

PLANNING COMMISSION STAFF REPORT

MEETING DATE: February 9, 2016

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APPROVED BY: Andrew Crabtree, Community Development Department Director

ZONING AMENDMENT, ZA-15-14/ ENVIRONMENTAL ASSESSMENT, EA-15-10: MONTEREY & THIRD- RODRIGUES:

Request for Planned Development Zoning to allow deviations from the Downtown Specific Plan development standards to support the construction of two, two-story commercial buildings totaling approximately 12,025 square feet and to allow the operation of restaurant uses with full service of alcoholic beverages as permitted uses. The properties, identified by Assessor Parcel Numbers 726-13-028, 726-13-069 and 726-13-040, are located at the southeast corner of Monterey Road and Third Street (Monterey & Third Associates, LLC., Owner).

RECOMMENDATION(S):

Recommend that the City Council adopt the Planned Development subject to the findings and conditions contained in the attached Resolution.

PROJECT SUMMARY:

Location: 17290, 17280 & 17270 Monterey Road (APNs 726-13-038, -039 & -040)

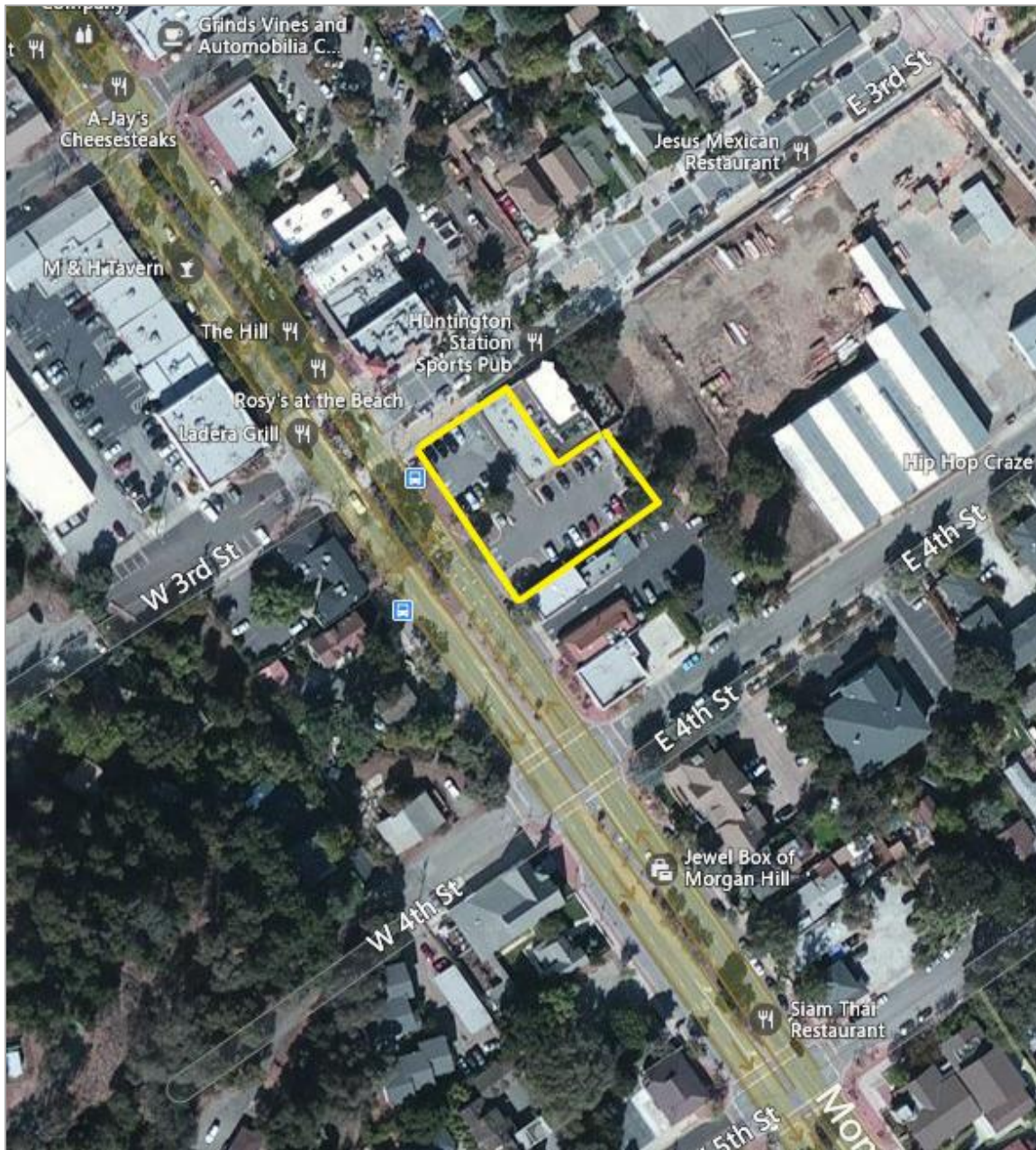
Site Area: 18,400 square feet (0.42 acres)

