

# ATTACHMENT “B”

## SUPPLEMENTAL ATTACHMENT TO JULY 12 STAFF REPORT:

Responses to East Bay for Everyone comment letter dated July 7, 2023, **including Proposed Revisions to Programs 26, 30, and Appendix B (in red font)**. The letter is cut and pasted into Column 1 and the Town’s responses appear in Column 2.

Comment	Town Response
<p>July 7th, 2023 Afshan Hamid, Planning Director 329 Rheem Boulevard Moraga, CA 94556</p> <p>RE: Moraga’s Revised Draft Housing Element dated 12/26/22</p> <p>Ms. Hamid:</p> <p>East Bay for Everyone is a network of people fighting for the future of housing, transit, tenant rights, and long-term planning in the East Bay. The third draft of Moraga's Housing Element (“Draft”) takes good steps toward compliance but we feel it does not go far enough to encourage new housing development in Moraga.</p>	<p>Comments noted. We appreciate East Bay for Everyone’s input on this project and hope they will continue to participate as we proceed to implementation.</p>
<p><b>Program 1 and Program 4 do not do enough to encourage Missing Middle development:</b> These programs propose to adjust the current 6 DUA General Plan designation to allow 12 or 15 dwelling units per acre. Only 18.25% of the zoned area of Moraga is in a 6-DUA zone, and is already built out with duplexes, townhouses and small apartment buildings; as noted in section 5.2.3, some developments here are as dense as 30 DUA. This zone is <b>already some of the densest and most affordable housing available in Moraga.</b> Increasing the allowed density in this zone does not further fair housing and instead entrenches the same patterns that already exist in Moraga.</p>	<p>12-15 units per acre is a density range commonly associated with “missing middle” housing (townhomes, 2-4 plexes, etc.) and is appropriate given the semi-rural context of Moraga. The text acknowledges that the 6 DUA zone has a number of properties developed in the 1960s and early 1970s that exceed 15 DUA. We disagree that increasing the zoning density and changing the development standards in this zone would not further fair housing. The 12-15 unit/acre range proposed by the Housing Element would more than double the current allowable density range in this zoning district.</p>

Comment	Town Response
<p>Instead, Moraga should allow true “missing middle” housing (i.e. housing types between detached single-family homes and large multi-story apartment buildings) in all current residential zones. This would help the city further its fair housing goals by encouraging diverse housing options in some historically single-family neighborhoods. We suggest building a zoning framework that allows for redevelopment of single-family properties into small multifamily housing.</p>	<p>The Town’s strategy is to focus missing middle opportunities in medium-density areas rather than in low-density semi-rural areas with limited services. This approach is consistent with Plan Bay Area and accepted land use planning practices. It is also consistent with direction provided by HCD since the entire Town of Moraga is classified as a “highest resource area.” It also reflects land parcelization and ownership patterns in Moraga, economic and market conditions, and the environmental, infrastructure, wildfire hazards, and evacuation constraints in the Town’s low-density, semi-rural areas. The Housing Element commits to increasing opportunities in the lower-density areas through ADUs, SB9 applications, home sharing, and similar context-sensitive measures.</p>
<p>For example, a strong missing middle zoning program would include:</p> <ol style="list-style-type: none"> <li>1. Residential zones should permit at least <b>30 to 45 dwelling units per acre</b>, except those at high risk of wildfire or flood inundation.</li> <li>2. Reduced minimum parking requirements to no more than 1 space per unit</li> <li>3. Minimum setbacks should be, at most, 10 feet for the front and 4 feet for the side and Rear Maximum building height should be increased to 35 feet or higher.</li> <li>4. Allow up to six residential units per parcel</li> <li>5. Set the minimum lot size at 3,000 feet or less.</li> <li>6. Increase the maximum site coverage restriction to 60 percent or greater.</li> <li>7. Remove any Floor Area Ratio requirements</li> <li>8. Remove other barriers to infill missing middle developments, in line with the above changes.</li> </ol>	<ol style="list-style-type: none"> <li>1. The anticipated density for new projects in the R-24 zone and all mixed use zones in Moraga is 30+ units per acre, since the Town adopted mandatory inclusionary zoning in December 2022 and compliant projects will be eligible for state and local density bonuses.</li> <li>2. Most future projects will be subject to State density bonus parking standards, which are lower than Town standards. In addition, Program 27 commits to revising the parking standards.</li> <li>3. Comment noted, and this can be considered when the Town revises zoning per Program 4</li> <li>4. Sites in R20/24, MCSP and Rheem are subject to minimum density requirements of 12-16 DUA, which result in more than six units on most parcels</li> <li>5. This can be considered in MCSP R-6, R-12 and R-20/24 when Town implements Housing Element Program 4</li> <li>6. Can be considered in implementation of Program 4</li> <li>7. The FAR requirements were not determined to be a constraint in Chapter 5</li> <li>8. N/A</li> </ol>

