



# City of Morgan Hill

## Legislation Details (With Text)

**File #:** 17-048      **Version:** 1      **Name:**  
**Type:** Staff Report      **Status:** Second Reading  
**File created:** 1/24/2017      **In control:** City Council  
**On agenda:** 2/1/2017      **Final action:** 2/1/2017  
**Title:** ZONING AMENDMENT, ZA2016-008/ DEVELOPMENT AGREEMENT, DA2016-0009/  
ENVIRONMENTAL ASSESSMENT, EA2016-0012: DEPOT - SUNSWEET MORGAN HILL, LLC.:  
REQUEST FOR A ZONING AMENDMENT AND DEVELOPMENT AGREEMENT FOR A MIXED-USE  
PROJECT CONSISTING OF 83 RESIDENTIAL UNITS AND 5,760 SQUARE FEET OF  
COMMERCIAL SPACE  
ON A 1.65- ACRE SITE LOCATED ON THE WEST SIDE OF DEPOT STREET, BETWEEN EAST  
THIRD STREET AND EAST FOURTH STREET (APN(S) 726-13-044, 032 & 054)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Sunsweet PC Rpt, 2. ZA-16-08.pdf, 3. DA-16-009.pdf, 4. 12 Presentation, 5. 12 Supplement 1, 6.  
12 Supplement 2, 7. 12 Supplement 3, 8. 12 Supplement 4, 9. 12 Supplement 5, 10. 12 Supplement  
6, 11. 12 Supplement 7.pdf, 12. 12 Supplement 8, 13. 12 Supplement 9

Date	Ver.	Action By	Action	Result
2/1/2017	1	City Council	waived reading of the Ordinance	Pass
2/1/2017	1	City Council	introduced	Pass
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## CITY COUNCIL STAFF REPORT MEETING DATE: FEBRUARY 1, 2017

PREPARED BY: Terry Linder, Interim Planning Manager/Development Services Department

APPROVED BY: Steve Rymer, City Manager

**ZONING AMENDMENT, ZA2016-008/ DEVELOPMENT AGREEMENT, DA2016-0009/  
ENVIRONMENTAL ASSESSMENT, EA2016-0012: DEPOT - SUNSWEET MORGAN  
HILL, LLC.: REQUEST FOR A ZONING AMENDMENT AND DEVELOPMENT  
AGREEMENT FOR A MIXED-USE PROJECT CONSISTING OF 83 RESIDENTIAL  
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BETWEEN EAST THIRD STREET AND EAST FOURTH STREET (APN(S) 726-13-  
044, 032 & 054)**

### RECOMMENDATION(S)

1. Open/close Public Hearing;
2. Waive the First and Second Reading of Ordinance establishing a Planned Development

Zoning District incorporating a Precise Development Plan;

3. Introduce the Ordinance;
4. Waive the First and Second Reading of Ordinance approving the Development Agreement; and
5. Introduce Ordinance.

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

### **Ongoing Priorities**

Protecting the environment

### **2016 Focus Areas**

Planning Our Community

### **REPORT NARRATIVE:**

The applicant is requesting approval of a zoning amendment to rezone the site to Central Business District with a planned development overlay CBD/PD, and establishment of a precise plan for the construction of 83 apartment units and 5,760 square feet of commercial space on a 1.65-acre site located on the west side of Depot St. between East Third Street and East Fourth Street. Also requested is approval of a Development Agreement.