General Plan: Mixed-Use

Zoning: Downtown Specific Plan--CBD GF Central Business District/Ground Floor Overlay District & CBD

Request: The applicant requests a zoning amendment for the approval of a Planned Development (PD) overlay zone and precise development plan for a 0.42 acre site to allow the development of 12,025 square feet of commercial space in two buildings and outdoor dining on-site for 118 seats. The PD would allow a deviation from setbacks and to allow the service of full range of alcoholic beverages by-right in conjunction with restaurants.

LOCATION MAP:



Source: Bing Maps

BACKGROUND:

Site Description

The project site is located in the Downtown at the southeast corner of Monterey Road and Third Street. The site includes three lots totaling 18,400 square feet (0.42 acres) in area. One parcel is currently developed with a 2,080 square foot single-story commercial building constructed in 1971, while the other two lots are developed as a public parking lot and currently support the City's "pop up" park). The site is bordered by Monterey Road and 3rd Street to the west and north and by the

new 275-space public parking garage and an existing restaurant to the east and by an additional restaurant to the south. Other surrounding uses include existing single and two-story commercial buildings.

Prior Actions/Entitlements

The site was the subject of a Request for Proposals for Downtown opportunity sites. The City Council chose to exclusively negotiate with the project proponents for their proposal in June 2015 and agreed to the sale of the property on September 2, 2015.

Project Description

The applicant is requesting approval of a Planned Development Zoning that would allow redevelopment of the site with two new buildings (which would house a total of four restaurants), an outdoor dining area and other improvements on site or within the public right-of-way. While implementation of the proposal would include both on- and off-site development as described below, the current action in front of the Planning Commission is the request for a Planned Development Zoning.

On-site Development

The applicant proposes a project that would demolish the existing on-site structures and surface parking areas and construct two, two-story commercial buildings for restaurant use (5,600 square feet and 6,425 square feet—net 9,945 square feet). It is expected that each building would include two restaurant operators when the site is fully functional. Both buildings would include on-site outdoor dining patio areas adjacent to public streets. While the exterior patio areas are both open and visible to the public, a low barrier is proposed to separate patrons from the sidewalk to accommodate alcohol beverage service requirements and establish a boundary between outdoor dining areas and sidewalk circulation. Between the two buildings there would be a public walkway with decorative lighting and landscaping leading to the new downtown three-story parking garage that includes 275 parking spaces.

Off-site Development

The applicant also proposes to extend the existing sidewalk bulb southward out along Monterey Road (curb, gutter and sidewalk) in front of Building 2 to provide additional sidewalk area. This extension will also accommodate underground grease interceptors for the restaurants. The applicant is proposing to use a portion of the public right-of-way along the project's Third Street frontage for an on-site patio for Building 1 (parallel to Third Street) that would include 24 seats. The applicant also proposes a seating area framed by a wrought iron fence within the sidewalk area in front of Building 1 to accommodate 44 seats.

Zoning Amendment for Planned Development (PD)

To implement the project, the applicant requests a Planned Development Zoning that would allow deviation from the Downtown Specific Plan CBD front setback standard and allow a full range of alcoholic beverages in conjunction with restaurant service as a by-right use. These requests require the establishment of a PD for the site. The Planning Commission is requested to make a recommendation to the City Council on this request.

