

**BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA**

**In the Matter of:**

**Amending Title 8 of the Moraga Municipal  
Code to Adopt an Ordinance to:**

**1) Adopt a new Zoning Map within the MCSP  
Area; and**

**2) Update Title 8 of the Moraga Municipal  
Code by Amending Chapters 8.04 – General  
Provisions and Definitions, 8.24 – One, Two,  
and Three Dwelling Units per Acre  
Residential Districts; 8.32 – Six Dwellings  
per Acre Multifamily Residential District (R-  
6); 8.34 – Twenty Dwelling Units per Acre  
Residential District (R-20); 8.36 – Community  
Commercial District; 8.40 – Limited  
Commercial District; 8.44 – Suburban Office  
District; 8.48 – Planned Development  
District; 8.50 – Planned Development-  
Commercial (PD-C); 8.52 – MOSO and Non-  
MOSO Open Space Districts; 8.56 –  
Institutional District; 8.60 – Study District;  
8.76 – Off-Street Parking and Loading; 8.124  
- Accessory Dwelling Units; and**

**3) Establish the Following New Chapters  
within Title 8 of the Moraga Municipal Code,  
Chapter 8.33 – Twelve Dwelling Units per  
Acre Multifamily Residential District (R-12);  
Chapter 8.37 – MCSP Commercial District  
(MCSP-C); Chapter 8.41 – MCSP Mixed  
Retail/Residential District; (12-20 Dwelling  
Units per Acre) (MCSP MU-RR); Chapter 8.42  
– MCSP Mixed Office/Residential District (12-  
20 Dwelling Units per Acre) (MCSP MU-OR);  
Chapter 8.65 – Moraga Ranch Overlay  
District; Chapter 8.200 – Moraga Center  
Specific Plan Area Regulations**

**Ordinance No.293**

**WHEREAS**, on June 4, 2002, the Town of Moraga adopted a General Plan with Guiding Principle 4: Create a community “focal point” in the vicinity of the Moraga Center shopping area and Moraga Commons; and

**WHEREAS**, the General Plan sets forth Policy LU3.1 Moraga Center Area Specific Plan (MCSP), which requires the Town to “Undertake a specific planning process for the area designated on the General Plan Diagram as the “Moraga Center Area Specific Plan;” and

**WHEREAS**, the General Plan sets forth Policy CD6.5 Moraga Center Area, which requires that the Town “Use the Moraga Center Area Specific Plan to create a community focal point and mixed-use activity center of businesses and higher density residences with a unified “village character;” and

**WHEREAS**, after issuing a Notice of Preparation on July 30, 2007 to prepare a California Environmental Quality Act (CEQA) Initial Study, on June 17, 2008 the Town published the MCSP DEIR with a public comment period from June 17, 2008 to August 1, 2008, and held public hearings on July 7, 2008 (Planning Commission), July 8, 2008 (Park and Recreation Commission), July 9, 2008 (Town Council), and July 22, 2008 (Town Council) to solicit oral comments on the MCSP DEIR; and

**WHEREAS**, on March 26, 2009 the MCSP Final EIR (FEIR) was published with public hearings on March 26, 2009 (Design Review Board), April 6, 2009 (Planning Commission and Park and Recreation Commission), and April 20, 2009 (Planning Commission) to consider the adequacy of the FEIR; and

**WHEREAS**, on January 27, 2010, the Moraga Town Council adopted Resolution 14-2010 certifying the EIR; and

**WHEREAS**, on January 27, 2010, the Town Council also adopted the Moraga Center Specific Plan (MCSP) to establish a focused mixed commercial and residential neighborhood in the area in and around the existing Moraga Center Shopping Center. The MCSP allows for higher density infill and mixed use (residential, commercial and office) development that is well connected by transit, pedestrian and bicycle facilities. The Moraga Center area has been designated as a Priority Development Area (PDA) by the Association of Bay Area Governments and Metropolitan Transportation Commission, making it eligible for priority grant funding; and

**WHEREAS**, the January 28, 2015 adopted Housing Element under II. Housing Plan, Implementation Programs has IP-H4 Adopt Zoning for the Moraga Center Specific Plan. The Town shall adopt conforming zoning designations for all properties within the Moraga Center Specific Plan Area in order to implement the Plan; and

**WHEREAS**, in 2014 the Town of Moraga was awarded a \$150,000 grant by the Contra Costa Transportation Authority (CCTA) for the “Moraga Center Specific Plan Implementation Project.” The goal of the project was to develop zoning code

amendments and design standards that will effectively implement the policies and vision set forth in the Specific Plan; and

**WHEREAS**, the Town of Moraga selected consultant team Opticos Design for the completion of the project. In late 2015 Opticos Design team produced a "Vision Concept" for the creation of detailed zoning standards to guide implementation of the Specific Plan. Work on the project was suspended in October 2017 due to lack of funds; and

**WHEREAS**, in March 2018 the Town of Moraga was awarded a grant of \$140,000 through Metropolitan Transportation Commission (MTC) as part of its Priority Development Area (PDA) funding grant program; and

**WHEREAS**, on June 12, 2019 the Town of Moraga hired a consultant team, PlaceWorks, for the preparation of the draft zoning, development standards and design guidelines as part of the MCSP Implementation Project; and

**WHEREAS**, the Town of Moraga held four meetings of the MCSP-IP Citizens Advisory Committee to gather public input on the draft zoning, development standards, and design guidelines on July 8, 2019, September 4, 2019, September 19, 2019 and October 1, 2019; and

**WHEREAS**, on June 3, 2020 the Town of Moraga held a Technical Advisory Committee meeting with representatives from MTC, the Contra Costa Transportation Commission, Fehr & Peers transportation consultant, PlaceWorks and Town staff to obtain input on the Design Scenarios, Streetscape, Parking, and Roadway Specifications and the draft Zoning Provisions and Development Standards; and

**WHEREAS**, on July 20, 2020 at a duly noticed public hearing, the Planning Commission considered the proposed amendments, received public testimony, and provided direction to staff on the proposed draft amendments, and continued the item to August 17, 2020; and

**WHEREAS**, on August 17, 2020, the Planning Commission considered the proposed amendments, considered evidence submitted into the public record in the form of the staff report, staff presentation, public comments and adopted Planning Commission Resolution No. 15-2020 for the Zoning Ordinance and Zoning Map recommending the Town Council adopt the proposed amendments, and continued the discussion of the Design Guidelines to September 21, 2020; and

**WHEREAS**, on September 2, 2020, the Town held a Community Meeting via webinar and took in public input and feedback where no action was taken; and

**WHEREAS**, on September 21, 2020, the Planning Commission considered the proposed amendments, considered evidence submitted into the public record in the form of the staff report, staff presentation, public comments and adopted Planning Commission

Resolution No. 16-2020 recommending the Town Council adopt the proposed amendments to the Design Guidelines; and

**WHEREAS**, on October 2, 2020, the Town published a public hearing notice in the East Bay Times, a newspaper of general circulation, to advertise the Town Council hearing on October 14, 2020 in accordance with California Government Code Section 65091; and

**WHEREAS**, on October 14, 2020, the Town Council held a duly noticed public hearing, took testimony in the form of staff report, staff presentation and public comments, and provided staff with feedback to bring back modifications on October 28, 2020; and

**WHEREAS**, on October 19, 2020, the Town published a public hearing notice in the East Bay Times, a newspaper of general circulation, to advertise the Town Council hearing on October 28, 2020 in accordance with California Government Code Section 65091; and

**WHEREAS**, on October 28, 2020, the Town Council held a duly noticed public hearing, took testimony in the form of staff report, staff presentation and public comments, and made a motion to waive the First Reading and Introduce by Title Only an Ordinance Amending Title 8 of the Moraga Municipal Code according to the redline version received at 5:00 p.m. from staff and to revisions to tables 8.32.050 and 8.33.050 as further amended on the dais.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MORAGA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Pursuant to California Environmental Quality Act (CEQA), the Town prepared an Environmental Impact Report (EIR) (SCH 200707212) to address the potentially significant adverse environmental impacts associated with the planning, construction, or operation of the Moraga Center Specific Plan (MCSP) and to identify appropriate and feasible mitigation measures and alternatives that may be adopted to significantly reduce or avoid the impacts identified in the EIR. The Town certified the Final EIR for Moraga Center Specific Plan project on January 27, 2010. The proposed zoning Ordinance will not result in additional environmental effects not previously evaluated in the EIR. The proposed zoning Ordinance implements provisions of the MCSP, such as including development standards and zoning districts consistent with the MCSP and already analyzed in the EIR. Further, the proposed zoning Ordinance allows for development consistent with the MCSP and analyzed in the EIR. Therefore, there are no new significant environmental effects. In addition, any development project proposed in the MCSP will be required to comply with the Mitigation Monitoring and Reporting Plan adopted in connection with the EIR, as well as go through site-specific environmental review.

Additionally, CEQA Guidelines section 15162 provides that “no subsequent EIR shall be prepared” for a project unless the lead agency determines that (1) “substantial changes

are proposed in the project which will require major revisions of the previous EIR;" (2) "substantial changes occur with respect to the circumstances under which the project is undertaken;" or (3) "new information of substantial importance ... shows" one or more significant effects not discussed in the original EIR, greater severity to previously-identified substantial effects, or newly-found feasible mitigation measures that would substantially reduce significant effects. As there will not be any changes to the proposed project or to the previously identified effects and mitigation measures, and there is no new information of substantial importance, no additional environmental review is necessary.

Further, it can be seen with certainty under CEQA Guidelines section 15061(b)(3) that there is no possibility the proposed zoning Ordinance may have a significant effect on the environment. As noted above, the proposed zoning Ordinance implements the existing MCSP and allows for development consistent with and allowed under the MCSP. The Ordinance does not create any new standards or regulations that could impact the environment.

**SECTION 2.** Pursuant to Moraga Municipal Code Section 8.12.100, the Town Council hereby finds as follows with respect to the proposed zoning map and Ordinance:

- a. **The change proposed is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;** in that one of the Town of Moraga General Plan's Guiding Principles 4: Create a community "focal point" in the vicinity of the Moraga Center shopping area and Moraga Commons. The proposed MCSP zoning Ordinance advances the community goals with an environmentally sensitive approach to development that calls for the creation of a mixed-use village with local serving commercial development and a range of residential opportunities. The General Plan sets forth Policy LU3.1 Moraga Center Area Specific Plan (MCSP), which requires the Town to "Undertake a specific planning process for the area designated on the General Plan Diagram as the "Moraga Center Area Specific Plan." The MCSP Ordinance implements an already adopted Moraga Center Specific Plan on January 27, 2010 through purpose, applicability, density and development standards. The General Plan sets forth Policy CD6.5 Moraga Center Area, which requires that the Town "Use the Moraga Center Area Specific Plan to create a community focal point and mixed-use activity center of businesses and higher density residences with a unified "village character". The MCSP Ordinance implements the General Plan policy through zoning districts and a zoning map that establishes distinct districts for mixed retail/residential, mixed office/residential, MCSP Commercial, Planned Development Areas, Residential R020A, Residential R-20B, Residential R-3, Residential R-6, Residential R-12, Open Space, Moraga Ranch Overlay District which allow for more community focal points, mixed use activity center for businesses and higher density residences to allow for a variety of housing choices.
- b. **In 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 in which it is proposed. The proposed Zoning amendments**

**implement and are consistent with the General Plan Map Figure 4-2 MCSP Illustrative Land Use and Circulation Plan.** The amendments would apply to proposed Town MCSP area for residential and commercial zoning districts that are intended to accommodate a broad range of businesses offering consumer goods and services that meet the everyday and specialized needs of Moraga and the surrounding communities. The proposed amendments are intended to provide an economically viable, environmentally sensitive approach to development with mixed-uses village with local serving commercial development and a range of residential opportunities uses consistent with the overall vision of creating a Village.

- c. **A community need is demonstrated for the changes proposed** as directed by the Town of Moraga's General Plan of 2002 which included Land Use policy LU3.1 as well as Community Design policy CD6.5 which call for development of a 'specific plan' for the area around one of the Town's major shopping and activity centers- the Moraga Center. The MCSP was adopted in 2010, consistent with the aims of the General Plan, to provide a vehicle for ensuing that this area of Town is "planned" in order to address the important community needs such as new growth, housing needs and environmental protection. The MSCP also accommodates future demand for services such as sewer, water, roads etc. and implements goals and policies for directing and managing growth. The proposed zoning map and Ordinance implements the MCSP and adopts and incorporates consistent zoning as required by state law.
- d. **Its adoption of the Ordinance will be in conformity with public convenience, general welfare and good zoning practice** in that the MCSP provides for the economic and physical revitalization of the existing shopping center through reinvestment and increased residential and commercial developments. It implements the needs of residents by providing increasing shopping and dining opportunities and a range of housing options especially senior housing for an aging population. The proposed zoning map and Ordinance implements the MCSP and adopts and incorporates consistent zoning as required by state law. The zoning code amendments allow for districts, purpose, applicability, standards and densities.

**SECTION 3.** The Town Council hereby adopts a revised Zoning Map for the MCSP Area, and deletes, amends and adds individual sections and chapters to Title 8, Planning and Zoning, of the Moraga Municipal Code, consistent with the Moraga Center Specific Plan adopted January 27, 2010, as shown in Exhibit A, attached hereto and incorporated herein by this reference.

**SECTION 4.** Effective Date. This Ordinance becomes effective thirty (30) days after its final passage and adoption.


**SECTION 5.** 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 6.** 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 October 28, 2020, and was adopted and ordered published at an adjourned regular meeting of the Town Council held on November 10, 2020 by the following vote:

**AYES:** Mayor Korpus, Vice Mayor McCluer, Councilmembers Sos, Woehleke and Wykle  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

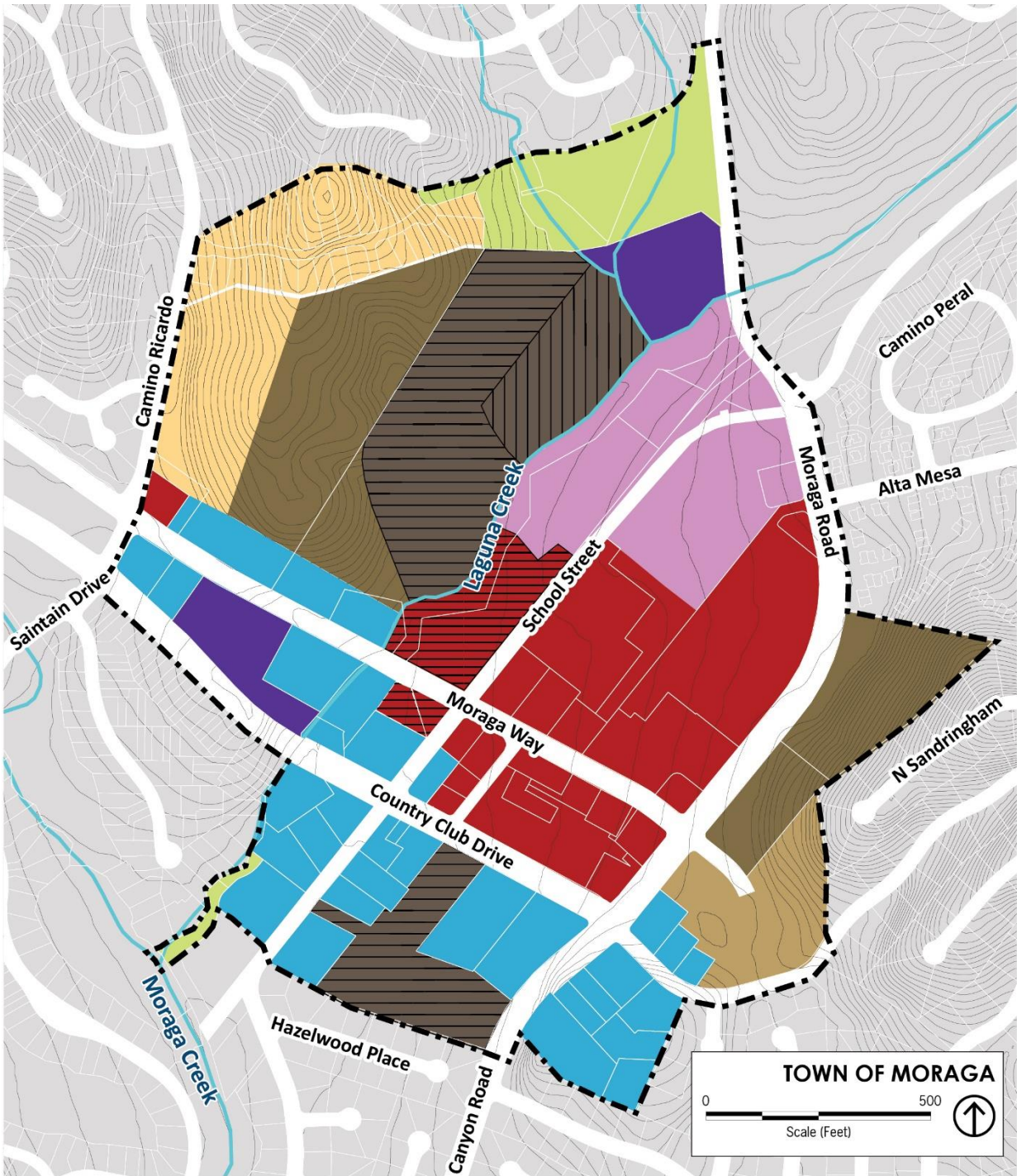
AFFIRMED:

  
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Kimberleigh N. Korpus, Mayor

ATTEST:

  
\_\_\_\_\_  
Marty C. McInturf, Town Clerk





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|----------------------|---------------------|-------------------------------|-------------------------------|
| RESIDENTIAL R-3      | RESIDENTIAL R-20A   | MCSP MIXED RETAIL/RESIDENTIAL | NON-MOSO OPEN SPACE           |
| MCSP RESIDENTIAL R-6 | RESIDENTIAL R-20B   | MCSP MIXED OFFICE/RESIDENTIAL | MORAGA RANCH OVERLAY DISTRICT |
| RESIDENTIAL R-12     | PLANNED DEVELOPMENT | MCSP COMMERCIAL               | MCSP BOUNDARY                 |



**1. Addition of Definitions.** The following definitions are hereby added to Section 8.04.020, Definitions, of Title 8, Planning and Zoning:

"Accessory Dwelling Unit", or "ADU," means a residential dwelling unit attached to or detached from an existing primary unit, or entirely enclosed within an existing building, which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel where the existing primary unit is situated. An accessory dwelling unit also includes the following:

- A. An efficiency unit, as defined in Section 17958.1 of the California Health and Safety Code.
- B. A manufactured home, as defined in Section 18007 of the California Health and Safety Code.

