

**Fire Code Adoption 23-01  
adopting the 2022 California Fire Code  
Public Comments/Correspondence**

<b>Date</b>	<b>Person</b>	<b>Comments</b>
01/18/2023 First Reading	City of Orinda	Written Correspondence Initial Comments
01/18/2023 First Reading	Town of Moraga	Written Correspondence Initial Comments
01/18/2023 First Reading		Response to City of Orinda RE: initial comments
01/18/2023 First Reading		Response to Town of Moraga RE: initial comments
01/18/2023 First Reading	City of Orinda	Written Correspondence
01/18/2023 First Reading	Mayor Miller, City of Orinda	Public Comment opposing the Traffic Calming Devices
01/18/2023 First Reading	Jonathan Goodwin	Public Comment recommending a collaborative process
01/18/2023 First Reading	Marc Evans	Public Comment expressed support
01/18/2023 First Reading	Brandon Haydu	Public Comment requested clarification
02/15/2023 Second Reading		None



## CITY OF ORINDA

22 Orinda Way, Orinda, CA 94563

(925)253-4210 ▪ [orindaplanning@cityoforinda.org](mailto:orindaplanning@cityoforinda.org)

December 16, 2022

Chief Winnacker  
Moraga-Orinda Fire Protection District  
1280 Moraga Way  
Moraga, CA 94556

### **RE: Draft Fire Code Ordinance No. 23-01**

Dear Chief Winnacker,

Thank you for providing the Proposed Fire Code Ordinance No. 23-01 to the City of Orinda for comment. Orinda Staff have reviewed the proposed updates and our initial comments are provided in this letter. These comments are subject to revision and do not yet reflect feedback from the City Council. We would also like to note that we have not yet been provided the draft Moraga-Orinda Defensible Space Ordinance, which is referred to in the Draft Ordinance No. 23-01, and our comments may be revised based on the content of that Ordinance when provided.

- **503.4.1 Traffic Calming Devices**

- The City of Orinda has 3 different levels of traffic calming devices. Clarify which traffic calming devices are to be prohibited in all VHFHSZ and in other parts of the City with single access points.
  - Speed bump/Speed hump?
  - Signage?
  - Other physical road modifications (rumble strips)?
  - Other?
- Does the proposed traffic calming provision also apply to newly-designated VHFSZs with existing traffic calming features?
- Orinda staff recommends that physical changes to the road be prohibited; however, staff recommends that non-physical changes (i.e., signage) remain as permitted.
- Provide a map that demonstrates which neighborhoods outside the VHFSZ in Orinda to which this prohibition will apply.
  - Identify specific streets and which traffic calming devices will be prohibited
- Orinda Staff has enclosed a map that indicates areas which Orinda defines as having a single access point.
  - Please review this map and provide comment if MOFD agrees with the roads that are identified in this category.

- **Retroactivity:** Clarify if this prohibition is only applicable to *new* traffic calming proposals or if changes will be required for roads with existing traffic calming devices in VHFHSZ.
- **903.2.11.3 Buildings 35 feet or more in height**
  - Provide details on how building height should be measured. City of Orinda measures height in the following ways:
    - **Height Measurement.** The height of a structure shall be measured perpendicular from the existing grade.
    - **Aggregate Height Measurement.** The aggregate height of a structure is a plumb line measurement to the highest roof ridgeline taken from the top of the lowest foundation
- **903.3.1.3.1 Eave Protection**
  - Clarify if this impact is for new construction only.
  - Clarify if this section applies to building additions and if so, based on what thresholds.
- **D103.3 Turning Radius**
  - Provide the rationale for MOFD adopting a different standard than others in the County (28 feet versus 25 feet).
  - Clarify if this section applies to new roads, or if the intent is to widen existing roads.
    - Is there a variance process for roadways that cannot be expanded?
- **903.2.8.1.1 Group R-3 Substantial Addition or Alteration**
  - Provide the rationale for MOFD decreasing the aggregate threshold from 5,000 square feet to 3,600 square feet.

The City of Orinda looks forward to receiving your responses to the above comments and the comments submitted by the County and the Town of Moraga.