Design Review

The City of Morgan Hill requires a Design Permit for new construction and significant remodels in accordance with Chapter 18.74 (Design Review) of the Zoning Ordinance. Based on the Section 18.74.030 – Design Permit – Community Development Director requirements, the project's design review will be evaluated by the Director at an administrative hearing. Details on the proposed

design and findings will be presented to the Director a publicly noticed hearing.

Lot Merger

Development of the site includes improvements and structures that traverse existing property lines. In order to implement the project, prior to issuance of a building permit, the applicant will need to obtain approval of a Lot Merger in accordance with Title 17 of the Morgan Hill Municipal Code and record the action with the County.

Encroachment Permit

To implement the off-site work proposed, such as the changes to the sidewalk, the portion of the outdoor patio and ramping for access and the placement of wrought iron fencing, bicycle racks, underground utilities and seating within the right-of-way requires approval of a ministerial encroachment permit by the Public Works Department.

ANALYSIS:

The proposed Planned Development Zoning would allow specific deviations from the underlying base zoning district as established within the Downtown Specific Plan and to allow alcohol sales by right as part of a restaurant use. The project, including the requested deviations, has been analyzed for consistency with the related Specific Plan and the Zoning Code requirements.

Downtown Specific Plan Consistency

The site is located within the Downtown Specific Plan. The vision statement of the specific plan is: "Strengthening Downtown as the gathering place, a connecting force, the social and activity heart of Morgan Hill, is the overriding aspiration of this Plan - a place where residents from all segments of the community can live, work, meet, shop, dine and participate in public celebrations, and share in the richness of Morgan Hill's community life. It will be a place like nowhere else - a place with its own scale, character and uses."

The Downtown Specific Plan boundary covers 18 blocks and approximately 110 acres. Downtown Morgan Hill is centered on Monterey Road and is bound by Main Avenue, Butterfield Boulevard, Dunne Avenue, and Del Monte Avenue. The Downtown Core is generally defined by Main Avenue, the railroad tracks, Dunne Avenue, and Del Monte Avenue.

Allowed Uses

Since the project is located within the Downtown Specific Plan, the listed permitted and conditionally permitted uses within the Specific Plan supersede the Morgan Hill Zoning Ordinance. The proposed restaurant use, with full range of alcoholic beverages, normally requires the approval of a Conditional Use Permit by the Planning Commission. However the applicant proposes that the operations of the restaurants be a part of the consideration for the Planned Development (PD) request. The establishment of the PD would incorporate the use as part of the PD eliminating the CUP requirement for the proposed and subsequent similar uses.

The specific plan encourages restaurants with outdoor dining areas and specialty shops along Third Street.

Development Standards

In addition, when development standards, including parking regulations are listed within the Specific Plan, those standards shall govern. Where the Specific Plan is silent, the Zoning Ordinance requirements prevail. The Specific Plan includes Design Guidelines for projects

proposing physical improvements.

The applicant seeks deviation from the development setbacks along Monterey for Building 1 as part of the consideration for the PD request.

As part of the Design Review process administered by the Community Development Director, the project will be evaluated for consistency with the Downtown Specific Plan Design Guidelines.

Planned Development (PD)

The applicant is proposing a PD Overlay with a Precise Development Plan (Project Plans) for the project site. In accordance with Section 18.30.050 of the City of Morgan Hill Municipal Code, a request for establishment of a PD shall follow the same procedures as established for zoning amendments, as defined and described in Chapter 18.62, and any conceptual planned development master plan and/or PD plan shall be found consistent with the following findings:

- A. The development of the subject property, with the uses and in the manner proposed by the applicant, will not be detrimental to the public welfare, will be in the best interests of the city, and will be in keeping with the general intent and spirit of the zoning regulations of the City of Morgan Hill, with the Morgan Hill General Plan, and with any applicable plans adopted by the City.
- B. That the plan for the proposed development presents a unified and organized arrangement of buildings and/or service facilities which are appropriate in relation to adjacent or nearby properties, and that adequate landscaping and/or screening is included if necessary to insure compatibility.
- C. Any exception from standard ordinance requirements is warranted by the provision of affordable housing, senior housing, overall quality of design and/or the incorporation of amenities within the general development plan, in accord with adopted policy of the Planning Commission and the City Council.

