

SUPREME COURT COPY

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

CITY OF MORGAN HILL, a municipality,

Plaintiff/Respondent,

vs.

SHANNON BUSHEY, REGISTRAR OF
VOTERS FOR SANTA CLARA
COUNTY, et al.,

Respondents/Defendants.

MORGAN HILL HOTEL COALITION, an
unincorporated association,

Real Party in Interest/Appellant.

RIVER PARK HOSPITALITY, INC.;

Real Party in Interest/Respondent.

**APPELLANT MORGAN HILL
HOTEL COALITION'S REQUEST
FOR JUDICIAL NOTICE ON
SUPPLEMENTAL BRIEF**

CASE NO.: S243042

SIXTH DISTRICT NO.: H043426

SUPERIOR COURT NO.: 16CV292595

SUPREME COURT
FILED

MAY 18 2018

Jorge Navarrete Clerk

Deputy

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**TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE;
THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA
SUPREME COURT; AND ALL PARTIES AND THEIR ATTORNEYS OF
RECORD:**

Pursuant to Rule 8.520(d) of the Supreme Court, Evidence Code Section 450 et. seq., and Rule 8.252 of the California Rules of Court, Appellant and Real Party in Interest Morgan Hill Coalition Appellant Morgan Hill Hotel Coalition requests the Court take judicial notice on supplemental brief of the documents listed below. The documents are relevant to the number of commercial zoning districts available and whether hotel use is permitted should the Court order a referendum. These documents are related to the proposed zoning code changes contemplated by the City of Morgan Hill.

Dated: May 18, 2018



Asit S. Panwala
Randall Toch
Attorneys for Appellant and Real Party
In Interest Morgan Hill Hotel Coalition

**DECLARATION OF ASIT PANWALA IN SUPPORT OF APPELLANT
AND REAL PARTY IN INTEREST MORGAN HILL HOTEL
COALITION'S REQUEST FOR JUDICIAL NOTICE ON
SUPPLEMENTAL BRIEF**

I, Asit Panwala, declare as follows:

1. I represent the Morgan Hill Hotel Coalition in this matter, and if called as a witness, I would provide the information set forth below on the basis of my personal knowledge.

2. Attached as Exhibit One is a true and correct copy of the relevant portions of a final draft of the City of Morgan Hill's Zoning Code, Municipal Title 18, published March 7, 2018, as it pertains to the potential elimination of the "CO-administrative office" zoning district as well as the commercial zoning districts and their permitted uses. The document is available online, and I retrieved it from <https://www.morgan-hill.ca.gov/DocumentCenter/View/22671/Public-Review-Draft-Final-Zoning-Code>.

3. Attached as Exhibit Two is a true and correct copy of the staff report to the City Council dated May 11, 2018, detailing the staff's recommendations to the City Council regarding the Zoning Code Update including the inclusion of "CO-administrative office" as a zoning district. This document is available online, and I retrieved it from http://morganhillca.iqm2.com/Citizens/Detail_LegiFile.aspx?MeetingID=1727&MediaPosition=&ID=1763&CssClass=&Print=Yes.

4. I personally attended the City of Morgan Hill's City Council meeting on May 16, 2018, and witnessed that the City Council resolved to adopt the changes recommended by the staff in their report regarding the Zoning Code Update. One may view City Council meetings at <http://morganhillca.iqm2.com/Citizens/Default.aspx>, although the video is not yet posted. From the meeting, it appears that the City Council will vote to adopt the Zoning Code Update on June 6, 2018.

I declare under penalty of perjury of the State of California that the information above is true and correct. Executed on 18th day of May, 2018, in San Francisco, California.



Asit Panwala

Exhibit One



City of Morgan Hill Zoning Code

Municipal Code Title 18

Changes to the Existing Zoning Code

The Zoning Code Update has resulted in a number of significant changes to Morgan Hill's existing Zoning Code. Some of these changes are organizational and stylistic, others are substantive.

Overall, the Zoning Code has been reorganized so that readers can more easily find content and be aware of applicable requirements. Standards are presented in tables and graphics are used to illustrate important concepts and requirements. The Zoning Code has been written in Plain English with short and simple sentences and use of everyday words where possible.

Substantive changes to the Zoning Code implement policies in the General Plan and input from the Planning Commission, developers, and City staff on the strengths and weaknesses of the existing Zoning Code. Some substantive changes also address recent changes to state and federal law and to improve the legal defensibility of the City's development regulations.