"Adjacent to the parking spaces for the existing primary unit" means within fifteen (15) feet of the nearest edge of the parking structure (garage or carport) including any storage areas within the parking structure; or within fifteen (15) feet of a legal, uncovered parking space for the existing primary unit.

"Adult Day Care Center" means a state-licensed facility that provides nonmedical care and supervision for dependent adult clients for periods of less than 24 hour per day for any client.

"Adult (Sex-oriented) Business" means a business establishment or concern which as a regular and substantial course of conduct offers, sells or distributes adult-oriented material or sexually oriented merchandise, or which offers to its patrons materials, products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas.

"Animal Services" means any of the following:

- A. "Boarding, Kennel" means a commercial establishment that provides overnight boarding for household pets as a paid service and/or breeding services. This classification does not include animal hospitals that provide 24-hour accommodations for animals receiving medical services. (See also "Hospital, veterinary clinic" under "Animal Services.")
- B. "Dog Day Care, Dog Training" means a commercial establishment that provides less than 24-hour keeping, boarding, or training for household pets as a paid service. This classification does not include facilities that provide overnight accommodations.
- C. "Grooming" means a commercial establishment that provides household pet grooming services with no boarding services.
- D. "Hospital, Veterinary Clinic" means office and indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals. (See also "Boarding, Kennel" under "Animal Services.")

"Antique, Collectible Stores" means a retail establishment that sells antiques, curios, gifts and souvenirs, and collectible items including sports cards and comic books. This classification does not include stores

selling other types of secondhand items, including clothing, household items, or furniture, including consignment stores or pawn shops (see “Restrictions” under “Retail Business”).

"Area A" means the 6.135-acre area of the R-20 district designated as Area A on the MCSP Zoning Map in Chapter 8.200.030

"Area B" means the portion of the R-20 district not designated as Area A and designated as Area B on the MCSP Zoning Map in Chapter 8.200.

“Assembly or Meeting Facility” means a facility for public or private meetings, including community centers, civic and private auditoriums, Grange halls, union halls, meeting halls for clubs, lodges and other membership organizations. Also includes functionally related internal facilities such as kitchens, multi-purpose rooms, and storage. Does not include conference and meeting rooms accessory and incidental to another primary use that are typically used only by on-site employees and clients, and occupy less floor area on the site than the offices they support (see “Offices”). Does not include sports or other commercial entertainment facilities (see “Cultural Institution”; “Theater, Auditorium” and “Fitness Facility, Health Club”). Does not include religious facilities (see “Religious Facilities” and “Major Religious Facilities”).

"Attached ADU" means an ADU that does not qualify as a fully contained ADU and that is located at least partially within a newly constructed expansion of, or addition to, an existing primary unit.

“Automobile Services and Repair” means any of the following:

- A. “Car Wash, Attended” means a commercial facility for washing cars where a service attendant washes the vehicle using on-site equipment or the car operator drives through an automated car washing and drying facility. An owner or his representative is on location to participate in the operation of the facility.
- B. “Car Wash, Unattended” means a commercial facility where the car operator uses water hoses, soap dispensers, drying and other on-site equipment to wash the vehicle with no facility owner or representative present during the washing. For example, the customer feeds coins into a machine in order to operate the hoses and drying vacuums for a set period of time.
- C. “Gas Station” means a commercial facility that sells gasoline and/or diesel fuel for the on-site fueling of individual vehicles and may include a small mini-mart, minor maintenance/repair facilities and services, and unattended car wash as incidental uses. This classification does not include vehicle or truck rentals such as U-haul rentals or fleet services. (see “Vehicle and Equipment Facilities.”)
- D. “Maintenance Services” means an establishment that provides maintenance services as opposed to repair while customers wait, such as oil changes, tune-ups, smog checks, tire sales and installation, auto radio/electronics installation, auto air conditioning/heater service, and the sale of related parts and accessories. There is no overnight storage and most work is performed within a building or under covered bays.
- E. “Major Repair/Body Work” means an establishment that provides major repair that may require vehicles to be stored on an overnight basis such as body and fender work, vehicle painting, transmission shops, exhaust and suspension systems, engine overhauls involving the removal of

engine blocks, painting and undercoating, glass replacement, upholstery and convertible top service, radiator, transmission, and wheel and axle repair. This classification does not include vehicle dismantling or salvaging and tire retreading or recapping.

- F. "Minor Repair" means an establishment that provides repair, service, alteration, restoration, painting, cleaning, or maintenance of automobiles, light-duty trucks, motorcycles, including the sale, installation, and servicing of parts, where repairs are made or service provided in enclosed bays. Activities could include auto detail or brake and muffler work.
- G. This classification does not include automobile repair when incidental to a new car dealership, and dismantling and salvage yards, or repair of heavy trucks, construction vehicles, motor homes, and recreational vehicles (see "Heavy Vehicle and Large Equipment, Sales/Rental, Service, and Repair" under "Vehicle and Equipment Facilities").

"Banks and Financial Services" means any of the following:

- A. "Bank, Credit Union," which means a financial institution that provides retail banking services. Examples include institutions engaged in the on-site circulation of money, including credit unions. This classification does not include check cashing businesses.
- B. "Bank with Drive-Through Service," which means a facility where banking services may be obtained by motorists without leaving their vehicles.
- C. The above facilities may include automatic teller machines (ATM's).
- D. This classification includes state or federally chartered banks, savings associations, credit unions, or industrial loan companies and retail sellers that cash checks or issue money orders incidental to the main business.

"Banquet Hall" means a space or venue intended for hosting of a party, banquet, wedding or other reception, or other social event.

"Big Box Retail Business" means a retail establishment that is over 80,000 square feet that engages in the sale or rental of retail goods, wares, merchandise, services and other personal or real property.

"Building Materials Sales and Services" means an indoor or outdoor establishment selling building and landscaping materials such as cabinetry, fixtures, flooring, glass, lumber, paint, wallpaper, electrical and HVAC equipment, plants and landscaping materials including rock, stone, and masonry products to the general public. Establishments may include stores with indoor service areas and showrooms. Does not include large format retail home stores in buildings over 80,000 square feet (see "Big Box Retail Business"). May include Outdoor Storage.

"Business Support Services" means an establishment that provides goods and services primarily to other businesses. Examples include:

- A. Graphics, and advertising services.
- B. Bookkeeping.
- C. Computer-related services.
- D. Copying and blueprint services.

- E. Office equipment rental and leasing.
- F. Publishing services.
- G. Secretarial, word processing and temporary clerical services.
- H. This classification does not include professional, executive, editorial, or management services. (see "Professional Services")

"Catering Service" means a business that prepares food for consumption on the premises of a client or at any other location separate from where the food was prepared.

"Child Day Care Center" means facilities that provide nonmedical care and supervision of minors for periods of less than 24 hour per day. These facilities, all of which are required to be licensed by the California State Department of Social Services, include the following:

- A. "Family Day Care Home," as defined by Health and Safety Code Section 1596.78, means a home that regularly provides care, protection, and supervision for 14 or fewer children in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, including the following:
  - 1. Small. A day care facility in a single-family dwelling where an occupant of the residence provides childcare for six or fewer children under the age of six or up to eight children when two of the children are at least six years of age, including children under the age of 10 years who reside at the residence.
  - 2. Large. A day care facility in a single-family dwelling where an occupant of the residence provides childcare for seven to 12 children under the age of six or up to 14 children when two of the children are at least six years of age, including children under the age of 10 years who reside at the residence.
- B. "Nursery School, Preschool, Childcare" means a commercial or nonprofit child day care facility designed and approved to accommodate 15 or more children. Examples include nursery schools, preschools, and day care facilities. These may be operated in conjunction with a school or church facility, or as an independent land use.

"Compact Single-Family Housing" means attached or detached residential dwelling units of smaller size developed to accommodate members of the community, such as students, teachers, and public safety employees, who otherwise cannot find housing in the area.

"Congregate Care Housing", also known as "Residential Care Facility", means housing for senior citizens with individual living units which provides residents with central management, a minimum of one meal per day in a central dining facility, transportation services, recreational activities and facilities, and social activities and facilities. These facilities may also include additional maid and linen service, sundries, beautician, banking and other similar services where they are appurtenant to the congregate care use on the site. Congregate Care Housing may also be conjoined with a nursing and medical facility.

"Contractors, Special Trade" means the following:

- A. "Cabinet Shop" means a facility that provides indoor and outdoor carpentry workspace, as well as areas where finished products are sold.
- B. "Sheet Metal Shop" means a facility that provides indoor and outdoor sheet metal fabrication workspace, as well as areas where finished products are sold.
- C. "Lumber Yard" means a facility that provides outdoor storage facilities operated by, and/or on behalf of, a licensed construction or landscape contractor for the storage of lumber materials and products along with vehicles and equipment commonly used for receiving, processing, storing, and delivering lumber. The facility may include an office and other indoor working or storage space.
- D. "Contractor Office, No Outdoor Storage" means a facility with offices operated by, and/or on behalf of, a licensed construction or landscape contractor. It may include indoor working or storage space for the storage of materials, equipment, vehicles, and other materials commonly used in the individual contractor's type of business including repair and maintenance of the equipment and vehicles, and related buildings or structures for such use. The facility does not include outdoor working or storage space.
- E. "Contractor Yard, with Outdoor Storage" means a facility that provides outdoor storage facilities operated by, and/or on behalf of, a licensed construction or landscape contractor for the storage of materials, equipment, vehicles, and other materials commonly used in the individual contractor's type of business including repair and maintenance of the equipment and vehicles, and related buildings or structures for such use. The facility may include an office and other indoor working or storage space.

"Convenience Store" means a neighborhood serving establishment that sells a range of food and merchandise oriented to daily convenience shopping needs such as limited groceries, prepackaged food, tobacco products, beverages, and other household goods for off-site consumption. A convenience store may be part of a service station or an independent land use and may typically have late hours or 24-hour operation. Convenience stores may include sale of alcoholic beverages.

"Creeks and Drainage Channels" means any creeks, channels, and tributaries shown in the map titled "Moraga Storm Drainage System", as may be amended, on file with the Town of Moraga Public Works Department.

"Cultural Institution" means a public or quasi-public facility that provides displays, entertainment, display of art or science objects, including performing arts centers for theater, dance, and events, museums, historical sites and exhibits, art galleries, and botanical gardens and may include retail uses such as a gift shop, bookshop, or restaurant.

"Density Bonus" means an increase in the established residential density in accordance with Government Code Section 65915 et seq.

"Dependent Senior Residential Dwelling Unit" means a "Residential Dwelling Unit" without provisions for cooking within the unit, provided that one hundred (100) percent of the housing meets the requirements of Section 51.3 of the California Civil Code and that cooking and eating facilities are provided on site.

"Detached ADU" means an ADU that does not qualify as a fully contained ADU and that is located at least partially within new construction that is part of a physical structure which is detached from the existing primary unit. More specifically, a detached ADU is located within a newly and legally constructed separate accessory building, or a newly constructed expansion of, or addition to, a pre-existing legally constructed separate accessory building.

"Discretionary Review Process" means the review processes identified in MMC Chapters 8.72, 8.48 and 8.132, if applicable.

"Eating and Drinking Establishments" means any of the following:

- A. "Bar, Night Club, Lounge" means an establishment that serves beer, wine, and distilled spirits on the premises under a Type 48 License (On-Sale General for Public Premises) issued in accordance with applicable California Department of Alcoholic Beverage Control regulations.
- B. "Micro-Brewery/Micro-Distillery" means a facility for the production and packaging of alcoholic beverages for distribution, retail, or wholesale, on or off premises and which meets all applicable California Department of Alcoholic Beverage Control regulations.
- C. "Restaurant, Full Service" means a restaurant that prepares food, may include alcoholic drinks, and serves seated customers who select food from a menu. Take-out service is optional and may not be available.
- D. "Restaurant, Limited Service" means an establishment that prepares food or sells packaged food for on-site consumption, take-out, or delivery. Typically customers self-serve or are served partially. This classification includes cafeterias, delicatessens, fast-food restaurants, sandwich shops, pizza parlors, snack bars, take-out restaurants, and catering businesses or bakeries that have a storefront restaurant component.
- E. "Restaurant with Drive-In Service" means a restaurant where food or coffee type beverages may be purchased by motorists who remain in their vehicles during the sales transaction.
- F. "Restaurant with Live Entertainment" means a full service or limited service restaurant that also provides live music, a disc jockey, karaoke, dancing to live or recorded music, and/or comedy or theatrical performances to patrons. This classification does not include coin-operated music player machines, i.e., jukeboxes, or other recorded music.
- G. "Tasting Room" means a facility allowing on-site tasting of alcoholic beverages and retail sales directly to the public and possessing the appropriate California Department of Alcoholic Beverage Control license type. The tasting room may be operated within a micro-brewery/micro-distillery facility, accessory to a separate on-site use, or as a stand-alone retail use. Outdoor eating areas shall be permitted as an accessory use to a tasting room consistent with CDC 18.200.190, Sidewalk cafes and outdoor eating areas.
- H. All Eating and Drinking Establishments may include outdoor seating.

"Existing Primary Unit" means an existing single-family residence with a valid certificate of occupancy.

"Firearm Store" means a retail store or wholesale business that derives its principal income from buying and selling firearms, with or without sale of ammunition and/or firearms accessories.



“Fitness Facility, Health Club” means a large scale fitness center, health, or athletic club with activities and facilities such as fitness centers, fitness classes, gymnasiums, indoor and outdoor sport courts, spa facilities, swimming pools, and other member facilities and services. This classification may include limited retail sales and restaurant facilities. This classification does not include adult entertainment businesses [See “Adult (Sex-oriented) Business”].

“Floor Area Ratio” means the ratio of the building(s) gross floor area (including the garage) divided by the net lot area.

“Food, Beverage Sales” means any of the following:

- A. “Grocery Store” means a retail establishment where the majority of the floor area open to the public is occupied by food products packaged for preparation and consumption away from the store. This classification includes retail chains that carry a full range of food and household products and have more than one location. Grocery stores may include sale of alcoholic beverages. This also includes retail bakeries where any on-site baking is only for on-site sales. This classification does not include large-scale grocery stores that are combined with a retail store.
- B. “Specialty Food Shops” means a retail establishment that sells specialty foods such as seafood or meat markets, retail bakeries, and similar uses
- C. “Liquor Store” means a retail establishment that sells packaged alcoholic beverages including beer, wine, and distilled spirits. This classification does not include large format retail establishments that have hours of operation similar to retail department stores.

"Fully Contained ADU" means an ADU which is established entirely within the pre-existing building envelope of either (i) an existing primary unit or (ii) any other pre-existing, legally constructed building located upon any lot containing an existing primary unit.

“Government Office” means a facility that provides administrative, clerical, or public contact and/or service offices of a local, state, or federal government agency or service facility. Examples include city halls, post offices, fire stations, and police substations with incidental storage and maintenance of vehicles. This classification does not include facilities such as corporation yards, equipment service centers, and similar facilities that primarily provide maintenance and repair services, and storage facilities for vehicles and equipment. (see “Public Maintenance and Service Facility”).

"Hotel" means a facility that provides guest rooms or suites, with or without kitchen facilities, intended or designed for transient lodging and includes any hotel, boutique hotel, motel, inn, guest house, or bed and breakfast at a fixed location. These facilities may include in addition a variety of services such as restaurants, meeting facilities, spas or other personal services, and accessory guest facilities including swimming pools, sport courts, exercise facilities, and accessory retail sales.

"Indoor Entertainment Facility" means a business establishment offering participant and/or spectator/viewer recreation or entertainment within a building, including bowling alleys, billiard halls, movie theaters, karaoke halls, video game arcades and virtual reality gaming cafes. This does not include

any establishments or venues offering games of chance, gambling or internet sweepstakes, all of which are prohibited in any zoning district in the town.

"Interior Living Area" means the gross interior horizontal area of a dwelling unit including but not limited to all rooms, hallways, closets, bathrooms and storage areas and specifically including the depth of all walls that divide any interior spaces but excluding the depth of all exterior walls and excluding an enclosed garage.

"Junior Accessory Dwelling Unit," or "JADU," means a residential dwelling unit that provides independent and permanent living facilities for one or more persons (including provisions for living, sleeping, and eating), is no more than 500 square feet in size, and is contained entirely within the pre-existing building envelope of an existing primary unit. A junior accessory dwelling unit shall include either separate sanitation facilities, or sanitation facilities shared with the existing primary unit.

"Licensed Massage Establishment" means a business which offers or administers massage services by massage practitioners holding a current and valid state certificate issued by the California Massage Therapy Council pursuant to California Business and Professions Code §§ 4600 et seq. as amended from time to time, whether as a massage practitioner or therapist, as defined therein.

"Live Entertainment Venue" means a business establishment which offers participant and/or spectator live entertainment, including concert halls, cabarets, dance halls and dinner theaters.

"Lot Coverage" means the portion of a lot that is covered by buildings, including principal and accessory buildings, garages, carports, and roofed porches, but not including unenclosed and unroofed decks, open roofed garden structures such as a gazebo, landings, or balconies.

"Major Religious Facility" means a religious facility that is larger than 5,000 square feet in total building size.

"MCSP" means the Moraga Center Specific Plan, adopted in January 2010, as it may be amended.

"Media Production Facility" means a facility that provides indoor commercial and public communication/telecommunication uses, as well as outdoor sets, backlots, and other outdoor facilities for motion picture, television, video, sound, computer, and other communications media production. Indoor communication uses would include radio and television broadcasting, receiving stations and studios with facilities entirely within buildings. This classification does not include exterior-mounted antennas and transmission towers (see "Utility Facility, Transmission Towers") or transmission and receiving apparatus, antennas and towers (see "Wireless Communications Facility" Section 8.144.020).

"Medical" means any of the following:

- A. "Hospital, Medical Center" means hospitals and similar facilities engaged primarily in providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds for overnight stays, emergency services, and equipment and facilities to provide complete health care. These

facilities may also include accessory uses such as on-site clinics, laboratories, emergency heliports, nursing facilities, extended care facilities, physical therapy, gift shops, retail pharmacies, cafeterias or restaurants, and related uses operated primarily for the benefit of patients, staff, and visitors and on-site ambulance dispatch facilities.

