AGENDA ITEM NO. 1

CITY OF MORGAN HILL

MEMORANDUM

To: **PLANNING COMMISSION**

Date: July 25, 2006

From: **COMMUNITY DEVELOPMENT DEPARTMENT**

Subject: **ZONING AMENDMENT, ZA-06-03: CITY OF MORGAN HILL-RESTRICTED COMMERCIAL RESIDENTIAL ZONING DISTRICT.**

REQUEST

A request for approval of an amendment to Chapter 18.04 Definitions and the addition of Chapter 18.23 CRR, Restricted Commercial Residential district to the Morgan Hill Municipal Code. Also requested is the amendment of the zoning designation on 57 parcels from General Commercial CG, to Restrictive Commercial CRR, and 7 parcels from Administrative Office CO, to Restrictive Commercial Residential district, CRR.

RECOMMENDATION

Environmental Assessment:	Actions were reviewed as part of Master Environmental Impact Report for the 2001 General Plan update.
Application ZA-06-03	Recommend City Council approval, of the proposed Restricted Commercial zoning text as shown in Exhibit A of the attached resolution. Recommend City Council approval of the proposed amendments to the zoning definitions Chapter of the Municipal Code as shown in Exhibit A of the attached resolution. Recommend City Council approval of the proposed zoning map amendments as shown Exhibits A & B of the attached resolution.

BACKGROUND

In July of 2001, the City of Morgan Hill adopted a new General Plan Land Use Element which contained a new land use designation titled Non-Retail Commercial. The General Plan Land Use map (see attached) applied the Non-Retail Commercial designation to properties on the east and west sides of Monterey Rd. south of Bisceglia Ave. and north of West Edmundson Ave., and on the east and west sides of Monterey Rd. in the area north of Central Ave. and south of the Railroad over crossing.

The following paragraph from the General Plan Land Use Element describes the Non-Retail Commercial land use designation:

> *Non-Retail Commercial.* This designation applies to 36 acres (*) along Monterey Road between Llagas Road and Tennant Avenue. The Non-Retail Commercial designation is intended to focus service and office uses away from major intersections where the Commercial designation encourages higher traffic generating retail uses. It also accommodates mixed-use development (residences above shops) to help create a market for local stores and neighborhood atmosphere in the downtown.

* Note that the actual acreage designated Non-Retail Commercial on the General Plan Land Use map totals 43 acres.

Since 2001, the Planning Division has not accepted applications for retail uses on parcels within this portion of Monterey Rd. The lack or clarity for what is and is not allowed has been identified as an Economic Inhibitor.

PROJECT ASSESSMENT

Zoning Text: The Non-Retail Commercial land use designation is a new land use designation which has yet to be defined by a corresponding zoning classification within the City's Municipal Code. Staff has drafted a new Section titled CRR, Restricted Commercial Residential district to be inserted within Chapter 18 Zoning, of the Morgan Hill Municipal Code. The purpose of the new section is to define the uses and development standards for the Non Retail Commercial land use designation. In drafting the new zoning text, it has been staff's goal to create a zoning text that is clear, flexible and reflective of the Non Retail Land Use definition in the General Plan. The following is a list of the permitted and conditional uses proposed for the CRR zoning.

Proposed **permitted uses** are as follows:	Proposed **conditional uses** are as follows:
1. Arts and crafts gallery 2. Antiques/vintage goods and collectables store 3. Business support services 4. Catering services 5. Commercial indoor recreation 3000 sq. ft. or less. 6. Commercial services 7. Home Daycare, large or small 8. Financial service 9. Medical/Dental clinic and office 10. Office, administrative 11. Office, professional 12. Personal service 13. Pet grooming 14. Public facilities 15. Restaurant, fast food with no drive-thru component 16. Restaurant, sit-down 17. Retail, extensive 18. School, business, trade, or tutoring 19. Social services 20. Residential use in a mixed use development	1. Club, lodge or private meeting hall. 2. Commercial Recreation (indoor) 3001 sq. ft. or greater. 3. Commercial Recreation (outdoor) any size. 4. Convenience market 5. Daycare center for adults or children 6. Emergency shelter/transitional housing facility 7. Funeral facility and services 8. Kennel 9. Lodging facilities 10. Mini storage 11. Motor vehicle repair (minor) 12. Quasi-public use 13. Restaurant, fast food with drive thru component 14. Theaters 15. Veterinary clinic or hospital 16. Any permitted or conditional uses which have an outdoor display or storage component. 17. Any other use which the planning commission finds will be similar in nature to the permitted uses and conditional uses specified in this chapter for the CRR zoning district.

The majority of the "Permitted Uses" proposed are office type uses such as financial services, professional/administrative offices, social services and medical offices. Several of the proposed "Permitted Uses" may have a retail component but primarily the use is service oriented. For example a cell phone store (defined as a Commercial Service) may sell cell phones and accessories, but the primary business is the calling service. A salon (defined as a Personal Service) would provide hair styling services but may also sell hair care products. Some full retail type uses are proposed but have been selected due to their low trip generation rates and due to these type uses being less likely to locate in a regional or community shopping center. For example, an antique store or a gallery would be retail uses but they do not generate the same traffic as a chain retail store or a retailer who markets a variety of high demand, mass produced retail goods. Low trip generation rates also apply to the proposed Extensive Retail uses such as furniture stores, appliances stores and flooring stores. Extensive Retail uses typically deal in bulky items and are a type of retail use that is sought out by consumers on an infrequent basis. Restaurant and fast food uses have high trip generation rates but have been added to the list of permitted uses because they are supportive of the residential component of the Non Retail Commercial land Use designation, and there are a good number of existing restaurant and fast food uses located in the subject area. With the exception the restaurant and fast food uses, the proposed "Permitted Uses" for the Restricted Commercial Residential district zoning are ones which are less dependent or desirous of locating in regional or commercial shopping centers.

The majority of the Non-Retail Commercial land use parcels back to existing residential areas. The Non-Retail Commercial land use definition also allows for residential uses to be constructed as "Mixed Use" projects. Uses proposed as "Conditional Uses" are uses that have components that may have the potential to impact adjacent uses. For example, a veterinary hospital may have an outdoor kennel area that may create noise concerns. An outdoor recreation use may have lighting impacts and funeral homes and lodges may have large parking demands or operational characteristics that should be reviewed and conditioned to ensure compatibility of land uses.

As previously mentioned, the Non-Retail Commercial land use designation allows for residential units to be constructed as part of a "Mixed Use" project. The General Plan however does not specify a density for the residential component. The residential density proposed for the CRR zoning district is 8-18 dwelling units per acre. This density is the same as the "Mixed Use" density currently applied to the downtown CC-R zoning district. If densities are increased in the downtown, the CRR zoning district currently proposed on the north and south sides of the downtown area will provide a feathering effect for the densities of the two adjacent "Mixed Use" zoning districts. The residential standards within the proposed text includes the density standard of one dwelling unit per 2,400 sq. ft. and a restriction that requires residential development to be allowed only as part of Mixed Use development, which also requires the approval of a PUD.

The General Plan's description of Non-Retail Commercial includes the example of "(residences above shops)" for mixed use development which might suggest vertical mixed use development. However, the depth (200 ft.+) of some of the Non-Retail Commercial properties warrants consideration of both horizontal and vertical mixed use development through the PUD process. The PUD process would allow the City to consider appropriate layouts for individual properties.

The Non-Retail Commercial land use designation as defined within the General Plan includes site development standards for minimum lot area (6,000 sq. ft.), maximum building coverage (50%) and maximum building height (35 ft.). A deviation to the maximum building height is proposed within the CRR zoning text, which would allow up to 45 ft. if the extra 10 ft. is devoted to a roof element. This same deviation was included in the CC-R zoning standards and was later clarified with the General Plan document. The proposed CRR setback standards have been fashioned after the CC-R zoning district with the exception of the front setback requirement. The CC-R zoning district allows for a 0 ft. front setback. The proposed CRR zoning requires a 15 ft. front setback which will provide a subtle transition from the 0 ft. setbacks in the downtown. To mitigate potential impacts to adjacent residential development, the proposed CRR site development standards require the installation of a six foot wall or fence and a 10 ft. wide landscape buffer adjacent. The proposed buffer would require parking areas and drive aisles to be located further from adjacent residential uses.

Prior to completing the proposed draft ordinance, two workshops were held with property owners who have parcels designated as Non-Retail Commercial by the 2001 General Plan. The primary concern expressed by the property owners at the workshop was the loss of retail uses from what the General Commercial district allows. Currently, 57 of the 64 affected properties had Commercial land use designations and General Commercial zoning. The owners felt that the elimination of the retail uses was an economic inhibitor and placed their property at a significant disadvantage to other commercial properties. Many property owners believe that the elimination of the retail uses currently allowed by the General Commercial zoning de-values their properties because they will not the able to compete with other General Commercial properties that allow all of the same uses

proposed in the CRR zoning plus all other retail uses. Several owners suggested that the General Commercial zoning text be modified to eliminate offices and personal services from the CG zoning as a way to carry out the General Plan goal of concentrating retail at major intersections and increasing the pool of potential tenants for building owners within the CRR zoning district. Some of the property owners recognized that the ability to develop residential units (which is not allowed in the CG district) was an enhancement to their property value.

