrian paths cross parking areas or vehicle lanes, give clear priority to pedestrians through pavement markings, differentiation in the pavement surface, and signage.

Implementing Programs:

IP-C3 Design Review

IP-E4 Commercial Design Guidelines

IP-K1 Moraga Center / Rheem Park Area Plans



Site design, landscaping, architectural design and other amenities can combine to create a pedestrian-friendly environment that enhances the shopping centers' role as a community gathering place.

- CD6.4 Office Development.** Encourage high quality office development projects in close proximity to the Town's retail centers, with pedestrian connections between them. Encourage office building designs that respect the visual qualities of the landscape, reflect the scale and character of adjacent neighborhoods, and create buffers between residential neighborhoods and arterial roadways.

Implementing Programs:

IP-C3 Design Review

IP-E4 Commercial Design Guidelines

IP-K1 Moraga Center / Rheem Park Area Plans

- CD6.5 Moraga Center Area.** Require development within the Moraga Center Area to be consistent with the community design principles and standards in the Moraga Center Specific Plan.

Implementing Programs:

IP-K1 Moraga Center / Rheem Park Area Plans

- CD6.6 Rheem Park Area.** Create a community focal point and mixed-use activity center in the vicinity of the Rheem Park shopping center. Provide a public realm plan (i.e., a plan containing strategies for design, development and management of Rheem Park's public spaces, including streetscapes, infrastructure, and circulation) and. Consider also the pathways between this Area and other Town facilities and

attractions, including school facilities, Saint Mary's College, , Hacienda de las Flores, and the Moraga Center area.

A sketch illustrating a possible land use scheme for the Rheem Park Area is shown in Appendix B. The sketch is provided for illustrative purposes only to show the configuration of the Specific Plan Area and potential opportunities. It is in no way meant to represent an approved plan or policy direction for the Area.

Implementing Programs:

IP-K1 Moraga Center / Rheem Park Area Plans

CD7 Historic Resources

GOAL: Preservation of historically significant buildings and sites as a valued part of the community's character and a link to its past.

CD7.1 Designation of Historic Resources. Identify and protect buildings, sites and other resources in the community that give residents a tie with the past, which may include:

- a) Hacienda de las Flores
- b) Older buildings at Saint Mary's College
- c) Trees with historical significance
- d) Moraga Ranch
- e) Moraga Barn

Implementing Programs:

IP-B13 Historic Preservation Ordinance

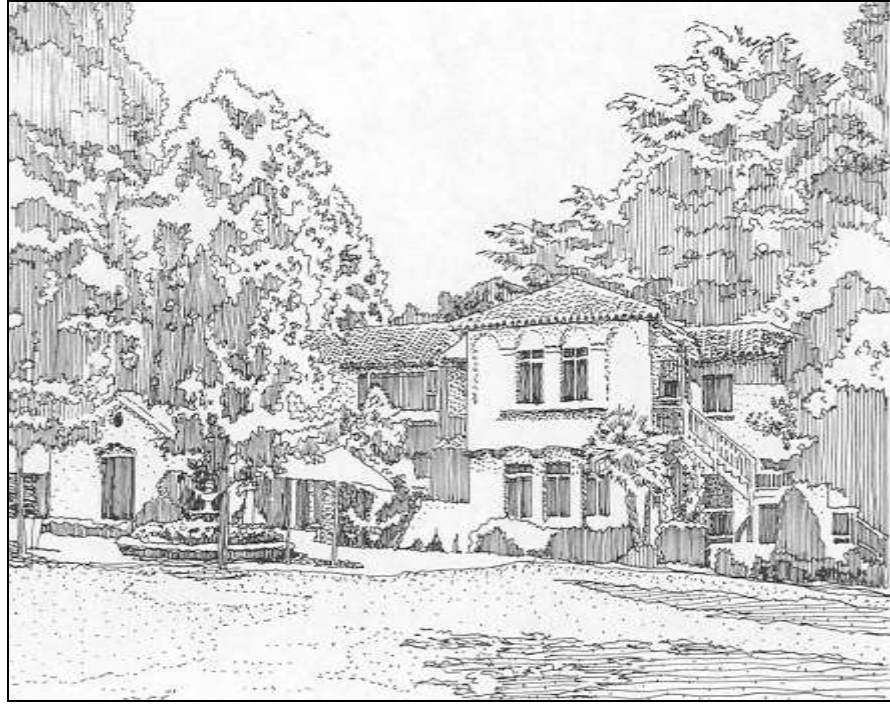
IP-B15 Moraga Tree Ordinance

CD7.2 Historic Preservation. Promote the preservation and conservation of historic buildings and sites, providing incentives as appropriate for their retention and rehabilitation.

Implementing Programs:

IP-B13 Historic Preservation Ordinance

IP-E6 Historic Resource Design Guidelines



Hacienda de las Flores is an important historical resource as well as a valued community activity center.

CD7.3 **Adjacent Sites.** Ensure that adjacent infill development is complementary to designated historic buildings and sites.

Implementing Programs:

IP-B13 Historic Preservation Ordinance

IP-C3 Design Review

IP-E6 Historic Resource Design Guidelines

CD7.4 **‘Spanish Heritage’ Districts.** Designate areas with significant ‘Spanish Heritage’ architecture as ‘Spanish Heritage Districts,’ including Saint Mary’s College and the Hacienda de las Flores. In these areas, encourage the use of basic elements of ‘Spanish Heritage’ architecture, with flexibility for invention, variety, and incorporation of contemporary design elements. Examples of architectural elements that may be encouraged in ‘Spanish Heritage’ Districts include:

- a) simple white stucco walls
- b) red clay tile roofs
- c) porches across the building front or side, with or without arches
- d) arches as an architectural feature over driveways and entrances
- e) buildings adapted to topography, for example through use of terraced gardens and porches
- f) bay windows
- g) garden walls

- h) lattices over carports and porches
- i) distinctive rooflines with low pitches
- j) balconies and verandas
- k) covered walkways and passages (arcades, colonnades)

Implementing Programs:

IP-B13 Historic Preservation Ordinance

IP-C3 Design Review

IP-E6 Historic Resource Design Guidelines

- CD7.5 Landscaping in Historic Areas. Use landscaping to enhance the historic character of designated buildings, sites and districts, emphasizing the use of native and drought tolerant species.

Implementing Programs:

IP-B13 Historic Preservation Ordinance

IP-C3 Design Review

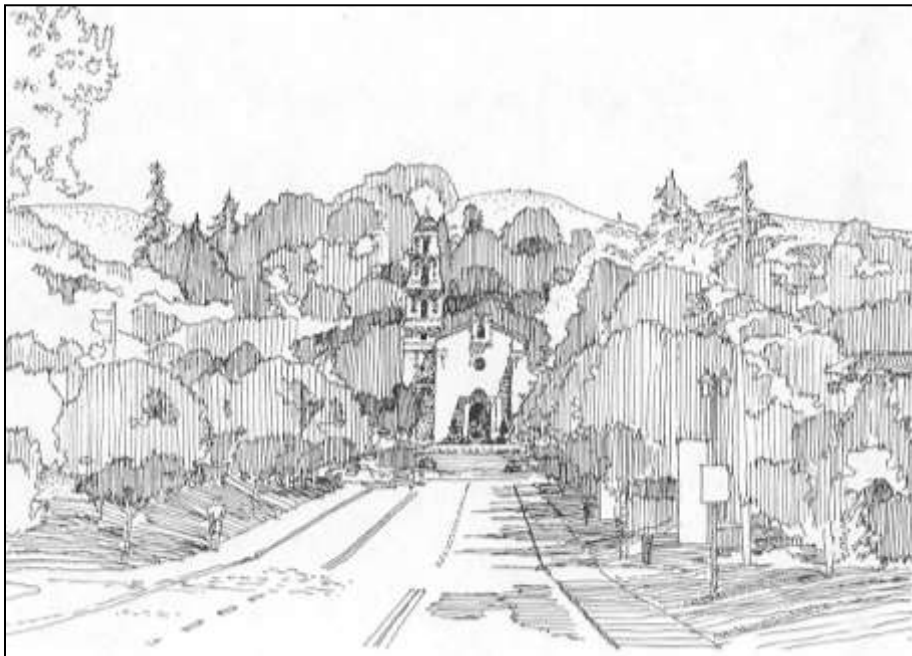
IP-E6 Historic Resource Design Guidelines

IP-G5 Beautification Program

- CD7.6 Public Information on Historic Resources and Preservation. Promote and support educational and informational programs regarding Moraga's history to help residents better understand and appreciate the Town's past and the historic resources that remain in the Town.

Implementing Programs:

IP-M2 Information on Historic Preservation and Resources



Saint Mary's College contains excellent examples of Spanish Heritage architecture.

CD 8 Hillside Areas and Ridgelines

The goals and policies in this section apply to those areas defined below as Hillside Areas and Ridgelines. Hillside Areas and Ridgelines are a core component of Moraga's unique character and are highly valued by residents as important scenic and environmental resources.

For the purpose of this section, a Hillside Area is defined in Appendix C.

Figure CD-1 shows the location of four types of Ridgelines in Moraga: Major MOSO Ridgelines, Minor MOSO Ridgelines, Significant Non-MOSO Ridgelines, and Other Non-MOSO Ridgelines. Definitions for these types of Ridgelines are provided in Appendix C. The term "Ridgeline" as used in the policies below refers to all four types of Ridgelines. A policy that applies only to one or more specific type of Ridgeline is so noted in the policy.

In addition to the policies below, the General Plan contains other policies related to Hillside Areas and Ridgelines, including in the Land Use Element and the Open Space and Conservation Element.

GOAL: Currently undeveloped Hillside Areas and Ridgelines shall maintain their scenic natural setting and environmental resources shall be protected.

- CD8.1: Community Character. Ensure that new development and conservation in Hillside Areas and on and near Ridgelines maintains Moraga's unique semi-rural feel and scenic natural setting.
- CD8.2: Natural State. Encourage new development to maintain currently undeveloped and publicly visible Hillside Areas and Ridgelines in an undeveloped and natural state to the greatest extent possible while considering private property rights and other community goals such as economic vitality, public health and safety, and housing availability.
- CD8.3: Public Safety. Regulate land use and development in Hillside Areas and on and near Ridgelines in a manner that prioritizes the protection of residents, neighbors, and the community at large from landslides, earthquakes, wildfires, and other natural hazards.
- CD8.4: Scenic Vistas. Ensure that new development in Hillside Areas, on and near Ridgelines, and within the Town's scenic corridors does not diminish the visual quality of Moraga's scenic vistas and the public's enjoyment of these vistas. Development that complies with all applicable guidelines and all other requirements for hillside and scenic corridor development shall be considered to comply with this policy.



DESIGNATED RIDGELINES
FIGURE CD-1

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- CD8.5: Hillside Development. To the maximum extent possible, require that development of new homes and non-residential uses in Hillside Areas retains the natural character of the existing landscape uninterrupted by visible manmade features. For example, development shall seek to conform to and blend with the site's natural setting, retain and respect the character of existing landforms, preserve natural vegetation, utilize contour grading to minimize soil displacement and use of retaining walls, maintain a low visual profile, and incorporate appropriate screening using native vegetation. Development that complies with all applicable guidelines and all other requirements for hillside development shall be considered to comply with this policy.
- CD8.6: Existing Uses and Structures. Allow the continued use of legally established and permitted uses and structures in Hillside Areas and on and near Ridgelines. Interpret and apply Hillside and Ridgeline regulations to existing uses and structures in a manner that allows for reasonable repair and improvements consistent with applicable Town standards and regulations.
- CD8.7: Property Rights. The Town's General Plan, including the Hillside and Ridgeline regulations, should be interpreted and applied in a manner that would not constitute a taking of property under the Constitutions of the United States and the State of California.
- CD8.8: Hillside and Ridgeline Protection. Require development to be located and designed so that Major MOSO Ridgelines, Minor MOSO Ridgelines, Significant Non-MOSO Ridgelines, and the Hillside Areas below them remain the dominant visual features when viewed from the Town's scenic corridors.
- CD8.9: Roads Crossing Ridgeline. The Town may allow roads to cross a designated Major MOSO Ridgeline, Minor MOSO Ridgeline, or Significant Non-MOSO Ridgeline only if the crossing is necessary for the orderly development of the Town and the crossing complies with all applicable requirements in Municipal Code Section 8.128.070.A (Crossing Ridgeline Allowed)."

5 HOUSING

The housing element identifies opportunities, challenges and resources associated with the provision of housing in the Town of Moraga. While it is required by the State, the housing element is a local document with a local impact. It is a chance for us to think strategically about housing in Moraga, to consider our changing communities, and to plan how to best meet their needs. It is an opportunity to evaluate existing policies and prepare to meet future challenges.

Housing in Moraga is generally in good condition. However, supply has not kept pace with demand for several decades. This has resulted in high housing costs and limited housing opportunities for lower- and moderate-income households, including many of those who work in the Town. Even for households who live in Moraga today, the cost and limited availability of housing can be a challenge for seniors, persons with special needs, and young adults who wish to stay in the Town where they grew up. The 2023-2031 Housing Element provides for a substantial increase in the number of housing units to meet the Town's Regional Housing Needs Allocation, with a variety of housing types for all income levels. Additionally, tools such as inclusionary housing and relaxation of certain development standards, have been implemented as appropriate.

Because of its length and the State requirement to update this element every eight years, the housing element is bound separately from the General Plan.

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6 CIRCULATION

C1 Traffic Circulation and Safety

GOAL: A circulation system that provides reasonable and safe access to the Town, egress from the Town, and internal movement.

- C1.1 Roadway Engineering and Maintenance. Apply standard engineering principles in the design, construction and maintenance of all roadways to make them safe for all users, including bicyclists, pedestrians and equestrians. In support of community design and environmental goals, consider allowing narrower street widths, consistent with Town standards, when it can be demonstrated that public safety concerns are adequately addressed.

Implementing Programs:

IP-A1 General Plan Diagram

IP-A2 Annual Town Budget

IP-C1 Development Review

IP-C2 Development Review for Emergency Services

IP-G3 Pavement Management Program

IP-K2 Pedestrian, Bicycle and Trails Master Plan

- C1.2 Traffic Impact Costs. Require each new development to pay its fair share of the cost of improvements for both the local and regional transportation system in accordance with policy GM1.6 and implementing program IP-C8.

Implementing Programs:

IP-B4 Traffic Impacts Ordinance

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

IP-G2 Traffic Monitoring Program

IP-I1 Transportation Systems Management Plan

IP-L1 Development Review Referral to Adjacent Jurisdictions

IP-L7 Lamorinda Transportation Planning

- C1.3 Development Impacts. Require that improvements required to address the impacts of future development are specifically identified and reasonably demonstrated to be feasible and effective. Such measures may include roadway or intersection improvements, pedestrian and bicycle improvements, public or private mass transportation improvement, or any other feasible solution that reduces trip volumes or enhances roadway capacity and safety.

Implementing Programs:

IP-B4 Traffic Impacts Ordinance

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

IP-G2 Traffic Monitoring Program

IP-I1 Transportation Systems Management Plan

IP-L1 Development Review Referral to Adjacent Jurisdictions

IP-L7 Lamorinda Transportation Planning

- C1.4 Private Streets. Allow private streets, at the Town Council's discretion, if they are constructed consistent with Town street standards, are not gated or similarly restricted, and provide their own maintenance and liability coverage.

Implementing Programs:

IP-I1 Transportation Systems Management Plan

IP-C1 Development Review

IP-C2 Development Review for Emergency Services

- C1.5 Collector Street Buffering. Design new areas of development so that residential areas are properly buffered from collector streets, with adequate distance, landscaping or other buffer to protect residences from adverse impacts. Traffic from major new residential developments should not be diverted through nor adversely affect existing neighborhoods.

Implementing Programs:

IP-I1 Transportation Systems Management Plan

IP-C1 Development Review

- C1.6 Street Maintenance. Conduct street maintenance at reasonably high standards to avoid long-term repair and replacement costs and to retain a safe and comfortable street system.

Implementing Programs:

IP-G3 Pavement Management Program

- C1.7 Street Names. Do not duplicate existing street names in the Lamorinda area when naming new streets. Whenever possible, utilize names of historical significance to Moraga when naming or renaming streets.

Implementing Programs:

IP-C1 Development Review

IP-C2 Development Review for Emergency Services

- C1.8 Priority Roadway Improvements. Identify priority roadway improvement projects to guide project funding decisions, including both capacity-enhancing projects and safety related projects.

Implementing Programs:

IP-A2 Annual Town Budget

IP-C5 Traffic Impact Studies

IP-G3 Pavement Management Program

- C1.9 Traffic Enforcement. Provide sufficient resources to maintain a high level of traffic safety through law enforcement.

Implementing Programs:

IP-A2 Annual Town Budget

IP-M3 Traffic Safety Education Program

- C1.10 Traffic Education. Disseminate traffic educational materials to transportation users to encourage ridesharing, bus transit, and the safe use of streets and highways.

Implementing Programs:

IP-I1 Transportation Systems Management Plan

IP-M3 Traffic Education Program

- C1.11 Emergency Vehicle Access. Maintain and improve critical transportation facilities for emergency vehicle access and emergency evacuation needs.

Implementing Programs:

IP-A1 General Plan Diagram

IP-I1 Transportation Systems Management Plan

IP-C2 Development Review for Emergency Services

- C1.12 Right-of-Way Safety. Require that private recreational vehicles, trailers and other large vehicles are parked off the public right-of-way and out of the front building setback in order to promote traffic safety and good visibility.

Implementing Programs:

IP-I1 Transportation Systems Management Plan

IP-M3 Traffic Education Program

C2 Regional Coordination

GOAL: A regional circulation system that meets the expectations and needs of Lamorinda residents.

- C2.1 Regional Collaboration and Problem-solving. Work collaboratively with the other Lamorinda jurisdictions and agencies to define and pursue a clear regional transportation agenda and to address traffic flow and safety issues, particularly on the three roadways leading from Moraga to State Route 24 (Moraga Way, Moraga Road, and St. Mary's Road/Glenside Road/Reliez Station Road). Cooperate with Lafayette, Orinda and the County in planning and approving new development so that cumulative development impacts do not lower the levels of service on these roadways below the adopted 'Measure C/ Measure J' standards. Use data from the Traffic Monitoring Program to monitor compliance with adopted standards and to determine remaining roadway capacity.

Implementing Programs:

IP-G2 Traffic Monitoring Program

IP-L7 Lamorinda Transportation Planning

IP-L8 Transit Improvements

- C2.2 Regional Transportation Improvements. Work collaboratively with the other Lamorinda jurisdictions and agencies to develop workable solutions to regional traffic issues and to identify and pursue potential funding sources, including regional and sub-regional development impact fees as well as funds from County, State and Federal sources.

Implementing Programs:

IP-B4 Traffic Impacts Ordinance

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

IP-L7 Lamorinda Transportation Planning

IP-L8 Transit Improvements

C3 Commercial Area Traffic and Parking

GOAL: Properly designed and managed circulation and parking to promote safety and minimize traffic congestion within and adjacent to commercial areas.

- C3.1 Commercial Area Traffic Safety. Maintain effective and safe vehicle circulation into, out of, and within commercial areas.

Implementing Programs:

IP-I1 Transportation Systems Management Plan

IP-C1 Development Review

IP-C2 Development Review for Emergency Services plus application of standard traffic engineering principles

- C3.2 Traffic Volume Impacts. Utilize the Specific Plan process as well as the development review process to consider and address potential traffic impacts from new commercial development, in accordance with policies C1.2, C1.3 and C1.4. As one possible measure for commercial developments, consider establishing time restrictions on commercial deliveries to prohibit deliveries during peak traffic hours.

Implementing Programs:

IP-B4 Traffic Impacts Ordinance

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

IP-G2 Traffic Monitoring Program

IP-I1 Transportation Systems Management Plan

IP-K1 Moraga Center Area and Rheem Park Area Plans

- C3.3 Commercial Area Parking. Maintain sufficient, convenient, free parking within all commercial areas to accommodate actual and anticipated parking needs.

Implementing Programs:

IP-C1 Development Review plus application of standard traffic engineering principles

- C3.4 Through Traffic. Discourage traffic from traveling through the commercial centers.

Implementing Programs:

IP-C1 Development Review

IP-I1 Transportation Systems Management Plan

C4 Pedestrians, Bicycles and Transit

GOAL: Encourage Moragans to walk, bike, take transit or rideshare as a means of reducing vehicle trips, improving environmental quality, and maintaining a healthy lifestyle.

- C4.1 Pedestrian Circulation. Provide a safe, continuous and connected system of pedestrian pathways through the Town, including sidewalks, paths, trails and appropriate crosswalks along all principal streets, to link residential neighborhoods, commercial areas, community facilities such as schools and parks, and other important destinations. Link this network as appropriate with the regional trails system.

Implementing Programs:

IP-K2 Pedestrian, Bicycle and Trails Master Plan

- C4.2 Bicycle Circulation. Develop a complete bicycle system with direct, continuous, interconnected pathways between residential and commercial areas, community facilities, commuter corridors and transit hubs.

Implementing Programs:

IP-G3 Pavement Management Program

IP-K2 Pedestrian, Bicycle and Trails Master Plan

- C4.3 Transit. Encourage the use of transit to and from the Lamorinda BART stations by providing:

- Efficient, comfortable, frequent and reliable bus service;
- Roadways that are properly designed to accommodate bus maneuvering, stopping and parking;
- Adequate, free, convenient all-day 'park and ride' facilities at major transit stops in the Town;
- Public information programs to make the public aware of the service and promote its use;
- Comfortable, safe and attractive amenities at bus stops.

Implementing Programs:

IP-L8 Transit Improvements

C5 Reducing Vehicle Miles Traveled (VMT)

GOAL: Coordinate land use, transportation and community design decisions in a way that reduces vehicle miles traveled and contributes to regional and state goals to reduce greenhouse gas emissions.

- C5.1 Use of VMT in Environmental Review. Maintain local standards for VMT that are consistent with countywide and State standards. Apply these standards as part of the environmental review process as required by CEQA.⁶

Implementing Programs:

IP-I2 VMT Thresholds, Screening Criteria, and Analysis

- C5.2 Trip-Reduction Strategies. Encourage development patterns and other strategies that may help reduce traffic trips, especially during the morning and afternoon peak hours. For example:
- Encourage home-based occupations and telecommuting;
 - Encourage mixed use, small office, and live-work developments in centrally located areas of the Town (i.e., in the two commercial areas);
 - Encourage higher density housing to locate near transit facilities;
 - Encourage young people to bike, walk or take the school bus to school; and
 - Encourage ridesharing.

As appropriate, require trip reduction measures as a way to mitigate VMT impacts associated with new development.

Implementing Programs:

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-B4 Traffic Impacts Ordinance

IP-I1 VMT Thresholds, Screening Criteria, and Analysis

IP-K2 Pedestrian, Bicycle and Trails Master Plan

IP-L7 Lamorinda Transportation Planning

IP-L8 Transit Improvements

IP-M3 Traffic Safety Education Program

⁶ SB 743 (2013) prohibits cities and towns from using Level of Service (a measurement of congestion and travel delay) when determining if a project has a potentially "significant" impact on the environment under the California Environmental Quality Act (CEQA). Effective July 1, 2020, a project's impact on transportation under CEQA must be based on the amount of driving and length of trips the project generates, rather than the amount of congestion it creates.



7 OPEN SPACE and CONSERVATION

OS1 Open Space Preservation

GOAL: Preservation of as much open space land as possible, including protection of all major and minor ridgelines and lands that help meet residents' recreational needs.

- OS1.1 Open Space Preservation. Preserve open space to the maximum extent possible, using tools such as acquisition, lease, dedication, easements, donations, regulation or tax incentive programs.

Implementing Programs:

- IP-A1 General Plan Diagram*
- IP-B1 Zoning and Subdivision Ordinances*
- IP-B2 Moraga Open Space Ordinance*
- IP-J1 Open Space Preservation Program*

- OS1.2 Ridgelines. Moraga's designated Ridgelines are identified in Figure CD-1 (Designated Ridgelines).

- OS1.3 Development Densities in Open Space Areas. Any use of or development on lands designated on the General Plan Diagram or by the Moraga Open Space Ordinance as 'Public Open Space-Study' or 'Private Open Space' (now designated as MOSO Open Space in the General Plan Diagram) shall be limited to a maximum density of one (1) dwelling unit per twenty (20), ten (10), or five (5) acres, but in no case shall density on such lands exceed one (1) dwelling unit per five (5) acres. Areas identified as 'High Risk' areas, as defined by the Moraga Open Space Ordinance shall be limited to a maximum density of one (1) dwelling unit per twenty (20) acres. Transfers of Development Rights (referred to as 'Density Transfer' as in MOSO) from any open space designation to other lands shall be encouraged; provided that in no event shall dwelling units be transferred to another open space designation or to 'High Risk' areas. The Town Council shall identify 'High Risk' areas after taking into account soil stability, history of soil slippage, slope grade, accessibility, and drainage conditions.⁷

Implementing Programs:

- IP-A1 General Plan Diagram*
- IP-B3 Zoning and Subdivision Ordinances*

⁷ Wording taken from Section 3.a of the Moraga Open Space Ordinance.

IP-B2 Moraga Open Space Ordinance

IP-C1 Development Review

- OS1.4 Private Ownership and Use of Open Space Areas. Areas designated on the General Plan Diagram as MOSO Open Space or Non-MOSO Open Space may be retained in private ownership, may be used for such purposes as are found to be compatible with the corresponding open space designation and may or may not be accessible to the general public.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

- OS1.5 Development on Slopes and Ridgelines in Open Space Lands. In MOSO Open Space, development shall be prohibited on slopes with grades of twenty percent (20%) or greater and on the crests of minor ridgelines. The Town Council shall reduce the allowable densities on slopes of less than twenty percent (20%) through appropriate means such as requiring proportionally larger lot sizes or other appropriate siting limitations. For the purposes of this paragraph the term 'minor ridgeline' means any ridgeline, including lateral ridges, with an elevation greater than 800 feet above mean sea level, other than a major ridgeline.⁸

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-B2 Moraga Open Space Ordinance

IP-C1 Development Review

- OS1.6 Ridgeline Development Restrictions – Significant Non-MOSO Ridgelines. Development is prohibited within 200 feet of the centerline of a Significant Non-MOSO Ridgeline (measured horizontally in plan view), except as allowed by Municipal Code Section 8.128.030.B.
- OS1.7 Visual Separation - Designated Ridgelines. For designated Ridgelines, locate new hillside development such that a minimum of 35 percent of the vertical distance from the crest of the Ridgeline to the toe of the slope below remains visible as undeveloped open space when viewed from the view corridors described in Moraga Municipal Code Chapter 8.128. This policy is intended to maintain the Ridgeline and the undeveloped Hillside Area below as the dominant visual features when viewed from the Town's scenic corridors. The Town Council may grant exceptions

⁸ Wording taken from Section 3.b of the Moraga Open Space Ordinance. MOSO Open Space is identified as Open Space Lands in the Ordinance.

to this visual separation requirement in unique circumstances in accordance with criteria in Moraga Municipal Code Chapter 8.128.

OS1.8 Exceptions to Development Prohibitions in MOSO Open Space. Notwithstanding Policy OS1.5 above, the Town may allow the following types of development on and near Major MOSO Ridgelines and Minor MOSO Ridgelines and in areas in MOSO Open Space with a slope of 20 percent or more:

- (1) Work necessary to eliminate or prevent a condition which is determined by the Town to be a menace to life, limb or property or adversely affects the safety, use or stability of a public way or drainage way or channel.
- (2) The establishment of a fire trail approved by the Moraga-Orinda Fire Protection District.

OS1.9 Transfer of Development Rights (TDRs). Encourage the transfer of development rights from Open Space lands to centrally located 'receiving areas.' In no event shall dwelling units be transferred to Open Space lands or to 'High Risk' areas, as identified by the Town Council based on soil stability, slope considerations, accessibility, and drainage conditions.

Implementing Programs:

IP-J2 Transfer of Development Rights Program

OS1.10 Receiving Areas for TDRs. Designate the two mixed use areas—the Moraga Center Area and Rheem Park Area—as 'receiving areas' for the transfer of development rights.

Implementing Programs:

IP-J2 Transfer of Development Rights Program

IP-K1 Moraga Center / Rheem Park Area Specific Plans

OS1.11 Open Space Access and Recreational Use. Where appropriate and consistent with other General Plan goals and policies, areas with a MOSO Open Space or Non-MOSO Open Space designation on the General Plan Diagram should be made available to the public for recreational use.

Implementing Programs:

IP-J3 Open Space Management Plan

IP-K2 Pedestrian, Bicycle and Trails Master Plan

- OS1.12 Open Space Management. Maintain and manage public-use open space areas in keeping with community priorities, relevant deed restrictions, budget constraints, hazard and risk considerations, and best management practices. Develop management plans for open space areas as necessary, including the Mulholland Ridge open space area.

Implementing Programs:

IP-J3 Open Space Management Plan

- OS1.13 Open Space for Grazing. Allow use of open space land for farm animals when such use does not have adverse impacts upon adjacent residential areas, wildlife, or the land itself.

Implementing Programs:

IP-J3 Open Space Management Plan

OS2 Environmental Quality

GOAL: Environmental quality in the future that is as good or better than today.

- OS2.1 Protection of Wildlife Areas. Prohibit development in locations where it will have a significantly adverse effect on wildlife areas. When development is permitted in the vicinity of wildlife areas, require implementation of appropriate mitigation measures to reduce any adverse impact upon the wildlife.

Implementing Programs:

IP-C1 Development Review

IP-C3 Design Review

IP-C6 CEQA / Environmental Impact Reports

- OS2.2 Preservation of Riparian Environments. Preserve creeks, streams and other waterways in their natural state whenever possible.

Implementing Programs:

IP-C1 Development Review

IP-C3 Design Review

IP-J1 Open Space Preservation Program

- OS2.3 Natural Carrying Capacity. Require that land development be consistent with the natural carrying capacity of creeks, streams and other waterways to preserve their natural environment.

