



Regular Meeting Agenda
Planning Commission

John McKay - Chairman
Liam Downey - Vice Chairman
Joseph Mueller - Planning Commissioner
Wayne Tanda - Planning Commissioner
Yvonne Martinez Beltran - Planning Commissioner
Mohammad Habib - Planning Commissioner
Juan Miguel Munoz Morris - Planning Commissioner

Tuesday, December 12, 2017 7:00 PM

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

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

CONTINUED PUBLIC HEARINGS

1. **UP2017-0013 LIGHTPOST- BIG OAK RANCH: CONDITIONAL USE PERMIT TO ALLOW WINE TASTING IN CONJUNCTION WITH THE ON-SITE PRODUCTION OF WINE WITHIN AN EXISTING INDUSTRIAL BUILDING, IDENTIFIED BY ASSESSOR PARCEL NUMBER 726-33-027, LOCATED ON THE EASTERLY TERMINUS OF LIGHTPOST WAY**

Recommendation:

1. Open/close the public hearing; and,
2. Adopt a Resolution approving a Conditional Use Permit allowing wine tasting within an existing industrial building at the requested site.

OTHER BUSINESS

2. **ZA2016-0006: ZONING CODE UPDATE - PRIORITIZE JOINT CC/PC STUDY SESSION TOPICS**

Recommendation:

1. Review, discuss, and provide feedback on the list of topics and related questions for the January 17, 2018 Joint City Council/Planning Commission Zoning Code Update Study Session.

3. **ECONOMIC BLUEPRINT QUESTIONS AND DISCUSSION: OVERVIEW AND UPDATE ON CURRENT AND FUTURE EFFORTS**

Recommendation:

1. Economic Development Director to provide the Planning Commission with information regarding the Economic Blueprint.

4. **CONSIDERATION OF COMMISSION REFERRAL**

Recommendation:

1. Discuss and consider Planning Commissioner request

5. **COMMISSIONER REFERRAL PROCESS**

Recommendation:

1. Discuss and consider Planning Commissioner referrals

ANNOUNCEMENTS

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 by 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 michelle.wilson@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 michelle.wilson@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.



Sustainable Morgan Hill Vision

Morgan Hill is a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility ·
Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational Culture ·
Preserving and Cultivating Public Trust · Preserving Our Cultural Heritage

2017 STRATEGIC PRIORITIES

High Speed Rail

Inclusiveness

Infrastructure

Regional Initiatives

Telecommunications

2017 STRATEGIC PRIORITIES:



High Speed Rail

The City of Morgan Hill will directly advocate for our community's needs through our communications, discussions, and decisions. We will continue to engage the community, the High Speed Rail Authority, our state and federal legislators, and other regional agencies to mitigate negative impacts and convey our position that the High Speed Rail Authority should only use the existing Highway 101 right-of-way to avoid all impacts to residents, schools, and businesses. Should the Authority decide the 101 right-of-way is not feasible, we will strongly advocate for the route with the least impact on Morgan Hill.



Inclusiveness

We will celebrate the diversity, history, and culture of our community. Through City Council workshops, community meetings, and researching successes in other communities, the City will listen to and collaborate with the community to define how inclusiveness will be further woven into our community's fabric and to increase public participation. The City's communications, services, public spaces, and projects will embrace all community members as partners, advancing our vision of being a socially responsible community.



Infrastructure

The City will review its streets, parks, and public facilities infrastructure needs initially by updating its 2014 infrastructure study to quantify the funding gap. We will identify potential funding options as ongoing revenue is insufficient to fund our vital community assets at a sustainable level without significantly impacting existing service levels that our community has come to expect. Morgan Hill will actively work with the Valley Transportation Agency, the County, and the State to secure funding for the Santa Teresa extension and road maintenance. We will continue to work closely with our community to inform them of the needs and engage them to find an affordable and sustainable solution.



Regional Initiatives

City Council and staff will focus on influencing regional decisions that benefit Morgan Hill. This regional involvement will include, but not be limited to, partnering with the League of California Cities, Valley Transportation Authority, Santa Clara Valley Water District, Cities Association of Santa Clara County, the City of Gilroy, Santa Clara County, Morgan Hill Unified School District, the Local Agency Formation Commission, the Open Space Authority, and Silicon Valley Clean Energy to advance projects that further Sustainable Morgan Hill.