### **Project Description**

The project proposes the development of a five-story building with 83 apartment units, 5,760 square feet of retail/restaurant/office space, and below grade parking with 120 parking spaces. The apartment units would be located on all floors of the building. The 83-units would include 12 studios (593 sq. ft.), 38 one-bedroom (812-1,088 sq. ft.), and 33 two-bedroom apartment units (1,152-1,342 sq. ft.). The 10 two-bedroom units on the fourth floor would create lofts on the fifth floor. The site has a land use designation of CBD Mixed-Use which has no specified minimum or maximum density. The project site is 1.65 acres, with 83-units, results in a density of 50 dwelling units to the acre. The site has a Central Business District (CBD) zoning designation with Ground Floor Overlay (GFO), zoning designation along East Third Street. The required minimum setbacks for mixed use development in the CBD zoning are zero to ten feet for front, zero side and rear. Fourth floor step-back is required in the CBD zoning district but no minimum setback is specified. The stated purpose is to maintain a “human scale” and provide for adequate solar access to the adjacent street. The proposed building fronts Third Street and would be set back 30 feet from the face of the curb (0 feet at property line), 8-15 feet from Depot, 15 feet from Fourth Street, and 20 feet from the parking garage and commercial gym property line to the west. The proposed setbacks meet or exceed the required setbacks and provide the step-back from Depot and East Fourth Streets.

The maximum Floor Area Ratio (FAR) is 2.25 and the proposed FAR is 1.66. The maximum height for a four-story building in the CBD zoning district is 55 feet. The majority of the proposed building is four-story (50 feet) with ten, fifth story (58-60 feet) loft elements on Depot and East Fourth Streets. Portions of the building as currently proposed are three to five feet greater than the 55-foot maximum to accommodate the loft elements.

The GFO overlay zoning, which applies to the East Third Street frontage, requires a minimum commercial building depth of 80 feet by 80 feet on the corner of East Third Street and Depot Street and requires a minimum commercial depth of 50 feet along East Third Street. The proposed project is also located within “Block 4” of the Downtown Core. Page 2-17 of the Downtown Specific Plan

(DTSP) describes in detail, the assumptions per block. The summarized expectations for Block 4 are as follows:

- Development on this block should act as a landmark for Downtown and should be more intense than development along adjacent streets.
- The projected redevelopment should include ground-floor retail uses with offices or condominiums/apartments on the upper floor(s). Restaurants with outdoor dining areas and specialty shops are encouraged along Third Street.
- Property owners of smaller parcels are encouraged to combine lots and take advantage of the higher floor area ratio (2.25 FAR for sites of 22,000 square feet or more, rather than the base 2.0 FAR for sites less than 22,000 square feet).
- Four story heights may be proposed on sites of 22,000 square feet or more with a fourth-floor step back.
- Large projected redevelopment sites offer the potential for underground parking.
- The required minimum depth of ground-floor retail is 50 feet along Third Street, and 80 feet at each intersection with Monterey Road and Depot Street (therefore a minimum of 80 feet by 80 feet and a minimum of 6,400 square feet).

The site has 245 lineal feet along East Third Street. When the 50 foot and 80 foot corner minimum depths are applied, approximately 16,300 square feet of commercial space should be provided. The depth of the proposed commercial space along East Third Street ranges from 30 to 40 feet in the commercial space on the west side of the plaza. The commercial space on the east side of the plaza is 21-40 feet in depth. The plaza space is 2,580 square feet. If the 2,580 square feet of plaza is subtracted from the 16,300 square feet, a minimum of 13,720 square feet of commercial space should be provided; the proposed 5,760 square feet of commercial space is 42 percent of the minimum required.

The project is also proposing 3,149 square feet of the 5,760 square feet commercial space is used as the project's leasing/management/security office. Ground floor office uses in the GFO overlay zone are not a permitted use. However, the DTSP did not specifically consider the needs of a large rental project to provide leasing, management and resident services such as dry cleaning and parcel/package delivery and pick up services.

The proposed project meets many of the "Block 4" expectations and GFO overlay zone requirements but falls short in the following areas:

- Not providing commercial space depths of 50-80 feet;
- Proposing ground floor office space; and
- Providing only 42 percent of the commercial square footage prescribed (13,720 square footage) by the GFO overlay.