In the updated Zoning Code substantive changes to the existing Zoning Code are identified with a note that looks like this:

► *Note: Substantive changes to the existing zoning code are noted using italicized text in this format.*

These notes highlight key changes to aid the City Council, Planning Commission, and public in the review of the updated Zoning Code. Some of these changes noted in the updated Zoning Code include the following:

General Provisions (Part 1)

- **Zoning Districts.** New Mixed Use Flex (MU-F) zoning district that applies to portions of the Monterey Road corridor. The existing Theme Unit Development and Administrative Office zoning districts are eliminated.
- **Overlay Zones.** A new Downtown Specific Plan overlay zone is added and the existing Geologic overlay zone is removed as an overlay zone and treated instead as a citywide standard in Part 3.
- **Zoning Map.** Zoning district boundaries have been changed to be consistent with the General Plan Land Use Map and reflect changes to the zoning district and overlay zones established in the Zoning Code.

Zoning Districts and Overlay Zones (Part 2)

- **Mixed Use Development.** New requirements for mixed-use development in the Mixed Use Flex (MU-F) zoning district.
- **Planned Development.** New minimum property size for PD projects and requirement that project contributes a significant public benefit.

Citywide Standards (Part 3)

- **Standards for Medium Density Residential Development.** Recently adopted standards for homes in ~~R-2~~ the RAL and ~~R-3~~ RAM zones ~~made clarified as~~ optional, not mandatory.

Chapter 18.24 – COMMERCIAL ZONING DISTRICTS

Sections:

18.24.010 – Purpose of the Commercial Zoning Districts

18.24.020 – Land Use Regulations

18.24.030 – Development Standards

18.24.010– Purpose of the Commercial Zoning Districts

► *Note: The existing Theme Unit Development and Administrative Office commercial zoning districts have been eliminated. The name of the existing Highway Commercial (HC) zoning district is changed to Highway Commercial (CU).*

A. General. The purpose of the commercial zoning districts is to provide locations for a variety of commercial uses to meet the need of residents, visitors, and workers in Morgan Hill. Development within the commercial zoning districts is attractively designed to enhance Morgan Hill's unique character and economic prosperity. Commercial uses are clustered and concentrated to utilize land resources efficiently and support a balanced transportation system. Employment uses accommodate a diversity of jobs that contribute to a dynamic local economy.

B. Specific.

1. **Neighborhood Commercial (CN).** The purpose of the CN zoning district is to provide a location for retail, office, and service uses to serve residents living in surrounding neighborhoods.
2. **General Commercial (CG).** The purpose of the CG zoning district is to provide a location for a broad range of commercial and employment uses to serve Morgan Hill residents, workers, and visitors.
3. **Highway Commercial (CH).** The purpose of the CH zoning district is to provide areas adjacent to the freeway that can accommodate highway and tourist oriented ~~uses, and uses and~~ uses which require the high visibility of thoroughfare locations.
4. **Service Commercial (CS).** The purpose of the CS zoning district is to provide an area for commercial services that may be inappropriate in neighborhood or pedestrian-oriented shopping areas, and which generally require automotive access for customer convenience, servicing of vehicles or equipment, loading or unloading, or parking of commercial service vehicles.

18.24.020 – Land Use Regulations

► *Note: The following changes have been made to existing commercial zoning district land use regulations:*

CN zoning district: Allow small residential care facilities with CUP, allow cultural institutions with a CUP, allow schools with a CUP, allows social services with a CUP, allows banks and financial institutions by-right, allows business support services by-right, allows cinemas and theatres with a CUP, allows indoor commercial recreation with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows vehicle washing with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CG zoning district: Allow colleges and trade schools with CUP, allow community assembly with CUP, allow cultural institutions with a CUP, require AUP for day care centers, allow schools with a CUP, allows social services with a CUP, allows animal boarding and veterinarian clinics with a CUP, allows business support services by-right, allows cinemas and theatres with a CUP, allows bars and nightclubs with CUP, allows wine tasting with a CUP, allows funeral parlors with a CUP, allows home improvement centers with a CUP, allows plant nurseries with a CUP, allows large commodity retail with CUP, allows vehicle washing with CUP, allows parking lots and structures as a primary use with CUP, allows indoor vehicle sales with a CUP, allows reverse vending machines with CUP.

CH zoning district: Allow banks and financial institutions by-right, allows business support services by-right, allows vehicle rentals by-right, allows reverse vending machines with CUP.

CS zoning district: Allow social services with a CUP, allows business support services by-right, allows funeral parlors with a CUP, allows large commodity retail with CUP, allows towing and impound with a CUP, allows vehicle rentals by-right, allows vehicle washing with CUP, allows construction and material yards with a CUP. Allows research and development with a CUP, allows warehousing and distribution with a CUP, allows Freight/Truck Terminals and Warehouses with a CUP, allows reverse vending machines with CUP, allows recycling collection facilities with CUP.