Comment	Town Response
<p>Program 4 also identifies the MCSP R-6 zone as a potential opportunity to promote missing middle development but does not outline specific proposed changes. The one parcel currently under this designation should be rezoned as outlined above. Due to its central location, the MCSP area as a whole provides an excellent opportunity for mid- and high-density zoning.</p>	<p>The intent of Program 4 is not to lay out the specific changes, but rather to commit to a process to revise this zoning designation, and an outcome that removes constraints. We encourage EB4E to participate in this process and welcome their input. We concur that the MCSP is an excellent opportunity for mid- and high-density zoning, which is why the Town has focused its efforts on planning for higher densities in this area.</p>
<p><b>Moraga's New Parking Regulations Copy Cities Where Parking is A Constraint</b>  Program 27 looks to Orinda, Lafayette, and Danville and their Parking Requirements. But these cities' parking minimums are a significant constraint to development, and reductions are being explored in their Housing Element drafts. So for Moraga to copy those Parking Minimums as they existed in 2022 does not make sense. Instead Moraga should reduce all parking minimums to no more than 0.5 parking spaces per unit, with no guest parking, in all residential zones.</p>	<p>There are no references to Orinda, Lafayette, or Danville's parking standards in Program 27. This program merely indicates the Town will use its R-20 zone as a benchmark for new standards in other zoning districts. It is true that Chapter 5 concludes that Moraga's standards are more restrictive than Orinda, Lafayette, and Danville. It uses this data to suggest lowering guest parking requirements and switch to a sliding scale based on number of bedrooms. The text does not propose copying the standards in these cities.</p>
<p><b>More Should be Done to Address Regulatory Constraints on Development</b>  Program 26 discusses improvements to the Planned Development (PD) process. We agree with the goal of adjusting zoning so that fewer projects require the use of the PD process and with the goal of simplifying the process itself, but we urge Moraga to pursue a more concrete goal in this regard; the constraints analysis notes that the PD process has taken up to 4.5 years for some recent projects, against an intended timeline of 12-24 months. The specific goal of Program 26 should be to achieve this intended timeframe.</p>	<p><b>We will amend Program 26 to establish the objective that projects using the PD process should be approved within 24 months after an application is deemed complete. Future PD applications will be monitored to determine if this objective is being met.</b></p>
<p>Program 28 addresses development review as a whole. This is a step in the right direction, but we have concerns. First, there is no commitment to reduce fees, despite the fact that Moraga's significantly higher-than-average fees are identified as a potentially significant constraint on development.</p>	<p>The Town has committed to evaluating its fees (through nexus studies, as required) and implementing measures to reduce any disproportionate impacts on multi-family housing.</p>