### Parking

Parking required in the CBD zoning district for commercial development is 2.8 spaces per 1000 square feet and office development requires 4 spaces per 1000 square feet. Based on the unit sizes provided, 119 spaces are required for the residential units. The 3149 square feet of office area requires 13 spaces. In accordance with the Council Resolution 6640 (2013), the City does not require parking for new retail space within the downtown due to the existing parking supply, so no

new retail parking is provided. This resolution also establishes an in-lieu fee of \$11,000 per space for Downtown Office uses. The total required number of parking spaces for the residential units and office space is 132 spaces; the project is sufficiently parked for the residential units but proposes to pay the in-lieu fee for 12 of the 13 required office parking spaces.

**Zoning Amendment:** The requested Planned Development zoning designation would allow variation to the development standards of the Central Business District CBD, zoning designation and Ground Floor Overlay GFO designation by allowing for a precise development plan that exceeds the 55 foot maximum height limitation by 3-5 feet, includes only 120 of the required 132 on-site parking spaces, includes a ground floor office use, a 58 percent reduction in the required commercial square footage and a 20-40 foot reduction in the minimum commercial building depths along East Third Street. In summary, the areas of requested flexibility are:

- Three to five-foot increase to the maximum allowed building height
- A 12-stall reduction in the number of required parking spaces
- A 58 percent reduction in the overall required commercial square footage
- A 30-40-foot reduction in the required commercial space depth
- Inclusion of a ground floor office use on Third Street

The Downtown Specific Plan states, *“To achieve the purpose of the PD overlay district, variations from the standards [of the Downtown Specific Plan] and in Division I of the Morgan Hill Zoning Ordinance may be allowed as long as the variations are consistent with the overall intent, goals, and policies of this Specific Plan.”* Variations can include but are not limited to permitted or conditional uses (consistent with the Plan designation on the site), lot sizes, lot coverage, setback requirements, parking, building height, floor-area ratio (FAR), and density, the City Council determines and finds that, the proposed development will provide substantial compliance with the district regulations and other provisions in this Specific Plan and Division I of the Zoning Ordinance related to the public health, safety and general welfare.

The purpose of the PD overlay district as outlined in the Downtown Specific Plan includes the following:

- Facilitate and promote coordination of design, access, use, and other features associated with development of multiple adjacent properties or large single properties;
- Encourage flexibility of site planning when it will enhance the area in which it is proposed; and
- Allow construction and reservation of housing units for lower income or senior households.

The project includes the following design benefits that support the purpose of the PD overlay district:

- The project site includes three separate parcels that have been aggregated into a single project site. Combining the parcels has allowed for a high-density project with underground parking. Developing the parcels separately would not have produced the same density or the economic viability of underground parking.
- The flexibility requested to the building height allows for the fifth-floor loft feature that creates a more visually interesting roof line which is considered a positive design feature.
- The vision for Block Four requires ground-floor retail uses with offices or

condominiums/apartment on the upper floor(s). The proposed building frontage along East Third Street includes ground floor commercial space with apartment units above.

- All the commercial space along East Third Street includes the required 14-foot floor to ceiling height which will allow for a wider variety of uses to utilize the commercial buildings.
- The residential units within the project range in size from 593 to 1,342 square feet and are proposed as market rate rentals. The range in unit sizes provides for affordable housing options within the downtown and will significantly increase the inventory of market rate rental units. The current vacancy rate for market rate rental units is less than one-half percent. The project is providing a use (market rate rentals) that is significantly under-represented in the community.
- The project includes numerous amenities and its design shape along with clustering units into a four to five story structure allows for the provision of approximately 18,600 square feet of useable open space within the interior of the project.
- The proposed units are within walking distance to downtown shopping, restaurants, the Cal Train station and the Community and Cultural Center.
- The project is proposed as a “U” shape with the center of the “U” facing the garage. The “U” shape design also separates most of the building from the adjacent parking garage reducing light and privacy impacts, and positions the building as a noise barrier to the railroad thus reducing the noise impact to the interior open space area.
- Additional vertical relief is provided through the variation in the building setback, the use of recessed and open balconies and the incorporation of unit entrances along Fourth Street.