The owners of the previously designated Office Commercial properties saw the proposed CRR zoning as a positive since it significantly increased the potential uses, but also agreed that the elimination of retail uses creates a disadvantage for attracting potential tenants.

Some property owners suggested that the non-retail commercial lands use designation should be removed and no new zoning district created (i.e. leave General Commercial). Other property owners suggested that the proposed CRR zoning allow for a certain percentage (25%-50%) of a building to have retail uses. This could be implemented by adding as a permitted use, "Retail, not to exceed 25 percent of the square footage of a structure". Another suggestion was to allow retail uses with the approval of an administrative use permit.

A letter from the owner of the existing Johnson's Funeral Home (attached) was submitted to the City requesting that funeral homes be allowed as a permitted use rather than a conditional use under the proposed CRR zoning. Currently the Johnson's Funeral Home is an existing legal non conforming land use that cannot be expanded under the current General Commercial CG, zoning designation because the current CG zoning does not allow funeral homes as a permitted or conditional use. The proposed CRR text would conditionally permit funeral homes thus providing an avenue for possible future expansion through the conditional use permit process. The need to obtain a conditional use permit would only be triggered by a proposal to expand or intensify the existing funeral home. As mentioned earlier in the report, funeral homes are proposed as a conditional uses because there could be components that might have the potential to impact adjacent uses. For example, funeral homes may have large parking demands or operational characteristics that should be reviewed and conditioned to ensure compatibility of land uses.

Zoning Definitions: Chapter 18.04 of the Municipal Code currently contains definitions of land uses listed within the Zoning Chapter. As part of drafting the text for the CRR zoning district, staff saw a need to add new definitions and amend existing definitions to provide clarity for the permitted and conditional uses listed within the zoning text. For example, the zoning definitions section as currently written did not include definitions for Commercial Services, Business Support Services, Lodging Facilities, Mixed Use, Funeral Homes and Kennels. Several existing definitions are recommended for modification to provide additional clarification of the anticipated uses. For example, the Commercial Recreation Definition has been split to define Indoor and Outdoor Commercial Recreation separately. The current definition for Professional Offices included doctors so it was not distinguishable from the Medical Office definition. New and more concise definitions are proposed as part of Exhibit A of Zoning Definition Resolution. Definitions to be eliminated are shown in ~~strike-out~~ text and new or revised definitions are shown in ***bold italic highlighted*** text.

Zoning Map Amendment:
State law requires that the City's zoning designation on a property be consistent with its General Plan. Along with creating the CRR zoning classification, the zoning designation on properties designated as Non-Retail Commercial by the General Plan are proposed to be amended to be consistent with the adopted General Plan land use diagram. The zoning map amendments shown on Exhibits A & B of the Zoning Map resolution are same properties currently designated as Non-Retail Commercial in the General Plan.

CONCLUSION

It is recommended that that Commission review and recommend City Council approval of the proposed Restricted Commercial Residential zoning text which is necessary to implement the Non-Retail Commercial land use designation within the 2001 General Plan. It is also recommended that the Commission review and recommend Council approval of new and revised zoning text definitions which are intended to added clarification to the permitted and conditional uses listed within the various zoning districts. Zoning map amendment is also recommended to bring the zoning designation on the 64 properties into compliance with the 2001 General Plan Land Use Map.

Attachments
1. General Plan Land Use map.
2. Letter from Johnson's Funeral home.
3. General Commercial Zoning Text.
4. Administrative Office Zoning Text.
5. Resolution recommending approval of CRR zoning text.
6. Resolution recommending approval of new and modified zoning definitions
7. Resolution recommending approval of zoning map amendments.

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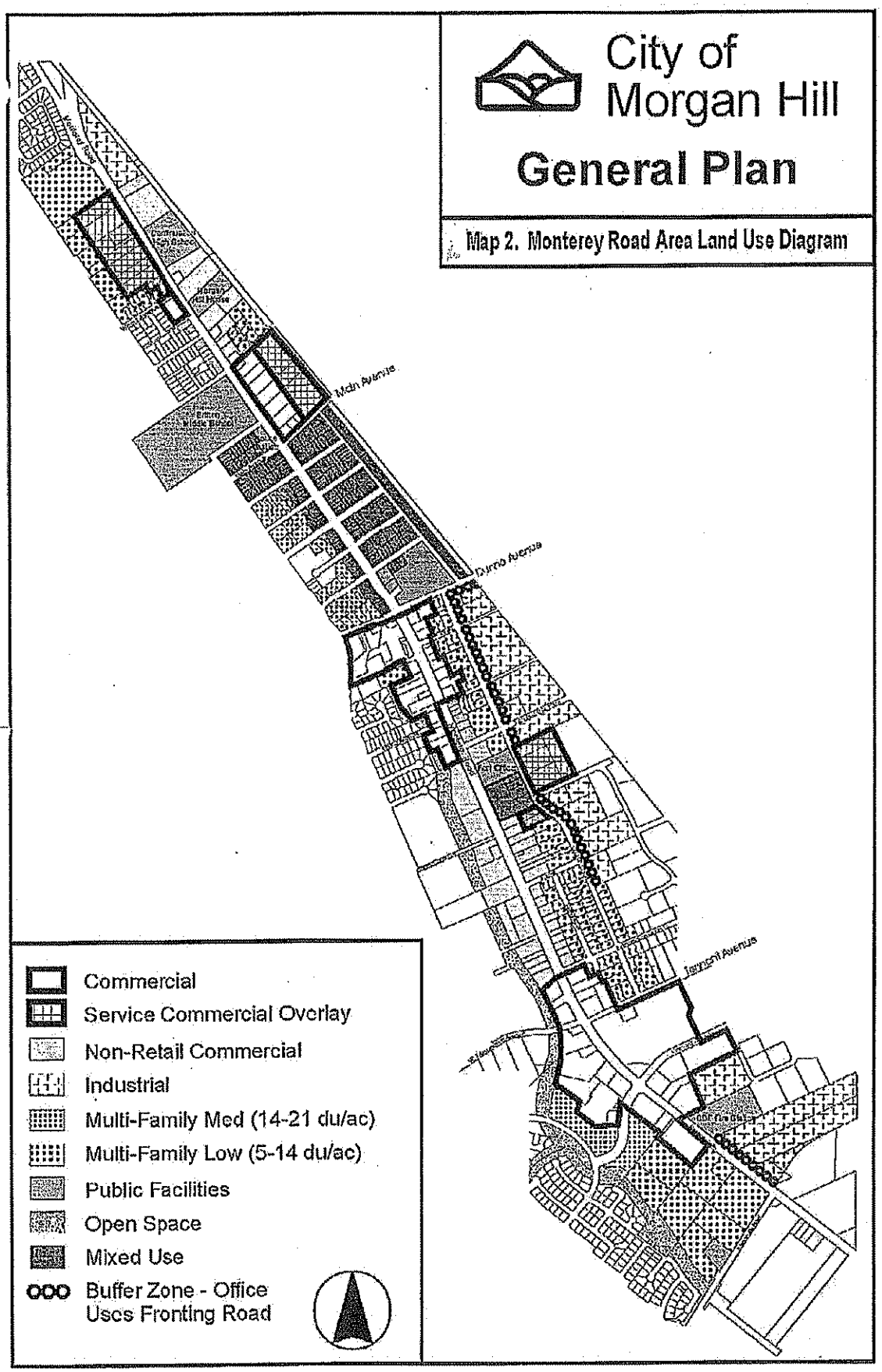
City of
Morgan Hill
General Plan
Map 2. Monterey Road Area Land Use Diagram
Main Avenue
Dunne Avenue
Jarvis Avenue
Commercial
Service Commercial Overlay
Non-Retail Commercial
Industrial
Multi-Family Med (14-21 du/ac)
Multi-Family Low (5-14 du/ac)
Public Facilities
Open Space
Mixed Use
Buffer Zone - Office
Uses Fronting Road

Ed Johnson

PLANNING DEPT.

JUN 19 2006

CITY OF MORGAN HILL

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Groveland, Ca. 95321
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E-mail: fasteddy33@juno.com
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06/15/2006

Kathy Molloy Previsich
Planning Director
City of Morgan Hill, Ca.

Dear Planning Director:

Regarding the proposed change in zoning for APM 726-24-013, 014 , I generally approve of the concept and I thank you for our phone conversation regarding the placing of the funeral home in a permitted use since the funeral home has been in use since 1935. Also it is a very low retail business, not like others mentioned in my copy. It also seams to fit very nicely in the mix as none of the new business that came after seem to mind. So at this time, I am requesting that it be placed as a permitted use. If you have any questions or comments and if I can be of help, please call or write.

