



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

Meeting Date: May 25, 2022

TOWN OF MORAGA

STAFF REPORT

To: Honorable Mayor and Councilmembers

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

**Subject: Provide Direction on General Plan Amendment and Rezoning of
Bollinger Canyon Special Study Area**

Request

Provide feedback on **Draft** General Plan and zoning text amendments for the Bollinger Canyon Study Area. Consistent with Town Council goals and priorities, the draft language proposes new designations to replace the existing General Plan and zoning designation for the Bollinger Canyon Study Area, for which environmental review must be conducted before any decisions are made. Consideration of the final zoning regulations and environmental review will take place at the end of 2022, after completion of environmental review.

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.

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 in Bollinger Canyon with new General Plan and zoning designations. The Town does not have a pending development application for the area.

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. The Town Council convened a study session on February 9, 2022 to discuss these

options in more detail and provided direction to staff at that meeting. Staff has incorporated Council feedback into a General Plan and zoning proposal for the Study Area for environmental review and future consideration. 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](#)

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. There is no residential density range associated with the “Study” designation. The entire area is also currently zoned “Study,” a district created to correspond to the General Plan designation.¹

In the February 9 report, Staff identified three major parcel groupings in the Study Area as follows:

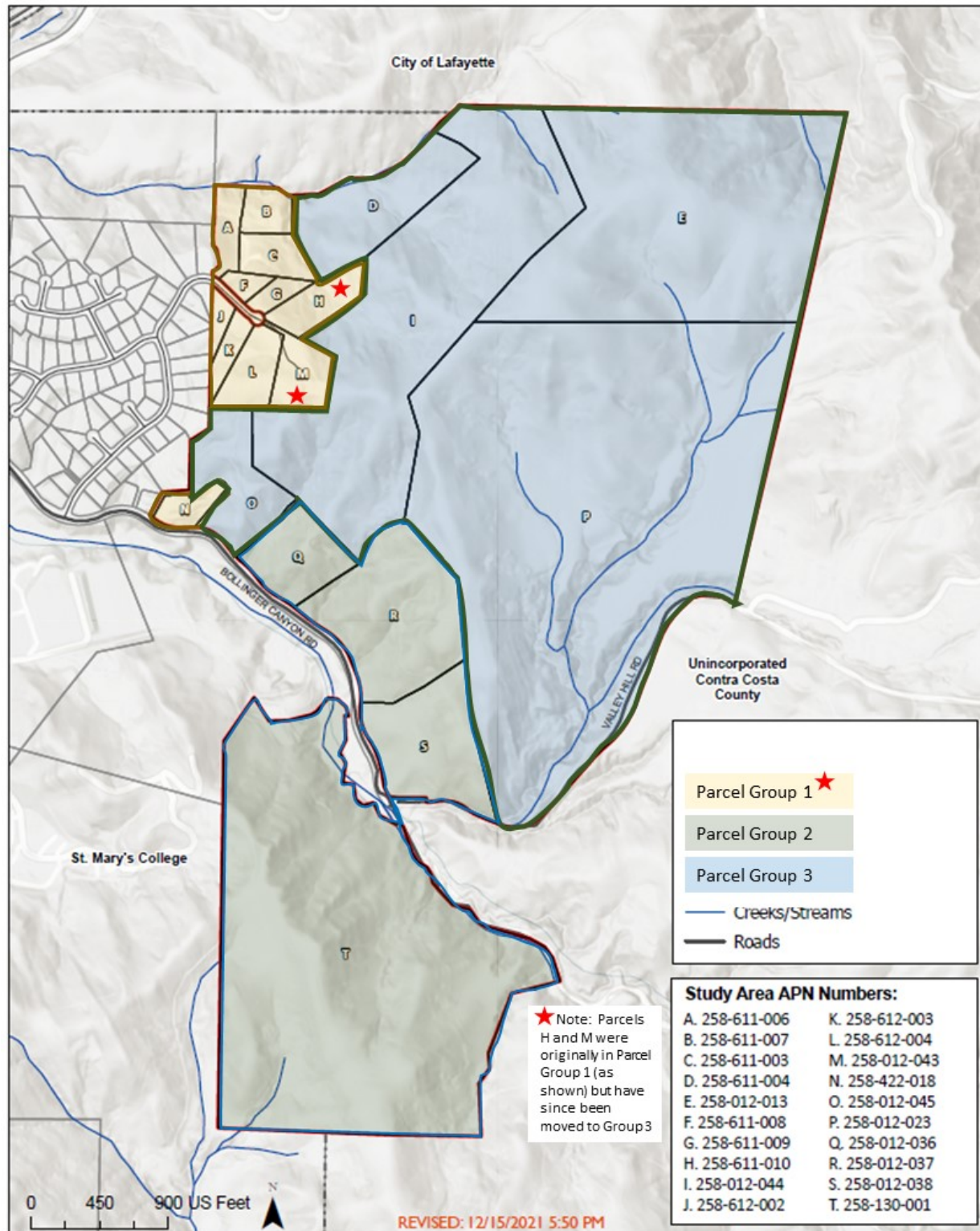
- Parcel Group “1” includes the mostly developed residential properties at the end of Joseph Drive, plus a single property on Bollinger Canyon Road. The area includes 10 parcels ranging in size from 0.97 to 3.78 acres and totaling about 21 acres.
- Parcel Group “2” includes four parcels totaling 136 acres that are part of the Harvey Ranch and are in agricultural use. The owner is working with the John Muir Land Trust to dedicate all four parcels as open space.
- Parcel Group “3” includes six parcels totaling 266 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).