Telecommunications

The City will collaborate with the private sector to explore ways to provide fast, reliable access and wireless connectivity for residents and businesses. The 2016 Telecommunications Infrastructure and Economic Development Blueprint reports will be the foundation for continuing discussions with broadband providers, public utilities, and other infrastructure service providers in developing an implementation plan for growing our telecommunications infrastructure. The plan will be used to signal Morgan Hill's support for business expansion.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: December 12, 2017

PREPARED BY: Rich Buikema, Contract Planner

APPROVED BY: Jennifer Carman, Community Development Director

UP2017-0013 LIGHTPOST- BIG OAK RANCH: CONDITIONAL USE PERMIT TO ALLOW WINE TASTING IN CONJUNCTION WITH THE ON-SITE PRODUCTION OF WINE WITHIN AN EXISTING INDUSTRIAL BUILDING, IDENTIFIED BY ASSESSOR PARCEL NUMBER 726-33-027, LOCATED ON THE EASTERLY TERMINUS OF LIGHTPOST WAY

RECOMMENDATION(S)

1. Open/close the public hearing; and,
2. Adopt a Resolution approving a Conditional Use Permit allowing wine tasting within an existing industrial building at the requested site.

REQUEST:

A Conditional Use Permit is being requested by the applicant, Big Oak Ranch LLC, to allow wine tasting within an approximately 2,000 square foot portion of an existing 61,000 square foot industrial building.

BACKGROUND:

A continuance was granted on November 28, 2017 to the December 12, 2017 Planning Commission meeting in response to a request received on November 24, 2017 from Matthew LeMaster (Attachment 2) representing the adjacent property owner. Mr. LeMaster requested an additional two weeks to review the project information (due to the Thanksgiving holiday) in order to help advise his client (NxEdge, Inc.).

A letter has been submitted from NxEdge, Inc., which operates a manufacturing facility at 925 Lightpost Way (Attachment 3). After reviewing the Conditional Use Permit request in detail, the business owner is requesting that the Planning Commission deny the Conditional Use Permit request. NxEdge recognizes and supports the growth of the local wine industry, but believes this is not the appropriate location for the proposed use.

ADDITIONAL INFORMATION:

Prior to the November 28, 2017 Planning Commission meeting, the following questions were received for consideration. Information is being provided to assist the Commission in their analysis of the request for a Conditional Use Permit.

1. What is required to be on premises to meet the requirements of the zoning code for a winery?

The Conditions of Approval have been modified to include a requirement that the wine tasting use is allowed only in conjunction with the on-site production of wine.

2. The Statement of Operations talks about expansion spaces, and live amplified music using the word can. What area are we approving with this CUP?

The extent of the use will be limited to an approximately 2,015 square foot area (see plans) and adjacent outdoor patios. An amendment to the Conditional Use Permit would be required to expand the use beyond the proposal being considered. An entertainment permit is required for live music and amplification. All noise generated from the use would need to comply with the City's noise ordinance standards. The Conditions of Approval have been modified to clarify that the use of amplified sound will be subject to an entertainment permit from the Police Department.

3. Has the Fire Marshall approved 250 people?

The building occupancy will ultimately be determined as part of the Building Permit review for the interior tenant improvements.

4. Why is beer being allowed? No beer is being manufactured on site.

No beer is proposed to be served at the facility. Wine tasting will be subject to the requirements of the ABC license. The reference to a Beer and Wine license has been removed from the Conditions of Approval. The use will be subject to a Type 02 ABC Liquor License as described below:

WINEGROWER - (Winery) Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct wine tastings (off-site) under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.

5. The Title of the CUP Resolution should make reference to the Winery. Without a winery on premises the CUP is void.

The Conditions of Approval have been modified to include a requirement that the wine tasting use is allowed only in conjunction with the on-site production of wine.

6. What operations does Prism Electronics have in the building?

Prism Electronics is a wholesale distributor of electronics that will continue to use a portion of the building.

The original Staff Report is attached (Attachment 4).

