

## MEMORANDUM

DATE December 9, 2015  
TO City of Morgan Hill City Council  
FROM Ben Noble (John Baty – Planning Commission Study Session Summary)  
SUBJECT Zoning Code Outline

**This is an annotated version of a memorandum that was shared with the Planning Commission for their December 8, 2015 study session on the Zoning Code Update. Staff and consultants presented the memorandum and attached Zoning Code Outline to the Planning Commission and received input on each of the key topics as summarized below after each section.**

This memorandum presents a recommended outline for the Morgan Hill Zoning Code Update. On December 8, 2015, staff and consultants will present this outline to the Planning Commission and the public for review and comment. After receiving input from the Planning Commission, staff and consultants will begin the process of drafting the updated Zoning Code. The Zoning Code is one component of the Updated Development Code.

### A. Background

On October 13, 2015 the Planning Commission held a study session to provide initial input on the Zoning Code Update. At this study session the Planning Commission received Zoning Code Assessment Memorandum dated October 6, 2015 that outlined key goals and issues for the Zoning Code Update. The Planning Commission provided input on both process and content issues for the Zoning Code Update.

Related to process, the Planning Commission commented on the proper role of the Planning Commission in the Zoning Code Update and preferred approach to meetings to review the updated Zoning Code. Related to content, the Planning Commission commented on the use of Planned Developments, sustainability and conservation, promoting good design through the zoning code, permits and approval, and zoning for the Monterey Road corridor. Recommended approaches to these issues are discussed in this memorandum.

### B. Annotated Outline

Attached to this memorandum is a recommended outline for the updated Development Code. The Development Code will contain three divisions:

- » Division 1: Zoning Code
- » Division 2: Development and Conservation Code
- » Division 3: Residential Development Control System

Below is a discussion of key topics addressed in the outline, with questions for the Planning Commission to consider at the December 8, 2015 study session.

### **Planning Commission Comments/Questions/Input**

- Chair Mueller – What is the School Impaction Chapter? Ben – It is a chapter (adopted in 1982) that is in the current Zoning Code that will be reviewed and updated for conformance with current state laws.
- Chair Mueller – Will there be a map that clearly documents the proposed changes to the existing Zoning Code? Ben – We will produce a disposition table that includes columns showing the current code section, proposed change(s) to that section, and notes why the change is proposed. This or a similar disposition table can be used after the update is complete to help people find/understand the changes that have been made.

### **1. Planned Development (PD) Zoning**

Major new projects in Morgan Hill have typically been approved using Planned Development (PD) zoning. PD zoning is a special type of zoning applied to a property that allows for deviations from standards required by the base zoning district. At the October 13, 2015 study session, the Planning Commission expressed interest in reducing reliance on the PD zoning through the updated Zoning Code and requested information on how this is addressed in other communities.

PD zoning is addressed in Chapter 18.40 (Overlay Zones) in the attached Zoning Code Update outline. Staff and consultants recommend retaining the PD overlay zone to allow for an applicant to request, on a limited basis, deviations from development standards that apply in the base zoning district. PD zoning is a useful tool when used properly – it can allow for a superior project that wouldn't otherwise be allowed. PD zoning also allow for creativity and flexibility when there are truly unique conditions on the site.

As reflected in the outline, the updated Zoning Code would contain measures to limit the frequency of PD zoning requests and to ensure that it is used as intended. Staff and consultants recommend establishing a minimum site area eligible for PD zoning – 2 acres for residential zones and 5 acres for other zones. This will ensure that PD zonings are proposed only for master-planned projects at a neighborhood scale, not smaller projects that should comply with base zoning standards.

The outline also recommends establishing limitations on use of PD zonings, including new findings that any deviation from base zoning district standards is necessary to achieve superior design and provide a community benefit.

Other communities have taken a similar approach to PD zoning, often by requiring a minimum project area and requiring the Planning Commission to find that deviations from development standards are necessary to achieve a superior project and that the deviations will result in meaningful community benefits not attainable using the base zoning districts. Links to example PD requirements are provided below:

San Carlos Zoning Code Section 18.36.040:

[www.codepublishing.com/CA/SanCarlos/#!/SanCarlos18/SanCarlos1836.html#18.36.040](http://www.codepublishing.com/CA/SanCarlos/#!/SanCarlos18/SanCarlos1836.html#18.36.040)

Novato Zoning Code Section 19.42.060.F.3:

