

ATTACHMENT 6

EXHIBIT C

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

FINDING OF RANCHO LAGUNA II 27 LOT PROJECT CONSISTENCY WITH MORAGA 2002 GENERAL PLAN

**STATEMENT CONFIRMING RANCHO LAGUNA II 27 LOT PROJECT
CONSISTENCY WITH MORAGA 2002 GENERAL PLAN (AND ITS APPLICABLE
COMMUNITY VALUES, GUIDING PRINCIPLES, GOALS AND POLICIES) AS A
WHOLE**

The Moraga 2002 General Plan (“2002 General Plan” or “General Plan”) is a policy document that was envisioned, when approved, to be a “framework for development decision making for the next ten to twenty years.” Development of a Ranch Laguna II residential project is within this time frame.

The 2002 General Plan was created with extensive public participation and focused on core values that define Moraga as a community. The 2002 General Plan is a statement of community values and priorities. It relies on fourteen guiding principles that serve as “overarching goals” relating to the following eight Elements of the General Plan: Environmental Preservation, Community Design and Character, Mobility, Shopping and Services, Housing, Community Services and Services, Public Safety and Community Decision-making. Importantly, the 2002 General Plan updated the Town’s 1990 General Plan by adding new policies and actions to reduce “maximum potential densities in environmentally sensitive” areas and “programs” to create a “stronger emphasis on open space preservation.”

The 2002 General Plan includes a chapter that describes the community values and guiding principles that were developed through the public participation process, which provide the basic foundation for its goals, policies and implementing programs.

The 2002 General Plan contains 35 goals (general statements of values and aspirations) and over 250 policies (more precise expressions regarding the community’s position on a particular matter or how a particular goal will be interpreted or implemented). With respect to providing direction on new residential development on open space lands, the General Plan contains many applicable goals and policies within its Elements.

In order to approve a development project, the Planning Commission must find it is consistent with the 2002 General Plan. General plan consistency does not mean perfect conformity of a project with each and every general plan policy. Rather, a project is consistent if it is in agreement or harmony with the general plan considered as a whole. In other words, a project may not strictly or substantially conform to a particular general plan policy or policies but still be in agreement or harmony with the general plan as a whole.

A staff report examining the Rancho Laguna II 35 lot project reviewed in the Draft EIR for consistency with General Plan goals and policies was originally presented to the Planning Commission on January 22, 2008. Subsequently, in response to comments from the public and Planning Commissioners, the analysis was revised and presented to the Planning Commission on March 17, 2008 and September 15, 2008.

At its hearing on the Rancho Laguna II project on October 20, 2008, the Planning Commission considered the revised 31 lot project submitted by the Applicant. The Planning Commission directed modifications to that project. The modifications to the project and its mitigation since that hearing include wider lots in the upper Rheem valley, a buttress, recreated intermittent drainage in the lower Rheem valley, and revised landscape to retain open views of the valley, hillsides and ridgeline. The modifications are more fully described in the staff report for the August 17, 2009 hearing. The revised Rancho Laguna II project as conditioned and mitigated is referred to as the “27 Lot Project” or “Project.”

The 27 Lot Project has been evaluated by Town staff within the context of the 24 goals and 122 policies in the 2002 General Plan that are applicable to the Project. To facilitate a review of the 27 Lot Project’s consistency with the General Plan, the relevant goals and policies have been arranged in a matrix format along with a comment describing how the Project addresses the goal or policy. The Matrix is attached to and made a part of this Finding of Rancho Laguna II 27 Lot Project Consistency with Moraga 2002 General Plan (“General Plan Consistency Finding” or “Finding”).

The Matrix analysis looks at the General Plan goal by applicable goal and policy by applicable policy. It confirms the 27 Lot Project substantially achieves each applicable goal and substantially conforms to each applicable policy. The Matrix summary for each such goal and policy is not intended to be an exhaustive review of Project consistency with the General Plan. The analysis and factual basis for that Finding is also found elsewhere in the administrative record, including the staff reports and Final EIR. The goals and policies that do not apply to the 27 Lot Project are not included in the matrix. For example the policies related to commercial or multi-family development are not applicable to a single-family project on open space lands.