- B. "Medical Services Facility" means a facility, other than a hospital, where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis. A medical services facility use would provide consultation, diagnosis, therapeutic, preventative or corrective treatment services by doctors, dentists, chiropractors, counselors, physical therapists, respiratory therapists, acupuncturists, psychiatrists, psychologists, and similar practitioners of medical and healing arts for humans licensed for such practice by the state of California. This classification does not include counseling services and other services provided by nonmedical or health professionals (see "Offices, Professional" or "Social service facility"), massage therapy (see "Personal Services, General" or "Personal Services, Restricted"), or cannabis-related uses.
- C. "Nursing Facility/Extended Care" means state-licensed residential facilities that provide 24-hour nursing and health-related care as a primary use with inpatient beds. Examples include board and care homes, convalescent hospitals, rest homes, extended care facilities, and skilled nursing facilities. Long-term personal care facilities that do not emphasize medical treatment are included under residential care facility.
- D. "Urgent Care Facility" means a state-licensed facility other than a hospital that provides medical care services and treatment on an outpatient basis, with an emphasis on minor emergency care. These facilities may also include incidental medical laboratories. This classification does not include private medical and dental offices.

"Ministerial Review Process" means the review process identified in Section 8.34.080 of this chapter.

"Offices" means any of the following:

- A. "Administrative, information processing" means an establishment that provides information processing, computer-dependent, and telecommunications-based activities, typically characterized by high employment densities.
- B. Airline, lodging chain, and rental car company reservation centers (no vehicle storage).
- C. Computer software and hardware.
- D. Design and development.
- E. Consumer credit reporting.
- F. Data processing services.
- G. Health management organization (HMO) offices where no medical services are provided
- H. Insurance claim processing.
- I. Mail order and electronic commerce transaction processing.
- J. Wireless communications facility design and management.
- K. Telemarketing.
- L. This classification does not include dispatch offices or offices for service-oriented businesses that have company vehicles or require storage of materials or equipment.

"Outdoor Retail Sales" means the outdoor retail sales facilities that display merchandise that either are incidental to an adjacent indoor retail use or are an independent retail use. Includes news and flower stands. Includes nurseries or garden centers. Does not include the sale of automobiles and recreational vehicles (see "Automobile Sales and Rental/Leasing"), mobile homes, or building or landscape materials (see "Building Materials Sales and Services").

"Outdoor Living Areas" means an area on the exterior of an ADU that is designed for human use or habitation including but not limited to a patio, deck or yard that can accommodate appurtenances including but not limited to a barbecue pit, an outdoor dining table, a hammock, a lounge chair, a bench or a spa.

"Park and Outdoor Recreational Facility" means an outdoor recreation facility that provides a variety of recreational opportunities such as playground equipment, open space areas for passive recreation and picnicking, interpretative facilities and trails, and sport and active recreation facilities. This classification includes related community facilities and accessory commercial facilities that provide visitor services. This classification does not include Sports Recreation Facilities, nor does it include pocket parks.

"Passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of an ADU.

"Payday Lending Establishment" means a person or entity that offers, originates, or makes a deferred deposit transaction, whereby a person or entity defers depositing a customer's personal check until a specific date, pursuant to a written agreement. "Payday lending establishment" is equivalent to a "deferred deposit originator" as defined in Section 23001(f) of the California Financial Code, as amended from time to time. "Payday lending establishment" does not include a state or federally chartered bank, thrift, savings association, industrial loan company, or credit union.

"Personal Services, General" means an establishment that provides recurrently needed nonmedical services of a personal nature, which may involve the retail sales of products related to the services provided. This classification applies to establishments with a primary focus of household and consumer product repair, as opposed to a retail sales establishment that offers service and repair of their merchandise as an ancillary use. (See "General" under "Retail Business"). Does not include massage services (see "Licensed Massage Establishment") or cannabis dispensaries. Examples include:

- A. Barber and beauty shops.
- B. Clothing rental.
- C. Day spas.
- D. Dry cleaning pick-up stores with limited equipment (excludes central dry cleaning plants).
- E. Computer, home electronics and small appliance repair.
- F. Laundromats (self-service laundries).
- G. Parcel delivery.
- H. Pharmacies.
- I. Portrait photography.
- J. Shoe repair shops.

- K. Tailors and seamstresses.
- L. Tanning salons.
- M. Travel agencies.

“Personal Services, Improvement or Instructional” means an establishment that provides instructional services or facilities for personal improvement including fine arts, crafts, dance or music studios, exercise or fitness studios, learning centers, after-school tutoring centers, driving schools, photography, diet centers, and martial arts. This classification does not include vocational training.

“Personal Services, Other” means an establishment that provides personal services that are not covered by “Personal Services, General” or “Personal Services, Improvement or Instructional”. Examples include:

- A. Bail bonds.
- B. Fortune tellers.
- C. Palm and card readers.
- D. Pawn shops.
- E. Psychic readers.
- F. Spas and hot tubs for hourly rental.
- G. Tattoo and body piercing services

“Pocket Park” means a small, privately-owned and privately-managed outdoor space, usually no more than a one-half acre, often located in an area surrounded by buildings or houses on small lots, that can be used for activities such as outdoor recreational purposes, events, leisurely gathering, or other activities serving the immediate vicinity of the pocket park.

“Professional Services” means an establishment that provides professional, executive, editorial or management services. Examples include:

- A. Accounting, auditing, bookkeeping, financial management and investment services, and tax preparation.
- B. Advertising agencies, commercial art and design services.
- C. Design professionals, architects, engineers, landscape architects, urban planners.
- D. Educational, scientific and research organizations.
- E. Employment agencies.
- F. Legal offices.
- G. Management and public relations services.
- H. Nonmedical counseling services. Examples include, but are not limited to, career or life coaching, financial consulting.
- I. Real estate offices.
- J. This classification does not include dispatch offices or offices for service-oriented businesses that have company vehicles or require storage of materials or equipment.

“Public Maintenance and Service Facility” means a facility that provides maintenance and repair services for local, state, or federal government agencies or service facilities, including storage of vehicles,

equipment, and materials. Examples include corporation yards, equipment service centers, and similar facilities.

“Religious Facility” means a space or venue intended for people to visit and gather for religious activities, including worship, congregation, and other activities affiliated with the religion, but does not include a Major Religious Facility as defined in this Section.

“Research and Development, or Laboratory” means an establishment that performs laboratory work and/or conducts research, development, and controlled production of high-technology electronics, biotechnology, industrial or scientific products or commodities. Laboratory tasks include testing, analysis, medical, dental, or optical laboratory services, and photographic development services. Other typical tasks include limited manufacturing, fabricating, processing, assembly or storage of prototypes, devices, compounds, products or materials, or similar related activities, where such activities are incidental to research, development or evaluation. All activities in this classification occur within a building. This classification may include uses that produce noise, vibrations, illumination, or particulate matter that is perceptible to adjacent land uses, but not offensive or obnoxious.

"Residential Dwelling Unit" means a building or area within a building that provides complete independent living facilities for one or more persons including permanent provisions for living, sleeping, cooking, eating, and sanitation. A motor home, trailer, camper, dormitory room, motel or hotel room, suite or extended stay unit is not a residential dwelling unit.

“Schools” means the following:

- A. “College, University” means public or private institutions of higher education providing curricula of a general, religious, or professional nature, typically granting recognized degrees or certificates, with associated facilities including conference centers and academic retreats associated with such institutions. This classification does not include business and computer schools, management training, technical and trade schools, and personal instructional services (see “Improvement or Instructional” under “Personal Services” and “Trade school, Vocational Training” under “Schools.”)
- B. “Elementary, Middle, Secondary” means a public or private academic educational institution offering instruction in courses of study required by the California Education Code and maintained in compliance with standards set by the State Board of Education, including elementary (kindergarten through sixth grade), middle and junior high schools (seventh and eighth grades), secondary and high schools (ninth through twelfth grades). Some of these schools also provide room and board.
- C. “Trade School, Vocational Training” means private institutions that provide education and/or training, including vocational training in limited subjects. Examples include:
  - 1. Business, secretarial, and vocational.
  - 2. Computers and electronics.
  - 3. Courses by mail or online.
  - 4. Seminaries/religious ministry training.



- D. Does not include preschools and child day care facilities (see “Child Day Care”), smaller-scale facilities offering specialized instruction in arts, ballet, dance, music, languages, and martial arts (see “Personal Services, Improvement or Instructional”), or after-school tutoring to school-age children.

“Secondhand Sales” means an establishment that sells used or new and previously owned goods including jewelry, camera equipment, sound/viewing equipment and tools, often for the purpose of raising funds to benefit religious, educational, hospital or charitable purposes. Goods are generally obtained on consignment, in a trade, and often as a donation.

“Self-Storage Facility, Mini-Storage” means a facility that provides individual storage spaces or compartmentalized stalls or lockers for individual use and is characterized by low parking demand.

“Senior Housing” or “Active Senior Housing” means a project consisting of residential dwelling units designed for senior citizens as defined in Section 51.3 of the California Civil Code. “Senior Citizen Housing” means “Senior Housing”.

“Short Term Promotional Program” means a temporary use that operates for ten calendar days or less and may include an art exhibit, sale, charitable fund-raising drive, bazaar, or similar activity.

“Site” means the contiguous gross land area within the parcel or parcels on which housing development is located.

“Sports Recreation Facility” means a public or private facility that provides various indoor and/or outdoor recreational activities. Examples include:

- A. Archery and shooting ranges.
- B. Basketball courts.
- C. Batting cages.
- D. Bocce ball courts.
- E. Equestrian facilities.
- F. Fitness training paths and facilities.
- G. Golf driving ranges.
- H. Lighted or amplified outdoor athletic fields or sport courts.
- I. Miniature golf courses.
- J. Skateboard parks.
- K. Swimming pools.
- L. Tennis courts.
- M. Waterslides.
- N. This classification includes park facilities that have one or more of the uses within this classification such as swimming pools or lighted sport courts, etc. May also include accessory commercial facilities customarily associated with the above including concessions, bars and restaurants, electronic games, etc.

“Stepback” is the minimum required distance an upper-story building face is set back from the building face of the ground floor, measured perpendicularly to the building face. See diagram to the right.

“Temporary Use” means a use that occupies a site for a limited time, including special events, sales, promotional activities, seasonal activities, temporary construction-related activities, and other similar temporary activities, events, and uses. Short-term promotional programs are a form of temporary use.

“Theater, Auditorium” means an indoor facility for public assembly and group entertainment, other than sporting events, including:

- A. Civic theaters, and facilities for “live” theater and concerts.
- B. Exhibition and convention halls.
- C. Motion picture theaters.
- D. Public and semi-public auditoriums.
- E. Does not include outdoor theaters, concert and similar entertainment facilities and indoor and outdoor facilities for sporting events (see “Sports Recreation Facility”).

"Tobacco Store" means any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, consumption, or marketing of tobacco, tobacco products, or tobacco paraphernalia, including, without limitation, electronic cigarettes ("e-cigarettes") and/or liquid solutions containing nicotine used in such devices; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes, e-cigarettes or tobacco as an ancillary sale shall not be defined as a "tobacco store" pursuant to this chapter.

“Utility Facility, Transmission Towers” means a facility that provides a fixed base structure or facility serving as a junction point for transferring electric utility services from one transmission voltage to another or to local distribution and service voltages, and similar facilities for water supply and natural gas distribution. These uses include any of the following facilities that are not exempted from land use permit requirements by Government Code Section 53091:

- A. Co-generation facilities.
- B. Electrical substations and switching stations.
- C. Natural gas regulating and distribution facilities.
- D. Public water system wells, treatment plants and storage tanks.
- E. Telephone switching facilities.
- F. Wastewater treatment plants, settling ponds and disposal fields.
- G. This classification does not include offices or customer service centers.

“Vehicle and Equipment Facilities” means the following:

- A. “Heavy Vehicle and Large Equipment, Sales/Rental, Service, and Repair” means an establishment that sells/rents and may provide service and repairs to construction, farm or other heavy equipment. This classification does not include autos, trucks and other passenger vehicles used

for personal or business travel. (see "Automobile Services and Repair" for automobiles, motorcycles and other smaller passenger vehicles.)

1. "Commercial Vehicles and Equipment" means a facility that sells/rents or services and makes repairs to construction, farm, or other heavy equipment, as well as vehicles for moving or towing property (such as cranes, earthmoving equipment, forklifts, tractors, heavy trucks, cargo trucks, vans, and trailers).
  2. "Recreational Vehicles" means an establishment that sells, rents and/or leases motor homes, trailers, and boats, including incidental storage, installation of accessories and maintenance. This classification also includes facilities that service or repair recreational vehicles.
- B. "Towing Services" means a facility that dispatches tow trucks and provides temporary storage of operative or inoperative vehicles. This classification does not include automobile wrecking or dismantling.
- C. "Vehicle Storage" means a facility for the storage of operative cars and other fleet vehicles, trucks, buses, recreational vehicles, and other motor vehicles. Includes facilities for the storage and/or servicing of fleet vehicles.

"Workforce Housing" means housing intended for sale or rental with a unit purchase price or rental amount that is affordable to regionally-employed persons or students of moderate, low, very low, and extremely low income levels as established by the California Department of Housing and Community Development income limits.

**2. Amendment of Definitions.** The following definitions in Section 8.04.020, Definitions, of Title 8, Planning and Zoning, are hereby deleted and replaced as follows:

"Agriculture" means the tilling of soil, the raising of crops, horticulture, dairying, and the raising and managing of livestock, and any accessory buildings or structures for agricultural activities.

"Average Lot Width", or "Lot Width" or "Width of a Lot" is the total area of the lot divided by the depth of the lot.

"Building" means a structure, whether free-standing or attached, enclosed by exterior and/or interior or party walls, or a combination thereof, that is covered by a single roof structure, and which may house single or multiple tenants or tenant spaces.

"Depth of a Lot" or "Lot Depth" means the horizontal distance between the front and rear lot lines. If the front and rear lot lines are not parallel, "lot depth" means the length of a straight line joining the middle of the front lot line with the middle of the rear lot line. If there is no rear lot line, "lot depth" means the length of a straight line joining the middle of the front lot line with the apex of the triangle formed by the side lot lines.

“Drive-in Service” means a feature or characteristic of a use involving the sale of products or the provision of services to an occupant in a vehicle and includes a drive-in or drive-up window or a drive-through service, such as mechanical automobile washing or a drive-through pharmacy or bank.

"Emergency Shelter" means housing in conformance with requirements under Chapter 8.164 that is designed for and occupied by homeless persons for no more than six months in a consecutive 12-month period.

“Frontage” means the lot line along the street or circulation thoroughfare which provides primary access to the lot.

"Retail business" means the following:

- A. General: An establishment that sells or rents retail goods, wares, merchandise, services and other personal or real property. Examples include appliances and electronics stores, department stores, office and stationery supplies, bookstores, clothing and apparel, pet stores, specialty food stores selling premade or packaged food for off-site consumption (e.g., candy stores, wine shops), sporting goods, toy stores, and audio and video rental.
- B. Specialty: An establishment that engages in the sale of specific categories of products for profit or livelihood, including furniture stores, appliance stores, clothing stores, and hardware stores.
- C. Shopping Centers: These establishments primarily operate within an enclosed store but may also include permanent and partly enclosed facilities for outdoor display of merchandise when incidental to the main store (e.g., garden centers operated in conjunction with a neighborhood drug store or hardware store). Services related to the merchandise sold may be permitted as an ancillary use (e.g., photo processing, pet grooming, computer repair).
- D. Restrictions: Does not include big box retail (see “Big Box Retail Business”), the sale of used goods such as secondhand stores, used specialty goods store and pawn shops (see “Secondhand Sales”), retail sales or rentals of vehicles and equipment (see “Automobile Sales and Rental/Leasing” and “Heavy vehicle and large equipment, sales/rental, service, and repair” under “Vehicle and Equipment Facilities”), outdoor retail sales (see “Outdoor Retail Sales”), convenience stores, and liquor stores (see “Food, Beverage Sales”) or cannabis dispensary.

“Structure” means anything constructed or erected that has location on the ground, or is attached to something having location on or in the ground, except the following:

- A. Sidewalks and trails, and any appurtenances thereto such as benches;
- B. Pipes, meters, meter boxes, manholes;
- C. Mailboxes; and
- D. Poles, wires, pipes and other devices, and their appurtenant parts, for the transmission or transportation of electricity and gas for light, heat or power, or of telephone and telegraphic messages, or of water.

"Supportive Housing" means housing with no limit on length of stay, that is occupied by a target population and that is linked to on-site or off-site services that assist the supportive housing resident in

retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type allowed in the district.

"Transitional Housing" means rental housing operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, and in no case more than two years. Transitional housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type allowed in the district. "Tutoring Facility" means a facility offering academic after-school tutoring or lessons to school-aged children. This classification does not include schools (see "Schools").

**3. Deletion of Section 8.04.080.** Section 8.04.080, Lot Coverage, is hereby deleted from Title 8, Planning and Zoning.

**4. Amendment of Section 8.24.040.** Section 8.24.040, Permitted Uses, of Chapter 8.24, One, Two, and Three Dwelling Units per Acre Residential Districts, of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

**"8.24.040 – Permitted Uses.**

- A. A detached single family dwelling on each lot and the accessory structures and uses normally auxiliary to it;
- B. Agriculture (Crop and tree farming with no on-site sales only);
- C. Park and Outdoor Recreational Facility if the planning commission makes a specific finding that the use is consistent with the general plan;
- D. Accessory Dwelling Units;
- E. Supportive Housing and Transitional Housing of the same type allowed in this district;
- F. Animal Keeping in accordance with Chapter 8.92, Article 1;
- G. Home Occupations in conformance with Chapter 8.112;
- H. Child Day Care Center (Family Day Care Home only); and
- I. Pocket Parks.

**5. Amendment of Section 8.24.050.** Section 8.24.050, Conditional Uses, of Chapter 8.24, One, Two, and Three Dwelling Units per Acre Residential Districts, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**"8.24.050 - Conditional Uses.**

In these 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. Assembly or Meeting Facility;
- C. Religious Facility;
- D. Sports Recreation Facility (private, not organized and operated for profit; for use by residents of the neighborhood or subdivision where it is located);
- E. Park and Outdoor Recreational Facility not organized and operated for profit; and
- F. A use which the Planning Commission, after notice and public hearing, has found to be comparable to any of the foregoing uses."

