CITY OF MORGAN HILL

Regular Meeting Agenda

Planning Commission

Mohammad Habib - Chair
Malisha Kumar - Vice-Chair
Joseph Mueller - Planning Commissioner
Wayne Tanda - Planning Commissioner
Laura Gonzalez-Escoto - Planning Commissioner
Liam Downey - Planning Commissioner
Juan Miguel Munoz-Morris - Planning Commissioner

Tuesday, May 11, 2021 7:00 pm

Virtual Meeting

VIRTUAL MEETING GUIDELINES AND PUBLIC COMMENT

In accordance with Executive Order N-25-20 and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. Physical meetings will not be in the City Council Chamber until further notice.

Planning Commission meetings will be live streamed on Channel 17, on the City's website and on the City's Facebook page. Those members of the community that would like to participate in the meetings remotely may do so by join the virtual meeting at: https://bit.ly/PlanningCommissionMtg or by calling in to: (669) 900-9128, then enter the webinar ID#: 862 0324 6251.

Public comment may be provided in the following ways:

- Join the virtual Planning Commission meeting via the link above, when public comment is opened, raise your virtual hard and be called upon to speak for up to 3 minutes
- Join the virtual meeting by calling in to the number above, dial *9 to raise your hand and *6 when called upon to speak for up to 3 minutes
- Send public comments in writing to the Minutes Clerk at pcpubliccomment@morganhill.ca.gov

* Please note that comments made on Facebook are not considered public comment.

CALL TO ORDER

ROLL CALL ATTENDANCE

DECLARATION OF POSTING AGENDA

Pursuant to Government Code Section 54954.2

PLEDGE OF ALLEGIANCE

OPEN PUBLIC COMMENT PERIOD

Members of the public are entitled to address the Planning Commission concerning any item within the Morgan Hill Planning Commission's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the Planning Commission is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ORDERS OF THE DAY

MINUTES APPROVAL

1. APPROVE THE APRIL 13, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

OTHER BUSINESS

2. PRESENTATION: OVERVIEW OF DENSITY BONUS LAW, INCLUDING UPDATES FROM 2020-02021

A supplemental presentation was added to this Item.

DIRECTOR'S REPORT/ANNOUNCEMENTS

LEGAL BRIEFING

3. DESIGN PERMIT PRESENTATION

A supplemental presentation was added to this Item.

ADJOURNMENT

NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the Commission concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Commission on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Commission Chambers, and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Commission, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the Commission on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the Commission.

Persons interested in proposing an item for the Commission agenda should contact a member of the Commission who may plan an item on the agenda for a future Commission meeting. Should your comments require Commission action, your request may be placed on the next appropriate agenda. Commission discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the Commission at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the Commission, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of Commission Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email cityclerk@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email cityclerk@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

DRAFT

CITY OF MORGAN HILL

Meeting Minutes
Planning Commission

Mohammad Habib	-	*Chair*
Malisha Kumar	-	*Vice-Chair*
Joseph Mueller	-	*Planning Commissioner*
Wayne Tanda	-	*Planning Commissioner*
Laura Gonzalez-Escoto	-	*Planning Commissioner*
Liam Downey	-	*Planning Commissioner*
Juan Miguel Munoz-Morris	-	*Planning Commissioner*

Tuesday, April 13, 2021 7:00 pm

Virtual Meeting

Minutes Acceptance: Minutes of Apr 13, 2021 7:00 PM (MINUTES APPROVAL)

CALL TO ORDER

Chair Habib called the meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Attendee Name	Title	Status	Arrived
Mohammad Habib	Chair	Present	
Malisha Kumar	Vice-Chair	Present	
Joseph Mueller	Planning Commissioner	Present	
Wayne Tanda	Planning Commissioner	Present	
Laura Gonzalez-Escoto	Planning Commissioner	Present	
Liam Downey	Planning Commissioner	Present	
Juan Miguel Munoz-Morris	Planning Commissioner	Present	

DECLARATION OF POSTING AGENDA

Minutes Clerk Luna declared the posting of the agenda at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Planning Commissioner Tanda led the Pledge of Allegiance at 7:01 p.m.