After considering the information and analysis in this Statement, the Matrix and the administrative record, the Planning Commission concurs with Town staff and hereby finds the 27 Lot Project is consistent with the 2002 General Plan; i.e., the Project is in agreement and harmony with the General Plan as a whole.

Conformance with a particular policy should be considered in the context of the objective to conform to other policies. For example, Environmental Quality Policy OS2.2 calls for preservation of creeks, streams and other waterways (such as the intermittent drainage in the lower Rheem valley and the wetland swale in the upper Rheem valley) in their natural state whenever possible. Public Safety Policy PS1.6 gives the highest priority to public improvements that are related to public safety (e.g., making a 2-lane arterial road like Rheem Boulevard safe for vehicular travel). Circulation Policy C1.1 calls for the design, construction and maintenance of roadways to make them safe for all users, including bicyclists and pedestrians. The 27 Lot Project is in conformance with the waterway preservation policy, as informed by the effort to meet the objective of the public safety and circulation policies as they relate to this Project, as more fully discussed below.

The recommended 27 Lot Project on this 180 acre site is in harmony with the General Plan as a whole, in large part due to the amount, location and environmental features of the Project’s permanent, publicly accessible open space that is preserved, the design and location of the two

development clusters on the site, and the visual quality of public and scenic corridor views of the Project as designed and mitigated, in combination with other elements of the Project including the avoidance/mitigation of geotechnical risk, the stabilization, repair and improvement of Rheem Boulevard, the recreation of enhanced intermittent drainage in the upper valley and wetland swale in the lower valley, and the Project's "green design." The Project will be semi-rural in appearance given the extent and quality of open space being preserved and the comparatively low density of its residential development clusters, which will be landscaped and designed to blend with the environment. That the 27 Lot Project as mitigated has no significant environmental impacts is strong evidence of its General Plan consistency. The following analysis provides further support for this General Plan Consistency Finding.

The Project preserves 90% of the Rancho Laguna property as permanent open space with public trails that may connect to off site public trails and vehicular parking provided near the south end of the minor ridgeline. In the 162 acres of open space, only 13.5 acres are graded. All graded slopes will be no more than 3:1 slope. The open space includes the visually and environmentally most important portions of the property: Coyote Creek, oak woodland, minor ridgeline, wetland swale in the upper Rheem valley, and intermittent drainage in the lower Rheem valley. The GHAD will manage the open space in all respects at no cost to the Town.

The two small development clusters (18 acres) and street and open space landscape are designed such that the visual impacts of the Project as seen from public views are less than significant, as that significance factor is informed by the General Plan policies related to visual quality.

The development cluster on the southern plateau at the end of the minor ridgeline will have an insignificant visual quality impact on public views, due in large part to its location, the design and grading for the lots and streets, design review of the homes, and strategic placement of new native trees in the open space. The location of the southern plateau and surrounding topography are such that views of the development cluster on the southern plateau from public vantage points are limited. For example, the minor ridgeline to the north of the southern plateau is part of the predominant view from the few public locations to the east in Lafayette that can see a portion of the Rancho Laguna site. In addition, the development cluster on the southern plateau has been designed and mitigated so its visual quality impact as seen from those limited public views is less than significant, as that threshold is informed by the General Plan policies to protect visual quality of open space lands.

The upper and lower Rheem valleys on the Rancho Laguna site are within the Rheem Boulevard scenic corridor. 6 homes and "D" Drive in the upper Rheem valley will be located on what is now unengineered fill with a degraded wetland swale. The valley portion of the Project includes placement of a valley buttress in the upper Rheem valley, with 6 single-story homes and "D" Drive separated from Rheem Boulevard by open space and a recreated wetland swale. The lower valley includes a new intermittent drainage on a valley buttress. The new landscape in the valleys as designed and mitigated will maintain open views of the valley, hillsides and ridges as seen from Rheem Boulevard, a scenic road. As such, the visual quality impact of the Project as seen from Rheem Boulevard is insignificant. The significance threshold in the Final EIR is informed by the General Plan development policies in open space lands and within a scenic corridor.