LINKS/ATTACHMENTS:

1. Revised Resolution
2. Continuance Request
3. NxEdge Comment Letter
4. Staff Report

RESOLUTION NO.**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO ALLOW WINE TASTING IN CONJUNCTION WITH THE ON-SITE PRODUCTION OF WINE (WINERY) WITHIN AN EXISTING BUILDING AT 900 LIGHTPOST WAY IN THE M-L LIGHT MANUFACTURING ZONE DISTRICT (APN 726-33-027)**

WHEREAS, such request was considered by the Planning Commission at its regular meeting of December 12, 2017, at which time the Planning Commission approved Conditional Use Permit UP2017-0013: Lightpost-Big Oak Ranch; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The approved Conditional Use Permit is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, Existing Facilities of the CEQA Guidelines.

SECTION 3. The approved conditional use has been found consistent with the criteria for Conditional Use Permit approval contained in Section 18.54.050 of the Zoning Code. The basis and the findings are set forth in the staff report for this item in the Planning Commission Meeting of November 28, 2017 and December 12, 2017, which findings were duly considered by the Commission and are hereby adopted.

SECTION 4. The use shall be expressly conditioned on conformance to conditions incorporated herein and as attached as Exhibit "A".

Resolution No.
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**PASSED AND ADOPTED THIS 12 TH DAY OF DECEMBER 2017, AT A REGULAR
MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

JENNA LUNA, Deputy City Clerk

APPROVED:

JOHN MCKAY, Chair

Date: _____

Attachment: Revised Resolution (1543 : UP2017-0013 Lightpost-Big Oak Ranch)

A F F I D A V I T

I, Big Oak Ranch LLC, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Sofia Fedotova, Applicant

Date: _____

Attachment: Revised Resolution (1543 : UP2017-0013 Lightpost-Big Oak Ranch)

EXHIBIT "A"

STANDARD CONDITIONS

APPLICATION: UP2017-0013 Lightpost-Big Oak Ranch LLC.

THE FOLLOWING ARE STANDARD CONDITIONS OF APPROVAL THAT MUST BE MET PRIOR TO THE ISSUANCE OF BUILDING PERMITS AND/OR SITE DEVELOPMENT PERMITS EXCEPT AS MAY BE SPECIFIED IN THE CONDITIONS. THE APPROVAL REQUIREMENTS INCLUDE THESE REQUIREMENTS AND ANY SPECIAL CONDITIONS THAT ARE APPLIED THROUGH THE DEVELOPMENT APPROVAL PROCESS. APPLICANTS ARE REQUIRED TO SIGN THE APPROVAL CERTIFICATE/RESOLUTION FORM INDICATING THEY UNDERSTAND AND AGREE TO IMPLEMENT THESE STANDARD CONDITIONS AND ANY SPECIAL CONDITIONS APPLIED TO THEIR PERMIT APPROVAL.

ACRONYMS:

MHMC – Morgan Hill Municipal Code

MHARH – Morgan Hill Architectural Review Handbook

PLANNING DIVISION

I. TIME LIMITS

- A. The Conditional Use Permit approval granted as described in the Planning Commission Staff reports dated November 28, 2017 and December 12, 2017 shall remain in effect for 12 months to December 12, 2018. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted prior to the expiration date. **(MHMC 18.54.070 A, B)**
- B. In accordance with Section 18.54.090 of the Municipal Code, the Development Services Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section if necessary to ensure compliance with said conditions. **(MHMC 18.54.090)**

II. SITE DEVELOPMENT

- A. Final site development plans and/or modifications to the exterior building shall be reviewed and approved by the Development Services Department as required through a Design Review Permit prior to issuance of a building permit.

III. OTHER CONDITIONS

- A. The Conditional Use Permit is approved solely for the operation of the wine tasting room in conjunction with the on-site production of wine (winery), retail sales of wine and events as described in the applicants proposed statement of operations on file with the Planning Division (Application UP2017-0013: Lightpost-Big Oak Ranch) and as shown in the area depicted on the illustrations in the set of plans dated September 27, 2017. Serving of food is allowed in conjunction with the wine tasting activity and related events. A restaurant is not permitted. Any expansion, intensification, or changes to the uses approved under this Conditional Use Permit shall be permitted only upon amendment of this Conditional Use Permit or approval of a separate Conditional Use Permit application.
- B. The hours of operation are restricted to 9:00AM-12:00AM, 7 days a week.
- C. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of this Condition Use Permit approval. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.
- D. Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun.

