

# ATTACHMENT 6

## EXHIBIT C

To  
Resolution **XX** – 2009  
Approving the Conceptual Development Plan  
For the 27 Lot Rancho Laguna II  
Residential Development

**FINDINGS FOR APPROVAL OF THE RANCHO**  
**LAGUNA II 27 LOT CONCEPTUAL**  
**DEVELOPMENT PLAN AS MITIGATED AND**  
**CONDITIONED**

## FINDINGS FOR APPROVAL OF RANCHO LAGUNA II 27 LOT CONCEPTUAL DEVELOPMENT PLAN AS MITIGATED AND CONDITIONED

### A. Rancho Laguna II 27 Lot Conceptual Development Plan

The recitals to Resolution **XX-2009** certifying the final Environmental Impact Report for Rancho Laguna II 27 Lot Project describes ~~in the Whereas clauses~~ the project's environmental review and planning process, ~~which clauses~~ and are incorporated in these Findings by this reference. Following the Town staff recommendation, the Planning Commission by Resolution **XX-2009** approves the Conceptual Development Plan for the Ranch Laguna II 27 Lot Project as modified by the Rheem Boulevard Visual Quality Mitigations Exhibits, included as Exhibits A and A-1 to this Resolution and incorporated herein by this reference (*see Attachments 4a and 4b to Staff Report*), subject to Conditions of Approval, included as Exhibit B to the Resolution and incorporated herein by this reference (*see Attachment 5 to Staff Report*). Included as Conditions are the Mitigation Measures in the revised Mitigation Monitoring and Reporting Program (*see Attachment 2 to Staff Report*) that is part of the certified Final Environmental Impact Report for the 27 Lot Project (collectively hereinafter referred to as the "Rancho Laguna II 27 Lot Conceptual Development Plan" or "27 Lot Project").

### B. Conceptual Development Plan Process and Required Findings

Title Eight (Planning and Zoning) of the Town of Moraga Municipal Code provides a three stage design and approval process for projects in the Planned Development District (Chapter 8.48). These three stages are defined as the Conceptual Development Plan, General Development Plan and Precise Development Plan (see Chapter 8.48.090, 8.48.110 and 8.48.120 respectively). Each succeeding stage of the development process requires a greater level of detail and specificity than ~~in~~ the previous stage. In order to approve a Conceptual Development Plan, Chapter 8.48.100 of the Municipal Code requires that the Planning Commission make seven findings relating to the project.

As Exhibit C to Resolution **XX-2009** approving the Conceptual Development Plan for the 27 Lot Project, the Planning Commission makes the following six Findings and determinations necessary under Chapter 8.48 of the Moraga Municipal Code for approval of the Rancho Laguna II 27 Lot Conceptual Development Plan. The contents of Resolution **XX-2009** approving the Conceptual Development Plan are incorporated by this reference as a preamble to each of the findings and determinations. Each Finding is also based on the contents in Exhibit D to Resolution **XX-2009**, "Findings Related to the Certified Environmental Impact Report for Approval of the 27 Lot Rancho Laguna II Project," which is incorporated by this reference. Each Finding is followed by a brief summary or roadmap of facts and analysis to support the Finding. Further support is found in the Administrative Record.

1. The total development and each unit of development can exist as an independent unit capable of creating an environment of sustained desirability and stability or ~~that~~ adequate assurance will be provided that this objective will be attained and that the uses proposed will not be detrimental to present and potential surrounding uses.