A. Permitted Land Uses. Table 18.24-1 identifies land uses permitted in the commercial zoning districts.

TABLE 18.24-1 PERMITTED LAND USES IN THE COMMERCIAL ZONING DISTRICTS

Key	Zoning District				Additional Regulations
	CN	CG	CH	CS	
P Permitted Use					
A Administrative Use Permit required					
C Conditional Use Permit required					
- Use not allowed					
Residential Uses					
Caretaker Quarters	-	C	-	C	
Nursing Homes and Long-Term Care	C	C	-	-	
Residential Care Facilities	C	-	-	-	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District				Additional Regulations
	CN	CG	CH	CS	
Public and Quasi-Public Uses					
Colleges and Trade Schools	C	C	-	-	
Community Assembly	C	C	-	-	
Cultural Institutions	C	C	-	C-	
Day Care Centers	C	A	-	C	
Government Offices	P	P	-	C	
Instructional Services	A	A	A	A	
Medical Offices and Clinics	P	P	A-	C	
Schools, Public and Private	C	C	-	-	
Social Services	C	C	-	C	
Commercial Uses					
Animal-Related Uses					
Animal Boarding	C	C	-	C	
Veterinarian Clinics and Hospitals	A-	A	-A	P	
Banks and Financial Institutions	P	P	P	P	
Business Support Services	P	P	P	P	
Cinemas and Theatres	A-	A	-A	-A	
Commercial Recreation, Indoor					
≤ 153,000 sq. ft.	P	P	P	P	
> 153,000 sq. ft.	C	C	C	C	
Drive-Through and Drive-In Facilities	C	C	C	C	18.92.040
Eating and Drinking Uses					
Bars and Nightclubs	C	C	-	-	
Restaurants, Fast Food	C	P	P	C	
Restaurants, Sit-Down	C	P	P	C	
Tasting Rooms	C	A	P	C-	
Funeral Parlors and Mortuaries	-	C	-	C	
Lodging Facilities					
Hotels and Motels	C-	A-	P	A	
Mini-Storage	-	C	-	C	
Personal Services	P	P	-	C	
Plant Nurseries	-	C	-	P	
Professional Offices	P	P	C-	C-	
Retail Uses					
Convenience Markets	C	C	C	C	

Key P Permitted Use A Administrative Use Permit required C Conditional Use Permit required - Use not allowed	Zoning District				Additional Regulations
	CN	CG	CH	CS	
General Retail	P	P	P	C	
Home Improvement Centers	-	P	-	P	
Large Commodity Retail	-	C	-	C	
Vehicle-Related Uses					
Fuel and Service Stations	C	C	C	C	
Towing and Impound	-	-	-	C	
Vehicle Rentals	C [2]	C [2]	P	P	
Vehicle Repair and Maintenance, Minor	-	C	-	P	
Vehicle Sales and Leasing	C [1]	C [1]	P	P	
Vehicle Washing	C	C	C	C	
Wholesaling	-	C	-	P	
Industrial Uses					
Construction and Material Yards	-	-	-	C	
<u>Food and Beverage Production</u>					
< 5,000 sq. ft. [1]	Δ	Δ	Δ	Δ	
5,000 sq. ft. to 10,000 sq. ft. [3]	Δ	Δ	C	Δ	
> 10,000 sq. ft.	-	C	-	C	
Research and Development	-	-	-	C	
Warehousing and Distribution, Large and Small	-	-	-	C	
Transportation, Communication, and Utility Uses					
Freight Terminals and Transfer	-	-	C	-	
Light Fleet-Based Services	C	C	-	C	
Parking Lots and Structures	-	C	-	C	
Recycling Facilities					
Reverse Vending Machine	C	C	C	C	
Recycling Collection Facility	-	-	-	C	
Transportation Terminals	-	-	-	C	
Utilities, Major	-	C	-	C	
Wireless Communications Facilities	See Chapter 18.96				
Other Uses					
Accessory Uses	See Chapter 18.44				
Temporary Uses	See Section 18.92.4+@ [5]				

Notes:

[1] Allowed only when conducted entirely within an enclosed building without outdoor storage and display of vehicles.

[2] Vehicles stored outdoors must be fully screened from public view.

[3] On-site wholesale or retail sales required.

