

ORDINANCE NO.

**A ORDINANCE OF THE CITY OF MORGAN HILL
AMENDING THE ZONING FROM CBD GF TO CBD GF
(PD) AND APPROVING A PRECISE DEVELOPMENT
PLAN TO ALLOW FOR A 12,025 SQUARE FOOT
COMMERCIAL DEVELOPMENT, INCLUDING A
DEVIATION FROM A REQUIRED FRONT SETBACK AND
1ST STORY CLEAR-HEIGHT ON A 0.42- ACRE SITE
LOCATED ON THE EAST SIDE OF MONTEREY ROAD
SOUTH OF THIRD STREET (APNs 726-13-038, -039 & -040)**

WHEREAS, such request was considered by the City Council at its regular meeting of March 2, 2016 at which time the City Council approved zoning amendment application, ZA-15-14: Monterey & Third- Rodrigues; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE
AS FOLLOWS:**

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The City Council of the City of Morgan Hill hereby finds that the planned development and precise development plan is consistent with the following findings required per Section 18.30.050 of the Morgan Hill Municipal Code:

A. Proposes deviations to development standards that they are in keeping with the general intent and spirit of the zoning regulations and other Municipal Code requirements;

B. The plan presents a unified and organized arrangement of buildings and lots which are appropriate in relation to adjacent or nearby properties, in that the proposed deviations similar to those accepted on other projects;

C. The development standard exceptions requested in the plan are warranted by the proposed provisions of the plan;

SECTION 3. The City Council of the City of Morgan Hill hereby finds that the planned development and precise development plan is consistent with the following findings required per Section 18.62.070 of the Morgan Hill Municipal Code:

- 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;

SECTION 4. The City Council hereby finds that, on the basis of the whole record before it that the project site is within the Downtown Specific Plan area and covered under the Master Environmental Impact Report certified in November 2009.

An initial study was conducted for this project and concludes that 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 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. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 5. The City Council hereby approves a precise development plan as contained in that certain series of documents dated January 22, 2016 on file in the Community Development Department, entitled "Monterey and Third Development" prepared by Kenneth Rodrigues & Partners, Inc. These documents, as amended by site and architectural review, show the on-site improvements including structures, landscaping and amenities location and any other purposeful uses of the project.

SECTION 6. Approval of the Planned Development (PD) overlay to amend the zoning of the subject site to CBD GF (PD) and the precise development plan shall allow exceptions to the base development standards of the CBD zone district,

including the increased front setback to accommodate the outdoor dining patio, as identified on the Precise Development Plan dated January 18, 2016 (Exhibit 'B') and described in Exhibit 'A'.

SECTION 7. Approval of the Planned Development (PD) overlay to amend the zoning of the subject site to CBD GF (PD) and the precise development plan shall allow exceptions to the base development standards of the CBD zone district, including the minimum 14'-0" 1st story clear-height, as identified on the Precise Development Plan dated January 18, 2016 (Exhibit 'B') and described in Exhibit 'A'.

SECTION 7. SEVERABILITY. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. EFFECTIVE DATE; PUBLICATION. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 2nd DAY OF MARCH 2016, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE _____ DAY OF _____, 2016 AND SAID ORDINANCE WAS DULY PASSED AND A D O P T E D IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBER'S:

NOES: COUNCILMEMBER'S:

ABSTAIN: COUNCILMEMBER'S:

ABSENT:

COUNCILMEMBER'S:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

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❧ CERTIFICATION ❧

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the _____ day of, 2016.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk