



# City of Morgan Hill

## Legislation Details (With Text)

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<b>On agenda:</b>	9/2/2015	<b>Final action:</b>		<b>Final action:</b>	4/1/2016
<b>Title:</b>	URBAN SERVICE AREA ADJUSTMENT USA-05-02, ZONING AMENDMENT ZA-11-13 AND MEMORANDUM OF UNDERSTANDING: EDMUNDSON-OAK MEADOW PLAZA: A REQUEST TO EXPAND THE URBAN SERVICES AREA BOUNDARY TO INCLUDE APPROXIMATELY 20 ACRES AND TO ANNEX AND TO PRE-ZONE THE APPROXIMATELY 52-ACRE PROPERTY TO ALLOW THE FUTURE DEVELOPMENT OF SINGLE-FAMILY DWELLINGS ON THE 20 ACRE PORTION. THE PROJECT INCLUDES A MEMORANDUM OF UNDERSTANDING (MOU). THE PROJECT, IDENTIFIED BY ASSESSOR PARCEL NUMBERS 767-15-026, 767-19-028, 767-19-020, AND 767-19-024 IS LOCATED NORTH OF WEST EDMUNDSON AVENUE AND WEST OF SUNSET AVENUE				

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. MOU 2015 Resolution - for approval, 2. Oak Meadow 2015 MOU v8, 3. MOU Attachments, 4. USA Resolution\_for approval, 5. ZA Ordinance\_for approval, 6. Project Site Plan, 7. CEQA Project Addendum, 8. Council Policy CP 94-02, 9. Section 18.78.070, Urban Service Area Restrictions, 10. September 9, 2014 Planning Commission Staff Report and Attachments, 11. September 9, 2014 Planning Commission Meeting Minutes, 12. October 14, 2014 Planning Commission Staff Report and Attachments, 13. October 14, 2014 Planning Commission Meeting Minutes, 14. November 18, 2014 Planning Commission Staff Report and Attachments, 15. November 18, 2014 Planning Commission Meeting Minutes, 16. January 13, 2015 Planning Commission Staff Report and Attachments, 17. January 13, 2015 Planning Commission Meeting Minutes, 18. February 4, 2015 City Council Report and Attachments, 19. February 4, 2015 City Council Meeting Minutes, 20. July 14, 2015 Planning Commission Staff Report, Attachments and Supplemental, 21. July 28, 2015 Planning Commission Staff Report, Attachments and Supplemental, 22. Letter of support Oak Meadows, 23. 25 Supplement 1, 24. 25 Staff Presentation

Date	Ver.	Action By	Action	Result
9/2/2015	1	City Council	denied	Fail

## CITY COUNCIL STAFF REPORT MEETING DATE: SEPTEMBER 2, 2015

PREPARED BY: Sheldon Ah Sing, Contract Planner/Community Development Department  
APPROVED BY: City Manager

**URBAN SERVICE AREA ADJUSTMENT USA-05-02, ZONING AMENDMENT ZA-11-13 AND MEMORANDUM OF UNDERSTANDING: EDMUNDSON-OAK MEADOW PLAZA: A REQUEST TO EXPAND THE URBAN SERVICES AREA BOUNDARY TO INCLUDE APPROXIMATELY 20 ACRES AND TO ANNEX AND TO PRE-ZONE THE APPROXIMATELY 52-ACRE PROPERTY TO ALLOW THE FUTURE DEVELOPMENT OF SINGLE-FAMILY DWELLINGS ON THE 20 ACRE PORTION.**

**THE PROJECT INCLUDES A MEMORANDUM OF UNDERSTANDING (MOU). THE PROJECT, IDENTIFIED BY ASSESSOR PARCEL NUMBERS 767-15-026, 767-19-028, 767-19-020, AND 767-19-024 IS LOCATED NORTH OF WEST EDMUNDSON AVENUE AND WEST OF SUNSET AVENUE**

### **RECOMMENDATION(S)**

1. Open and Close public hearing;
2. Adopt resolution to approve the Memorandum of Understanding between the City and Applicant;
3. Adopt resolution to approve the Urban Service Area Adjustment USA-05-02;
4. Waive the first and second reading of the Zoning Amendment Ordinance ZA-11-13; and
5. Introduce the Zoning Amendment Ordinance ZA-11-13