- B. Additional Permits.** In addition to permits identified in Table 18.24-1, development projects in the commercial zoning districts may also require a Design Permit pursuant to Section 18.108.040 (Design Permits)—. Modifications to a historic resource may require a Historic Alteration pursuant to Chapter 18.60 (Historic Resources).
- C. Outdoor Uses and Storage.** In the commercial zoning districts, all uses shall be conducted wholly within a completely enclosed building except as follows:
1. In the CS zoning district, outdoor storage associated with any permitted use is allowed with a Conditional Use Permit.
 2. In the CG zoning district, outdoor storage and display associated with a Home Improvement Center is allowed with a Conditional Use Permit.

18.24.030– Development Standards

► *Note: The following changes are made to existing development standards for the mixed use zoning districts:*

All zoning districts: *New residential transition standards, deletes minimum cul-de-sac lot width, increases street side setback to match front setback.*

CN zoning district: *Deletes minimum zoning district area, deletes limitation to one quadrant of an intersection.*

A. General. Table 18.24-2 identifies development standards that apply in the commercial zoning districts.

B. Hotel Height in the CH Zoning District.

1. With the issuance of a Design Permit, the Planning Commission may allow a hotel with a maximum height of up to 65 feet on parcels in the CH zoning district directly adjacent to Highway 101.
2. To approve the Design Permit, the Planning Commission must find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height.

B.C. Residential Transition Standards. Where a property zoned in a commercial zoning district abuts a residential zoning district, projects shall comply with increased setbacks, upper story stepbacks, and landscaping standards as specified in Section 18.92.130 (Residential Transition Standards).

TABLE 18.24-2: DEVELOPMENT STANDARDS IN THE COMMERCIAL ZONING DISTRICTS

	CN	CG	CH	CS	Additional Standards
Site Requirements					
Lot Area, Minimum	10,000 sq. ft.	10,000 sq. ft.	20,000 sq. ft.	10,000 sq. ft.	
Lot Width, Minimum	100 ft.	100 ft.	70 ft.	100 ft.	
Lot Depth, Minimum	100 ft.	100 ft.	125 ft.	100 ft.	
Building Coverage, Maximum	50%	50%	40%	50%	
Structure Requirements					
Setbacks, Minimum					18.56.030, 18.56.040 & 18.56.060
Front	25 ft.	25 ft.	40 ft.	25 ft.	
Rear	20 ft.	20 ft.	20 ft.	20 ft.	
Interior Side	0 ft.	0 ft.	0 ft.	0 ft.	
Street Side	15 ft.	15 ft.	15 ²⁴ ft.	15 ²⁵ ft.	
Height, Maximum	2 1/2 stories and <u>or</u> 30 ft., <u>whichever is less</u>	3 stories and <u>or</u> 35 ft., <u>whichever is less</u>	3 stories and <u>or</u> 35 ft., <u>whichever is less</u>	3 stories and <u>or</u> 35 ft., <u>whichever is less</u>	18.24.030, 18.56.020

Exhibit Two

**Morgan Hill
CA**

**City Council Staff Report
1763**



**ZA2016-0006: A Comprehensive Update of Title 18 - Zoning of the City of Morgan Hill
Municipal Code Including an Amendment to the City's Official Zoning Map Consistent with
the Morgan Hill 2035 General Plan (Zoning Code Update)**

Information

Department:	DS (General)	Sponsors:
Category:	General	

Attachments

Printout
 Draft Ordinance
 Exhibit A - Public Review Draft Final Zoning Code (weblink)
 Exhibit B - Zoning Map Changes
 Exhibit C - Additional Planning Commission Recommendations
 Exhibit D - Additional Staff Recommendations
 Draft Zoning Map Update (weblink)
 Addendum to Morgan Hill 2035 EIR
Planning Commission Resolution (This file has not yet been converted to a viewable format)
 Correspondence - J. Randall Toch Email 04-24-16
 Planning Commission Resolution
 Burgos-NinaLane_Letter_5-10-2018
 LTR - City Council - Rezone to Service Commercial
 Cm_Mueller_Concerns_StaffResponses

Body

REPORT NARRATIVE:

Planning Commission Recommendation

On March 27, 2018, a public hearing on the Zoning Code Update was opened allowing the Planning Commission to receive public testimony. The hearing was continued to April 10, 2018 where the Commission discussed and provided specific recommendations to address several comments received from the public. The hearing was continued to April 24, 2018 to allow additional time for staff and the Commission to discuss and consider additional comments received from the Morgan Hill Hotel Coalition and the owners of 900 Lightpost Way.