Figure 1 shows the three parcel groups proposed in February, as well as the Study Area Boundary. Each parcel grouping has common characteristics that create logical boundaries for new General Plan and zoning designations. At the February 9 meeting, staff suggested that Parcel Group 1 receive a one dwelling unit per acre (1 DU/AC) General Plan and zoning designation, recognizing that this is an extension of the Bluffs neighborhood, with existing low density residential densities. Staff further suggested that Parcel Group 2 receive a General Plan and zoning designation of Non-MOSO Open Space. Both “1 DU/AC” and “Non-MOSO Open Space” are existing General Plan and zoning designations.

Pursuant to Town Council direction, a new General Plan and zoning designation was proposed for Parcel Group 3. This designation would be called “Rural Residential (RR).” This would be a residential designation with a maximum allowable density of one dwelling unit per five acres, consistent with existing zoning densities in Lafayette to the north and unincorporated Contra Costa County to the east and reflecting environmental conditions (such as steep slopes), hazards, existing uses, and access and infrastructure limitations.

¹ Between 1980 and 2018, the western one-third of the Study Area was zoned as open space and the eastern two-thirds were zoned “Study”. The western one-third was rezoned as “Study” in 2018, giving the entire 423-acre area the same zoning designation.

Figure 1: Parcel Groups in the Bollinger Canyon Study Area (updated May 2022)



Overall, Town Council noted that this would provide predictability of review and site-specific concerns on issues such as fire safety and evacuations will be addressed at the time of a development application consistent with State Law. At the February 9 meeting, the Town Council directed staff to proceed with draft updates to the zoning map for the Parcel Groups and to draft zoning text for the new RR district.

Planning Commission Meeting and Public Comment

The Planning Commission was scheduled to consider this item at a public hearing on May 17, 2022. That meeting was rescheduled to May 24 due to lack of a quorum. Staff will provide a verbal update to the Council on May 25 regarding Planning Commission recommendations and comments received on May 24.

Following the issuance of the May 17 Planning Commission staff report, several residents provided comments via email. These are included as Attachment F. Staff is continuing to address public comments.

Discussion

Replacing the “Study” designation requires amendments to the Moraga 2002 General Plan text and Map, as well as amendments to the Moraga Municipal Code and Zoning Map. Each of these is discussed below.

General Plan Amendments

The 2002 Moraga General Plan references the Bollinger Canyon Study Area directly (see Goal LU-6 in the Land Use Element) and indirectly (through policies such as LU-1.8, which specifies allowable density ranges). Staff has prepared draft text amendments to the Moraga General Plan to reflect the elimination of the “Study” designation and to create a new General Plan designation called “Rural Residential.”