[www.municode.com/library/ca/novato/codes/code\\_of\\_ordinances?nodeId=CHXIXZO\\_ART3SIPLGEDEST\\_DIV19.42PEAPDI\\_19.42.060MAPLPRDEPL](http://www.municode.com/library/ca/novato/codes/code_of_ordinances?nodeId=CHXIXZO_ART3SIPLGEDEST_DIV19.42PEAPDI_19.42.060MAPLPRDEPL)

Newport Beach Zoning Code Section 20.52.060.F:

[www.codepublishing.com/CA/NewportBeach/?NewportBeach20/NewportBeach20.html](http://www.codepublishing.com/CA/NewportBeach/?NewportBeach20/NewportBeach20.html)

Requested Planning Commission Input:

- » Do you have any questions or concerns about the recommended approach to addressing PD zoning in the updated Zoning Code? Are the recommended minimum parcel area and required findings sufficient to limit approvals of new PD zoning projects?

### **Planning Commission Comments/Questions/Input**

- Chair Mueller – What is an example of a meaningful community benefit that would justify a PD? Ben – A site with unique natural features/conditions that would be preserved or enhanced with the flexibility provided by PD.
- Andrew Crabtree noted that the City at one time had criteria in the Zoning Code for when a PD could be applied. Ben mentioned that some cities leave it up to their Planning Commissions and City Councils to decide if a PD is justified, while other cities have more defined/specific criteria that must be met or a list of amenities that are required to allow a PD. Andrew and Ben offered that the best practice is to limit the use of PDs for unusual circumstances; PDs should be the exception rather than the rule.
- Commissioner Toombs asked for elaboration on the minimum size requirement. Ben noted that size would be one way to limit the use of PDs for master-planned projects as opposed to smaller projects that should conform to the City's base zoning districts. The suggestion was that PDs be applied to 5 acre or larger commercial sites or 2 acre or larger residential sites. Chair Mueller raised a concern that a size minimum may limit the ability to master plan along the Monterey

Corridor. Ben offered that regardless of whether the base zoning district for Monterey Corridor is used or if PDs are applied that they should both support the City's vision for the corridor.

## 2. Sustainability and Conservation

At the October 13, 2015 study session, the Planning Commission expressed interest in using the updated Zoning Code as a tool to promote sustainability and natural resource protection goals. The updated Zoning Code outline includes a number of provisions to achieve this:

- » Landscaping (Chapter 18.60) will establish water-efficient landscaping standards for all development, not just larger projects subject to the State Water Conservation in Landscaping Act.
- » Habitat Plan (18.132) implements the Santa Clara Valley Habitat Plan
- » Post Construction Stormwater Pollution Prevention (Chapter 18.140) establishes stormwater management requirements to maintain water quality.
- » Water Conservation in Landscaping (Chapter 18.148) implements the State Water Conservation in Landscaping Act that applies to larger landscaping projects

The updated Zoning Code will also promote a sustainable development pattern with increased opportunities to walk, bike, and take transit to destinations. These include:

- » Mixed Use Zoning District (Chapter 18.24) with standards to encourage mixed use development in key infill locations.
- » Residential Design Standards (Chapter 18.80) which will mandate pedestrian-friendly design for all new residential developments.
- » Parking (Chapter 18.68) which will provide flexibility in on-site parking requirements to support infill development and transportation alternatives.

Competition standards in the updated Residential Development Control System (RDCS) will also promote sustainability by awarding competition points when exceeding mandatory standards required by the City and other public agencies. The following competition criteria are included in the current RDCS draft:

**Environmental Protection.** The City shall award points to projects that protect the environment and advance City sustainability goals. Points shall be awarded to projects that:

1. Exceed the minimum building energy efficiency required by the California Energy Code.
2. Incorporate infrastructure to accommodate the installation of photovoltaic solar

equipment at a later date.

3. Incorporate on-site solar or wind energy generation.
4. Involve the adaptive reuse of an existing building.
5. Incorporate sustainable site and landscape design features beyond minimum requirements.
6. Exceed minimum requirements of the California Green Building Code related to:
  - (a) Reducing the heat island effect.
  - (b) Energy efficient public infrastructure.
  - (c) Electric vehicle or other alternative fuel vehicle charging stations.
  - (d) Indoor and outdoor water use.
  - (e) Water reuse systems (graywater).
  - (f) Other green building techniques important in Morgan Hill.

Details on how to award points using these criteria will be included in a new RDCS Competition Manual. This manual (and the RDCS ordinance) will be reviewed by the Planning Commission at a series of meetings in early 2016.

Requested Planning Commission Input:

- » Do you have any questions or concerns about the recommended approach to address sustainability in the Zoning Code? Are there issues that you would like to see addressed?