Implementing Programs:

IP-C6 CEQA / Environmental Impact Reports

- OS2.4 Areas of Natural Significance. Preserve and protect, insofar as possible, areas that are recognized as having natural significance. These areas include but are not limited to:

- a) The Lake LaSalle area for its scenic value and wildlife habitat.
- b) Flicker Ridge for its significant contribution to the wildlife of the area and because it represents a unique knob-cone pine forest.
- c) Remaining laguna environment of Laguna de los Palos Colorados.

Implementing Programs:

IP-J1 Open Space Preservation Program

- OS2.5 Wildlife Corridors. To the extent possible, connect open space areas so that wildlife can have free movement through the area, bypass urban areas and have proper access to adjacent regional parks and related open space systems.

Implementing Programs:

IP-J1 Open Space Preservation Program

- OS2.6 Reintroduction of Wildlife Species. Consider reintroduction into the natural environment of those wildlife species that could survive, would not be detrimental to the urban development, and which could be economically accomplished.

Implementing Programs:

IP-J3 Open Space Management Plan

- OS2.7 Reintroduction of Native Plant Species. Consider reintroduction into the natural environment of plant species that are indigenous to the area and encourage programs to manage, reduce or eliminate the use and proliferation of non-native, invasive species. Encourage the use of native plant species in new landscaping plans.

Implementing Programs:

IP-C3 Design Review

IP-J3 Open Space Management Plan

- OS2.8 Tree Preservation. Preserve and protect trees wherever they are located in the community as they contribute to the beauty and environmental quality of the Town.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-B17 Moraga Tree Ordinance

IP-G6 Tree Planting Program

IP-J1 Open Space Preservation Program

- OS2.9 Tree-covered Areas. Preserve or substantially maintain in their present form certain tree-covered areas, especially with respect to their value as wildlife habitats, even if development in those areas is permitted. Give preference to the retention of original growth over replanting. These areas include, but are not limited to:
- d) Mulholland Hill (both northeast and southwest slopes)

- e) Indian Ridge
- f) Bollinger Canyon
- g) Sanders Ranch properties
- h) St. Mary's Road northeast of Bollinger Canyon Road
- i) The "Black Forest" area located northerly of the terminus of Camino Ricardo
- j) Coyote Gulch west of St. Mary's Road, to the north
- k) Wooded area to the east and south of St. Mary's Gardens
- l) Wooded area behind Donald Rheem School
- m) Wooded area on the ridge south of Sanders Drive.

Implementing Programs:

IP-J1 Open Space Preservation Program

IP-G6 Tree Planting Program

- OS2.10 Quarrying. Prohibit quarrying and similar activities that tend to erode the terrain or otherwise damage ecologically sensitive areas.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C6 CEQA / Environmental Impact Reports

- OS2.11 Recycling and Source Reduction. Enhance the long-term viability of natural resources and reduce the volume of material sent to solid waste sites by continuing source reduction and recycling programs, encouraging participation of all residents and businesses.

Implementing Programs:

IP-M4 Information on Resource Conservation...

OS3 Water Quality and Conservation

GOAL: Protection of water resources through protection of underground water aquifers and recharge areas; maintenance of watercourses in their natural condition; and efficient water use.

- OS3.1 Sewer Connections. Require all development to be connected to a sewage system, with exceptions granted only in those areas where it is demonstrated that a sewer connection is not feasible *and* it has been confirmed by a competent technical counsel that septic system effluent will not infiltrate underground aquifers.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-C1 Development Review

IP-C6 CEQA / Environmental Impact Reports

- OS3.2 Polluting Materials. Prohibit the accumulation and dumping of trash, garbage, vehicle lubricant wastes and other materials that might cause pollution.

*Implementing Programs:**IP-D2 Building Inspection, Code Enforcement, Hazard Abatement*

- OS3.3 Street and Gutter Maintenance. Maintain streets and gutters to prevent accumulation of debris and litter.

*Implementing Programs:**IP-G4 Storm Drain Management Program*

- OS3.4 Watercourse Capacity. Ensure that the design capacity of watercourses is not exceeded when approving new development.

*Implementing Programs:**IP-C1 Development Review**IP-C6 CEQA / Environmental Impact Reports*

- OS3.5 Watercourse Preservation. Whenever possible, preserve and protect natural watercourse areas that will reflect a replica of flora and fauna of early historical conditions.

*Implementing Programs:**IP-J1 Open Space Preservation Program*

- OS3.6 Run-off from New Developments. Engineer future major developments to reduce peak storm runoff and non-point source pollution to local creeks and streams, taking into consideration economically viable Best Management Practices (BMPs) in the design of the project as well as factors such as the physical constraints of the site, the potential impact on public health and safety and the practicability of possible mitigation measures.

*Implementing Programs:**IP-C1 Development Review**IP-C6 CEQA / Environmental Impact Reports*

- OS3.7 Water Conservation Measures. Encourage water conservation in new building construction and retrofits, through measures such as low-flow toilets and drought-tolerant landscaping.

*Implementing Programs:**IP-C1 Development Review**IP-C3 Design Review**IP-D1 Building and Grading Codes*

- OS3.8 Water Recycling. When and where feasible and appropriate, encourage the use of recycled water for landscape irrigation purposes.

*Implementing Programs:**IP-C1 Development Review*

IP-B16 Recycled Water Ordinance

- OS3.9 East Bay MUD Lands. Encourage the preservation of East Bay Municipal Utility District Lands for watershed use.

*Implementing Programs:**IP-L12 Coordination with Utility Providers*

OS4 Air Quality

GOAL: Preservation and maintenance of air quality.

- OS4.1 Development Design. Conserve air quality and minimize direct and indirect emissions of air contaminants through the design and construction of new development. For example, direct emissions may be reduced through energy conserving construction that minimizes space heating, while indirect emissions may be reduced through uses and development patterns that reduce motor vehicle trips generated by the project.

*Implementing Programs:**IP-C1 Development Review**IP-C6 CEQA / Environmental Impact Reports**IP-G7 Air Quality Management Program*

- OS4.2 Development Approval and Mitigation. Require mitigation for development projects which, separately or cumulatively with other projects, would cause air quality standards to be exceeded or would have significant adverse air quality effects through direct and/or indirect emissions. Such projects may only be approved if, after consulting with the Bay Area Air Quality Management District (BAAQMD), the Town Council explicitly finds that the project incorporates feasible mitigation measures or that there are overriding reasons for approving the project.

*Implementing Programs:**IP-C1 Development Review**IP-C6 CEQA / Environmental Impact Reports**IP-G7 Air Quality Management Program*

- OS4.3 Development Setbacks. Provide setbacks along high intensity use roadways to reduce resident exposure to air pollutants.

*Implementing Programs:**IP-C1 Development Review**IP-C6 CEQA / Environmental Impact Reports**IP-G7 Air Quality Management Program*

- OS4.4 Landscaping to Reduce Air Quality Impacts. Encourage the use of vegetative buffers along roads to assist in pollutant dispersion.

Implementing Programs:

IP-C1 Development Review

IP-C6 CEQA / Environmental Impact Reports

IP-G6 Tree Planting Program

IP-G7 Air Quality Management Program

- OS4.5 Alternate Transportation Modes. Encourage transportation modes that minimize motor vehicle use and the resulting contaminant emissions. Alternate modes to be encouraged include public transit, ride-sharing, combined motor vehicle trips to work and the use of bicycles and walking.

Implementing Programs:

IP-G7 Air Quality Management Program

IP-K2 Pedestrian, Bicycle and Trails Master Plan

IP-L8 Transit Improvements

- OS4.6 New Transportation Technologies. Encourage use of new transportation technologies such as electric and other alternative fuel vehicles that may provide environmental benefits such as reduced air pollution, lower energy consumption, and less noise.

Implementing Programs:

IP-G7 Air Quality Management Program

- OS4.7 Trip Reduction Programs. Encourage, and where appropriate require, large employers to foster employer-based transportation control measures such as ride-sharing, use of public transportation, bicycling and walking to work.

Implementing Programs:

IP-G7 Air Quality Management Program

IP-K2 Pedestrian, Bicycle and Trails Master Plan

IP-L8 Transit Improvements

- OS4.8 Smoking in Public Areas. Discourage smoking in enclosed public places and work places.

Implementing Programs:

IP-B17 Non-smoking Ordinance

- OS4.9 Public Information on Air Pollution. Encourage public education programs that demonstrate the benefits of reduced air pollution.

Implementing Programs:

IP-M4 Information on Resource Conservation

OS5 Energy Conservation

GOAL: Lower levels of energy consumption and use of more environmentally friendly energy alternatives.

- OS5.1 Building Standards. Require that all new buildings and additions be in compliance with the energy efficiency standards of the California Building Standards Code (Title 24, California Code of Regulations).

Implementing Programs:

IP-C1 Development Review

IP-D1 Building and Grading Codes

IP-D2 Building Inspection, Code Enforcement and Hazard Abatement

IP-E2 Residential Design Guidelines

- OS5.2 Energy Conservation Measures. Encourage energy conservation in new construction and through retrofitting of existing buildings, utilizing passive solar design, use of alternative energy systems, solar space and water heating, adequate insulation, and other measures where feasible and cost effective.

Implementing Programs:

IP-C1 Development Review

IP-E2 Residential Design Guidelines

- OS5.3 Trip Reduction. Encourage energy conservation through measures that reduce automobile trips, such as transit-supportive development, provisions for pedestrian and bicycle circulation, and promotion of home-based offices and telecommuting.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-G7 Air Quality Management Program

IP-K2 Pedestrian, Bicycle and Trails Master Plan

IP-L8 Transit Improvements

OS6 Noise

GOAL: A peaceful and tranquil community.

- OS6.1 Acoustical Standards. Develop acoustical standards that properly reflect acceptable sound emission levels.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-D1 Building and Grading Codes

- OS6.2 Noise Levels. Ensure that noise from all sources is maintained at levels that will not adversely affect adjacent properties or the

community, especially during evening and early morning hours. Reasonable exceptions may be made in the interest of public safety.

Implementing Programs:

IP-B17 Noise Ordinance

IP-C1 Development Review

IP-G8 Noise Monitoring Program

- OS6.3 Noise Sensitive Uses. Locate uses where they will be most acoustically compatible with elements of the man-made and natural environment.

Implementing Programs:

IP-B1 Zoning and Subdivision Ordinances

IP-G8 Noise Monitoring Program

- OS6.4 Noise Impacts of New Development. Ensure that new development will not raise noise levels above acceptable levels on the Town's arterials and major local streets.

Implementing Programs:

IP-C1 Development Review

IP-C6 CEQA / Environmental Impact Reports

- OS6.5 Acoustical Data with Development Applications. Require the submittal of acoustical data, when and where appropriate, as part of the development application process so that the noise impacts of proposed uses can be properly evaluated and mitigated.

Implementing Programs:

IP-C1 Development Review

IP-C6 CEQA / Environmental Impact Reports

- OS6.6 Temporary Noise Sources. Permit temporary noise-generating activities such as construction only for the shortest reasonable duration and in locations that will have the least possible adverse effect.

Implementing Programs:

IP-G8 Noise Monitoring Program

- OS6.7 Vehicle Noise. Require that vehicles, including those used for recreational purposes, be used in such a manner that they will not intrude on the peace and quiet of residential areas. Reasonable exceptions may be made in the interest of public safety.

Implementing Programs:

IP-G8 Noise Monitoring Program

OS6.8 Public Information on Noise Pollution. Whenever appropriate, use public information programs to educate the public on the value of an environment that is free of noise pollution.

Implementing Programs:

IP-M5 Information on Noise Pollution

8 SAFETY

PS1 General Safety

GOAL: A semi-rural community that effectively minimizes threats to public health, safety, and welfare resulting from natural and human-caused hazards.

- S1.1 Adoption of Local Hazard Mitigation Plan. Incorporate the Contra Costa County Hazard Mitigation Plan and the Town of Moraga Annex, approved by the Federal Emergency Management Agency in 2018, into this Safety Element by reference, as permitted by California Government Code Section 65302.6.
- S1.2 Local Hazard Mitigation Plan Implementation, Updates, and Mutual Aid Agreements. In coordination with Contra Costa County, implement and update the Contra Costa County Local Hazard Mitigation Plan, as directed by the California Governor's Office of Emergency Services and the Federal Emergency Management Agency, and maintain mutual-aid agreements with federal, state, and local agencies as well as the private sector, to assist in:
1. Clearance of debris in the event of seismic hazards, collapsed buildings or structures, or other circumstances that could result in blocking emergency access or regress
 - Heavy search and rescue
 - Fire suppression
 - Hazardous materials response
 - Temporary shelter
 - Geologic and engineering needs
 - Traffic and crowd control
 - Building inspection
- S1.3 SEMS Response. Coordinate with local and State Emergency Management agencies using the Standardized Emergency Management System (S.E.M.S.) and National Incident Management System (N.I.M.S.) to facilitate multiagency emergency response.
- S1.4 Coordination with Other Agencies. Continue to cooperate with other public agencies to provide adequate medical and other emergency services.

- S1.5 Interjurisdiction Agreements. Maintain inter-jurisdictional cooperation and coordination, including automatic aid agreements, with fire protection and suppression agencies in Contra Costa County.
- S1.6 Equitable Response. Ensure that communication, educational and informational materials, assistance in preparedness activities, and evacuation and short-term recovery activities are available in multiple languages and formats appropriate for people with access and functional needs.
- S1.7 Communication Resiliency. Ensure that communication systems used by emergency responders and key Town staff have sufficient redundancy and resiliency to meet Town needs during and after a hazard event. Coordinate with the operators of telecommunications infrastructure and mobile networks to enable continuity of service or rapid restoration of service during and after an emergency.

Implementing Programs:

IP-F5 Communication Resiliency Plan

- S1.8 Data Sharing. Ensure that the Town is able to prepare for and respond to large-scale disasters through coordination and sharing data, experience, and strategies with other emergency management agencies in state or regional efforts on disaster planning.
- S1.9 Location of Critical Facilities. Locate critical facilities outside of known hazard zones, including 100-year and 500-year flood hazard zones, dam inundation zones, very high fire hazard severity zones, and Wildland-Urban Interface zones. If facilities must be located in these zones, design and site them to minimize potential damage and increase their ability to remain operational during and after hazard events.
- S1.10 Evacuation Assistance for Persons with Limited Mobility. Develop and implement an evacuation assistance program, in coordination with CCTA and local community organizations and paratransit providers, to help those with limited mobility or lack of access to a vehicle to evacuate safely.
- S1.11 Assessment of Risk. Include an environmental assessment of natural hazard risks in development proposals to permit an adequate understanding of those risks and the possible consequent public costs in order to achieve a level of 'acceptable risk.' Public costs should be expressed in terms of effect on life and property.

Implementing Programs:

IP-C6 CEQA / Environmental Impact Reports

- S1.12 Public Review of Risk Data. Include appropriate cost-effective data in the evaluation of existing and potential hazards and make that data available for citizen review and comment in order to determine what public resources should be allocated to mitigate risk conditions.

Implementing Programs:

IP-C6 CEQA / Environmental Impact Reports

- S1.13 High Risk Areas. To the extent consistent with federal or state law, prohibit development in 'high risk' areas as defined by the Moraga Municipal Code and Moraga Open Space Ordinance.

Implementing Programs:

IP-B5 High Risk Areas Zoning Overlay

IP-C1 Development Review

- S1.14 Moderate Risk Areas. Avoid building in 'moderate risk' areas, which are defined as being (1) those areas within 100 yards of an active or inactive landslide, as defined by the Town's Landslide Map, or (2) upon a body of colluvium. Where it is not possible to avoid building in such areas entirely, due to parcel size and configuration, limit development accordingly through density regulations, subdivision designs that cluster structures in the most stable portions of the subdivision, site designs that locate structures in the most stable portion of the parcel, and specific requirements for site engineering, road design, and drainage control.

Implementing Programs:

IP-B6 Moderate Risk Areas Zoning Overlay

IP-C1 Development Review

- S1.15 Control of Nuisances and Unsafe Conditions. Identify any structures and conditions that are unsafe or constitute nuisances, and take measures to make them conform to appropriate safety codes or remove them.

Implementing Programs:

IP-D2 Building Inspections, Code Enforcement, Hazard Abatement

- S1.16 Public Safety Improvements. Give high priority to those public improvements that are related to public safety.

Implementing Programs:

IP-A2 Annual Town Budget

- S1.17 Federal and State Aid. Utilize available Federal and State sources of economic and technical aid to supplement local resources when problems exist that are directly related to public health and safety.

Implementing Programs:

IP-G15 Federal Insurance Qualifications

IP-L4 Inter-jurisdictional Public Safety Programs

- S11.8 Hazardous Wastes. Require permits in accordance with State and Federal regulations any time that hazardous materials are proposed to be transmitted into, out of, or through the Town.

Implementing Programs:

IP-G9 Hazardous Waste Management Program

PS2 Police and Emergency Services

GOAL: A semi-rural community environment that is free from crime and prepared for any potential disaster.

- S2.1 Police Services. Provide police services to maintain the peace, respond to localized emergencies and calls for service, and undertake crime prevention within the Town.

Implementing Programs:

IP-A2 Annual Town Budget

- S2.2 Address Visibility. Support measures that help police, firefighting crews and emergency response teams respond to fire hazards or work under low-visibility conditions, such as high-visibility signage for streets and building addresses.

Implementing Programs:

IP-D1 Building and Grading Codes

IP-D2 Building Inspection, Code Enforcements, Hazard Abatement

IP-E5 Public Safety Guidelines

- S2.3 Public Safety and Design. Develop guidelines for the design and siting of buildings to reduce the opportunity for crime, and apply such considerations in the review of development proposals. Provide related information to the public to educate them on the benefits of appropriate home designs and other preventive steps they can take to reduce the incidence of crime in their neighborhood.

Implementing Programs:

IP-E5 Public Safety Guidelines

IP-M10 Information on Public Safety

- S2.4 Disaster Preparedness. Participate, to the extent feasible, in programs relating to multi-jurisdictional disaster preparedness and cooperate with the County Office of Emergency Services and other appropriate agencies to revise and update the Town's Disaster Preparedness Plan.

Implementing Programs:

IP-G10 Earthquake Emergency and Disaster Preparedness Plans

IP-L4 Inter-jurisdictional Public Safety Programs

S3 Fire Safety and Emergency Services

GOAL: Avoid and minimize the risk of loss of life, injury, and property from fire.

- S3.1 Cooperation with the Moraga-Orinda Fire District. Cooperate with the Moraga-Orinda Fire District in developing standards, guidelines and local ordinances to assure provision of adequate fire protection and emergency medical service for all persons and property in the community.

Implementing Programs:

IP-L4 Inter-jurisdictional Public Safety Programs

- S3.2 Fire Stations. Maintain two fire stations in the Town. Work with the Moraga-Orinda Fire District to support its ongoing facility improvement program.

Implementing Programs:

IP-L4 Inter-jurisdictional Public Safety Programs

- S3.3 Fire Protection. Continue to require a high level of fire protection to residential and commercial development to avoid or minimize wildfire hazards associated with new land uses, consistent with MOFD standards.

- S3.4 Fuel Breaks. Coordinate with MOFD and landowners to develop and maintain fuel breaks in dedicated open space and fire-access easements.

- S3.5 Fire Flows. Deploy the fire-fighting forces of the Moraga-Orinda Fire District to deliver a minimum fire flow in accordance with the adopted standards of the Moraga-Orinda Fire District. Major fires requiring fire flows in excess of the adopted standards will exceed the initial fire attack capability of local fire-fighting forces and structures involved in such fires are expected to incur major fire damage unless protected by fire resistive interiors and fire sprinkler systems.

Implementing Programs:

IP-B8 Fire Safety Ordinance

IP-C2 Development Review for Emergency Services

IP-L4 Inter-jurisdictional Public Safety Programs

- S3.6 Development Review for Emergency Response Needs. Evaluate new development proposals to ascertain and mitigate problems associated with emergency response needs. Require that proposed development be in areas where fire and emergency services have sufficient capacity to meet project needs or require that they be upgraded to provide necessary capacity as part of the proposed development activities.

*Implementing Programs:**IP-C2 Development Review for Emergency Services*

- S3.7 Fire Vehicle Access. Require proposed development to provide adequate access for fire-fighting and emergency vehicles and equipment in accordance with fire access standards of the Moraga-Orinda Fire District and Town of Moraga Ordinances.

*Implementing Programs:**IP-B1 Zoning and Subdivision Ordinances**IP-B8 Fire Safety Ordinance**IP-C2 Development Review for Emergency Services*

- S3.8 Preemptive Devices at Traffic Signals. Equip all new traffic signals with preemptive devices for emergency response services. Existing traffic signals significantly impacted by new developments shall be retrofitted with preemptive devices at developer's cost.

*Implementing Programs:**IP-B4 Traffic Impacts Ordinance**IP-C2 Development Review for Emergency Services**IP-I1 Transportation Systems Management Plan*

- S3.9 Fire Safety Devices in Buildings. Require the installation of appropriate fire safety devices in all structures at the time of original construction, additions, or remodeling, in accordance with adopted building codes and standards.

*Implementing Programs:**IP-C2 Development Review for Emergency Services**IP-D1 Building and Grading Codes**IP-D2 Building Inspection, Code Enforcements, Hazard Abatement*

- S3.10 High Occupancy Residential Buildings. Require approved built-in fire protection systems in new construction in high occupancy residential buildings (such as multi-story/multi-unit structures, group quarters, etc.) in accordance with Moraga-Orinda Fire District standards. For each new building or addition exceeding 5,000 square feet of fire area in high occupancy residential buildings, a comparable amount of existing fire area shall be equipped with approved built-in fire protection systems.

Implementing Programs:

IP-B8 Fire Safety Ordinance

IP-C2 Development Review for Emergency Services

IP-D1 Building and Grading Codes

IP-D2 Building Inspection, Code Enforcements, Hazard Abatement

- S3.11 Fire Protection Systems. Cooperate with the Moraga-Orinda Fire District to enforce requirements for built-in fire protection systems as required by ordinance, including specialized built-in fire protection systems that may be required based upon building size, use or location.

Implementing Programs:

IP-B8 Fire Safety Ordinance

IP-C2 Development Review for Emergency Services

IP-D1 Building and Grading Codes

IP-D2 Building Inspection, Code Enforcements, Hazard Abatement

- S3.12 Development Review by the Moraga-Orinda Fire District. Continue to require review by the Planning Department and Moraga-Orinda Fire District (MOFD) prior to the issuance of development permits for proposed construction projects and conceptual landscaping plans. The MOFD shall submit conditions of approval for such projects so that they meet adopted fire safety standards. Plans for proposed development in such areas shall include, at a minimum:
- (a) Site plan, planting plan, planting palette, and irrigation plan to reduce the risk of fire hazards and with consideration to site conditions, including slope, structures, and adjacencies.
 - (b) Defensible space maintenance plan.
 - (c) Multiple points of ingress and egress to improve evacuation, emergency response, and fire equipment access, and adequate water infrastructure for water supply and fire flow.
 - (d) Ember-resistant vents, to the extent required when adding a new or replacement roof.

Implementing Programs:

IP-C2 Development Review for Emergency Services

- S3.13 Hazardous Fire Areas. Apply special fire protection standards to all new developments in hillside, open space, and wildland interface areas. Fire prevention measures such as removal of dry grass and brush, landscaping with fire and drought-resistant vegetation, provision of adequate water supplies and access for fire-fighting vehicles shall be required to reduce the risk of wildland fires. All new structures located in hazardous fire areas shall be constructed with fire resistant exterior materials consistent with applicable building codes and standards.

Implementing Programs:

IP-B8 Fire Safety Ordinance

IP-C2 Development Review for Emergency Services

IP-D1 Building and Grading Codes

IP-D2 Building Inspection, Code Enforcements, Hazard Abatement

IP-G11 External Hazard Control Program

- S3.14 Dry Grass and Brush Control. Require that all properties be maintained so as to preclude the existence of combustible material and hazardous vegetation that would permit the spread of fire from one property to another. Encourage preventive measures by homeowners to reduce fire risks.

Implementing Programs:

IP-G11 External Hazard Control Program

IP-M10 Public Safety Information

- S3.15: Fire-Resistant Landscaping in New Development. Continue to uphold fire-resistant landscaping requirements for new residential and commercial development. All new residential development must comply with MOFD and California Board of Forestry regulations.

- S3.16 Fire Retardant Roofing. Require fire retardant roofing of Class A or better in all new construction and when replacing roofs on existing structures.

Implementing Programs:

IP-B8 Fire Safety Ordinance

IP-C2 Development Review for Emergency Services

IP-D1 Building and Grading Codes

IP-D2 Building Inspection, Code Enforcements, Hazard Abatement

- PS3.17 Fire Roads and Trails. Require adequate fire access to open space areas in accordance with Moraga-Orinda Fire District standards.

Implementing Programs:

IP-B8 Fire Safety Ordinance

IP-C2 Development Review for Emergency Services

- S3.18 Fire Prevention Plans in New Development. Require project-specific fire prevention plans for all new development projects in Very High Fire

Hazard Severity Zones and Wildland Urban Interface Zones, including plans for long-term, comprehensive, fuel reduction and management.

- S3.19 **Post-Disaster Recovery.** Develop and update programs as needed that enable recovery and redevelopment after a large fire and that reduce future vulnerabilities to fire hazard risks through site preparation, redevelopment layout design, fire resistant landscape planning, and fire-retarding building design and materials.
- S3.20 **Coordination with EBMUD.** Coordinate with the East Bay Municipal Utility District to maintain an adequate water supply for fire-fighting purposes in the community.
- S3.21 **Evacuation Routes.** Continue to identify and maintain evacuation routes to provide for adequate capacity, safety, and viability of those routes in the event of an emergency.
- S3.22 **Road and access improvements.** Identify existing public and private roadways in fire hazard severity zones and the wildland-urban interface (WUI) that are not in compliance with current fire safety regulations, including road standards for evacuation and emergency vehicle access, vegetation clearance, and other requirements of Sections 1273 and 1274 of the California Code of Regulations (Title 14, Division 1.5, Chapter 7, Articles 2 and 3), to the extent resources are available. Work at retrofitting Town-owned roadways as needed to meet current standards and require private property owners to do the same, to the extent feasible and given the absence of other site constraints.

S4 Seismic and Geologic Hazards

GOAL: Minimal risk to lives and property due to earthquakes and other geologic hazards.

- S4.1 **Development in Geologic Hazard Areas.** Prohibit development in geologically hazardous areas, such as slide areas or near known fault lines, until appropriate technical evaluation of qualified independent professional geologists, soils engineers and structural engineers is completed to the Town's satisfaction. Allow development only where and to the extent that the geologic hazards have been eliminated, corrected or mitigated to acceptable levels.

Implementing Programs:

IP-B10 Geologic Hazards Abatement District Ordinance

- S4.2 **Development Review for Geologic Hazards.** Require development proposals to address geologic hazards, including but not limited to landslide, surface instability, erosion, shrink-swell (expansiveness) and seismically active faults. Technical reports addressing the geologic hazards of the site shall be prepared by an independent licensed soil engineer, geologist and/or structural engineer, approved by the Town

and at the expense of the developer. All technical reports shall be reviewed by the Town and found to be complete prior to approval of a development plan.

Implementing Programs:

IP-B10 Geologic Hazards Abatement District Ordinance

IP-C1 Development Review

IP-C4 Seismic Safety Checklist

IP-C7 Geotechnical Reports

- S4.3 Development Densities in Hazard Areas. Minimize the density of new development in areas prone to seismic and other geologic hazards.

Implementing Programs:

IP-B7 Hillside Zoning Overlay

IP-B10 Geologic Hazards Abatement District Ordinance

IP-C1 Development Review

- S4.4 High Occupancy Structures. Do not locate community buildings or other structures designed to accommodate large numbers of people near fault lines or any area where seismically induced slides are possible.

Implementing Programs:

IP-B7 Hillside Zoning Overlay

IP-B10 Geologic Hazards Abatement District Ordinance

IP-C1 Development Review

IP-C7 Geotechnical Reports

- S4.5 Public Facilities and Utilities in Landslide Areas. Prohibit the financing and construction of public facilities or utilities in potential landslide areas.

Implementing Programs:

IP-B7 Hillside Zoning Overlay

IP-B10 Geologic Hazards Abatement District Ordinance

IP-C1 Development Review

IP-C7 Geotechnical Reports

- S4.6 Construction Standards. Ensure that all new construction and applicable remodeling/reconstruction projects are built to established standards with respect to seismic and geologic safety.

Implementing Programs:

IP-C1 Development Review
IP-C4 Seismic Safety Checklist
IP-C7 Geotechnical Reports
IP-D1 Building and Grading Codes

- S4.7 Construction Oversight. Adopt and follow procedures to ensure that the recommendations of the project engineer and the design and mitigating measures incorporated in approved plans are followed through the construction phase.

Implementing Programs:

IP-C1 Development Review
IP-C4 Seismic Safety Checklist
IP-D2 Building Inspections, Code Enforcement, Hazard Abatement

- S4.8 Unsafe Structures. Properly disclose information pertaining to structures and facilities found to be unsafe and remove or rebuild such structures and facilities to adequate construction standards.

Implementing Programs:

IP-B9 Seismic Safety Ordinance
IP-K6 Seismic Safety Study

- S4.9 Water Storage Reservoirs. Permit properly designed storage reservoirs for domestic water supply only in those locations that will pose no hazard to neighboring development.

Implementing Programs:

IP-B9 Seismic Safety Ordinance;
IP-C1 Development Review
IP-C7 Geotechnical Reports

- S4.10 Grading. Grading for any purpose whatsoever may be permitted only in accordance with an approved plan that finds that the work will be geologically safe and aesthetically consistent with the Town's Design Guidelines. Land with a predevelopment average slope of 25% or greater within the development area shall not be graded except at the specific direction of the Town Council and only where it can be shown that a minimum amount of grading is proposed in the spirit of, and not incompatible with, the intention and purpose of all other policies of the General Plan. The Town shall develop an average slope limit beyond which grading shall be prohibited unless grading is required for landslide repair or slope stabilization.