That some existing residences in Moraga and Lafayette will see some of the new streets and/or homes in the Project is not a General Plan visual quality issue. The new homes are so far away from existing homes their private views will not be blocked. From these private locations, the predominant view of the Rancho Laguna site and surrounding properties will still be semi-rural. For example, with the Project's development the semi-rural views from the backyards of homes on the westerly side of Birchwood Drive will be comprised of open space, existing homes/streets and landscape, and new homes/streets and landscape. The Community Design Element policies require high quality design of a new residential neighborhood. The 27 Lot Project and its homes will blend with its environment and meet this standard.

The GHAD will professionally monitor and maintain the safe geologic and hydrologic condition of the entire property, and be responsible for any future repairs that may be required. Both the Applicant's and Town's geotechnical engineers are in agreement the Project's design and mitigation measures will protect the new development and residents from geotechnical risk. The 27 Lot Project both preserves important environmental features and protects public safety consistent with General Plan policies.

Under the General Plan, development on open space lands is limited to very low densities, between one unit per five acres and twenty acres, subject to site-specific review and protections to protect ridgelines, steep slopes, and high risk areas (see Land Use Policy LU1.2 and its footnote 3). Consistent with applicable General Plan goals and policies (Policy LU1.2), the actual density on the Rancho Laguna site is determined through the application process and based on environmental constraints, site-specific review, public services availability, open space and recreational considerations.

The maximum density on this 180 acre open space site is 36 units. The development clusters are not located on the MOSO portion of the Rancho Laguna site. Thus, no development is proposed on MOSO land. Thus no development is proposed on MOSO land that could be identified as high risk under that initiative ordinance and the MOSO Guidelines. In conformance with LU1.2, the development clusters on the non-MOSO portion, as designed, will not be constructed on high risk areas or on steep slopes (or on moderate risk areas).

The MOSO minor ridgeline extends into the non-MOSO portion of the Rancho Laguna site. The southern plateau is below 800 feet in elevation and, therefore, not a ridgeline as defined in the General Plan at Appendix D, Definitions). Thus, whether or not to develop the southern plateau, and the extent of that development, depends on other factors, such as the geotechnical safety of such development and its visibility from off site public views. Geotechnical risk of the development is mitigated to less than significant, as that threshold is informed by General Plan policies in the Public Safety element. The visual quality impact of the southern plateau development as seen from public views is also insignificant as mitigated.

The 27 Lot Project stabilizes, repairs and improves Rheem Boulevard and, at the same time, results in no significant environmental impacts, including visual quality, and preserves 90% of the Rancho Laguna property as open space. The Project grading balances on site, with the southern plateau cut used to create the valley buttress. The amount of cut lowers the southern plateau building pads and streets which, along with a new berm on the westerly edge of the

plateau and new trees, minimizes the visibility of those homes from Rheem Boulevard and Fernwood Drive.

Rheem Boulevard is being stabilized with a valley buttress and its road section repaired and improved by the Applicant. The new section includes striped shoulders for improved bicycle use, a decomposed granite path on the project side of the road, and a sidewalk on the other side which will connect to the existing sidewalk that extends to Moraga Road. This improved section is in keeping with the semi-rural character of the location.

Stabilization and repair of Rheem Boulevard is included in the capital improvement program approved by the Town Council. If this work was done by the Town along the entire property frontage, the Town Engineer would recommend using a buried retaining wall/tieback system, tiebacks to stabilize the road. The estimated cost to complete that road stabilization and repair is close to \$4 million dollars, provided it is completed before a major slide under the road. After such a slide, the cost would increase to close to \$5 million dollars. The Town Engineer considers the prospect to secure the full necessary funding remote.