OPEN PUBLIC COMMENT PERIOD

Chair Habib opened the Public Comment Period at 7:01 p.m. Hearing no requests to speak, the Public Comment Period was closed.

ORDERS OF THE DAY

No changes made.

CONSENT AGENDA

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Joseph Mueller, Planning Commissioner
SECONDER:	Juan Miguel Munoz-Morris, Planning Commissioner
AYES:	Habib, Kumar, Mueller, Tanda, Gonzalez-Escoto, Downey, Munoz-Morris

1. APPROVE THE MARCH 9, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

2. APPROVE THE MARCH 23, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

WORKSHOP

3. MONTEREY CORRIDOR FORM-BASED CODE WORKSHOP

Recommendation:

Review, discuss, and provide feedback on the draft Monterey Corridor Form-Based Code and Regulating Plan.

Principal Planner Adam Paszkowski introduced the item and then introduced Roger Eastman, Jennifer Murrillo, and Spencer Johnson from Lisa Wise Consulting who gave the presentation.

8:38 p.m. Planning Commission Meeting recessed at 8:38 p.m.
8:45 p.m. Planning Commission Meeting resumed at 4:45 p.m.

Chair Habib opened the Public Comment Period at 8:45 p.m. The following individuals were called to speak:

- Joe Baranowski
- Asit Panwala

Hearing no further requests to speak, the Public Comment Period was closed.

Chair Habib re-opened the Public Comment Period at 9:35 p.m. Hearing no requests to speak, the Public Comment Period was closed.

MOTION:
No Action Taken. The Planning Commission review, discuss, and provide feedback on the draft Monterey Corridor Form-Based Code and Regulating Plan.

Minutes Acceptance: Minutes of Apr 13, 2021 7:00 PM (MINUTES APPROVAL)

RESULT:	NO ACTION TAKEN

DIRECTOR'S REPORT/ANNOUNCEMENTS

Community Development Director Jennifer Carman made an announcement at 9:38 p.m.

LEGAL BRIEFING

Assistant City Attorney Cynthia Hasson gave a legal brief at 9:45 p.m.

ADJOURNMENT

There being no further business, Chair Habib adjourned the meeting at 9:58 p.m.

MINUTES PREPARED BY:

Jenna Luna, Minutes Clerk

Minutes Acceptance: Minutes of Apr 13, 2021 7:00 PM (MINUTES APPROVAL)

CITY OF MORGAN HILL

Planning Commission Meeting
Overview of Density Bonus Law

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

What is California's Density Bonus Law?

California Government Code Sections 65915 – 65918 contain the Density Bonus Law

It provides developers with tools to encourage the development of affordable and senior housing

Starting in 2021 -

- 50% increase in project densities for most projects, depending on the amount of affordable housing provided
- 80% increase in density for projects which are 100% affordable

Density Bonus Law is intended to help make the development of affordable and senior housing economically feasible

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

What is California's Density Bonus Law?

Regulations within the Law include:

- Reduced parking requirements
- Concessions
- Waivers

The Law is a state mandate

Projects that are 100% affordable to lower incomes get the maximum density bonus and concessions under the Law

A developer who meets state law requirements is entitled to receive the density bonus and other benefits as a matter of right

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What kind of housing projects get to use the Density Bonus Law?

Cities are required to grant a density bonus and other incentives or concessions to housing projects which contain one of the following:

- At least 5% of the housing units are restricted to very low-income residents
- At least 10% of the housing units are restricted to lower income residents
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate income residents
- 100% of the housing units (other than manager's units) are restricted to very low, lower, and moderate income residents (with a maximum of 20% moderate)

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

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What kind of housing projects get to use the Density Bonus Law?