*Implementing Programs:**IP-C1 Development Review**IP-C7 Geotechnical Reports**IP-D1 Building and Grading Codes*

- S4.11 Retaining Walls. Discourage the use of retaining walls and other man-made grading features to mitigate geologic hazards, permitting them only when:
- Required to decrease the possibility of personal injury or property damage;
 - Designed to blend with the natural terrain and avoid an artificial or structural appearance;
 - Appropriately screened by landscaping;
 - Designed to avoid creating a tunnel effect along roadways and to ensure unrestricted views for vehicular and pedestrian safety; and
 - Designed to ensure minimal public and/or private maintenance costs.

*Implementing Programs:**IP-C1 Development Review**IP-C3 Design Review**IP-C7 Geotechnical Reports**IP-D1 Building and Grading Codes*

- S4.12 Maintenance of Hillside Areas. Facilitate successful long-term maintenance of hillside areas held as common open space.

*Implementing Programs:**IP-J3 Open Space Management Plan*

- S4.13 Public Information on Seismic and Geologic Safety. Educate the general public regarding methods to improve seismic safety, with specific information targeted to hillside homeowners on ways to minimize landslide and erosion hazards.

*Implementing Programs:**IP-M6 Seismic Safety Information**IP-M7 Landslide Information*

S5 Flooding and Streambank Erosion

GOAL: Minimal risk to lives and property due to flooding and streambank erosion.

- S5.1 Public Information on Flood Hazard Mitigation. Educate streamside property owners regarding potential flooding and streambank erosion hazards, their responsibilities for streambank maintenance and repair, and mitigation measures that may be used to address potential hazards.

Implementing Programs:

IP-M8 Information on Streamside Guidelines and Flood Insurance

- S5.2 Development in Floodways. Restrict new development in floodways in accordance with FEMA requirements.

Implementing Programs:

IP-B12 Flood Control Ordinance

IP-C1 Development Review

- S5.3 New Structures in Flood Hazard Areas. Avoid placing new structures within potentially hazardous areas along stream courses.

Implementing Programs:

IP-B12 Flood Control Ordinance

IP-C1 Development Review

- S5.4 Existing Structures in Flood Hazard Areas. Require the rehabilitation or removal of structures that are subject to flooding or streambank erosion hazards.

Implementing Programs:

IP-B12 Flood Control Ordinance

IP-C1 Development Review

IP-F2 Stream Channel Standards

Streambank Maintenance and Repair Responsibilities

Private property owners are responsible for all long- and short-term maintenance on natural creeks and drainage facilities located on or across their property. The only exceptions are those areas where the Town has specifically accepted maintenance responsibility.

- S5.5 Streambank Erosion and Flooding Potential. Reduce the potential for future streambank erosion and flooding by requiring appropriate mitigation measures.

Implementing Programs:

IP-B12 Flood Control Ordinance

IP-C1 Development Review

IP-F2 Stream Channel Standards

- S5.6 On-site Storm Water Retention. Require on-site storm water retention for new developments.

Implementing Programs:

IP-B12 Flood Control Ordinance

IP-C1 Development Review

- S5.7 Flood Control. Utilize flood control measures where appropriate to avoid damage to sensitive and critical slope areas, coordinating with the County Flood Control and Water Conservation District to evaluate watersheds and design flood control projects.

Implementing Programs:

IP-B12 Flood Control Ordinance

IP-C1 Development Review

IP-L4 Inter-jurisdictional Public Safety Programs



9 COMMUNITY FACILITIES and SERVICES

FS1 Town Administration

Town Facilities

The Town of Moraga owns and manages the following community facilities:

- Moraga Commons Park
- Rancho Laguna Park
- Hacienda de las Flores

The Town also owns, but leases, two other community facilities:

- Moraga Library
- Mullberry Tree Preschool

GOAL: Efficient and effective management of the Town, including maximum economies from the expenditure of public monies and involvement of citizens as human resources to research problems and recommend solutions.

- FS1.1 Efficient Town Services. Operate the Town to achieve maximum efficiency in its service delivery, utilizing a minimum number of permanent service employees and keeping capital expenditures and operating costs to a minimum while responding to community needs and priorities. Continue to seek improved methods of governmental administration that will be as cost-effective as possible, and avoid the incremental growth of government service except for urgent short-term situations

Implementing Programs:
IP-A2 Annual Town Budget

- FS1.2 Contract Services. Encourage the continuation of Moraga as essentially a contract service Town when it is cost-effective, contracting out all work that is beyond the capability of Town staff.

Implementing Programs:
IP-A2 Annual Town Budget

- FS1.5 Town Library. Continue to work closely with the Contra Costa County Library Commission, County Librarian, Lamorinda Library Board and the Friends of Moraga Library to improve and enhance library services, including additional library hours.

Implementing Programs:
IP-L6 Library Services

- FS1.6 Citizen Expertise. Solicit and utilize citizen expertise in non-paid committee and special service functions, using citizens committees as an extension of staff whenever possible. Strive for broad numbers in terms of numbers and diversity.

Implementing Programs:
IP-A6 Citizen Participation

- FS1.7 Annual General Plan Review and Town Budget. Conduct the annual review of the General Plan (IP-A4) prior to initiating the Town Budget process.

Implementing Programs:

IP-A2 Annual Town Budget

IP-A4 Annual General Plan Review

- FS1.8 Areas of Potential Annexation. Consider annexation of areas within Moraga's Sphere of Influence that will receive services from the Town or other urban service providers (water, sanitation, etc.).

Implementing Programs:

IP-K5 Annexation Review

FS2 Schools

<i>GOAL: Continued high quality schools.</i>
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- FS2.1 Population Growth and School Capacity. Ensure that potential impacts on school facilities are considered when reviewing and approving development proposals, working with the Moraga School District and Acalanes Union High School District to determine potential impacts and establish appropriate mitigations, as necessary.

Implementing Programs:

IP-C1 Development Review

IP-L11 Coordination with the School Districts

- FS2.2 Pace of Growth. To the extent permitted by law, manage new residential development in a way that allows the Moraga School District and Acalanes Union High School District to plan and finance facility expansion in an orderly fashion.

Implementing Programs:

IP-C1 Development Review

IP-L11 Coordination with the School Districts

- FS2.3 School Impact Fees. Cooperate with the School Districts to assess an impact fee on new subdivision developments to offset the costs of facility expansion and other school impacts resulting from those developments, in accordance with State law.

Implementing Programs:

IP-C1 Development Review

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

IP-L11 Coordination with the School Districts

- FS2.4 Cooperation with Schools. Maintain an ongoing collaborative working relationship with the Moraga School District, the Acalanes Union High School District, and private schools in the Town to address growth, facility planning, neighborhood impacts, and other issues of mutual concern.

Implementing Programs:

IP-L11 Coordination with the School Districts

- FS2.5 Schools and Schoolyards as Neighborhood Places. *See Policy CD2.4.*

Implementing Programs:

IP-L11 Coordination with the School Districts

FS3 Parks and Recreation

GOAL: Parks and recreational facilities that respond to community needs and priorities and are consistent with Town resources.

FS3.1 Parks and Recreation Commission. Continue to appoint and support the Parks and Recreation Commission to advise the Town Council on parks and recreation matters. The Parks and Recreation Commission shall:

- Advise the Town Council concerning the establishment, implementation and evaluation of goals and policies relating to Parks and Recreation facilities and services.
- Maintain and biennially review and update the master plans for individual parks.
- Evaluate the need for additional park and recreation facilities.
- Review development proposals for adequacy of parks and recreation facilities and open space requirements.
- Advise the Town Council regarding the acceptance of park dedication funds and/or facilities.

Implementing Programs:

IP-A7 Citizen Commissions

FS3.2 Parks and Recreation Facilities in New Developments. Ensure that adequate recreation facilities are provided in areas of new residential development as a condition of development approval. Recreation facilities may include but need not be limited to amenities such as playgrounds, drinking fountains, trails, restrooms, picnic tables, play fields, and natural areas.

Implementing Programs:

IP-C1 Development Review

FS3.3 Park Dedication Requirements. Require residential and business developments to make appropriate provisions for park land dedication, trails, trail easements and/or in-lieu fees as part of the planning and development process. Land and/or facilities provided by the developer can be considered for credit toward the park dedication requirement.

Implementing Programs:

IP-C1 Development Review

FS3.4 Facility Maintenance. Provide a high level of maintenance at all park and recreation facilities.

Implementing Programs:

IP-G14 Facility Management

FS3.5 Maintenance and Operation Costs. Strive to achieve self-sustaining parks and recreation activities through appropriate fee structures.

Implementing Programs:
IP-A6 Citizen Participation
IP-G12 Recreation Programs
IP-G14 Facility Management

- FS3.6 Access for People of All Abilities. Design and manage park and recreation facilities, including trail facilities, so that people of all abilities can access and enjoy Moraga's recreational opportunities, consistent with the requirements of the Americans with Disabilities Act (ADA).

Implementing Programs:
IP-A2 Annual Town Budget
IP-G14 Facility Management

- FS3.7 Parking at Parks and Recreation Facilities. Strive to provide adequate parking at all parks and recreation facilities.

Implementing Programs:
IP-G13 Facility Master Plans

- FS3.8 Hacienda de las Flores. Continue to use Hacienda de las Flores as a recreation center, botanical garden and historical complex.

Implementing Programs:
IP-G12 Recreation Programs
IP-G13 Facility Master Plans

- FS3.9 Moraga Commons. Continue to use Moraga Commons as the central site for community events.

Implementing Programs:
IP-G12 Recreation Programs
IP-G13 Facility Master Plans

- FS3.10 Land Management. Manage parks, open space lands and trails in accordance with recognized land management principles.

Implementing Programs:
IP-G14 Facility Management
IP-J3 Open Space Management Plan

- FS3.11 Mulholland Ridge Use and Management. Develop a plan for use and management of the Mulholland Ridge area as a community open space, involving Moraga residents in the planning process.

Implementing Programs:

IP-J3 Open Space Management Plan

- FS3.12 Recreation Programs. Develop recreation programs consistent with the carrying capacities of available park lands and facilities.

Implementing Programs:

IP-G12 Recreation Programs

IP-G14 Facility Management

- FS3.13 Age-Appropriate Activities. Provide a range of recreational facilities and programs to meet the needs of all age groups.

Implementing Programs:

IP-G12 Recreation Programs

IP-G13 Facility Master Plans

IP-G14 Facility Management

- FS3.14 Neighborhood Compatibility. Ensure that recreational facilities and activities are compatible with the neighboring environment.

Implementing Programs:

IP-G12 Recreation Programs

IP-G13 Facility Master Plans

IP-G14 Facility Management

- FS3.15 Recreational Use of School Facilities. Consider school properties for recreational programming and joint facilities development to the extent feasible.

Implementing Programs:

IP-G12 Recreation Programs

IP-L11 Coordination with the School Districts

- FS3.16 Recreation Programs, Activities and Events. Encourage the development and coordination of recreational facilities, activities, programs and special events, independently or with other governmental agencies, service organizations, local schools and businesses.

Implementing Programs:

IP-G12 Recreation Programs

IP-L5 Inter-jurisdictional Recreation Planning

- FS3.17 Joint Programs with Saint Mary's College. Encourage joint recreational programs between the Town of Moraga and Saint Mary's College.

Implementing Programs:

IP-G12 Recreation Programs

IP-L10 Coordination with Saint Mary's College

- FS3.18 Community Education Activities. Encourage activities from which Moraga residents can learn about the community, its history, resources and residents.

Implementing Programs:

IP-G12 Recreation Programs

- FS3.19 Recreation Staff. Hire local residents as leaders and instructors whenever possible.

Implementing Programs:

IP-A6 Citizen Participation

IP-G12 Recreation Programs

- FS3.20 Trails Master Plan. Implement the Moraga Trails Master Plan through ownership and easements to establish and maintain a comprehensive trails network in the Town. Adjust the plan as necessary to take advantage of any new trail opportunities that may arise.

Implementing Programs:

IP-A2 Annual Town Budget

IP-C1 Development Review

IP-K2 Pedestrian, Bicycle and Trails Master Plan

- FS3.21 Trail Design and Maintenance. Consider the following when planning, designing, implementing and maintaining trail facilities:

- *Environmental Impacts.* Design trails for a minimum adverse environmental impact.
- *Fiscal Impacts.* Consider the fiscal impacts of accepting ownership and maintenance responsibility of trail facilities.
- *Safety.* Separate trail routes from motor vehicle routes whenever possible.
- *Use of Fire Trails.* In undeveloped areas, improve existing fire trails for trail use in cooperation with landowners.

Implementing Programs:

IP-A2 Annual Town Budget

IP-C1 Development Review

IP-K2 Pedestrian, Bicycle and Trails Master Plan

IP-J3 Open Space Management Plan

- FS3.22 Regional Trail System. Encourage and cooperate with other jurisdictions and agencies to develop and maintain a unified regional trail system, including hiking, biking and equestrian trails. Support development of regional trail projects such as the Bay Ridge Trail.

Implementing Programs:

IP-K2 Pedestrian, Bicycle and Trails Master Plan

IP-L5 Inter-jurisdictional Recreation Planning



10 GROWTH MANAGEMENT

GM1 Growth Management

GOAL: Maintenance of approved Performance Standards for Town facilities, services and infrastructure.

'Levels of Service' (LOS)

To evaluate circulation standards, traffic conditions are described in terms of Levels of Service, or LOS. A range of 'A' to 'F' indicates the service level, 'A' being effective, and continuing to 'F' being the worst. Level of Service can be measured in terms of the percentage of capacity under which a particular roadway operates. When a road segment is operating at 100 percent of capacity, LOS 'F' has been reached.

Roadway Classifications

The Contra Costa Transportation Authority has differentiated between Basic Routes and routes of Regional Significance. All of Moraga's roadways are Basic Routes and all can be classified as Suburban Roads with the exception of Moraga Road and Moraga Way, which are designated Urban.

- GM1.1 Purpose of the Growth Management Element. Establish policies and standards for traffic levels of service and performance standards for fire, police, parks, sanitary facilities, water and flood control to ensure that public facilities are provided consistent with adopted standards.
- GM1.2 Authority to Adopt the Element and 'Measure J' Consistency. Adopt the Growth Management Element pursuant to the authority granted to local jurisdictions by Section 65303 of the Government Code, and ensure consistency with the requirements of the Contra Costa Transportation Improvement and Growth Management Program (Measure J), approved by Contra Costa voters in 2004.
- GM1.3 Implementation of the Growth Management Element. Establish a comprehensive long-range program that will match the demands for public facilities generated by new development with plans, capital improvements, and development programs.
- Implementing Programs:*
IP-A2 Annual Town Budget
IP-C1 Development Review
IP-C5 Traffic Impact Studies
IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing
IP-L7 Lamorinda Transportation Planning
- GM1.4 Traffic Service Standards. Establish the LOS standard for all Moraga roads, urban and suburban, as a 'high C' (0.75 to 0.79 volume to capacity ratio).

GM1.5 Other Performance Standards. Establish the following performance standards for other Town facilities, services and infrastructure. These standards pertain to the development review process and should not be construed as applying to existing developed lands. Proposed developments must include mitigation measures to assure that these standards or their equivalent are maintained. Modifications to these standards may be accomplished by a resolution of the Town Council.

Parks. Three acres of parkland per 1000 residents.

Fire. A fire station within 1.5 miles of all residential and nonresidential development in the Town, in the absence of appropriate mitigation measures.

Police. Maintain a three-minute response time for all life-threatening calls and those involving criminal misconduct. Maintain a seven-minute response time for the majority of non-emergency calls.

Sanitary Facilities. The capacity to transport and treat residential and non-residential wastewater as indicated by the Central Contra Costa Sanitary District.

Water. The capacity to provide sufficient water to all residents and businesses in the Town as indicated by the East Bay Municipal Utility District.

Flood Control. Containment of the 100-year flood event (as determined by FEMA) by the flood control/drainage system.

GM1.6 Development Impacts and Share of Costs. Require all new development to contribute to or participate in the improvement of traffic service, parks, fire, police, sanitary, water and flood control systems in proportion to the demand generated by project occupants and users.

Implementing Programs:

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

GM1.7 Development Review and Approval. For projects requiring discretionary review, approve development projects only after making findings that one or more of the following conditions are met:

- a) Standards for transportation and facility/service performance will be maintained following project occupancy;
- b) Mitigation measures are available and will be required of the applicant in order to ensure maintenance of standards;

- c) Capital projects planned by the Town or by a special district will result in maintenance of standards.

Implementing Programs:

IP-A2 Annual Town Budget

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

IP-L1 Development Review Referral

IP-L7 Lamorinda Transportation Planning

- GM1.8 Transportation System Improvements. Implement actions in the Lamorinda Action Plan for which the Town is responsible.

Implementing Programs:

IP-I1 Transportation Systems Management Plan

- GM1.9 Concurrency. Require that improvements to traffic service and/or other Town facilities and services that are a condition of project approval be implemented and in place at the time of project completion and occupation.

Implementing Programs:

IP-A2 Annual Town Budget

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

- GM1.10 Findings of Consistency. The Contra Costa Transportation Authority requires that projects estimated to generate over 100 peak-hour vehicle trips to conduct a traffic impact study. In addition, the Lamorinda Project Management Committee (LPMC) is required to review projects that are expected to add an additional 50 peak-hour trips. In such instances, the approval body must make Findings of Consistency with the adopted Level of Service standards and approved action plans in order to approve the project; unless mitigations are programmed to be completed within five years or Findings of Special Circumstances have been made.

Implementing Programs:

IP-C1 Development Review

IP-C5 Traffic Impact Studies

IP-C8 Fee Waivers/Deferrals and Expedited Permit Processing

IP-L7 Lamorinda Transportation Planning

- GM1.11 Reviewing and Monitoring Performance Standards. Periodically review and monitor all performance standards.

Implementing Programs:
IP-A4 Annual General Plan Review

- GM1.12 Conflict Resolution. Follow the Contra Costa Transportation Authority's conflict resolution process to resolve disputes related to the Action Plans and other parts of the regional Growth Management Program (Measure J).

Implementing Programs:
IP-A9 Conflict Resolution

See also policies C2.1, Regional Collaboration and Problem-solving (page 6-4) and C2.2, Regional Transportation Improvements (page 6-5).

- GM1.13 Implement the Contra Costa County voter approved Urban Limit Line (ULL). Use the Development Review process to oppose urban development that is contrary to the Contra Costa County approved Urban Limit Line (ULL).

Implementation Programs:
IP-C1 Development Review

11 ACTION PLAN

This chapter presents a comprehensive list of the implementing programs for the Moraga General Plan, as referenced for each policy in Chapters 3 through 10. These are the programs that put the Plan's goals and policies into action.

The programs are organized by type, including:

- A General Programs
- B Ordinances
- C Development Review
- D Codes and Enforcement
- E Design Guidelines
- F Other Guidelines and Standards
- G Ongoing Programs
- H Housing Specific Programs
- I Circulation Specific Programs
- J Open Space Specific Programs
- K Special Plans and Projects
- L Intergovernmental Coordination
- M Public Information And Education
- N Cultural, Paleontological, and Tribal Cultural Resource Protection

Appendix F provides a summary matrix identifying the Town department(s) responsible for implementing each program, schedule for implementation (highlighting programs to be implemented in the coming year), financing sources (when other than or in addition to Town funds), and, where applicable, quantified objectives for the production of housing units affordable to various income levels (in accordance with State law requirements). Quantified objectives are also summarized at the end of the Housing Element (Chapter 5).

The Action Plan, in keeping with Implementing Program IP-A4, should be revisited on an annual basis as part of the General Plan Annual Review to report on the status of each implementing program and revise the schedules to reflect implementation priorities for the coming year.

A. General Programs

IP-A1 General Plan Diagram

Use the General Plan Diagram to guide land use planning activities in the Town and its Sphere of Influence area. Use the Circulation System of the General Plan Diagram to guide activities related to goods movement, emergency vehicle routes, street closures and other activities that affect the transportation system, local businesses and residents. Review and update the General Plan Diagram as part of the annual General Plan review process.

IP-A2 Annual Town Budget

Prepare, review and adopt an Annual Budget to identify and fund ongoing Town programs, services, activities, and projects, including capital improvement projects needed to maintain and enhance the community's character, quality and livability. Capital improvement projects shall include park and recreation facility improvements; public safety improvements; and improvements to the circulation system that are necessary to maintain and improve traffic operations and/or levels of facility performance, identifying funding sources (Town funds and other) as well as intended project phasing.

IP-A3 Annual Needs Assessment

Conduct an annual assessment of service levels in relation to community needs as part of the Town budget process.

IP-A4 Annual General Plan Review

Conduct an annual review of the General Plan prior to initiating the Town budget process, reporting on the status of the Plan's implementing programs and revising the schedules for implementation accordingly to reflect implementation priorities for the coming year and ensuring linkage between implementation priorities and the Town's annual budget. Additionally, the review should identify current issues in need of attention and recommend new or revised goals, policies or implementing programs, as appropriate, including proposed General Plan amendments.

IP-A5 Public Opinion Surveys

Conduct periodic surveys of public opinion on the Town's various programs and activities.

IP-A6 Citizen Participation

Continue to encourage citizen participation in all Town activities, including ongoing review and management of the General Plan and development decision-making. Other areas in which to emphasize citizen participation include:

- *Recreation Programs.* Encourage resident participation in community events and activities, including recreation programs, both as participants and as leaders, instructors or coaches.
- *Public Safety Activities.* Involve residents, businesses and service organizations in citizen task forces to study special areas of safety concern, and in safety education activities, such as neighborhood watch, drug awareness, disaster preparedness, and similar programs.

IP-A7 Citizen Commissions

Continue to appoint and support Moraga residents to serve on commissions related to the Town's planning and development and service delivery. Commissions include the Planning Commission, Design Review Board, Parks and Recreation Commission, and Youth Involvement Committee. Each Committee shall have a designated charge and shall be involved in the review and discussion of relevant issues, making recommendations as appropriate to staff and the Town Council.

IP-A8 Homeowner Assistance

Provide long-term technical assistance to homeowner associations to address public safety issues and concerns, for an appropriate fee or assessment. Assistance shall also be provided in the form of public information and education programs.

IP-A9 Conflict Resolution

Participate in the Contra Costa Transportation Authority's conflict resolution process as needed to resolve disputes related to the development and implementation of policies described in the Growth Management Element.

IP-A10 Private Sector Support

Encourage the donation of funds, goods and services by the private sector according to the established guidelines and policies of the Town.

B. Ordinances

IP-B1 Zoning and Subdivision Ordinances

Revise the Town's Zoning Map, Zoning Ordinance and Subdivision Ordinance, as needed, to maintain consistency with the adopted General Plan and, specifically, to achieve the following:

- Incorporate the land use plans of the Moraga Center Specific Plan.
- Provide sufficient capacity to meet the Regional Housing Needs Allocation, including zoning for a variety of housing types at a range of densities.
- Retain existing residential zoning and discourage non-residential uses in these zones.
- Provide for density bonuses in residential districts, consistent with State law requirements (California Govt. Code 65915).
- Continue to allow the renting of rooms/quarters in single-family homes as a permitted use in single-family zones.
- Permit emergency and transitional housing in the Community Commercial Zoning District.
- Continue to allow manufactured housing on single-family lots if placed on permanent foundations and subject to compliance with Town Design Guidelines.
- Implement State laws for accessory dwelling units (ADUs), recognizing the importance of ADUs in meeting local housing needs.
- Prohibit the creation of new non-MOSO lots unless the after-graded average slope of the proposed development area is less than 25%.

IP-B2 Moraga Open Space Ordinance

Continue to implement the development policies and standards set forth in the Moraga Open Space Ordinance, in accordance with its Interpreting and Implementing Guidelines.

IP-B3 Condominium Conversions Ordinance

Revise the Condominium Conversion Ordinance to exempt limited equity residential cooperatives that meet all of the following requirements to the extent necessary to comply with State Law:

- Minimum of 20 percent of the units as housing affordable to very-low to moderate income households,
- Resale controls to assure long term affordability of the low- and moderate-income units,
- Right of first refusal of purchase of units by occupants, and
- Relocation assistance to low- or moderate-income households who are unable to afford the purchase of units that are converted.

IP-B4 Traffic Impacts Ordinance

Require developers to fund or construct their “fair share” of transportation improvements.

IP-B5 High Risk Areas Zoning Overlay

Establish a zoning overlay district for all high-risk areas. Development may be permitted only if geologic and geotechnical investigations or project mitigations result in a very low level of risk to life and property. If so, require the project geotechnical engineer and the engineering geologist to make explicit findings that this is the case, and require review by the Town’s consulting geotechnical engineer and engineering geologist. Mitigations, if necessary, should be made conditions of project approval.

IP-B6 Moderate Risk Areas Zoning Overlay

Establish a zoning overlay district for all moderate-risk areas and discourage development in areas so designated. Where possible, avoid building in moderate risk areas. Where it is not possible to avoid building in such areas entirely, due to parcel size and configuration, limit development accordingly through density regulations, subdivision designs that cluster structures in the most stable portions of the subdivision, site designs that locate structures in the most stable portion of the parcel, and specific requirements for site engineering, road design, and drainage control.

IP-B7 Hillside Zoning Overlay

Establish a Hillside Zoning Overlay for all hillside sites with greater than 20 percent slope. Regulate densities and require that permitted structures be built in the most stable portion of each parcel. Prohibit the construction of new residences on average slopes of 25 percent or more within the proposed development area of a lot, with the exception of existing lots that were either legally created after March 1, 1951 or specifically approved by the Town Council after April 15, 2002. In the case of existing lots with an average slope of 25% or more within the proposed development area, the design of all new residences shall be subject to design review approval.

IP-B8 Fire Safety Ordinance

Work in conjunction with the Moraga-Orinda Fire District to enact appropriate ordinances to require the use of built-in fire protection systems in all new commercial buildings and in single family residential buildings where water supply and access do not meet fire code requirements or distance to a fire station exceeds 1.5 miles, or square footage exceeds 5,000. The ordinance should also establish guidelines for fire trails and fuel breaks in open space areas, for minimum roofing requirements, and for the design, use and management of Emergency Vehicle Access routes.

IP-B9 Seismic Safety Ordinance

Adopt an ordinance requiring the reinforcement of hazardous buildings. The ordinance should:

- Identify critical facilities such as public facilities and infrastructure, evaluate their seismic safety, and develop a schedule for strengthening those facilities found to be below standard.
- Require critical facilities, such as schools and medical facilities, to meet the highest possible standards.
- Set priorities for non-critical facilities and establish procedures and a schedule for achieving compliance.
- Require basic elements of seismic retrofitting upon transfer of property, including inexpensive and cost-effective measures such as bolting of houses to foundations, reinforcement of chimneys, sheathing of cripple walls and bracing of hot water heaters.
- Include guidelines for post-earthquake decisions regarding evacuation and condemnation of damaged buildings.

IP-B10 Geologic Hazards Abatement District Ordinance

Adopt Geologic Hazards Abatement Districts, in accordance with State enabling legislation, to mitigate geological hazards within new development areas.

IP-B11 Transportation Systems Management Ordinance

To attain traffic service standards, adopt and implement a Transportation Systems Management (TSM) ordinance or alternative mitigation program.

IP-B12 Flood Control Ordinance

Establish a flood control ordinance using FEMA guidelines. The ordinance should establish standards for structural setbacks along streams, set standards for property line setbacks, and require that streamside property be owned and managed in common.

IP-B13 Historic Preservation Ordinance

Develop and adopt a Historic Preservation Ordinance to preserve designated historic buildings and sites and to allow owners of designated historic buildings to apply for tax relief through Mills Act Agreements. Issues to address include definition and designation of historic buildings and sites (including historic orchards); demolition procedures and permits; review of structural modifications and use changes; and design and development review criteria and procedures. Establish guidelines for site and building use, rehabilitation, relocation, and adaptive reuse, and implement discretionary design reviews.

IP-B14 Non-smoking Ordinance

Periodically evaluate the effectiveness and scope of the Town's non-smoking ordinance, and revise as appropriate.

IP-B15 Moraga Tree Ordinance

Implement and monitor the Moraga Tree Ordinance to preserve and protect trees in the community as they contribute to the beauty and environmental quality of the Town, with particular attention to designated 'tree-covered areas' (OS2-9) and 'trees of historical significance' (CD7.1), as defined in the Ordinance.

IP-B16 Recycled Water Ordinance

Consider adopting a Recycled Water Ordinance in accordance with State law.

IP-B17 Moraga Grading and Erosion Control Ordinance

Adopt a comprehensive grading and erosion control ordinance. Require all grading on average slopes of 25% or more within the development area to be considered by the Town Council following a recommendation by the Planning Commission. In addition, identify the maximum average slope within a development area that can be graded and prohibit grading of average slopes in excess of the limit. Require natural contour grading of all slopes in excess of 20%.

IP-B17 Noise Ordinance

Update the provisions of the Moraga Municipal Code covering acceptable levels of noise, including noise levels for stationary sources.

C. Development Review**IP-C1 Development Review**

Undertake development reviews to ensure compliance with applicable local, regional, state, and federal laws and adopted policies. Ensure that developers contribute funding for on-site and off-site improvements that mitigate impacts of development.

