



Town of Moraga	Agenda Item
Consent	6.5

1
2 **Meeting Date: May 10, 2023**
3
4

5 **TOWN OF MORAGA**

STAFF REPORT

6
7 **To:** Honorable Mayor and Councilmembers
8
9 **From:** Afshan Hamid, AICP, Planning Director
10 Barry Miller, FAICP, Planning Consultant
11
12 **Subject:** Consider Waiving the Second Reading and Adopting by Title Only an
13 Ordinance amending Title 8 of the Municipal Code to create a Rural
14 Residential zone, eliminate the Study District, make conforming
15 changes, and amend the Moraga Zoning Map as it relates to the
16 Bollinger Canyon Special Study Area.
17

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

21 **Request**
22

23 The Town Council is being asked to consider waiving the second reading and adopting
24 an Ordinance amending Title 8 of the Moraga Municipal Code to create a Rural
25 Residential zone, eliminate the Study District, make conforming changes, and amend the
26 Moraga Zoning Map as it relates to the Bollinger Canyon Special Study Area.
27

28 At the April 26, 2023, Town Council public hearing on the Bollinger Canyon Rezoning, the
29 Town Council introduced and waived the first reading of the Ordinance by a vote of 4
30 ayes and 1 noe.
31

32 **Background**
33

34 The proposed ordinance (Attachment 1 to this staff report) amends the Moraga Municipal
35 Code to eliminate the Study District and create a Rural Residential zoning district, make
36 other conforming amendments where lists of specific zoning districts are included, and
37 amends the zoning map, to be consistent with General Plan amendments adopted on
38 April 26, 2023.
39

40 The ordinance includes the following three exhibits: Exhibit A contains the proposed text
41 of the new Chapter 8.22 Rural Residential zoning district. Exhibit B identifies other
42 conforming amendments to the Municipal Code. Exhibit C shows the proposed Zoning
43 Map Amendments.
44

1
2
3 *Creation of Rural Residential District (Exhibit A)*
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5 Section 8.22.030 of the proposed Chapter lists permitted uses. These include detached
6 single-family homes (and related accessory structures), agriculture, certain types of
7 animal keeping, dog care/training, home occupations, and various activities that are
8 permitted in all residential districts (accessory dwellings, special housing types, child
9 care). Conditional uses include additional animal keeping activities, religious facilities,
10 park facilities, and animal boarding.

11
12 The zone would be subject to a minimum lot size requirement of five acres, minimum lot
13 dimensions of 140 feet in depth and 140 feet in width, minimum street frontage of 100
14 feet, and 25-foot setback requirements along all property lines. The zone would be further
15 subject to a 35-foot height limit, with special provisions on sloped sites. The provisions
16 for accessory buildings and fences established elsewhere in the Code would also apply.

17
18 *Elimination of the Study District*
19

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

23
24 *Conforming Amendments to the Municipal Code (Exhibit B)*
25

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

29
30 The conforming amendments to Chapter 8.48 (Planned Development) would allow lots of
31 40,000 square feet where a PD is allowed (similar to the allowance in the MOSO and
32 non-MOSO Open Space districts). Lots smaller than 40,000 square feet may still be
33 permitted, consistent with Section 8.48.040(D) of the Code, so long as the aggregate
34 density does not exceed the total allowable density.

35
36 *Proposed Zoning Map Changes (Exhibit C)*
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38 The new proposed zoning map changes with new designations are shown in Exhibit C.

39
40 On April 26, 2023, the draft Ordinance was presented to the Town Council for a first
41 reading. After opening the hearing for public comment and deliberation, the Town Council
42 introduced the ordinance, (Attachment 1), and by a majority vote waived the first reading
43 of the Ordinance (4 ayes and 1 noe).

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45
46
47 **CEQA**
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1 The Town has prepared a program-level environmental impact report (EIR) for the
2 Comprehensive Advanced Planning Initiative, including the Bollinger Canyon Study Area
3 rezoning, which was certified on January 25, 2023. Findings of Fact and a Statement of
4 Overriding Considerations were adopted on April 26, 2023 for the Bollinger Canyon
5 General Plan Amendments and Rezoning, based on the previously certified
6 Comprehensive Advanced Planning Initiative EIR.