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 indicate 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 Attachment A). Policy LU-1.2 (which lists residential density ranges) is proposed to be amended to add the Rural Residential designation, and Policy LU-1.8 (which lists minimum lot sizes and special allowances for Planned Developments) would also be amended to add Rural Residential. Edits to Policy LU-1.12 and LU-1.14 also are proposed to acknowledge the new Rural Residential designation. Implementation Measure IP-K7 (Bollinger Canyon Special Study) also would be removed from the Plan.

In addition to the text amendments above, the General Plan Map and Zoning Map would be changed to add the new “Rural Residential” designation. 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.

Zoning Amendments

No zoning text amendments are necessary for Parcel Groups 1 and 2 since these properties will be zoned with existing zoning districts. Attachment B contains the proposed text of the new Rural Residential zoning district for Parcel Group 3. Attachment C identifies other conforming amendments to the Municipal Code. Attachments D and E are “mock-ups” of the proposed General Plan and Zoning Maps. Attachment D shows the entire Town, while Attachment E focuses on the Study Area. As noted above, these draft amendments would be analyzed under the California Environmental Quality Act (CEQA) and then considered for adoption.

Overview of the Rural Residential Zone

The new district would be known as the “RR zone” and would be Chapter 8.22 of the Moraga Municipal Code. The stated purpose of the district would be “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.” As with residential development in all zones, projects in the RR zone would be subject to the Town’s design guidelines.

Section 8.22.020 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 pursuant to State Law (accessory dwellings, special housing types, childcare). 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 a 25-foot setback. Projects in this zone would be subject to Planned District (PD) allowances, which would enable density to be clustered. 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.

Section 8.22.100 of the new Chapter sets forth specific application requirements for a subdivision or planned development (PD) application in this zone. This complements the requirements for PD applications, including submittal of a conceptual development plan showing topography, relationship to surrounding land uses, circulation, infrastructure, etc. Section 8.22.100 specifies requirements for geotechnical, hydrologic, and biological studies concurrently with PD applications to ensure that existing site-specific conditions are analyzed and potential impacts may be mitigated.

Conforming Amendments to the Municipal Code

Conforming amendments to other sections of the Code would be needed both 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. Amendments would also be needed to delete references to the “Study” zoning district.

1 The conforming amendments would allow lots of 30,000 square feet where a PD is
2 allowed (similar to the allowance in the 1 DU/AC district)—in other words, the allowable
3 number of units on a site could be clustered provided that the lots are at least 30,000
4 square feet (additional provisions for smaller lots are included in the PD zoning text).

5 6 *Process for Review*

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8 The proposed General Plan, Zoning and development standards for the new Rural
9 Residential district establish standards for development. If a development application
10 proposes a higher density than the required standards, then it would require a General
11 Plan Amendment and/or a Zoning text amendment requiring Town Council approval.
12 For clustering of allowable density, a Planned Development process could be used
13 pursuant to Section 8.22.100. A development application with five lots or more would
14 trigger a subdivision map review process under the Subdivision Map Act with a public
15 hearing through the Planning Commission. Any application would trigger an
16 environmental review analyzing all potential impacts such as biological, wildfire, safety,
17 grading, slopes, landslides, traffic, aesthetics etc. This ensures public input and review
18 as part of the process.

19 20 *Input from Property Owners*

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22 Since the January 25 neighborhood meeting and the February 9 Town Council meeting,
23 staff has continued to reach out to interested property owners and informed them of the
24 proposed zoning regulations. Additionally, staff sent a courtesy notice via US mail to all
25 properties within a 500-foot radius from the outer edge of the area that is to be rezoned,
26 emailed the interested property owners, and announced the meeting on social media,
27 About Town and the Town's website.