Specifically, review development proposals to ensure:

- *Neighborhood Quality.* Continue to examine site and building plans to ensure that layout and design meet Town objectives for neighborhood quality, security, and public safety.
- *Performance Standards.* Ensure that one or more of the following conditions will be met:
 - Performance standards will be maintained consistent with adopted mitigation programs following project occupancy;

- Additional mitigation measures are available and will be required of the project sponsor in order to ensure maintenance standards; or
- Capital projects planned by the Town or special districts will result in the maintenance of standards. Improvements should be in place at the time of project implementation.
- *Acceptable Noise Levels.* Ensure that any residences sited adjacent to major arterials include measures that reduce noise to acceptable levels, consistent with State law. Encourage designs that orient sensitive portions of buildings away from noise sources, utilize the natural terrain to screen structures from major arterials or other noise sources, and use appropriate design techniques to reduce adverse noise impacts. Applicants for new development projects shall conduct site-specific noise analysis to ensure that noise levels from stationary sources such as mechanical equipment and HVAC systems remain below the daytime limit of 60 dBA L_{eq} and nighttime limit of 50 dBA L_{eq} at residential uses and other sensitive receptor property lines.⁹ The nighttime limit shall only apply to sensitive receptors which are in use at night.
- *Solar Access.* Discourage the design and siting of buildings in a manner that may reduce solar access for adjacent buildings or properties.
- *Emergency Response.* Appropriate consideration of emergency response planning, including provisions for evacuation in the event of a wildfire or other emergency.
- *Fire Prevention.* Appropriate fire prevention measures, including fire protection systems and fire-retardant roofs in accordance with adopted ordinances and standards.
- *Safe Subdivision Design.* Subdivision design and platting of each parcel so that there is a safe building location.
- *Slope Stability.* Location of development in the most stable portion of each subdivision and/or parcel, with a statement from the project engineering geologist and geotechnical engineer to this effect, subject to review of the Town's consulting geotechnical engineer and engineering geologist.
- *Seismic Safety.* Design and construction according to the seismic standards of the latest edition of the Uniform Building Code, with public buildings, multi-story buildings, office and commercial buildings, and public infrastructure designed to the highest feasible standards of seismic design by a structural engineer according to expected levels of seismic shaking, with review by a qualified structural engineer.

⁹ A stationary noise source is typically a fixed mechanical system such as an air conditioning unit, exhaust system, generator, compressor or pump. It does not include non-stationary noise, such as traffic, music, passing aircraft, barking dogs, alarms, sirens, etc.

IP-C2 Development Review for Emergency Services

Ensure that developments are designed to provide adequate emergency vehicle access, including alternative emergency vehicle access for all new developments with 40 or more units. Ensure that new subdivisions conform to Town standards and are reviewed by officials at the Moraga-Orinda Fire District.

IP-C3 Design Review

Submit all applicable development proposals to the Design Review Board to ensure consistency with the design goals and policies of the General Plan and the Town Design Guidelines.

IP-C4 Seismic Safety Checklist

Create a checklist of seismic design features to be verified in plan review and building inspection.

IP-C5 Traffic Impact Studies

Conduct a Traffic Impact Study as part of the application review process in a manner that is consistent with the technical guidelines published by the Contra Costa Transportation Authority. As appropriate, this should include Vehicle Miles Traveled (VMT) analysis for projects that do not meet locally established VMT screening criteria.

IP-C6 CEQA / Environmental Impact Reports

Continue to utilize the CEQA process to evaluate and document the potential environmental impacts of proposed development and avoid environmental degradation, requiring environmental impact analysis and appropriate mitigations as necessary in accordance with applicable laws.

IP-C7 Geotechnical Reports

Require a geotechnical report to accompany building permit applications for all new construction, except minor building additions. For hillside sites with slopes steeper than 20 percent, require an engineering geologic report and retain a geotechnical engineer and engineering geologist to review such reports on behalf of the Town, according to established guidelines and procedures for review and approval. Ensure that all geologic and geotechnical reports are made a part of the public record, organized in such a manner that they will become an evolving source of local geotechnical information.

IP-C8 Fee Deferrals and Expedited Permit Processing

- Review the Town's fee structure to ensure that development pays no more than its fair share of providing public service improvements consistent with the General Plan. Provide fee deferrals for projects that contain low- or moderate-income housing. Fee deferrals should be commensurate with the percentage and income levels of the affordable units proposed, and

should be offered only when necessary to assure the financial feasibility of the project and/or the affordability of the low- or moderate-income units.

- Provide expedited permit processing and permit assistance to developers providing affordable housing to ensure that unnecessary delays do not occur that could jeopardize project funding or result in substantial increases in project costs.

D. Codes and Enforcement

IP-D1 Building and Grading Codes

Review and revise the Town's building and grading codes, as necessary, to ensure that the highest standards of the geotechnical engineering profession are being followed. Specifically, aim for the highest standards in the areas of:

- Foundation design for expansive soils
- Hillside drainage
- Fill settlement
- Slope stability analysis
- Liquefaction analysis and mitigation
- Landslide repair

In the grading code, require that roads constructed in hillside areas be engineered to standards that facilitate proper emergency access and the delivery of necessary services, while reducing the potential for excessive maintenance and repair costs. Develop an average slope limit beyond which grading shall be prohibited unless grading is required for landslide repair or slope stabilization.

IP-D2 Building Inspection, Code Enforcement and Hazard Abatement

Encourage the County to continue to respond to complaints of substandard property conditions by inspecting properties and enforcing applicable building, health and safety codes. As appropriate, inform elected and appointed officials regarding code compliance and enforcement issues.

For critical structures and development in risk areas, encourage the County to implement a pro-active program of building inspection, code enforcement, and hazard and nuisance abatement. Specifically:

- *Substandard Structures.* Inspect and vacate or condemn structures that are damaged or are in imminent peril, using public nuisance abatement powers.
- *Hazards in Town Buildings.* Reduce non-structural hazards in all Town buildings.
- *Continuing Education for Seismic Safety.* Require inspectors to attend continuing education programs to ensure their familiarity

with principles of seismic design and with seismic code requirements.

- *Grading and Foundation Inspections.* Establish inspection procedures to ensure that all grading and foundation work is observed and documented at specific critical stages. For sensitive sites, require periodic grading and foundation inspection by the Town's engineering geologist and/or geotechnical engineer.
- *Inspection of Critical Public Buildings.* For particularly critical public buildings, require periodic inspection by the Town's structural engineer for seismic safety.

E. Design Guidelines and Objective Standards

Review and update the Town Design Guidelines to implement the goals and policies of the General Plan, including its Community Design Element. Specific areas to address include:

IP-E1 Scenic Corridor Design Guidelines

Review and update design guidelines and development standards for the Town's designated Scenic Corridors to provide consistent landscaping, design features, and development controls. Guidelines should address:

- Street tree selection and spacing and, where appropriate, median trees and groundcover plantings.
- View protection, especially to ridgeline and hillside areas.
- Signage and/or graphic systems to identify the two commercial centers and important community facilities.
- Private signage (location, size and materials).
- Building setbacks, heights and architectural features.
- Landscaping in setback areas, yards and planted courtyards visible from the street.
- Provisions for drought-tolerant species, use of recycled water, and other water conservation measures.
- Pedestrian-oriented lighting.
- Sidewalk design, along the frontage of residential and commercial areas.

All standards should be objective and should facilitate ministerial approval of housing that is consistent with the General Plan and zoning, as required by State law. Particular attention should be given to the Scenic Corridors in the Moraga Center Area and Rheem Park Area, establishing points of entry, reinforcing the special design character of these two areas, and supporting walkable and pedestrian-oriented higher-density development.

IP-E2 Residential Design Guidelines and Objective Standards

Review and update design standards and guidelines to ensure that they are consistent with State housing law and address residential design issues in existing and potential future single-family residential developments, including:

- *Subdivision Design* to encourage lot and street configurations adapted to topography and natural features.
- *Street Design* to discourage closed loop streets and provide adequate emergency access and evacuation capacity.
- *Landscape Character*, to encourage street trees and landscaping and retain significant views, with provisions for drought-tolerant species, use of recycled water, and other water conservation measures.
- *Pedestrian Environment* to create interconnected sidewalk/pathway linkages to adjacent neighborhoods, commercial centers and community facilities such as parks and schools; provide for pedestrian-oriented lighting; and, where feasible, encourage landscape strips between the sidewalk and curb to buffer pedestrians from automobiles.
- *Home Design* to encourage home designs that are consistent with existing residential character, with appropriate height, scale and setback requirements; and to discourage the visual dominance of garages on streets by limiting the frontage (by percentage and by location) occupied by garage doors.
- *Energy Efficiency* to encourage home designs and retrofitting conserve energy through use of active and/or passive solar energy systems, ceiling insulation, ceiling fans, low-energy appliances, and/or other measures.
- *Equipment Screening* to encourage appropriate screening of mechanical equipment, solar collectors, satellite dishes, communication devices and similar devices, with special attention given to buildings whose roofs are viewed from higher elevations.
- *Infill Development* to promote more sensitive building additions and infill projects that preserve the scale and character of the existing neighborhood.
- *Public Places* to provide facilities and amenities appropriate to the neighborhood, such as neighborhood parks, childcare centers, schools and churches, ensuring appropriate siting and design.
- *Clustering* to preserve natural features and open spaces and minimize grading.
- *Landscaping in Hillside Areas* to address issues such as fire resistance, erosion control, drought tolerance, and visual buffering for privacy.
- *Estate Housing* to address issues specific to large-lot developments in outlying areas.

IP-E3 Multi-Family Residential Design Guidelines and Standards

Review and update design standards and guidelines to ensure that they are objective and consistent with State housing law. These standards should address issues specific to the planning, design and management of multi-family residential developments, including:

- *Site Design* to encourage developments that are oriented towards the public street rather than to an internal parking area.
- *Density and Housing Type Mix* to encourage a variety of housing types and discourage too high a concentration of any one unit or building type in a single area.
- *Building Design* to encourage buildings that reflect the scale and quality of their surroundings while supporting the Town's ability to provide for its share of regional housing needs.
- *Landscaping* to encourage developments that blend with the natural setting, with provisions for drought-tolerant species and fire resistive plant species, use of recycled water, and other water conservation measures.
- *Sense of Entry and Individuality* to provide a public entry point and a 'sense of address' toward the street or directly to an open space on the site.
- *Outdoor Spaces and Amenities* to encourage garden spaces and outdoor play spaces on the site.
- *Pedestrian Environment* to create a place where it is pleasant and safe to walk, orienting buildings towards public sidewalks and providing yards and landscaped setbacks.
- *Pedestrian and Bicycle Linkages* to encourage walking and biking to nearby community facilities and commercial centers.
- *Automobile Access and Parking* to minimize large parking areas or garage door openings along public streets, encouraging screened parking areas, side-yard parking, and/or 'alleys' to access parking at the rear of developments.
- *Public Places* to provide facilities and amenities appropriate to the development and neighborhood, such as park space or childcare centers, ensuring appropriate siting and design.
- *Opportunities for ministerial approval* for residential projects that are consistent with local zoning regulations and meet objective design and development standards, as required by State law.

IP-E4 Commercial Design Guidelines

Review and update design standards and guidelines for Moraga's commercial centers as part of planning for the Moraga Center and Rheem Park Areas. Issues to address include:

- *Building Design* to establish appropriate building heights, setbacks and architectural design standards and create a pleasant village-like atmosphere with a strong 'sense of place.'

- *Visual Environment* to create a more pleasing and inviting visual environment by locating and screening storage yards, parking areas, service areas and other ground level paved areas shall be screened from off site views by perimeter and tree canopy planting. Special attention should be given to views from nearby and distant hillside neighborhoods. Large flat-roofed areas and rooftop equipment shall be screened from off-site views.
- *Pedestrian Environment* to create a strong pedestrian orientation, with buildings sited and designed to create a pleasant pedestrian experience along public street frontages and active uses adjacent to the public sidewalk; and to create pedestrian places and amenities such as covered walkways, courtyards, and plazas with appropriate landscaping and lighting.
- *Landscaping* to provide consistent tree planting along all major streets and pedestrian paths; encourage more extensive on-site landscaping, including use of drought tolerant and fire resistive plant species, use of recycled water, and other water conservation measures.
- *Traffic Access and Circulation* to minimize the number of driveway openings on major public streets, encourage side street access when feasible, and create a grid or modified grid of streets similar to traditional town or village streets.
- *Redesigned Parking Areas* to create a stronger pedestrian orientation, with parking lots divided into smaller 'parking courts' alternated with building frontages.'
- *Pedestrian and Bicycle Linkages* to promote walking and biking between residential neighborhoods and nearby commercial services.
- *Signage* to improve consistency of appearance and wayfinding.
- *Transit* to locate transit-supportive uses within close proximity of transit stops, incorporate stops in convenient locations in commercial areas, and provide linkages between commercial areas and regional destinations.

IP-E5 **Public Safety Guidelines**

Develop planning and design guidelines for implementation of design ideas that can help prevent or reduce crime (e.g., through attention to sight-lines to front doors and windows and from front windows to the street).

IP-E6 **Historic Resource Design Guidelines**

Establish guidelines for the design and review of rehabilitation, retrofit, and new construction projects in or adjacent to historic buildings, sites and other resources as designated by the Town. The guidelines shall address issues related to preservation and conservation (CD7.2), infill development (CD7.3), 'Spanish Heritage' design (CD7.4) and landscaping (CD7.5). See also IP-N1

F. Other Guidelines and Standards

Develop and implement guidelines and standards to address issues of special concern in the community, particularly in relation to public safety. Specific areas to address include:

IP-F1 Guidelines for Development in Swales

Prepare siting and engineering guidelines to control development at the base of swales, as shown on the Town's Development Capability Maps. These should address location of structures, setbacks, and need for special drainage or diversionary structures.

IP-F2 Stream Channel Standards

Prepare Town standards for the design and maintenance of natural stream channels, addressing:

- Vegetation removal
- Re-vegetation
- Permitted bank and bed stabilization techniques
- Irrigation setbacks from top of bank
- Energy dissipation at outlets
- Design of storm drain inlets and outlets
- Maintenance of culverts and inlets
- Bank modifications

These standards can be used as a guide throughout all stages of the environmental and development review processes, as well as in providing guidelines to common owners of streamside property.

IP-F3 Storm Drain Standards

Develop and adopt standards for storm drain inlets and outlets to reduce potential for erosion or blockage.

IP-F4 Post-Earthquake Reconstruction Guidelines

Prepare guidelines for post-earthquake reconstruction, addressing: identification of risk areas, establishment of a reconstruction authority (similar to redevelopment authority), and determination of where uses and occupancies should be changed to reduce future risk. Require post-earthquake reconstruction to conform to all Town codes and ordinances.

IP-F5 Communication System Resiliency Plan

Work with MOFD, the County, adjacent cities, and the operators of telecommunications infrastructure and mobile networks to develop a communication system resiliency Plan. The Plan should provide for continuity of service and/or rapid restoration of service during and after an emergency.

G. Ongoing Programs

IP-G1 Vacant Land Inventory

Maintain and update an inventory of vacant and under-utilized parcels in the Town, including an assessment of their potential development capacity.

IP-G2 Traffic Monitoring Program

Monitor the traffic levels on major arterial roads and the intersection capacity at the Town's signalized intersections on a bi-annual basis.

IP-G3 Pavement Management Program

Maintain a pavement management program to identify and prioritize maintenance projects in the Town's Annual Budget. Maintenance should also include regular cleaning of bicycle routes to remove debris and poor pavement conditions that discourage bicycle riding.

IP-G4 Storm Drain Management Program

Revise our Storm Drain Management Program to document current storm drain system conditions, define system improvement priorities, and establish ongoing management and maintenance needs and procedures. Utilize the Town's Geographic Information System (GIS) to map and monitor system conditions.

IP-G5 Town Beautification Program

Develop and implement a beautification program to enhance the natural beauty and aesthetic qualities of the Town's scenic corridors, commercial centers, community facilities, and residential neighborhoods.

IP-G6 Tree Planting Program

Develop and implement a comprehensive tree-planting program.

IP-G7 Air Quality Management Program

Refer significant development proposals to the Bay Area Air Quality Management District for review, and maintain consistency with the Bay Area Regional Air Quality Management Plan, as updated from time to time.

IP-G8 Noise Monitoring Program

Monitor noise problems and evaluate complaints regarding new noise sources in order to develop the most practical solutions.

IP-G9 Hazardous Waste Management Program

Develop and implement a Hazardous Waste Management Program to:

- Locate and identify hazardous materials stored in the Town.
- Based on initial evaluation, identify regulations, as appropriate, for the storage of hazardous materials and/or reinforcement of structures.
- Coordinate permitting procedures for the transmission of hazardous or toxic materials into, out of or through the Town, consistent with County, State and Federal regulations.

IP-G10 Earthquake Emergency and Disaster Preparedness Plans

Periodically review and update the Town's Earthquake Emergency and Disaster Preparedness Plans in cooperation with the County Office of Emergency Services.

IP-G11 External Hazard Control Program

Cooperate with the Moraga-Orinda Fire District in development and enforcement of weed abatement, vegetation management, and wildfire hazard reduction programs.

IP-G12 Recreation Programs

Schedule year-round classes in topics such as arts, sports, physical fitness, music, ecology, photography, cooking, drama, video and special interest needs.

IP-G13 Facility Master Plans

Regularly review and amend as necessary the Master Plans for all Town facilities, prioritizing capital improvement projects and maintenance activities as necessary in response to community needs and priorities and in light of resource constraints.

IP-G14 Facility Management

Maintain all Town facilities, including parks and recreational facilities, at the highest standard achievable in light of resource constraints and staff limitations. Repair acts of vandalism as soon as possible.

IP-G15 Federal Insurance Qualifications

Undertake such actions as necessary to become and remain qualified for Federally subsidized flood and mudslide insurance.

H. Housing Specific Programs

Note to reader: The programs below are a summary of implementation measures in the Town's Housing Element. Please consult the Housing Element for a complete list of implementation programs.

IP-H1 Regional Housing Need

Continue to zone sufficient sites to meet Moraga's regional share of housing need as established by the Association of Bay Area Governments Regional Housing Needs Allocation.

IP-H2 Housing Partnerships

Work with Saint Mary's College, the Moraga School District, affordable housing developers, and other groups and organizations to define opportunities for collaboration in the development of new affordable housing to meet the needs of local employees and special needs populations. Identify potential sites, financial resources and regulatory mechanisms to facilitate the development of new units that can help meet the Town's 'fair share' housing requirements.

IP-H3 Housing Rehabilitation Program

Participate in the County Housing Authority's Housing Rehabilitation Program which provides low interest loans for the rehabilitation of homes owned or occupied by very-low to moderate income households. Improve citizen awareness of this rehabilitation loan program by making pamphlets on this program available at the Planning Department and the public library.

IP-H4 Affordable Housing Subsidies

Seek to increase the availability of state and federal subsidies for affordable housing in Moraga through the following actions:

- Petition the County Housing Authority for additional Section 8 subsidies if rental dwelling units can be located that are within federal fair market rent guidelines. If necessary, collect documentation on rent levels and need to substantiate an increase in the number of Section 8 certificates or vouchers.
- Assist developers in accessing funding for the construction of senior housing or other low- or moderate-income housing for which state or federal subsidies are available.
- Participate in future issuances of mortgage revenue bonds or mortgage tax credit programs by Contra Costa County to support home ownership opportunities for low- and moderate-income Moraga residents.
- Support the use of existing provisions to waive Lamorinda Fee and Financing Authority (LFFA) Impact Fees for affordable housing development.

- Encourage future development to consider a component for workforce or other affordable and special needs housing.

IP-H5 Affordable Housing Trust Fund

Establish an Affordable Housing Trust Fund to which financial contributions can be directed to support affordable housing development in Moraga. Establish procedures and criteria for determining how the Fund's proceeds are to be managed and expended to support affordable housing development in the Town.

IP-H6 Homeless Services and Referral

Provide referrals to private and public agencies that offer assistance and shelter to homeless individuals and families, and participate with designated inter-agency organizations to address homeless needs.

IP-H7 Equal Housing Opportunities Coordinator and Information

Facilitate fair and equal housing opportunity by designating the Planning Director as the Town's Equal Opportunity Coordinator with responsibility to refer complaints to a district office of the California Department of Fair Employment and Housing. Provide information to the public regarding equal housing opportunity laws and the Town's Equal Housing Opportunities Coordinator. Provide information on equal housing opportunity on the Town's website.

IP-H8 Nondiscrimination Clauses

Continue to provide nondiscrimination clauses in rental agreements and deed restrictions for affordable housing constructed pursuant to this Plan.

IP-H9 Accessible Housing Information and Referral

Provide information to developers, homeowners and other interested parties on the needs and techniques for producing adaptable and accessible housing for people with disabilities. Encourage consideration of such techniques in both new and rehabilitated housing, and provide referrals for people with disabilities who desire specially designed housing to meet their needs.

I. Circulation Specific Programs

IP-11 Transportation Systems Management Plan

Review and Update the Town's Transportation Systems Management Plan to identify/define:

- Level-of-service standards for traffic operations, reflecting service levels for all street users (i.e., cars, buses, pedestrians, and bicycles);
- Designated routes for commercial trucks, transit, and emergency evacuation;
- Street design guidelines for improving arterial corridors and streets within commercial areas and residential neighborhoods; and
- Priority improvements to the existing arterial network to accommodate current and anticipated future traffic.
- Traffic monitoring program.

IP-12: Vehicle Miles Traveled (VMT) Analysis and Reduction Measures

Require a quantitative VMT analysis for projects that are not screened out of VMT requirements based on the criteria established by the Town. Projects resulting in significant impacts shall incorporate measures to reduce VMT.

J. Open Space Specific Programs

IP-J1 Open Space Preservation Program

Develop and adopt a program to preserve and/or protect important open space lands and natural resource areas in accordance with the Moraga Open Space Ordinance (MOSO). Areas to protect include:

- Major and minor ridgeline areas
- Steep slope areas
- Significant wildlife and waterway areas
- Agricultural lands
- Scenic areas

The program should identify priority preservation areas not already protected under MOSO, and strategies to achieve preservation goals. Potential preservation strategies include but are not limited to:

- Acquisition through use of Town funds, formation of an assessment district, participation in a land trust, or other means;
- Transfer of development rights;
- Long-term leases;
- Dedication, easements, or donations of land through development agreements or other means;
- Development and use regulations;

- Tax incentive programs.

IP-J2 Transfer of Development Rights Program

Review and update a Transfer of Development Rights (TDR) program to define both sending and receiving sites, transfer ratios, incentive strategies, and application and approval procedures.

IP-J3 Open Space Management Plan

Develop and adopt an Open Space Management Plan to establish management practices for the Town's natural habitat and open space areas. For open space areas under public ownership or control, clearly delineate public access and use areas, and those areas to be protected from human disturbance. Establish appropriate use controls and, where appropriate, provide compatible support facilities for activities such as hiking and picnicking while ensuring public safety and protection of adjacent private property.

K. Special Plans and Projects

IP-K1 Moraga Center Specific Plan (MCSP) and Rheem Park Public Realm Plan

Continue implementation of the adopted Specific Plan for Moraga Center. Periodically revisit the Plan's standards and guidelines to ensure that they are achieving desired outcomes. Revise the Plan as needed based on the findings. Prepare a Public Realm Plan for the Rheem Park area that defines the area's circulation system, improvements to public space, streetscape and landscaping, and the infrastructure necessary to support and sustain reinvestment in the area.

IP-K2 Pedestrian, Bicycle and Trails Master Plan

Review, update and expand upon the Town's 'Trails Master Plan' to provide a comprehensive plan for addressing pedestrian and bicycle circulation issues as well as recreational trail use. The updated and expanded Plan should:

- Actively involve the public in the review and update process.
- Designate trails according to their intended use, by pedestrians, bicycles and/or equestrians.
- Establish annual priorities for trail construction as well as pedestrian and bicycle improvements, and identify the resources to build them.
- Review pedestrian circulation issues to identify constraints to

walking, develop improvement plans at constrained locations, and incorporate pedestrian enhancement projects into the Town's Annual Budget, with particular attention to pedestrian connections between residential areas, commercial areas, and community facilities such as schools.

- Address bicycle circulation issues in compliance with the thirteen elements outlined in the California Bicycle Lane Account (BLA) to open the opportunity for state funding of local and regional bicycle transportation improvements. Elements of the plan should include design standards for bicycle facilities; bicycle education and outreach; and bicycle enhancement projects for the Town's Annual Budget.

IP-K3 Town Center Project

Continue to support the Town Center assessment and planning process to consolidate Town offices (including a new police station) and develop a multi-use community facility.

IP-K4 Corporation Yard

Evaluate the corporation yard location and consider alternate sites.

IP-K5 Annexation Review

Consider annexation of areas within Moraga's Sphere of Influence when and if property owners in those areas request connection to the water and sanitation systems.

IP-K6 Seismic Safety Study

Consider appointing a Technical Seismic Advisory Committee to develop a detailed assessment of risk in public and community buildings, recommend a comprehensive action program in conjunction with adoption of the Seismic Safety Ordinance, and research State and Federal sources of economic aid related to public safety concerns. The assessment should include an inventory of potentially hazardous buildings, such as unreinforced masonry buildings, tilt-up buildings, and buildings with soft stories, focusing on buildings with the highest occupancy. At a minimum, hazardous unreinforced masonry buildings must be identified according to the requirements of the Unreinforced Masonry Law of 1986 (Government Code, Section 8875).

~~**IP-K7 Bollinger Canyon Special Study**~~

~~Coordinate with property owners in the Bollinger Canyon area to support their effort in preparing a special study for the Bollinger Canyon area, as shown on the General Plan Diagram, in accordance with the goals and policies of the General Plan.~~

~~The Bollinger Canyon Special Study may include the following:~~

- ~~— a) *A ‘Opportunities and Constraints’ Analysis.* Supplementing the information already collected in the General Plan Update and EIR process, as well as in previous Town planning efforts, an analysis of opportunities and constraints will be conducted and a summary prepared for review by Town staff, officials, and residents. This document shall summarize data on the site and surrounding areas as they relate to development and potential development impacts in the following areas:~~
 - ~~▪ *Environmental Quality*, including wildlife, vegetation, water quality, air quality, noise and view.~~
 - ~~▪ *Safety*, including seismic and geologic hazards (including slope stability), grading, flooding, streambank erosion, fire safety, and public safety (police) issues.~~
 - ~~▪ *Traffic*, including site access and circulation, potential traffic impacts on adjacent areas as well as on roadways connecting the site to regional transportation corridors, and opportunities for pedestrian, bicycle and transit access from the site to the Town center.~~
 - ~~▪ *Infrastructure*, including existing capacity of water, sewer, storm drains, electric and gas utilities to support development at the site, as well potential impacts of development on public facilities such as schools and parks.~~
 - ~~▪ *Housing Affordability*, demonstrating how development at the site could contribute to helping the Town meet its need for housing affordable to low and very low income households.~~
- ~~b) *A Conceptual Development and Conservation Plan.* Based on information contained in the Opportunities and Constraints Analysis, a Conceptual Development and Conservation Plan will be developed to illustrate how the site could be developed in a manner consistent with the goals and policies of the Town’s General Plan. The plan will include:~~
 - ~~▪ *Illustrative Site Plan*, showing proposed development parcels and uses, building footprints, road alignments, easements, and grading.~~
 - ~~▪ *Proposed Land Use Designations*, including both parcels proposed for development and areas proposed for conservation.~~
 - ~~▪ *Impacts*, summarizing the impacts to be expected from development at the scale, type and configuration proposed.~~
 - ~~▪ *Mitigations and Conservation Plan*, demonstrating how the site’s environmental qualities will be protected and its significant natural features conserved.~~

- ~~▪ General Plan Consistency demonstrating that the proposed development is consistent with the goals and policies set forth in the Moraga General Plan.~~
- ~~▪ Proposed General Plan Amendments that may be needed to ensure ongoing consistency between the proposed development and the Moraga General Plan.~~

~~Additional requirements for the Conceptual Plan may be established by the Town, consistent with requirements typically expected of similar development proposals. This may include a requirement to provide an opportunity for input by Town residents regarding the Opportunities and Constraints Analysis and the conceptual development plan.~~

- ~~e) A General Plan Amendment to Implement the Conceptual Development and Conservation Plan in Town Policies. Upon review, refinement and approval of the Conceptual Development and Conservation Plan by the Town Council, a General Plan Amendment should be proposed by the property owner group working with Town staff to establish a policy framework for implementation of the plan. This would include adoption of appropriate land use designations for the subject properties, and any other goal and policy revisions or amendments deemed necessary for implementation.~~

L. Intergovernmental Coordination

Coordinate with other relevant jurisdictions and agencies to address issues of mutual concern. Specific programs of intergovernmental coordination should include the following:

IP-L1 Development Review Referral to Adjacent Jurisdictions

Refer all subdivisions of more than ten (10) lots or within one (1) mile of an adjacent jurisdiction to that neighboring jurisdiction for review and comment.

IP-L2 Agenda Referral to Adjacent Jurisdictions

Refer all Town Council, Planning Commission, and Design Review Board agendas to adjacent jurisdictions to encourage inquiry regarding proposals deemed to be of interest to the adjacent jurisdiction.

IP-L3 County Housing Programs

Continue a cooperative relationship with Contra Costa County in the administration of housing programs that benefit Moraga residents. Provide interested residents and developers with information about housing programs available through the County.

IP-L4 Inter-jurisdictional Public Safety Programs

Coordinate with the Office of Emergency Services of Contra Costa County, the Moraga-Orinda Fire District, schools districts, adjacent jurisdictions and other agencies to address public safety issues and concerns.

IP-L5 Inter-jurisdictional Recreation Planning

Cooperate with Orinda, Lafayette, the County, East Bay Regional Park District, and other jurisdictions, agencies, and service organizations to provide recreational activities for Moraga and surrounding communities.

IP-L6 Library Services

Cooperate with the Contra Costa County Library Commission, County Librarian, and the Friends of Moraga Library to improve and enhance library services, including additional library hours.