- At least 10% of the housing units are for transitional foster youth, disabled veterans, or homeless persons, with rents restricted at the very low-income level
- At least 20% of the housing units are for low-income college students in housing dedicated to full-time students at accredited colleges
- The project donates at least one acre of land to the City for very low-income units. The land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing
- The project is a senior citizen housing development (no affordable units required)
- The project is a mobile home park age-restricted to senior citizens (no affordable units required)

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

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When you say "Density Bonus" what does that mean?

- A density bonus is the percentage increase in the number of units allowed on a site
- Amount of the bonus is set on a sliding scale, based upon the percentage of each type of affordable unit at each income level
- Maximum density bonus amounts for very low, lower, and moderate-income housing were increased by legislation approved in 2019 and 2020
- Bonus went from a max of 35% to:
  - 50% for most lower income projects
  - 80% for 100% affordable projects

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When you say "Density Bonus" what does that mean?

If the housing development is located within one-half mile of a major transit stop, the density bonus is unlimited

A major transit stop is defined as follows:

- An existing rail or bus rapid transit station
- A ferry terminal served by either a bus or rail transit service
- The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods

In Morgan Hill, only the train station qualifies as a major transit stop

The definitions for major transit stop do not take service into consideration with the exception of bus routes

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

DENSITY BONUS CHART*

AFFORDABLE UNIT PERCENTAGE**	VERY LOW INCOME DENSITY BONUS	LOW INCOME DENSITY BONUS	MODERATE INCOME DENSITY BONUS***	LAND DONATION DENSITY BONUS	SENIOR****	FOSTER YOUTH/ DISABLED VETS/ HOMELESS	COLLEGE STUDENTS
5%	20%	-	-	-	20%	-	-
6%	22.5%	-	-	-	20%	-	-
7%	25%	-	-	-	20%	-	-
8%	27.5%	-	-	-	20%	-	-
9%	30%	-	-	-	20%	-	-
10%	32.5%	20%	5%	15%	20%	20%	-
11%	35%	21.5%	6%	16%	20%	20%	-
12%	38.75%	23%	7%	17%	20%	20%	-
13%	42.5%	24.5%	8%	18%	20%	20%	-
14%	46.25%	26%	9%	19%	20%	20%	-
15%	50%	27.5%	10%	20%	20%	20%	-
16%	50%	29%	11%	21%	20%	20%	-
17%	50%	30.5%	12%	22%	20%	20%	-
18%	50%	32%	13%	23%	20%	20%	-
19%	50%	33.5%	14%	24%	20%	20%	-
20%	50%	35%	15%	25%	20%	20%	35%
21%	50%	38.75%	16%	26%	20%	20%	35%
22%	50%	42.5%	17%	27%	20%	20%	35%
23%	50%	46.25%	18%	28%	20%	20%	35%
24%	50%	50%	19%	29%	20%	20%	35%
25%	50%	50%	20%	30%	20%	20%	35%

DENSITY BONUS CHART*

AFFORDABLE UNIT PERCENTAGE**	VERY LOW INCOME DENSITY BONUS	LOW INCOME DENSITY BONUS	MODERATE INCOME DENSITY BONUS***	LAND DONATION DENSITY BONUS	SENIOR****	FOSTER YOUTH/ DISABLED VETS/ HOMELESS	COLLEGE STUDENTS
26%	50%	50%	21%	31%	20%	20%	35%
27%	50%	50%	22%	32%	20%	20%	35%
28%	50%	50%	23%	33%	20%	20%	35%
29%	50%	50%	24%	34%	20%	20%	35%
30%	50%	50%	25%	35%	20%	20%	35%
31%	50%	50%	26%	35%	20%	20%	35%
32%	50%	50%	27%	35%	20%	20%	35%
33%	50%	50%	28%	35%	20%	20%	35%
34%	50%	50%	29%	35%	20%	20%	35%
35%	50%	50%	30%	35%	20%	20%	35%
36%	50%	50%	31%	35%	20%	20%	35%
37%	50%	50%	32%	35%	20%	20%	35%
38%	50%	50%	33%	35%	20%	20%	35%
39%	50%	50%	34%	35%	20%	20%	35%
40%	50%	50%	35%	35%	20%	20%	35%
41%	50%	50%	38.75%	35%	20%	20%	35%
42%	50%	50%	42.5%	35%	20%	20%	35%
43%	50%	50%	46.25%	35%	20%	20%	35%
44%	50%	50%	50%	35%	20%	20%	35%
100%*****	80%	80%	80%	35%	20%	20%	35%

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

What are concessions?