Deviation from Front Setback

To accommodate the outdoor patio area for Building 1, the building is setback 20'-0" from the front property line (Monterey Road), which is 10'-0" more than what is allowed in the Downtown Specific Plan development standards for the CBD designation.

The PD is consistent with the findings because the project aims to activate and revitalize the corner of Third Street and Monterey Road, while providing economic stimulus to the Downtown. The project proposes to develop the site specifically for restaurants, whereby outdoor dining is a common component of that type of use.

While the Specific Plan zoning standards call for new construction to be constructed at the back of the sidewalk (e.g., no setback), the proposed project would meet the intent of the Specific Plan by activating the sidewalk and surrounding area with an outdoor dining patio. The design of the patio at this location also addresses changes in grade across the side and the need to raise the building out of the 100-year flood plain. The patio area would establish a single grade for Building 1 and 2 and the outdoor dining area. The natural grade of the site is similar to that of the sidewalk from north to south along Monterey. Creating a level building pad results in an 18" difference in elevation at Third Street which increases to approximately four feet at the southern extent of Building 2. To address this grade change, the project would include a low stone wall between the

sidewalk and the patio area and an in-ground planter at the base of the wall, softening its edge. A wooden trellis would cover the Building 1 patio area and ultimately be covered with flowering vines as an architectural transition element between the buildings and the street.

Full Alcohol Beverage Service in Conjunction with Restaurants

The PD is consistent with the required findings in that the project is specifically designed for restaurant uses and ancillary service of alcohol with restaurants is a typical component of that type of use. Requiring the individual restaurant operators to be subject to a separate Conditional Use Permit process is redundant in this case when standard conditions of approval can be applied from the onset through the PD Zoning process. Subsequent operators will need to follow the proposed standard PD performance standards as described in the next section.

Planned Development Standards

The applicant proposes a Precise Development Plan that includes the on-site development of two-story commercial buildings for restaurant use (5,600 square feet and 6,425 square feet) and the operation of restaurants that include the full service of alcohol.

Approval of the Precise Development Plan would incorporate the following exception to the base development standards normally required in the CBD zoning district:

1. Deviation from the required maximum front setback of 10'-0". The applicant proposes a 20'-0" setback to accommodate the outdoor dining area. As proposed within this area 76 seats and other amenities such as a fire-pit is proposed.

Approval of the Precise Development Plan would also incorporate the service of a full range of alcohol in conjunction with restaurant uses for the site. According to the applicant the hours of operation for one of the restaurants would be 7am to midnight daily, while the other three restaurants would operate between 11am to midnight. Typical concerns regarding alcohol sales relate to stand alone bars and not when alcohol is served in conjunction with meals. The following performance standards are recommended to be applied to the site:

- Restaurants to close by midnight daily
- Responsible Beverage Service Training. The owner or designee shall require responsible beverage service training for the operator and employees offered by the State Department of Alcoholic Beverage Control. Demonstration of completion of such training shall be made available to the City upon request.
- Bar as ancillary use. Unless amended, the PD limits the bar as an ancillary use.

General Plan Consistency

The General Plan designation for the site is Mixed Use. When applied in accordance with the Downtown Plan, this designation covers 68 acres of smaller parcels with the downtown area. This designation is intended to encourage a mixture of commercial and residential uses. The mixed use designation allows for as many as eight (8) to 18 dwellings units per acre with the exception of three opportunity sites (not this project site). The designation also allows stand alone commercial uses consistent with the policies of the Specific Plan.

The project is consistent with the following General Plan policies:

Community Development

9b. Ensure the viability of downtown and other recognized shopping areas, and discourage

isolated and sprawling commercial activities along major roads.

The project includes restaurant uses and outdoor spaces that would activate the downtown. This use will serve as a catalyst to bring people downtown.

13c. Consider allowing downtown land uses with night and weekend peak parking demands to share parking spaces with uses that have daytime and weekday peak parking demands.