If you have any questions regarding this Letter, please feel free to contact Celina Palmer, Associate Planner at [cpalmer@cityoforinda.org](mailto:cpalmer@cityoforinda.org) to discuss any concerns or issues.

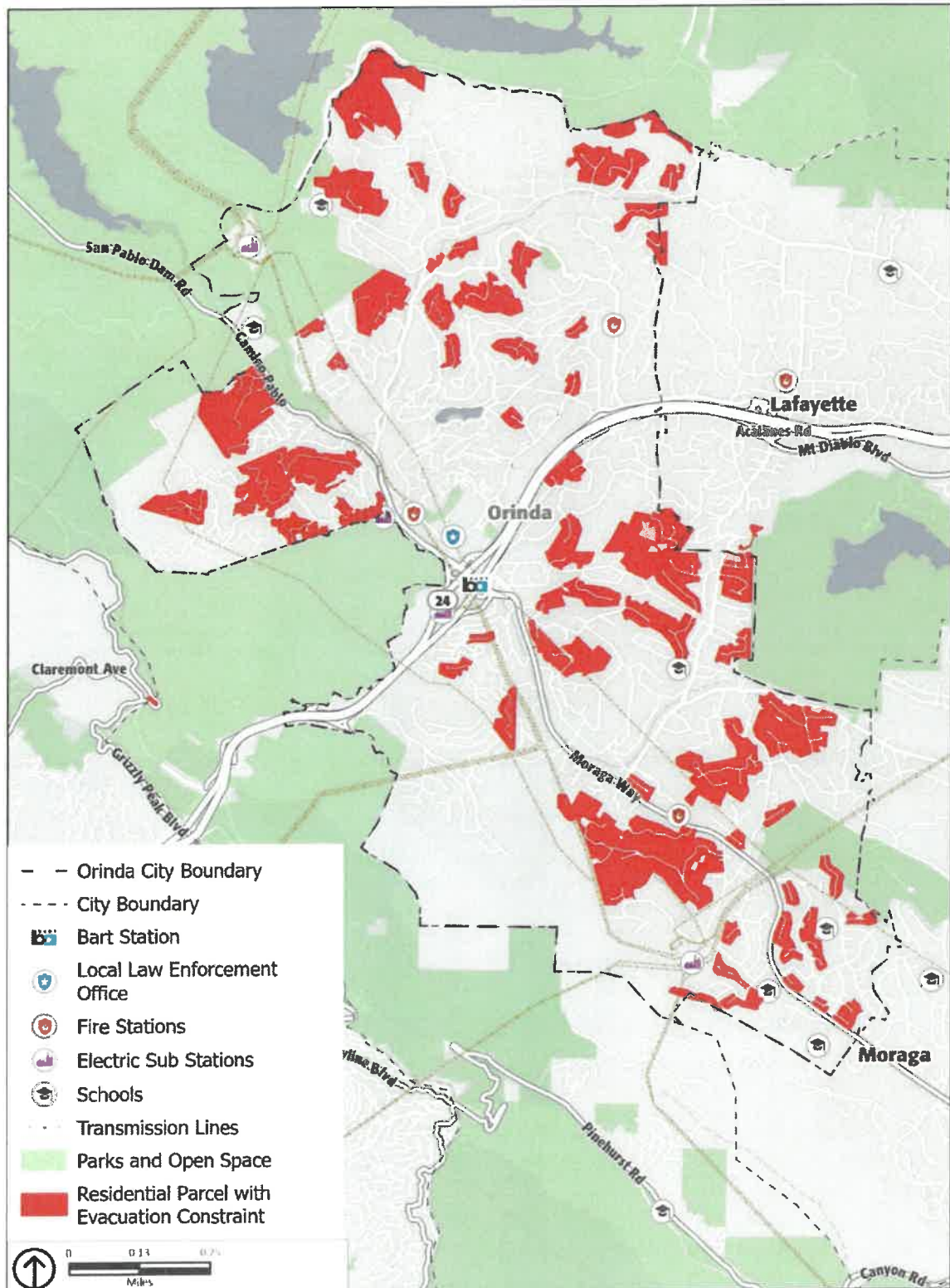
Sincerely,



Celina F. Palmer, AICP  
Associate Planner

Encl: Safety Element Figure 1. Residential Parcels with Evac Constraints

FIGURE 1 RESIDENTIAL PARCELS WITH EVACUATION CONSTRAINTS



Source: Evacuation analysis by PlaceWorks and City of Orinda, 2022.