7

8 **Fiscal Impact**

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10 The application of new Moraga Municipal Code amendments would not have a direct
11 fiscal impact. This is a legislative decision that does not approve a development or
12 commit the Town to specific capital improvement. Over time, development in this area
13 could provide revenue through increased property taxes. It could also result in expenses
14 associated with increased population, such as expanded police and public works
15 services. The fiscal impact of individual projects would be evaluated when such projects
16 are proposed.

17

18 **Alternatives**

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20 1. Waive the second reading and adopt the proposed Ordinance; or
21 2. Modify the Ordinance and reintroduce as modified; or
22 3. Provide alternate direction to staff.

23

24 **Recommendation**

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26 Staff recommends that the Town Council Waive the Second Reading and Adopt by Title
27 Only an ordinance amending Title 8 of the Municipal Code to create a Rural Residential
28 zone, eliminate the Study District, make conforming changes, and amend the Moraga
29 Zoning Map as it relates to the Bollinger Canyon Special Study Area.

30

31 **Report reviewed by:** **Scott Mitnick, Town Manager**
32 **Karen Murphy, Assistant Town Attorney**

33

34 **Attachments:**

35 1. Ordinance XX-2023: Adoption of Zoning Text and Map Amendments for the
36 Bollinger Canyon Study Area
37 Exhibit A: Chapter 8.22 of MMC: Rural Residential Zone
38 Exhibit B: Conforming Amendments to MMC Title 8 related to creation of RR
39 district
40 Exhibit C: Proposed Zoning Map Changes

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

Ordinance No. XX- 2023

Amending Title 8 of the Moraga Municipal Code (Zoning) to:)
1) Add Chapter 8.22 to Establish a Rural Residential (1 unit per 5 acre) District,)
2) Rescind Chapter 8.60, Study District, Make Conforming Changes to other Code Sections, and)
3) 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 of the area; and

ATTACHMENT 1

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, topography, access , visual qualities, and environmental resources in the Study Area; 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 project-level review and 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

ATTACHMENT 1

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, on April 11, 2023, the Planning Commission by a vote of 6-0, with one member absent, made a recommendation for approval of the proposed zoning 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; and

WHEREAS, all required Town Council public notices for the proposed zoning amendments were published in the East Bay Times on April 14, 2023, and property owners living within 500 feet of the study area were notified via postcard notice of the April 26, 2023 public hearing by mail in accordance with Town requirements; and

WHEREAS, on April 26, 2023, the Town Council held a duly noticed public hearing, took testimony in the form of staff report, staff presentation and opened and closed public comments, and made a motion to waive the First Reading and Introduced by Title Only an Ordinance XX-2023 amending Title 8 of the Moraga Municipal Code (Zoning) to add Chapter 8.22 to Establish a Rural Residential (1 unit per 5 acre) District, rescinded Chapter 8.60, Study District, Made Conforming Changes to other Code Sections, and amended the Zoning Map for the Bollinger Canyon Special Study Area to implement the Moraga General Plan. The Town Council considered an introduction of this Ordinance on April 26, 2023, after a duly notice public hearing.

NOW THEREFORE BE IT ORDAINED by the Town Council 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 Town Council adopted 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 Town Council makes the following findings to support the 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 zoning designations are consistent with the amended 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.

(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 the land use patterns of the area, access and infrastructure, 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 project-level 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 sites.

SECTION 3. The Town Council hereby adds Chapter 8.22 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 Town Council hereby rescinds Chapter 8.60 (Study District) of the Moraga Municipal Code in its entirety.

SECTION 5. The Town Council amends and adds individual subsections and sections of Title 8, Planning and Zoning, of the Moraga Municipal Code, as shown in **Exhibit “B”**, attached hereto and incorporated herein by this reference.

ATTACHMENT 1

SECTION 6. The definition of "Residential district" in Section 10.10.020, Definitions, of Title 10, Vehicles and Traffic, Chapter 10.10, Parking of Commercial and Oversize Vehicles, is deleted and replaced with the following:

“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.”