At the April 24, 2018 hearing, the Commission considered remaining comments and, on a 6-1 vote, adopted a resolution (attached) recommending the City Council consider the Addendum to the Morgan Hill 2035 EIR (weblink below) in accordance with CEQA and approval of the Zoning Code Update and Zoning Map Amendments (Commission Resolution Exhibits A and B) with additional text and map change recommendations described in Exhibit C of the Planning Commission Resolution.

Exhibits A, B, and C are included in the attached Draft City Council Ordinance.

Additional Staff Recommendations

In response to the attached email from J. Randall Toch (Morgan Hill Hotel Coalition) received on April 24, 2018, staff proposes additional changes described below and in Exhibit D to the Draft City Council Ordinance.

1. Add clarifying language to Section 18.26.010 in the Industrial Zoning Districts chapter that lodging uses (e.g., hotels) that support primary job generating uses within business park settings are permitted in the CI Commercial Industrial Zoning District.
2. In the CH Highway Commercial and CI Commercial Industrial Zoning Districts, modify the height maximum to read, "4-stories or 55-feet, whichever is less" and delete Sections 18.24.030.B. Hotel Height in the CH Zoning District and 18.26.030.B. Hotel Height in the CI Zoning District.

Background

Relationship to General Plan and Residential Development Control System (RDSCS)

The Morgan Hill 2035 General Plan, which was adopted by City Council on July 27, 2016, is the City's primary policy document governing local land use and development. The General Plan includes a Land Use Map and designations that identify uses and development intensities along with basic policies to guide development and conservation decisions in Morgan Hill over the next 20 years.

Morgan Hill's Zoning Code, codified as Title 18 in the City of Morgan Hill Municipal Code, is one of the primary tools for implementing the General Plan with detailed land use and development regulations. The Zoning Code establishes a Zoning Map with zoning districts that apply to all property in the City. The Zoning Code identifies exactly which land uses are allowed in each zoning district and establishes the permitted building heights, minimum setbacks, and other development standards for each district.

In addition to development standards, the Zoning Code also establishes standards for signs, parking, landscaping, accessory dwelling units (ADUs), wireless communications, historic resources, and many other topics. Finally, the Zoning Code identifies permits required for different land uses and types of development, and the process by which the City reviews permit applications and administers the requirements of the Zoning Code.

A comprehensive update of the City's long-standing residential growth control program, Residential Development Control System (RDSCS), was approved by voters in November 2016. The RDSCS is codified in Title 18, Chapter 18.78 of the Municipal Code.

Zoning Code Update Process

The Zoning Code Update portion of the Morgan Hill 2035 Project began with a series of stakeholder, staff, Planning Commission, and City Council meetings in late 2015 to assess the strengths and weaknesses of the City's existing Zoning Code, and in 2016 and 2017 to discuss the general approach for the Update process.

The Planning Commission and City Council supported an efficient process with sufficient opportunity to provide input on important aspects of the Zoning Code while avoiding a line-by-line review. The Commission and Council also identified the following goals for the updated Zoning Code:

- A. *Implement and achieve consistency with the Morgan Hill 2035 General Plan;*
- B. *Create a user-friendly code for applicants, staff, and City officials;*
- C. *Modernize terminology and requirements to reflect current practices; and,*
- D. *Improve regulations to effectively address land use and development issues.*

The Zoning Code Update changes the existing Zoning Code only as needed to achieve these goals. The majority of regulations and procedures in the existing Zoning Code have been carried forward and clarified in the Zoning Code Update. The Zoning Code Update has been a deliberative process to enhance the overall usability of the document and to introduce substantive changes only where needed.

After the Public Review Draft Zoning Code was published on August 8, 2017, the Planning Commission held a series of four public workshops (August 29, September 19, October 3, and November 28, 2017) to provide, receive, and discuss comments and proposed edits to the Draft to better achieve the above stated goals.

On January 17, 2018, a Joint City Council/Planning Commission Study Session was held for the Planning Commission and staff to receive feedback/direction from the Council on several policy questions related to the Zoning Code Update and to discuss the next steps in the Zoning Code Update process.

The Planning Commission concluded, and the City Council agreed, that the policy questions discussed at the Joint Study Session, while important topics for future consideration, did not warrant extending the Zoning Code Update beyond the targeted March/April 2018 Commission and Council adoption hearings.

A Public Review Draft Final Zoning Code (attached as weblink) was published on March 7, 2018, addressing comments and incorporating edits received during the review of the initial draft Zoning Code. Edits to the previous draft are shown in red underline/strikethrough format. Substantive changes to the existing Zoning Code are identified throughout the Draft Zoning Code flagged with a red triangle and described with notes using italicized text.