In addition to the density bonus, the City is also required to provide one or more concessions (also referred to as incentives in the Law) to each project which qualifies for a density bonus

A concession is defined as:

- A reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements; or
- Approval of mixed-use zoning; or
- Other regulatory incentives or concessions which actually result in identifiable and actual cost reductions

The number of required incentives or concessions is based on the percentage of affordable units in the project

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

What are concessions?

Starting in 2021, the maximum number of concessions that can be requested by a project was raised from 3 to 4:

CONCESSIONS	VERY LOW-INCOME PERCENTAGE	LOW INCOME PERCENTAGE	MODERATE INCOME PERCENTAGE
1	5%	10%	10%
2	10%	17%	20%
3	15%	24%	30%
4	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)	100% Low/Very Low/Mod (20% Moderate allowed)

Communication: Presentation: Overview of Density Bonus Law, Including Updates from

What are concessions?

The City is required to grant the concession or incentive proposed by the developer unless it can find:

- that the proposed concession or incentive does not result in identifiable and actual cost reductions,
- would cause a public health or safety problem,
- would cause an environmental problem,
- would harm historical property, or
- would be contrary to Law

Concessions may be obtained by an affordable project even if the project does not request a density bonus

Review of Concession Requests

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- Does the concession/incentive result in identifiable and actual cost reductions to provide affordable housing?

- Results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

- To deny the concession, the City is responsible for any fiscal analysis to prove that the requested concession does not result in identifiable and actual cost reductions.

What other advantages does affordable housing have under the Density Bonus Law?

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Waiver of Development Standards

Applies to any City development standard would physically prevent the project from being built at the permitted density

The City or county is not permitted to apply any development standard that physically precludes the project's construction at its permitted density

The City is not required to waive or reduce development standards that would:

- cause a public health or safety problem
- cause an environmental problem
- harm historical property
- or would be contrary to Law

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What other advantages does affordable housing have under the Density Bonus Law?

Waiver of Development Standards

The waiver or reduction of a development standard does not count as a concession, and there is **no limit** on the number of development standard waivers that may be requested or granted

Concessions versus Waivers

- Concessions are connected to Cost of Development
- Waivers are connected to achieving allowed Density (with bonus)

What other advantages does affordable housing have under the Density Bonus Law?

Waiver of Development Standards

Waivers are included as part of the project design that will be considered during Design Permit review.

- In determining project completeness, staff analyzes whether the standard physically prevents the development of the housing at the density allowed

- City may not apply a development standard that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted

What other advantages does affordable housing have under the Density Bonus Law?

Maximum Parking Requirements

The City may not require more than the following parking ratios for a density bonus project:

Studio	1 space
1 Bedroom	1 space
2 Bedroom	1.5 spaces
3 Bedroom	1.5 spaces
4 Bedroom	2.5 spaces

What other advantages does affordable housing have under the Density Bonus Law?

Special Parking Requirements

- Lower parking ratios apply to specified projects
- Local jurisdictions can require higher parking ratios if supported by a specified parking study
- Onsite spaces may be provided through tandem or uncovered parking, but not on-street parking
- Requesting these parking standards does not count as an incentive or concession, but the developer may request further parking standard reductions as an incentive or concession

What other advantages does affordable housing have under the Density Bonus Law?

