



# City of Morgan Hill

## Legislation Details (With Text)

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

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment 1\_Location Map, 2. Attachment 2\_Ordinance for Zoning Amendment, 3. Attachment 3A\_General Statement of Operations, 4. Attachment 3B\_OPA\_State of Operations, 5. Attachment 4\_Initial StudyCEQAchecklist (1), 6. Attachment 5\_Planning Commission Staff Report 2-9-2016, 7. Attachment 6\_Monterey & Third 1.22.16 Resubmittal FULL, 8. 08 Presentation

Date	Ver.	Action By	Action	Result
3/2/2016	1	City Council	waived reading of the Ordinance	Pass
3/2/2016	1	City Council	introduced	Pass

## CITY COUNCIL STAFF REPORT MEETING DATE: MARCH 2, 2016

PREPARED BY: Andrew Crabtree, Director, Community Development Department  
APPROVED BY: City Manager

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

#### RECOMMENDATION(S)

1. Open/Close Public Hearing;
2. Waive the first and second reading of the Ordinance; and
3. Introduce Ordinance approving Zoning Amendment ZA-15-14

#### COUNCIL PRIORITIES, GOALS & STRATEGIES:

##### 2016 Focus Areas

Developing Our Community

#### REPORT NARRATIVE:

##### Site Description

The project site is located in the Downtown at the southeast corner of Monterey Road and Third

Street and consists of three improved parcels (existing building and surface parking). The site is one of the Downtown Opportunity Sites. The site is zoned Central Business District - Ground Floor within the Downtown Specific Plan and is surrounded by similar zoning designations and commercial development.

### **Project Description**

The applicant requests 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-site and off-site development as described in detail in the Planning Commission Staff Report (February 9, 2016-Attachment 5), the current action in front of the Council is the request for a Planned Development Zoning.

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 first-story minimum ceiling height. These requests require the establishment of a PD Zoning for the site. The applicant also requested that bars be added as a "permitted by right" use within the PD Zoning. However the Planning Commission recommendation is that this provision not be included in the PD Zoning

The Planning Commission discussion and recommendation is described in the next section. (The full Commission discussion video for the February 9, 2016 Planning Commission Meeting is available at: [http://morgan-hill.granicus.com/MediaPlayer.php?view\\_id=4&clip\\_id=570](http://morgan-hill.granicus.com/MediaPlayer.php?view_id=4&clip_id=570).)

### **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. The Downtown Specific Plan allows beer and wine service in conjunction with restaurants as a permitted use, however, bars require the approval of a Conditional Use Permit to operate in the CBD Zoning District. The project applicant however is requesting a Planned Development Zoning Overlay that would allow the project to be inconsistent with specific standards of the CBD Zoning District as discussed below.

### **Planned Development (PD) Overlay Findings**

The applicant proposes 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.

### **Proposed 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 exceptions 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.
2. Deviation from the required minimum first floor ceiling height of 14'-0" for non-residential spaces. The applicant proposes a mezzanine in portions of the building that would reduce the 18'-0" ceiling height to 8'-0" in those portions. (This deviation was not initially requested by the applicant, but added as an identified deviation per the recommendation of the Planning Commission.)

#### *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.

#### *Deviation from First Floor Clearance Height*

The Downtown Specific Plan requires a minimum 14'-0" clearance between the floor and the ceiling for non-residential projects within the CBD areas. The project proposes a mezzanine space for the rear portion of the two buildings over the kitchen areas. The clearance between the floor and the bottom of the mezzanine is 8'-0", which does not meet the minimum requirements.

The purpose of the minimum clearance height is to ensure a usable space that can accommodate a variety of commercial businesses activities, while providing a space that is pleasing for the commercial patrons. Typically, higher ceilings are necessary to create ambiance and flexibility in use of the spaces. As demonstrated in the project plans, the project provides 18'-0" clearance between the floor and the ceiling in the dining areas of the buildings, where the patrons would be situated. The portions of the building with lower ceilings are located in the "back of the house" areas or kitchen and administrative areas, which do not need the higher ceilings. On the mezzanine level a 15'-0" ceiling is proposed to accommodate either storage, office or additional dining space.

### *Zoning Amendment Findings*

Further, in order to amend the Zoning, the City Council should 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;
- D. Proposes deviations to development standards that are in keeping with the general intent and spirit of the zoning regulations and other Municipal Code requirements;
- E. 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 project; and
- F. The development standard exceptions requested in the plan are warranted by the proposed provisions of the plan.

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. The proposed deviations are consistent and encouraged by the Downtown Specific Plan guidelines, which implements the zoning code. The plan proposes unified and organized arrangement of commercial buildings consistent with surrounding development and the proposed development standard exceptions are warranted since they support the overall goals of the Downtown Specific Plan.

### **Planning Commission Discussion**

The Commission was supportive of the concepts presented by the applicant. They recognized that Design Review and the off-site improvements would be evaluated by staff subsequent to the evaluation of the zoning amendment.

The Commission did not support the applicant's request to include the full service of alcoholic beverages in conjunction with the restaurant as a permitted use of the Planned Development. The Planned Development would have included performance standards establishing operational standards such as hours and other limitations. The project includes bar operations as an ancillary activity to the restaurants and therefore a Conditional Use Permit or Permits will be necessary if the bar use is not added as a permitted use within the PD Zoning. Incorporating the alcohol use as part of the PD Zoning, along with performance standards as needed, would streamline the approval process for the applicant. However, as the Commission noted, if Code Enforcement activity is necessary in the future, operation of the uses under a Conditional Use Permit, rather than as a

permitted use in the PD Zoning, would facilitate the City's review and enforcement process as the Conditional Use Permit includes nuisance findings and not revocation findings. As part of their recommendation to the Council, the Commission recommended that the PD Zoning not allow bars by right so that the applicant would need to subsequently obtain a Conditional Use Permit.

In addition, the Commission recognized that while the project partially met the requirements of the first floor ceiling clearance standard within the CBD, to ensure consistent future implementation of the Specific Plan, the Commission recommended that the PD include the deviation from the first floor ceiling height standard.

**COMMUNITY ENGAGEMENT: Inform**

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.

**ALTERNATIVE ACTIONS:**

The City Council could approve the Ordinance for a PD Zoning as originally proposed, or direct staff to work with the applicant to make other changes to the project.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

- 1) The 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.
- 2) On February 9, 2016, the Planning Commission voted to recommend approval of the Planned Development rezone.

**FISCAL AND RESOURCE IMPACT:**

The City administers land use entitlement processes on a cost-recovery basis with fees collected from applicants to cover the cost of services. Application fees were collected to cover the cost of processing these applications.

The development of new restaurant uses is expected to have a positive fiscal impact for the City.

**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. Location Map
2. PD Ordinance
3. Project Proposal and Letter of Justification by Applicant
4. CEQA Initial Study
5. Planning Commission Staff Report
6. Project Plans