The following facts and reasons, among others in the Administrative Record, are the basis for why the Planning Commission makes this Finding:

The 27 Lot Project is designed as an independent neighborhood unit in an environment of sustained desirability and stability and without any significant environmental impacts. It will be semi-rural in nature with 90% of the 180 acre site maintained by the Geologic Hazard Abatement District (GHAD) as permanent open space (162 acres). The residential development (lots and roads) is 18 acres, comprised of the upper Rheem valley area with 6 lots and “D” Drive and a southern plateau area at the end of the Minor Ridgeline with 21 lots connected to Rheem Blvd. by “A” Way. The lots sizes are large on flat or split pads, ranging from 15,000 to 32,000 square feet. The larger lots are on the southern plateau. The pads are flat, except for a few split pads on the southern plateau

The open space will be preserved in a conservation easement and includes public trails. The Minor Ridgeline and Coyote Creek areas are preserved in their entirety. Following stabilization of Rheem Boulevard by a valley buttress, a wetland swale will be recreated in the upper Rheem valley area and an intermittent drainage recreated in the lower Rheem valley area, through implementation of the Final Landscape Plan and Rheem Valley Revegetation Plan prepared under the direction of a restoration ecologist.

Residential development in the valley will be limited to a shortened “D” Drive with 6 wide, spacious residential lots. The Final Landscape Plan will screen the single-story homes and maintain open views of the valley, hillsides and ridgelines for travelers on Rheem Boulevard, a scenic road. All visual quality impacts of the 27 Lot Project as viewed from Rheem Boulevard will be less than significant. Due to their location, the grading plan and the surrounding topography, the 21 homes clustered on the southern plateau will have beautiful views but at the same time, views of that new development from public locations will be limited and any significant visual quality impacts will be mitigated.

The homes and lot landscaping will be subject to design review and per Condition III.8, designed with varied building heights, styles and setbacks so the neighborhood blends with the environment instead of overpowering it.

Rheem Boulevard pavement will be repaired and an improved section constructed along the project frontage. The project will eliminate the need for ongoing repairs due to instability, and the strong potential for failure and closure of sections of the road due to landslides ~~will be eliminated~~. The prospects are slim for the Town to secure the

necessary funding to complete this stabilization, repair and improvement of Rheem Boulevard.

The development areas (lots and roads) on the 27 Lot Project will be geotechnically stabilized. They will be located a safe distance from and protected against the landslides areas in the open space. Stormwater drainage will be designed to maintain that stability. Stormwater peak runoff off site will be no more than the existing condition, and potentially less than existing conditions during large storm events. Stormwater water quality features are designed into the project. Improved emergency vehicle access and GHAD implementation of the Fire Hazard Management Plan will enhance long term neighborhood safety.

Implementation of the Mitigation Measures and Conditions of Approval of the 27 Lot Project as designed will assure the 27 Lot Project as a whole, and each of its units, can exist independently in a sustained and stable environment. The GHAD will manage the 162 acres of open space in all respects. It will monitor and maintain the geotechnical integrity of the 27 Lot Project and each of its units. The Homeowners Association (HOA) will manage and maintain the private roads and street landscape. The actions of the GHAD and HOA will be subject to review and control of the Town. Seed funding for the GHAD and HOA will be provided by the Applicant and thereafter in perpetuity through homeowner assessments. The sustainable green building design for each home must provide at least 90% of its electrical energy target load through a combination of photovoltaic cells and construction design, and include solar water heating. See Conditions III.9 and VIII.5.

The 27 Lot Project will not be detrimental to surrounding existing and future uses. The two residential development clusters are compatible with present surrounding residential uses. The total development is compatible with the recently approved and nearby Palos Colorados project. There is no other undeveloped land in the area, residential or non-residential, which may create future potential conflicts. The project has been designed to create two distinct residential clusters, linked to desirable open space areas via trails. Key open space features of the site are either preserved in their current condition (minor ridgeline and Coyote Creek area) or enhanced (Rheem valley areas). That some of the homes and roads in the 27 Lot Project may be visible from some existing homes does not make the project detrimental to those uses.

~~Making this Finding does not require any modifications to the 27 Lot Project, including any reduction to its density or development acreage, or to any of its Mitigation Measures or Conditions of Approval.~~

2. *The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the development.*

The following facts and reasons, among others in the Administrative Record, are ~~why the Planning Commission make~~the basis for this Finding:

The private streets and emergency vehicle access within the 27 Lot Project have been designed to the satisfaction of the Town Engineer and the Fire Marshal for the Moraga Orinda Fire District, including road widths, travel lanes, parking, and sidewalks. Turn lanes on Rheem Boulevard at the “D” Drive and “A” Way entries will provide protected turning movements and avoid effects on through traffic.