Rental/for-sale projects with at least 11% very low income or 20% lower income units, within a 1/2 mile of an accessible major transit stop	0.5 spaces per unit
Rental projects 100% affordable to lower income, within 1/2 mile of an accessible major transit stop	0 spaces per unit
Rental senior projects 100% affordable to lower income, either with paratransit service or within a 1/2 mile of accessible bus route (operating at least eight times per day)	0 spaces per unit
Rental special needs projects 100% affordable to lower income households, either with paratransit service or within a 1/2 mile of accessible bus route (operating at least eight times per day)	0 spaces per unit
Rental supportive housing developments 100% affordable to lower income households	0 spaces per unit

Findings for Denial-Substantial Evidence

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a. The concession or incentive does not result in identifiable and actual cost reductions.

b. The concession or incentive would have a specific, adverse impact, upon public health and safety or the physical environment or on any historic property that cannot be mitigated to avoid the impact without rendering the project unaffordable.

c. The concession or incentive would be contrary to state or federal law.

Findings for Denial-Substantial Evidence

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Specific adverse impact definition: A significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

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Are there any restrictions on affordable housing?

Affordable rental units must be restricted by an agreement that sets maximum incomes and rents for those units.

As of January 1, 2015, the income and rent restrictions must remain in place for a 55-year term for very low or lower-income units (formerly, only a 30-year term was required).

UPCOMING ENGAGEMENT EVENTS:

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Four virtual 5:30 PM community workshops :

- All Things Housing - Wednesday, May 19th
- State Mandates for Housing Production - Wednesday, June 2nd
- Housing Affordability - Wednesday, June 16th Housing and
- Long-Term Sustainability - Wednesday, June 23rd

In addition to the workshops above, here are additional opportunities to join the conversation:

- Affordable Housing 101 in Spanish with English Translation - Tuesday, May 18th at 5:00 pm
- All Things Housing - Saturday, May 22nd, 9 am to noon, Third St. in front of parking garage
- A Model for Agricultural Workforce Housing in South County - Friday, May 28th at 10:00 am
- Creating Inclusive Communities through Design Form - Thursday, June 10th at 5:30 pm
- Hablando Vivienda con Nuestras Familias in Spanish with English Translation - Sunday, May 23rd at 2:00 pm

QUESTIONS?

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Planning Commission Meeting
Design Permit
Morgan Hill Municipal Code Section 18.108.040

Communication: Design Permit Presentation (LEGAL BRIEFING)

Purpose

Morgan Hill Municipal Code states:

- A design permit is a discretionary action that enables the city to ensure that proposed development exhibits high quality design consistent with the general plan and any other applicable specific plan or area plan adopted by the city council. The design permit process is also intended to ensure that new development and uses are compatible with their surroundings and minimize negative impacts on neighboring properties.

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- Discussion is limited to the design elements of the project.
- Use has already been approved, either by right, administratively, or through a CUP
- Design review for residential projects will be significantly limited given that the project has already met the City's design and development standards prior to applying for the Design Permit.

When is a design permit required

1. Three or more new residential units.
2. One or more new residential units on a **sensitive site** as defined
3. New non-residential buildings, structures, or physical site improvements determined to be **significant**
4. Additions to existing buildings, structures, or other physical site improvements visible from a public right-of-way and determined to be **significant**. Single-family homes are exempt unless the home is on a **sensitive site** as defined.
5. Additions to existing residences located on a **sensitive site** as defined.
6. Site alterations that change the topography of the currently developed site area on a **sensitive site** as defined.

When is a design permit required continued

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7. Relocation of existing buildings, structures or other physical site improvements.
8. Exterior changes to existing buildings, structures or other site improvements determined to be **significant**. Single-family homes are exempt unless the home is on a **sensitive site** as defined.
9. Grading of more than fifty cubic yards on slopes greater than ten percent.
10. New accessory structures including secondary dwelling units or guest homes on a **sensitive site** as defined.
11. **City projects**, including, but not limited to, municipal buildings, parks and open spaces, landscaping within the right-of-way, and street furniture.
12. Other projects determined by the community development director to be **significant** or which may adversely affect the environment or adjacent development.