# Moraga-Orinda Fire District

Fire Chief Dave Winnacker

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December 21, 2022

David Biggs  
City Manager  
City of Orinda  
22 Orinda Way  
Orinda, CA 94563

Dear City Manager Biggs,

Thank you for your letter of December 16, 2022. Please see MOFD's response below.

- I. Upon further review, MOFD proposes to remove the references to the Fuel Mitigation and Exterior Hazard Abatement Standards Ordinance (formerly referred to as the Defensible Space Ordinance) from the CFC amendments.
- II. The California Fire Code (CFC) and any local amendments to the fire code are for new construction or substantial additions or alternations. The exception to this is CFC chapter 11 which applies to existing buildings, however MOFD proposes no amendments to this chapter.
- III. Requirements for Fire Apparatus access roads can be found in CFC chapter 5 and Appendix D. There are additional requirements for access roads that can be found in the California code of Regulations Title 14 & 19.
  - a. **19 CCR § 3.05**  
§ 3.05. Fire Department Access and Egress. (a) Roads. Required access roads from every building to a public street shall be all-weather hard-surfaced (suitable for use by fire apparatus) right-of-way not less than 20 feet in width. **Such right-of-way shall be unobstructed** and maintained only as access to the public street. **(Applies in SRA & LRA)**
    - i. EXCEPTION: The enforcing agency may waive or modify this requirement if in his opinion such all-weather hard-surfaced condition is not necessary in the interest of public safety and welfare.
  - b. **Traffic calming devices are defined in CFC Chapter 2**
    - i. CFC Chapter 2 - **TRAFFIC CALMING DEVICES**. Traffic calming devices are design elements of fire apparatus access roads such as street alignment, installation of barriers, and other physical measures intended to reduce traffic and cut- through volumes, and slow vehicle speeds.

**c. CFC Chapter 503.4 Obstruction of Fire Apparatus Access Roads**

*Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Sections 503.2.1 and 503.2.2 shall be maintained at all times.*

**503.4.1 Traffic Calming Devices**

*Traffic calming devices shall be prohibited unless approved by the fire code official.*

**d. Title 14 1267.01**

*Adequate secondary egress route is not a road with locked gates or limited access; or a road that directs traffic to the same outlet road as the primary road or results in a circular traffic flow to the extent practical.*

Further, 14 CCR § 1273.00 includes additional roadway requirements in SRA and LRA VHFHSZs.

§ 1273.00. Intent. Roads and driveways, whether public or private, unless exempted under 14 CCR § 1270.02(d), shall provide for safe access for emergency wildfire equipment and civilian evacuation concurrently, and **shall provide unobstructed traffic circulation** during a wildfire emergency consistent with 14 CCR §§ 1273.00 through 1273.09.

- e. Per the code sections cited above, any traffic calming measure requires Fire District approval. The proposed amendments are intended to clarify the circumstances under which traffic calming devices will be approved. MOFD has no objection to adding verbiage stating signage and rumble strips are approved. Should the City of Orinda be concerned regarding the inclusion of the amendments clarifying the manner in which traffic calming devices and roadway obstructions are reviewed, MOFD does not object to withdrawing this amendment.
- f. Fire District review of traffic calming device permits is limited to new installations.
- g. Per the references cited above, the map provided by the City of Orinda appears to omit numerous streets which lack a second unobstructed means of egress (see ii.d. above). Examples include, but are not limited to Dalewood Drive, Sunnyside Lane, Sundown Terrace, sections of Lombardy Lane, sections of El Toyonal, Wilder Road, Camino Lenada, Bien Venida, Normandy Lane, Washington Lane, the networks of streets accessed via Claremont Avenue, Tiger Tail Lane, and Gardiner Lane.

- IV. Per CFC Section D105.1 Aerial Fire Apparatus Access Roads, building height is measured from the grade plane to the highest roof surface.