Resolution No.

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- E. Submit two (2) signed copies of Resolution No. _____ to the Planning Division prior to issuance of building permits.
- F. The sale of alcohol shall be limited to the onsite and offsite sales of WINE ONLY in accordance with the licensing requirements of the California Department of Alcoholic Beverage Control (ABC). Any change to the type of ABC license for the purposes of selling or serving distilled spirits would require an amendment to the Conditional Use Permit.

ENGINEERING DIVISION

- A. Public Works Impact fees may be required for this project and must be paid prior to the issuance of Building Permit

BUILDING DIVISION

- A. The owner or designee shall follow all applicable building codes.
- B. This building will require a structural analysis as prescribed in Chapter 34 CBC.
- C. Building Permits Required. Tenant Improvement Plans clearly showing all construction details for rated occupancy separations, accessibility, egress equipment anchoring and full compliance with California Building, Fire, Electrical, Plumbing and Mechanical Codes from a Licensed Architect or Engineer.

POLICE DEPARTMENT

- A. The applicant shall comply with applicable provisions of the City's building security ordinance. Exterior lighting shall comply with criteria specified in the Design Review Ordinance. **(MHMC 18.74.050)**
- B. Entertainment (including amplified sound) as defined in Section 5.28 of the Morgan Hill Municipal Code shall not be conducted on-site unless the establishment has applied and gained approval for an Entertainment Permit and satisfied all conditions of approval prior to the commencement of such use pursuant to Section 5.28 of the Morgan Hill Municipal Code.
- C. Prior to the issuance of a building permit, a Security and Safety Management Plan shall be submitted and reviewed by the Morgan Hill Police Department to the satisfaction of the Chief of Police.

Rich Buikema

From: LeMaster, Matthew <MatthewLeMaster@dwt.com>
Sent: Friday, November 24, 2017 12:09 PM
To: Rich Buikema; Jennifer Carman
Subject: UP2017-0013

Rich and Jennifer:

As I discussed with Rich on Wednesday, we are counsel to the lessee of the adjacent property that is the subject of the proposed conditional use permit (UP2017-0013)(the "Permit"). We just received the commission staff report applicable to the proposed Permit and have not had an opportunity to review. We are not sure about the impacts of the proposed Permit. Due to the holiday weekend, we will not ready to comment on the proposed Permit and will not be ready by the meeting on 11/28/17. Accordingly, we request that the hearing and the ordinance on the possible approval of the proposed Permit be delayed for two (2) weeks.

I will call you first thing Monday (11/27) to confirm you received my email. I will also ask to find out if the city is willing to post-pone the vote on the proposed Permit.

I hope you both have a great holiday weekend and feel free to call me on my cell with any questions (highlighted below).

Best, Matt

Matthew LeMaster | Davis Wright Tremaine LLP
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 Tel: (206) 757-8077 | Fax: (206) 757-7077 | Mobile: (206) 330-1475
 Email: mattlemaster@dwt.com | Website: www.dwt.com
 Bio: www.dwt.com/people/matthewdlemaster

Anchorage | Bellevue | Los Angeles | New York | Portland | San Francisco | **Seattle** | Shanghai | Washington, D.C.

Attachment: Continuance Request (1543 : UP2017-0013 Lightpost-Big Oak Ranch)

Item # 1**AGENDA DATE: 12/12/17
SUPPLEMENTAL # 1**

December 8, 2017

Morgan Hill Planning Commission
17575 Peak Avenue
Morgan Hill, CA 95037

Jennifer Carmen
Community Development Director
17575 Peak Avenue
Morgan Hill, CA 95037

Via Email**Re: Proposed CUP 17-003, Allowing Public Winetasting in Light Industrial Zone**

Dear Planning Commission Members:

This letter provides comments from NxEdge MH LLC ("NxEdge"), which has operated a local advanced manufacturing facility at 925 Lightpost Way (the "Facility") since 2016. NxEdge's predecessor, Flextronics, operated at the Facility since 2008. NxEdge is commenting on proposed conditional use permit 2017-0013 (the "Permit"), which would allow indoor and outdoor public winetasting, foodservice and related events immediately adjacent to the Facility. Due to the potential for conflict, NxEdge has serious concerns about the introduction of such activities into this industrial area, and therefore, requests that the Permit not be approved.