With respect to the street network outside the 27 Lot Project, the Town recently completed a study to identify cumulative impacts from new development, and adopted new development impact fees based on that nexus study. A traffic fee is included. The Applicant will pay that traffic impact fee, as it may be updated, prior to issuance of each building permit. The Town will be responsible to complete the necessary traffic improvements. The cumulative effect of the new density in the 27 Lot Project will not overload the street network based on the Town’s study and the analysis in the certified final EIR.

Automobile traffic (associated with a single family residential land use) is typically based on trip generation rates compiled by the Institute of Transportation Engineers (ITE). To be very conservative, the generation rates listed within the ITE studies were increased by 20% in the EIR to account for the projected units having the potential for having a higher than average usage pattern. As modeled, the project will not negatively affect the traffic patterns in the vicinity and further, will not adversely affect the road system in the region. The Town’s Level of Service (LOS) standards will be met as a result of construction of the project and fees will be paid to the Town ~~to~~ in an amount that represents the project’s share of cumulative impacts. The EIR identifies the cumulative impact need for a northbound left turn lane from St. Mary’s Road to Rheem Boulevard. The project is anticipated to add between 3 – 5% of additional traffic to the left turn movement to Rheem Boulevard from St. Mary’s Road. This impact is not considered an overload of that intersection.

Stabilizing, repairing and improving Rheem Boulevard as part of the 27 Lot Project will improve the safety and traffic flow on that arterial, and avoid the future possibility that its closure would be required in the event of a landslide failure. Turn pockets for “D” Drive and “A” Way will allow for safe turning movements. Traffic circulation will be improved on Rheem Boulevard with the 27 Lot Project over the long term compared to the current condition of the road section and its instability.

3. *Development other than single-family residential can be properly justified and is consistent with the general plan.*

The following facts and reasons, among others in the Administrative Record, are ~~why the Planning Commission mak~~e the basis for this Finding:

The proposed project is a single-family residential use. ~~This Finding pertains exclusively to non residential uses within the Town, and therefore not applicable to the 27 Lot Project development, and does not include development other than single-family residential.~~

*4. Any proposed exception from standard ordinance requirements is warranted by the design and amenities incorporated in the conceptual development plan, in accord with adopted policy of the planning commission and town council.*

The following facts and reasons, among others in the Administrative Record, are ~~why the Planning Commission makes the basis for~~ this Finding:

No variance to standard ordinance requirements in the Moraga Municipal Code is proposed or sought by the Applicant in order to develop the property. The 27 Lot Project as designed complies with the standard ordinance requirements of the Open Space District and the Planned Development District.

There is one correction to the Moraga Municipal Code that is required. Section 8.48.040 includes a minimum lot size for the N-OS-PD zoning classification that is not in compliance with Policy UL1.6 of the Moraga 2002 General Plan. The 27 Lot Project minimum lot size is consistent with the General Plan minimum for a project with outdoor recreational facilities open to the public, like public trails. ~~Per Condition I.2 the Town Council will amend this section to eliminate the inconsistency. Updating~~The Town's anticipated updating of the code section will mean the 27 Lot Project is in compliance with its standard ordinance requirements and a variance will not be required.

The general provisions for issuance of a conditional use permit in Chapter 8.16 do not include standard ordinance requirements, only procedural requirements. Development standards are addressed in the specific zoning districts.

The general provisions in the Planned Development District at Chapter 8.48 do not include specific standard ordinance requirements, only submittal and procedural requirements. Section 8.48.130 includes a general standard which allows the Planning Commission to approve such conditions and requirements necessary to carry out the purpose of the district, preserve open space, and assure the timely completion of public improvements. These general standards are achieved with the 27 Lot Project as conditioned and mitigated.