6. **Addition of Section 8.24.055.** Section 8.24.055, Density, is hereby added to Chapter 8.24, One, Two, and Three Dwelling Units per Acre Residential Districts, of Title 8, Planning and Zoning as follows:

**“8.24.055 – Density.**

- A. One dwelling unit per acre residential.
  - 1. No more than one dwelling unit shall be constructed on any one acre, except as provided in subsection A(2) of this section.
  - 2. The density may be increased on any one acre sized parcel in compliance with all applicable state laws.
- B. Two dwelling units per acre residential.
  - 1. No more than two dwelling units shall be constructed on any one acre sized parcel, except as provided in subsection B(2) of this section.
  - 2. The density may be increased on any one acre sized parcel, in compliance with all applicable state laws.
- C. Three dwelling units per acre residential.
  - 1. No more than three dwelling units shall be constructed on any one acre sized parcel, except as provided in subsection C(2) of this section.
  - 2. The density may be increased on any one acre sized parcel in compliance with all applicable state laws.”

7. **Amendment of Section 8.24.060.** Section 8.24.060, Minimum Lot Area and Yard Setback Regulations, of Chapter 8.24, One, Two, and Three Dwelling Units per Acre Residential Districts, of Title 8, Planning and Zoning, is hereby deleted and replaced with following:

**“8.24.060 – Minimum Lot Area and Yard Setback Regulations.**

- A. The minimum lot area and setbacks for principal structures in the one, two, and three dwelling units per acre residential land use districts are set forth in the following table and shall apply to the extent consistent with state law:

Standard	SFR 1 DU/acre	SFR 2 DU/acre	SFR 3 DU/acre
Minimum lot area	30,000 sq. feet	20,000 sq. feet	10,000 sq. feet
Minimum lot width	140 feet	120 feet	80 feet
Minimum lot depth	140 feet	120 feet	100 feet
Minimum front yard setback (see A1)	25 feet	25 feet	20 feet (see A2)
Exterior side yard setback (corner lots)	25 feet	20 feet	15 feet
Minimum side yard setback	20 feet	15 feet	10 feet
Sum of side yards	N/A	35 feet	20 feet
Minimum rear yard setback	25 feet	20 feet	15 feet
Maximum lot coverage (see A3)	N/A	N/A	60 Percent

- 1. The front yard setback for two or more lots fronting on a private street is governed by Section 8.68.110.



2. The portion(s) of the building where the driveway is located shall be setback a sufficient distance to accommodate a minimum driveway length of 25 feet.
  3. Maximum Lot Coverage for SFR 3 DU/Acre applies only to developments within the Moraga Center Specific Plan area.”
- B. See Section 8.200.050 Moraga Center Design Requirements of the Moraga Municipal Code, and Chapter 11 of the Moraga Design Guidelines for other standards applicable to properties located within the Moraga Center area.

**8. Addition of Chapter 8.31.** Chapter 8.31 is hereby added to Title 8, Planning and Zoning, as follows:

### **“Chapter 8.31 – Six Dwellings per Acre Multifamily Residential District (R-6)**

#### **8.31.010 – Purpose.**

The purpose of this district is to provide for low density and low intensity multifamily structures and selected office uses in developments which will conform with existing and future neighboring development and which are designed to be compatible with site constraints, such as topography, drainage and existing vegetation.

#### **8.31.020 – Permitted Uses.**

- A. Agriculture (Crop and tree farming with no on-site sales only);
- B. One duplex residential structure on one lot;
- C. An Accessory Dwelling Unit(s) (attached to an existing single-family dwelling) consistent with Chapter 8.124.
- D. Supportive Housing and Transitional Housing of the same type allowed in this district.

#### **8.31.030 – Conditional Uses.**

In this district, each of the following uses is permitted on the issuance of a conditional use permit:

- A. A residential structure other than one duplex on one lot;
- B. Offices, upon finding such a use is:
  1. Consistent with an overall plan of development,
  2. Compatible with existing and proposed uses, and
  3. Proposed to be located in an area transitional to a commercial or office district; and
- C. The keeping of livestock (see Chapter 8.92).

#### **8.31.040 – Density.**

- A. No more than six dwelling units shall be erected on any one acre, except as provided in subsection B of this section and in Goal 4, Policy 8 of the land use element of the general plan.
- B. The allowable density may be increased in compliance with all applicable state laws.
- C. Within new condominium projects no more than six dwelling units shall be erected on any one acre.

### **8.31.050 - Requirement for market analysis.**

The planning commission may require an applicant for a conditional use permit to submit a market analysis in accord with criteria established by it.

### **8.31.060 – Site Standards**

#### **A. Minimum Site Standards.**

Standard	
Minimum lot area:	10,000 square feet
Minimum lot width:	100 feet
Minimum front yard setback:	25 feet
Minimum side yard setback:	25 feet
Minimum exterior side and rear yard setback:	20 feet, but not less than the height of the building.

- B. Increase in Side and Rear Yard Setback Requirements. The design review board upon review of the building permit application, and the planning commission upon review of the conditional use permit application may require an increase or permit a decrease in the minimum side yard or rear yard requirements, or both, upon finding that the adjustment is necessary to establish a proper site planning relationship to existing and proposed uses.
- C. Site Standards for Proposed Subdivision Parcels. The minimum site standards in subsection A of this section are minimum standards and are not intended to apply as a matter of right to a parcel which is proposed to be subdivided. The planning commission shall fix the minimum lot area, frontage, front yard setback and side and rear yard setback requirements for each parcel in this district which is created by the subdivision process after the date the ordinance codified in this chapter is adopted.

### **8.31.070 – Development Standards.**

- A. Lot Coverage. The lot covered by buildings and paved areas may not exceed fifty (50) percent.
- B. Maximum Building Height. At no point shall the building height of a structure in this district exceed two stories or thirty-five (35) feet, whichever is less. However, if upon design review, the reviewing authority finds that the building height proposed for the structure will create a significant adverse effect on neighboring properties or is incompatible with the natural terrain or vegetation, the reviewing authority may reduce the maximum building height permitted to a height which eliminates or mitigates the adverse effects of the building height proposed.
- C. Landscaped Areas. All areas not covered by buildings and paved areas shall conform to a landscape plan approved by the reviewing authority.
- D. Building Design. The building design shall conform to the building design concept established for the area. If a design concept does not exist at the time an application for a building permit or a conditional use permit, as the case may be, is filed, the applicant shall propose a design concept for the site and show how the design relates to neighboring properties.
- E. Recreational Facilities. As a condition of approval, the reviewing authority may require private recreational facilities consistent with the needs of those who may occupy the units proposed.

- F. Conceptual Site Plan Submittal. An application for a conditional use permit shall be accompanied by a plan containing conceptual planning, including the siting and elevation of buildings for the entire parcel.
- G. Specific Plan Submittal. As a condition to approving a conditional use permit, the planning commission may require the applicant to prepare and submit for commission approval a specific plan. The planning commission may impose this condition only when it finds that the design access, building location or circulation proposed cannot be adequately addressed on a parcel by parcel basis.
- H. Maximum Aggregate Building Height. On sloped lots where a structure is stepped down the slope, the maximum aggregate building height shall not exceed forty-five (45) feet. However, if upon design review, the reviewing authority finds that the building height proposed for the structure will create a significant adverse effect on neighboring properties or is incompatible with the natural terrain or vegetation, the reviewing authority may reduce the maximum building height permitted to a height which eliminates or mitigates the adverse effects of the building height proposed.”

9. Amendment of Chapter 8.32. Chapter 8.32 of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

## **“Chapter 8.32 – MCSP Six Dwellings per Acre Multifamily Residential District (MCSP R-6)**

### **8.32.010 – Purpose.**

Districts zoned MCSP R-6 can accommodate compact single-family homes (attached or detached), single-family homes, and medium density residential development of 4 to 6 dwellings per acre. Development shall conform with surrounding neighboring development and be designed to be mindful of site constraints, such as topography, drainage and existing vegetation. Medium density housing could take the form of townhomes, duplexes, tri-plexes, and/or four-plexes or other multi-family structures. Acceptable medium density housing must be designed to achieve compatibility with existing office and residential uses. The purpose is to maximize opportunities for the development of housing to accommodate anticipated growth, facilitate mobility within both the ownership and rental markets, and encourage the construction of diverse housing options.

### **8.32.020 – Permitted Uses.**

In this district, each of the following uses is permitted by right:

- A. Compact Single-Family Housing and the accessory structures and uses normally auxiliary to a single family home;
- B. A detached single family dwelling with the accessory structures and uses normally auxiliary to it;
- C. One duplex and the accessory structures and uses normally auxiliary to the structure(s);
- D. Other multi-family residential structures, and the accessory structures and uses normally

auxiliary to the structure(s).

- E. Accessory Dwelling Unit(s) consistent with Chapter 8.124;
- F. Supportive Housing and Transitional Housing of the same type allowed in this district;
- G. Animal Keeping in accordance with Chapter 8.92, Article 1;
- H. Home Occupations in conformance with Chapter 8.112;
- I. Child Day Care Center (Family Day Care Home only); and
- J. Pocket Parks.

### 8.32.030 – Conditional Uses.

In this district, each of the following uses is permitted on the issuance of a conditional use permit:

- A. Animal Keeping in accordance with Chapter 8.92, Article 2 for such dwellings;
- B. Up to 5,000 cumulative square feet per lot located in an area transitional to a commercial or office district of the following:
  - 1. Personal Services, General;
  - 2. Personal Services, Improvement or Instructional;
  - 3. Professional Services.
- C. Sports Recreation Facility, (private, not organized and operated for profit; for use by residents of the neighborhood or subdivision where it is located);
- D. Park and Outdoor Recreational Facility not organized and operated for profit; and
- E. Other uses found by the Planning Commission at a public hearing to be consistent with the purpose of the district and comparable to any of the foregoing uses.

### 8.32.040 – Density.

- A. To the extent consistent with State law, the developer/property owner may choose to develop property in this district at a minimum of four (4) dwelling units per acre, and at no more than six (6) dwelling units per acre, except as provided in subsection B of this section.
- B. The allowable density may be increased in compliance with all applicable state laws.

### 8.32.050 – Development Standards Applicable Within the MCSP.

The following standards shall apply to the extent consistent with state law for lots within the MCSP.

- A. MCSP R-6 Site Standards.

Standard	Compact Single Family Housing	1 dwelling unit	More than 1 dwelling unit
	1 dwelling unit per lot	per lot	per lot
Minimum lot area	3,600 square feet	6,500 square feet	8,000 square feet
Maximum lot area	4,500 square feet	N/A	N/A
Minimum lot width	50 feet	70 feet average	70 feet average
Minimum lot depth	70 feet	90 feet	90 feet
Minimum front yard setback:	15 feet (see A1, A2 & A5)	20 feet (see A5)	15 feet (see A1, A2 & A5)
Minimum side yard setback	5 feet (see A5)	10 feet (see A5)	10 feet; 20 feet average for three-story structures (see A5)

Standard	Compact Single Family Housing 1 dwelling unit per lot			1 dwelling unit per lot			More than 1 dwelling unit per lot		
Minimum exterior side yard setback	10 feet (see A5)			10 feet (see A5)			At least 10 feet, but not less than the height of the building (see A5)		
Minimum rear yard setback	15 feet (see A5)			15 feet (see A5)			15 feet (see A5)		
Maximum building height	35 feet (see A5)			35 feet (see A5)			35 feet (see A5)		
Minimum private open space	N/A			N/A			Greater than or equal to 5 percent of each dwelling unit floor area (minimum of 50 square feet and minimum dimension of 5 feet width)		
Minimum building separation for multiple buildings on a single lot									
2 stories	N/A			N/A			25 feet (see A3)		
3 stories	N/A			N/A			35 feet (see A3)		
Maximum lot coverage	60 percent			60 percent			60 percent		
Maximum Stories	2	2	2	2	2	3	3	2	2
Maximum Floor Area Ratio (FAR)	See A4			See A4			See A4		

1. The portion(s) of the building where the driveway is located shall be setback a sufficient distance to accommodate a minimum driveway length of 20 feet.
2. A porch and/or entry way feature may have a 9-foot minimum front yard setback.
3. Where two different building heights are adjacent, taller building controls separation.
4. Floor Area Ratio (FAR) The maximum gross floor area for dwelling units shall be in accordance with MCSP Table 4-11: Residential Floor Area Ratio. As stated in MCSP Table 4-10, the maximum FAR for a subdivision should be calculated on a pre-subdivision basis. In other words, the FAR multiplier identified for an entire parcel prior to its subdivision shall likewise to be deemed to be the FAR multiplier applicable to each individual lot created by the subdivision of that parcel. Where one dwelling unit per lot is proposed, then the maximum dwelling unit square footage shall equal 5,000 square feet.
5. Proposed developments fronting onto or abutting against a major scenic corridor as defined in Chapter 8.132 (Scenic Corridors) shall be subject to the setback and stepback requirements set forth in Section 8.200.050 (Moraga Center Design Requirements).

- B. See Section 8.200.050 Moraga Center Design Requirements of the Moraga Municipal Code, and Chapter 11 of the Moraga Design Guidelines for other applicable standards.

### 8.32.060 – Development Standards.

The following standards shall apply to developments within this district to the extent consistent with state law:

- A. Landscaped Areas. All areas not covered by buildings and paved areas shall conform to a landscape plan approved by the reviewing authority.
- B. Building Design. The building design shall conform to the building design concept established for the area. If a design concept does not exist at the time an application for a building permit or a conditional use permit, as the case may be, is filed, the applicant shall propose a design concept for the site and show how the design relates to neighboring properties.

- C. **Maximum Aggregate Building Height.** On sloped lots where a structure is stepped down the slope, the maximum aggregate building height shall not exceed forty-five (45) feet. However, if upon design review, the reviewing authority finds that the building height proposed for the structure will create a significant adverse effect on neighboring properties or is incompatible with the natural terrain or vegetation, the reviewing authority may reduce the maximum building height permitted to a height which eliminates or mitigates the adverse effects of the building height proposed.”

10. **Addition of Chapter 8.33.** Chapter 8.33 is hereby added to Title 8, Planning and Zoning, as follows:

### **"Chapter 8.33 – Twelve Dwelling Unit per Acre Multifamily Residential District (R-12)**

#### **8.33.010 – Purpose.**

Districts zoned R-12 in the MCSP area can accommodate medium density residential development of 10 to 12 dwellings per acre. Development shall conform with surrounding neighboring development and be compatible with site constraints, such as topography, drainage and existing vegetation. Acceptable medium density housing could take the form of compact single-family homes, townhomes, duplexes, triplexes, and/or four-plexes or other multi-family structures. Acceptable medium density housing must be designed to achieve compatibility with existing office and residential uses.

#### **8.33.020 – Permitted Uses.**

In this district, each of the following uses is permitted by right:

- A. Compact Single-Family Housing and the accessory structures and uses normally auxillary to a single family home;
- B. A detached single family dwelling and the accessory structures and uses normally auxiliary to it;
- C. One duplex and the accessory structure and uses normally auxiliary to the structure;
- D. Other multi-family residential structure on one lot, and the accessory structures and uses normally auxiliary to the structure and a small (less than 5,000 square foot) private not for profit either i) Religious Facility or ii) Assembly or Meeting Facility constructed as part of the multi-family development on the lot;
- E. Accessory Dwelling Unit(s) consistent with Chapter 8.124;
- F. Supportiving Housing and Transitional Housing of the same type allowed in this district;
- G. Home Occupations in conformance with Chapter 8.112;
- H. Child Day Care Center (Family Day Care Home only); and
- I. Pocket Parks.

#### **8.33.030 – Conditional Uses.**

In this district, each of the following uses is permitted on the issuance of a conditional use



- A. Up to 5,000 cumulative square feet per lot located in an area transitional to a commercial or office district of the following:
  - 1. Personal Services, General
  - 2. Personal Services, Improvement or Instructional;
  - 3. Professional Services.
- B. Sports Recreation Facility, (private, not organized and operated for profit, for use by residents of the neighborhood or subdivision where it is located);
- C. Park and Outdoor Recreational Facility not organized and operated for profit; and
- D. A use which the Planning Commission has found to be consistent with the purpose of the district and compatible with surrounding existing uses.

#### 8.33.040 – Density.

- A. To the extent consistent with State law, the developer/property owner may choose to develop property in this district at a minimum of ten (10) dwelling units per acre, and at no more than twelve (12) dwelling units per acre except as provided in subsection B of this section.
- B. The allowed density may be increased on any one acre sized parcel, see 8.42.040 in compliance with all applicable state laws.

#### 8.33.050 – Development Standards.

- A. Development Standards. These standards shall apply to the extent consistent with state law

Standard	Compact Single Family Housing 1 dwelling unit per lot	1 Dwelling Unit per Lot	More than 1 dwelling unit per lot
Minimum lot area	3,600 square feet	10,000 square feet	6,500 square feet
Maximum lot area	4,500 square feet	N/A	N/A
Minimum lot width	50 feet	70 feet average	70 feet average
Minimum lot depth	70 feet	90 feet	90 feet
Minimum front yard setback:	15 feet (see A1, A2 & A5)	20 feet (see A5)	15 feet (see A1, A2 & A5)
Minimum side yard setback	5 feet (see A5)	10 feet (see A5)	10 feet; 20 feet average for 3-story structures (see A5)
Minimum rear yard setback	15 feet (see A5)	15 feet (see A5)	15 feet (see A5)
Maximum building height	35 feet (see A5)	35 feet (see A5)	35 feet (see A5)
Minimum private open space	N/A	N/A	Greater than or equal to 5 percent of each dwelling

Standard	Compact Single Family Housing 1 dwelling unit per lot	1 Dwelling Unit per Lot	More than 1 dwelling unit per lot unit floor area; minimum of 50 square feet and minimum dimension of 5 feet
Minimum building separation (for multiple buildings on a single lot)			
2 stories	N/A	N/A	25 feet (see A3)
3 stories	N/A	N/A	35 feet (see A3)
Maximum lot coverage	60 percent	60 percent	60 percent
Maximum stories	2	2	3
Maximum Floor Area Ratio (FAR)	see A4	See A4	See A4

1. The portion(s) of the building where the driveway is located shall be setback a sufficient distance to accommodate a minimum driveway length of 20 feet.
2. A porch and/or entry way feature may have a 9-foot minimum front yard setback.
3. Where two different building heights are adjacent, taller building controls separation.
4. Floor Area Ratio (FAR). The maximum gross floor area for dwelling units shall be in accordance with MCSP Table 4-11: Residential Floor Area Ratio. As stated in MCSP Table 4-10, the maximum FAR for a subdivision should be calculated on a pre-subdivision basis. In other words, the FAR multiplier identified for an entire parcel prior to its subdivision shall likewise to be deemed to be the FAR multiplier applicable to each individual lot created by the subdivision of that parcel. Where one dwelling unit per lot is proposed, then the maximum dwelling unit square footage shall equal 5,000 square feet.
5. Proposed developments fronting onto or abutting against a major scenic corridor as defined in Chapter 8.132 (Scenic Corridors) shall be subject to the setback and stepback requirements set forth in Section 8.200.050 (Moraga Center Design Requirements).