### **COUNCIL PRIORITIES, GOALS & STRATEGIES:**

#### **Ongoing Priorities**

Enhancing public safety  
Protecting the environment

#### **2015 Focus Areas**

Stimulate Economic Development  
Infrastructure Funding and Advocacy  
Advance Regional Transportation  
Community Engagement Effectiveness

### **REPORT NARRATIVE:**

#### **Site Description**

The project site includes several parcels (Areas 1-9 [see location map] totaling 116.91 acres) located outside of the City's boundaries. The site is vacant except for a residence located in Area 3. Area 1 is located within the City's Urban Growth Boundary (UGB) and Urban Limit Line (ULL) and proposed for annexation along with Areas 2 and 3. Area 1 is the relatively level portion of the project site, sloping upward from its eastern side toward a 10 percent slope line along its western edge. The development site (Area 1) is described as 20.51 acres, which includes 19.99 acres outside of the City's boundary (and USA) and 0.52 acres within the City's boundary.

#### **Applicant's Request**

The project proponent seeks the necessary entitlements to allow the future development of single-family residences within the City of Morgan Hill. In order to accomplish this goal, the City would need to extend its Urban Service Area (USA) to include a portion of the property and pre-zone the site to a residential designation consistent with the City's General Plan. The applicant also proposes a Memorandum of Understanding (MOU 2015) between the City and the applicant. Complete project details are provided in the attached Planning Commission staff reports.

#### **Staff Recommendations**

The Planning Commission was unable to come to a consensus on this application and did not forward a recommendation to the City Council. Since the July 28, 2015 Planning Commission, the applicant and staff agreed to changes to the MOU that would address some of the issues discussed

by the Commission, provide more clarity and make technical corrections to better implement the project. In summary these changes include:

- The correct chronology of events for the land use actions by the City (Pg. 3 of MOU);
- The density range allowed by the General Plan for Lot 1 (Pg. 3);
- Clarifying that only fences and yards on Lot 1 are allowed between the 10 and 12.5 percent slope lines (Pg. 3);
- Lots 3 and 4 would include only one house each, absent any future inclusion into the USA (Pg. 4);
- No homes would be located on Lot 9, absent any future inclusion into the USA (Pg. 4);
- Clarifying the extent of the trail improvements (Pg. 5); and
- New exhibits that better clarify the trail improvements and location of the slope lines.

These changes are included in the MOU 2015 Attachment and exhibits.

### **Project Issues**

Over the course of the project, there has been discussion focusing on core issues which are summarized below.

#### **A. Number of Units**

The project areas are located within the County of Santa Clara and consist of large parcels (between 8 and 13 acres). The County's zoning allows for one dwelling unit on each parcel, which for Areas 1-3 would be five houses. For Areas 4-9, an additional six houses could be built. The County includes development standards and processes that would further determine where these homes could be situated on each parcel, however, with little to no input from the City of Morgan Hill.

The applicant's proposal would extend the single-family pattern of development from Sunset Avenue, provide clustering of development, create view sheds and lock down the locations of future home sites in the County. During the last year, at the request of the Commission and staff, the applicant provided site plans depicting different densities. The development would transition from the 3.8 dwelling units per acre existing neighborhood to 2.3 dwelling units per acre in Area 1.

The adjacent neighbors that have engaged the City throughout the process are against the applicant's proposal. Their perspective is that there would be a loss in open space character in the Area 1 site. There are also concerns that there would be a noticeable increase in traffic since the proposed project would have two access points through the existing neighborhood.

During the last year, the Commission attempted to find a compromise between the two positions. The Commission discussed a limitation of units. This would reduce traffic, provide for more view shed opportunities and allow for more density than what is currently allowed under the County. The reduced number of units may not yield sufficient economic return on the best use of the property for the applicants. However, the Commission was divided on this issue.

#### **B. Open Space**

The applicant proposed to provide open space easements generally over property that has greater than 10 percent slope. The City's hillside is defined as slopes over 20 percent. The proposed open space easement area amounts to approximately 82 acres. Development over these areas would be restricted based upon the MOU 2015 and limited to ancillary agricultural structures and uses. Area 1

includes a development area that is somewhere between the 10 and 20 percent slope lines.

As with the number of unit issue, the neighbors requested that the site be retained in its current state and recognize that there would be some development allowed based on County requirements. The preservation of hillside and open space is supported by General Plan policies.