**Planning Commission Comments/Questions/Input**

- Commissioner Tanda pointed out that in a few years what was a special/above-and-beyond sustainability/conservation measure becomes the standard. Ben suggested that the Zoning Code be written in a way that allows an evolution of measures so they don't quickly become obsolete.
- Chair Mueller asked why we would consider flexibility in parking standards when we have existing issues with inadequate parking. Ben noted that this is a content issue that will be highlighted for future discussion and that we will need to find the right balance that works and is customized for Morgan Hill.
- Commissioner Toombs suggested the possibility of just referencing state standards. Andrew noted that most of the state's sustainability measures are codified in the Building Code and that the City adopts the Building Code by reference.

- Commissioner McKay suggested gray water as a topic for follow-up discussion.

### 3. Design Standards

Policies under Draft General Plan Goal CNF-11 include establishing new policies for the design of residential development in Morgan Hill. The Zoning Code needs to establish standards to implement these policies. The new RDCS also envisions mandatory standards in the Zoning Code to ensure high-quality design for all projects, with the RDCS competition used to achieve a level of design that exceeds minimum requirements.

At the October 13, 2015 study session, the Planning Commission requested examples of how other communities address this issue in their zoning regulations. Below are three examples that represent different approaches to address this issue.

#### **Approach 1: Detailed Design Standards for All Development Types.**

Section 19.7.6 of the Henderson, Nevada Zoning Code contains detailed design standards that apply to all development types in the community, which are similar to standards typically included in a separate Design Standards document. The Henderson design standards include some advisory “should” and “may” guidelines alongside the mandatory “shall” statements.

Henderson Zoning Code Section 19.7.6: [http://www.cityofhenderson.com/docs/default-source/community-development-docs/development-code/19-7\\_development\\_and\\_design\\_standards.pdf?sfvrsn=13](http://www.cityofhenderson.com/docs/default-source/community-development-docs/development-code/19-7_development_and_design_standards.pdf?sfvrsn=13)

#### **Approach 2: Mandate General Outcomes with Flexibility on Methods to Achieve Outcomes.**

Section 18.13.060 of the Palo Alto Zoning Code design standards for multi-family developments. These standards are different from the Henderson example in that they establish a basic desired outcome, and provide flexibility on how to achieve this outcome.

Palo Alto Zoning Code Section 18.13.060:  
[http://library.amlegal.com/nxt/gateway.dll/California/paloalto\\_ca/paloaltomunicipalcode?f=templates&\\$fn=default.htm\\$3.0\\$vid=amlegal:paloalto\\_ca](http://library.amlegal.com/nxt/gateway.dll/California/paloalto_ca/paloaltomunicipalcode?f=templates&$fn=default.htm$3.0$vid=amlegal:paloalto_ca)

#### **Approach 3: Establish Design Standards for Specific Building Types.**

Section 4.10.100 in the Kingsburg Zoning Code contains design standards for different building types. The Zoning Code identifies building types permitted in each zoning district (e.g., townhomes, bungalow courts), and then establishes design standards for these building types. This approach in common design-focused zoning codes is typically referred to as “form-based codes.”

Kingsburg Zoning Code Section 4.10.100:  
[http://www.dot.ca.gov/hq/tpp/offices/ocp/completed\\_projects/cbtp\\_smartgrowth/D6\\_Central%20Ki](http://www.dot.ca.gov/hq/tpp/offices/ocp/completed_projects/cbtp_smartgrowth/D6_Central%20Ki)

ngsburg%20Smart%20Land%20Use%20and%20Transportation%20Implementation%20Strategy/Kingsburg\_Form-Based\_Code.pdf

For Morgan Hill's Zoning Code, staff and consultants recommend an approach similar to Palo Alto, where the zoning code establishes desired outcomes based on General Plan policies, with examples of ways projects can achieve these outcomes. To approve proposed projects, the Planning Commission would need to find that projects have successfully achieved all mandatory design outcomes. This approach will allow for flexibility and creativity in project design and avoid a "cookie-cutter" effect. These mandatory design outcomes should be tied to design-related competition criteria in the RDCS. The current RDCS draft identifies the following design criteria:

**Project Quality.** The City shall award points for exceptional project design at the neighborhood, site, and building scale. Points shall be awarded only for project features that exceed minimum requirements in the General Plan, Zoning Code, and other City plans and ordinances.