No variance or exception to the site and density standard ordinance requirements for this property is being requested. The Open Space District at Chapter 8.52 includes general standards for MOSO and Non- MOSO properties. Site and density standards are described at Municipal Code Sections 8.52.050 and 060: density, lot area, frontage, front, side and rear setbacks, building height and site coverage requirements are set based upon “site constraints.”

In establishing site standards within the lots, the standards in the Single Family Residential District (SFR, 2-3 units per acre) at Section 8.28.030 were taken into account. The two development clusters generally reflect that level of density if only their acreage and lot sizes are considered. There are some differences. For example, the 6 homes on “D” Drive are all single-story ~~do~~, thus preserving the~~maintain~~ open views of the hillsides above them ~~as viewed~~ from Rheem Boulevard, a scenic corridor. The single-story height may range from 18-21 feet, instead of the SFR standard 18 feet, to provide the opportunity for articulation that will improve their streetscape appearance within a scenic corridor.

The approved density for the 27 Lot Project does not require a variance or exception to the standard ordinance requirements for Open Space lands. The proposed homes and private roads, and grading for them, are located on the Non-MOSO portion of the property and clustered in two areas on less than 10 % of the site. The only development on the MOSO portion of the property is a compacted gravel emergency vehicle access that crosses the minor ridgeline.

Municipal Code Section 8.52.060 requires that Open Space density be based upon site constraints of the particular property and the project’s compliance with the Goals and Policies in the Moraga 2002 General Plan. Policy LU1.2 identifies the maximum allowed density under Policy LU1.2 for Open Space lands at one unit per 5 acres and the minimum at one unit per 20 acres. Thus, the maximum density for this 180 acre Open Space property is 36 units. Policy LU1.2 further requires that the density on a particular property, including Open Space lands, be determined based on: “review of environmental constraints, the availability of public services and acceptable levels of service, proper site planning and the provision of suitable open space and recreational areas consistent with applicable goals and policies of the General Plan.” These standards are similar to the zoning standards in Municipal Code Sections 8.52.050 and 8.52.060. The 27 Lot Project has been designed and the density (one unit per 6.7 acres) determined based on this criteria. No density standards exception is being requested. ~~No further reduction in density below 27 lots is warranted in the application of these zoning and General Plan residential density provisions.~~

5. *The area surrounding the development can be planned and zoned in coordination and substantial compatibility with the proposed development.*

The following facts and reasons, among others in the Administrative Record, are ~~why the Planning Commission makes~~the basis for this Finding:

With the exception of the approved Palos Colorados project, the project site is the last undeveloped large parcel in the immediate vicinity. The open space, Coyote Creek preservation, and public trail system in the 27 Lot Project is coordinated with adjoining open space provisions in the Palos Colorados project. The two projects are consistent and compatible.

6. The development conforms with the general plan.

The following facts and reasons, among others in the Administrative Record, are ~~why the Planning Commission makes~~the basis for this Finding:

The General Plan Consistency Statement and General Plan Goals and Policies Matrix, incorporated as part of these Findings as Exhibit 1, demonstrate ~~thats~~ the 27 Lot Project, as designed and with its Mitigation Measures and Conditions of Approval, complies with the Moraga 2002 General Plan as a whole. The Matrix demonstrates the Project conforms to each applicable goal and policy in the General Plan. ~~No further reduction in development acreage or lots is warranted to provide General Plan compliance.~~ See also the finding and reasons set forth in Finding 5 above with respect to density.

7. Existing or proposed utility services will be adequate for the population densities proposed.

The following facts and reasons, among others in the Administrative Record, are ~~why the Planning Commission makes~~the basis for this Finding:

The analysis in the certified ~~F~~final EIR confirm, with the adopted Mitigation Measures and Conditions of Approval, that existing or proposed utility services for the 27 Lot Project will be adequate for its population densities. All impacts on public services are less than significant, including utility services from PG&E, EBMUD, and CCCSD.