IP-L7 Lamorinda Transportation Planning

Participate in multi-jurisdictional transportation planning by taking part in activities of regional transportation agencies and cooperating with other jurisdictions to alleviate substandard roadway conditions. Specifically, coordinate with Lafayette, Orinda, and the County to undertake the following actions:

- *Attract state/federal funding for transportation projects in Contra Costa County through work with the Lamorinda Project Management Committee and CCTA.*
- *Support regional and/or sub-regional transportation fees on new development to address traffic impacts on the regional road system between the Town of Moraga and State Route 24.*
- *Pursue joint efforts to address major traffic problems where Moraga traffic contributes significantly to such problems.*
- *Consider establishing a program of 'trip rights' or similar mechanism to link development approvals in the three Lamorinda communities with the available traffic capacity on the major roadways leading to State Route 24.*
- *Encourage expanded Travel Demand Management Programs that reduce single-occupant driving.*
- *Support CCCTA bus service expansion between Moraga and the Lamorinda BART stations.*
- *Support BART strategies that enhance transit ridership, encourage casual carpools for one-way BART ridership, and reduce parking impacts at Lamorinda BART stations.*
- *Seek to expand and enhance pedestrian and bike corridor connections with adjacent jurisdictions.*

- *Review General Plan Amendments to ensure that proposed developments do not violate multi-jurisdictional agreements.*
- *Support improvements to the regional transportation system such as State Route 24, Interstate 680, and Interstate 80.*

IP-L8 Transit Improvements

Work with the Contra Costa County Transportation Authority (County Connection) to identify and implement improvements to the local bus system to increase transit patronage. In particular, explore opportunities to increase daily service, coordinate park-and-ride lots adjacent to transit stops, and provide transit-friendly amenities like benches, bike racks, and transit route information.

IP-L9 Underground Utilities Program

Work with Pacific Gas and Electric, Pacific Bell, and other utility providers to convert overhead utility lines to underground lines, with priority given to lines located in scenic corridors. Utilize the Public Utility Commission's 'Rule 20' to fund Underground Utility District Projects, and require underground utilities in all new development.

IP-L10 Coordination with Saint Mary's College

Work collaboratively with Saint Mary's College to:

- Coordinate calendars of events.
- Regularly communicate on plans in progress and upcoming opportunities.
- Encourage Saint Mary's employees residing in Moraga to serve on local boards and committees.
- Create a process to address proposals and issues of mutual concern in an expeditious manner.
- Meet annually to review the progress of the approved Master Plan's implementation.
- Discuss student housing needs and solutions, as needed. These may include: a) assistance in accessing funding for student housing; b) approving an affordable housing development that includes student units in multifamily residential zones, or c) permitting accessory dwelling units, the renting of rooms, and/or other uses of existing single family properties, consistent with neighborhood quality objectives.

IP-L11 Coordination with School Districts

Work collaboratively with the leadership and staff at the Moraga School District and the Acalanes Union High School District to address school facility planning and use issues, including the coordination of long-range planning and population growth forecasting; land use and circulation issues in the vicinity of school facilities; review and evaluation of development impacts (and impact fees, as necessary); community use of school facilities; and other issues of mutual concern.

The Town will also encourage school district employees residing in Moraga to serve on local boards and committees.

IP-L12 Coordination with Utility Providers

Work collaboratively with utility service providers to support ongoing utility provision, maintenance and service improvements. Also, work with the East Bay Municipal Utility District (EBMUD) to preserve and protect watershed lands adjacent to the Town.

M. Public Information and Education

Provide public information and education materials and programs to raise public awareness about key community issues and encourage resident participation in Town activities and programs. Specific public information and education programs should include:

IP-M1 Information on Town Programs, Events and Activities

Maintain a regular and periodic public information device to disseminate information on the Town's programs, events and activities.

IP-M2 Information on Historic Preservation and Resources

Work with the Moraga Historical Society and other groups to support public information and education programs regarding Moraga's history.

IP-M3 Traffic Safety Education Program

Conduct a traffic safety and education program, including an elementary school outreach program to educate children on traffic safety and courteous driving activities; adult outreach program addressing vehicle impacts on the environment, courteous driving behavior and carpool/transit opportunities; senior outreach program addressing traffic safety and changing traffic laws and driving activities; and topical education sheets for the Town newsletter.

IP-M4 Information on Resource Conservation and Environmental Preservation

Provide public information and education materials to encourage recycling, resource conservation, and environmental preservation efforts.

IP-M5 Information on Noise Pollution

Publicize practical mitigation measures that Town residents and businesses can use to help reduce noise.

IP-M6 Information on Seismic Safety

Provide public information to help residents and businesses understand what to expect during an earthquake, how best to respond, and what they can do to prepare themselves. Specifically, provide the following:

- *Community Information.* Provide educational materials to community organizations. Materials should address general earthquake hazards and also describe expected effects within the Town of Moraga, making use of existing materials from the Seismic Safety Commission and the Bay Area Region Earthquake Preparedness Project.
- *Schools Curriculum.* Work with the schools to teach about earthquakes. This would include handouts on family earthquake preparedness in addition to establishing emergency preparedness procedures in the schools.

IP-M7 Information on Landslides

Consider preparation and distribution of informational brochures, identifying landslide areas within the Town, describing the causes of landslides and presenting guidelines for property maintenance so as to minimize the potential for earth movement problems.

IP-M8 Information on Streamside Guidelines and Flood Insurance

Consider the distribution of maintenance and property management guidelines to all streamside property owners, and inform all property owners within 200 feet of a creek, to identify stream and drainage areas for which the Town is responsible and those areas for which private property owners are responsible. Educate property owners on their responsibilities for streambank maintenance and repairs, and make them aware of the availability of flood insurance under the National Flood Insurance Program.

IP-M9 Information for Homeowners Associations

Provide information to homeowner associations regarding their responsibilities and to keep them informed regarding Town issues and activities.

IP-M10 Public Safety Information

Provide information to the public to promote crime and hazard prevention and general disaster preparedness, including information on public safety design, fire safety devices, and the removal of dry grass and brush that pose fire hazards.

N. Cultural, Paleontological, and Tribal Cultural Resource Protection

IP N-1 Cultural Resource Protection

Implement measures to protect potential cultural resources within new development projects in areas where such resources have been identified or are likely to be present. As appropriate, the following measures may apply:

- (a) **Historical and Archeological Resource Surveys.** Prior to issuance of a grading permit in a previously undisturbed area, require a historic and archaeological resources survey. Actions may include but are not limited to avoidance of discovered cultural resources; relocation, rehabilitation, or alteration consistent with the Secretary of the Interior Standards and/or data recovery mitigation or documentation that offsets the loss of the resource;
- (b) **Protection of Potential Historic and Archaeological Resources.** Retain a qualified cultural resource specialist to conduct site-specific analysis and implement feasible mitigation or avoidance measures for development that may impact a listed, eligible, or potentially eligible historic or archaeological resource;
- (c) **Construction Monitoring.** Retain a qualified cultural resource specialist to monitor construction activities that involve ground-disturbing activities in or around a potentially significant cultural resource.
- (d) **Unanticipated Discoveries.** Suspend earth-disturbing work in the event a cultural resource is identified. Retain a qualified cultural resources specialist to design and implement feasible measures.

IP N-2 Paleontological Resource Protection

Applicants for new construction that would involve ground disturbance in areas known to have a high probability for paleontological resources shall retain a Qualified Professional Paleontologist to determine the project's potential to significantly impact paleontological resources. As appropriate, measures may be prescribed to reduce potential impacts.

IP-N3 Protection of Tribal Cultural Resources

In the event an unanticipated tribal cultural resource is identified during construction, retain a qualified specialist in consultation with an appropriate Native American representative to design and implement a resource treatment plan. Earth-disturbing work within 60 feet of the resource shall be suspended until consultation has occurred and feasible mitigation measures have been designed and implemented.

APPENDICES

A General Plan Diagram

B Specific Plan Area Diagrams

C Definitions

D Text of the Moraga Open Space Ordinance (MOSO)

**E Action Plan Summary: Schedule, Responsibilities,
Financing and Quantified Objectives**

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APPENDIX A

GENERAL PLAN DIAGRAM

The General Plan Diagram defines the general pattern of future development within the Town boundaries and Sphere of Influence. It is a graphic expression of the General Plan's goals and policies and is the single most important policy implementation measure of the General Plan. The Diagram shows the pattern of land uses envisioned in the horizon year of the Plan (2040). It identifies areas planned for residential, mixed use, open space, and community facility uses. Because Moraga is mostly built out, the future land use pattern matches existing land uses in most locations.

The General Plan Map is implemented through zoning maps. Zoning maps are required to be consistent with General Plan Maps, but they do not need to match them exactly. For Moraga's Rural, Low, and Medium Density residential categories, there is a one-to-one correspondence between General Plan categories and zoning designations. For the Moraga Center and Rheem Park General Plan categories, there are multiple zoning districts within each area. The General Plan and the Moraga Center Specific Plan provide policy direction on the specific uses and activities envisioned in each of these areas. The Open Space and Community Facilities General Plan categories likewise have multiple corresponding zoning districts, designed to implement local land use policies.

The General Plan Diagram is intended to be a generalized diagram and not a precise parcel-level map. Although it may be to scale, the uses or alignments displayed on the Diagram should not be measured directly. ~~Also, the Diagram should not be used interchangeably with the Town's Zoning Map. The Diagram is a long-term planning tool that depicts the desired pattern of future development at a generalized level. The Zoning Map is a current planning tool that depicts permitted uses on a parcel level.~~ In cases where the land use designation of a parcel is unclear based on the General Plan Diagram, the Planning Commission shall make a determination as to the appropriate designation.

Residential Categories

In all residentially-designated areas, the following general conditions apply:

1. Residential density is expressed using gross acreage. In other words, it includes areas required for local streets, easements, and other public uses. By contrast, zoning is based on net density and excludes these areas. For example, the allowable density in the 1 DUA General Plan designation is 1 unit per acre (43,560 square feet). However, the minimum lot size (codified through in zoning) is 30,000 square feet. This recognizes that there are streets and other non-buildable features within each area depicted on the General Plan Map.

2. The maximum density stated in each case is subject to State density bonus laws. These laws allow an increase in the number of permitted units for projects meeting specific criteria with respect to the inclusion of affordable housing units.
3. Pursuant to state law, accessory dwelling units do not count as a dwelling unit when calculating the number of units permitted on a property under the General Plan.
4. The Town's policies and zoning regulations support the clustering of the number of units allowed on a given site in order to achieve more cohesive design, increase efficiency, and reduce environmental impacts.
5. Other compatible uses, such as schools, childcare centers, parks, and religious facilities, may also locate in areas with residential designations. The zoning ordinance indicates which uses are permitted by right, and which uses require a conditional use permit.
6. To translate the density standard to a population standard (e.g., number of persons per acre), the unit/acre range should be multiplied by 2.67, which is the average number of persons per household in Moraga.
7. High-density residential development is permitted in the Moraga Center and Rheem Park categories and is not included in the residential categories below.

The residential land use designations are as follows:

Rural Residential (RR). This designation allows agricultural and very low-density single-family residential uses, not to exceed a gross density of one unit per five acres. Although very low-density housing is permitted in these areas, the focus is on preservation of the natural environment and the Town's semi-rural character.

Low Density Residential (LDR). This designation applies to low-density single family residential neighborhoods and areas suitable for future low-density single family residential development. There are four sub-categories within this designation, each corresponding to different maximum densities.

- **1 Dwelling Unit/ Acre (1 DUA).** Areas with this designation have a maximum gross density of one dwelling unit per acre. The corresponding zoning district is 1 DUA, which has a minimum lot size requirement of 30,000 square feet.
- **1.5 Dwelling Unit/Acre (1.5 DUA).** Areas with this designation have a maximum gross density of 1.5 dwelling units per acre. The corresponding zoning density is 2 DUA, with a minimum lot size of 20,000 square feet. The slightly higher zoning densities permitted in this category relative to the General Plan are intended to encourage clustering of the allowable number of units. The total number of units in any area with this designation may not exceed the General Plan maximum.

- **2 Dwelling Units/Acre (2 DUA).** Areas with this designation have a maximum gross density of 2 units per acre. The corresponding zoning density is 2 DUA, with a minimum lot size of 20,000 square feet.
- **3 Dwelling Units/Acre (3 DUA).** Areas with this designation have a maximum gross density of 3 units per acre. The corresponding zoning density is 3 DUA, with a minimum lot size of 10,000 square feet.

Medium Density Residential (MDR). This designation applies to areas that include a mix of housing types, including single family detached and attached housing, duplexes, triplexes, fourplexes, and multi-family housing. The maximum gross density permitted is 6 units per gross acre. This designation may include housing that exceeds this density within larger developments that include a mix of open space and developed areas.

Mixed Use Categories

There are two mixed use categories on the General Plan Map, both described below.

Moraga Center (MC). This designation applies to the 187-acre Moraga Center Specific Plan Area. The Area is envisioned as a vibrant and walkable mixed use center, including residential, commercial, and office uses, as well as open space and community facilities. Land use in this area is governed by a Specific Plan, including zoning districts corresponding to low, medium, and high-density residential development, mixed office-residential development, mixed retail-residential development, and community commercial development. Maximum density in the MC area is 24 units per gross acre, although this density is not permitted on all sites. Maximum FAR for non-residential uses is 0.85.

Rheem Park (RP). This designation applies to the 60-acre commercial area generally lying south and west of the intersection of Rheem Boulevard and Moraga Road. The area includes the Rheem Shopping Center and Theater, offices, housing, and commercial uses. There are multiple zoning districts, intended to facilitate infill development with mixed use, higher density housing (up to 24 units per gross acre), and commercial, and civic uses. Maximum FAR for non-residential uses is 0.85.

Open Space and Civic Categories

There are four open space and civic categories on the General Plan Land Use Map. These are defined below:

MOSO Open Space (OS-M). This designation applies to properties that are specifically identified by the Moraga Open Space Ordinance approved by Moraga voters in 1986. The primary intent of this designation is to conserve environmentally sensitive lands and protect the visual integrity of ridgelines and hillsides. On privately owned land with this designation, residential uses and civic and recreational facilities may be considered with a conditional use permit, subject to maximum gross densities of one unit per 5, 10, or 20 acres, depending on site conditions.

Non-MOSO Open Space (OS-N). This designation applies to open space properties that are not specifically listed in the 1986 Moraga Open Space Ordinance. As with OS-M lands, the primary intent is to conserve environmentally sensitive lands and protect the visual integrity of ridgelines and hillsides. Residential uses and civic and recreational facilities may be considered with a conditional use permit, subject to maximum gross densities of one unit per 5, 10, or 20 acres depending on site conditions.

Parks (P). This designation applies to parkland that is owned and operated by the Town of Moraga. A variety of active and passive recreational uses are accommodated. These properties generally have Non-MOSO Open Space zoning.

Community Facilities (CF). This designation applies to public school campuses and to land owned by Saint Mary's College. Land uses are primarily educational in nature, although recreation and open space uses, and housing (for students and faculty) are also permitted, subject to a campus master plan. Public schools generally have residential zoning, while an Institutional zoning district has been established expressly for Saint Mary's College.

The General Plan Diagram presents four general categories of land use: Residential Neighborhoods, Mixed Use Areas, Parks and Open Space, and Community Facilities. It also displays the Town's circulation system. The General Plan Diagram of the *Moraga 2002 General Plan* is displayed on the following page.

INSERT GENERAL PLAN MAP HERE

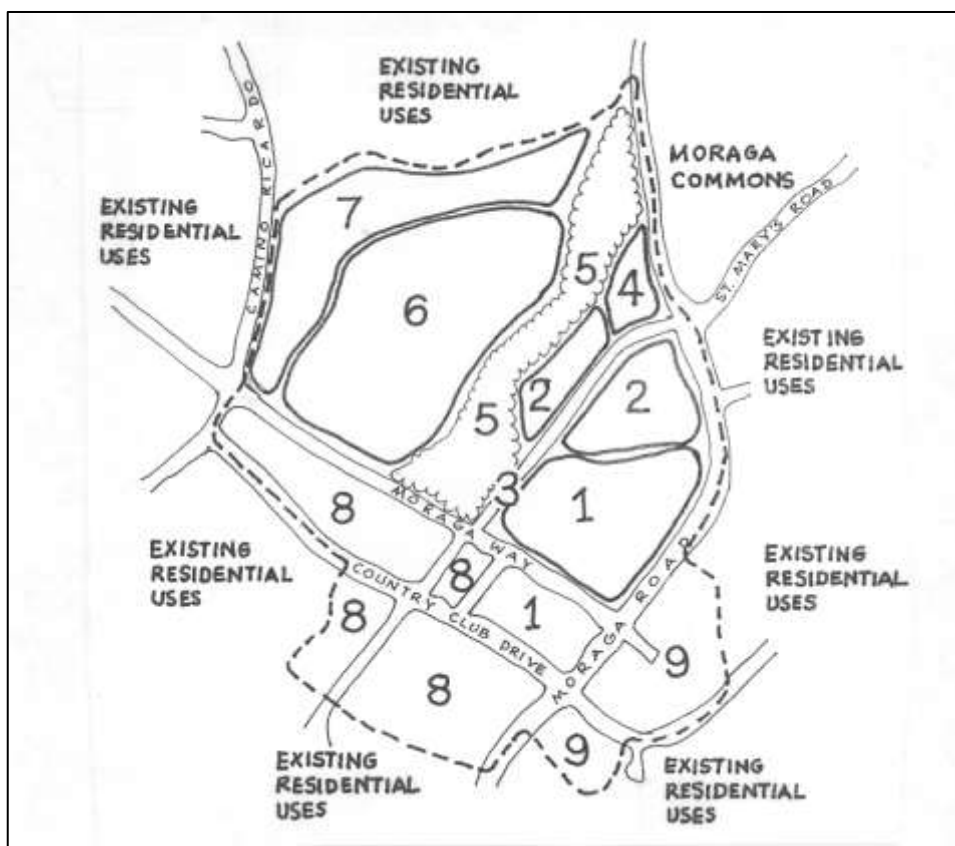
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APPENDIX B

SPECIFIC PLAN AREA DIAGRAMS

Land Use policies LU3.1 and LU3.2 as well as Community Design policies CD6.5 and CD6.6 call for development of ‘specific plans’ for the areas around the Town’s two major shopping centers—the Moraga Center and Rheem Park. These policies provide a detailed overview of the intent for each specific plan and desired outcomes. The policies are implemented by action IP-K1, identified as a near-term priority in the Action Plan Summary (Appendix F).

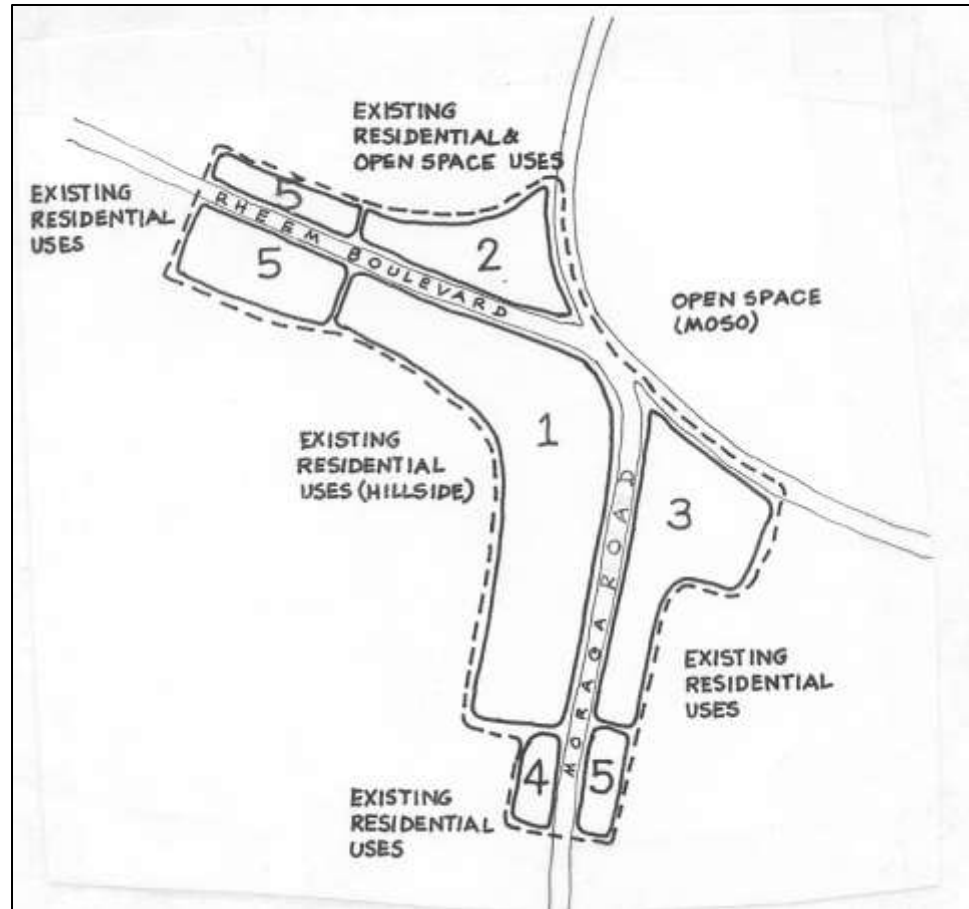
The diagrams on the following two pages identify the specific plan area boundaries, major features, and adjacent uses. The diagrams are provided for illustrative purposes only to show the configuration of the Specific Plan areas and potential opportunities. They are in no way meant to represent an approved plan or policy direction.



Moraga Center Area Specific Plan

Key opportunities and a possible configuration of land uses in the Moraga Center Area.

- 1 Shopping Center – potential redevelopment, redesign, intensification or site improvements to create stronger pedestrian orientation.
- 2 Under-utilized Land –potential for medium and medium-high density housing and/or commercial development
- 3 Potential extension of School Street
- 4 Proposed Town Center Facility Site
- 5 Creek and Moraga Ranch historic structures—development setbacks and potential linear park
- 6 Orchard Area – mixed density housing, clustered to protect some of the orchard areas
- 7 Residential Area (3 units per acre; transition to existing neighborhoods)
- 8 Commercial / Office Areas (including existing assisted care facility, Moraga Barn, etc.) – some infill potential (small offices and/or housing)
- 9 'Limited Commercial' Area – some infill housing potential



Rheem Park Area Specific Plan

Key opportunities and a possible configuration of land uses in the Rheem Park Area.

- 1** Shopping Center – potential redevelopment, redesign, intensification or site improvements to create stronger pedestrian orientation.
- 2** Under-utilized Land – ‘research and development’ overlay district; potential for redevelopment, redesign, intensification or site improvements
- 3** Area of existing commercial development and services, including new commercial space and fire station (under development); opportunity for infill development at vacant bowling alley site and remaining vacant parcel.
- 4** Multi-family housing
- 5** Areas of existing commercial/service development with potential for re-use or redevelopment (including old fire station site)

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APPENDIX C

DEFINITIONS

The following definitions should be used in interpreting and implementing the *Moraga 2002 General Plan*.

Accessory Dwelling Unit (ADU). A self-contained living unit that is in addition to the primary residential unit on a single lot. ~~Second units ADUs are also referred to as second~~ accessory units, in-law units, carriage houses, or granny flats.

Affordable Housing. Under State and Federal statutes, housing which generally costs no more than 30 percent of gross household income. Housing costs typically include rent or mortgage payments, utilities, taxes, insurance, homeowner association fees, and other related costs.

Census. The official United States decennial enumeration of the population conducted by the Federal government.

Centerline or Crest. “Centerline” or “Crest” of a ridge means the line running along the highest portion of the ridge for the full length of the ridge.

Cluster Housing. Cluster housing is defined as single family dwelling units sited on less than the minimum size lots permitted by the General Plan (see Policy LU1.6) to preserve open space.

Condominium. A building or group of buildings in which units are owned individually, but the structure, common areas, and facilities are owned by all owners on a proportional, undivided basis.

Critical Facility. Facilities housing or serving many people that are necessary in the event of an earthquake or flood, such as hospitals, fire, police and emergency service facilities; utility ‘lifeline’ facilities such as water, electricity and gas supply; and communications and transportation facilities.

Dedication. The turning over by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used. Dedications for roads, parks, school sites, or other public uses often are made conditions for approval of a development by local governments.

Dedication, In lieu of. Cash payments which may be required of an owner or developer as a substitute for a dedication of land, usually calculated in dollars per lot, and referred to as ‘in lieu fees’ or ‘in lieu contributions.’

Defensible Space. ‘Defensible space’ is a term used in relation to both crime prevention and fire prevention. In crime prevention, it describes a physical design approach that helps to deter crime and promote public safety by creating a sense of ownership for local residents over public spaces, encouraging more street activity and ‘eyes on the street’ (though sight lines from homes to the street and features such as front porches) and ensuring that front entryways are clearly visible from the street. In fire prevention, the term ‘defensible space’ is used to describe the area around a home that should be cleared of brush and other dry vegetation to help reduce fire hazards.

Density (Residential). The number of permanent residential units per acre of land. Density may be controlled through zoning in the following ways: use restrictions, minimum lot-size requirements, floor area ratios, setback and yard requirements, minimum house-size requirements, limits on units per acre, and other means. Allowable density is the major distinction between residential districts.

Density Bonus. The allocation of development rights that allows a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is zoned. Density bonus requirements are contained in Moraga Municipal Code Chapter 8.172 consistent with Government Code Section 65915.

Development. Development means the placement, discharge, or disposal of any material; the grading or removing of any material; the change in the density or intensity of use of land; the subdivision of land; or the construction or erection of a structure (see Policy OS1.8 for permitted exceptions to development prohibitions in MOSO Open Space).

Emergency Shelter. Housing with minimal supportive services that is designed for and occupied by homeless persons for no more than six-months in a consecutive 12-month period. No individual or household may be denied emergency shelter because of an inability to pay.

Family. (1) Two or more persons related by birth, marriage, or adoption [U.S. Bureau of the Census]. (2) An individual or a group of persons living together who constitute a bona fide housekeeping unit in a dwelling unit, not including a fraternity, sorority, club, or other group of persons occupying a hotel, lodging house, or institution of any kind [California].

Flood, 100-Year. The magnitude of a flood expected to occur on the average every 100 years, based on historical data. The 100-year flood has a 1/100, or one percent, chance of occurring in any given year.

General Plan Diagram. This is a multicolored map of the planning boundaries of the Town. It is a visual representation of some, but not all, of the elements of the General Plan. The Diagram is not intended to establish precise boundaries of the various sub-areas of the Town but only their general locations. The actual boundaries of each of the land uses, the precise location of the circulation system, and details of the other elements will be determined

more precisely by reference to the approved zoning map and/or subdivision proposals which have already been approved and developed, and in the context of consideration of development proposals for particular properties. An understanding of the General Plan Diagram and its relationship to the various elements can be achieved only by reviewing it in conjunction with the text of each of the Elements of the General Plan. The General Plan Diagram for the Draft Moraga 2000 General Plan is contained in Appendix A of the Plan document.

Geologic Hazards. These are geologic conditions that could have an impact on the safety and welfare of the Town, such as, among other things, land flow or creep, surface erosion, creek erosion, fault movement, shrink/swell of soils and sub-surface water conditions.

Hazardous Material. Any substance that, because of its quantity, concentration or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

High Risk Areas. ‘High Risk Areas’ are areas with a MOSO Open Space designation on the General Plan Diagram and determined to be High Risk in accordance with Part II D. of the “Guidelines for the Interpretation and Implementation of the Moraga Open Space Ordinance – Measure A,” adopted as Resolution 14-92 by the Town Council on February 12, 1992 in accordance with the Moraga Open Space Ordinance (MOSO).

Hillside Area. "Hillside Area" or "Hillside Land" means either of the following:

A parcel with an average predevelopment slope of twenty (20) percent or greater; or

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.

Income Limits. Income limits are updated annually by the US Department of Housing and Urban Development (HUD) for Contra Costa County. For many State and local programs, State Department of Housing and Community Development (HCD) income eligibility limits are used. HCD income limit regulations are similar to those used by HUD and are categorized as follows:

- *Very Low Income Households.* Defined by California Housing Element law as households earning less than 50 percent of the median household income.
- *Low Income Households.* Defined by California Housing Element law as

- households earning 51 to 80 percent of the median household income.
- *Moderate Income Households*. Defined by California Housing Element law as households earning 81 to 120 percent of the median household income.
- *Above Moderate Income Households*. Defined by California Housing Element law as households earning more than 120 percent of the median household income.

Lamorinda Area. This refers to the Lafayette-Moraga-Orinda area, consisting of all three jurisdictions.

Large Household. According to State Housing Element law, a household with five or more members.

Manufactured Housing. A manufactured home is a factory-built, single family structure that is built on a permanent chassis and transportable in one or more sections. This reduces construction costs considerably. Once built, a manufactured home may be difficult to distinguish from a site-built house. California law (Gov Code §65852.3) permits manufactured homes built under federal and state guidelines and on a foundation to be placed on lots zoned for conventional single-family residential dwellings. The homes must conform to the same development standards applied to a conventional single-family residence on the same lot, but may also be subject to three additional architectural requirements (roof overhang, roofing material and siding material) so long as such requirements are in accordance with State regulations (Gov Code §65852.5), do not exceed the standards for site-built homes on the same type of lot, and do not have the effect of precluding manufactured housing.

Mixed-use. Properties on which various uses, such as office, commercial, institutional, and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. A "single site" may include contiguous properties.

Moraga Open Space Ordinance (MOSO). Refers to Measure A, a voter approved Initiative adopted at the General Municipal Election held on April 8, 1986. The Initiative regulates the uses and development of lands designated by the Initiative measure, and provides that the Town Council shall not amend or modify any requirement of this Ordinance without approval by the electorate at a general election. The ballot text is attached as Appendix E and made a mandatory requirement of this General Plan.

Multi-Family Residential. A building containing two or more dwelling units for the use of individual households; an apartment or condominium building is an example of this dwelling unit type. The Multi-Family Residential designation refers to areas that are designated on the General Plan Diagram or in the land use diagrams of the Moraga Center Area and Rheem Park Area Specific Plans as six (6) dwelling units per acre or higher. Such areas may also be used for single-family residential development so long as minimum development densities are met.