1. For all development, the City shall award points for:
  - (a) Authentic building designs that reflect established architectural styles.
  - (b) Architectural details that emphasize a residential and pedestrian-scale character.
  - (c) Parking and vehicle circulation facilities that support a pedestrian-friendly environment.
  - (d) Projects that complement existing development patterns and minimize impacts on neighboring properties.
  - (e) Projects that minimize privacy impacts on neighboring properties.
2. For subdivisions that create a new neighborhood, the City shall award points for:
  - (a) Sensitive transitions to adjacent residential development.
  - (b) A street network with a high level of internal connectivity.
  - (c) Multiple connections to the surrounding community.
  - (d) A transportation network that accommodates all modes of transportation.
  - (e) Integrated common open spaces, parks, and community facilities that serve as social and design focal points.
  - (f) Variation in lot and building design to create visually interesting and distinctive neighborhoods.
  - (g) Buildings designed to support an active and pedestrian-friendly public realm.

3. For multi-family projects, the City shall award points for:
- (a) Private and public open spaces that are inviting places, useful to occupants, and encourage resident activity and interaction.
  - (b) Projects that appear consistent with Morgan Hill's small town residential character.
  - (c) Multi-unit buildings that appear as individual residences or small groups of units.
  - (d) Multi-unit buildings that maximize the number of private, ground level entries to individual units.
  - (e) Building entries that are prominent and visible.
  - (f) Transition zones between private and semi-public spaces through the use of landscaping, fences, trellises, walls, or a change in floor elevation.
  - (g) Facilities that accommodate the needs of bicyclists and pedestrians.

The Planning Commission will review more specific RDCS competition criteria in early 2016 in advance of the publication of the Updated Zoning Code

Requested Planning Commission Input:

- » Do you have any questions or concerns about the recommended approach to incorporating design standards in the updated Zoning Code? Are there specific design issues that you would like to see addressed?

**Planning Commission Comments/Questions/Input**

- Commissioner Tanda expressed that he likes the outcome-based concept, but it requires a great deal of subjectivity and leads to differences of opinion. Ben noted that that is the trade-off; flexibility leads to subjectivity. Ultimately it will be worthwhile for the City to update its Architectural Review Handbook (Guideline).
- Chair Mueller suggested that the City establish absolute minimum requirements and promote projects to exceed those requirements. Chair Mueller also expressed a concern about the interior design of projects (as opposed to the outward public facing parts of the project). Ben offered that we could introduce more prescriptive standards for some elements, but then the question is where do we stop with the prescriptive and transition to being flexible.
- Chair Mueller worried about getting too prescriptive.

- John McKay suggested that if the Planning Commission is called upon to a greater degree to review architecture, with the subjectivity of the 7 commissioners, that they would benefit from continual training in how to evaluate design. Commissioner Tanda questioned whether the voluntary Planning Commission is the appropriate body for reviewing design, rather than staff. Andrew offered that staff would continue to be at the front-line of reviewing project design, but that the Planning Commission would be in the role of helping to determine if a project is superior. Commissioner Tanda suggested that it would benefit the Planning Commission to go through a hypothetical process to see how their role in design review would work in practice.
- Chair Mueller suggested that with the next RDCS competition that in addition to review projects against the current RDCS that we also pilot the new RDCS to see how it works. Andrew noted that the new RDCS would have to be wrapped-up well in advance of the next competition submittals, but we could use a couple of projects from this year's competition as examples to test the proposed RDCS.

#### 4. Monterey Corridor

A key goal in Morgan Hill's Draft General Plan is high quality mixed use infill development within the Monterey Road corridor. The attached outline recommends establishing a new Mixed Use Flex zoning district to implement the Mixed Use Flex General Plan designation.

Recently, staff and consultants learned of Valley Transportation Authority (VTA) plans to release funding for Morgan Hill to conduct a grant-funded planning study for the ½ mile area surrounding the Caltrain station. This planning study may help to better define development standards for the Mixed Use Flex zoning district. VTA anticipates that the planning study will be completed by early 2017. Due to this upcoming planning study, staff and consultants recommend establishing only basic land use and development standards for the new Mixed Use Flex zoning district, with additional design standards added after the planning study is completed.

##### Requested Planning Commission Input:

- » Do you have any questions or concerns about the recommended approach to the Mixed Use Flex Zoning District, particularly the plan to add more detailed design standards after the completion of the VTA-funded planning study for the Caltrain station area?

##### Planning Commission Comments/Questions/Input

- Chair Mueller expressed concern with the use of the Mixed Use Flex district outside of the Downtown/Monterey Corridor area and that we need guidelines/tools in place to allow the right mix of residential and commercial uses.

## 5. Permits and Approval

The Zoning Code Assessment Memorandum suggested reducing the different types of use permits that serve a limited purpose. At the October 13, 2015 study session the Planning Commission expressed concern that this may not be desirable.