The Commission recognized that there was a correlation between the number of units and open space. The Commission discussed limiting development on Area 1 below the 10 percent slope. In part, the project's design would include clustering, preservation of view sheds and incorporation of trail heads and trails. While there would be some visual impact, the design of the project would consider this issue closely.

### **C. Public Benefit and Infill Criteria**

Since the project includes a USA adjustment, the request is subject to the City's regulations within Chapter 18.78 of the Zoning Code and City Council Policy 94-02. The City currently has enough vacant land to accommodate up to five years of residential development, however, the zoning code allows for "desirable infill", if certain criteria is met. The project meets those requirements with the inclusion of public benefit. Public benefit is not specifically defined in terms of monetary value, whereas in the context of desirable infill it is defined as "facilitating the provision of infrastructure improvements" or "allow for the establishment of public facilities to be owned or operated by a public agency."

While the project proposes a number of public benefits, only the trail component meets the criteria (described in detail in the July 14, 2014 Planning Commission staff report). The proposed trail is consistent with the diagrams in the City's Trails Master Plan. The offer of the developer to construct the trail off-sets costs that would otherwise be borne by the City.

The neighbors questioned the benefit of the trail, in that it would not serve many people and it only leads over the hills. While the community has expressed concern over impact from the project, as previously analyzed, the project would not result in any significant impacts, would be consistent with the City's General Plan land use diagram and goals related to development of single-family housing in proximity to City services, and would provide a benefit that satisfies the City's criteria for desirable infill.

### **D. General Plan Policies**

The General Plan includes required topics such as but not limited to Transportation and Land Use and includes many goals and policies that that cover a wide range of issues important to the City. Some goals and policies complement each other, while others may contradict. A project need not be consistent with all goals and policies to be supported or approved. Likewise, for a denial of a project, not all goals and policies need to be found inconsistent with the project.

The neighbors have stated that the General Plan includes policies to preserve the hillsides and open space and that the project is inconsistent with those policies. In the fall of 2014, staff's report to the Planning Commission also cited that the project at that time was inconsistent with that limited provision of the General Plan with respect to those particular policies. However, the applicant proposed additional design measures and committed to the trail system and therefore achieved a supportive recommendation. Overall, the proposed Project is consistent with the General Plan in that it meets the General plan land use designation for 1-3 Du/acre. In addition the City has goals to provide a 70/30 housing mix, single family to multi-family, which necessitates single family sites. The

proposed site is within relative proximity to the Downtown, Centennial Recreation Center, Community Park, and retail uses, and adjacent to existing City services and roadway improvements designed to accommodate future development on the subject parcel.

### **Next Steps**

If the City Council approves the requests, then an application would be submitted to LAFCO to consider the USA adjustment. Prior to the LAFCO hearing, the developer and City would be required to first enter into, and City would need to adopt, a Development Agreement or other legally binding agreement based on the commitments within the approved 2015 MOU. If LAFCO approves the adjustment, the City Council would consider the Annexation. Subsequently, the applicant would submit for residential allocations, a Planned Development, Subdivision and site design review. At that stage, more detailed designed plans would be available following the commitments established within the legally binding agreement.

### **COMMUNITY ENGAGEMENT:      Involve**

During the course of the last year, the project has been the subject of six Planning Commission meetings, one City Council meeting and one community meeting. Where required, a 10-day public hearing notice was published in the Morgan Hill Times newspaper and/or notices were mailed to property owners within 300 feet of the project pursuant to local and state codes.

### **ALTERNATIVE ACTIONS:**

The following alternative actions could be considered by the City Council:

- A. Deny the request. This would result in the City not pursuing the USA with LAFCO and any subsequent Annexation action for the property and the applicant could develop the existing parcels under the development standards of the County of Santa Clara.
- B. Provide modifications to the project, such as requiring a different amount of dwelling units for Area 1 within the General Plan density range of 21-62 units; limiting development below the 10 percent slope of Area 1 or other modifications as directed by the City Council.
- C. Table or continue the request and direct the applicant to work with staff and the neighbors.

### **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

The project has been in process intermittently for the last nine years and has been the subject of numerous public meetings.

#### **A.      2006 Memorandum of Understanding**

In February 2006, the City of Morgan Hill, the project applicant, and adjacent landowners within the unincorporated County entered into a non-binding Memorandum of Understanding (MOU) that established expectations for future possible development of the 118-acre project site area. A summary of these expectations were included as Action Statement 7.5 within the General Plan.