*D105.1 Where required. Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet (9144 mm), approved aerial fire apparatus access roads shall be provided. For purposes of this section, the highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of parapet walls, whichever is greater.*

- V. 903.3.1.3.1 Eave Protection was added in 2020 code cycle and is only for new construction of R-3 occupancies.

- VI. D103.3 Turning Radius- Fire Apparatus Access Roads and turnarounds require a minimum width of 28 feet wide as adopted during the 2020 code cycle. As with all sections of the CFC (other than Chapter 11), this requirement is limited to new roads and, in limited circumstances, instances in which the applicant intends to create new legal lots.
- VII. 903.2.8.1.1 Group R-3 Substantial Addition or Alteration- The 3,600 sq. feet sprinkler requirement was added in the 2020 code adoption cycle.

My staff and I are available at your convenience for discussion as needed.

Thank you,

*Dave Winnacker*

Dave Winnacker  
Fire Chief





# Moraga-Orinda Fire District

Fire Chief Dave Winnacker

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January 5, 2023

Denise Bazzano  
Town Counsel  
Town of Moraga  
329 Rheem Boulevard  
Moraga, CA 94556

Dear Ms. Bazzano,  
Please see MOFD's response to your questions below.

## Specific Ordinance 23-01 Section Comments

- 105.6.26, "Construction, Substantial Alterations and Substantial Additions for which a building permit is required." The requirement for fire sprinklers for substantial additions is new- please provide rationale for inclusion.
  - In previous years the CCC Building Department treated substantial additions that exceeded 50% new interior walls and 50% new roof area as new construction. MOFD previously relied on this threshold to require sprinklers for substantial alteration and addition projects. Over the last several years we have seen projects, to include the construction of new second floors, which resulted in projects not being required to include sprinklers despite significantly increasing the size of the structure. Fire sprinklers are a proven and widely accepted manner through which a community reduces risk to life and property. This is particularly true in a dispersed mature community such as ours in which safety infrastructure was developed with to protect existing structures. Requiring the installation of sprinklers is an excellent way to mitigate the increased fire load created by a substantial alteration or addition project.
- Also, there is currently no process for Contra Costa County ("CCC") building (The Town's designated Building Official) to hold issuance of permits for fire approval. CCC stamps the plans informing the applicant to see fire, but it's not a condition of building permit issuance. MOFD has expressed that having fire review as a condition of planning approval might be a way for this to be enforced but in some cases, the building permit issuance is ministerial so no conditions would be imposed. How does MOFD contemplate conducting the review and imposing this requirement?
  - MOFD seeks to work with Moraga Planning staff to ensure citizens are aware of the need to submit plans to the Fire District. In the case of building permits for areas within the Contra Costa County Fire Protection District (CCCFPD), the CCC Building Department currently will not provide final approval to a project until they have confirmed Fire District review has been completed. While MOFD defers to the Town for services provided under contract by the CCC Building Department, there may be an opportunity to apply the procedure currently in use for CCCFPD to permits issued within the Town of Moraga.
  - For review, the California Fire Code is Part 9 of the California Building Standards Code (CCR Title 24). It is not for MOFD to dictate the manner in which the Town processes building permits, but it seems improper that compliance with Part 9 of California Building Standards Code is not a condition of permit approval.