Table 7 in Chapter 18.98 (included in the attached outline) lists permits and approvals for the Updated Zoning Code and the review authority for each. Included in this table is a new multi-purpose Administrative Use Permit. This permit would be used to approve uses needing discretionary review but that don't warrant a hearing before the Planning Commission. Among other purposes, the Administrative Use Permit would be used to approve commercial uses that do not conform to non-residential zoning within the Commercial Use Overlay Zone and non-retail uses in the Ground Floor Overlay district. This would eliminate the need for a special Commercial Administrative Use Permit and Downtown Administrative Use Permit. Special findings and standards for non-residential projects within the Commercial Use Overlay Zone and non-retail uses in the Ground Floor Overlay District would be added to Chapter 18.90 (Special Land Use Regulations).

Similarly, Interim Uses in the CC-R zoning district, now allowed with an Interim Use Permit, would be approved with the existing Conditional Use Permit. Chapter 18.90 (Special Use Regulations) would contain special findings for approval of an Interim Use in the CC-R (now Mixed Use Flex).

### Requested Planning Commission Input:

- » Do you have any questions or concerns about the recommended permits and approvals in outline Table 1? In particular, do you have any concerns with using a multi-purpose Administrative Use Permit and Conditional Use Permit as replacements for the existing Commercial Administrative Use Permit, Downtown Administrative Use Permit, and Interim Use Permit?

### Planning Commission Comments/Questions/Input

- Commissioner McKay asked if the use of Administrative Permits would reduce the fees applicants would have to pay? Ben offered that the consolidation of administrative permits into a multi-purpose administrative permit could result in reduced fees. Andrew added that what we are proposing is really a consolidation of a variety of different administrative permits into one administrative permit, but that we could also look at making something that currently requires a Conditional Use Permit only require an administrative permit instead.
- Chair Mueller asked about modifying our Development Agreement provisions to allow for certain changes without needing to go back to City Council. Andrew noted that Development Agreements can be crafted to allow for certain changes without going back to City Council.
- Chair Mueller asked if there were going to be any changes to Chapter 18.48 Affordable Housing. Ben responded only to the extent needed to conform to state housing law.

### C. Zoning Code Update Process

At the October 13, 2015 study session, Planning Commissioners commented on the role of the Planning Commission in the Zoning Code Update and the preferred approach to meetings to review the updated Zoning Code. Overall, the Planning Commission supported an efficient process but with sufficient opportunity to provide input on important aspects of the Zoning Code. The majority of Planning Commissioners supported an approach that would avoid a lengthy line-by-line discussion of the Zoning Code during public meetings, but would also allow the Planning Commission to ensure that the Zoning Code reflects the unique needs and character of Morgan Hill.

Table 2 below presents a recommended schedule for the Zoning Code Update. After the Public Review Draft Zoning Code is published in March 2016, the Planning Commission will meet three times to discuss the Zoning Code and provide feedback to staff and consultants. The meetings will be carefully structured, with materials prepared in advance to focus on key topics that require Planning Commission input. A detailed disposition table identifying substantive changes to the existing Zoning Code will be provided as background information.

**Table 1: Zoning Code Update Schedule**

Date	Zoning Code Task
December 8, 2015	Planning Commission Study Session: Zoning Code approach
March 2016	Public Review Zoning Code
March – May 2016	Planning Commission Meetings: Draft Zoning Code (3)
June 2016	City Council Meeting: Draft Zoning Code
July 2016	Draft Final Zoning Code
September 2016	Zoning Code EIR Addendum
October 2016	Planning Commission Adoption Hearings
November 2016	City Council Adoption Hearings Final Adopted Development Code, including voter-approved RDCS

#### Requested Planning Commission Input:

- » Do you have any questions or concerns about the recommended approach and schedule to prepare the updated Zoning Code?

### **Planning Commission Comments/Questions/Input**

- Commissioner McKay asked if we were going to have an updated Design Guidelines to support the changes to the Zoning Code. Ben responded that changes to the existing Architectural Review Handbook should happen, but those changes are not part of the Morgan Hill 2035 work plan. Ben noted that the design related changes in the Zoning Code are viable on their own. Andrew added that the City will be continuing its long range planning program following the Morgan Hill 2035 project, but we would have to discuss and prioritize the work that goes into that program.
- Chair Mueller asked for clarification on what would constitute a “substantive” change. Ben clarified that we will note changes to existing rules and processes, but stylistic changes won’t be highlighted.

### **Attachment:**

- A. Morgan Hill Development Code Update Outline