► *Note: Substantive changes to the existing zoning code are noted using italicized text in this format.*

Analysis

Consistency with Zoning Code Update Goals

This section provides a summary of how the Public Review Draft Final Zoning Code and proposed Zoning Map amendments achieve each of the goals the Planning Commission and City Council identified for the Zoning Code Update.

A. *Implement and achieve consistency with the Morgan Hill 2035 General Plan*

In accordance with state law, the Zoning Districts described in the text of the Zoning Code and how those districts are applied to individual properties as shown on the Zoning Map, must be consistent with their corresponding General Plan Land Use designations.

1. Zoning Map Amendments – Although many of the existing Zoning District names are proposed to be changed to better reflect their intent and match the district's corresponding General Plan Land Use designation, less than 1% (approximately 100 sites) of the approximately 12,865 parcels within the existing City Limits are included in the proposed Zoning Map Amendment. This Map Amendment would change the zoning district for those approximately 100 sites to a zoning district that is consistent (or more consistent) with the site's Morgan Hill 2035 General Plan Land Use Map designation.

Several property owners have contacted the City and/or attended Planning Commission hearings to express their interest in either maintaining their existing zoning district or changing their zoning district to a different district than the one proposed.

The Planning Commission considered those property owner requests and provided their recommendations in Exhibit C of the attached Planning Commission resolution. This recommendation includes retaining the City's existing CO Administrative Office Zoning District, which was previously proposed to be eliminated. With the retention of the existing CO Zoning District, several properties that were proposed to be rezoned to another commercial zoning district, can remain zoned CO Administrative Office.

2. The allowed uses and development standards for each Zoning District were reviewed for consistency with the district's corresponding General Plan Land Use designation.
3. The CI Commercial Industrial Zoning District is a new district to implement the Commercial/Industrial General Plan Land Use designation, which was introduced during the Morgan Hill 2035 General Plan Update to promote job-generating development of lands by allowing flexibility in the mix of compatible industrial, office, and commercial uses.

B. Create a user-friendly code for applicants, staff, and City officials

Morgan Hill's Zoning Code hasn't been comprehensively updated since the City's "modern" code was adopted in 1981. Since then, the City has amended the Zoning Code many times, with content added, removed, and revised. As a result, the current Zoning Code suffers from problems with organization, consistency, and flow making it difficult for readers to find what they are looking for and to understand what they find. Readers may also overlook important requirements because related content is not kept together or clearly cross referenced.

The Public Review Draft Final Zoning Code improves upon the user-friendliness of the Code by:

- reorganizing parts into a more logical order/grouping
- eliminating unnecessary repetition, duplicative, or contradictory information
- consolidating often used information
- improving navigation with lists of chapters at the start of each division, lists of sections at the start of each chapter, and consistent section numbering
- adding tables, including for all uses and development standards for each zoning district
- using graphics to illustrate development standards
- simplifying language
- using consistent and defined terminology, including rules of measurement
- eliminating duplicative and contradictory information
- including cross-references to related information

C. Modernize terminology and requirements to reflect current practices

Part 2 of the Zoning Code Update Ordinance contains tables that list allowed land uses in each zoning district. As part of the Zoning Ordinance Update, existing land use terms were modernized to reflect current practices, policy goals, and other considerations. The Zoning Ordinance Update revises existing land use terminology to:

- Match terminology in state law (e.g., accessory dwelling units (ADUs) instead of secondary dwelling units)
- Reflect common Morgan Hill usage (e.g. duets)
- Integrate better with other regulatory agencies (e.g., residential care facilities, long-term care)
- Identify land uses that are currently allowed but not specifically identified in the existing Zoning Ordinance (e.g., live/work)
- Explicitly identify common land uses not currently listed (e.g., medical offices)
- Identify land uses specifically called out in the General Plan (e.g., community gardens)
- Call out land uses encouraged by the City's Economic Development Blueprint (e.g., small-scale food and beverage production, tasting rooms, indoor recreation)
- Remove unnecessary distinctions between similar land uses that do not need to be regulated differently (e.g., grocery stores listed as separate allowed use from retail stores)
- Remove antiquated land use terms (upholstery shops)
- Remove land uses with special regulations that have been eliminated (e.g., extensive retail in the light industrial zone).

Definitions for land use terms have also been updated to reflect current usage and match state law. Other changes to the Zoning Ordinance to reflect best practices are described in Section D below.

D. Improve regulations to effectively address land use and development issues

Specific content in the existing Zoning Code does not address all of the important land use and development issues in Morgan Hill. Some regulations are outdated or inconsistent with current needs, practices, or recent changes in state law. The below list highlights some of the more substantive changes proposed in the Draft Zoning Code.