As you may know, NxEdge proudly employs approximately 300 people at the Facility. The 155,353-square-foot site provides family-wage manufacturing jobs and NxEdge manufacturers machining and assembling tools and components for the semiconductor industry.

We understand that the Commission is considering granting permission for indoor and outdoor retail winetasting and foodservice, as well as "public and private . . . outdoor events not to exceed 250 people" adjacent to the Facility. See Statement of Proposed Operations, in CUP2017-0013 Staff Report 18 (2017) (the "Staff Report"). Like the Commission, NxEdge recognizes and supports the growth of the local wine industry. However, we believe this can, and should, be done without compromising existing commercial operations or endangering family-wage jobs in Morgan Hill.

We respectfully request that the City decline to issue the Permit, and instead support public tastings in areas that are less industrial in nature. Such action would be in accordance with the recent City Council-adopted first and second actions of the Morgan Hill Economic Blueprint: taking steps toward adopting an industrial land preservation policy, and preventing the conversion of industrial lands. See City of Morgan Hill, How do we attract the jobs and industries we want and need?, in Morgan Hill Economic Blueprint 41 (2017).

Attachment: NxEdge Comment Letter (1543 : UP2017-0013 Lightpost-Big Oak Ranch)

Morgan Hill Planning Commission
December 8, 2017
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Morgan Hill's zoning map and General Plan have been carefully designed to maintain the City's supportive business environment for both retail and industrial employers. Successful advanced manufacturing business operations require occasional noises and smells, as well as constant loading or unloading activities. These established business needs are not compatible with retail parking and pedestrian patterns, group events, or afternoon enjoyment of high-quality alcoholic beverages. We are highly concerned that the introduction of these proposed activities adjacent to our manufacturing site will certainly lead to conflicts that may make it more difficult for NxEdge to continue the same scope of manufacturing in Morgan Hill, or reduce the potential for future growth of our business here.

The Morgan Hill Municipal Code (the "Code," or "MHMC") requires the Commission to find that "[t]he site is suitable and adequate for the proposed use" before a conditional use permit may be issued. See MHMC §18.54.050. The Staff Report's evaluation of this requirement is limited to a conclusory statement that "[t]he proposed use will not adversely affect the existing industrial uses . . . that are adjacent to the site." We disagree, and as one of the industrial users so referenced, are discouraged by the Staff Report's lack of analysis or inquiry into our needs. For example, there is no evidence that the report considered the immediate negative effects that a regular flow of entering and exiting wine samplers would have upon our merchandise loading and unloading. Further, no one ever interviewed any officer or employee of NxEdge in developing the proposal or the Staff Report.

Additionally, the Code requires the Commission to find that the "proposed use at the location requested will not . . . impair the utility" of other properties in the vicinity of the site. Id. Again, no evaluation of our industry's needs is evinced in the Staff Report. Instead, the report and recommendation states that "[t]here are no sensitive users that will be adversely impacted." That cursory conclusion does not comport with the City's stated policies of keeping industrial areas safe for robust manufacturing facilities and other industrial employers. Instead, this section of the report does not acknowledge our existence or our needs. We believe that the CUP will negatively impact the Facility.

Just as the proposed introduction of this conflicting use does not meet the required conditional use standards, it also is inconsistent with the General Plan adopted July 27, 2016 (the "Plan"), barely sixteen months ago. The Code prescribes that the overall purpose of the zoning code is "to guide the growth of the city in an ordinary manner, based on the adopted general plan . . ." MHMC §18.02.030 (emphasis added).