## Chapter 2, “Definitions”

- “Indoor Growing Operation”, which is identified in section 105.5.63 is not defined and should be defined to specify what type of growing operation (e.g. commercial or residential) would be subject to the regulation.
  - The reference to Indoor Growing Operation has been removed from the proposed amendments.
- “Traffic Calming Devices”, which is identified in section 503.4.1 should be defined.
  - Traffic Calming measures are defined in California Fire Code Chapter 2.  
**TRAFFIC CALMING DEVICES-** Traffic calming devices are design elements of fire apparatus access roads such as street alignment, installation of barriers, and other physical measures intended to reduce traffic and cut-through volumes, and slow vehicle speeds.
- The terms were identified in the 2019 ordinance and are not identified in this ordinance but some of the definitions are still relevant.
  - Abatement Costs,
    - Abatement costs are not in fire code
  - Cost of Abatement,
    - Cost of abatement is not in fire code
  - District Board,
    - Included in definitions as Board of Directors
  - Emergency Vehicle Access,
    - EVA is not in the fire code
  - Exterior Fire Hazard Inspection,
    - Exterior fire hazard inspections are not in fire code
  - Fire Code Official,
    - Defined in CFC Chapter 2
  - Fire Hazard,
    - Defined in CFC Chapter 3, Section 301.1 and CCR Title 19, Division 1
  - Fire Protection Plan,
    - Defined in CFC Chapter 49, Section 4902.1. Additional details are included in Section 4903.
  - Improved Parcel,
    - Improved parcel is not in the fire code
  - Structure,
    - Defined in CBC Chapter 2
  - Surface Fuels,
    - Surface fuels are not in the fire code
  - Unimproved Parcel,
    - Unimproved parcels are not in the fire code
- 324, “Sale or transfer of property”- This section refers to compliance with the Moraga-Orinda Defensible Space Ordinance but does not provide a specific Ordinance Number. Is this an existing ordinance or one that will be adopted in the future?
  - This section has removed from the fire code amendments and added to the appropriate MOFD ordinances.
- 503.4.1, “Traffic Calming Devices”- This section should be limited in scope to only those traffic calming devices that may physically impair fire access. Signage, signals, striping and markings, which do not impact emergency vehicle access, should not be limited by the proposed Fire Code modifications. For example, rumble strips, bot dots, and other notification devices do not impair fire access but could be characterized as “traffic calming devices” so should be excluded from the proposed Code changes.

- MOFD has no objection to an interpretation of the definition of Traffic Calming Devices which is limited to physical alterations to the roadway which obstruct fire apparatus access and resident evacuation. This can be provided in blanket MOFD approval for the examples listed above or through a mutually agreed upon interpretation that notification devices do not meet the definition of Traffic Calming Devices as referenced in CFC Chapter 2.
- Traffic calming devices are defined by the State Fire Marshal in CFC Chapter 2.

**TRAFFIC CALMING DEVICES.** Traffic calming devices are design elements of fire apparatus access roads such as street alignment, installation of barriers, and other physical measures intended to reduce traffic and cut-through volumes, and slow vehicle speeds.

- Also, it is unclear how this requirement would be applied? Does it only apply to new traffic calming devices or would it apply to existing devices in newly designated VHFHSZs? Why is information regarding traffic volumes, number of accidents, a summary of education efforts, a summary of enforcement efforts, the number of citations/warnings issued relevant to MOFD? This is usually something a traffic/civil engineering analysis would consider. How will MOFD utilize this data?
  - California Fire Code applies to new construction, structures or buildings. There are exceptions to this for certain existing and non-conforming occupancies addressed in Chapter 11, however this Chapter does not include roadway obstructions. While State law prohibits road way obstructions in very high fire hazard severity zones (VHFHSZ), MOFD does not believe this prohibition is retroactive if/when new CALFIRE maps are released. As the prohibition on roadway obstructions in VHFHSZs is state law, this question is more appropriately addressed the Board of Forestry.
  - The CFC requires a permit and plans to be submitted for fire department review for any new traffic calming measure. The list of information above is to allow the fire code official to determine the relative public safety value of the traffic calming measure and to provide certainty to applicants regarding the criteria through which a permit will be evaluated. Should the Town have concerns regarding the inclusion of these clarifying elements, MOFD has no objections to removing the proposed amendment in its entirety.
- 903.1, "General" (automatic sprinkler requirements)- There is currently no process for the CCC building department to hold issuance of building permits for fire approval. CCC stamps the plans informing the applicant to see fire, but it's not a condition of building permit issuance. How does MOFD contemplate imposing this requirement?
  - Sprinkler requirements are not new nor limited to MOFD. MOFD presumes the systems currently used to ensure compliance with Part 9 of the California Fire Code will continue to operate as they have previously.
- 903.3.1.3.1, "Eave protection". WUI areas will require sprinklers at the roof eaves. However, this requirement needs to be clarified-what types of projects will this apply to (e.g. new construction only).
  - This element was added during the 2019 fire code cycle and, as with all elements of the fire code outside of Chapter 11, will continue to only apply to new construction. It will also apply to substantial additions and alternations that are required to install sprinklers.