Thank you for your time regarding this matter,

Respectfully.

E. P. Johnson, Jr.
Co-Owner

Copy Sent to
Ruth A. Johnson
Co-Owner
Morgan Hill, Ca.

Chapter 18.22

CG GENERAL COMMERCIAL DISTRICT

Sections:

18.22.010 Purpose of district.
18.22.020 Permitted uses.
18.22.030 Conditional uses.
18.22.040 Site development standards.
18.22.050 Additional required conditions.

18.22.010 Purpose of district.

The CG general commercial district is intended to create and maintain major commercial areas accommodating a broad range of office, retail sales and other commercial activities of community-wide significance. The CG district is intended to be applied to community commercial areas identified by the Morgan Hill General Plan and other areas where deemed appropriate. (Ord. 559 N.S. § A (part), 1981)

18.22.020 Permitted uses.

The following uses shall be permitted in the CG general commercial district:

A. Retail stores;
B. Restaurants;
C. Offices and professional offices;
D. Financial services;
E. Personal services;
F. Day care centers and nursery schools;
G. Commercial recreation uses 3,000 sq. ft. or less in area (exclusive of parking). (Ord. 1215 N.S. § 24, 1995; Ord. 980 N.S. § 3 (part), 1990: Ord. 559 N.S. § A (part), 1981)

18.22.030 Conditional uses.

The following uses may be conditionally allowed in the CG general commercial district, subject to issuance of a conditional use permit in accordance with Chapter 18.54:

A. Commercial recreation;
B. Convenience markets;
C. Service stations;
D. Ambulance services;
E. Utility facilities, excluding construction of storage yards, maintenance facilities, or corporation yards;
F. Motels, hotels and similar lodging facilities;

G. Mini-storage facilities;

H. Drive-in establishments;

I. Wholesale business;

J. Caretaker units;

K. Off-site pole or pylon freeway-oriented signs pursuant to Section 18.76.270.C.4. and 18.76.075;

L. Minor motor vehicle repair;

M. Any other use which the planning commission finds to be of a similar nature to the permitted uses and conditional uses specified in this chapter for the CG zoning district. (Ord. 1307 N.S. § 4, 1996; Ord. 1135 N.S. § 31, 1993; Ord. 1134 N.S. § 2, 1993; Ord. 1055 N.S. § C (part), 1991; Ord. 980 N.S. § 3 (part), 1990: Ord. 846 N.S. § 1 (part), 1987; Ord. 839 N.S. § 1 (part), 1987: Ord. N.S. 559 § A (part), 1981)

18.22.040 Site development standards.

The following site development standards shall apply in the CG general commercial district:

A. Minimum lot area, ten thousand square feet;

B. Minimum lot width, one hundred feet;

C. Minimum lot depth, one hundred feet;

D. Maximum building coverage, fifty percent;

E. Minimum setbacks:

1. Front, twenty-five feet,

2. Rear, twenty feet,

3. Side, zero feet;

F. Maximum height, three stories or thirty-five feet;

G. On any portion of a site in the CG district which abuts a lot in any residential zoning district, a minimum interior yard of ten feet shall be required, and a solid wall or fence of six feet in height shall be constructed and maintained along the common lot line. The minimum interior yard shall be planted and maintained as a landscaped screen;

H. All uses, whether permitted or conditional, shall be conducted in such a manner so as to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic, as established by the commercial and industrial performance standards of Chapter 18.48 of this title;

I. Side Street Side Yard. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater;

J. Cul-de-sac lot width, minimum of forty feet as measured along the front property line. (Ord. 1055 N.S. § C (part), 1991; Ord. 899 N.S. §§ 6 (part), 22 (part), 1989; Ord. 559 N.S. § A (part), 1981)

18.22.050 Additional required conditions.

A. Architectural and site review board approval shall be required of all uses situated on sensitive sites, as defined in Chapter 18.74 of this title.

B. Where any lot in the general commercial district abuts residentially zoned property, a twenty-five-foot minimum building setback shall apply. (Ord. 1495 N.S. § 11; Ord. 1415 N.S. § 19, 1998; Ord. 1111 N.S. § 13, 1992; Ord. 559 N.S. § A (part), 1981)

Chapter 18.34

CO ADMINISTRATIVE OFFICE DISTRICT

Sections:

18.34.010 Purpose of district.
18.34.020 Permitted uses.
18.34.030 Conditional uses.
18.34.040 Site development standards.
18.34.050 Additional required conditions.

18.34.010 Purpose of district.

The CO administrative office district is intended to provide an area wherein professional, general commercial offices and limited personal services may develop in close relationship with each other outside of other commercial districts. Nothing in this chapter shall be construed to permit or encourage retail sales except as provided in this chapter. (Ord. 559 N.S. § A (part), 1981)

18.34.020 Permitted uses.

The following uses shall be permitted in the CO administrative office district:

A. Computer and data processing services;
B. Consumer credit reporting agencies;
C. Detective and protective services;
D. Educational services;
E. Financial, insurance and real estate services;
F. General offices for business and manufacturing firms;
G. Health services, exclusive of hospitals;
H. Legal services;
I. Mailing, reproduction, commercial art, photography and stenographic services;
J. Management, consulting and public relations services;
K. Microfilm recording and developing services;
L. Miscellaneous services;
M. Personnel supply services;
N. Photo finishing laboratories;
O. Social services, except residential care;
P. Travel agencies. (Ord. 559 N.S. § A (part), 1981)

18.34.030 Conditional uses.

The following uses may be conditionally allowed in the CO administrative office district, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title:

A. Commercial recreation;
B. Hospitals;

C. Drive-in establishments;

D. Any other use which the planning commission finds will be similar in nature to the permitted uses and conditional uses specified in this chapter for the CO zoning district. (Ord. 1215 N.S. § 31, 1995; Ord. 1055 N.S. § C (part), 1991; Ord. 846 N.S. § 1 (part), 1987; Ord. 559 N.S. § A (part), 1981)

18.34.040 Site development standards.

A. The following site development standards shall apply in the CO administrative office district:

1. Minimum lot area, six thousand square feet;
2. Minimum lot width, sixty feet;
3. Minimum lot depth, one hundred feet;
4. Maximum building coverage, fifty percent;
5. Minimum setbacks:

a. Front, twenty feet,

b. Rear, twenty feet,

c. Side, ten feet;

6. Maximum height, three stories or thirty-five feet.

B. On any portion of a site in the CO district which abuts a lot in any residential zoning district, a solid wall or fence of six feet in height shall be constructed and maintained along the common lot line. The minimum interior yard shall be planted and maintained as a landscaped screen.

C. All uses, whether permitted or conditional, shall be conducted in such a manner so as to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic, as established by the performance standards of Chapter 18.48 of this title.

D. Side Street Side Yard. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater.

E. Cul-de-sac lot width, minimum of forty feet as measured along the front property line. (Ord. 899 N.S. §§ 6 (part), 22 (part), 1989; Ord. 559 N.S. § A (part), 1981)

18.34.050 Additional required conditions.

A. Architectural and site review board approval shall be required of all uses situated on sensitive sites, as defined in Chapter 18.74 of this title.

B. Where any lot in the administrative office district abuts residentially zoned property, a twenty-five-foot minimum setback shall apply. (Ord. 1495 N.S. § 18, 2001;Ord. 1111 N.S. § 21, 1992; Ord. 559 N.S. § A (part), 1981)

RESOLUTION NO. 06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF TEXT AMENDMENTS ADDING, SECTION 18.25 CRR -RESTRICTED COMMERCIAL RESIDENTIAL ZONING DISTRICT TO CHAPTER 18 OF THE MORGAN HILL MUNICIPAL CODE.

WHEREAS, such request was considered by the Planning Commission at their regular meeting of July 25, at which time the Planning Commission recommended approval of application ZA-06-03: City of Morgan Hill – Non Retail Commercial Zoning Text Amendments; and

WHEREAS, the Land Use Element map of the General Plan designated 43 acres of land along Monterey Rd. as Non-Retail Commercial; and,

WHEREAS, the insertion of Chapter 18.25, CRR Restricted Commercial Residential to the Morgan Hill Municipal Code will establish and further define the allowable uses and site development standards which implement the Non-Retail Commercial land use designation; 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 proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. The Planning Commission hereby recommends the adoption of Chapter 18.25, CRR Restricted Commercial Residential into the Morgan Hill Municipal Code to establish and further define the allowable uses and site development standards which implement the Non-Retail Commercial land use designation;

PASSED AND ADOPTED THIS 25th DAY OF JULY, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ATTEST: **APPROVED:**

FRANCES O. SMITH, Deputy City Clerk **ROBERT J BENICH, Chair**

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EXHIBIT A

Chapter 18.25

CRR RESTRICTED COMMERCIAL RESIDENTIAL DISTRICT

Sections:

18.25.010 Purpose of district.
18.25.020 Permitted uses.
18.25.030 Conditional uses.
18.25.040 Residential Development Restrictions
18.25.050 Accessory uses
18.25.060 Site development standards.
18.25.070 Additional required conditions.