Entertainment venues typically have evening and weekend demands, which is consistent with this policy.

13h. Encourage a mixture of uses in the downtown that will promote its identity as the cultural and activity center of the city.

The restaurants would attract people to the downtown as an activity node.

Economic Development

1b. Encourage retention and expansion of existing businesses, and attract new businesses.

The project includes the development of a site that would meet the vision of the Downtown Specific Plan.

Zoning Consistency

Consistent with the Downtown Specific Plan, the zoning for the site is Central Business District (CBD) with the Downtown Ground Floor Overlay District (GFO) occupying the front portion of the property. Ground floor spaces along portions of Monterey Road and Third Street within the Downtown Ground Floor Overlay District (GFO) will be restricted to retail shops, restaurant and entertainment uses, and certain service commercial businesses that are determined to support a continuity of display window visual interest. This project is consistent with the Ground Floor Overlay requirements.

Parking

Within the Downtown Specific Plan Area, non-residential and non-office uses do not require the provision of on-site parking so long as parking is available within the downtown area or payment of an in-lieu fee is made. Based on the parking requirements for restaurants in Chapter 18.50 (1 space per 100 gross floor area), 120 parking spaces would otherwise be required. A Downtown Parking Conditions Study has been conducted, although in draft form. Preliminary indications demonstrate that adequate parking exists.

Amendment Findings

In order to amend the Zoning, the Planning Commission shall recommend that the city council find the following:

- A. That the proposed amendment is in general conformance with the general plan;
- B. That the public necessity, convenience and general welfare require the adoption of the proposed amendment.
- C. The proposed amendment does not grant a change in land use from commercial or industrial to a residential land use for property incorporated into the urban service boundary

after December 7, 1990 unless it can be determined pursuant to the terms of Section 18.78.070 of the municipal code that the amount of undeveloped, residentially developable land on the same side of Monterey Road as the proposed amendment is insufficient to accommodate five years' worth of residential growth.

The findings can be made in the affirmative. The project is consistent with General Plan Policies as described earlier in this report. The project's public necessity, convenience and general welfare are described in the findings for establishment of the Planned Development (PD). The project does not propose a change in land use from commercial to residential.

Community Engagement

The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper legal noticing) for the minimum 10-day period and a sign has been posted at the proposed business location per the Planning Division requirements.

Conclusion

As discussed above, the findings can be made for the adoption of the PD Zoning District. Design Review will be conducted by the Community Development Director including evaluation of project consistency with the PD Zoning standards. The requested PD Zoning will facilitate the development of four restaurants within the Downtown, including an outdoor dining area, that will further the General Plan and Downtown Specific Plan goals for the activation of the Downtown as a primary gathering area within the community. The proposed development within the right-of-way, including sidewalk seating if proposed, will be evaluated through a City issued encroachment permit. Staff recommends that the Planning Commission forward a recommendation of approval to the City Council subject to the findings and performance standards contained in the attached resolution.

CEQA (California Environmental Quality Act):

Project, Description of CEQA requirements

The project is covered by the Downtown Specific Plan Master Environmental Impact Report (MEIR). In accordance with CEQA Section 15179, since the MEIR was adopted more than five years ago (November 2009), the City needs to make the following finding:

- No substantial changes have occurred with respect to the circumstances under which the MEIR was certified, or that there is no new available information, which was not known and could have been known at the time the MEIR was certified.

An Initial Study (Attachment 3) describes the project and provides analysis whether the implementation of the project would require additional CEQA evaluation. To date within the Downtown Specific Plan area, there has been no additional commercial or office square footage. One residential project at Main and Butterfield with 148 dwelling units is under development. Therefore to date, development has been within the projections described in the Master EIR. The Master EIR anticipated the extension of Butterfield Boulevard to Monterey Road, which is now complete. Based on the Initial Study, the finding can be made that the project is consistent with the assumptions analyzed in the MEIR.

LINKS/ATTACHMENTS:

1. PD Resolution

2. Project Proposal and Letter of Justification by Applicant
3. CEQA Initial Study
4. Project Plans