Comment	Town Response
<p>Second, we find the goal of seeking developer and homeowner input to be well-considered, but note that the constraints analysis already identifies several known bottlenecks in the review process; there seems to be little need to wait for this sort of long-term consultation process before addressing these.</p>	<p>Seeking developer and homeowner input on ways to reduce development constraints would not delay implementation, but rather would provide essential vetting of proposed changes and ensure that those most impacted by any changes have an opportunity to participate.</p>
<p>For Program 29, regarding fee deferrals, we feel that a more concrete approach is needed, considering that the fee burden is already an identified constraint. Moraga should commit to a substantial reduction of the park impact fee, aside and apart from the development and implementation of a fee deferral program. In addition, all below-market-rate units - not just extremely-low-income and special needs housing - should receive priority for fee deferrals.</p>	<p>See response above. It would be premature for the Town to commit to a “substantial reduction of the park impact fee” until the analysis recommended by Program 29 is completed. The program is intended to reduce potential fee burdens on multifamily housing without compromising the Town’s ability to provide parks and recreational facilities. The priority on extremely low income and special needs housing (for fee deferrals) is appropriate, given the larger financial gap for these housing types.</p>
<p>We find Program 30 to be a much-needed step and in line with our earlier recommendations to Moraga. Since the subjectivity of current Residential Design Guidelines has been identified as a constraint, though, we feel that Program 30 should recognize this situation and commit to a simplification and streamlining of these guidelines, specifically including the elimination or substantial removal of the potentially subjective provisions already identified as constraints, rather than merely exploring revisions.</p>	<p><b>The existing text in Program 30 states:</b></p> <p><b>“Existing Residential Design Guidelines will be revised as necessary to ensure that they are objective.”</b></p> <p><b>We will revise this text to read:</b></p> <p><b>“Existing Residential Design Guidelines will be simplified and streamlined to remove or substantially reduce potentially subjective provisions.”</b></p>
<p>Further, Program 30 does not specifically include revisions to the HDP process. Changes should be made to ensure that projects currently requiring Planning Commission approval of an HDP are not constrained by the arduous nature of the public hearing process or by overly subjective standards. The most expeditious way to do this would be to allow administrative review for <i>all</i> HDPs; the current parallel discretionary review process imposes unnecessary constraints to development.</p>	<p>The HDP process was found to not be a constraint to multi-family housing, as the MCSP area is expressly exempt from these requirements and the Rheem Center sites are flat.</p>

Comment	Town Response
<p><b>Site Inventory</b> We welcome the change of specifying the previous Housing Elements under which particular sites have been considered. We have specific comments on a number of sites listed; our July 2022 letter includes a more complete set of comments.</p>	<p>All of the comments below except the last one address sites designated for above moderate-income housing. Per Chapter 4, the Town has identified capacity for 928 above moderate income units which is more than double the assigned RHNA of 445 units. The Town has ample capacity to meet its above moderate income need.</p>
<p>B1 and B2 - Both these sites are recycled, lack utilities, have &gt;20% slopes, and are not densely zoned. It is not clear whether they are likely to be developed in the near future.</p>	<p>These constraints are disclosed in Appendix B. They are listed as above moderate-income sites due to current zoning and constraints.</p>
<p>B3 - these sites are both vacant, large, zoned for 1 DUA, and possess &gt;20% slopes. Considering their proximity to Campolindo HS, they should be considered for upzoning, especially the publicly-owned B4 parcel. Prospects for development at the stated density are unclear.</p>	<p>These constraints are disclosed in Appendix B. The very steep slopes on sites B3 and B4 preclude upzoning to a higher density.</p>
<p>B5 - 8 Madsen Ct is not vacant; it is a single-family home, still intact as of this month's Maxar satellite footage. It should be removed.</p>	<p>The APN is correct and corresponds to an 11,000 SF vacant lot. <b>We will correct the address, which should be 6 Madsen Court.</b></p>
<p>B7, B9, B10, B11, B12 - Sites with no zoning change and &gt;20% slope, some of them recycled from 5th HE. We feel the probability of development at the stated density levels given current zoning is extremely remote.</p>	<p>These five sites, which total about 16 acres, were presumed to develop with just 13 units of above moderate-income housing. This is a reasonable capacity estimate and is consistent with current zoning.</p>
<p>B8 - APN 258-160-028 is site B2 and should be removed from here.</p>	<p>APN 258-160-028 is a very large parcel that includes multiple zoning designations. Sites B2 and B8 correspond to different parts of the same parcel, both of which have single family zoning. The sites are not contiguous and they should remain separately labeled.</p>
<p>B14 - Local opposition represents a substantial constraint to development, as does the site's location in a VHFHSZ. Concerns over biological resources also appear to presage lengthy CEQA problems for any development unless these are proactively addressed.</p>	<p>We concur that Site B14 has a number of constraints, as stated in the comment. It also has a development proposal and as such is appropriate to include as a housing opportunity site. Again, this is shown as an above moderate-income site. Although the applicant has discussed including ADUs in the project, we have not assumed any low or moderate income capacity here.</p>
<p>C1, C2, and C3 - These sites all have &gt;20% slopes. With no change in zoning, we feel development is highly unlikely.</p>	<p>The three sites total about 3.7 acres. They have been presumed to develop with seven above moderate-income units. This is realistic and is well below what is permitted by zoning, accounting for the slope constraints.</p>