The Plan states that City policy is to "[d]iscourage the conversion of property designated for industrial uses to non-industrial uses," to "[e]nsure that proposed new uses adjacent to industrial uses do not introduce land use conflicts that would adversely impact industrial activities, and to "[e]nsure that all industrial uses are . . . buffered from incompatible uses." See id. at Policies CNF 17.1-17.3, CNF-54 (2016). As discussed above, the introduction of new public winetasting, foodservice and related events in our immediate vicinity would be an incompatible,

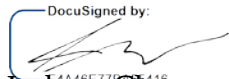
Attachment: NxEdge Comment Letter (1543 : UP2017-0013 Lightpost-Big Oak Ranch)

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non-buffered use that will introduce conflict and accordingly decrease the utility of our Morgan Hill site for manufacturing and other industrial employment. In time, conversion of our site to a non-industrial, less employment-intensive use is a realistic outcome of such conflict.

We appreciate this opportunity to comment on the proposed Permit. Because we greatly value all potential opportunities to continue investing in Morgan Hill, we respectfully request that this incompatible use not be permitted in the immediate vicinity of our manufacturing facility. We are available to further discuss these concerns at any time, and we look forward to continuing to work with you and your staff to support an optimal land use balance in our community.

Respectfully submitted,

DocuSigned by:


Jackson Chao
President and CEO

Attachment: NxEdge Comment Letter (1543 : UP2017-0013 Lightpost-Big Oak Ranch)



PLANNING COMMISSION STAFF REPORT

MEETING DATE: December 12, 2017

PREPARED BY: John Baty, Principal Planner/Development Services
 APPROVED BY: Jennifer Carman, Community Development Director

ZA2016-0006: ZONING CODE UPDATE - PRIORITIZE JOINT CC/PC STUDY SESSION TOPICS

RECOMMENDATION(S)

1. Review, discuss, and provide feedback on the list of topics and related questions for the January 17, 2018 Joint City Council/Planning Commission Zoning Code Update Study Session.

BACKGROUND:

In its review of 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) the Planning Commission identified a number of potential topics for discussing with the City Council at the Joint Council/Commission Study Session, scheduled for January 17, 2018.

The purpose of this meeting is for the Planning Commission to review, discuss, and come to a general agreement on a prioritized list of topics and related questions the Commission would like to discuss with the City Council at the upcoming Study Session.

Attached is a draft list of topics/questions that was previously shared with the Commission.

CEQA (California Environmental Quality Act):

An Environmental Impact Report (EIR) for the Morgan Hill 2035 Project, which includes the Zoning Code Update, was prepared in accordance with the California Environmental Quality Act (CEQA) and certified by the Morgan Hill City Council on July 27, 2016. (SCH#2015022074).

LINKS/ATTACHMENTS:

1. Draft Joint CC/PC Study Session Topics

Zoning Code Update

Joint City Council / Planning Commission Study Session Topics

Alternative Standards Medium Density Residential:

1. Should the City carry forward in the Zoning Code Update the existing alternative standards as-is with limited changes?
- or
2. Should the City make substantive revisions to these standards as part of the Zoning Code Update?

Notes: With Option 1, should the City initiate a follow-up work effort to revise the alternative standards?

Option 2 will require a delay in completion of the Zoning Code Update.

Monterey Corridor:

3. Should updated development standards for Mixed Use projects on Monterey Corridor be addressed as part of the Zoning Code Update as opposed to through the separate Monterey Corridor Study/Project?
4. Should we amend the General Plan to allow residential development with a Conditional Use Permit in advance of the completion of the Monterey Corridor Project?

Bars in Restaurants:

5. Should Conditional Use Permits be required?

Building Height:

6. Should maximum height limits be increased in certain zoning districts to allow greater flexibility for development of certain uses in those districts (e.g., the CH – Highway Commercial district allows hotels as a permitted use, but the current maximum height limit of 3-stories or 35-feet is too low to accommodate the potential hotels that are interested in locating in Morgan Hill)?

Emergency Shelters (homeless shelters):

7. Should homeless shelters be allowed in zoning districts other than Public Facilities?

Schools (elementary, junior high, high schools):

8. Should schools, public or private, be allowed in industrial zoning districts?



PLANNING COMMISSION STAFF REPORT

MEETING DATE: December 12, 2017

PREPARED BY: Edith Ramirez, Economic Development Director
APPROVED BY: Jennifer Carman, Community Development Director

ECONOMIC BLUEPRINT QUESTIONS AND DISCUSSION: OVERVIEW AND UPDATE ON CURRENT AND FUTURE EFFORTS

RECOMMENDATION(S)

1. Economic Development Director to provide the Planning Commission with information regarding the Economic Blueprint.

DISCUSSION

The Economic Development Director will provide an overview of the Economic Blueprint and an update on current and future efforts.