- Chapter 18.96 – Wireless Communications is a new chapter establishing standards for the installation, modification, and operation of wireless communications facilities. Currently the City does not have rules or procedures in place for wireless facilities.
- Chapter 18.84 – Accessory Dwelling Units is a revision of the City's existing Chapter 18.55 – Secondary Dwelling Units, which was last updated in 2010. The Accessory Dwelling Units chapter includes revisions to comply with changes in state law since 2010.
- Section 18.30.050 – Planned Development Combining District (PD) limits the use of new PDs to properties that are one acre or more, establishes new findings for use of PDs, and requires projects to provide a substantial public benefit (i.e., a feature not otherwise required by the Zoning Code that advances a General Plan Goal).
- Section 18.92.130 – Residential Transition Standards, which applies to all properties in a mixed-use, commercial, or industrial zoning district that abut a residential zoning district or use, establishes increased minimum setback, daylight plane, landscaping, and loading standards.
- Section 18.64.030 and 18.64.050 are new sections of the Landscaping chapter listing the required contents of landscape plans and general landscape requirements needed to ensure consistency with the City's Water Conservation in Landscaping ordinance.
- Section 18.88.120 – Temporary Signs changes existing temporary sign regulations to comply with the Reed v. Gilbert US Supreme Court decision. Regulations for different types of temporary signs are changed to be content neutral.

- To comply with state law which requires that emergency shelters be permitted by-right in at least one zoning district with sufficient capacity to accommodate the local need for emergency shelter, Section 18.92.050 – Emergency Shelters was added to the Draft Zoning Code and includes minimum performance standards for emergency shelters.
- To minimize the proliferation of mini-storage uses, Section 18.92.100.B has been added to the supplemental standards for mini-storage facilities, requiring a minimum 5,000-foot separation between a mini-storage facility established after the effective date of the Zoning Code Update and another mini-storage facility.
- As required by state law, Section 18.92.140 – Rooftop Solar Energy Systems was added to the Draft Zoning Code.
- The land use regulation tables in Chapter 18.22 – Mixed Use Zoning Districts, 18.24 – Commercial Zoning Districts, and 18.26 – Industrial Zoning Districts were modified to change the permitting requirements for certain uses that are identified in and support the implementation of the City's Economic Blueprint.

To facilitate the development of hotels on sites located adjacent to Highway 101, Section 18.24.030B – Hotel Height in the CH Zoning District and Section 18.26.030B – Hotel Height in the CI Zoning District have been added to the Draft Zoning Code granting the Planning Commission, with the issuance of a Design Permit, the ability to approve a hotel with a maximum height of up to 65 feet on parcels in the CH or CI Zoning Districts that are directly adjacent to Highway 101. To approve the Design Permit, the Commission must find that the project incorporates enhanced building design features that mitigate any adverse aesthetic impacts that may result from the increased building height.

At the April 24, 2018 hearing, the Planning Commission recommended clarifying that the additional height could only allow hotels up to 4-stories in height and that the Commission should consider potential impacts on adjacent development in their review of Design Permits for 4-story hotels. The Commission's proposed revisions to Sections 18.24.030B and 18.26.030B are shown in Exhibit C.

As noted above and in Exhibit D, staff proposes to allow heights up to 4-stories or 55-feet, whichever is less for all uses in the CH Highway Commercial and CI Commercial Industrial Zoning Districts, rather than establishing a specific height (and permitting) requirement for 4-story/65-foot tall hotels and a different height requirement for all other uses. All new buildings, including hotels, would continue to require a Design Permit reviewed and acted on by the Community Development Director. When considering Design Permits, the City must evaluate applications against the 16 criteria listed in Section 18.108.040.H. and the findings for approval in Section 18.108.040.J. The Community Development Director may refer Design Permit applications to the Planning Commission for review and final decision and the Community Development Director decisions on Design Permits are appealable to the Planning Commission.

COMMUNITY ENGAGEMENT: Collaborate

Planning Commission study sessions, workshops, and hearings and City Council meetings and hearings on the Zoning Code Update were open to the public and the study sessions and workshops included opportunities for community members to participate in discussions by asking questions and providing input on the Commission's review and proposed edits to the Public Review Draft Zoning Code and Public Review Final Draft Zoning Code.

In addition to publishing a general notice of the March 27, 2018 Planning Commission hearing in the Mercury News, individual notices were mailed on March 16, 2018 to property owners (approximately 100 sites) and on March 29, 2018 (9 additional sites) where the zoning district for their property

was/is proposed to be modified to be consistent (or more consistent) with their property's existing General Plan Land Use designation. A map and list of the proposed change sites is included as Exhibit B to the Planning Commission recommendation (attached resolution) showing the existing General Plan designation, existing Zoning District, proposed Zoning District.