The only practical way to create the valley buttress is to use the southern plateau cut. The other stabilization methods are not practicable alternatives: too costly, lower degree of safety, risk of triggering a landslide, closure of an arterial road. It is not possible to preserve the lower Rheem valley intermittent drainage and the upper valley wetland swale and also feasibly stabilize Rheem Boulevard. Similarly, filling the upper valley wetland swale with a valley buttress but leaving the existing intermittent drainage in place will only stabilize the upper half of Rheem Boulevard. The Town Engineer also has determined it is very unlikely the Town can secure the funding necessary to stabilize the lower half in the future between "A" Way and "D" Drive (cost estimate is close to \$3 million dollars), even with a fair share, pro rata contribution from the Applicant toward that capital improvement.

The Applicant will construct at its cost the lower valley buttress and repair and improve that section of Rheem Boulevard as part of the Project, provided the necessary permits with feasible conditions are secured from resource agencies. The Town will be a co-applicant for those resource agency permits, and Town staff and consultants will participate in that process, because the valley buttress will stabilize Rheem Boulevard. Mitigation for filling the existing jurisdictional wetlands in the upper and lower Rheem valleys to construct the valley buttress will be mitigated in that same area.

Filling the intermittent drainage and wetlands in the valleys is unavoidable if the Town is to ~~and still meet the Town objective to fix~~ meet its objective of fixing ~~Rheem Boulevard in the foreseeable future.~~ The best solution is to recreate high quality intermittent drainage and wetland swale in a natural state on the valley buttress and preserve open valley, hillside and ridgeline public views from Rheem Boulevard, a scenic road, by limiting residential lots to the upper valley (6 single story homes) and through a carefully designed landscape plan. As such, the 27 Lot Project conforms to Environmental Quality Policy OS2.2, and at the same time, to Public Safety and Circulation Elements as applied to Rheem Boulevard.

As encouraged in Public Safety Policy PS5.5, existing downstream flooding and erosion behind the Rheem Boulevard homes during large storm events will be reduced to the extent feasible. The Applicant will utilize oversized storm drain pipes in the development of the Project. The Applicant has volunteered to work with interested homeowner to secure permits for and construct erosion control features (short sections of strategically placed buried rip rap) behind their homes.

The homes will be designed to blend with the environment instead of overpowering it, per Condition III.8. Each home is required to achieve at least 90 points in the Town's "Green Building Program," and in so doing satisfy 90 % of its typical energy consumption through photovoltaic cells solar heating, design and construction standards. This green building standard in Condition III.9 represents a significant energy conservation precedent for residential projects in Moraga.

The Project density of 6.7 units per acre is appropriate on this particular site and for this particular 27 Lot Project design.

~~Reducing the number of homes on the southern plateau or in the upper Rheem valley is not necessary to address environmental impacts or achieve consistency with the General Plan as a whole, or conformity to any of its goals and policies. For example, reducing the density to protect against geotechnical risk is not necessary for the Project as designed and mitigated. The number of units and thus the density of the Project are not the critical numbers for General Plan compliance. Rather the critical numbers in considering General Plan consistency are the amount and significance of the open space being preserved, and the limited acreage being developed in only two clusters on non-MOSO land, designed and mitigated in a manner that results in no significant visual quality or other impacts.~~

The 27 Lot Project, as designed, mitigated and conditioned, is in keeping with the applicable community values and guiding principles in the 2002 General Plan regarding Environmental Preservation, Community Design and Character, Mobility, and Public Safety (see General Plan Chapter 2). 90% of the Rancho Laguna site is preserved in perpetuity, including the ridgeline and other open space resources like Coyote Creek, and with public trails for natural recreational opportunities. The Project design and quality contributes to a positive community aesthetic, including within a scenic corridor, all in keeping with Moraga's natural setting and high standards for good design. The Project maintains the single family, semi-rural setting of the area. Public health and safety is protected through Project design and mitigation, most importantly with respect to geologic risk (within the new development and on Rheem Boulevard) and peak storm flows. Circulation is improved and will be safer for drivers, bicyclist and pedestrians on Rheem Boulevard, a Town arterial.

The 27 Lot Project, as designed, mitigated and conditioned, conforms to each applicable goal and policy in the 2002 General Plan, as summarized in the attached Matrix. Refer to the 2002 General Plan for the text of the applicable goals and policies.