What is a sensitive site?

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- Contains a notable natural feature such as a hillside, ridgeline, watercourse, major drainage way or floodplain.

- The community development director may require a design permit for a project located on a sensitive site where a design permit may not otherwise be required.
- The community development director's determination that a site is sensitive and that a design permit is required may be appealed to the planning commission.

Significant Project

- When determining if a project is significant, the community development director shall consider:

  a. The visual prominence of the project when viewed from the public right-of-way and/or private property;

  b. The project height, mass, and area of site disturbance;

  c. The type, character, and proximity of adjacent development; and

  d. The potential of the project to create adverse impacts on adjacent uses or the community at large.

- The community development director's determination that a project is significant may be appealed to the planning commission.

Significant Project continued

Presumed significant:

- *Any structure with more than seventy-five thousand square feet of floor area or a building height greater than forty feet, is presumed to be significant for purposes of this chapter.*
- *Any residential development of more than one hundred units is presumed significant.*

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Exempt Projects.

1. Building additions less than five hundred square feet which will not be visible from a public right-of-way.
2. Exterior modifications to existing buildings that are not visible from any public right-of-way.
3. Parking lot resurfacing and re-striping, or minor alterations to parking lots, provided the number of spaces is not reduced or the property provides the minimum number of on-site parking spaces as required by Chapter 18.72 (Parking and Loading).
4. Replacement or addition of existing windows, doors, or roofing materials.
5. Repainting or retexturing exterior building walls with similar or higher quality materials.
6. Addition of plant material and/or planter areas that occupy less than 20 percent of the site or removal or modification of a minor amount of existing landscape area.

Exempt Projects continued

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7. Replacement of existing awnings or trellises, or the addition of an awnings or trellises less than five feet in width.

8. Replacement of existing walls and fencing.

9. Addition, relocation, or replacement of trash enclosures, mechanical screens, and light fixtures.

10. Remodel or addition of ramps, pathways or parking to accommodate the requirements of federal, state or local accessibility laws.

11. Murals with or without signage that comply with Chapter 18.76 (Signs) and any applicable specific plan or area plan.

12. Other projects determined by the community development director to be a minor or incidental modification to an existing building, structure, or site feature.

Review Authority

- Generally, the community development director reviews and acts on all design permit applications.
- **The community development director may elevate any design permit application under their authority to the planning commission for review and final decision.**
- The city council shall review and act on all design permit applications for new city projects (e.g., new municipal buildings, parks) determined by the community development director to be significant.
- Except for new city projects**, the planning commission shall act on any design permit application for any other projects determined by the community development director to be significant.**

Public Notice and Hearing.

1. Public notice of a pending action on a design permit application reviewed by the community development director is required. The community development director shall hold a public hearing for a design permit application only upon receiving a written request for a public hearing.

2. The planning commission and city council shall review and act on a Design Permit application at a noticed public hearing.

Design Review Criteria.

When considering design permit applications, the city shall evaluate applications to ensure that they satisfy the following criteria, comply with the development standards of the zoning district, conform to policies of the general plan and any applicable specific plan, and are consistent with any other policies or guidelines the city council may adopt for this purpose. To obtain design permit approval, projects must satisfy these criteria to the extent they apply.

1. Community Character. The overall project design including site plan, height, massing, architectural style, materials, and landscaping contribute to Morgan Hill's unique small-town character and distinctive sense of place.
2. Neighborhood Compatibility. The project is designed to respect and complement adjacent properties. The project height, massing, and intensity is compatible with the scale of nearby buildings. The project design incorporates measures to minimize traffic, parking, noise, and odor impacts on nearby residential properties.