#### **B.      2006 Project**

In April 2006 the City Council adopted a Mitigated Negative Declaration for the City of Morgan Hill Urban Limit Line and Greenbelt Study General Plan Amendment and Related Actions. The environmental document analyzed the proposed Urban Limit Line (ULL) and greenbelt for Morgan Hill and also provided a programmatic level environmental review for three residential projects, which

included the project. The City Council approved the adjustments to the ULL and Urban Growth Boundary and established a General Plan land use designation of Single-Family Low for a 19.99-acre development site, allowing up to 60 single-family homes. The remaining requests were tabled due to community concerns, including access and traffic concerns expressed by residents of the adjacent neighborhoods to the east.

**C. 2012 Project**

In 2011, the project applicants modified their development plan to reduce the number of units to 54, met with the neighbors, re-initiated the 2006 applications, and filed two new applications for a General Plan Amendment and pre-zoning. The project was processed and was the subject of two Planning Commission hearings (August 28, 2012 and September 11, 2012). Issues were raised from the public regarding:

1. Views of the hillsides;
2. Traffic; and,
3. Consistency with the City's adopted plans.

The project was tabled to a later date. The applicant explored alternatives for providing access to the proposed development through unincorporated areas, but eventually concluded that such an approach would be infeasible.

**D. 2014 Project**

The project applicant requested that the City complete processing of their application. The project was considered at four Planning Commission hearings. Through this process, the applicant reduced their project from 54 units to 44 units and made other changes to the site plan to create open space areas and view corridors. The project was also modified to include future publicly accessible trail connections through the project site including the larger open space area. The Planning Commission forwarded a recommendation for the General Plan Amendment for 32 acres from Rural County to Open Space to support future annexation into the City and; amendment to the General Plan Action Statement 7.5 to limit development in Area 1 to 22 units.

At its February 4, 2015 meeting, the City Council adopted the General Plan land use change, however, did not adopt the text change limiting the development to 22 units and also tabled the USA adjustment, Annexation and Pre-Zoning applications.

**E. 2015 Project**

Following the decision of the City Council, the project applicant requested that the City complete processing of their application.

The City conducted a community meeting on June 15, 2015 to discuss the update of the project and current proposal. Details of the meeting are included in the July 14, 2015 Planning Commission meeting staff report. At the July 14, 2015 Planning Commission meeting, the commission directed staff to return to the Planning Commission on July 28, 2015 with a revised MOU 2015 that limited the amount of dwelling units for Area 1 to 21, limited the lots for areas 3-9 as previously illustrated on the MOU 2006; limited development on Area 1 to areas with slopes less than 10 percent and removed language from the MOU that mentioned future annexation of areas not currently being considered for annexation.

On July 28, 2015, the Planning Commission voted on motions that would have supported the revised

MOU 2015, the USA, Pre-Zoning and Annexation. However, the Commission had a deadlocked vote (3-3), and therefore no recommendation to the City Council was provided.

After listening to public input, and the concerns of the community, one Commissioner proposed that the Planning Commission forward to the City Council a recommendation to support the requested USA expansion, but that the proposed MOU limit future development to 21 dwelling units. The Commission discussed this motion, but did not have a majority that would support it. Two of the Commissioners opposed any development of the property, indicating that the City should not develop open space on a hillside location or at a site that requires annexation/USA expansion and that the City should be responsive to the opposition of the local neighborhood. One Commissioner did not agree with the proposed motion because he thought the requested amount of development (e.g., up to 48 units) was a more appropriate use of the site and that it would be inconsistent with city goals and policies to limit development to 21 dwelling units. The Commission concluded that it would not be able to form a motion that the majority of the Commission could support and therefore decided to forward the project to the City Council with no recommendation.

## **FISCAL AND RESOURCE IMPACT:**

### **Processing the Project**

The processing of the project is considered cost-recovery, with the applicant providing a deposit of which the City uses to off-set costs related to the processing of the application.

### **On-Going Impacts of an Implemented Project**

No economic or fiscal study was conducted for the project. It is expected that there would be some impact to the City's General Fund to service the new residents to provide services to the new residents, which would be partially offset by new tax revenue.

The project proposes providing easements for trails and the construction of trails to implement the City's Trails Master Plan. The approximately 4,000 lineal feet of trail would equate to \$60,000 in construction costs that would not come from City funding.