- B. See Section 8.200.050 Moraga Center Design Requirements of the Moraga Municipal Code, and Chapter 11 of the Moraga Design Guidelines for other applicable standards.

11. Amendment of Section 8.34.010. Section 8.34.010, Purpose, of Chapter 8.34, Twenty Dwelling Unit Per Acre Residential District (R-20), of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

### **“8.34.010 - Purpose.**

The purpose of this district is to establish regulations and procedures for high-density and high-intensity multifamily structures and selected service uses located in the R-20 residential district. This district shall only be applied to properties within the Moraga Center Specific Plan Area, consistent with policies of the adopted specific plan. This district shall not be applied to properties which have an average predevelopment slope in excess of twenty (20) percent. Development projects within this district shall be subject to either the ministerial review process or the discretionary review process as provided for in this chapter.”

12. **Amendment of Section 8.34.030.** Section 8.34.030, Permitted Uses, of Twenty Dwelling Unit Per Acre Residential District (R-20), of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

### **“8.34.030 – Permitted Uses.**

In this district, each of the following uses is permitted by right:

- A. Residential dwelling units in accordance with the provisions of this chapter;
- B. Dependent Senior Residential Dwelling Units in accordance with the provisions of this chapter;
- C. Accessory structures and uses incidental to the dependent senior and residential dwelling units such as parking, laundry, dining, grooming, healthcare and recreation facilities for the exclusive use and enjoyment of the Dependent Senior and Residential Dwelling Unit occupants and their guests;
- D. Supportive Housing and Transitional Housing of the same type allowed in this district;
- E. Congregate Care Housing;
- F. Child Day Care Center (Family Day Care Home only);
- G. Home Occupations in conformance with Chapter 8.112; and
- H. Pocket Parks.”

13. **Amendment of Section 8.34.035.** Section 8.34.035, Conditional Uses, of Twenty Dwelling Unit Per Acre Residential District (R-20), of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

### **“8.34.035 – Conditional Uses.**

In this district, each of the following uses is permitted on the issuance of a conditional use permit:

- A. Up to 5,000 cumulative square feet per lot located in an area transitional to a commercial or office district of the following:
  - a. Personal Services, General;
  - b. Personal Services, Improvement or Instructional;
  - c. Professional Services.
- B. Sports Recreation Facility, (private, not organized and operated for profit; for use by residents of the neighborhood or subdivision where it is located;
- C. Park and Outdoor Recreational Facility not organized and operated for profit; and

- D. A use which the Planning Commission has found to be consistent with the purpose of the district and compatible with surrounding existing uses.”

**14. Amendment of Section 8.34.040.** Section 8.34.040, Density, of Twenty Dwelling Unit Per Acre Residential District (R-20), of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

**“8.34.040 – Density.**

- A. To the extent consistent with State law, and except as set forth in subsections below, the developer/property owner may choose to develop property in this district at a minimum of sixteen (16) dwelling units per acre, and at no more than twenty (20) dwelling units per acre, exclusive of streets.
- B. The maximum number of residential dwelling units allowed in this district is twenty (20) per acre plus any applicable density bonus to the extent consistent with state law, except as follows:
1. Senior Housing shall have a maximum density of thirty (30) residential dwelling units per acre plus an additional three dependent senior residential units per acre.
  2. The number of dependent senior residential units per acre allowed under Section 8.34.040B(1) may be increased by a ratio of three dependent senior residential dwelling units for each reduction of one residential dwelling unit per acre below the thirty (30) permitted, up to a maximum of nine such dependent senior residential dwelling units per acre.”

**15. Amendment of Section 8.34.060.** Section 8.34.060, Development Standards, of Twenty Dwelling Unit Per Acre Residential District (R-20), of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

**“8.34.060 – Development Standards.**

- A. All development shall meet or exceed the minimum requirements identified in the table below, to the extent consistent with state law:

Development Standard	Minimum Requirement
Site Area	3 acres except that projects subject to Ministerial Review may be a minimum of 2 acres provided that at least 50 dwelling units are proposed for development
Number of Residential Dwelling Units	60
Square Feet Per Residential Dwelling Unit	300
Square Feet Per Dependent Senior Residential Dwelling Unit	100
Average Site Width	200 feet
Average Site Depth	200 feet
Site Building Setback	20 feet from all site boundaries to any architectural projection on a building
Creek Building Setback	Creek Building Setback: 50 feet from top of bank or 50 feet from the edge of riparian vegetation that is protected by a state or federal agency, whichever is greater, to any architectural

Development Standard	Minimum Requirement
	projection on a building, except that projects subject to Discretionary Review shall at a minimum comply with the setbacks required by any state or federal agency.
Pervious surface area (including natural or landscaped area)	30 percent of site area
Natural area or area landscaped area with living plants	20 percent of site area
Private outdoor area for each Residential Dwelling Unit	20 square feet attached or immediately adjacent to each Residential Dwelling Unit with a minimum dimension of 4 feet in each direction
Number of required parking spaces	1 space per studio or 1-bedroom Residential Dwelling Unit, 2 spaces per 2- or 3-bedroom Residential Dwelling Unit, 2.5 spaces per 4 or more bedroom Residential Dwelling Unit and 0.3 spaces per Dependent Senior Residential Dwelling Unit
Parking for Senior Housing (Example: A 150-unit senior citizen housing project could be served by: (a) 150 spaces; or (b) 113 spaces plus 1 permanent service vehicle; or (c) 75 spaces plus 2 permanent common service vehicles. A 50-unit senior citizen housing project could be served by: (a) 50 spaces; or (b) 38 spaces plus 1 permanent service vehicle; or (c) 25 spaces plus 2 permanent service vehicles.)	The minimum parking ratio provided for in Section 8.34.060(A)(12) above, shall be reduced by 25% for each passenger vehicle made available permanently for use by the residents of each 75 such units or fraction thereof, provided that not less than 0.5 space shall be provided for each Residential Dwelling Unit served
Parking space dimensions	As required by Moraga Municipal Code Section 8.76.050

- B. All development shall conform to the limits identified in the table below, to the extent consistent with state law:

Development Standard	Regulation
Minimum Front Yard Setback	20 feet
Minimum side yard setback	20 feet
Minimum exterior side and rear yard setback	15 feet
Building Height	45 feet
Lot Coverage by Buildings	65 percent of project site area
Lot Coverage by Impervious Surfaces (buildings, structures, and hard paving)	70 percent of project site area
Maximum Number of Stories	3 stories
Floor Area Ratio (note: covered but unenclosed walkways and stairways are not included in the calculation of floor area)	1.15 when enclosed parking is provided, or .85 when uncovered or carport parking is provided and an additional .35 is allowed for common area facilities such as enclosed corridors, game room, dining room and facility kitchen
Private outdoor area for each unit	100 square feet attached or immediately adjacent to each unit with a minimum dimension of 6 feet in each direction; provided however that any such private outdoor area visible within 500 feet of a Major Scenic Corridor as defined in Chapter 8.132 shall be screened by landscaping and/or an opaque fencing or railing
Slope of Planted Area	33 percent

- C. See Section 8.200.050 Moraga Center Design Requirements of the Moraga Municipal Code, and Chapter 11 of the Moraga Design Guidelines for other applicable standards.”

**16. Amendment of Section 8.34.070.** Section 8.34.070, Design Requirements, of Twenty Dwelling Unit Per Acre Residential District (R-20), of Title 8, Planning and Zoning is hereby deleted and replaced with the following:

**“8.34.070 – Design Requirements.**

- A. All development shall comply with the following requirements in addition to Chapter 8.200.050 Moraga Center Design Requirements:
1. The lowest floor of all new residential structures, including basement areas, shall be located at an elevation that is at least two feet above the 100-year (one percent annual occurrence) base flood elevation in accordance with MMC Section 8.108.120(C)(1)(a).
  2. If a grading permit is required, it shall be in compliance with all provisions of Title 14 of the Moraga Municipal Code except Moraga Municipal Code Chapters 14.08, 14.12, and 14.16 and shall not be subject to discretionary review.
  3. All retaining walls, with the exception of building foundations, shall be no higher than five feet. If a fence is located within two feet of a retaining wall the combined retaining wall

and fence height shall not exceed eight feet. There shall be no more than three new retaining walls running in the same direction located within fifty (50) feet of one another. The minimum distance between any two retaining walls is equal to the height of the wall and the area between the walls shall be planted.

4. No grading shall result in a slope steeper than thirty-three (33) percent.
5. Three-story building elements visible from public streets or public facilities shall be designed with varied setbacks, articulated exterior forms, or architectural features which add detail, including, but not limited to pitched roofs with dormer windows, parapet walls, etc.
6. If development is proposed within five hundred (500) feet of a major scenic corridor as defined in Chapter 8.132:
  - a. Building setbacks from the scenic corridor shall be varied in order to avoid creation of a walled effect, with the setback for third floor elements increased by fifty (50) percent above the minimum otherwise applicable in this district.
  - b. Grading or earth-moving shall be designed and executed in such manner that final contours transition smoothly with the adjoining natural grade. Exposed finished slopes shall be planted with materials selected to minimize the potential for erosion and to provide for visual compatibility with adjoining ground covers.
  - c. The number of access points to and from the scenic corridor shall be minimized consistent with traffic safety and project access and circulation needs.
  - d. All parking required under Sections 8.34.060(A)(12)—(13) shall be provided onsite. Parking on the scenic corridor roadways shall be minimized.
  - e. All existing trees shall be identified on the plans submitted by a licensed arborist, including the condition, size and species of the trees. Plans shall include measures to protect trees in good condition identified on the plans for preservation and mitigation measures, including but not limited to replacement. Placement of temporary construction fencing around the drip line of such trees shall be a condition.
7. A minimum of two hundred (200) cubic feet of enclosed weather-proof and lockable private storage space in addition to guest, linen, pantry and clothes closets customarily provided shall be provided for each unit other than a Dependent Senior Residential Dwelling Unit.
8. No exception to the regulations in Section 8.34.060 or 8.34.070 is allowed for any development project which is subject to the ministerial review process.”

**17. Deletion of Section 8.36.015.** Section 8.36.015, Definitions, of Chapter 8.36, Community Commercial District, of Title 8, Planning and Zoning, is hereby deleted.

**18. Amendment of Section 8.36.020.** Section 8.36.020, Permitted Uses, of Chapter 8.36, Community Commercial District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.36.020 - Permitted Uses.**

In this district, each of the following uses is permitted by right :

1. Animal Services - Grooming only;
2. Antique, Collectible Store;
3. Banks and Financial Services;
4. Business Support Services;
5. Catering Service;
6. Cultural Institution;
7. Eating and Drinking Establishments except Bar, Night Club, Lounge or Restaurant with Drive-in Service
8. Fitness Facility, Health Club;
9. Food, Beverage Sales except Liquor Store;
10. Indoor Entertainment Facility less than 5,000 square feet with no alcohol sales;
11. Licensed Massage Establishments;
12. Medical - Medical Services Facility and Urgent Care Facility only;
13. Offices;
14. Outdoor Retail Sales;
15. Personal Services, General;
16. Personal Services, Improvement or Instructional;
17. Professional Services;
18. Retail Business;
19. Schools - Trade School, Vocational Training only; and
20. Other uses found by the Planning Commission at a public hearing to be consistent with the purpose of the district and comparable to any of the foregoing uses.”

**19. Amendment of Section 8.36.030.** Section 8.36.030, Conditional Uses, of Chapter 8.36, Community Commercial District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

“8.36.030 - Conditional Uses.

In this district, each of the following uses is permitted on the issuance of a conditional use permit:

- A. Adult (Sex-oriented) Business;
- B. Animal Services;
- C. Assembly or Meeting Facility;
- D. Automobile Services and Repair;
- E. Banquet Hall;
- F. Big Box Retail;
- G. Building Materials Sales and Services;
- H. Child Day Care Center;
- I. Contractors, Special Trade;
- J. Convenience Store;
- K. Drive-In Service;
- L. Eating and Drinking Establishments – Bar, Night Club, Lounge or Restaurant with Drive-In Service;
- M. Food, Beverage Sales - Liquor Store
- N. Government Office;



- O. Hotel;
- P. Indoor Entertainment Facility 5,000 square feet or greater, sale of alcohol allowed;
- Q. Live Entertainment Venue;
- R. Media Production Facility;
- S. Research and Development, or Laboratory;
- T. Payday Lending Establishment;
- U. Personal Services, Other;
- V. Retail Business - Nursery, Garden Center;
- W. Schools - Colleges, Universities only;
- X. Secondhand Sales;
- Y. Theater, Auditorium;
- Z. Tobacco Store;
- AA. Vehicle and Equipment Facilities ("Vehicle Storage"); and
- BB. A use which the Planning Commission has found to be comparable at a public hearing to any of the foregoing uses.

**20. Amendment of Section 8.36.040.** Section 8.36.040, Site Standards, of Chapter 8.36, Community Commercial District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**"8.36.040 – Site Standards.**

A. Site Standards.

Standard	
Minimum lot area:	10,000 square feet
Minimum lot width:	100 feet
Front yard setback:	50 feet
Exterior side yard setback:	50 feet
Side yard setback:	None
Rear yard setback:	None

- B. Increase in Side and Rear Yard Setback Requirements. The Planning Commission acting as the Design Review Board for a conditional use permit application may establish increased side yard or rear yard setback requirements, or both, if it determines that the increase is necessary to establish a proper site planning relationship for existing and proposed uses.
- C. Increase or Decrease in Front and Exterior Side Yard Setback Requirements. The Planning Commission upon review of a design review application or conditional use permit application may increase or decrease the front and exterior side yard setback standards upon determination that:
  - 1. The modification is justified based on the existing locations of buildings, parking areas and other access points;
  - 2. The design is consistent with the intent of this chapter and is complementary and compatible with existing development on the same site;
  - 3. The modification will not have an adverse effect on other properties in the vicinity of the project."

21. **Addition of Chapter 8.37.** Chapter 8.37, MCSP Commercial District (MCSP-C), is hereby added to Title 8, Planning and Zoning, of the Moraga Municipal Code as follows:

### **“Chapter 8.37 – MCSP Commercial District (MCSP-C)**

#### **8.37.010 – Purpose.**

The purpose of this district is to provide for a commercial land use district within the Moraga Center Specific Plan (MCSP) area, as established in the Moraga Center Specific Plan.

#### **8.37.020 – Permitted Uses.**

In this district, each of the following uses is permitted by right:

A. Office, Commercial, and Retail Uses:

1. Adult Day Care Center;
2. Animal Services - Grooming only;
3. Antique, Collectible Stores;
4. Assembly or Meeting Facility less than 5,000 square feet;
5. Banks and Financial Services;
6. Banquet Hall less than 5,000 square feet;
7. Building Materials Sales and Services;
8. Business Support Services;
9. Catering Services;
10. Child Day Care Center;
11. Cultural Institution;
12. Eating and Drinking Establishments excluding Bar, Night Club, Lounge and Restaurant with Drive-In Service;
13. Fitness Facility, Health Club;
14. Food, Beverage Sales except Liquor Stores
15. Hotels;
16. Licensed Massage Establishments;
17. Offices;
18. Outdoor Retail Sales;
19. Personal Services, General;
20. Personal Services, Improvement or Instructional;
21. Professional Services;
22. Religious Facility less than 5,000 square feet;
23. Retail Businesses;
24. Schools– Trade Schools, Vocational Training only;
25. Theater, Auditorium less than 5,000;

B. Business Park and Industrial Uses:

1. Media Production Facility; and
2. Utility Facility

C. Public/Quasi-Public and Recreational Uses:

1. Government Offices;
  2. Park and Outdoor Recreational Facility; and
- D. Other uses found by the Planning Commission at a public hearing to be consistent with the purpose of the district and comparable to any of the foregoing uses.

### **8.37.030 – Conditional Uses.**

In this district, each of the following uses is permitted on the issuance of a conditional use permit:

- A. Animal Services;
- B. Assembly or Meeting Facilities 5,000 square feet or greater;
- C. Automobile Services and Repair;
- D. Banquet Hall 5,000 square feet or greater;
- E. Big Box Retail Business;
- F. Convenience Store;
- G. Contractors, Special Trade;
- H. Drive-In Service – drive-through pharmacy or bank only;
- I. Eating and Drinking Establishments - Bar, Night Club, Lounge and Restaurant with Drive-In Service;
- J. Indoor Entertainment Facility
- K. Live Entertainment Venue;
- L. Medical - Medical Services Facility and Urgent Care Facility only;
- M. Personal Services, Other;
- N. Religious Facility 5,000 square feet or greater;
- O. Secondhand Sales;
- P. Sports Recreation Facility;
- Q. Theater, Auditorium 5,000 square feet or greater;
- R. Utility Facility, Transmission Towers; and
- S. A use which the Planning Commission has found to be comparable at a public hearing to any of the foregoing uses.

### **8.37.040 – Development Standards.**

- A. Development standards. All development shall conform to the limits identified in the table below, to the extent consistent with state law:

**MCSP COMMERCIAL DEVELOPMENT STANDARDS**

Standard	
Minimum lot area	10,000 square feet
Minimum lot width	100 feet
Minimum lot depth	100 feet
Minimum front yard setback	None (See A1)
Exterior side yard setback	None (See A1)
Side yard setback	None (See A1)
Rear yard setback	None (t See A1)

## MCSP COMMERCIAL DEVELOPMENT STANDARDS

Standard	
Maximum building height	35 feet (See A1)
Maximum stories	2 stories
Maximum Floor Area Ratio Factor (FAR)	.60
Maximum lot coverage	60 percent

1. Proposed developments fronting onto or abutting against a major scenic corridor as defined in Chapter 8.132 (Scenic Corridors) shall be subject to the setback and stepback requirements set forth in Section 8.200.050 (Moraga Center Design Requirements).
  2. Landscaped Areas. The lot shall contain landscaped areas designed in accordance with the state Model Water Efficiency Landscape Ordinance which shall be subject to approval by the reviewing authority.
- B. See Section 8.200.050 Moraga Center Design Requirements of the Moraga Municipal Code, and Chapter 11 of the Moraga Design Guidelines for other applicable standards.”