The Zoning Amendment application was considered by the Planning Commission at their January 10th meeting where the Commissioners expressed concerns regarding the extent of some of the exceptions requested. After considerable discussion, the applicant agreed to make the following project modifications:

- Provide 55 percent (7,546 square feet) of the minimum required commercial space (13,720 square feet).
- Provide a minimum commercial depth of 45 feet
- Limit the leasing office space to 2,000 square feet
- Move the office space to the west positioning commercial space adjacent to each side of the plaza
- Pay the parking in-lieu fee for the number of spaces exceeding the minimum required.

Based on the applicant’s commitment to the project adjustments listed above, the Commission unanimously voted to recommend City Council approval of the proposed development plan.

**Development Agreement:** The project site is located within the boundaries of Measure A; a voter initiative that exempted 500 residential units in a 20-block area of Downtown from the City’s Residential Development Control System. Currently, 260 of the 500 exempt building allotments have been used or reserved by other Downtown projects. The applicant is requesting to utilize 83 of the

remaining 240 Measure A exempt building allotments. (With the adoption of Measure S in November of 2016, further Measure A allocations will expire March 1, 2017.)

In order to obtain any of the exempt allotments, Measure A requires a developer to enter into a Development Agreement and ***“comply with the Downtown Plan and all applicable rules and regulations in effect at the time of entry into a Development Agreement, including but not limited to applicable zoning and planning documents.”*** The developer must also obtain approval of a Design Permit whereby the project design must be found consistent with the design guidelines of the Downtown Specific Plan.

With approval of the proposed PD overlay zoning, the project would comply with the Downtown Specific Plan. While not required by Measure A, the agreement establishes a two-year timeframe to utilize the 83, Measure A allotments. The applicant proposes to commence construction of the project fall 2017 and complete construction by fall 2019.

### **Design Permit Approval**

The plans submitted for the Zoning Amendment application include representative architecture, material samples and landscape plans. The project site plan, building shape and massing are generally consistent with the Design Guidelines for the Downtown Specific Plan. The applicant is required to file a Design Permit application prior to the issuance of a building permit. As part of the Design Permit approval, the project architecture, landscaping, and other site design details will be reviewed for consistency with the Downtown Specific Plan Design Guidelines. Due to the size and location of the project, the Design Permit application will be agendized for Planning Commission review and City Council approval.

### **COMMUNITY ENGAGEMENT: Inform**

A 10-day public hearing notice was published on Friday, January 20, 2017 in the Morgan Hill Times and notices were mailed to property owners within three hundred feet of the project pursuant to Government Code Sections 65090-65096. A noticed public hearing was also conducted by the Planning Commission on January 10, 2017.

### **ALTERNATIVE ACTIONS:**

The City Council could continue the applications and direct the applicant to make changes or deny the application requests finding the project inconsistent with the Downtown Specific Plan.

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

The Planning Commission considered the application requests at their January 10, 2017, meeting where they unanimously recommended each application for City Council approval.

### **FISCAL AND RESOURCE IMPACT:**

Application filing fees were paid to cover the cost of processing the applications.

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

Project, Description of CEQA requirements

An Environmental Impact Report (EIR) was adopted and certified for the 2009 Downtown Specific Plan. An addendum has been completed for the proposed mixed use project which concluded the project will be consistent with the development projections analyzed in the EIR for the subject site, and therefore, no further environmental assessment is required. As a condition of approval, the

project will be subject to compliance with the mitigation measures of the Downtown Specific Plan EIR. A copy of the addendum is posted [here <http://www.morgan-hill.ca.gov/1591/Addendum-to-the-Downtown-Specific-Plan-E>](http://www.morgan-hill.ca.gov/1591/Addendum-to-the-Downtown-Specific-Plan-E) on the City website.

**LINKS/ATTACHMENTS:**

1. January 10, 2017 Planning Commission staff report
2. Ordinance approving ZA
3. Ordinance approving of DA