## General Comments

- There are certain projects that require MOFD permits, however they are not required by the CCC building department to get a MOFD approval prior to building permit issuance. So, in most cases it would be up to an applicant to get a separate permit from MOFD.
  - This is correct. Elements of the Building Standards Code may require a separate permit and plan review. There are different review requirements based on the specifics of the proposed project. MOFD does not believe this is unique to the fire code.

- The CCC building department stamps the plans informing the applicant to see fire, but it is not a condition of permit issuance. There are some permits, such as a building addition, that the Town can require MOFD approval as a condition of approval through the Administrative Design Review (ADR) Process but some projects are not subject to discretionary review. In those cases where there is no discretionary review, how does MOFD contemplate imposing permit requirements? For those projects that are subject to discretionary review, the Town has requested a list of building addition thresholds that we can use for reference in crafting conditions of approval for ADR's.
  - This is addressed above and the requirements to comply with the fire code is not new to this update cycle.
- Roads widened to allow bicycle, pedestrian, or ADA access should not be limited by Fire Code as this would conflict with current State and Federal mandates to improve bicycle/pedestrian/ADA access. Roads modified to incorporate new bicycle/pedestrian/ADA facilities should not be limited as long as the improvements do not impair fire access (width or turning).
  - MOFD is not aware of either intent or language suggesting roads cannot be widened. Fire Code roadway requirements are limited to width, turning, and grade. Please clarify which elements of the fire code amendment are perceived to limit bicycle, pedestrian, or ADA access.
- The proposed Fire Code changes need to be clear that Fire management activities are not exempt under CEQA where activities may result in the removal of endangered, rare or threatened species or result in erosion or sedimentation of surface waters. Consider adding language to this ordinance to make that clear to public.
  - CEQA requirements are found in CCR Title 14 Division 6 Chapter 3. MOFD believes it is not appropriate to add these requirements to an amendment of CCR Title 24 part 9 Building Standards. MOFD has, and will continue to reference CEQA requirements in citations and the exterior hazard and fuel break ordinance.

Thank you,

*Dave Winnacker*

Dave Winnacker  
Fire Chief

**From:** [David Biggs](#)  
**To:** [Dave Winnacker](#)  
**Cc:** [Jeff Isaacs](#)  
**Subject:** Orinda City Council Initial Review of Fire Code Amendments  
**Date:** Wednesday, January 11, 2023 1:44:00 PM

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Chief Winnacker –

Thank you to you and your team for all your efforts to make Orinda a more fire safe community, and in particular, your recent efforts to timely adopt the new Fire Code and local amendments. I appreciate that we had the opportunity to comment as City Staff and having had the benefit of your response to our comments and questions.

We shared the proposed Fire Code and local amendments, together with our staff comment letter and your responses with the Orinda City Council last night, together with the updated draft ordinance and the Town of Moraga comments and your response. They asked that I pass on their insights and comments to you and the Fire Board as they take up the matter on January 18<sup>th</sup>.

The City Council comments related to the previously identified staff area of concern regarding the proposed restrictions on certain types of traffic calming devices being prohibited in the Very High Fire Severity Zones or in single access neighborhoods. Traffic calming opportunities are of tremendous value to the Council and our neighborhoods. They would request the Board to consider alternatives to an outright ban and would like to engage with the Fire District to ensure that there is a shared understanding of what types of devices are covered, there is a process to consider exceptions to any type of ban, and that fire related considerations be balanced against other public safety concerns including traffic.

We look forward to receiving the final proposed Fire Code amendments as introduced by the Board, if that occurs as planned next week, and to commenting further, to ensure that any issues are addressed prior to the City Council being asked to ratify the new Fire Code after adoption.

Please do not hesitate to reach out if you have any questions or would like to discuss this prior to the Board meeting next week.

David Biggs  
City Manager  
City of Orinda  
22 Orinda Way  
Orinda, CA 94563  
(925) 253 4222  
DBiggs@cityoforinda.org