28
29 Staff has received the following comments from property owners:

- 30
- 31 • Property owners Susan and Sal Captain at 1969 Joseph Drive (Parcel Group 1, Lot
32 H, requested the Rural Residential designation in lieu of the 1 DU/AC designation.
33 Since the parcel is 3.55 acres and is in agricultural use (with a residence), staff
34 recommends including this change.
 - 35 • Property owner Kelley Griest at 1970 Joseph Drive (Parcel Group 1, Lot M and I)
36 requested the Rural Residential designation in lieu of the 1 DU/AC designation.
37 Since the parcel is 3.78 acres and adjoins a 56-acre parcel under the same
38 ownership already proposed for the RR designation, staff recommends including this
39 change.
 - 40 • Property owner Dave Bruzzone (Parcel Group 3, Lot E and P) has provided verbal
41 and written comments, including at the January neighborhood meeting and the Town
42 Council February 9 meeting. Mr. Bruzzone proposed, for example, land use
43 dedication and zoning for at least two dwelling units per acre, along with rights to
44 transfer density (or development potential) to other property. At the February
45 meeting, after considering appropriate range of alternatives for the Study Area as a
46 whole while providing clarity and predictability of review for all parcels in the Study
47 Area, Council provided direction for a new General Plan and zoning designation for
48 Parcel Group 3, "Rural Residential (RR)." This would be a residential designation
49 with a maximum allowable density of one dwelling unit per five acres, consistent with

existing zoning densities in Lafayette to the north and unincorporated Contra Costa County to the east and reflecting environmental conditions (such as steep slopes), hazards, existing uses, and access and infrastructure limitations. In addition, at a May 4, 2022 Council meeting, the Council was in support of revisions to the Moraga Municipal Code to facilitate transfer of development rights from residentially zoned property in environmentally sensitive areas to commercially zoned property in the Town, which will allow owners of residentially zoned properties the additional option of conveying development rights to other properties, such as commercially zoned properties. Meanwhile, the Bruzzones continue to assert that one dwelling unit per five acres is not sufficiently dense, and is equivalent to open space zoning, including by letter dated May 17, 2022. In light of property characteristics, access restraints, surrounding land uses, and other factors, staff continues to propose that the Town study and, potentially adopt one dwelling unit per five acres. In addition, staff notes that the RR designation/zoning of one dwelling unit par acre is not the equivalent of open space zoning, including because the RR designation allows housing as a permitted use as opposed to a conditionally permitted use in open space zoning. In any event, the Town Council may only make a decision after environmental review is completed

Property owners also requested a modification to the definition of agriculture in the zoning code, to ensure that existing agricultural activities in these areas could continue. Staff recommends updating the definition of agriculture based on the County and City of Lafayette's definitions which allow for incidental uses and necessary accessory uses to support agriculture. Cannabis is excluded from the definition.

Fiscal Impact

Zoning decisions may have fiscal impacts because they determine future development potential. The number of potential dwelling units under the current "Study" designation is undetermined, as there is no associated density limit. New zoning for this area could influence future infrastructure needs, the costs of delivering local services, and the revenues that could be generated through future property taxes. These impacts would be more specifically addressed as individual developments are proposed in the Study Area. No specific projects are proposed at this time.

Environmental Review and Safety Considerations

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

The Impact discussions in the EIR will address the potential effects of future rezoning on the various topics required by CEQA. With respect to fire safety, evacuation, traffic, and other impacts that have been raised to date, these issues will be addressed at a

1 programmatic level, rather than a project level. In other words, the mitigation measures
2 listed in the EIR would typically be policies and procedures that the Town will apply to
3 potential future projects rather than measures associated with the design or physical
4 characteristics of a particular development application. These procedures would
5 include consultation with the Moraga Orinda Fire District regarding roadway design and
6 access standards, emergency vehicle access, and other measures to ensure public
7 safety.

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

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16 The EIR is currently being prepared and will be brought to the Planning Commission
17 and Town Council for adoption before the statutory deadline for Housing Element
18 adoption, which is January 31, 2023.

19 **Recommendation and Next Steps**

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22 Accept the informational report and provide guidance and feedback to staff. The final
23 zoning amendments are scheduled to be compiled and adopted at the end of 2022.

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25 **Report reviewed by: Cynthia Battenberg, Town Manager**
26 **Karen Murphy, Assistant Town Attorney**

27 **ATTACHMENTS**

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30 **A.** General Plan Text Amendments
31 **B.** New Chapter 8.22 Rural Residential Zoning Text
32 **C.** RR and "Study" Zoning Consistency Edits
33 **D.** Proposed General Plan Map
34 **E.** Existing and Proposed Zoning Maps
35 **F.** Correspondence Received
36 **G.** Planning Department Response to Captains dated May 20, 2022