ALTERNATIVE ACTIONS:

If the City Council denies the proposed Zoning Code Update, the City will continue to use the current Title 18. Staff will bring forward separate Zoning Code amendments to address specific deficiencies in the current Code, including any inconsistencies with State law and with the City's Morgan Hill 2035 General Plan.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The Planning Commission on October 13, 2015 and December 8, 2015 held study sessions, and the City Council on December 16, 2015 held a meeting to review an assessment of the existing Zoning Code and provide feedback on the Zoning Code Update process. The Zoning Code Update process was paused twice to focus on completion of the Residential Development Control System (RDSCS) Ordinance Update and RDSCS Competition Manual.

On June 7, 2017, the City Council provided direction to staff and the Planning Commission on the remaining work plan for the Zoning Code Update.

The Planning Commission reviewed and provided comments on the Public Review Draft Zoning Code at four workshops (August 29, September 19, October 3, and November 28, 2017) and one regular meeting (October 24, 2017). On December 12, 2017 and January 9, 2018, the Planning Commission reviewed, discussed, and came to an agreement on a list of topics and related questions for discussing with the City Council at the January 17, 2018 Joint Study Session.

The Planning Commission opened a public hearing on the Zoning Code Update at the March 27, 2018 Planning Commission meeting to hear public testimony and continued the hearing to April 10, 2018 where several comments received from the public were discussed and considered. The Commission provided specific recommendations on those comments discussed at the April 10, 2018 hearing and continued the hearing to April 24, 2018. At the April 24, 2018 hearing, the Commission considered remaining comments and, on a 6-1 vote, recommended the City Council consider the Addendum to the Morgan Hill 2035 EIR in accordance with CEQA and approval of the Zoning Code Update and Zoning Map Amendments with additional recommendations described in Exhibit C of the attached Planning Commission resolution.

FISCAL AND RESOURCE IMPACT:

The Zoning Code Update process is within the work plan and budget for the Morgan Hill 2035 Project.

CEQA (California Environmental Quality Act):

An Addendum to the Environmental Impact Report (EIR) for the City of Morgan Hill's Morgan Hill 2035 Project (attached via weblink) certified on July 27, 2016 (State Clearinghouse No. 2015022074) was prepared for the Zoning Code Update project pursuant to the provisions of the State of California Environmental Quality Act (CEQA) Guidelines Section 15164.

The Addendum concludes that the proposed project will not result in any new impacts that were not already identified in the Morgan Hill 2035 EIR or any impacts of greater severity than were already addressed.

City of Morgan Hill v. Shannon Bushey, etc., et al.,
Supreme Court No. S243042
Court of Appeal No. H043426
Superior Court No. 16-CV-292595

PROOF OF SERVICE

I, ASIT S. PANWALA, hereby state:

I am over eighteen years of age and not a party to the above action. My business address is 4 Embarcadero Center, Suite 1400, San Francisco, California 94111.

On May 18, 2018, I served the following documents:

**APPELLANT MORGAN HILL HOTEL COALITION'S REQUEST
FOR JUDICIAL NOTICE ON SUPPLEMENTAL BRIEF**

by serving the following parties via True Filing E-Service.

Katherine Alberts
Counsel for City of Morgan Hill
Leone & Alberts
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Walnut Creek, CA 94596

Danielle Goldstein
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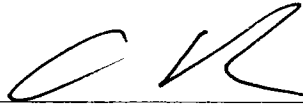
I also placed a copy of the **APPELLANT MORGAN HILL HOTEL COALITION'S**
REQUEST FOR JUDICIAL NOTICE ON SUPPLEMENTAL BRIEF in a sealed
envelope with first-class US mail postage in United States Postal mailbox affixed and
addressed to:

Superior Court of Santa Clara County
Clerk of the Court
The Honorable Theodore Zayner
191 N. First Street
San Jose, CA 95113

Sixth District Court of Appeals
Clerk of the Court
333 West Santa Clara Street, Suite 1060
San Jose, CA 95113

Thomas B. Brown
Counsel for the League of California Cities
BURKE, WILLIAMS & SORENSEN, LLP
1901 Harrison Street, Suite 900
Oakland, CA 94612-3501

I declare under penalty of perjury under the law of the State of California that the foregoing is true and correct. Executed on May 18, 2018, at San Francisco, California.



Asit S. Panwala