Design Review Criteria continued

3. Pedestrian Environment. Buildings incorporate design features that support an active public realm and an inviting pedestrian environment.
4. Privacy. The orientation and location of buildings, entrances, windows, doors, decks, and other building features minimizes privacy impacts on adjacent properties and provides adequate privacy for project occupants.
5. Safety. The project promotes public safety and minimizes opportunities for crime through design features such as property access controls (e.g., placement of entrances, fences), increased visibility and features that promote a sense of ownership of outdoor space.

Design Review Criteria continued

6. Massing and Scale. The massing and scale of buildings complement and respect neighboring structures and correspond to the scale of the human form. Large volumes are divided into small components through varying wall planes, heights, and setbacks. Building placement and massing avoids impacts to public views and solar access.

7. Architectural Style. Buildings feature an architectural style that is compatible with the surrounding built and natural environment, is an authentic implementation of appropriate established architectural styles, and reflects Morgan Hill's unique small-town character.

8. Articulation and Visual Interest. Building facades are well articulated to add visual interest, distinctiveness, and human scale. Building elements such as roofs, doors, windows, and porches are part of an integrated design and relate to the human scale. Architectural details such as trim, eaves, window boxes, and brackets contribute to the visual interest of the building.

Design Review Criteria continued

9. Materials. Building facades include a mix of natural, high-quality, and durable materials that are appropriate to the architectural style, enhance building articulation, and are compatible with surrounding development.

10. Parking and Access. Parking areas are located and designed to minimize visual impacts and support a pedestrian-friendly environment. Safe and convenient connections are provided for pedestrians and bicyclists.

11. Landscaping. Landscaping is an integral part of the overall project design, is appropriate to the site and structures, and enhances the surrounding area.

Design Review Criteria continued

12. Open Space and Public Places. Single-family dwellings feature inviting front yards that enhance Morgan Hill's residential neighborhoods. Multi-family residential projects include public and private open space that is attractive, accessible, and functional. Non-residential development provides semi-public outdoor spaces, such as plazas and courtyards, which help support pedestrian activity within an active and engaging public realm.

13. Signs. The number, location, size, and design of signs complement the project design and are compatible with the surrounding context.

14. Lighting. Exterior lighting is an integral part of the project design with light fixtures designed, located, and positioned to minimize illumination of the sky and adjacent properties.

Design Review Criteria continued

15. Accessory Structures. The design of detached garages, sheds, fences, walls, and other accessory structures relate to the primary structure and are compatible with adjacent properties.

16. Mechanical Equipment, Trash Receptacles, and Utilities. Mechanical equipment, trash receptacles, and utilities are contained within architectural enclosures or fencing, sited in unobtrusive locations, and/or screened by landscaping.

The review authority shall make all of the following Findings for Approval.

1. The proposed project is consistent with the general plan and any applicable specific plan, area plan, or other design policies and regulations adopted by the city council.

2. The proposed project complies with all applicable provisions of the zoning code and municipal code.

3. The proposed project substantially complies with all applicable design standards and guidelines contained in the design review handbook.

The review authority shall make all of the following Findings for Approval continued

4. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

5. The proposed development will not be detrimental to the public health, safety, or welfare or materially injurious to the properties or improvements in the vicinity.

6. The proposed project complies with all applicable design review criteria in Subsection H above.

7. *For new residential development, the project complies with commitments made through the residential development control system (RDCS).*

CEQA

- Although a design permit is discretionary, design rarely triggers CEQA. Fairly recent decisions by the courts that affect CEQA review.
- While discretionary action typically triggers CEQA, “this rule applies only when the discretionary component of the project gives the agency the authority to mitigate environmental impacts.”
- Aesthetic issues, while in the province of local design review, are not within the province of CEQA. (McCorkle Eastside Neighborhood Group. v. City of St. Helena (2018) 31 Cal. App. 5th 80)
- Even if a statute grants an agency some discretionary authority over an aspect of a project, the project is ministerial for CEQA purposes if the agency lacks authority to address environmental impacts. (Protecting Our Water & Environmental Resources v. County of Stanislaus (2020) 10 Cal. 5th 479)

QUESTIONS?

CITY OF MORGAN HILL