18.25.010 Purpose of district.

The Restricted Commercial Residential zoning classification is intended to focus service and office uses away from major intersections where the Commercial designation encourages higher traffic generating retail use. It also accommodates mixed use development with residences above allowed uses to help create a neighborhood atmosphere. Retail sales are prohibited except as provided in this Chapter.

18.25.020 Permitted uses.

The following uses shall be permitted in the CRR, Restricted Commercial Residential district:

1. Arts and crafts gallery
2. Antiques/vintage goods and collectables store
3. Business support services
4. Catering services
5. Commercial indoor recreation 3000 sq. ft. or less.
6. Commercial services
7. Home Daycare, large or small
8. Financial service
9. Medical/Dental clinic and office
10. Office, administrative
11. Office, professional
12. Personal service
13. Pet grooming
14. Public facilities
15. Restaurant, fast food with no drive-thru component
16. Restaurant, sit-down
17. Retail, extensive
18. School, business, trade, or tutoring
19. Social services
20. Residential use in mixed use development.

18.25.030 Conditional uses.

The following uses may be conditionally allowed in the CRR district, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title:

1. Club, lodge or private meeting hall.
2. Commercial Recreation (indoor) 3001 sq. ft. or greater.
3. Commercial Recreation (outdoor) any size.
4. Convenience market
5. Daycare center for adults or children
6. Funeral facility and services
7. Kennel
8. Lodging facilities
9. Mini storage
10. Emergency shelter/transitional housing facility
11. Motor vehicle repair (minor)
12. Quasi-public use
13. Restaurant, fast food with drive thru component
14. Theaters
15. Veterinary clinic or hospital
16. Any permitted or conditional uses which have an outdoor display or storage component.
17. Any other use which the planning commission finds will be similar in nature to the permitted uses and conditional uses specified in this chapter for the CRR zoning district.

18.25.040 Residential development restrictions within the CRR district:

Mixed Use residential development in the CRR district is subject to the following restrictions:

A. Residential development control system approval is required for all residential development in accordance with Chapter 18.78 of this title.

B. Mixed use residential development is allowed at a density of one dwelling per 2,400 gross square feet or greater.

C. Residential development will only be allowed in conjunction with restrictive commercial development.

D. Approval of a Planned Unit Development, PUD is required for all Mixed Use residential development.

18.25.050 Accessory and ancillary uses.

The following accessory and ancillary uses are permitted in the CRR district:

A. All uses customarily appurtenant or ancillary to a permitted residential or non-residential use.

18.25.060 Site development standards.

A. The following site development standards shall apply to development in the CRR zoning district:

1. Minimum lot area, 6,000 sq. ft.
2. Minimum lot width, 60 ft.
3. Minimum cul-de-sac lot width, 40 ft.
4. Minimum lot depth, 100 ft.
5. Maximum building coverage, 50 percent
6. Minimum setbacks (unless modified through approval of a Planned Unit Development plan, PUD):
   a. Front, 15 ft.
   b. Rear, 20 ft.
   c. Side, 0 ft.
   d. Street side, 15 ft.
   e. Front and side street setbacks for first floor entry features, 8 ft.
7. Maximum height: Thirty-five feet; or 45 ft. with a minimum of 10 ft. devoted to a roof element.

B. On any portion of a site in the CRR district which abuts a lot in any residential zoning district, a solid wall or fence of six feet in height shall be constructed and maintained along the common lot line. A minimum 10 ft. wide setback area shall be planted and maintained as a landscaped screen/buffer.

C. All uses, whether permitted or conditional, shall be conducted in such a manner so as to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic, as established by the performance standards of Chapter 18.48 of this title.

18.25.070 Additional required conditions.

A. Architectural and Site Review Board approval shall be required of all new construction or significant reconstruction or remodeling of the exterior of existing structures.

RESOLUTION NO. 06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING AMENDMENT TO CHAPTER 18.04 DEFINITIONS OF THE MORGAN HILL MUNICIPAL CODE. (ZA-06-03: CITY OF MORGAN HILL-NON-RETAIL COMMERCIAL ZONING TEXT)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of July 25, 2006, at which time the Planning Commission recommended approval of application ZA-06-03: City of Morgan Hill-Non-Retail Commercial Zoning; 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 proposed zoning text amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. The Planning Commission hereby recommends approval of changes to the text of the Morgan Hill Municipal Code amending Chapter 18.04 Definitions which are shown by strike-out text for deletions, and bold italic text for additions. All text amendments are recommended to be made as shown in attached Exhibit A.

PASSED AND ADOPTED THIS 25th DAY OF JULY, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST: **APPROVED:**

FRANCES O. SMITH, Deputy City Clerk **ROBERT J. BENICH, Chair**

EXHIBIT A

Chapter 18.04

DEFINITIONS

Sections:

18.04.005 Definitions and interpretation of language.
18.04.010 Abutting.
18.04.015 Accessory use or structure.
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18.04.005 Definitions and interpretation of language.

For the purpose of Division I of this title, the words and phrases set forth in this chapter shall have the meanings respectively ascribed to them herein, and the word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used. (Ord. 559 N.S. § A (part), 1981)

18.04.010 Abutting.

"Abutting" means land having a common property line or district line, or separated only by a private street, alley or easement. (Ord. 559 N.S. § A (part), 1981)

18.04.015 Accessory use or structure.

"Accessory use or structure" means a use or structure subordinate to or part of the principal use on the same lot, and serving a purpose customarily incidental to the principal use. Guest houses, caretakers or granny units are not considered accessory uses or structures. (Ord. 1055 N.S. § C (part), 1991; Ord 1046 N.S. § 3 (part), 1991; Ord. 559 N.S. § A (part), 1981)

~~**18.04.017 Administrative office.**~~

~~"Administrative office" means offices and service facilities performing as headquarters; regional, or other level management and administrative services for firms and institutions. (Ord. 899 N.S. § 1 (part), 1989)~~

18.04.018.1 Adult arcades.

"Adult arcades" means any place to which the public is permitted or invited, wherein coin-operated, currency operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, television sets, monitors, receivers, transmitters, video cassette players or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas." (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.2 Adult business.

"Adult Business" means a business which includes any of the following: sells or rents items related to "specified anatomical areas" or "specified sexual activities" for over twenty percent of the year, and which items represent over twenty percent of the inventory or stock in trade or titles offered or floor space and/or over twenty percent of the net receipts of the business whichever is greater; depicts or projects still or moving photographs related to "specified anatomical areas" or "specified sexual activities" for over twenty percent of the year, which depiction or projection represents over twenty percent of the net receipts of the business; or provides live entertainment, massage or other service to patrons, regardless of percentage of net receipts or other measurement of share of the overall business, which is related to "specified anatomical areas" or "specified sexual activities".

1. Partial listing of types of adult businesses.

"Adult businesses" include but are not limited to: adult bookstores, adult video stores, adult novelty stores, adult arcades, adult motels, adult theaters, adult entertainment enterprises, adult cabarets, escort agencies, massage parlors, nude modeling studios; or places which engage in or allow couch dancing, topless dancing, nude or semi-nude mud wrestling or similar businesses.

2. Exceptions.

The following types of businesses which are regulated by state or professional agencies or which have only incidental services or products which could be associated with "adult businesses" are exempt from the provisions of this ordinance:

a. Therapeutic or holistic massage. Massage which is conducted by doctors, nurses, osteopaths or chiropractors, teachers, barbers, beauticians or by massage technicians which have received at least one hundred hours of instruction and supervised training at recognized massage schools or who have been licensed in massage by the state, is exempt.

B. Medical or psychological therapies. The medical or psychological therapeutic activities of state-licensed doctors, psychologists, psychiatrists or marital or sexual therapists are exempt.

C. Modeling or theatrical performances. Nude modeling done at infrequent intervals in connection with a college or art school, accredited by a nationally recognized accreditation organization, for students who have enrolled on a semester or quarterly basis with tuition is exempt. Occasional theatrical performances, either live or in motion picture theaters, in which "nudity" is incidental to the content of the presentation, are exempt.

D. Incidental sale or rental of merchandise. Businesses which incidentally sell or rent adult merchandise, involving less than twenty percent of the floor space of the establishment or less than twenty percent of the net receipts, whichever is greater, are exempt, providing that all other laws on obscenity and indecent behavior are complied with.

E. Private non-commercial behavior. This section does not regulate the private behavior of adults, which is otherwise permitted by law, where there is no payment, gratuity, exchange of labor or goods, or other consideration of a transaction. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.3 Adult bookstores.