Predevelopment Slope. “Predevelopment Slope” means the slope existing at the time a development project application is submitted. For a site where the Town finds that slope conditions were previously modified in violation of the grading ordinance, the average predevelopment slope shall be calculated based on site conditions prior to the violation.

Performance Standards. These are quantifiable rules or guidelines that are used to determine compliance with regulations or conditions of approval established by the Town. Examples include noise measurements and traffic levels of service. See Growth Management Policies GM1.4 and GM1.5.

Reasonable Accommodation. Allowing for appropriate modifications and adjustments to zoning laws and other land use regulations, policies, and procedures where needed to ensure persons with disabilities equal opportunity for housing under the federal Fair Housing Act and the California Fair Employment and Housing Act.

Recreational Facility. A recreational facility is any development, structure, appurtenance or other man made amenity created for the express purpose of providing for leisure-time recreational opportunities.

Region. This refers to the nine-county San Francisco Bay Area, including the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma.

Regional Housing Needs Allocation (RHNA). The Regional Housing Needs Allocation identifies each jurisdiction’s responsibility for planning for housing to meet its “fair share” of the regional housing need. The RHNA is divided into four income categories that encompass all levels of housing affordability. Once it receives its RHNA, each local government must update the Housing Element of its General Plan to show how it plans to meet the housing needs in its community.

Regional Housing Needs Plan (RHNP). The Regional Housing Needs Plan (RHNP) is based on State of California projections of population growth and housing unit demand and assigns a share of the region’s future housing need to each jurisdiction in California. These housing need numbers serve as the basis for the update of the Housing Element in each California city and county.

Residual Parcel. A residual parcel is a vacant lot of ten (10) acres or less in an area that is generally bounded by existing development. A residual parcel may have any land use designation. Land Use Element Policies LU1.11 and LU1.12 address issues related to residual parcels.

Ridgelines. “Ridgeline” means one or more of the following, as shown in Figure CD-1:

A Major MOSO Ridgeline means the centerline or crest of the ridges known as Indian Ridge, Sanders Ridge, Mulholland Ridge and

Campolindo Ridge, where the crest is above 800 feet above mean sea level and within an area with a MOSO Open Space designation on the General Plan Diagram. Major MOSO Ridgeline shall have the same meaning as “Major Ridgeline” as that term is used and defined in the Moraga Open Space Ordinance.

A Minor MOSO Ridgeline means the centerline or crest of any ridge other than those identified as ‘Major Ridgelines,’ where the crest is above 800 feet above mean sea level and within an area with a MOSO Open Space designation on the General Plan Diagram. Minor MOSO Ridgeline shall have the same meaning as “Minor Ridgeline” as that term is used and defined in the Moraga Open Space Ordinance.

A Significant Non-MOSO Ridgeline means those Ridgelines shown in Figure CD-1 as a Significant Non-MOSO Ridgeline.

An Other Non-MOSO Ridgeline means those Ridgelines shown in Figure CD-1 as an Other Non-MOSO Ridgeline.

If there is discrepancy between Figure CD-1 and the General Plan text as to the location of a Ridgeline, Figure CD-1 shall govern.

Second Unit. See Accessory Dwelling Unit. ~~A self-contained living unit that is in addition to the primary residential unit on a single lot. Second units are also referred to as accessory units, in-law units, carriage houses, or granny flats.~~

Section 8. This is a rental assistance program operated by the federal Department of Housing and Urban Development. It provides two forms of assistance: 1) certificate rent subsidies to owners of housing units on behalf of very low-income tenants; and 2) vouchers used in rental housing of the tenant’s choosing. The assistance is intended to help bridge the gap between the household’s income and the ‘fair market rate’ for rental housing. Section 8 is the largest rental assistance program in the country. Local Section 8 programs are operated by the County Housing Authority.

Senior Housing. Defined by California’s Housing Element law as projects developed for, and put to use as, housing for seniors. In State Housing Element law, seniors are defined as persons at least 65 years of age; however, some housing programs define seniors as 55 and older or 62 and older.

Single Family Dwelling (Attached). A dwelling unit occupied or intended for occupancy by only one household that is structurally connected with at least one other such dwelling unit.

Single Family Dwelling (Detached). A dwelling unit occupied or intended for occupancy by only one household that is structurally independent from any other such dwelling unit or structure intended for residential or other use.

Special Needs Groups. Those segments of the population which have a more difficult time finding decent affordable housing due to special circumstances.

Under California Housing Element statutes, these special needs groups consist of the elderly, persons with disabilities (including developmental disabilities), large families, female-headed households, farmworkers, and the homeless. A jurisdiction may also choose to consider additional special needs groups in the Housing Element, such as students, military households, other groups present in their community.

Sphere of Influence. The probable ultimate physical boundaries and service area of a local agency (in this case, the Town) as determined by the Local Agency Formation Commission (LAFCO) of the County.

Subdivision. The division of a tract of land into defined lots, either improved or unimproved, which can be separately conveyed by sale or lease, and which can be altered or developed. 'Subdivision' includes a condominium project as defined in Section 1350 of the California Civil Code and a community apartment project as defined in Section 11004 of the Business and Professions Code. The Subdivision Map Act (Division 2 of the California Government Code) gives local jurisdictions the authority to regulate and control the design and improvement of subdivisions.

Supportive Housing. Housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type allowed in the district.

Theoretical Residential Holding Capacity. This is a planning tool to identify the potential, although theoretical, number of residential dwelling units that might be developed on a piece of property. The number is determined by multiplying the gross acreage of a property, exclusive of roads, by the residential density indicated on the General Plan Diagram. The number derived from this calculation shall not be the basis for transfer of development rights. The actual amount of acreage that may be subject to development will be determined at the time of the consideration of a development proposal when more precise information is available. The actual number of residential units that may be developed may be greater (due to density bonus or transfer of development rights) or less (due to site constraints or other factors) than the Theoretical Residential Holding Capacity. The actual number of units that may be developed on a site will be determined based upon information obtained through the appropriate environmental review process, including constraints identified by this General Plan and supporting studies and from the Town's Development Capability Maps and site development standards, as expressed in the Town's adopted ordinances and resolutions.

Town Center Facility. A proposed new facility that would consolidate the Town's administrative and planning offices, provide a new police station, and create a new multi-use community facility. At the time of the Moraga 2000

General Plan Update, the Town had selected a preferred site near the Moraga Center and was exploring options in terms of site acquisition, facility design, and facility financing.

Transfer of Development Rights. Transfer of Development Rights (referred to as 'Density Transfer' in the Moraga Open Space Ordinance) is the process whereby development rights may be transferred from lands on the General Plan Diagram with an open space designation or 1, 2, or 3 dwelling units per acre, but only when the Town Council finds that such a transfer will result in the dedication, protection and preservation of open space and when appropriate guarantees are provided by the developer that the land shall be permanently preserved as open space.

Development rights may be transferred to land residentially designated lands, but such transfer may not increase the Theoretical Residential Holding Capacity determined by the initial calculation (described in the definition for "Theoretical Residential Holding Capacity") by more than 30 percent. Development rights may not be transferred to geologically hazardous areas or to any area with an open space designation on the General Plan Diagram.

Transitional Housing. Rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months, and in no case more than two years. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type allowed in the district.

Uniform Building Code. A national, standard building code that sets forth minimum building standards for construction.

Zoning. The division of a jurisdiction by legislative regulations into areas, or zones, which specify allowable uses for real property and size restrictions for buildings within these areas. Zoning is a key implementing program for the General Plan. The Zoning Map is a visual display of the geographic distribution of zones in a jurisdiction.

APPENDIX D

TEXT of the MORAGA OPEN SPACE ORDINANCE (MOSO)

The people of the Town of Moraga DO ORDAIN as follows:

SECTION 1. Short Title.

This ordinance shall be known as the "Moraga Open Space Ordinance".

SECTION 2. Findings.

The people of the Town of Moraga find and declare the following:

- a. The character and feel of the Town of Moraga is contingent upon the preservation of a substantial amount of open space, the protection of the scenic views of major and minor ridgelines, and the regulation of development in sensitive open space areas.
- b. The Town has experienced significant development pressures in recent years which threaten the amount and quality of open space resources of the Town and which adversely affect the capacity of the Town's public facilities, such as drainage and traffic facilities, and are otherwise altering the character of the community.
- c. It is the intent of the people of the Town to protect the remaining open space resources within the Town in the interest of: (1) preserving the feel and character of the community; (2) ensuring the adequacy of recreational opportunities which are contingent on such open spaces; (3) ensuring the protection of local and regional wildlife resources which are dependent on the habitat provided by such open space; (4) ensuring that development does not occur in sensitive viewshed areas; (5) protecting the health and safety of the residents of the Town by restricting development on steep or unstable slopes; and (6) ensuring that development within the Town is consistent with the capacity of local and regional streets and other public facilities and does not contribute to the degradation of local or regional air quality.
- d. It is the purpose of this Ordinance to revise and augment the policies of the Town recorded in the General Plan and the ordinances of the Town relating to the preservation of open space and protection of ridgelines. This Ordinance is consistent with and implements the policy in General Plan Amendment 3, enacted November 18, 1981, which established a policy of minimum lot size designations of twenty (20), ten (10), and five (5) acres in some open space areas.

- e. In addition to the reasons described above, this Ordinance is necessary to promote the general health, safety and welfare of the residents of Moraga.

SECTION 3. Protection of Open Space

- a. The following policy is added to Goal 1 of the Open Space Element of the General Plan:

"3) Any use of or development on lands designated in the General Plan or by this Ordinance as 'Open Space Private' or 'Public Open Space-Study' (hereinafter 'Open Space Lands') shall be limited to a maximum density of one (1) dwelling per twenty (20), ten (10), or five (5) acres, but in no case shall density on such lands exceed one (1) dwelling unit per five (5) acres. Areas identified as 'high risk' areas, as defined in this Ordinance, shall be limited to a maximum density of one (1) dwelling unit per twenty (20) acres. Density transfers from Open Space Lands to other lands shall be encouraged; provided that in no event shall dwelling units be transferred to Open Space Lands or to 'high risk' areas. The Town Council shall identify 'high risk' areas after taking into account soil stability, history of soil slippage, slope grade, accessibility, and drainage conditions."

- b. Policy Number 1 of Goal 4 of the Open Space Element of the General Plan is revised to read as follows:

"1) Development shall be prohibited on slopes with grades of twenty percent (20%) or greater and on the crests of minor ridgelines. The Town Council shall reduce the allowable densities on slopes of less than twenty percent (20%) through appropriate means such as requiring proportionally larger lot sizes or other appropriate siting limitations. For the purposes of this paragraph, the term 'minor ridgeline' means any ridgeline, including lateral ridges, with an elevation greater than 800 feet above mean sea level, other than a major ridgeline."

- c. The following policy is added to Goal 1 of the Land Use Element of the General Plan:

"8) Notwithstanding any other provision of the General Plan, any development on lands depicted in the General Plan or by this Ordinance as 'Public Open Space-Study' or 'Private Open Space' shall be limited to a maximum density of one (1) dwelling per twenty (20), ten (10), or five (5) acres, but in no case shall density on such lands exceed one (1) dwelling unit per five (5) acres. Areas identified as 'high risk' areas, as defined in this Ordinance, shall be limited to a maximum density of one (1) dwelling unit per twenty (20) acres."

- d. Section 8-3805 is added to chapter 38 of the Zoning Ordinance of the Town of Moraga as follows:

"Section 8-3805. Open Space Density.

"(a) Notwithstanding any other provision of the ordinances of the Town of Moraga: (1) all land within the Town of Moraga designated 'Public Open Space-Study' or 'Private Open Space' (hereinafter referred to as 'Open Space Lands') in the Moraga General Plan as such Plan existed on October 16, 1985, or which is designated such by this Ordinance is hereby zoned 'Open Space' ('OS'); and (2) any development on such Open Space Lands shall be limited to a maximum density of one (1) dwelling unit per twenty (20), ten (10), or five (5) acres, but in no case shall density on such lands exceed one (1) dwelling unit per five (5) acres. Areas identified as 'high risk' areas, as defined in this Ordinance, shall be limited to a maximum density of one (1) dwelling unit per twenty (20) acres. The Town Council may authorize density transfers from Open Space Lands to other lands pursuant to the procedures set forth in Chapter 47 herein; provided that in no event shall dwelling units be transferred to Open Space Lands or to high risk areas. In determining the appropriate density transfer credit applicable to any such Open Space Lands, the Town Council may authorize the transfer of a net density of no greater than one (1) dwelling unit per ten (10) acres.

"Development shall be prohibited on slopes with grades of twenty percent (20%) or greater and on the crests of minor ridgelines. The Town Council shall reduce the allowable densities on slopes of less than twenty percent (20%) through appropriate means such as requiring proportionally larger lot sizes or other appropriate siting limitations. For the purpose of this Ordinance, the term 'minor ridgeline' means any ridgeline, including lateral ridges, with an elevation greater than 800 feet above mean sea level, other than a major ridgeline.

"(b) Development shall be prohibited on minor ridgelines immediately adjacent to and extending into Open Space Lands if slopes exceed twenty percent (20%) and elevation of said ridges is greater than 800 feet above mean sea level."

- e. Section 8-5702 of Chapter 57 of the Zoning Ordinance of the Town of Moraga is amended as follows:

"(a) Development shall be prohibited within 500 feet of the centerline of a major ridge (as defined in subsection (b)) located in an area designated on the General Plan as 'Private Open Space' or 'Public Open Space-Study' and development shall be subject to strict design review control in all other ridge areas. A road, together with the attendant underground utilities, may cross a ridge, if the Planning Commission finds that the crossing is necessary for the orderly development of the Town and does not otherwise conflict with the Municipal Code.

"(b) For the purpose of this section, the centerline of a major ridge is the line running along the highest portion of the ridge located within those areas designated on the General Plan as 'Private Open Space' or 'Public Open Space-Study.'"

- f. Without limiting the generality of the Moraga Open Space Ordinance, General Plan Amendments No. 6, adopted in resolution No. 28-83 on June 15, 1983, and No. 8, adopted in Resolution No. 39-83 on September 7, 1983, are hereby repealed and are of no further force or effect. Such lands as were affected by those amendments are hereby given a General Plan designation of "Public Open Space-Study" and are zoned "Open Space" as provided in Section 3d above.

SECTION 4. Applicability.

The provisions of this Ordinance shall apply to any person who, as of the date of the election has not (a) obtained a building permit for the development project, and (b) incurred substantial construction expenses in good faith reliance on such building permit.

SECTION 5. Implementation; Interim Development Controls; Interpretation.

- a. Promptly after the enactment of this Ordinance, the Town Council shall adopt such revisions to the General Plan and the Zoning Ordinance as may be necessary to fully implement the Moraga Open Space Ordinance or to ensure the internal consistency of the General Plan or the consistency of the Moraga Open Space Ordinance with the General Plan; provided that the Town Council shall not amend or modify any requirement of this Ordinance without approval by the electorate at a general election.
- b. Until the full implementation of the Moraga Open Space Ordinance as contemplated by subsection (a) or until January 1, 1987, whichever occurs first, the Town Council, or any other reviewing authority, shall not issue any permit or otherwise authorize or approve any use or development, including but not limited to divisions of land, with a density greater than one (1) dwelling unit per twenty (20) acres on: (1) any lands designated in the General Plan or by this Ordinance as "Open Space", "Public Open Space-Study" or "Private Open Space", or (2) major or minor ridgelines, or on slopes greater than twenty percent (20%), or on slopes which are unstable or subject to erosion or deterioration. Nothing in this subsection is intended to authorize issuance of any permit or approval of any development except in compliance with Section 3d above.
- c. In the event of any conflict between the Moraga Open Space Ordinance and the Zoning Ordinance, the provisions of the Moraga Open Space Ordinance shall prevail.

SECTION 6. Severability.

If any section, subsection, paragraph, subparagraph, clause or phrase of this Ordinance, or any amendment or revision of this Ordinance is, for any reason, held to be invalid or unconstitutional, the remaining sections, subsections, paragraphs, subparagraphs, clauses and phrases shall not be affected, but shall remain in full force and effect.

APPENDIX E

ACTION PLAN SUMMARY

The following pages provide a summary matrix of the Implementing Programs of the Moraga 2002 General Plan (Chapter 11) as a tool to support ongoing implementation, monitoring and management of plan-related activities.

The summary matrix identifies:

- *Schedule for implementation of each program, highlighting implementation priorities for the coming year.*
- *Responsibility for program implementation, listing the relevant Town officials and/or department(s).*
- *Financing sources to support program implementation, when other than or in addition to Town funds.*
- *Quantified Objectives, where applicable, for the production of housing units affordable to various income levels (in accordance with State law requirements). Quantified objectives are also summarized at the end of the Housing Element (Chapter 5).*

The Action Plan Summary provides a tool to support annual review and updating of the Plan's implementation status. As part of the General Plan Annual Review, the list of implementing programs should be reviewed and evaluated, noting both program achievements and shortcomings. This information can then be used to strengthen the Plan's implementation programs and identify priorities for the subsequent year.

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Action Plan Summary: Schedule, Responsibilities, Financing and Quantified Objectives

Ref.	Program Title	Schedule	Responsibility	Financing	Quantified Objectives				
					Very Low	Low	Mod	Above Mod	Total
A.	General Programs								
IP-A1	General Plan Diagram	Ongoing, with annual review	TC; Admin; Planning; PW; Police						
IP-A2	Annual Town Budget	Annual	TC; Admin; and all Departments						
IP-A3	Annual Needs Assessment	Annual	Admin						
IP-A4	Annual General Plan Review	Annual	TC; Admin; Planning						
IP-A5	Public Opinion Surveys	As needed	Admin						
IP-A6	Citizen Participation	Ongoing	TC; Admin						
IP-A7	Citizen Commissions	Ongoing	TC; Admin; Planning; Parks and Rec; PW						
IP-A8	Homeowner Assistance	Ongoing	TC; Admin; Police; PW; Planning						
IP-A9	Conflict Resolution	Ongoing	TC; Admin						
IP-A10	Private Sector Support	Ongoing	Admin; Parks and Rec						
B.	Ordinances								
IP-B1	Zoning and Subdivision Ordinances	Revise by Dec 2004	Planning						
IP-B2	Moraga Open Space Ordinance	Ongoing Implementation	TC; Planning						
IP-B3	Condominium Conversion Ordinance	Revise by 2006	TC; Planning						
IP-B4	Traffic Impacts Ordinance	Adopt by Dec 2005	TC; Planning						
IP-B5	High Risk Areas Zoning Overlay	Establish by Dec 2006	TC; Planning						
IP-B6	Moderate Risk Areas Zoning Overlay	Establish by Dec 2006	TC; Planning						
IP-B7	Hillside Zoning Overlay	Establish by Dec 2006	TC; Planning						
IP-B8	Fire Safety Ordinance	Adopt by Dec 2005	TC; Planning						
IP-B9	Seismic Safety Ordinance	Adopt by Dec 2005	TC; Planning; PW						
IP-B10	Geologic Hazards Abatement District Ord.	Review/Consider by Dec 2008	TC; Planning; PW						
IP-B11	Transportation Systems Management Ord.	Adopt by Dec 2005	TC; Planning; PW						
IP-B12	Flood Control Ordinance	Adopt by Dec 2005	TC; Planning; PW						
IP-B13	Historic Preservation Ordinance	Adopt by Dec 2005	Planning						
IP-B14	Non-Smoking Ordinance	Ongoing	Planning						
IP-B15	Moraga Tree Ordinance	Ongoing	Planning						
IP-B16	Recycled Water Ordinance	Adopt by Dec 2003	Planning						
IP-B17	Moraga Grading and Erosion Control Ord.	Adopt by Dec 2004	Planning						
C.	Development Review								
IP-C1	Development Review	Ongoing	Planning						
IP-C2	Development Review for Emergency Svcs.	Ongoing	Planning						
IP-C3	Design Review	Ongoing	Planning						
IP-C4	Seismic Safety Checklist	Develop by 2005	Planning						
IP-C5	Traffic Impact Studies	Ongoing	Planning						
IP-C6	CEQA/Environmental Impact Reports	Ongoing	Planning						
IP-C7	Geotechnical Reports	Ongoing	Planning						
IP-C8	Fee Deferrals and Expedited Processing	Adopt/Implement by Dec 2004	Planning						
D.	Codes and Enforcement								
IP-D1	Building and Grading Codes	Ongoing	Planning						
IP-D2	Building Inspection, Code Enforcement, and Hazard Abatement	Ongoing	Planning						

Ref.	Program Title	Schedule	Responsibility	Financing	Quantified Objectives				
					Very Low	Low	Mod	Above Mod	Total
E.	Design Guidelines								
IP-E1	Scenic Corridor Design Guidelines	Dec 2005	Planning; PW						
IP-E2	Residential Design Guidelines	Dec 2005	Planning; PW						
IP-E3	Multi-Family Residential Design Guidelines	Dec 2005	Planning; PW						
IP-E4	Commercial Design Guidelines	Dec 2005	Planning; PW						
IP-E5	Public Safety Guidelines	Dec 2005	Planning; Police						
IP-E6	Historic Resource Design Guidelines	Dec 2005	Planning; PW						
F.	Other Guidelines and Standards								
IP-F1	Guidelines for Development in Swales	2006	Planning						
IP-F2	Stream Channel Standards	2006	Planning; PW						
IP-F3	Storm Drain Standards	2006	Planning; PW						
IP-F4	Post-Earthquake Reconstruction Guidelines	2007	Planning						
G.	Ongoing Programs								
IP-G1	Vacant Land Inventory	Ongoing	Planning						
IP-G2	Traffic Monitoring Program	Bi-annual	Planning						
IP-G3	Pavement Management Program	Ongoing	PW						
IP-G4	Storm Drain Management Program	Ongoing	PW						
IP-G5	Town Beautification Program	Dec 2005; then ongoing	Planning; PW						
IP-G6	Tree Planting Program	Dec 2005; then ongoing	Planning; PW						
IP-G7	Air Quality Management Program	Ongoing	Planning						
IP-G8	Noise Monitoring Program	Ongoing	Planning						
IP-G9	Hazardous Waste Management Program	Ongoing	Planning						
IP-G10	Earthquake and Emergency Prep. Plans	Ongoing	Planning						
IP-G11	External Hazard Control Program	Ongoing	PW						
IP-G12	Recreation Programs	Ongoing	Parks and Rec						
IP-G13	Facility Master Plans	Ongoing	Parks and Rec; Planning; PW						
IP-G14	Facility Management	Ongoing	Parks; PW						
IP-G15	Federal Insurance Qualifications	Ongoing	Planning						
H.	Housing-Specific Programs								
IP-H1	Regional Housing Need	2002-2008	Planning		32	17	45	120	214
IP-H2	Housing Partnerships	Ongoing	Planning						
IP-H3	Housing Rehabilitation Program	Ongoing	Planning	CCC Hsg. Authority (CDBG, HOME)	2	3			5
IP-H4	Affordable Housing Subsidies	Depends on County and developers	Planning	HOME; CA Multi-family Hsg. Prog. Section 202/231 (senior hsg); State/Fed. Low-Income Hsg. Tax Credits; Mortg. Bonds/Credit Certificates					
IP-H5	Affordable Housing Trust Fund	Establish by Dec 2004	Planning	New development	5	5	20		30
IP-H6	Homeless Services and Referral	Ongoing	Planning						
IP-H7	Equal Housing Opportunity Coordination and Info.	Ongoing	Planning						
IP-H8	Nondiscrimination Clauses	Ongoing	Planning						
IP-H9	Accessible Housing Info and Referral	Ongoing	Planning						
I.	Circulation-Specific Programs								
IP-I1	Transportation Systems Management Plan	Ongoing	Planning; PW						
J.	Open Space-Specific Programs								
IP-J1	Open Space Preservation Program	Dec 2004	Planning						
IP-J2	Transfer of Development Rights Program	Dec 2005	Planning						

Ref.	Program Title	Schedule	Responsibility	Financing	Quantified Objectives				
					Very Low	Low	Mod	Above Mod	Total
IP-J3	Open Space Management Plan	Dec 2006	Planning						
K.	Special Plans and Programs								
IP-K1	Moraga Center/Rheem Park Specific Plans		Planning						
IP-K2	Pedestrian/Bicycle, and Trails Master Plan	Complete by 2004	Planning						
IP-K3	Town Center Project	Ongoing	Planning						
IP-K4	Corporation Yard	Evaluate and decision by 2004	Planning						
IP-K5	Annexation Review	Ongoing	Planning						
IP-K6	Seismic Safety Study	Dec 2005 (w/Seismic Safety Ord.)	TC; Planning; PW						
IP-K7	Bollinger Canyon Special Study	Complete by Dec 2004	Property Owners, Planning, TC	Study costs paid by property owners					
L.	Intergovernmental Coordination								
IP-L1	Development Review Referral	Ongoing	Planning						
IP-L2	Agenda Referral to Adjacent Jurisdictions	Ongoing	Admin						
IP-L3	County Housing Programs	Ongoing	Planning						
IP-L4	Interjurisdictional Public Safety Programs	Ongoing	TC; Admin; Planning; Police; PW						
IP-L5	Interjurisdictional Recreation Planning	Ongoing	Parks and Recreation						
IP-L6	Library Services	Ongoing	TC; Admin						
IP-L7	Lamorinda Transportation Planning	Ongoing	TC; Admin; Planning; PW						
IP-L8	Transit Improvements	Ongoing	TC; Admin; Planning; PW						
IP-L9	Underground Utilities Program	Ongoing	Planning; PW						
IP-L10	Coordination with Saint Mary’s College	Ongoing	TC; Admin; Planning; Parks and Rec						
IP-L11	Coordination with School Districts	Ongoing	TC; Admin; Planning; Parks and Rec						
IP-L12	Coordination with Utilities Providers	Ongoing	Planning; PW						
M.	Public Information and Education								
IP-M1	Info on Town Programs, Events, etc.	Ongoing	Parks and Rec						
IP-M2	Info on Historic Preservation and Resources	Ongoing	Admin; Parks and Rec						
IP-M3	Traffic Safety Program	Ongoing	Police						
IP-M4	Info on Resource Conservation/ Environ. Preservation	Ongoing	Admin						
IP-M5	Info on Noise Pollution	Ongoing	Admin; Planning						
IP-M6	Info on Seismic Safety	Ongoing	Admin; Planning						
IP-M7	Info on Landsides	Ongoing	Admin; Planning						
IP-M8	Info on Streamside Guidelines/Flood Insurance	Ongoing	Admin; Planning						
IP-M9	Information for Homeowners Associations	Ongoing	Admin; Planning; PW						
IP-M10	Public Safety Information	Ongoing	Admin; Planning; PW						