SECTION 7. The Town Council hereby rezones the following parcels 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 “C”**, attached hereto and incorporated herein by reference.

SECTION 8. The Town Council hereby rezones the following parcels 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 “C”**, attached hereto and incorporated herein by reference.

SECTION 9. The Town Council rezones the following parcels 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 ”C”**, attached hereto and incorporated herein by reference.

SECTION 10. Effective Date. This Ordinance becomes effective thirty (30) days after its final passage and adoption.

ATTACHMENT 1

SECTION 11. Publishing/Posting. This Ordinance shall be published and posted according to law and shall take effect and be in force from and after 30 days after its passage and adoption.

SECTION 12. Severability. If any provision of the Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or applications of the Ordinance. To this end, the provisions of this Ordinance are severable. This Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Moraga, California, held on May 10, 2023, and was adopted and ordered published at a regular meeting of the Town Council held on May 10, 2023 by _____ the _____ following _____ vote:

Ayes:

Noes:

Abstain:

Absent:

Recused:

Renata Sos, Mayor

Attest: Yashin Abbas, Interim Town Clerk

EXHIBIT A

Chapter 8.22 of MMC: Rural Residential Zone

EXHIBIT A

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.
- F. Proposed provisions for emergency vehicle access.

EXHIBIT B

Amendments to MMC Title 8 Planning and Zoning and
other Conforming Amendments

AMENDMENTS TO TITLE 8, PLANNING AND ZONING,
OF THE MORAGA MUNICIPAL CODE

1. The definition of “Agriculture” in Section 8.04.020, Definitions, of Chapter 8.04, General Provisions and Definitions, is deleted and replaced with the following:

““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.”

2. Section 8.48.040, Development standards for single-family residential uses in planned development districts, of Chapter 8.48, Planning Development District, is deleted and replaced with the following:

“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."

3. Section 8.48.050, Density transfer, of Chapter 8.48, Planning Development District, is deleted and replaced with the following:

“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."

4. Section 8.52.090, MOSO open space, of Chapter 8.52, MOSO and Non-MOSO Open Space Districts, is deleted and replaced with the following:

“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."

5. Subsection (D) is hereby added to Section 8.68.040, Fences and walls within setbacks, of Chapter 8.68, General Standards for Lots, Yards, Setbacks, Fences and Walls, as follows:

“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.”

5. Subsection (D) of Section 8.76.100, Off-street parking requirements for residential uses, of Chapter 8.76, Off-Street Parking and Loading, is hereby deleted and replaced with the following:

A.

“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.)”

CHAPTER 8.92: ANIMAL KEEPING

Article 1. Small Farm Animals

6. Section 8.92.010, Purpose, of Chapter 8.92, Animal Keeping, Article 1, Small Farm Animals, is hereby deleted and replaced with the following:

“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.”

7. Section 8.92.030, Small farm animals permitted, of Chapter 8.92, Animal Keeping, Article 1, Small Farm Animals, is hereby deleted and replaced with the following:

“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. Section 8.92.080, Beekeeping, of Chapter 8.92, Animal Keeping, Article 1, Small Farm Animals, is hereby deleted and replaced with the following:

“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 $\frac{1}{2}$ acre	maximum of 4
iii. Parcel more than $\frac{1}{2}$ 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."

9. Article 2, Dog Fanciers, Livestock and Other Animals, of Chapter 8.92, Animal Keeping, is hereby deleted and replaced with the following:

"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."

10. Section 8.104.030, Eligibility, of Chapter 8.104, Density Transfer, is hereby deleted and replaced with the following:

“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.”

11. Subsection (A) of Section 8.124.120, Procedures, of Chapter 8.124, Accessory Dwelling Units, Article 3, Ministerial Review for Standard ADUs, is hereby deleted and replaced with the following:

“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.”

12. Section 8.124.130, Development standards for standard attached and detached ADUs, of Chapter 8.124, Accessory Dwelling Units, Article 3, Ministerial Review for Standard ADUs, is hereby deleted and replaced with the following:

“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. A standard attached or detached ADU may be established upon any lot containing an existing or proposed primary unit 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. “

EXHIBIT C

Proposed Zoning Map Changes

EXHIBIT 3