"Adult bookstores" means any premises in which twenty percent or more of the titles offered or to which twenty percent or more of the actual display area of the store is devoted books, magazines, periodicals or merchandise which depict or describe specified sexual activity. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.4 Adult cabaret.

"Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features: (a) persons who appear in a state of nudity; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or (c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by a depiction or description of "specified sexual activities" or "specified anatomical areas." (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.5 Adult entertainment enterprise.

"Adult entertainment enterprise" means any business activity wherein is furnished for a fee or charge or other like consideration the opportunity to paint, feel, handle, touch, to be in the presence of, be entertained by the unclothed body, or the unclothed portion of the body of another person, or to be so painted, felt, handled, touched or observed by another person, or to observe, view or photographs any such activity, and shall include but not be limited to nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, nude wrestling centers and adult or nude art or photograph studios. "Unclothed portion of the body" means a state of dress so as to expose the female breast below a point immediately above the top of the areola, male or female genitals, pubic areas, buttocks or female breast with only the nipple and areola covered. The medical or psychological therapeutic activities of state-licensed doctors, psychologists, psychiatrists or marital or sexual therapists are exempt. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.6 Adult hotel/adult motel.

"Adult hotel/adult motel" means a hotel or motel or similar commercial establishment which: (1) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, computer software, slides or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television; (2) offers a sleeping room for rent for a period of time less than ten hours; or (3) allows a tenant or occupant to sub-rent the sleeping rooms for a time period of less than ten hours. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.7 Adult novelty store.

"Adult novelty store" means an establishment with over twenty-percent of: (a) its floor area devoted to; (b) stock-in-trade consisting of; or (c) gross revenues derived from, goods which are replicas of, or which simulate, "specified anatomical areas" or "specified sexual activities," or goods which are designed to be placed on or in "specified anatomical areas," or to be used in conjunction with "specified sexual activities." (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.8 Adult theater.

"Adult theater" means a commercial establishment in which for any form of consideration, films, motion pictures, video cassettes, video tapes, laser discs, slides or similar photographic or electronic reproductions are regularly shown and which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," or to which minors are not admitted, or with respect to which advertising for said pictures is contained in the adult theaters sections of local newspapers, or in which on a regular basis sexual intercourse, oral copulation, masturbation, homosexual acts or other specified sexual activities are actually shown or simulated. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.018.9 Adult video store.

"Adult video store" means a commercial enterprise which offers for sale or rental for any form of consideration, for over twenty-percent of titles offered or over twenty-percent of actual display area of the store, whichever is more, any one or more of the following: photographs, films, motion pictures, laser discs, video cassettes, video tapes or video reproductions, slides or other visual representations which primarily depict or describe "specified sexual activities" or "specified anatomical areas." (Ord. 1150 N.S. § 2 (part), 1993)

18.04.020 Agent of owner.

"Agent of owner" means any person who can show written proof that he is acting for the property owner. (Ord. 559 N.S. § A (part), 1981)

18.04.025 Agriculture.

"Agriculture" means the use of the land for agricultural purposes, including farming, dairying, pasturage, agriculture, apiaries, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, processing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities; and provided, further, that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals. (Ord. 559 N.S. § A (part), 1981)

18.04.030 Alley or lane.

"Alley" or "lane" means a public or private way not more than thirty feet wide, affording only secondary means of access to abutting property. (Ord. 559 N.S. § A (part), 1981)

18.04.035 Alter.

"Alter" means to change any of the supporting members of buildings, such as bearing walls, columns, beams or girders. (Ord. 559 N.S. § A (part), 1981)

18.04.036 Amusement/Entertainment Arcade.

"Amusement/Entertainment Arcade." is a commercial establishment involving mechanical or electronic games operated on a private or for-profit basis. Mechanical or electronical games include any machine, apparatus, contrivance, appliance or device which may be operated or played upon by placing or depositing therein of any coin, check, slug, ball, or any other article or device, or by involving in its use either skill or chance, including, but not limited to tape machine, pinball machine, bowling game machine, shuffleboard machine, electronic video game, or any other similar machines or similar services. Commercial establishments with 10 or fewer mechanical or electrical games and which are incidental to the primary use are not consider arcades. (Ord. 1215 N.S. § 4, 1995)

18.04.037 Antique shop, vintage clothing & collectables

A place principally offering antiques for sale. An antique for the purposes of the Chapter, shall be a work of art, piece of furniture, clothing, decorative object, or the like, of or belonging to the past, at least 30 years old. Antique shop does not include "second hand store."

18.04.040 Apartment vacancy rate.

"Apartment vacancy rate" means the number of vacant apartments in the city at a given time, shown as a percentage of the total number of apartments in the city. Vacant apartments include those units which are:

A. Currently vacant and available for rent or lease;

B. Vacant but temporarily not available for rent or lease due to painting, cleaning or repairs; and

C. Currently occupied but will become available for rent or lease within one week. (Ord. 559 N.S. § A (part), 1981)

18.04.043 Arts and crafts gallery.

"Arts and crafts gallery" is an establishment (1) engaged in the sale, loan, or display of art books, paintings, sculptures, or other works of art, and/or (2) that produces on the premises articles for sale of artistic quality or effect or handmade workmanship (no mass produced items). Examples include candle making, glass blowing, pottery making, custom jewelry, weaving, woodworking and other associated activities

18.04.045 Automobile service station or gasoline service station.

A. "Automobile service station" or "gasoline service station" means a retail place of business engaged exclusively in dispensing of automotive fuel and motor oil; and may as a secondary or ancillary use engage in supplying goods and services essential to the normal operation of automobiles, such as: vehicle washing and lubricating services; the sale and servicing of tires, batteries, replacement items and other automotive accessories; minor automotive repair; and the vending of prepackaged soft drinks, tobacco products, and snack foods from automatic vending machines.

B. This definition shall not be deemed to include such things as body or fender work, painting or major automotive repairs.

C. Gasoline service stations may also provide a towing service limited to no more than two trucks or equipment rental, subject to use permit conditions of approval by the reviewing agency.

D. When a conditional use permit shall have been granted to authorize an automobile service station or gasoline service station on a lot, the only use permitted thereon shall be the supplying of those goods and services described in sections A and C above unless such conditional use permit expressly authorizes other uses. Permitted uses otherwise allowed in the zoning district in which a service station is located are not allowed in conjunction with a service station unless specifically authorized by a conditional use permit. (Ord. 1307 N.S. § 1, 1996; Ord. 1135 N.S. § 1, 1993; Ord. 715 N.S. § 1, 1985; Ord. 559 N.S. § A (part), 1981)

18.04.050 Automobile wrecking.

"Automobile wrecking" means the dismantling or disassembling of used motor vehicles or trailers, the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts, and the towing of such vehicles or parts in connection with such activity. (Ord. 559 N.S. § A (part), 1981)

18.04.055 Basement.

"Basement" means a story whose floor is more than twelve inches, but not more than one-half of its story height, below the average level of the adjoining ground (as distinguished from a "cellar," which is a story more than one-half below such level). A basement, when used as a dwelling, shall be counted as a story for purposes of height measurement, and as a half-story for purposes of side yard determination. (Ord. 559 N.S. § A (part), 1981)

18.04.057 Boardinghouse or roominghouse.

"Boardinghouse or roominghouse" means a dwelling or part thereof where meals and/or lodging are provided for compensation. (Ord. 899 N.S. § 1 (part), 1989)

18.04.060 Building.

"Building" means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side-yard requirements as provided in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.063 Building Coverage

"Building Coverage" means the ratio of the horizontal area measured form the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area. (Ord. 1473 N.S. § 1, 2000)

18.04.065 Building, height of.

"Height of building" means the vertical distance from the average contact ground level at the front wall of the building, to the highest point of the coping of a flat roof or mansard roof, or the highest point of a ridge for gable, hip or gambrel roofs. (Ord. 1323 N.S., § 3, 1997; Ord. 559 N.S. § A (part), 1981)

18.04.070 Building, main.

"Main building" means a building in which is conducted the principal use of the building site on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the building site on which the same is located. (Ord. 559 N.S. § A (part), 1981)

18.04.070.01 ***Business support service.***

"Business support service" means an establishment entirely within a building, providing other businesses with services including maintenance, repair and service, testing, rental, etc. Business support services include but are not limited to the following:

- ***Advertising and mailing***
- ***Building maintenance***
- ***Equipment rental and leasing***
- ***Janitorial supplies and services***
- ***Management and consulting services***
- ***Messenger, courier, postal and delivery services***
- ***Office supply***
- ***Packaging and labeling***
- ***Personnel and employment services***
- ***Photofinishing***
- ***Photocopying, printing and blueprinting***
- ***Protective services***
- ***Travel***

18.04.071 Caretakers unit.

"Caretakers unit" means a dwelling unit accessory to a principal use on a site and intended for occupancy on the same site, as a caretaker, security guard, servant or similar position generally requiring residence on the site. (Ord. 1055 N.S. § C (part), 1991)

18.04.073 Catering Service

An establishment that serves and supplies food and/or refreshments, for a fee, for public or private consumption to be consumed off-premises.