Comment	Town Response
<p>F8 and F9 - These two sites together make up 200 units of realistic capacity, a substantial proportion of the overall total, and deserve special attention. The presence of landowner interest for F8 is a good start, but considering that the site is mostly non-vacant, more information is needed on owner intentions, capital improvements, lease details and timing, and other aspects that might constrain redevelopment. For F9, there is no discussion of landowner interest, or of these other aspects of current use. Without this information, the possibility of development on these sites appears extremely speculative. That said, substantial upzoning here to allow true high-density development might make it a more attractive prospect for developer interest.</p>	<p>We concur that these sites (corresponding to the Rheem Shopping Center) deserve special attention. The same landowner owns both sites. The owner has been actively participating in the Housing Element since the beginning of the process, including speaking at our developer roundtable in October 2022 and participating in the review of the draft Objective Development and Design Standards recently adopted for his properties.</p> <p>The Town is actively working with the landowner to maximize potential housing opportunities on both sites (which are contiguous). This includes the recent (Jan 2023) rezoning of both sites to high-density mixed use.</p>

*Proposed edits to Programs 26 and 30 in response to East Bay for Everyone  
Comment letter dated July 7, 2023*

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**Program 26: Modification of the Planned Development (PD) Process.** Amend the Town's Planned Development (PD) regulations to:

- (a) reduce the number of hearings and submittal cycles and the associated cost and time delays to applicants.
- (b) apply more objective approval findings.

Projects may apply for rezoning to PD in response to site constraints or to enable product types that might not be possible under the base zoning standards. While the intent of PDs is to encourage flexibility, the current process involves three application steps and hearings, each requiring Planning Commission approval and subject to appeal to Town Council. The Town is currently exploring ways to simplify the process and be consistent with the General Plan. In addition, the Town is modifying its mixed use and higher-density zoning regulations so that a greater share of projects can be approved without relying on the PD process.

*Objective: Reduce the length of the Planned Development process so that projects are approved within two years after an application is deemed complete. Monitor approvals to determine if this objective is being met, and adopt modifications if it is not. and Amend the process to be consistent with the General Plan.*

*Timeframe: By end of 2024*

*Responsibility: Planning Department*

*Potential Funding Sources: Planning grants/ staff function*

*AFFH Program Areas: Housing Mobility, New Housing Choices and Affordability in Areas of Opportunity*

**Program 30: Streamlined Review Process.** The Town shall streamline the residential development and design review processes by allowing by-right approvals for multifamily projects that meet objective standards and enabling the approval of minor home additions over the counter.<sup>1</sup> Existing Residential Design Guidelines will be simplified and streamlined to remove or substantially reduce potentially subjective provisions ~~revised as necessary to ensure that they are objective and ensure consistency~~ with the Moraga Municipal Code and General Plan. Design review procedures (including neighborhood notification requirements for minor home improvements) will be revised to enable more predictable outcomes, encourage improvement of the Town’s existing housing stock, and reduce the length of review time. In addition, the Town will amend the Municipal Code as needed to clarify the circumstances under which the Planning Director (rather than the Planning Commission) can issue design review permits for multi-family and mixed use projects eligible for ministerial review (e.g., “by right” approval).

*Objective: Reduce permit processing times relative to current levels*

*Timeframe: Municipal Code Amendments in 2023-2024*

*Responsibility: Planning Department*

*Potential Funding Source: Staff function (no supplemental funding required)*

*AFFH Program Areas: Housing Mobility, New Housing Choices and Affordability in Areas of Opportunity*

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<sup>1</sup> The Town adopted Objective Design and Development Standards for MCSP in November 2020. It adopted Objective Design and Development Standards for the Rheem Center in April 2023.