This is a follow up to the November 28, 2017 Planning Commission Economic Development Workshop, at which the focus was to review, discuss, and provide feedback on ways to improve Morgan Hill's Draft Zoning Code to better align with the Economic Blueprint. An interest was expressed in asking questions of the Economic Development team with respect to the Economic Blueprint, but the time and scope of the workshop did not allow for these questions.

The Economic Blueprint was reviewed by the Planning Commission on April 11, 2017, and approved by City Council on April 19, 2017. Additional information regarding the Economic Blueprint and its development is located at <http://www.morgan-hill.ca.gov/1499/Economic-Blue-Print>.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: December 12, 2017

PREPARED BY: Jennifer Carman, Community Development Director
APPROVED BY: Jennifer Carman, Community Development Director

CONSIDERATION OF COMMISSION REFERRAL TO STAFF TO EVALUATE THE AVAILABLE VACANT LAND WITHIN THE CITY'S EXISTING SERVICE AREA.

RECOMMENDATION(S)

1. Discuss and consider Planning Commissioner request

PLANNING COMMISSIONER REQUEST

A proposal (verbatim below) by Commissioner Tanda to make a Planning Commission referral to staff to evaluate the available vacant land within the City's existing urban service area (USA).

DISCUSSION

This subject has been brought up on numerous occasions by Commissioner Tanda, but the Planning Commission has not taken a formal position. LAFCO has been clear and consistent that it will not favorably consider the expansion of the City's USA with so much vacant available land within its existing USA. There is, however, a strong rationale to preserve vacant industrial land. According to the Economic Blueprint, the 247 acres of vacant industrial land are critical in providing new jobs and expanded tax base. The Blueprint also indicates that this land could be absorbed within the timeframe of the current General Plan. On the other hand, all indications are that Morgan Hill has too much land reserved for commercial use. Moreover, the abundance of vacant storefronts within existing shopping centers indicates that we may already be overbuilt (retail). Do we need an additional 164 acres of commercial land, as shown in the current General Plan? It is implied by LAFCO that the City should be looking at this land for housing and other priority uses. It is not clear at what point in time LAFCO's denial of an USA expansion will impact the ability of the City to provide future housing. At least one local expert says the day of reckoning is imminent. Others are not so sure. Isn't it the responsibility of the Planning Commission to know so that it could appropriately advise the City Council? It is proposed that the Administration evaluate this subject and that a Planning Workshop be scheduled for the purpose of discussing the evaluation.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: December 12, 2017

PREPARED BY: Jennifer Carman, Community Development Director

APPROVED BY: Jennifer Carman, Community Development Director

CONSIDERATION OF COMMISSION REFERRAL TO STAFF TO EVALUATE AND RESPOND TO THE PROCEDURES REGARDING THE ESTABLISHMENT OF PLANNING COMMISSION REFERRALS

RECOMMENDATION(S)

1. Discuss and consider Planning Commissioner referrals

PLANNING COMMISSIONER REQUEST

A proposal by Commissioner Tanda to make a Commission referral to staff to evaluate and respond to procedures regarding the establishment of Planning Commission referrals.

DISCUSSION

The following is the suggested referral process proposed by Commissioner Tanda for Planning Commission consideration:

- a) A member of the Planning Commission may at anytime submit a memo to City staff regarding a proposed Planning Commission referral. The memo should be succinct, describe the issue and the proposed referral.
- b) Staff will place the item on the next available Planning Commission meeting agenda.
- c) The Planning Commission will consider the proposal and vote on its disposition. A majority of those present are necessary to formally refer an item to the City Staff. Staff will indicate if the referral is inappropriate or otherwise unattainable which shall be considered by the Planning Commission during its deliberation.
- d) The City staff will report on the status of active Planning Commission referrals on a monthly basis. The completion of referrals will be subject to the availability of resources and the demands of other competing priorities.

The above process is intended to be respectful of the limitation of staff resources, competing City priorities, the input of individual commissioners, the need to make collective decisions, and transparency in all aspects of Commission deliberations.