18.04.075 Cessation of use.

As used in Division I of this title, a use shall be deemed to have ceased when it has been discontinued, either temporarily or permanently, whether with the intent to abandon such use or not. (Ord. 559 N.S. § A (part), 1981)

18.04.077 City Geologist.

The term City Geologist as used in this title means a registered professional geologist who is certified by the State of California in the specialty of engineering geology (C.E.G.) who is either a staff member or a consultant retained by the City. (Ord. 1176 § 7, 1994)

18.04.078 Club, lodge, and private meeting hall.

"Club", "lodge" and "private meeting hall" mean permanent headquarters-type meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for:

- ***Business associations***
- ***Civic, social, and fraternal organizations***
- ***Labor unions and similar organizations***
- ***Political organizations***
- ***Professional membership organizations***
- ***Other membership organizations***

18.04.080 Combining district.

"Combining district" means a district within which certain regulations and requirements apply in addition to, and are combined with, regulations and requirements of another district. (Ord. 559 N.S. § A (part), 1981)

18.04.085 Commercial.

"Commercial" means any activity on or use of land which involves the buying, selling, processing or improving of things not produced on the land, and having financial gain as the primary aim of the activity or use, whether or not such activity or use is for hire or on account of the buyer, seller, processor or improver. (Ord. 559 N.S. § A (part), 1981)

~~**18.04.090 Commercial recreation.**~~

~~"Commercial recreation" means a recreation facility operated as a business and open to the general public for a fee. Commercial recreation uses include but are not limited to; theaters, bowling lanes, batting cages, billiard parlors, gymnasiums, exercise studios, martial arts or dance studios, golf courses and driving ranges. (Ord. 1215 N.S. § 5, 1995; Ord 1135 N.S. § 3, 1993; Ord. 604A N.S. § A, 1983: Ord. 559 N.S. § A (part), 1981)~~

18.04.090 Commercial indoor recreation.

A facility providing indoor amusement and entertainment services for a fee or admission charge, including but not limited to the following:

- ***Electronic arcade games***
- ***Health club***
- ***Laser tag and similar games***
- ***Pool hall***
- ***Bowling***
- ***Gymnasiums***
- ***Dance Studios***
- ***Art schools***
- ***Ballet and other dance academies***
- ***Drama schools***
- ***Martial arts schools***
- ***Music schools and academies***
- ***Voice training schools***

18.04.91 Commercial outdoor recreation.

Any facility providing outdoor amusement and entertainment services for a fee or admission charge, including but not limited to the following:

- ***Batting cages***
- ***Driving ranges***
- ***Golf courses***
- ***Miniature golf***

18.04.093 Commercial Services.

Retail establishments that primarily render services rather than goods. Such services may include but not be limited to the following:

- ***Cellular and satellite phone sale and services***
- ***Cable and satellite television sale and service***
- ***Decorating and design services***
- ***Florists***
- ***Video/DVD rental***
- ***Picture framing***
- ***Jewelry repair***
- ***Repair services***

18.04.095 Community apartment.

"Community apartment" means a project in which an undivided interest in land is coupled with the right of exclusive occupancy of an apartment located thereat. (Ord. 559 N.S. § A (part), 1981)

18.04.100 Conditional use.

"Conditional use" means a use of land for which a conditional use permit is required, pursuant to Chapter 18.54 of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.105 Condominium.

"Condominium" means individual ownership of a dwelling unit within a multiple-unit structure exclusive of the land underlying such structure. (Ord. 559 N.S. § A (part), 1981)

18.04.110 Condominium development.

"Condominium development" means a structure and appurtenant premises divided in ownership by the existence of the condominiums as now or hereafter defined in Section 783 of the Civil Code of the state, and shall include instances where ownership is so divided following prior single ownership of the entire structure and premises, as well as new structures so divided in ownership. (Ord. 559 N.S. § A (part), 1981)

18.04.115 Construction yard.

"Construction yard" means an area on or immediately adjacent to a major construction or demolition site used on a temporary basis for the parking and storage of equipment used in the project, and the storage and preparation of materials and other items used in the project. Such yard may include construction offices and such shops as are necessary for work on the immediate project. (Ord. 559 N.S. § A (part), 1981)

18.04.117 Convenience Market/Store.

"Convenience market/Store" is defined as a retail establishment which contains less than five thousand square feet of gross floor area allocated for the sale of groceries, staples, dairy products, sundry items, tobacco products and/or alcoholic beverages. This definition also includes a liquor store, within which all or the majority of the floor area for retail sales is allocated for the sale of alcoholic beverages. This definition, however, does not include a full-service grocery store containing less than five thousand square feet of gross floor area wherein at least ten percent of that floor area is allocated for the sale of fresh meat, seafood and fresh produce products. (Ord. 1307 N.S. § 2, 1996; Ord. 1215 N.S. § 6, 1995)

18.04.120 Corporation yard; service yard.

"Corporation yard" or "service yard" means buildings and premises, including offices, used by any person or by the city for the storage, maintenance, repair and processing of equipment, materials and other items involved in construction or maintenance of physical facilities having permanently fixed locations, or in the operation of a fleet of rolling stock. (Ord. 559 N.S.§ A (part), 1981)

18.04.120.1 Daycare center, adult

A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24–hr day.

18.04.120.2 Day care center, child.

A commercial or non-profit child day care facility designed and approved to accommodate 15 or more children includes infant centers, preschools, sick-child centers, day care centers, and school-age day care facilities. These may be operated in conjunction with a school or church facility, or as an independent land use.

18.04.120.3 Day care home, child large.

The use of a single-family residence where an occupant of the residence provides care and supervision for nine to 14 children. Children under the age of 10 years who reside in the home count as children served by the day care facility.

18.04.120.4 Day care home, child small.

"Child day care homes, small" means the use of a single family residence where an occupant of the residence provides care and supervision for up to 8 children. Children under the age of 10 years who reside in the home count as children served by the day care facility.

18.04.121 Delivery or service vehicle.

"Delivery or service vehicle means" any car, motorcycle, scooter, van or truck used in a normal business capacity to deliver a product, service or good to any location off-site of the
primary business establishment. (Ord. 1055 N.S. § C (part), 1991)

18.04.123 Display area, outdoor.

"Outdoor display area" means any area, either permanent or temporarily devoted to, or used for the display of any product or services which is external to a building. (Ord. 1055 N.S. § C (part), 1991)

18.04.125 District.

"District" means a portion of the territory of the city within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.130 Domestic pet.

"Domestic pet" means any of the various animals customarily kept as household pets (except exotic animals). (Ord. 559 N.S. § A (part), 1981)

18.04.132 Drive-in *or drive-through* establishment.

"Drive-in ***or drive-through*** establishment" means:

A. Any place or premises where a portion of the business conducted involves the sale, dispensing or serving of food, beverages or merchandise or the provision of service to vehicles and/or their occupants.

B. Drive-in ***or drive-through*** establishments shall include, but not be limited to, drive-thru photo sales, car washes, service stations, and drive-up window facilities for use by a fast-food restaurant, bank or savings and loan association or similar institution, and other similar uses as determined by the community development director (Ord. 846 § 2, 1987)

18.04.135 Driveway.

"Driveway" means a permanently surfaced area on a lot designed and required to provide direct access for vehicles between a street and a private garage, carport or other permitted parking space or parking area or loading area. (Ord. 559 N.S. § A (part), 1981)

18.04.140 Driveway aisle, major.

"Major driveway aisle" means a driveway providing principal access to the parking area or the driveway providing principal circulation throughout the parking areas or premises. (Ord. 559 N.S. § A (part), 1981)

18.04.143 Driveway apron.

"Driveway apron" means a paved area providing principal access from a drive aisle or street right-of-way to a garage or other covered parking space. (Ord. 1473 N.S. § 2, 2000)

18.04.145 Dwelling.

"Dwelling" means any building or portion thereof designated or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or trailer coach. (Ord. 559 N.S. § A (part), 1981)

18.04.150 Dwelling, multifamily.

"Multifamily dwelling" means a building designed and used as a residence for three or more families living independently of each other and containing three or more dwelling units. (Ord. 1050 N.S. § 1 (part), 1991: Ord. 559 N.S. § A (part), 1981)

18.04.154 Dwelling, single-family, attached.

"Single-family attached dwelling" means a dwelling attached to another dwelling on at least 50 percent of the length of the attached side of the building, sometimes called a townhouse, duet, or row house. One or more walls extend from foundation to roof, which separate it from adjoining structures and form a property line. Single-family attached dwellings also include modified setback dwellings as defined by the Morgan Hill Municipal Code. (Ord. 1641, N.S. § 7, 2003; Ord. 1415 N.S. § 1, 1998; Ord. 1050 N.S. § 1 (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.155 Dwelling, single-family, detached.