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Exhibit 2B

Proposed General Plan Map Changes

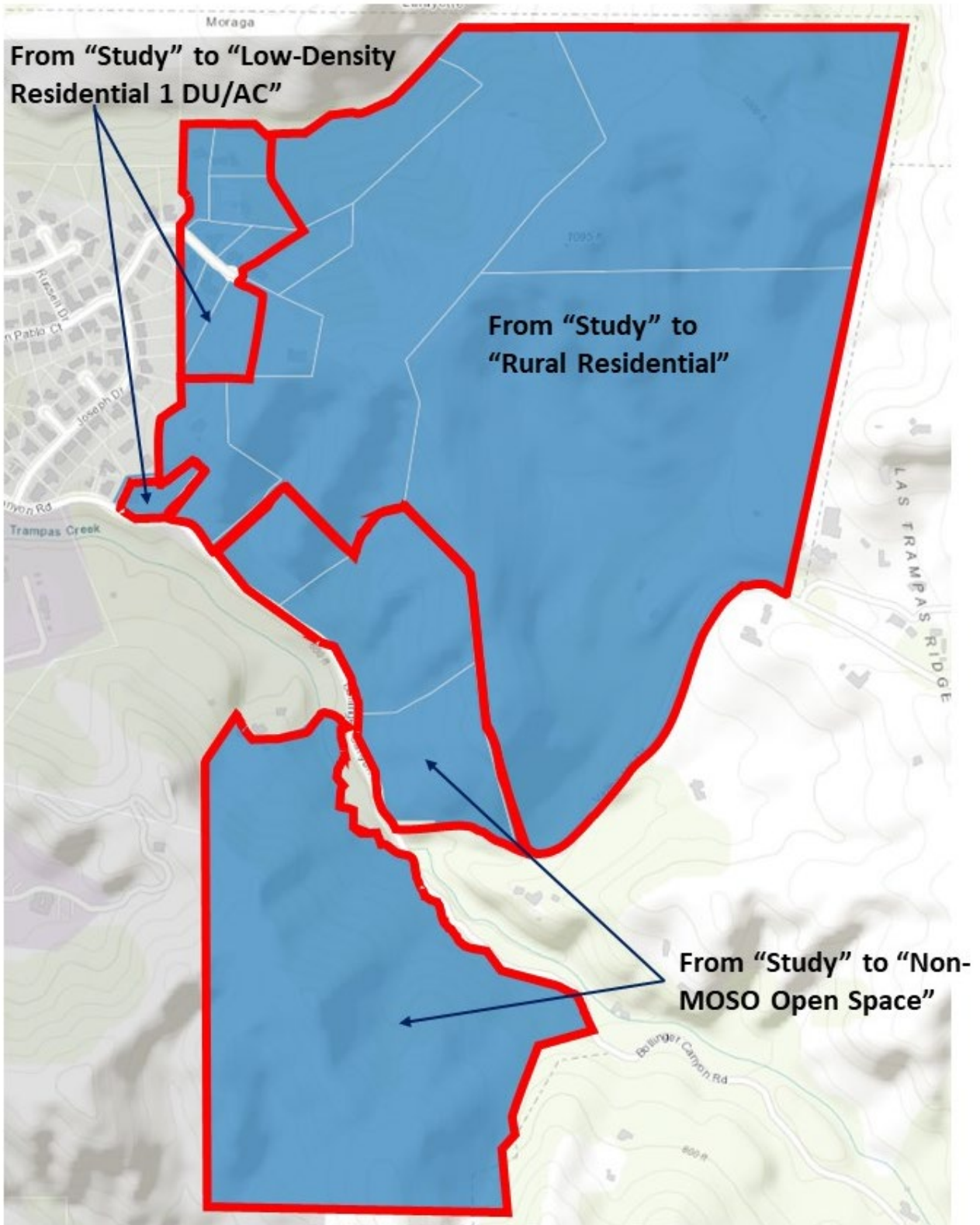


Exhibit 2C

Proposed General Plan Map

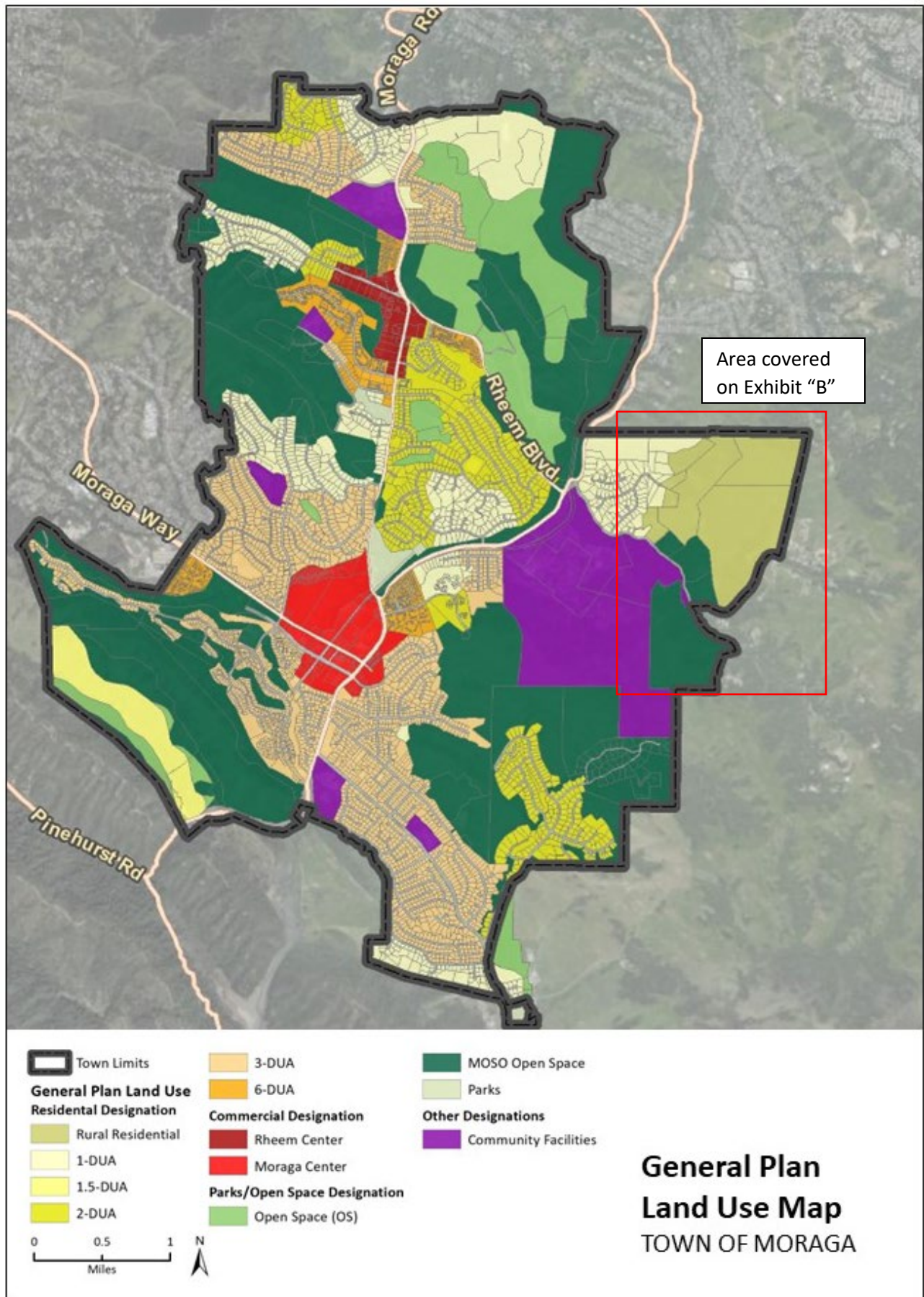


Exhibit 3

Resolution XX-2023
Adoption of Zoning Text and Map Amendments for
Bollinger Canyon Study Area

BEFORE THE PLANNING COMMISSION OF THE TOWN OF MORAGA

In the Matter of:

Resolution No. ##- 2023

**Recommending that the Town Council)
Adopt Amendments to Title 8 of the)
Moraga Municipal Code (Zoning) to Add)
Chapter 8.22 to Establish a Rural)
Residential (1 unit per 5 acre) District,)
Rescind Chapter 8.60, Study District,)
Make Conforming Changes to other Code)
Sections, and Amend the Zoning Map for)
the Bollinger Canyon Special Study Area
to implement the Moraga General Plan**

Adoption of Zoning Text and Map
Amendments for the Bollinger Canyon
Special Study Area

WHEREAS, State law requires all cities and towns in California to adopt a General Plan for their long-term development, including a land use map showing the general distribution and intensity of land uses in the jurisdiction and its planning area; and

WHEREAS, the Town of Moraga has proposed amending its General Plan Map to redesignate the 423-acre area Bollinger Canyon Special Study Area from its former designation of “Study” to a combination of Residential (1 dwelling unit per acre), Rural Residential (1 dwelling unit per 5 acres), and Non-MOSO Open Space; and

WHEREAS, the Town of Moraga has adopted local zoning regulations to implement its General Plan, identify permitted uses, establish development standards, and define development procedures; and

WHEREAS, Government Code 65860(a) requires that local government zoning ordinances and maps are consistent with the General Plan, including its objectives, policies, programs, and land use map; and

WHEREAS, rezoning of the subject area is required to align the Town’s Zoning Map with the new General Plan Map designations; and

WHEREAS, amending the General Plan and Zoning maps for the Bollinger Canyon Study Area have been identified as a Town Council priority for several years; and

WHEREAS, programs previously adopted as part of the Moraga General Plan further support the rezoning of the Study area to designations that are consistent with the General Plan’s goals and policies and that reflect the physical characteristics and limitations of the area; and

WHEREAS, the Town of Moraga embarked on a Comprehensive Advanced Planning Initiative in August 2021, including the task of replacing the General Plan and Zoning Map “Study” designations with new land use designations; and

WHEREAS, the Town of Moraga published a “White Paper” in January 2022 providing context and background maps for the rezoning of the Bollinger Canyon Study Area, identifying opportunities and constraints to development, and presenting options for new General Plan and Zoning designations; and

WHEREAS, the Town convened a duly noticed neighborhood meeting on January 25, 2022 to receive public input on options for the Study Area; and

WHEREAS, the Moraga Town Council convened a study session at its regular meeting on February 9, 2022 to consider the White Paper recommendations, discuss General Plan and zoning options, consider public comment, and provide direction to staff; and

WHEREAS, staff prepared Draft General Plan and Zoning amendments based on feedback provided by the Town Council; and

WHEREAS, the Moraga Planning Commission convened a Study Session on May 24, 2022 to review the Draft General Plan and Zoning amendments, provide an opportunity for public comment, and offer feedback for Town Council consideration; and

WHEREAS, the Moraga Town Council convened a Study Session on May 25, 2022 to review the Draft General Plan and Zoning amendments, provide an opportunity for public comment, consider Planning Commission recommendations; and provide direction to staff; and

WHEREAS, the Draft zoning text has been revised to reflect feedback provided by the Planning Commission and Town Council; and

WHEREAS, the proposed amendments would allow for land uses and densities that provide certainty to property owners, while responding to the lack of infrastructure, natural hazards, topography, access constraints, visual qualities, and environmental resources in the Study Area; and

WHEREAS, the proposed amendments would eliminate ambiguities about the development potential of the area, and provide certainty to property owners and surrounding neighbors; and

WHEREAS, approval of the zoning amendments does not approve or entitle any specific development project and future projects will be subject to the Town's development review and environmental review procedures, including site-specific analysis; and

WHEREAS, the Town completed a Draft Environmental Impact Report (Draft EIR) for the Comprehensive Advanced Planning Initiative, which includes the Bollinger Canyon General Plan Amendments and Rezoning; and

WHEREAS, the Draft EIR was published on October 27, 2022, circulated for a 45-day public period ending on December 12, 2022, and followed by a Final EIR published on January 6, 2023 that included responses to all comments received on the Draft EIR; and

WHEREAS, the Final EIR was certified by the Moraga Town Council on January 25, 2023; and

WHEREAS, the EIR identifies specific mitigation measures to be followed in the event any of the rezoned properties are developed, and includes a Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on April 11, 2023, the Planning Commission approved a Resolution finding that all requirements of the California Environmental Quality Act (CEQA) relative to the proposed rezoning of the Bollinger Canyon Study Area have been satisfied, and recommended that the Moraga Town Council adopt Findings and a Statement of Overriding Considerations for the proposed Bollinger Canyon rezoning; and

WHEREAS, all required public notices for the proposed rezoning were provided in the East Bay Times on March 31, 2023, and property owners living within 500 feet of the study area were notified via postcard notice of the April 11, 2023 public hearing by mail in accordance with Town requirements; and

WHEREAS, the Planning Commission held a public hearing on April 11, 2023 and approved Resolution ####-2023 recommending that the Moraga Town Council adopt General Plan Amendments that replace the “Study” designation with Rural Residential, Residential 1 DU/A, and Non-MOSO Open Space designations;

WHEREAS, the aforementioned public hearing also provided an opportunity for comment and discussion of the proposed zoning amendments.

NOW THEREFORE BE IT RESOLVED by the Planning Commission of the Town of Moraga that:

SECTION 1. Pursuant to the California Environmental Quality Act (CEQA), the Town prepared and certified a Final Environmental Impact Report (FEIR) that analyzes the potentially significant adverse environmental impacts associated with adoption of the Comprehensive Advanced Planning Initiative, including the Bollinger Canyon Special Study Area rezoning. The FEIR identifies appropriate and feasible mitigation measures that would significantly reduce or avoid the impacts identified in the EIR. The proposed zoning changes are part of the “project” evaluated and would allow for development consistent with what has been analyzed in the FEIR. In addition, any development project proposed on the properties being rezoned will be required to comply with the MMRP adopted in connection with the FEIR and will be subject to site-specific environmental review. In a separate resolution, the Planning Commission has recommended that the Town Council adopt Findings of Fact and a Statement of Overriding Consideration for the rezoning of the Bollinger Canyon Study Area.

SECTION 2. Pursuant to Moraga Municipal Code Section 8.12.100, the Planning Commission makes the following findings to support its recommendation for rezoning:

- (a) The proposed Amendments to the Municipal Code and Zoning Map are consistent with the objectives, policies, general land uses and programs specified in the General Plan.** The proposed designations are consistent with the General Plan in that they support preservation of the Town’s natural setting, sustain Moraga’s semi-rural environment, respond to circulation and infrastructure constraints, provide opportunities for new housing, and protect public health and safety. The designations support a high-quality residential environment (Goal LU-1), preserve scenic qualities (Goal CD-1), protect hillsides and ridgelines (Goal CD-8), support open space preservation (Goal OS-1), sustain environmental quality (Goal OS-2), and minimize threats to public safety (Goal PS-1). The rezoning also implements former

General Plan Action Plan measure IP-K7, which called for replacement of the Study Area designation with permanent designations.

- (b) In the case of a *general* land use regulation, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed.** The proposed zoning amendments constitute a general land use regulation insofar as they do not entitle a specific project or relate to a specific parcel. The amendments would create a new zoning district for rural residential uses, corresponding to one dwelling unit per five acres. Clustering of the allowable density would be permitted, as prescribed by Section 8.48 of the Municipal Code. Thus, the Rural Residential designation is consistent with General Plan Policies LU-1.8 (variable lot sizes) and LU-1.11 (clustering) and Goal LU-1 (a high-quality residential environment) while also supporting the open space, conservation, and public safety goals of the plan. Relative to the proposed map changes, the nine parcels proposed for mapping as 1 DU/Acre range in size from 0.97 acres to 3.58 acres with an average lot size of 1.92 acres; thus 1 DU/Acre is the “best fit” designation for these parcels. The four parcels proposed for mapping as Non-MOSO Open Space are acquired by the John Muir Land Trust for conservation, making open space the “best fit” designation for these parcels. The seven parcels proposed for the new Rural Residential designation range in size from 3.55 acres to 131.11 acres. The proposed designation is comparable to rural residential designations on adjacent land in Lafayette and in unincorporated Contra Costa County. It supports a modest amount of additional development while recognizing the physical limitations of the area.
- (c) A community need is demonstrated for the proposed change.** The rezoning of this area would allow a reasonable number of housing units while recognizing access and infrastructure constraints, wildfire and other natural hazards, sensitive biological resources, and State mandates to reduce vehicle miles traveled (VMT) and greenhouse gas emissions.
- (d) Its adoption will be in conformity with public convenience, general welfare and good zoning practice.** The proposed zoning will provide clarity and certainty for property owners, neighbors, and Town residents. The amendments will not result in the immediate approval of any specific development or project; such projects will continue to be subject to their own development review and environmental review procedures. Adoption of the zoning amendments is consistent with good zoning practice in that it will align zoning with the General Plan, which is required by law. Like the General Plan itself, the designations balance multiple competing objectives and represent the best fit for the site.

SECTION 3: The Planning Commission hereby recommends that Chapter 8.22 be added to the Moraga Municipal Code, creating a Rural Residential Zoning District, as shown in as Exhibit “A” attached hereto and adopted by reference as part of this Resolution.

SECTION 4: The Planning Commission hereby recommends that Chapter 8.60 (Study District) of the Moraga Municipal Code be rescinded in its entirety. The deleted text is included as Exhibit “B” and is shown in overstricken format to denote its deletion.

SECTION 5: The Planning Commission recommends amendments to individual sections and chapters of Title 8, Planning and Zoning, of the Moraga Municipal Code, as described in **Exhibit “C”**, attached hereto and incorporated herein by this reference.

SECTION 6: The Planning Commission hereby recommends that the following parcels be rezoned from Study to Residential 1 DU/AC:

- 258-611-003 (1951 Joseph Drive)
- 258-611-006 (1939 Joseph Drive)
- 258-611-007 (1945 Joseph Drive)
- 258-611-008 (1957 Joseph Drive)
- 258-611-009 (1963 Joseph Drive)
- 258-612-002 (1954 Joseph Drive)
- 258-612-003 (1960 Joseph Drive)
- 258-612-003 (1966 Joseph Drive)
- 258-422-018 (970 Bollinger Canyon Road)

The boundaries of the areas described above are shown in **Exhibit D**, attached hereto and incorporated herein by reference.

SECTION 7: The Planning Commission hereby recommends that the following parcels be rezoned from Study to Non-MOSO Open Space:

- 258-012-036 (unaddressed, Harvey Ranch)
- 258-012-037 (unaddressed, Harvey Ranch)
- 258-012-038 (unaddressed, Harvey Ranch)
- 258-130-001 (unaddressed, Harvey Ranch)

The boundaries of the areas described above are shown in **Exhibit D**, attached hereto and incorporated herein by reference.

SECTION 8: The Planning Commission hereby recommends that the following parcels be rezoned from Study to Rural Residential:

- 258-611-004 (1951 Joseph Drive)
- 258-611-010 (1969 Joseph Drive)
- 258-012-043 (1970 Joseph Drive)
- 258-012-013 (unaddressed)
- 258-012-023 (unaddressed)
- 258-012-044 (unaddressed)
- 258-012-045 (966 Bollinger Canyon Rd)

The boundaries of the areas described above are shown in **Exhibit D**, attached hereto and incorporated herein by reference.

Exhibit 3

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga at a regular meeting held on April 11, 2023, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Recused:

Ben Helber, Chair

Attest: Afshan Hamid, AICP, Planning Director

Exhibit 3 A

Chapter 8.22 of MMC Rural Residential Zone

BEFORE THE PLANNING COMMISSION OF THE TOWN OF MORAGA

In the Matter of:

Resolution No. ##- 2023

**Recommending that the Town Council)
Adopt Amendments to Title 8 of the)
Moraga Municipal Code (Zoning) to Add)
Chapter 8.22 to Establish a Rural)
Residential (1 unit per 5 acre) District,)
Rescind Chapter 8.60, Study District,)
Make Conforming Changes to other Code)
Sections, and Amend the Zoning Map for)
the Bollinger Canyon Special Study Area
to implement the Moraga General Plan**

Adoption of Zoning Text and Map
Amendments for the Bollinger Canyon
Special Study Area

WHEREAS, State law requires all cities and towns in California to adopt a General Plan for their long-term development, including a land use map showing the general distribution and intensity of land uses in the jurisdiction and its planning area; and

WHEREAS, the Town of Moraga has proposed amending its General Plan Map to redesignate the 423-acre area Bollinger Canyon Special Study Area from its former designation of “Study” to a combination of Residential (1 dwelling unit per acre), Rural Residential (1 dwelling unit per 5 acres), and Non-MOSO Open Space; and

WHEREAS, the Town of Moraga has adopted local zoning regulations to implement its General Plan, identify permitted uses, establish development standards, and define development procedures; and

WHEREAS, Government Code 65860(a) requires that local government zoning ordinances and maps are consistent with the General Plan, including its objectives, policies, programs, and land use map; and

WHEREAS, rezoning of the subject area is required to align the Town’s Zoning Map with the new General Plan Map designations; and

WHEREAS, amending the General Plan and Zoning maps for the Bollinger Canyon Study Area have been identified as a Town Council priority for several years; and

WHEREAS, programs previously adopted as part of the Moraga General Plan further support the rezoning of the Study area to designations that are consistent with the General Plan’s goals and policies and that reflect the physical characteristics and limitations of the area; and

WHEREAS, the Town of Moraga embarked on a Comprehensive Advanced Planning Initiative in August 2021, including the task of replacing the General Plan and Zoning Map “Study” designations with new land use designations; and

Exhibit 3

WHEREAS, the Town of Moraga published a “White Paper” in January 2022 providing context and background maps for the rezoning of the Bollinger Canyon Study Area, identifying opportunities and constraints to development, and presenting options for new General Plan and Zoning designations; and

WHEREAS, the Town convened a duly noticed neighborhood meeting on January 25, 2022 to receive public input on options for the Study Area; and

WHEREAS, the Moraga Town Council convened a study session at its regular meeting on February 9, 2022 to consider the White Paper recommendations, discuss General Plan and zoning options, consider public comment, and provide direction to staff; and

WHEREAS, staff prepared Draft General Plan and Zoning amendments based on feedback provided by the Town Council; and

WHEREAS, the Moraga Planning Commission convened a Study Session on May 24, 2022 to review the Draft General Plan and Zoning amendments, provide an opportunity for public comment, and offer feedback for Town Council consideration; and

WHEREAS, the Moraga Town Council convened a Study Session on May 25, 2022 to review the Draft General Plan and Zoning amendments, provide an opportunity for public comment, consider Planning Commission recommendations; and provide direction to staff; and

WHEREAS, the Draft zoning text has been revised to reflect feedback provided by the Planning Commission and Town Council; and

WHEREAS, the proposed amendments would allow for land uses and densities that provide certainty to property owners, while responding to the lack of infrastructure, natural hazards, topography, access constraints, visual qualities, and environmental resources in the Study Area; and

WHEREAS, the proposed amendments would eliminate ambiguities about the development potential of the area, and provide certainty to property owners and surrounding neighbors; and

WHEREAS, approval of the zoning amendments does not approve or entitle any specific development project and future projects will be subject to the Town's development review and environmental review procedures, including site-specific analysis; and

WHEREAS, the Town completed a Draft Environmental Impact Report (Draft EIR) for the Comprehensive Advanced Planning Initiative, which includes the Bollinger Canyon General Plan Amendments and Rezoning; and

WHEREAS, the Draft EIR was published on October 27, 2022, circulated for a 45-day public period ending on December 12, 2022, and followed by a Final EIR published on January 6, 2023 that included responses to all comments received on the Draft EIR; and

WHEREAS, the Final EIR was certified by the Moraga Town Council on January 25, 2023; and

WHEREAS, the EIR identifies specific mitigation measures to be followed in the event any of the rezoned properties are developed, and includes a Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on April 11, 2023, the Planning Commission approved a Resolution finding that all requirements of the California Environmental Quality Act (CEQA) relative to the proposed rezoning of the Bollinger Canyon Study Area have been satisfied, and recommended that the Moraga Town Council adopt Findings and a Statement of Overriding Considerations for the proposed Bollinger Canyon rezoning; and

WHEREAS, all required public notices for the proposed rezoning were provided in the East Bay Times on March 31, 2023, and property owners living within 500 feet of the study area were notified via postcard notice of the April 11, 2023 public hearing by mail in accordance with Town requirements; and

WHEREAS, the Planning Commission held a public hearing on April 11, 2023 and approved Resolution ####-2023 recommending that the Moraga Town Council adopt General Plan Amendments that replace the “Study” designation with Rural Residential, Residential 1 DU/A, and Non-MOSO Open Space designations;

WHEREAS, the aforementioned public hearing also provided an opportunity for comment and discussion of the proposed zoning amendments.

NOW THEREFORE BE IT RESOLVED by the Planning Commission of the Town of Moraga that:

SECTION 1. Pursuant to the California Environmental Quality Act (CEQA), the Town prepared and certified a Final Environmental Impact Report (FEIR) that analyzes the potentially significant adverse environmental impacts associated with adoption of the Comprehensive Advanced Planning Initiative, including the Bollinger Canyon Special Study Area rezoning. The FEIR identifies appropriate and feasible mitigation measures that would significantly reduce or avoid the impacts identified in the EIR. The proposed zoning changes are part of the “project” evaluated and would allow for development consistent with what has been analyzed in the FEIR. In addition, any development project proposed on the properties being rezoned will be required to comply with the MMRP adopted in connection with the FEIR and will be subject to site-specific environmental review. In a separate resolution, the Planning Commission has recommended that the Town Council adopt Findings of Fact and a Statement of Overriding Consideration for the rezoning of the Bollinger Canyon Study Area.

SECTION 2. Pursuant to Moraga Municipal Code Section 8.12.100, the Planning Commission makes the following findings to support its recommendation for rezoning:

(a) The proposed Amendments to the Municipal Code and Zoning Map are consistent with the objectives, policies, general land uses and programs specified in the General Plan.

The proposed designations are consistent with the General Plan in that they support preservation of the Town’s natural setting, sustain Moraga’s semi-rural environment, respond to circulation and infrastructure constraints, provide opportunities for new housing, and protect public health and safety. The designations support a high-quality residential environment (Goal LU-1), preserve scenic qualities (Goal CD-1), protect hillsides and ridgelines (Goal CD-8), support open space preservation (Goal OS-1), sustain environmental quality (Goal OS-2), and minimize threats to public safety (Goal PS-1). The rezoning also implements former

General Plan Action Plan measure IP-K7, which called for replacement of the Study Area designation with permanent designations.

- (b) **In the case of a *general* land use regulation, the change proposed is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed.** The proposed zoning amendments constitute a general land use regulation insofar as they do not entitle a specific project or relate to a specific parcel. The amendments would create a new zoning district for rural residential uses, corresponding to one dwelling unit per five acres. Clustering of the allowable density would be permitted, as prescribed by Section 8.48 of the Municipal Code. Thus, the Rural Residential designation is consistent with General Plan Policies LU-1.8 (variable lot sizes) and LU-1.11 (clustering) and Goal LU-1 (a high-quality residential environment) while also supporting the open space, conservation, and public safety goals of the plan. Relative to the proposed map changes, the nine parcels proposed for mapping as 1 DU/Acre range in size from 0.97 acres to 3.58 acres with an average lot size of 1.92 acres; thus 1 DU/Acre is the “best fit” designation for these parcels. The four parcels proposed for mapping as Non-MOSO Open Space are acquired by the John Muir Land Trust for conservation, making open space the “best fit” designation for these parcels. The seven parcels proposed for the new Rural Residential designation range in size from 3.55 acres to 131.11 acres. The proposed designation is comparable to rural residential designations on adjacent land in Lafayette and in unincorporated Contra Costa County. It supports a modest amount of additional development while recognizing the physical limitations of the area.
- (c) **A community need is demonstrated for the proposed change.** The rezoning of this area would allow a reasonable number of housing units while recognizing access and infrastructure constraints, wildfire and other natural hazards, sensitive biological resources, and State mandates to reduce vehicle miles traveled (VMT) and greenhouse gas emissions.
- (d) **Its adoption will be in conformity with public convenience, general welfare and good zoning practice.** The proposed zoning will provide clarity and certainty for property owners, neighbors, and Town residents. The amendments will not result in the immediate approval of any specific development or project; such projects will continue to be subject to their own development review and environmental review procedures. Adoption of the zoning amendments is consistent with good zoning practice in that it will align zoning with the General Plan, which is required by law. Like the General Plan itself, the designations balance multiple competing objectives and represent the best fit for the site.

SECTION 3: The Planning Commission hereby recommends that Chapter 8.22 be added to the Moraga Municipal Code, creating a Rural Residential Zoning District, as shown in as Exhibit “A” attached hereto and adopted by reference as part of this Resolution.

SECTION 4: The Planning Commission hereby recommends that Chapter 8.60 (Study District) of the Moraga Municipal Code be rescinded in its entirety. The deleted text is included as Exhibit “B” and is shown in overstricken format to denote its deletion.

SECTION 5: The Planning Commission recommends amendments to individual sections and chapters of Title 8, Planning and Zoning, of the Moraga Municipal Code, as described in **Exhibit “C”**, attached hereto and incorporated herein by this reference.

SECTION 6: The Planning Commission hereby recommends that the following parcels be rezoned from Study to Residential 1 DU/AC:

- 258-611-003 (1951 Joseph Drive)
- 258-611-006 (1939 Joseph Drive)
- 258-611-007 (1945 Joseph Drive)
- 258-611-008 (1957 Joseph Drive)
- 258-611-009 (1963 Joseph Drive)
- 258-612-002 (1954 Joseph Drive)
- 258-612-003 (1960 Joseph Drive)
- 258-612-003 (1966 Joseph Drive)
- 258-422-018 (970 Bollinger Canyon Road)

The boundaries of the areas described above are shown in **Exhibit D**, attached hereto and incorporated herein by reference.

SECTION 7: The Planning Commission hereby recommends that the following parcels be rezoned from Study to Non-MOSO Open Space:

- 258-012-036 (unaddressed, Harvey Ranch)
- 258-012-037 (unaddressed, Harvey Ranch)
- 258-012-038 (unaddressed, Harvey Ranch)
- 258-130-001 (unaddressed, Harvey Ranch)

The boundaries of the areas described above are shown in **Exhibit D**, attached hereto and incorporated herein by reference.

SECTION 8: The Planning Commission hereby recommends that the following parcels be rezoned from Study to Rural Residential:

- 258-611-004 (1951 Joseph Drive)
- 258-611-010 (1969 Joseph Drive)
- 258-012-043 (1970 Joseph Drive)
- 258-012-013 (unaddressed)
- 258-012-023 (unaddressed)
- 258-012-044 (unaddressed)
- 258-012-045 (966 Bollinger Canyon Rd)

The boundaries of the areas described above are shown in **Exhibit D**, attached hereto and incorporated herein by reference.

Exhibit 3

PASSED AND ADOPTED by the Planning Commission of the Town of Moraga at a regular meeting held on April 11, 2023, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Recused:

Ben Helber, Chair

Attest: Afshan Hamid, AICP, Planning Director

CHAPTER 8.22 RURAL RESIDENTIAL DISTRICT (RR)

8.22.010 Purpose.

The purpose of this district is to promote a rural character by providing for very low density single-family residential uses, agricultural uses, and preservation of the natural environment consistent with the general plan.

8.22.020 Design guidelines consideration.

Notwithstanding the provisions of this chapter, all residential development projects must conform with the Town of Moraga Design Guidelines, as may be amended from time to time, or be granted an exception to one or more of the design guidelines by the Planning Commission in accordance with the procedures set forth in Chapter 8.72.

8.22.030 Permitted uses.

- A. A detached single-family dwelling on each lot and the accessory structures and uses normally auxiliary to it
- B. Agriculture
- C. Accessory dwelling units
- D. Supportive housing and transitional housing of the same type allowed in this district
- E. Animal keeping in accordance with Chapter 8.92, excluding Article 2
- F. Dog daycare, dog training
- G. Home occupations in conformance with Chapter 8.112
- H. Child day care center (small and large family day care home only).

8.22.040 Conditional uses.

In this districts, each of the following uses is permitted on issuance of a conditional use permit:

- A. Animal keeping in accordance with Chapter 8.92, Article 2
- B. Religious facility
- C. Park and outdoor recreation facility
- D. Animal boarding
- E. A use which the Planning Commission, after notice and public hearing, has found to be comparable to any of the foregoing uses.

8.22.050 Density transfer.

Density transfers shall be processed under Chapter 8.104.

8.22.060 Minimum lot area and setback regulations.

- A. The minimum lot area and setbacks for principal structures are set forth in the following table:

Standard

Minimum lot area:	Five acres
Minimum lot width:	140 feet
Minimum lot depth:	140 feet

Minimum lot frontage:	100 feet
Minimum setback from property lines:	25 feet

- B. Development standards in the R-R District may be altered through the Planned Development process identified in Chapter 8.48.