**22. Amendment of Section 8.40.020.** Section 8.40.020, Permitted Uses, of Chapter 8.40, Limited Commercial, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.40.020 – Permitted Uses.**

In this district, each of the following uses is permitted by right

1. Animal Services - Grooming only;
2. Antique, Collectible Store;
3. Banks and Financial Services;
4. Business Support Services;
5. Catering Services;
6. Cultural Institutions less than 5,000 square feet;
7. Eating and Drinking Establishments except Bar, Night Club, Lounge or Restaurant with Outdoor Seating or Restaurant with Drive-In Service;
8. Food, Beverage Sales except Liquor Store;
9. Indoor Entertainment Facility less than 5,000 square feet and no serving of alcoholic beverages;
10. Indoor Sports Training Facility;
11. Licensed Massage Establishments;
12. Medical - Medical Services Facility and Urgent Care Facility only;
13. Offices;
14. Personal Services, General;
15. Personal Services, Improvement or Instructional;
16. Professional Services;
17. Retail Business - General Retail and Specialty Retail only; and

18. Other uses found by the Planning Commission at a public hearing to be consistent with the purpose of the district and comparable to any of foregoing uses.”

**23. Amendment of Section 8.40.030.** Section 8.40.030, Conditional Uses, of Chapter 8.40, Limited Commercial, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

“8.40.030 – Conditional Uses.

In this district, each of the following uses is permitted on the issuance of a conditional use permit:

1. Adult (Sex-oriented) Business;
  2. Animal Services;
  3. Automobile Services and Repair
  4. Child Day Care Center - Nursery School, Preschool, Childcare only;
  5. Convenience Store;
  6. Eating and Drinking Establishments - Bar, Night Club, Lounge or Restaurant with Outdoor Seating or Restaurant with Drive-In Service;
  7. Firearm Store;
  8. Food, Beverage Sales - Liquor Store;
  9. Indoor Entertainment Facility 5,000 square feet or greater and may serve alcoholic beverages;
  10. Payday Lending Establishment;
  11. Personal Services, Other;
  12. Secondhand Sales;
  13. Self-Storage Facility, Mini-Storage; and
  14. Tobacco Store;
  15. A use which the Planning Commission has found to be comparable at a public hearing to any of the foregoing uses.
- B. In addition to the conditional use permit requirements set forth in Section 8.12.120, the following guidelines shall be used in considering the appropriateness and acceptability of a proposed conditional use:
1. The use shall be compatible in land use and traffic characteristics with other abutting uses;
  2. Any adverse characteristics of the proposed use shall be mitigated to the extent necessary to make the use compatible with neighboring uses;
  3. The use shall be located/conducted within a building or space enclosed by approved fencing, landscaping or other buildings;
  4. The use shall not generate noise levels measured in excess of fifty-five (55) dba during daytime hours, or fifty (50) dba during nighttime hours as measured inside of the nearest sensitive receptor (such as a dwelling unit, school classroom, church sanctuary or nursing home);
  5. The use will not generate excessive glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or have other characteristics that are otherwise offensive to the

senses to the extent that there is interference with the development or enjoyment of other properties in the vicinity;

6. The hours of operation will not foster conditions detrimental to the neighborhood or town.”

**24. Amendment of Section 8.40.040.** Section 8.40.040, Site Standards, of Chapter 8.40, Limited Commercial, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.40.040 – Site Standards.**

**A. Site Standards.**

Standard	
Minimum lot area:	10,000 square feet
Minimum lot width:	100 feet
Front yard setback:	25 feet
Exterior side yard setback:	25 feet
Side yard setback:	None
Rear yard setback:	None

- B. Increase in Front, Side and Rear Yard Setback Requirements. The Planning Commission, upon review of a design review application or conditional use permit application, may require an increase on the minimum front yard, side yard or rear yard requirements, or both, upon a finding that the increase is necessary to establish a proper site planning relationship to existing and proposed uses.
- C. Increase or Decrease in Front and Exterior Side Yard Setback Requirements. In connection with the issuance of a conditional use permit the planning commission may increase or decrease the front and exterior side yard setback standards upon determination that:
  1. The modification is justified based on the existing locations of buildings, parking areas and other access points;
  2. Existing facilities on the same parcel are sufficient to provide adequate services;
  3. The design is consistent with the intent of this chapter and is complementary and compatible with existing development on the same site;
  4. The modification will not have an adverse effect on other properties in the vicinity of the project.”

**25. Addition of Chapter 8.41.** Chapter 8.41, MCSP Mixed Retail / Residential District (12-20 Dwelling Unit per Acre) (MCSP MU-RR), is hereby added to Title 8, Planning and Zoning, as follows:

## **“Chapter 8.41 – MCSP Mixed Retail / Residential District (12-20 Dwelling Unit per Acre) (MCSP MU-RR)”**

### **8.41.010 – Purpose.**

The purpose of this district is to provide for commercial development, including community-serving recreational uses, combined with medium or high density residential at densities allowed in Section 8.41.040 of this chapter. This district envisions a flexible mix of land uses with retail or similar use on the first floor and residential uses above the first floor. To encourage activity along the street and enhance the pedestrian experience by creating indoor spaces where pedestrians will see or sense interior activity, all first floor areas facing School Street must have a retail or active use.

### **8.41.020 – Permitted Uses.**

In this district, each of the following uses is permitted by right:

- A. Residential uses at densities allowed in Section 8.41.040 of this chapter;
- B. Home Occupations in conformance with Chapter 8.112;
- C. Congregate Care Housing;
- D. Child Day Care Center; and
- E. The following Office, Commercial, and Retail Uses:
  - 1. Animal Services - Grooming only;
  - 2. Antique, Collectible Stores;
  - 3. Assembly or Meeting Facility less than 5,000 square feet;
  - 4. Banks and Financial Services;
  - 5. Building Materials Sales and Services;
  - 6. Business Support Services;
  - 7. Cultural Institutions less than 5,000 square feet;
  - 8. Eating and Drinking Establishments except Restaurants with Drive-In Service;
  - 9. Fitness Facility, Health Club less than 10,000 square feet;
  - 10. Food, Beverage Sales;
  - 11. Hotels;
  - 12. Licensed Massage Establishments;
  - 13. Offices;
  - 14. Outdoor Retail Sales;
  - 15. Personal Services, General;
  - 16. Personal Services, Improvement or Instructional;
  - 17. Professional Services;
  - 18. Retail Business;
  - 19. Schools– Trade Schools, Vocational Training only;
  - 20. Theater, Auditorium;
- F. Business Park and Industrial Uses:
  - 1. Media Production Facility;
- G. Public/Quasi-Public and Recreational Uses:
  - 1. Government Offices;

2. Park and Outdoor Recreational Facilities;
- H. Other uses found by the Planning Commission at a public hearing to be consistent with the purpose of the district and comparable to any of the foregoing uses.

#### **8.41.030 – Conditional Uses.**

In this district, each of the following uses is permitted on the issuance of a conditional use permit:

- A. Animal Services;
- B. Assembly or Meeting Facilities 5,000 square feet or greater;
- C. Banquet Hall;
- D. Contractors, Special Trade;
- E. Cultural Institutions 5,000 square feet or greater;
- F. Fitness Facility, Health Club 10,000 square feet or greater;
- G. Meeting Halls for Clubs, Lodges, and Other Membership Organizations;
- H. Personal Services, Other;
- I. Secondhand Sales;
- J. Religious Facility
- K. Utility Facility, Transmission Towers; and
- L. A use which the Planning Commission finds at a public hearing to be comparable to any of the foregoing uses.

#### **8.41.040 – Residential Density.**

A. To the extent consistent with State law, the developer/property owner may choose to develop property in this district at a minimum of twelve (12) dwelling units but not more than twenty (20) dwelling units shall be erected on any one acre, except as provided in subsection B of this section.

B. The allowable density may be increased on any one acre sized parcel in compliance with all applicable state laws.

#### **8.41.050 – Development Standards.**

- A. Development standards. All development shall conform to the limits identified in the table below, to the extent consistent with state law:

**MCSP MIXED RETAIL / RESIDENTIAL DEVELOPMENT STANDARDS**

<b>Standard</b>	
Minimum lot area	10,000 square feet
Minimum lot width	30 feet
Minimum lot depth	100 feet
Minimum width	30 feet
Minimum front yard setback:	0 feet (See A1)
Minimum side yard setback:	0 feet (See A1)
Minimum exterior side yard setback:	0 feet (See A1)
Minimum rear yard setback:	0 feet (See A1)
Minimum lot area	10,000 square feet



## MCSP MIXED RETAIL / RESIDENTIAL DEVELOPMENT STANDARDS

Standard	
Maximum building height (primary)	45 feet (See A1)
Minimum private open space (applies only to residential uses of development)	Greater than or equal to 5 percent of each dwelling unit floor area (minimum of 50 square feet and minimum dimension of 5 feet in each direction)
Minimum building separation for multiple buildings on a single lot	
2 story structures	25 feet (see A2)
3-story structures	35 feet (see A2)
Maximum floor area ratio (applies only to non-residential uses of development)	0.85
Maximum stories	3 stories
Maximum lot coverage	60 percent

1. Proposed developments fronting onto or abutting against a major scenic corridor as defined in Chapter 8.132 (Scenic Corridors) shall be subject to the setback and step back requirements set forth in Section 8.200.050 (Moraga Center Design Requirements).
  2. Where two different building heights are adjacent, taller building controls separation.
- B. First Floor Requirement. All first floor areas fronting onto or abutting against School Street must have:
1. A Retail Business use, Eating/Drinking Establishment, Specialty Food Shop, Personal Service (General or Improvement/Instructional), or Professional Service use; or
  2. The portion of a residential use providing active use amenities, such as a workout room or gym, a building lobby or a lounge; or
  3. Another use found by the Planning Commission to provide the sense of activity referenced in this standard.
- C. See Section 8.200.050 Moraga Center Design Requirements of the Moraga Municipal Code, and Chapter 11 of the Moraga Design Guidelines for other applicable standards.”

**26. Addition of Chapter 8.42.** Chapter 8.42, MCSP Mixed Office / Residential District (12-20 Dwelling Unit per Acre) (MCSP MU-OR), is hereby added to Title 8, Planning and Zoning, as follows:

### **“Chapter 8.42 – MCSP Mixed Office / Residential District (12-20 Dwelling Unit per Acre) (MCSP MU-OR)**

#### **8.42.010 – Purpose.**

The purpose of this district is to provide for office development combined with medium or high density residential at densities allowed in Section 8.42.040 of this chapter. This district envisions a flexible mix of land uses with office or similar use on the first floor and residential uses above the first floor.

#### **8.42.020 – Permitted Uses.**

Each of the following uses is permitted in this district:

- A. Residential uses at densities allowed in Section 8.42.040 of this chapter;
- B. Home Occupations in conformance with Chapter 8.112;
- C. Congregate Care Housing;
- D. Child Day Care Center (Nursery School, Preschool, Childcare, and Family Day Care Home); and
- E. The following Office, Commercial, and Retail Uses:
  - 1. Adult Day Care Center;
  - 2. Business Support Services;
  - 3. Child Day Care Centers;
  - 4. Eating and Drinking Establishment - Restaurant, Limited Service only;
  - 5. Fitness Facility, Health Club less than 10,000 square feet;
  - 6. Hotel;
  - 7. Media Production Facility
  - 8. Medical - Medical Services Facility and Urgent Care Facility only;
  - 9. Offices
  - 10. Personal Services, General;
  - 11. Personal Services, Improvement or Instructional;
  - 12. Professional Services;
  - 13. Religious Facility less than 5,000 square feet;
  - 14. Schools.
- F. Public/Quasi-Public and Recreational Uses:
  - 1. Government Offices;
  - 2. Park and Outdoor Recreational Facilities;
- G. Other uses found by the Planning Commission at a public hearing to be consistent with the purpose of the district and comparable to any of the foregoing uses.

#### **8.42.030 – Conditional Uses.**

Each of the following uses is permitted on the issuance of a conditional use permit in this district:

- A. Animal Services;
- B. Assembly or Meeting Facilities;
- C. Fitness Facility, Health Club 10,000 square feet or greater;
- D. Religious Facility 5,000 square feet or greater;
- E. Research and Development, or Laboratory; and
- F. A use which the Planning Commission has found to be comparable at a public hearing to any of the foregoing uses.

#### **8.42.040 – Residential Density.**

- A. To the extent consistent with State law, the developer/property owner may choose to develop property in this district at a minimum of twelve (12) dwelling units but not more than twenty (20) dwelling units may be erected on any one acre, except as provided in subsection B of this section.
- B. The allowable density may be increased on any one acre sized parcel in compliance with all applicable state laws.

#### 8.42.50 – Development Standards.

A. Development standards. All development shall conform to the limits identified in the table below, to the extent consistent with state law:

##### MIXED OFFICE / RESIDENTIAL DEVELOPMENT STANDARDS

Standard	
Minimum lot area	10,000 square feet
Minimum lot width	30 feet
Minimum lot depth	100 feet
Minimum frontage	30 feet
Minimum front yard setback:	0 feet (See A1)
Minimum side yard setback:	0 feet (See A1)
Minimum rear yard setback	0 feet (See A1)
Minimum lot area	10,000 square feet
Maximum building height (primary)	45 feet
Minimum private open space (applies only to residential uses of development)	Greater than or equal to 5 percent of each dwelling unit floor area (minimum of 50 square feet and minimum dimension of 5 feet)
Minimum building separation (for multiple buildings on a single lot)	
2 stories	25 feet (see note A2)
3 stories	35 feet (see note A2)
Maximum floor area ratio (applies only to non-residential uses of development)	0.85
Maximum stories	3
Maximum lot coverage	60 percent

1. Proposed developments fronting onto or abutting against a major scenic corridor as defined in Chapter 8.132 (Scenic Corridors) shall be subject to the setback and stepback requirements set forth in Section 8.200.050 (Moraga Center Design Requirements).
2. Where two different building heights are adjacent, taller building controls separation.

B. See Section 8.200.050 Moraga Center Design Requirements of the Moraga Municipal Code, and Chapter 11 of the Moraga Design Guidelines for other applicable standards.”

**27. Amendment of Section 8.44.020.** Section 8.44.020, Permitted Uses, of Chapter 8.44, Suburban Office District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

#### “8.44.020 – Permitted Uses.

In this district, each of the following uses is permitted by right:

1. Adult Day Care Center;
2. Banks and Financial Services;
3. Child Day Care Center;
4. Cultural Institution;

5. Government Offices;
6. Medical - Medical Services Facility and Urgent Care Facility only;
7. Offices;
8. Personal Services, General;
9. Personal Services, Improvement or Instructional;
10. Professional Services;
11. Other uses found by the Planning Commission to be consistent with the purpose of the district and compatible with surrounding existing uses.”

**28. Amendment of Section 8.44.030.** Section 8.44.030, Conditional Uses, of Chapter 8.44, Suburban Office District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.44.030 – Conditional Uses.**

Each of the following uses is permitted on the issuance of a conditional use permit in this district:

- A. Animal Services - Hospital, Veterinary Clinic;
- B. Assembly or Meeting Facility;
- C. Fitness Facility, Health Club;
- D. Medical - Hospital, Medical Center only;
- E. Media Production Facility;
- F. Religious Facilities (Major Religious Facilities included);
- G. Sports Recreation Facility Indoor less than 10,000 square feet;
- H. Supportive Housing and Transitional Housing of the same type allowed in this district;
- I. Government Office;
- J. Public Maintenance and Service Facility; and
- K. A use which the Planning Commission, after notice and public hearing, has found to be comparable to any of the foregoing uses.”

**29. Amendment of Section 8.44.040.** Section 8.44.040, Site Standards, of Chapter 8.44, Suburban Office District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.44.040 – Site Standards.**

- A. Minimum Site Standards.

Standard	
Minimum lot area:	10,000 square feet
Minimum lot width:	100 feet
Minimum front yard setback:	25 feet
Exterior side yard setback:	25 feet
Minimum side and rear yard setback:	10 feet

- B. Distance between principal buildings: The distance between principal buildings on the same site shall be one-half of the total combined height of the two buildings that are opposite one another.

(The reviewing authority may reduce this distance if it is determined that the reduction does not interfere with building relationships.)

- C. Increase in Front, Side and Rear Yard Setback Requirements. The Planning Commission, either acting as the Design Review Board in reviewing a building permit application or upon review of a conditional use permit application, may require an increase in the minimum front yard, side yard or rear yard requirements, or both, upon a finding that the increase is necessary to establish a proper site planning relationship to existing and proposed uses.
- D. Increase or Decrease in Front and Exterior Side Yard Setback Requirements. In connection with the issuance of a conditional use permit the planning commission may increase or decrease the front and exterior side yard setback standards upon determination that:
  - 1. The modification is justified based on the existing locations of buildings, parking areas and other access points;
  - 2. Existing facilities on the same parcel are sufficient to provide adequate services;
  - 3. The design is consistent with the intent of this chapter and is complimentary and compatible with existing development on the same site;
  - 4. The modification will not have an adverse effect on other properties in the vicinity of the project.”

**30. Amendment of Section 8.48.100.** Section 8.48.100 of Chapter 8.48, Planned Development District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

“ 8.48.100 - Findings required to approve conceptual development plan.

- A. General. To approve a conceptual development plan the planning commission must find that:
  - 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;
  - 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;
  - 3. Development other than single-family residential can be properly justified and is consistent with the general plan;
  - 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;
  - 5. The development conforms with the general plan; and
  - 6. Existing or proposed utility services will be adequate for the population densities proposed.
- B. Hillside Projects. To approve a conceptual development plan for any development that meets the requirements of Section 8.136.020 (Applicability) in Chapter 8.136 (Hillside Development) of the

Municipal Code, the reviewing authority shall make all of the findings in Municipal Code Section 8.136.050 (Findings for Approval) in addition to the findings in Section 8.48.100.A.

- C. Moraga Center Specific Plan Area Projects. To approve a conceptual development plan for any development that occurs within the Moraga Center Specific Plan area, the reviewing authority shall make the finding that the conceptual development plan meets all applicable requirements of the Moraga Center Specific Plan.”

**31. Deletion of Section 8.50.020.** Section 8.50.020, Definitions, of Chapter 8.50, Planned Development Commercial (PD-C), of Title 8, Planning and Zoning is hereby deleted.

**32. Amendment of Section 8.52.030.** Section 8.52.030, Permitted Uses, of Chapter 8.52, MOSO and Non-MOSO Open Space Districts, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.52.030 – Permitted Uses.**

Agriculture “

**33. Amendment of Section 8.52.040.** Section 8.52.040, Conditional Uses, of Chapter 8.52, MOSO and Non-MOSO Open Space Districts, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

“8.52.040 – Conditional Uses.