"Single-family detached dwelling" means a dwelling designed to contain a single dwelling unit situated on a single lot. (Ord. 1050 Ord. § 1 (part), 1991: Ord. 559 Ord. § A (part), 1981)

18.04.156 Dwelling, single-family, modified setback.

A "modified setback dwelling " is defined as follows:

A. A dwelling physically separated from an adjacent dwelling on a separate lot of record by a minimum of three feet and a maximum of six feet, and architecturally connected by a design element such as a wing wall, trellis, or fireplace, to give the appearance of attachment; or

B. A dwelling physically separated from an adjacent dwelling on a separate lot of record whereby the adjacent lots are designed with an alternative lot configuration, such as a Z-lot or off-set property lines, and the units are situated such that they give the appearance of attachment from the public right-of-way. (Ord.1641, N.S. § 8, 2003)

18.04.157 Dwelling, two-family or duplex.

"Two-family" or "duplex dwelling" means a structure which is designed and used as a residence for two families living independently of each other and containing two dwelling units. (Ord. 1050 N.S. § 1 (part), 1991: Ord. 899 Ord. § 1 (part), 1989)

18.04.160 Dwelling unit.

"Dwelling unit" means a room or group of rooms including living, sleeping, eating, cooking, and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy by one family on a nontransient (less than 30-day stay) basis and having not more than one kitchen. (Ord. 1415 N.S. § 2, 1998; Ord. 559 N.S. § A (part), 1981)

18.04.162 Dwelling unit, primary.

"Primary dwelling unit" means a single-family dwelling located on a separate lot with no other dwellings on the lot except for a secondary dwelling unit. (Ord. 1215 N.S. § 7, 1995; Ord. 884 N.S. § 1, 1989)

18.04.164 Dwelling unit, secondary.

"Secondary dwelling unit" means a detached or attached dwelling unit which provides complete independent living facilities for one or more persons which is located on a lot which contains an existing single-family dwelling. A secondary dwelling unit must be located in a permanent structure and includes provisions for living, sleeping, eating, cooking, sanitation and has a private entry accessed from the exterior of the building. Secondary dwelling units are not "accessory structures" as defined in Sections 18.04.015 and 18.56.020 of this title. (Ord. 1323 N.S.§ 4, 1997; Ord 1215 N.S. § 8, 1995; Ord. 884 N.S. § 2, 1989)

18.04.164.1 Emergency or transitional housing facility.

A residential facility which provides room and board for persons who do not have housing providing either emergency shelter or overnight housing; or longer term but limited in duration transitional (e.g. 18 months) housing for persons or households until more permanent arrangements can be made. Such facilities also provide protection, counseling, rehabilitation and pre-placement screening for the occupants.

18.04.164.5 Escort agencies

"Escort agencies" means a person, business or other agency which provides or dispatches a person or persons who, for any form of consideration or gratuity, agree or offer to act as a companion, guide, or date for another person. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.165 Family.

"Family" means an individual or group of individuals living together who constitute a bona fide single housekeeping unit in a dwelling unit. "Family" shall not be construed to include a group of individuals occupying a hotel or lodging house of any kind. (Ord. 1415 N.S. § 3, 1998; Ord. 559 N.S. § A (part), 1981)

18.04.165.5 Farmers market.

"Farmers market" is defined as a permanent or temporary market facility in which the primary activity is the sale of fresh agricultural goods on a year round or seasonal basis. The sale of agricultural goods shall constitute at least two thirds of the gross sales on the property. A temporary market facility shall consist of multiple vendors at a single location which distinguishes it from an agricultural stand. (Ord. 1215 N.S. § 9, 1995)

18.04.170 Fence.

"Fence" means a structure made of wire, wood, metal, masonry or other material used as a screen or enclosure for a field, yard or lot. (Ord. 559 N.S. § A (part), 1981)

18.04.175 Fence height.

"Fence height" means the difference in elevation of the ground surface continuously along the base of the ground level on the higher side of the fence to the top of the fence. Where a fence is erected atop or within five feet of a retaining wall on the property line or on the same lot, the height of the fence shall include the retaining wall. (Ord. 1215 N.S. § 10, 1995; Ord. 559 N.S. § A (part), 1981)

18.04.177 Financial service.

"Financial service" means a use providing financial services to individuals or other entities. The term "financial service" includes banks, savings and loan institutions, loan and lending activities and similar services. (Ord. 899 N.S. § 1 (part), 1989)

18.04.180 Floodplain.

"Floodplain" means that portion of land adjacent to a creek channel which is covered by water during a one-hundred-year flood event. (Ord. 559 N.S. § A (part), 1981)

18.04.185 Floodwaters.

"Floodwaters" means a body of water resulting from an overflow of a river, channel, bay, drainage canal or backwater, due to inadequate downstream capacity, which inundates the land. (Ord. 559 N.S. § A (part), 1981)

18.04.190 Floodway.

"Floodway" means a body or channel of a stream, and those portions of the floodplain adjoining the channel, that are required to carry and discharge the floodwater or flood flows of any river or stream, including but not limited to flood flows associated with the regulatory one-hundred-year flood. (Ord. 559 N.S. § A (part), 1981)

18.04.195 Floor area.

"Floor area" means the sum of the areas of the several floors of structure(s), as measured by the exterior faces of the walls, less any area within the structure(s) devoted to parking, vehicular atriums or enclosed malls and similar areas. (Ord. 559 N.S. § A (part), 1981)

18.04.200 Freeway.

"Freeway" means a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands, or in respect to which such owners have only limited or restricted right or easement of access. The term "freeway" has the same meaning as the term "freeway" as defined in the California Streets and Highways Code. (Ord. 559 N.S. § A (part), 1981)

18.04.202 Funeral facility and services.

"Funeral facility and services" is an establishment where deceased are prepared for burial or cremation, and funeral services may be conducted. Includes funeral homes, funeral parlors, and crematoriums.

18.04.205 Garage, private.

"Private garage" means an attached or detached accessory dwelling located upon a lot developed with a residential dwelling or dwellings (or a portion of a main residential building) used by the occupants resident upon the premises principally for the storage of passenger vehicles, and other vehicles and equipment permitted to be located upon the lot. (Ord. 559 N.S. § A (part), 1981)

18.04.210 Garage, public.

"Public garage" means a structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of motor vehicles or other vehicles; except that a structure or part thereof used only for storage (as in the case of a public parking area) or display (as in the case of an automobile sales area) of motor vehicles, but not for transients, and at which fuels and oils are not sold, and such motor vehicles are not equipped, repaired or hired, shall not be deemed to be a public garage. (Ord. 559 N.S. § A (part), 1981)

18.04.215 General Plan.

"General Plan" means the General Plan of the City of Morgan Hill, California, as adopted by the city council on October 15, 1980, and as may be amended from time to time. (Ord. 559 N.S. § A (part), 1981)

18.04.217 Guest house.

"Guest house" means an accessory building containing a lodging unit without kitchen facilities, and used to house occasional visitors or nonpaying guests of the occupant of a dwelling unit on the same site. (Ord. 899 N.S. § 1 (part), 1989)

18.04.218 Hazardous materials reprocessing.

Hazardous materials reprocessing means one or more activity to manufacture, clean, repackage or perform another industrial operation involving "hazardous waste" as defined by the Santa Clara County hazardous waste management plan. This definition relates to hazardous wastes which are brought onto a site and reprocessed, with the product sent off-site. The definition does not apply to (a) transportable treatment units (TTU) which are designed to be moved either intact or in modules and which are intended to be operated at a location for a limited time; or (b) permanent on-site hazardous waste facilities at locations where hazardous waste is produced and which are owned by, leased to or under the control of the producer of the waste; all such facilities requiring state licensing to operate; or (c) "small quantity generators" as defined by the Santa Clara County hazardous waste management plan, including but not limited to small photo laboratories, dry cleaning plants and similar businesses, which are not included in (b) above regarding reprocessing of off-site hazardous waste or (d) a "salvage yard" defined by Section 18.04.390 of this chapter unless hazardous materials are processed or stored therein. Hazardous materials reprocessing is not allowed in any zoning district except an M-C campus industrial district, and is allowed in such district only upon issuance of a conditional use permit and a determination of consistency with the Santa Clara County hazardous waste management plan or a city-designated equivalent. (Ord. 1104 N.S. § 1 (Exh. A)(part), 1992)

18.04.219 Hazardous waste.

"Hazardous waste" means a waste or combination of wastes, which because of its quantity, concentration, toxicity, corrosiveness or flammability, or physical, chemical or infectious characteristics may (1) cause or significantly contribute to an increase in mortality or an increase in serious, irreversible or incapacitating illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. (Ord. 1104 N.S. § 1 (Exh.A)(part), 1992)

18.04.220 Home improvement center.

"Home improvement center" means a retail establishment which carries a full line of building materials, appurtenances and decorator items for individual "do-it-yourselfer" residents, to facilitate the improvement, rehabilitation and maintenance of individual dwellings. This use is different in function from a building supply yard or lumberyard which stores large volumes of building materials for contractors, home builders and/or individuals, most of which is stored in special sheds or out-of-doors. (Ord. 559 N.S. § A (part), 1981)

18.04.225 Home occupation.

"Home occupation" means a use customarily carried on in a dwelling by a resident thereof, which use is merely incidental to the residential use of the dwelling, and subject to criteria as provided in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.230 Industrial park/business park.