8.22.070 Maximum building height.

At no point shall the building height of a structure exceed two stories or thirty-five (35) feet, whichever is less. On lots where a building is stepped down a slope and the building footprint slope is twenty (20) percent or greater, the maximum aggregate building height shall not exceed forty-five (45) feet. Measurement of building height shall be as defined in Chapter 8.04 of this title.

8.22.080 Accessory structures and buildings.

Setbacks and other development standards for accessory structures and buildings, including decks, shall be as defined in Chapter 8.70 of this Code.

8.22.90 Fences and walls.

Setbacks and development standards for fences and walls shall be as defined in Section 8.68.040 of this Code.

8.22.100 Site and development analysis.

Any application for a subdivision or planned development in this district shall include a study or analysis including the following information prepared by one or more certified professionals approved by the Planning Director:

- A. Land Use Analysis, including adjacent land uses, densities, and the potential for citing proposed development so that its visibility from nearby residential uses is minimized.
- B. Geotechnical Analysis, identifying:
 - 1. Steepness of slope, including location of any slopes greater than 20%.
 - 2. Potential landslide hazards, including soil with a history of slippage or slopes subject to severe surface erosion or deterioration.
 - 3. Proximity to known faults (active or inactive), as documented by the California or US Geological Surveys or other sources.
 - 4. Areas subject to enhanced seismically induced ground shaking or seismically induced ground failure such as a landslide, lateral spread, rockfall, ground lurching, liquefaction, soil settlement, differential compaction and compression.
 - 5. Areas subject to the effect of seismically induced flooding and/or dam or stock pond failure.
 - 6. Location and extent of any proposed grading, soil displacement, and alteration to landforms.
- C. Hydrologic Analysis, identifying:
 - 1. Location of any natural drainage way or swale with a drainage basin of 50 acres or more or crossed by a perennial or ephemeral (intermittent) drainage channel.
 - 2. Location of FEMA 100-year and 500-year flood plain, where present.
 - 3. Presence of regular or intermittent springs or adverse ground water conditions.
 - 4. Identification of any areas within 100 yards upstream or 500 yards downstream of a reservoir, detention basin or pond of one acre or more in surface area.
- D. Biological Resource Evaluation, including
 - 1. Evaluation of site plant and animal resources, as determined by a qualified wildlife biologist.
 - 2. Arborist report for site.
- E. Fire Hazard Severity zone and proximity to wildfire risk zones as defined by CalFire.

Exhibit 3 B

Chapter 8.60 of MMC Study Zone to be Rescinded

Chapter 8.60 STUDY DISTRICT

~~8.60.010 Purpose.~~

~~The purpose of this district is to permit temporary control of the development in an area while the planning agency conducts detailed studies. Until the studies are complete, the policies and procedures governing development set forth in planning commission Resolution 5-79 apply.~~

~~8.60.020 Permitted uses.~~

~~Agriculture.~~

~~8.60.030 Conditional uses.~~

~~In this district, all uses other than "agriculture" are permitted on the issuance of a conditional use permit.~~

~~8.60.040 Site standards.~~

~~The precise standards for the development of property in this district shall be prescribed at the time the reviewing authority approves the issuance of a conditional use permit. These standards shall fix the density, lot area, frontage, front, side and rear setbacks, building height and site coverage requirements. The site standards shall be based upon site conditions and off-site considerations. The planning commission may, in fixing these standards, use the standards applicable in the land use district which, in its opinion, is most nearly comparable to the land use district to which, in its opinion, the subject property is likely to be classified.~~

Exhibit 3 C

Conforming Amendments to MMC Title 8

Chapter 8.04 GENERAL PROVISIONS AND DEFINITIONS

“Agriculture” means the tilling of soil, the raising of crops, horticulture, dairying, and the raising and managing of livestock, including all uses customarily incident, and the necessary accessory uses for packing, treating or storing the produce, provided that any such accessory uses shall be secondary to that of normal agricultural activities, but not including cannabis, slaughterhouses, fertilizer yards, bone yards, plants for the reduction of animal matter, or any other industrial use which may be objectionable because of odor, smoke, dust, or fumes.

Chapter 8.48 PLANNED DEVELOPMENT DISTRICT

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

A. When the planned development district consists of single-family residential use, it shall be designated (depending upon the density applicable to it) either:

1. R-R-PD
2. N-OS-PD;
3. 1-PD;
4. 2-PD;
5. 3-PD;
6. 6-PD.
7. 10-PD, as to the Rheem Park Specific Plan Area as defined in the General Plan (RP)
8. 12-PD-MC, as to the Moraga Center Specific Plan Area as defined in the General Plan (MC)

B. Except as provided in subsection D of this section the minimum lot sizes shall be as designated on the following table:

Land Use Classification	Minimum Lot Size
N-OS-PD	40,000 sq. ft.
X-PD ¹	5, 10, 20 or more acres depending upon the development standards imposed under Section 8-3606
R-R-PD	30,000 sq. ft.
1-PD	30,000 sq. ft.
2-PD	20,000 sq. ft.
3-PD	10,000 sq. ft.
6-PD	10,000 sq. ft. ²
10-PD-RP ³	2,500 sq. ft. ⁴
12-PD-MC ⁵	2,500 sq. ft. ⁴

1 Any Planned Development District.

2 Except for condominium development as provided in Section 8.32.060(C).

3 Applies to properties in the Rheem Park Specific Plan area only.

4 For detached single-family residences.

5 Applies to properties in the Moraga Center Specific Plan area only.

C. The single-family residential development shall consist of detached structures except as follows:

1. Where the land use classification permits two dwelling units per acre or three dwelling units per acre, up to ten (10) percent of the units may be clustered in building groups of not more than three units each on lots less than ten thousand (10,000) square feet.
 2. Where the land use classification permits three dwelling units per acre, the limitation in subsection (C)(1) of this section as to the percent of clustered units and the number of units in a building group may be exceeded if the development is on land contiguous to an existing commercial or multiple residential developed area and the reviewing authority finds that the design is compatible with that existing contiguous development.
- D. The size of lots in a planned development district designated R-R-PD, 1-PD or 2-PD may be varied as follows so long as the aggregate density does not exceed the total allowable density:
- | | |
|----------------|-----------------|
| Lot Size | % of Total Lots |
| 20,000 sq. ft. | 45% (minimum) |
| 15,000 sq. ft. | 45% (maximum) |
| 10,000 sq. ft. | 10% (maximum) |
- E. Where density transfer or density bonus is not applicable, any percentage category may be increased by no more than twenty (20) percent of the specific percentage listed above with the approval of the town so long as the total allowable lots are not increased in the aggregate.
- F. Additional ten thousand (10,000) square feet or larger lots may be allowed beyond the percentages listed in the table to accommodate density transfer or a density bonus.
- G. The minima for the lot width, lot depth and front, side and rear setbacks for each single-family residential parcel within a planned development district shall be the same minima for a single-family residential parcel specified in Chapter 8.28 having a corresponding minimum parcel size. However, these minima may be varied as provided in Section 8.48.060.
- H. Notwithstanding any other provision of this section, the minimum lot size for the Rancho Laguna II Project shall be no less than fifteen thousand (15,000) square feet because the overall project includes outdoor recreational facilities (public trails) approved by the town with guaranteed permanent access to the general public.

8.48.050 Density transfer.

The density of land designated on the general plan as "public open space" which is zoned to the planned development district shall be determined by the use of density transfer and the planned development district process.

CHAPTER 8.52: MOSO AND NON-MOSO OPEN SPACE DISTRICTS

8.52.090 MOSO open space.

Notwithstanding any other provision of the ordinances of the town, all land within the town of Moraga designated "public open space" or "private open space" (hereinafter referred to as "MOSO open space") in the Moraga general plan as such plan existed on October 16, 1985, or which is designated such by the Moraga open space ordinance is zoned "MOSO open space" (OS-M).*

* Wording taken from Section (3)(d) of the Moraga open space ordinance.

CHAPTER 8.68:
GENERAL STANDARDS FOR LOTS, YARDS, SETBACKS, FENCES AND WALLS

8.68.040 Fences and walls within setbacks.

- A. Fences in Front and Exterior Side Yard Setback Areas. No fence or wall higher than three feet is permitted within a front yard or exterior side yard setback area without the prior approval of the zoning administrator. Fences or walls exceeding six feet and up to seven feet six inches in height are permitted in the front or exterior side yard setback areas subject to approval of the design review board. The reviewing authority shall consider whether the fence design and location: (1) are aesthetically compatible in the neighborhood; and (2) do not create sight obstructions as set forth in Section 8.80.010.
- B. Fences or Walls in Side and Rear Yard Setback Areas.
 - 1. Fences or walls up to six feet in height are permitted within side or rear yard setback areas.
 - 2. Fences or walls exceeding six feet and up to seven feet six inches in height are permitted in side or rear yard setback areas subject to approval of the design review board. The design review board shall consider whether the fence or wall design, height and location: (a) are aesthetically compatible with the neighborhood; (b) do not create sight obstructions as set forth in Section 8.80.010 or to the adjacent properties; and (c) do not create health and safety problems.
- C. Fences or walls exceeding seven feet six inches in height and located within any setback require a variance approval from the planning commission with specific findings set forth in Section 8.12.130
- D. Open fencing up to seven feet in height is permitted in Rural Residential, MOSO, and non-MOSO open space districts. Such fencing is not subject to other provisions in Section 8.68.040, and does not require approval from the zoning administrator or the design review board,

CHAPTER 8.76:
OFF-STREET PARKING AND LOADING

8.76.100 Off-street parking requirements for residential uses.

- A. Every dwelling unit shall have on the same parcel two covered off-street automobile storage spaces. In the case of a dwelling unit in a planned district or condominium, the automobile storage spaces need not be on the same parcel.
- B. Each space shall have minimum dimensions of nine feet clear by nineteen (19) feet surfaced area, and shall not be located within the front setback or required side yard areas of the principal structure.
- C. For each group of two or more dwellings on the same lot, off-street guest parking shall be provided at a ratio of one space for each two units, may be open or covered, but shall not be located within the front setback or required side yard areas of the principal structure.
- D. Each dwelling on a lot in the Rural Residential, 3 DU per acre, 2 DU per acre, and 1 DU per acre zones, with less than forty-five (45) feet of frontage or which has a front setback of more than seventy-five (75) feet, shall have two guest parking spaces. The spaces may be open or covered and shall have adequate turn around space. (See Section 8.148.030 for recreational vehicle parking requirements.)
- E. Fractional parking requirements shall be rounded up to the next whole number.
- F. No vehicle may be parked in an area of the parcel not reasonably intended for parking unless the vehicle is adequately screened from view.

The area of the parcel "reasonably intended for parking" includes: (1) a garage; (2) a paved driveway whose width does not exceed the width of the garage and setbacks meet zoning requirements; (3) for designated parking areas pre-existing the adoption of the ordinance codified in this section for the parking of not more than three vehicles; and (4) other paved area approved for parking by the design review board.

"Adequately screened from view" means substantially screened from a street or other property by a fence or landscaping so that the vehicle is not visible or is barely visible.

Storage of recreational-type vehicles on private property is regulated under Section 8.148.030. Storage and repair of vehicles is regulated under Chapter 8.120.

CHAPTER 8.92: ANIMAL KEEPING

Article 1. Small Farm Animals

8.92.010 Purpose.

The purpose of this article is to maintain the semi-rural quality of Moraga and promote local food production by allowing small farm animals as accessory to existing permitted residential uses in residential, institutional, MOSO and non-MOSO open space zoning districts while protecting the health, safety and general welfare of the community.

8.92.020 Definitions.

In this article, unless the context otherwise requires, the following definitions shall apply:

"Animal farming" means the raising and keeping of small farm animals.

"Apiary" means the assembly of one or more colonies of honey bees at a single location.

"Honey bee colony" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and drones, including brood, combs, honey and the receptacle inhabited by the bees.

"Nucleus colony" means a small honey bee colony of a few thousand honey bees with a queen, created from larger colonies and typically kept within a smaller size box.

"Small farm animals" means small unhooved animals, including, but not limited to, chickens, doves, pigeons, quail, game birds, rabbits and honey bees (*Apis mellifera*). Small farm animals do not include:

1. Companion animals, also known as pets, kept primarily for a person's company or protection, including dogs, cats, hamsters, parakeets, and exotic animals.
2. Livestock as defined in Section 8.04.020.

8.92.030 Small farm animals permitted.

The keeping of small farm animals, with the exception of honey bees, is permitted on parcels six thousand (6,000) square feet or more in size, based on gross lot area, in the following districts, subject to the standards, prohibitions and regulations, set forth in this chapter 8.92:

- A. Small farm animals may be kept on parcels within the 1-DUA, 2-DUA, 3-DUA, 6-DUA, and institutional zoning districts as accessory to an existing permitted single-family residence, duplex, triplex or fourplex, subject to the limitations in number set forth in subsection (b) below.
- B. Excepting bees, the number of small farm animals permitted on a given parcel, based on gross lot area, is:

- | | |
|--|---------------|
| 1. Parcel 5,999 square feet or less | none |
| 2. Parcel 6,000 square feet to 10,000 square feet | maximum of 4 |
| 3. Parcel 10,001 square feet to 20,000 square feet | maximum of 6 |
| 4. Parcel 20,001 square feet to 40,000 square feet | maximum of 8 |
| 5. Parcel greater than 40,000 square feet | maximum of 16 |

- C. Small farm animals may be kept on parcels within the RR, MOSO or non-MOSO open space zoning districts, and are not subject to the limitations set forth in subsections (A) and (B) above.

8.92.040 Standards and prohibitions.

- A. Small farm animals shall be kept for personal enjoyment or home consumption.
- B. Small farm animals and products from small farm animals shall not be sold for commercial purposes.
- C. Roosters, waterfowl, peacocks, guinea hens, and any animals which produce undue noise and/or create a nuisance to neighboring residents as defined in Section 7.12.070 are prohibited.

8.92.050 Enclosures.

- A. Small farm animals, with the exception of honey bees, shall be kept within a structure or fenced area at all times to ensure against trespass onto neighboring or public property.
- B. Small farm animals shall have access to a coop, cage, or similar structure, which:
1. Provides protection from the elements and predators; and
 2. Is located in the rear or side yard; and
 3. Meets the minimum front, side and rear setbacks required for the primary residence. Structures to house small farm animals do not qualify for reduced side or rear yard setbacks for accessory buildings or structures.

8.92.060 Maintenance.

- A. Enclosures, animal products and manure storage must be maintained to be free from odor, and prevent a breeding place for flies, pests or vermin.
- B. Animal feed shall be stored in a rodent and predator proof container.

8.92.070 Slaughtering.

Slaughtering of small farm animals is permitted on any parcel where the keeping of small farm animals is permitted, provided that:

- A. Slaughtering shall take place in the privacy of the property, taking necessary precautions to ensure the privacy of neighbors and shall not be seen from adjoining properties; and
- B. Remains shall be disposed of in accordance with local waste regulations and in a timely manner to prevent deterioration of the remains and odor.

8.92.080 Beekeeping.

- A. Beekeeping may occur on parcels within the 1-DUA, 2-DUA, 3-DUA, 6-DUA and institutional zoning districts as accessory to an existing permitted single-family residence, duplex, triplex or fourplex, subject to the standards, requirements and regulations set forth in this section. Beekeeping may occur on any parcel within

the Rural Residential, MOSO, or non MOSO open space zoning district, subject to the standards, requirements and regulations set forth in subsections (B) and (C).

B. Apiaries shall be registered with the Contra Costa County agricultural commissioner and the town of Moraga planning department;

C. Beekeeping standards:

1. Number. The number of honey bee colonies permitted on a given parcel, based on gross lot area, is:

- | | | |
|-----|--|---------------|
| i | Parcel 5,999 square feet or less | none |
| ii | Parcel 6,000 square feet to ½ acre | maximum of 4 |
| iii | Parcel more than ½ acre but less than 1 acre | maximum of 6 |
| iv | Parcel 1 acre or larger | maximum of 8 |
| v | Parcels 5 acres or larger | maximum of 40 |

One nucleus colony may be kept for each honey bee colony permitted on a parcel.

2. Location of honey bee colonies:

- i. Shall be located in the rear or side yard and shall not be located within the front yard, or the exterior side yard setback; and
- ii. When kept within a series of rectangular bee boxes or similar non-permanent containers less than six feet in height, shall be set back a minimum of five feet from property lines; and
- iii. Shall be set back a minimum of twenty-five (25) feet from public rights-of-way and private streets; and
- iv. Buildings or structures housing honey bee colonies shall comply with the accessory building and accessory structure setbacks of the applicable zoning district.

3. Flyway Barrier. Wherever a honey bee colony is less than one hundred (100) feet from a neighboring residence or outdoor living area a flyway barrier is required. The flyway barrier shall be:

- i. A minimum six feet high, consisting of a solid wall or fence or dense vegetation, and
- ii. A minimum of twenty (20) feet long, centered on and perpendicular to the shortest line that could be drawn between the honey bee colony and the neighbor's residence or outdoor living area.

4. Water. All properties on which honey bee colonies are kept must have adequate water sources on the property. Adequate sources of water provide both an amount of fresh water necessary for the amount of honey bees or honey bee colonies and a method for the honey bees to be able to gain a good footing to obtain the water. Adequate water sources must be in place prior to honey bees or honey bee colonies being placed on the property to ensure that the bees primarily use the provided water source and do not seek out water sources on neighboring properties prior to the arrival of their own water source.

8.92.090 Exceptions.

- A. An application seeking an exception from Sections 8.92.030(b), 8.92.040(c), 8.92.050 or 8.92.080(c) may be filed on a form prescribed by the town, along with the required fee.
- B. Notification to neighbors shall be provided at least ten (10) calendar days prior to the decision on the application consistent with Section 8.12.070.
- C. The burden is on the applicant to demonstrate that potential impacts are adequately mitigated.
- D. The zoning administrator may deny, approve, approve subject to conditions, or refer the application to the planning commission. The zoning administrator or planning commission may impose reasonable conditions to protect the health, safety and general welfare of the community.

- E. The application may only be approved if the zoning administrator or planning commission finds that the potential for noise, odor, safety, health and other impacts to neighboring properties are adequately mitigated.
- F. The decision of the zoning administrator or planning commission may be appealed following the procedures of Chapter 8.12.

Article 2. Dog Fanciers, Livestock and Other Animals

8.92.100 Permit as dog fancier.

- A. A permit to operate as a dog fancier (the keeping of three or more dogs over six months of age as defined in Section § 8.04.020) may be issued only after the approval of an application for a conditional use permit and only for land included in the following land use districts:
 - 1. Rural Residential
 - 2. Single-family residential, 1-DUA;
 - 3. Single-family residential, 2-DUA;
 - 4. Any other residential land use district where the applicant's lot is at least twenty thousand (20,000) square feet in area and where the maximum number of dogs permitted over six months of age does not exceed four;
 - 5. MOSO and non-MOSO open space;
- B. In single-family residential districts, the planning commission shall fix the maximum number of dogs permitted to be kept as a condition of issuance of the conditional use permit.
- C. All dogs maintained by a dog fancier shall be confined on the premises or trained and exercised under the owner's control and shall be enclosed in a building during the hours of darkness.

8.92.110 Livestock and other animals.

- A. Livestock may be kept on property included within the Rural Residential district and within MOSO and non-MOSO open space land use districts subject to the following requirements:
 - 1. The parcel of land on which the livestock are kept is not less than forty thousand (40,000) square feet in single fee ownership;
 - 2. No more than one head of livestock is maintained per twenty thousand (20,000) square feet of area.
- B. In the residential land use districts, a conditional use permit is required to keep livestock, except in the Rural Residential district.
- C. Other animals for which provision is not otherwise made in this title, may be kept on land within the Rural Residential district, MOSO or non-MOSO open space, or single-family residential land use district, subject to the requirement that the parcel of land on which the other animals are kept is not less than forty thousand (40,000) square feet in area and a conditional use permit is obtained.
- D. The zoning administrator may, after notice to the planning commission, issue the conditional use permit for the keeping of livestock and other animals required by subsections A, B and C of this section, subject to review by the planning commission.
- E. Because of the size of lots, side yards and close development, the keeping of livestock and other animals in highly developed areas is seldom appropriate. A conditional use permit for the keeping of livestock, and other animals may be issued only where the applicant demonstrates that the lot involved in the application and lots in the surrounding area are of such a size and configuration that the keeping of livestock, and

animals is compatible and consistent with the surrounding development and that the area is comparable to other areas within the town where a land use permit is not required for the keeping of livestock and animals.

8.92.120 Livestock and other animal structures.

Notwithstanding the setback, side yard and rear yard provisions in the residential land use districts, the following provisions apply to the location of animal structures in all such districts, except the Rural Residential district, provided such structures are permitted:

- A. Barns, stables, and similar accessory buildings and structures used to shelter animals or livestock shall be located in the rear yard of the principal structure.
- B. Fenced pasture, paddocks or other enclosures for livestock or other animals shall not be located nearer than ten (10) feet to a property line.
- C. Shelters for livestock, and other animals not otherwise addressed in this title shall be set back not less than sixty (60) feet from the front property line and from any street line and shall be located not less than two hundred (200) feet from any point on an adjoining parcel of land at which point the exterior wall of a dwelling unit either exists or could legally be constructed.
- D. A variance permit to modify subsections A through C of this section may be granted subject to the requirements for a variance set forth in this title.

CHAPTER 8.104: DENSITY TRANSFER

8.104.030 Eligibility.

To be eligible to have allowable dwelling units transferred, the transferor parcel must be shown on the general plan as 1, 2, 3, or 6 dwelling units per acre or as rural residential, public open space, or private open space.

CHAPTER 8.124: ACCESSORY DWELLING UNITS

Article 3. - Ministerial Review for Standard ADUs

8.124.120 Procedures.

- A. This article shall provide for and govern the ministerial review of certain applications for standard ADUs on lots with a primary unit in single-family residential districts, planned development districts that allow single-family residential development, or MOSO or non-MOSO open space districts.
- B. Ministerial Review. Applications for the following types of standard ADUs shall be approved ministerially by the planning director without discretionary review, further design review, or public hearing, pursuant to the procedures of this article:
 - (1) No more than one attached or detached ADU per lot that meets the general standards in Section 8.124.080, development standards in Section 8.124.130 and the design standards in Section 8.124.0140.

- C. The applicant shall be required to obtain a building permit prior to the construction any ADU and shall also meet the requirements set forth in Article 5 of this chapter.
- D. Procedure for Review.
 - (1) Within sixty (60) days after receiving an application, the planning director shall approve an application through a ministerial review process and issue an ADU permit if the requirements of Sections 8.124.080, 8.124.130 and 8.124.140, as applicable, have been satisfied for an ADU.
 - (2) Unless an administrative adjustment is granted pursuant to Section 8.124.170 which excuses noncompliance which would otherwise require denial of the application, the planning director shall deny an application for an ADU if the requirements of Sections 8.124.080, 8.124.130 and 8.124.140, as applicable, have not been satisfied.
- E. Courtesy Notice. Upon approval of the accessory dwelling unit permit, the planning director shall mail a courtesy notice to all owners of abutting properties, notifying them of the approval. The notice shall state that there is no right of an aggrieved party to appeal the approval.
- F. Right to Appeal. The applicant may appeal the decision of the planning director in accordance with the provisions of Moraga Municipal Code Chapter 8.12, Article 4. The appeal shall be limited to a consideration of whether the objective criteria in Sections 8.124.080, 8.124.130 and 8.124.140 for a standard attached or detached ADU have been met.
- G. Notwithstanding the procedures in Sections 8.124.100(A)—(F) above, an applicant for an attached or detached ADU that does not meet both the development standards of Sections 8.124.130 and the design standards of Section 8.124.140, may seek discretionary approval of an ADU in accordance with the alternative procedures set forth in Article 4 of this chapter.

8.124.130 Development standards for standard attached and detached ADUs.

The following section applies to standard attached or detached ADUs that do not qualify as a streamlined ADU. An standard attached or detached ADU may be established upon any lot containing an existing or proposed primary unit in in any single-family residentially zoned district, planned development districts that allow single-family residential development, or MOSO or non-MOSO open space districts, if it complies with the following standards, as well as the general standards set forth in Section 8.124.080 and design standards set forth in Section 8.124.140:

- A. Except as set forth in Section 8.124.130(C), a portion of an existing primary unit or a pre-existing legally constructed accessory building (or portion thereof) may be incorporated into an attached or detached ADU only if the side and rear setbacks and building separations are sufficient for fire safety.
- B. Except as set forth in Section 8.124.130(C), any expansion of or addition to either an existing primary unit or a pre-existing legally constructed accessory building to accommodate an attached ADU or detached ADU shall meet all development standards of the zoning district in which it is located.
- C. Notwithstanding any other standard set forth in this Section 8.124.130 no setback shall be required for an existing legally constructed garage that is fully or partially incorporated into an attached or detached ADU.
- D. An attached or detached ADU shall have side and rear setbacks of at least four feet. Front yard setback requirements of the zoning district in which the attached or detached ADU is to be located shall apply.
- E. The maximum aggregate building height for a detached ADU, or for an addition constructed to wholly or partially accommodate an attached ADU, shall not exceed nineteen (19) feet in height as measured between the highest point of the building including the roof and the lowest point of the building at natural grade and shall not exceed sixteen (16) feet in building height within ten feet of the property line. A skirt wall (if any) shall be included in the maximum aggregate building height measurement.

- F. The area within the construction footprint of the attached or detached ADU, including the area required for the unit, associated grading, and outdoor living space, shall not have an average predevelopment slope greater than twenty (20) percent.
- G. The cumulative volume of cut and/or fill for construction of the attached or detached ADU, exclusive of areas for building foundations and footings, shall not exceed two hundred (200) cubic yards.
- H. The interior living area of an attached or detached ADU shall be at least one hundred fifty (150) square feet and not more than eight hundred fifty (850) square feet for an ADU with one bedroom or less and up to one thousand (1,000) square feet that is more than one bedroom. The square footage of an attached ADU shall not exceed fifty (50) percent of the pre-existing interior living area of the primary unit, calculated before the addition of the attached ADU. If the existing gross floor area of the lot exceeds the maximum permitted in the Town of Moraga Design Guidelines, Appendix D, Maximum Floor Area Table prior to establishment of an ADU, or if the development of the ADU will result in the total gross floor area exceeding the maximum permitted in the maximum floor area table, the ADU may have an interior floor area of no more than eight hundred (800) square feet.
- I. The attached or detached ADU shall have an external access separate from the primary unit, and an attached ADU may also have internal access to the primary unit.
- J. No historic tree shall be removed for the purpose of establishing an ADU. Native or orchard trees may be removed to provide for the location of an ADU, with a requirement that one fifteen-gallon tree of the same genus and species be planted on site per tree removed. The requirement to replant a native or orchard tree may be waived if the planning director determines that there is no appropriate location on site to plant a tree. Trees are defined in Moraga Municipal Code Section 12.12.020.
- K. In addition to parking required for the primary unit, one off-street parking space measuring at least nine feet by nineteen (19) feet and not more than seventeen (17) feet by nineteen (19) feet, which may be open or covered, shall be provided for an attached or detached ADU, subject to the following requirements:
 - (1) The parking space for the attached or detached ADU shall be located adjacent to the parking spaces for the primary unit, and shall not be accessed by means of a driveway separate from that which accesses required parking spaces for the primary residence, unless such access is specifically authorized by the Moraga Municipal Code. The size of the existing driveway curb cut shall not be increased, and no new driveway curb cut shall be created. The guest parking spaces required by Moraga Municipal Code Section 8.76.100(C) and (D) are not required for an accessory dwelling unit.
 - (2) The required parking space shall be surfaced with a permeable material that is approved by the planning director, except that a pre-existing non-permeable driveway, paved parking area or new or existing covered parking space may be used. The required parking space may be located within required setback areas if it is uncovered. When required parking for the attached or detached ADU, other than tandem parking within an existing driveway, is located within a setback area, the planning director may require the parking be screened from off-site views with vegetation not less than thirty-six (36) inches in height above the parking surface.
 - (3) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a fully contained, attached or detached ADU or converted to an attached or detached ADU, no replacement parking shall be required for the converted ADU.
 - (4) Notwithstanding any other provisions of this Subsection 8.124.130(L), attached or detached ADUs are exempt from off-street parking space in any of the following circumstances:
 - a. The attached or detached ADU is located within one-half mile walking distance of a public transit stop.
 - b. The attached or detached ADU is located within an architecturally and historically significant historic district.

- c. When on-street parking permits are required but not offered to the occupant of the attached or detached ADU.
- d. When there is a car share vehicle storage space, at which car shares may be picked up and dropped off, located within one block of the attached or detached ADU.
- e. Nothing in this Section 8.124.130(L) shall be construed as requiring parking to be provided for a streamlined ADU.

CHAPTER 10.10:

PARKING OF COMMERCIAL AND OVERSIZE VEHICLES

10.10.020 Definitions.

The definitions in this section shall apply to this chapter, unless the context otherwise requires:

"Commercial vehicle" means a vehicle required to be registered under Section 260 of the California Vehicle Code that is used or maintained for the transportation of persons for hire, compensation, or profit, or designed, used, or maintained primarily for the transportation of property. Pickup trucks and small utility vehicles are not commercial vehicles under this chapter unless they have been converted to stake-side trucks and used exclusively for hauling. Commercial vehicles include, without limitation, dump trucks, flatbed or stake-side trucks, semi-truck tractors, moving vans, delivery trucks, earth-moving equipment, tow trucks, tractors, equipment trailers and carriers, poles and pipe dollies.

"Oversize vehicle" means a vehicle, trailer, or a vehicle and trailer combination which has a manufacturer's gross weight rating of ten thousand (10,000) pounds or more or the dimensions of which exceed twenty-two (22) feet in length or seven feet in height.

"Residential district" means a single-or multi-family residential district zoned R-R, 1-DUA, 2-DUA, 3-DUA, or 6-DUA, and Planned Development Districts of similar residential densities.

Exhibit 3 D

Proposed Zoning Map Changes