Each of the following uses is permitted on the issuance of a conditional use permit in this district:

- A. Single-family residential dwelling (including accessory buildings and structures);
- B. Park and Outdoor Recreational Facility; and
- C. Schools (College, University [private only]).”

**34. Amendment of Section 8.56.020.** Section 8.56.020, Permitted Uses, of Chapter 8.56, Institutional District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“ 8.56.020 – Permitted Uses.**

- A. Agriculture; and
- B. Emergency Shelters that are in conformance with the requirements of Chapter 8.164.”

**35. Amendment of Section 8.56.030.** Section 8.56.030, Conditional Uses, of Chapter 8.56, Institutional District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.56.030 – Conditional Uses.**

Each of the following uses is permitted on the issuance of a conditional use permit in this district:

- A. Park and Outdoor Recreational Facility;
- B. Religious Facility; and
- C. Schools (College, University [private only]).”

**36. Amendment of Section 8.60.020.** Section 8.60.020, Permitted Uses, of Chapter 8.60, Study District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

“ 8.60.020 – Permitted Uses.

Agriculture”

**37. Amendment of Section 8.60.030.** Section 8.60.030, Conditional Uses, of Chapter 8.60, Study District, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

“8.60.030 – Conditional Uses.

In this district, all uses other than “Agriculture” are permitted on the issuance of a conditional use permit.”

**38. Addition of Chapter 8.65.** Chapter 8.65, Moraga Ranch Overlay District, is hereby added to Title 8, Planning and Zoning, as follows:

## **“Chapter 8.65 Moraga Ranch Overlay District**

### **8.65.010 – Purpose.**

The intent of the Moraga Ranch Overlay District is to encourage the preservation the traditional rural character of the existing Morga Ranch site and buildings, while also allowing for reuse, restoration, renovation, improvement, and new development such as additional retail space, a bed and breakfast or a boutique hotel to add additional activity within this portion of the MCSP Commercial District.

### **8.65.020 – Applicability.**

The use and development standards and regulations of the MCSP Commercial District as set forth in Chapter 8.37 are incorporated herein as though fully set forth and they shall apply in conjunction with this chapter to developments and activities occurring within the Moraga Ranch Overlay District area as shown in Figure 8.200-2 (MCSP Zoning Districts).

### **8.65.030 – Permitted Uses and Conditional Uses**

Permitted Uses are as set forth in Section 8.37.020 and Conditional Uses are as set forth in Section 8.37.030.

### **8.65.040 – Development Standards**

Development standards are as set forth in Section 8.37.040.

### **8.65.050 – Additional Design Requirements.**

Design of development within this overlay district is encouraged to comply with the following standard:

- A. New development shall retain the existing architecture to the extent possible;
- B. The unique setting and architectural character of the existing buildings shall be preserved to the extent possible; and
- C. Buildings shall be clustered to protect some of the remaining orchard areas, particularly those areas that are most visible from Moraga Way to the extent possible.

**39. Amendment of Section 8.76.080.** Section 8.76.080, Shared Parking, of Chapter 8.76, Off-Street Parking and Loading, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:

**“8.76.080 - Shared parking.**

- A. When an application for a conditional use permit proposes to use a property that has already been approved for one or more other uses, the planning commission may authorize a reduction in the total number of parking spaces required, provided the uses have differing peak time parking needs and the number of parking spaces is adequate for the peak needs of the property.
- B. When an application for a permitted use proposes to use a property that has already been approved for one or more other uses, the planning director may, after giving notice to the planning commission, authorize a reduction in the total number of parking spaces required, provided the uses have differing peak time parking needs and the number of parking spaces is adequate for the peak needs of the property.
- C. For developments within the MCSP area, required parking for areas serving two or more use types shall be calculated using the following table.

SHARED PARKING FACTORS

	Residential	Lodging	Office	Retail
Residential	1.0	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Retail	1.2	1.3	1.2	1.0

- 1. If there are two proposed uses being served, then the normal parking requirement for each use type shall be divided by the shared parking factor identified for those two uses in the table. For example, for a development with both a retail use and a residential use, the normal parking requirement for each use would be divided by 1.2 (according to the table).
- 2. If there are three or more uses being served, then the normal parking for each use type shall be divided by highest shared parking factor identified for the co-occurrence of any two uses in the table. For example, a development with lodging, office, and retail uses would divide the normal parking requirement for each use by 1.7,(the largest shared parking factor out of all co-occurrences of uses).
- 3. If a specific use is not identified in the table above, the Planning Director shall determine which uses shall be used for calculation of shared parking reductions.”

**40. Deletion of Section 8.124.020.** Section 8.124.020, Definitions, of Chapter 8.124, Accessory Dwelling Units, of Title 8, Planning and Zoning is hereby deleted.

**41. Amendment of Section 8.148.050.** Section 8.148.050 of Chapter 8.148, Miscellaneous Use Restrictions, of Title 8, Planning and Zoning, is hereby deleted and replaced with the following:



### **“8.148.050 – Temporary Uses.**

- A. Purpose. This section establishes procedures, standards, and requirements for the approval of temporary activities, events, and uses which are intended to operate on a short-term basis for a limited period. Such activities, events, and uses may not meet the typical use or development standards for a particular zoning district but may be acceptable due to their temporary nature. Temporary activities, events, and uses include special events provided for the enjoyment of the public, sales and promotional activities intended to serve commercial interests, seasonal activities, temporary construction related activities, and similar temporary activities, events, and uses.
- B. Applicability. This section shall apply to temporary activities, events, and uses which are established, operated, and conducted as required by this section. Engaging in a temporary use that is permit exempt or obtaining a temporary use permit for a particular use shall not affect any future determination as to whether a temporary use or conditional use permit should be issued for the same use.
- C. Permit Requirements. Unless otherwise specified in this section, temporary events, activities, and uses shall require the following approvals.
  - 1. Administrative Temporary Use Permits. Temporary uses may be approved by the Zoning Administrator through issuance of an “Administrative Temporary Use Permit” for temporary uses occurring within a parking lot or other open privately or publicly owned land in any land use district to be occupied with a temporary use as set forth in this section. The Zoning Administrator may grant approval at a staff level unless it is determined that the matter of issuance of a permit should first be reviewed by the Planning Commission pursuant to Sections 8.148.050.G and 8.148.050.H.
  - 2. Conditional Temporary Use Permits. Conditional temporary uses are allowed subject to approval of a “Temporary Use Permit” by the Planning Commission in accordance with Sections 8.148.050.G and 8.148.050.H.
- D. Exempt Temporary Uses. No permit is required prior to engaging in an Exempt Temporary Use. Exempt temporary uses conducted in accordance with the limitations and conditions described below shall include:
  - 1. Emergency Facilities. Emergency public health and safety facilities and activities.
  - 2. Garage Sales. No property may conduct more than three garage sales per year, and no garage sale may exceed two consecutive days.
  - 3. Public Property Activities. Temporary Activities which are authorized by the Town and conducted on Town-owned properties. Such activities may be subject to permits from the Town’s Parks and Recreation Department or Public Works Department.
  - 4. Short-Term Promotional Program. A Promotional Program operated for ten consecutive calendar days or less, and conducted by the owner or operator of a shopping center or a merchant's association within a shopping center, so long as written notice of the promotional program is provided to the Zoning Administrator at least ten working days in advance.

5. Up to two portable moving and storage units placed entirely on a residential property for no more than 30 consecutive days, no more than two times per calendar year.
  6. Temporary Uses consistent with the Saint Mary's Campus Master Plan or conducted on public school property.
- E. Administratively Approved Temporary Uses. Administrative Temporary Uses (when conducted in a manner to enable the Zoning Administrator to make the findings in Section 8.148.050.G and Section 8.148.050.H and the limitations and conditions described below) shall include:
1. Construction Yards – On-Site. On-site construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the construction activities, or expiration of the building permit or other permit authorizing the construction project, whichever occurs first. An application for an on-site construction yard shall include the following.
    - a. A plan showing the location, security fencing, lighting, and landscaping shall be submitted for review and approval by the Zoning Administrator prior to issuance of a grading permit or building permit, as applicable. The plan may include shipping containers for storage of construction equipment which shall, as much as is feasible, be located out of view or screened from view of public streets. Performance standards (e.g., related to screening) may be applied for such facilities.
  2. Promotional Events. Special events that meet the following criteria, as applicable, when the Zoning Administrator determines that the event or activity will not impact an adjacent residential area:
    - a. Is located on property in an office, commercial, mixed-use office or mixed-use commercial zoned district;
    - b. Occurs between the hours of 8:00 a.m. and 9:00 p.m.;
    - c. Limited to 100 persons at one time;
    - d. Does not have amplifying equipment within 300 feet of a residential area; and
    - e. Limited to five consecutive days in the same location not more than once every six months.
  3. Real Estate Sales Offices. Temporary real estate sales offices for the initial sale of property in new residential developments, subject to the following standards:
    - a. Is located within a new residence that is part of the development or within a temporary building that is no larger than 3,000 square feet; and
    - b. Adequate visitor parking and safe circulation are provided that will not interfere with ongoing construction activities.
  4. Model Homes. A model home or model home complex for an approved residential subdivision which has active construction permits, subject to the following standards:
    - a. Adequate visitor parking and safe circulation are provided that will not interfere with ongoing construction activities; and
    - b. The models shall be converted to units for sale upon the completion of sales of all similar models or prior to acceptance of the subdivision improvements by the Town.

5. Temporary Work Trailers. A trailer or modular building used as a construction office, or a temporary work site for employees of a business, subject to the following standards:
  - a. There is an approved building permit for the permanent facility;
  - b. The trailer or modular building is only allowed during the construction of a subdivision, or permanent nonresidential structure or facility;
  - c. The trailer or modular building shall be approved until expiration of the building permit or other construction permit, whichever occurs first, unless an extension is granted; and
  - d. The trailer or modular building is removed prior to final building inspection or issuance of a certificate of occupancy for the permanent structure.
6. Residential Moving and Storage Units. More than two units or placement of the units for more than 30 consecutive days or more than two times per calendar year.
7. Seasonal Holiday Sales. The use of a specific site for seasonal holiday sales shall be subject to the following standards.
  - a. Sales of pumpkins may be conducted between October 1st and Thanksgiving Day, and sales of Christmas trees may be conducted between Thanksgiving Day and December 25th, seven days a week. Sale of seasonal goods other than Christmas trees or pumpkins shall be limited to seven calendar days total within a 12-month period. A seasonal sale shall only operate between the hours of 8:00 a.m. and 9:00 p.m.;
  - b. Seasonal sales lots shall be located in an office, commercial, mixed-use office or mixed-use commercial zoned district.
8. Location Filming. The use of a specific site for the filming of commercials, movies, videos, etc. subject to the following standards.
  - a. A written and/or visual plan providing the location, duration, and description of the location filming;
  - b. Permits may be required by the Department of Public Works, Parks and Recreation Department, Police Department and/or Fire District; and
  - c. Limited to four 30-day limits within a 12-month period.
9. Outdoor Sales and Displays. Temporary promotional sales and outdoor displays, associated with a permanent on-site use, may occur in commercial zoning districts, subject to the following standards:
  - a. Merchandise displays are located in close proximity to the primary structure where the items are sold indoors;
  - b. Merchandise display is associated with the primary business;
  - c. Merchandise is displayed in a planned, orderly, and attractive manner as an extension of the window display and shall not constitute an expansion of the retail floor area (such as clothing racks);
  - d. Merchandise displays do not interfere with adjacent business displays, storefronts, access, or visibility;

- e. Merchandise displays occupy a fixed, specifically approved, and defined location that does not disrupt pedestrian traffic, obstruct access to parking areas or driveways, or encroach onto landscape areas;
  - f. Display fixtures are of good quality and durable materials and construction;
  - g. Merchandise displays do not exceed a height of eight feet above the sidewalk;
  - h. Displays are removed during nonbusiness hours, unless otherwise approved; and
  - i. Limited to ten consecutive days, four times within a 12-month period.
- 10. Temporary Classrooms. A temporary classroom, including a manufactured or mobile unit, may be approved for a maximum of one year at an existing private school. An extension of one year may be granted by the Zoning Administrator. A temporary structure proposed for a longer time period shall comply with all provisions of the development code applicable to a permanent structure on the same site.
- 11. Miscellaneous temporary uses or facilities. A temporary use or facility meeting the following criteria, as applicable, when the Zoning Administrator determines that the event or activity will not impact an adjacent residential area:
  - a. Is not a merchandise display, sales or promotional activity, and may include recreational, food sales or similar activities;
  - b. Is located in an office, commercial or mixed-use office or commercial zoned district;
  - c. Occurs between 8:00 a.m. and 9:00 p.m.;
  - d. Is not attended by more than 100 persons at one time;
  - e. Does not have amplifying equipment within 300 feet of a residential area;
  - f. Does not exceed an area of more than 5,000 square feet and may include temporary buildings or structures; and
  - g. Does not occur for more than 60 days in the same location within a 12-month period. After operation begins an additional 30 days may be granted if the Zoning Administrator determines that the temporary use or facility is operating in compliance with conditions of approval and is not a detriment to the surrounding area.
- 12. Similar Temporary Uses. A temporary use that the Zoning Administrator determines is similar to the other activities listed in this section and that are compatible with the applicable zoning district and surrounding land uses.
- F. Conditional Temporary Uses. A temporary use permit shall be required for temporary activities, events, and uses that do not meet the standards for issuance of an Administrative Temporary Use Permit, or when determined by the Zoning Administrator that the matter of issuance of a permit should first be reviewed by the Planning Commission. Approval shall be granted only when all of the findings of Section 8.148.050.G can be made by the Planning Commission.
- G. Findings. A temporary use shall be approved only when the findings listed below can be made. If the reviewing authority cannot make the findings, the temporary use shall be denied, in which case the applicant shall be provided a written determination within ten calendar days of the decision.

1. The establishment, maintenance, or operation of the activity, event, or use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the proposed use;
  2. The activity, event, or use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city;
  3. Approved measures for the removal of the temporary use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses that might otherwise be allowed;
  4. The approval includes provisions to ensure that each site occupied by a temporary use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the activity, event, or use and shall thereafter be used in compliance with the provisions of the development code. The review authority may require an appropriate security deposit prior to the initiation of the activity, event, or use to ensure proper cleanup after the use is terminated; and
  5. Additional conditions may be required, as appropriate, to minimize any adverse impacts of the temporary use.
- H. Standard Conditions. Each application for a Temporary Use Permit shall include a site plan, project description, detailed business plan and details for any temporary structures. The following standard requirements/conditions shall apply to temporary uses.
1. Adequate parking facilities and vehicular and pedestrian circulation shall be provided;
  2. Appropriate setbacks based on the underlying zoning district shall be provided to ensure adequate separation from adjoining land uses and a safe environment for vehicles and pedestrians;
  3. A plan demonstrating the manner in which nuisance factors to adjoining parcels, such as glare or direct illumination, dirt, dust, noise, odors, smoke, waste, and vibration shall be prevented;
  4. Outdoor light fixtures shall be shielded and mounted so that the source of light has minimal impact off-site, is directed toward the property and does not spill onto adjacent properties; and
  5. Any proposed signage shall comply with Chapter 8.88 – Signs.
  6. All elements related to the temporary use, including but not limited to signs and temporary structures, shall be removed within ten days after the use has discontinued, and the appearance of the site shall be returned to its original state.
- I. Prohibited Temporary Activities, Uses, and Structures. The following activities, uses and structures shall not qualify as temporary uses:
1. Privately Owned Vehicle Sales. The parking of privately owned automobiles in office, commercial, mixed-use office, mixed-use commercial areas or public parking lots for the express purpose of offering the vehicle for sale is prohibited.
  2. Shipping Containers. Except as allowed in Section 8.148.050.E.1, shipping containers, excluding residential portable on demand storage units, shall be prohibited for temporary uses.

3. Circuses, carnivals, and similar events.”

**42. Addition of Chapter 8.200.** Chapter 8.200, Moraga Center Specific Plan Area Regulations, is hereby added to Title 8, Planning and Zoning, of the Moraga Municipal Code as follows:

## **“ Chapter 8.200 Moraga Center Specific Plan Area Regulations**

### **8.200.010 – Purpose.**

This chapter establishes regulations for development within the Moraga Center Specific Plan (MCSP) area in the town. The intent of these regulations is to implement the MCSP, as set forth here:

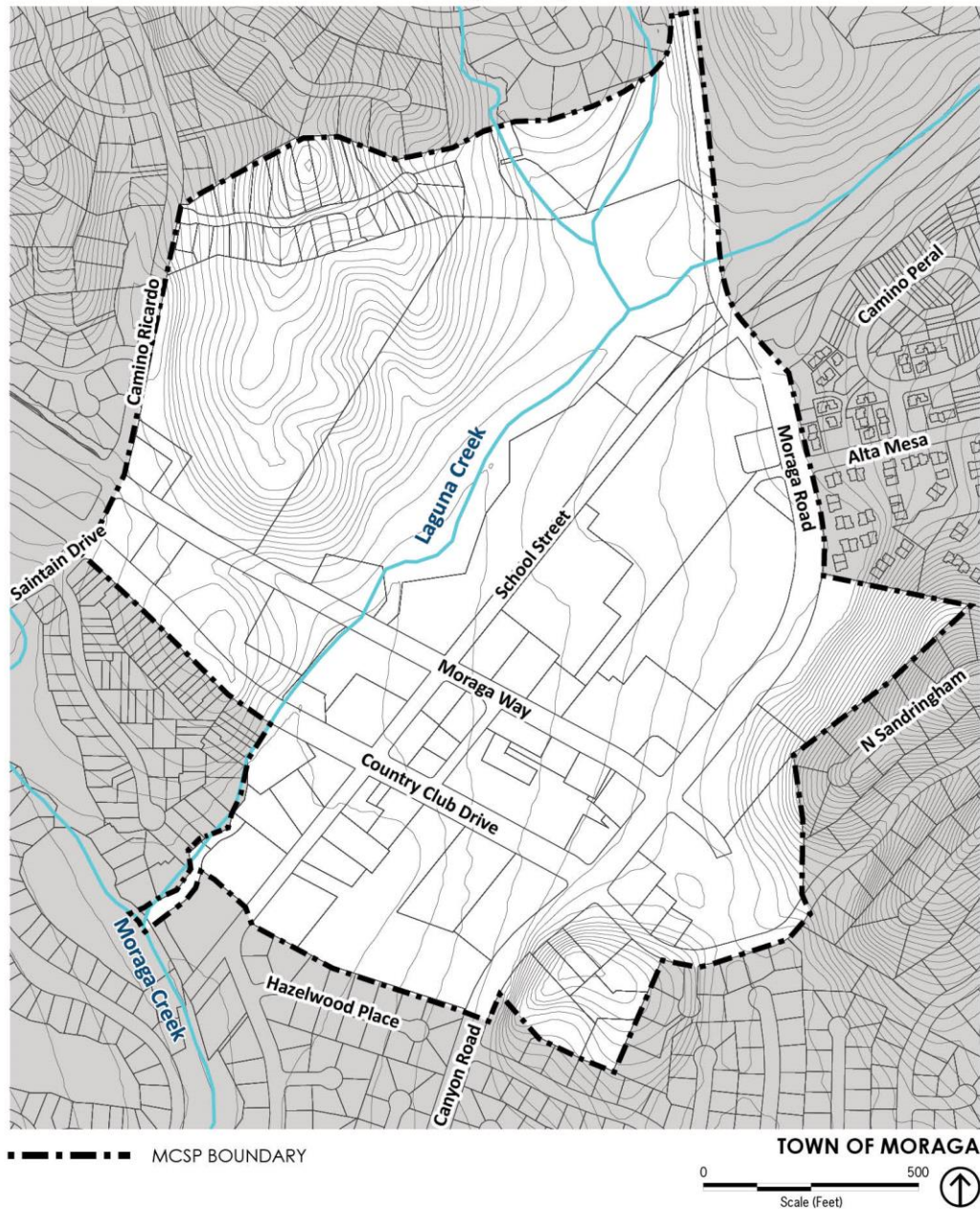
- A. Standards and criteria by which development within the MCSP area will proceed.
- B. Standards and criteria for development of the circulation and street network within the MCSP area.
- C. Establish development potential for retail, office, and hotel uses within the MCSP area.
- D. Required streets, trails, bridges, and other public infrastructure to be erected within the MCSP area.
- E. Standards for the conservation and protection of Laguna Creek and Moraga Creek, along with other natural resources and features, where applicable.
- F. Standards and criteria for creation of a Town Square focal point within the MCSP area.
- G. Standards and criteria for development of the MCSP area into an environment that accommodates multiple modes of travel; multiple types of residential uses, including multifamily and residential care facilities; and appropriate mixture of civic, public, office, retail, and other related uses.