## **CEQA (California Environmental Quality Act):**

Project, Description of CEQA requirements

A Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) were adopted for the project on February 4, 2015. However, since that time, a Memorandum of Understanding was added as part of a subsequent component to the project. Pursuant to CEQA guidelines Section 15163, the project on the basis of the whole record would not have substantial changes that require major changes to the MND because no new significant impacts are present. Therefore, an Addendum to the previously adopted MND is appropriate and provided.

## **LINKS/ATTACHMENTS:**

1. Memorandum of Understanding 2015 Resolution
2. Draft MOU 2015
3. USA Resolution
4. Zoning Amendment Ordinance
5. Project Site Plan (  
<https://morgan-hill.legistar.com/View.ashx?M=F&ID=3859530&GUID=8307A59D-99A9-42B8-9D05-8551C73E40A3>)
6. CEQA Project Addendum (

<https://morgan-hill.legistar.com/View.ashx?M=F&ID=3881924&GUID=3A430845-2AAE-4DF2-BB97-478FF4CEA451>)

7. Council Policy CP 94-02 (<http://www.morgan-hill.ca.gov/DocumentCenter/Home/View/6068>)

8. Section 18.78.070, Urban Service Area Restrictions ([https://www.municode.com/library/ca/morgan\\_hill/codes/code\\_of\\_ordinances?nodeId=TIT18ZO\\_DIVIVREDECO\\_CH18.78REDECOSY\\_PT2REDECO\\_18.78.070URSEARRE](https://www.municode.com/library/ca/morgan_hill/codes/code_of_ordinances?nodeId=TIT18ZO_DIVIVREDECO_CH18.78REDECOSY_PT2REDECO_18.78.070URSEARRE))

9. September 9, 2014 Planning Commission Staff Report and Attachments (<http://www.morganhill.ca.gov/DocumentCenter/View/13967>)

10. September 9, 2014 Planning Commission Meeting Minutes ([http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill\\_68c22eb70eb5248aa7d3e3812398f755.pdf&view=1](http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill_68c22eb70eb5248aa7d3e3812398f755.pdf&view=1))

11. October 14, 2014 Planning Commission Staff Report and Attachments (<http://www.morganhill.ca.gov/DocumentCenter/View/14315>)

12. October 14, 2014 Planning Commission Meeting Minutes ([http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill\\_9725d9d129fb34c7796636f18d3c6a9d.pdf&view=1](http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill_9725d9d129fb34c7796636f18d3c6a9d.pdf&view=1))

13. November 18, 2014 Planning Commission Staff Report and Attachments (<http://www.morganhill.ca.gov/DocumentCenter/View/15909>)

14. November 18, 2014 Planning Commission Meeting Minutes ([http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill\\_61e996542250f3591d040813d6bfcd59.pdf&view=1](http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill_61e996542250f3591d040813d6bfcd59.pdf&view=1))

15. January 13, 2015 Planning Commission Staff Report and Attachments (<http://www.morganhill.ca.gov/DocumentCenter/View/15793>)

16. January 13, 2015 Planning Commission Meeting Minutes ([http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill\\_21164dd6c5c338b0c870579cbcb0e111.pdf&view=1](http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill_21164dd6c5c338b0c870579cbcb0e111.pdf&view=1))

17. February 4, 2015 City Council Report and Attachments (<http://www.morgan-hill.ca.gov/DocumentCenter/View/15322>)

18. February 4, 2015 City Council Meeting Minutes ([http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill\\_14444064f0cdc896d5a5a1a00d7225b2.pdf&view=1](http://morgan-hill.granicus.com/DocumentViewer.php?file=morgan-hill_14444064f0cdc896d5a5a1a00d7225b2.pdf&view=1))

19. July 14, 2015 Planning Commission Staff Report, Attachments and Supplemental (<https://morgan-hill.legistar.com/LegislationDetail.aspx?ID=2373162&GUID=9B30D580-F420-4504-A64E-08D808AE11BD>)

20. July 28, 2015 Planning Commission Staff Report, Attachments and Supplemental (<https://morgan-hill.legistar.com/LegislationDetail.aspx?ID=2391903&GUID=46C8B888-3A3A-4B59-A0D7-1B34432B8F5E>)

21. Correspondence - Letter of Support