### **8.200.020 – Applicability.**

- A. The standards and regulations of this chapter shall only apply to developments and activities occurring within the MCSP area as shown in Figure 8.200-1 [Moraga Center Specific Plan (MCSP) Area].

Figure 8.200-1 – Moraga Center Specific Plan (MCSP) Area

### MORAGA CENTER SPECIFIC PLAN (MCSP) AREA

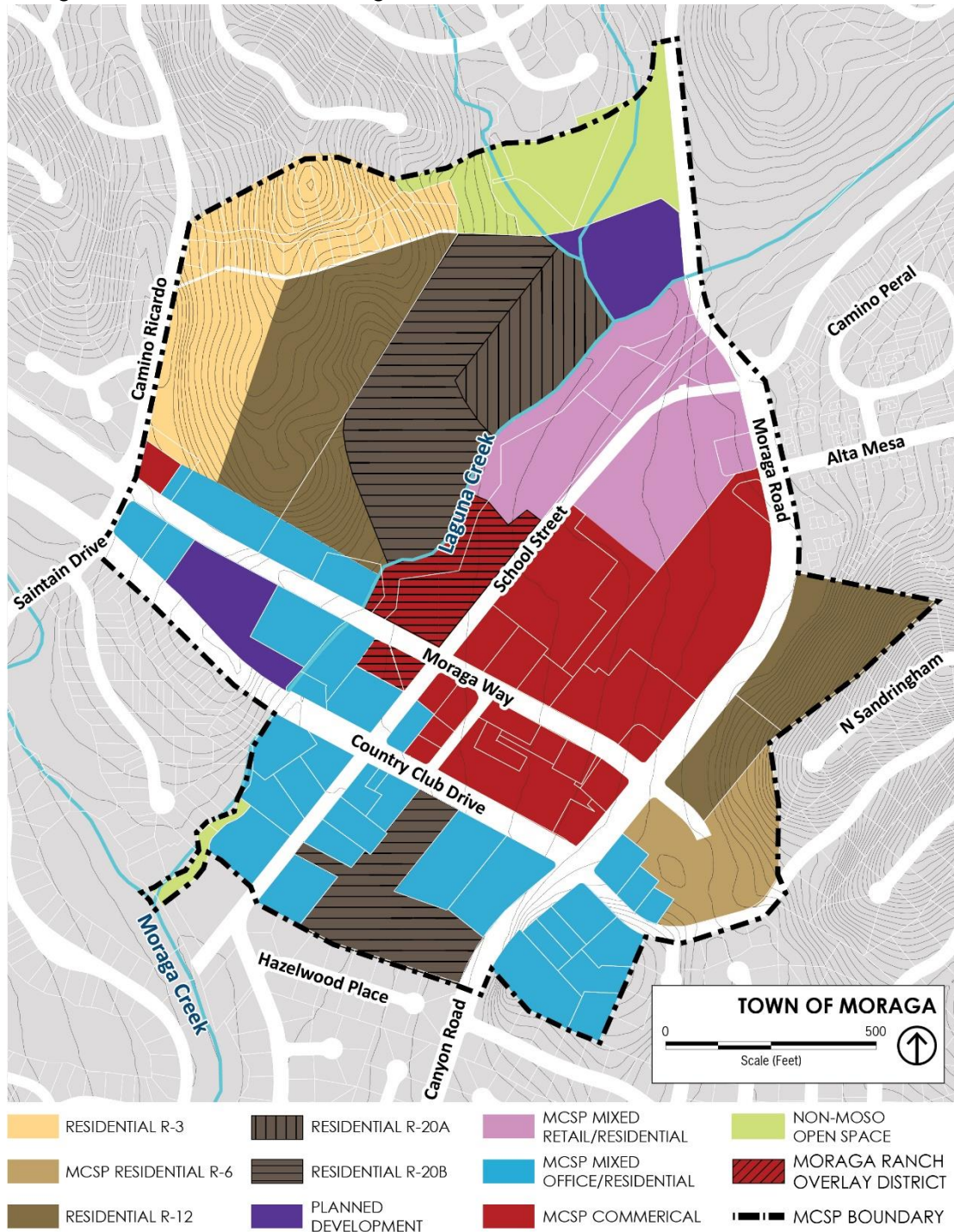


#### 8.200.030 – MCSP Zoning Districts

Zoning districts shall be established in the MCSP Area as shown in Figure 8.200-2 (MCSP Zoning Districts).



Figure 8.200-2 – MCSP Zoning Districts





### **8.200.040 – Moraga Center Development Potential.**

To the extent consistent with state law, the maximum development potential for the MCSP Area is established as follows, as set forth in Table 4-1 of the MCSP and subject to the land use equivalents in Table 4-2 of the MCSP:

MCSP DEVELOPMENT POTENTIAL	
Land Use Category	Quantified Development Objective
Retail (including restaurants and entertainment)	90,000 square feet
Office	50,000 square feet
Hotel	85 rooms
Congregate Care Housing	150 rooms
Active Senior Housing	200 units (or 300 units with state mandated density bonus)
Single-Family Housing	65 units
Workforce Housing	80 units (or 100 units with state mandated density bonus)
Compact Single-Family Housing	165 units
<b>Housing Subtotal</b>	<b>510 units (or 630 units with state mandated density bonus)</b>

### **8.200.050 – Moraga Center Design Requirements.**

- A. All development in the Moraga Center Specific Plan area shall be required to comply with the following requirements to the extent consistent with state law:
1. All development in the Moraga Center Specific Plan area shall be subject to design review as set forth in Articles 2 and 3 of Chapter 8.72.
  2. All improvements shall comply with all applicable easements, codes and requirements in effect at the time the development application is deemed or determined complete, or such other time required by state law, including but not limited to access and utility easements, fire, building, and health and safety codes, and local, state and federal laws.
  3. No improvement shall be constructed or installed within an area of riparian vegetation that is protected by any state or federal agency.
  4. The required parking for each residential dwelling unit may be either tandem or non-tandem. Parking not associated with a particular residential dwelling unit shall be non-tandem.
  5. All exterior lighting shall be directed downward or inward toward the property.
  6. Any blank wall that is without windows and is more than thirty (30) feet long or three hundred fifty (350) square feet in area, whichever is less, shall have landscaping installed and maintained along the wall which reaches a minimum height of four feet within three years.
  7. All landscaping shall be irrigated with an automatic system and permanently maintained. A landscape maintenance bond shall be posted to secure the replacement of any necessary plant material by the developer for a period of one year.

8. Permanent trash and recycling equipment shall be located in enclosures on the property. The colors, materials and design of the trash and recycling enclosures shall match the building design.
9. The utilities for the project shall be located underground.
10. Development fronting along a major scenic corridor as defined in Chapter 8.132.020 shall have building setbacks from the scenic corridor that are landscaped and varied in order to avoid creation of a walled effect and that are a minimum of 40 feet deep, with an additional stepback for elements above the first floor of at least 8 feet.
11. All required parking shall be provided onsite or on streets immediately adjacent to the development.
12. All existing trees shall be identified on the plans submitted by a licensed arborist, including the condition, size and species of the trees. Plans shall include measures to protect trees in good condition identified on the plans for preservation or mitigation measures, including but not limited to replacement. Placement of temporary construction fencing around the drip line of such trees shall be a condition.
13. Sidewalks and pathways proposed to provide pedestrian access to residential districts shall be a minimum of six (6) feet in width.
14. Sidewalks in the MCSP Commercial, MCSP Mixed Use Retail Residential and MCSP Mixed Use Office Residential shall be a minimum of eight (8) feet in width, or designed according to the School Street Guidelines in the Moraga Design Guidelines.
15. External vents and mechanical equipment shall be screened from view from adjoining residential uses, public or common sidewalks and pathways, and plazas.
16. Permanent mechanical equipment such as a motor, compressor, pump or compactor which would be a source of structural vibration or structure-borne noise in excess of adopted town ordinance standards shall be shock mounted with inertia blocks or bases or vibration isolators.
17. All development must maintain any existing emergency vehicle, motor vehicle, bicycle or pedestrian access to adjoining properties.
18. In multi-family residential projects, a minimum of two hundred (200) cubic feet of enclosed weather-proof and lockable private storage space in addition to guest, linen, pantry and clothes closets customarily provided shall be provided for each unit other than a dependent senior residential dwelling unit.
19. In multi-family residential projects, a laundry area consisting of a place for an automatic washing machine and clothes dryer shall be provided in each unit unless common laundry facilities are provided.
20. Utility transformers that are outside the public right-of-way should have adequate access provided for proper maintenance. Any above ground installation must include adequate landscape screening so as not to be viewable from the scenic corridor or other prominent public view.
21. Benches and seat walls shall be incorporated by project designers, where appropriate, to provide seating areas along pedestrian promenades.

22. Developments, with the exception of single family homes, shall provide bicycle parking areas with bicycle racks at a rate equal to five percent of required off-street vehicle parking spaces, with a minimum parking for at least two bicycles
23. Tree grates, bollards, and other street furniture shall be incorporated, where appropriate, to help articulate street edges and provide a pleasant separation between the automobile realm and the pedestrian realm.
24. Accentuated paving, bollards, special crosswalk lighting, and other features shall be incorporated, where appropriate, to enhance pedestrian safety.
25. Drought-tolerant and deer resistant plant materials, consistent with the town's design guidelines shall be incorporated as part of each development's overall landscape design.
26. Where a more intense use (R-20, MCSP Commercial, Mixed Office-Residential, Mixed Retail-Residential) abuts a One, Two or Three Dwelling Units per Acre Residential District, screening is required to address privacy and noise impacts. In addition to any other code requirements regarding fences or walls, the screening should be in a 6 foot wide area with a minimum 6 foot high evergreen landscaping or a wall along the property line in the required setback.

#### **8.200.060 – Town Square.**

- A. The MCSP area described in this section should include a "Town Square" designed and constructed following the design guidance contained in the Town of Moraga Design Guidelines. At the time of an application for new development or redevelopment in the MCSP Commercial, MCSP Commercial MU-RR or Commercial MU-OR districts bounded by Moraga Way, Moraga Road, and School Street or the area within the MCSP Commercial district south of Moraga Way, the Town shall determine the extent to which such proposed development creates a burden due to traffic, public access or other issues that support dedication and construction of a Town Square and will also analyze alternative means of financing such improvements with public funds or development impact fees.
- B. The Town shall ensure through its review process that this identified Town Square area has and retains the physical capacity to accommodate the required Town Square in a way that is consistent with Chapter 11 of the the Moraga Design Guidelines.

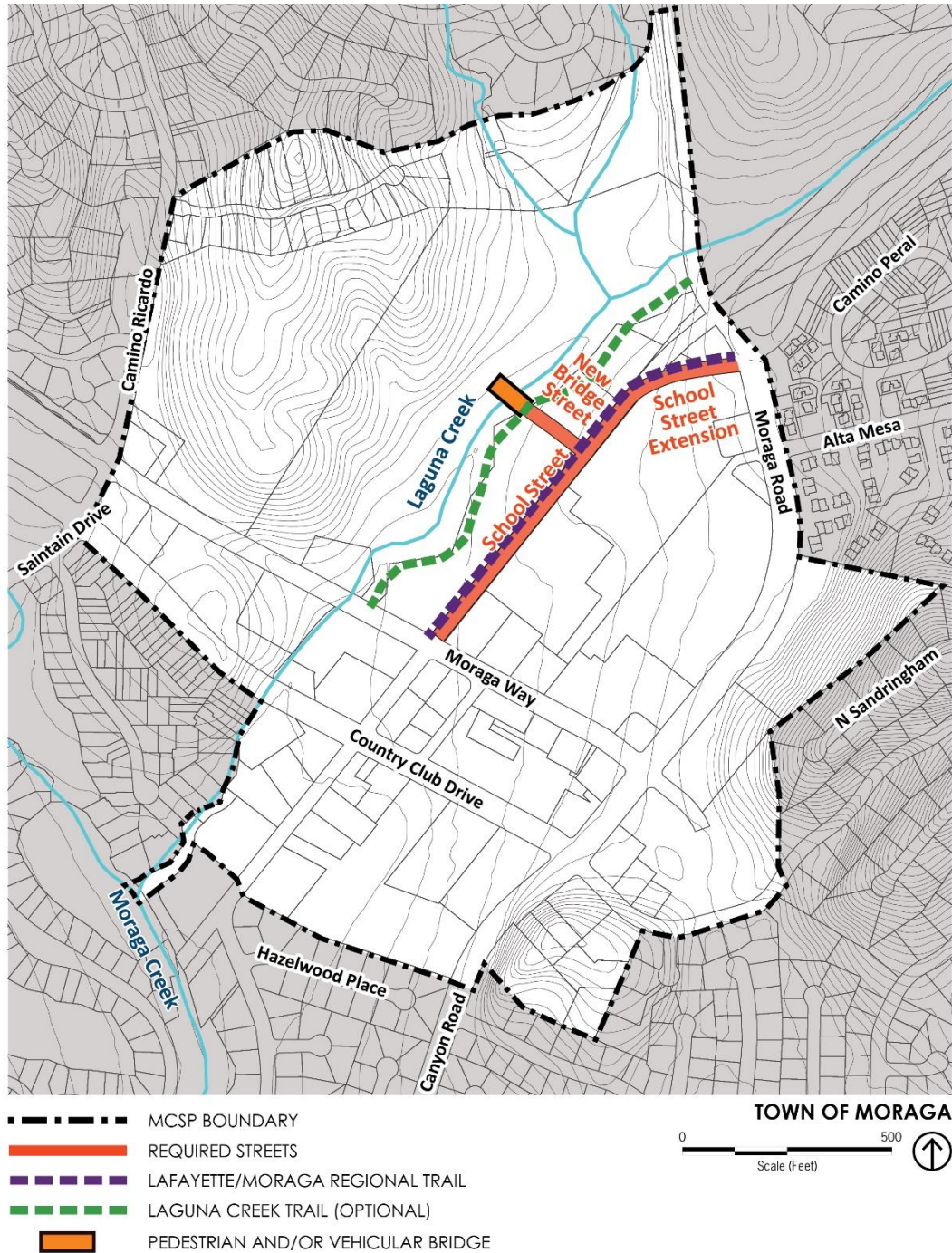
#### **8.200.070 – Required Streets, Trail, and Bridge.**

- A. Development in the MCSP Area shall include construction of School and Bridge Streets and the construction of either a vehicular or pedestrian bridge over Laguna Creek, as shown conceptually in Figure 8.200-3 (Required Streets, Trail, and Bridge). The construction of both a vehicular and pedestrian bridge over Laguna Creek is encouraged.
- B. Development in the MCSP Area shall include construction of the Lafayette-Moraga Regional Trail, as shown conceptually in Figure 8.200-3 (Required Streets, Trail, and Bridge). The Lafayette-Moraga Regional Trail location could be moved to be immediately adjacent to

Laguna Creek, should an appropriate agreement between the East Bay Regional Park District, the Town of Moraga and the property owner(s) be reached.

- C. A pedestrian/bicycle trail is encouraged, but not required, along one or both sides of the Laguna Creek bank. As allowed in Section 8.200.070 B, this trail could be designated as the Lafayette-Moraga Regional Trail.

Figure 8.200-3 – MCSP Required Streets, Trail, and Bridge



#### **8.200.100 – Standards Near Creeks and Channel Setbacks.**

- A. Structures adjacent to creeks and drainage channels within the MCSP area (except those in R-20, which shall follow the requirements included in Section 8.34.060 A.) shall be subject to the more restrictive of the setback requirements set forth in Contra Costa County Code 914-14.012 “Structure setback lines for unimproved earth channels,” as may be amended from time to time, or the minimum setbacks required by a state or federal regulatory agency.
- B. Where existing riparian vegetation extends beyond the limits required, the setback line shall be extended to include such riparian vegetation.
- C. Structures other than buildings that will enable or provide public access to or across a creek may be located within the prescribed setbacks.
- D. Exemptions to these required setbacks may be made under unusual circumstances such as geologic, environmental or topographical conditions on a case by case basis by the Public Works Director/Town Engineer in coordination with all responsible regulatory agencies, upon production of satisfactory evidence that no adverse biological impact will occur and that the stability of the surrounding soil can be ensured by engineering and geotechnical means reasonably available to the applicant.”