"Industrial park/business park" means a combination of industrial and/or commercial uses of contiguous lots specifically planned for industry, having continuity of design and function and uniform or integrated standards of development established by contract, covenant or deed restriction. (Ord. 559 N.S. § A (part), 1981)

18.04.232 Interim Basis.

"Interim basis" means a temporary basis not to exceed three (3) years, and which is never intended, at any time during occupancy, to be a permanent occupancy. (Ord. 1653 N.S., § 1, 2004)

~~**18.04.235 Kennel.**~~

~~"Kennel" means a building or portion thereof, or other enclosure, used to confine, feed, exercise, show or provide shelter for more than five cats or dogs, ten weeks of age or older. Veterinarians' offices are specifically excluded. (Ord. 559 N.S. § A (part), 1981)~~

18.04.235 Kennel.

"Kennel" means a building or a portion of a building, or other enclosure, used to confine, feed, exercise, show or provide shelter for more than five cats or dogs, ten weeks of age or older. Veterinarians' offices ("Veterinary clinics and hospitals") and pet stores ("Retail sales") are specifically excluded, although pet care supplies may be sold as an ancillary activity to the primary shelter use.

18.04.237 Kitchen.

"Kitchen" means a room, or portion of a room primarily designed, constructed, or used for the preparation of food and containing complete cooking facilities including, but not limited to a stove or separate cook top and oven, refrigerator and kitchen sink. (Ord. 1415 N.S. § 4, 1998)

18.04.240 Landscaping.

"Landscaping" means the planting and maintenance of trees, shrubs, lawns and other evergreen ground cover or material, including inorganic accessory materials utilized to accent or complement the vegetation. (Ord. 559 N.S. § A (part), 1981)

18.04.244 Lodging Facilities.

"Lodging facilities" means facilities with guest rooms or suites, provided with or without meals or kitchen facilities, rented to the general public for overnight or other temporary lodging (less than 30 days). These facilities may typically include a variety of services in addition to lodging, including restaurants, meeting facilities, personal services, and other accessory guest facilities including swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, parking, etc. Does not include adult hotels or adult motels. (See "Adult Hotel/Adult Motel" and "Adult Business".)

18.04.245 Lot.

"Lot" means a piece or parcel of land owned as a single unit in common ownership, occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter, and having frontage on and access to an approved and accepted city street which meets the standards of width and improvements as specified in the regulations of the city contained in or adopted pursuant to the subdivision title of this code, and Chapter 18.50 of this title on street improvements as to the frontage of the lot involved, or having frontage on and access to an approved private street or major driveway aisle for properties that are located in the R-2, R-3, R-4 and CC-R districts. (Ord. 1743 N.S. § 1, 2005; Ord. 559 N.S. § A (part), 1981)

18.04.250 Lot area.

"Lot area" means the net site area of a lot, expressed in terms of acres or square feet, exclusive of any public street easements, and exclusive of that percentage of the total area of any other public easements or private easements which is in excess of fifteen percent of the net site area of the lot, exclusive of any such public street easements, which net site area as thus limited can be legally occupied by a principal building or a group of such buildings and accessory buildings, or can be utilized for a principal use and uses accessory thereto, together with such open spaces as are required by Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.255 Lot, corner.

"Corner lot" means a lot abutting upon two streets at their intersections, or abutting upon a curvature of a single street, where such streets or curvature form an interior angle of less than one hundred thirty-five degrees. The point of intersection of the street lot lines, extending, is the "corner." A corner lot may have more than one corner and may also abut upon one or more streets which do not form the corner or corners of the lot. (Ord. 559 N.S. § A (part), 1981)

18.04.260 Lot coverage or building coverage.

"Lot coverage" or "building coverage" means that portion of the lot area covered by a building. (Ord. 559 N.S. § A (part), 1981)

18.04.265 Lot, depth of.

"Depth of lot" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line. (Ord. 1055 N.S. § C (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.270 Lot, interior.

"Interior lot" means a lot which has only one front lot line. (Ord. 559 N.S. § A (part), 1981)

18.04.272 Lot, Z.

A "Z-lot" is a lot in which the interior side property line(s) form the letter "z". (Ord. 1641, N.S. § 7, 2003;

18.04.275 Lot line, front.

A. "Front lot line" means any of the following:

1. Each street lot line of an interior or through lot;

2. On a corner lot, the shorter lot line abutting a street or the line designated as the front lot line; and

3. Any street lot line not forming a corner of a corner lot.

B. If the side yard setback facing the street on a corner is at least as deep as the front yard setback requirement, the community development director may designate the front lot line of corner lots for setback purposes. (Ord. 1025 N.S. § 3 (part), 1991; Ord. 559 N.S. § A (part), 1981)

18.04.280 Lot line, rear.

"Rear lot line" means the lot line opposite and most distant from the front line, where such lot line is not also a street lot line. (Ord. 559 N.S. § A (part), 1981)

18.04.285 Lot, through.

"Through lot" means a lot which has two or more front lot lines which do not intersect to form a corner lot. (Ord. 559 N.S. § A (part), 1981)

18.04.290 Lot width.

"Lot width" means the distance measured along a straight line between the midpoints of the side property lines. (Ord. 1323 N.S. § 5, 1997; Ord. 559 N.S. § A (part), 1981)

18.04.291 Major motor vehicle repair.

"Major motor vehicle repair" means all repair, servicing or maintenance work not provided for under "minor motor vehicle repair," including, but not limited to, general repair, rebuilding or reconditioning of: (a) major vehicle components, such as engines, transmissions and differentials, (b) non-passenger vehicles, motor homes or trailers and trucks exceeding one and one-half ton capacity, or (c) body, frame or fender components, including collisions service, upholstery or painting. (Ord. 980 N.S. § 3 (part), 1990)

18.04.292 Manufactured housing.

"Manufactured housing" means a single-family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes or mobile homes. (Ord. 1050 N.S. § 1 (part), 1991)

18.04.292.5 Massage parlor.

As distinct from other massage establishments, "Massage Parlor" means any place, for any form of consideration or gratuity, in which massage, alcohol rubs, administration of fomentation, electric or magnetic treatment or any other treatment manipulation of the human body occurs. The exceptions to this definition include places in which services are provided by licensed doctors, nurses, osteopaths, chiropractors, teachers, barbers, beauticians or by massage technicians who have received at least 100 hours of instruction and supervised training at recognized massage schools or are licensed by the State. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.292.6 Medical/dental clinic and office.

A use including those service facilities and offices where consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services are provided by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California.

18.04.293 Mini-storage facilities.

A. "Mini-storage facility" means a building or group of buildings, in a controlled access and fully enclosed compound, which contain separate storage spaces of varying size, for the dead storage of customer's goods and possessions.

B. "Dead storage" means goods that are not radioactive, explosive, flammable or hazardous materials, that are not living plants or animals, that are not in use and not associated with any commercial use on the premises. (Ord. 839 N.S. § 2, 1987)

18.04.294 Mixed use.

A development project, where various uses (i.e. residential, commercial, office, recreational) are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design in which both residential and non-residential amenities are provided. A residential and non-residential mixed use development project shall be contained within one structure or on one site (A "single site" may include contiguous properties.) and may be constructed (1) in a vertical manner in which the non-residential amenities are located on the ground floor level and the residential amenities are located on upper levels or (2) in a horizontal manner in which the non-residential amenities are located along the street frontage and the residential amenities are located at the same level as the commercial amenities and to the rear of those commercial amenities.

~~**18.04.294 Medical office.**~~

~~"Medical office" means a use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the state of California. (Ord. 899 N.S. § 1 (part), 1989)~~

18.04.295 Minor motor vehicle repair.

"Minor motor vehicle repair" means general servicing and maintenance of passenger cars and trucks not exceeding one and one-half tons capacity. Such servicing may include, but not be limited to: (a) the repair or replacement of worn or defective parts and gaskets external to the basic engine block, such as intake and exhaust manifolds, carburetors, and water pumps, (b) engine replacement, (c) the repair or replacement of worn or defective brake parts, clutch parts, mufflers, exhaust system parts, wheel bearings, shock absorbers, tires, batteries, spark plugs and other accessible minor parts, and (d) maintenance work such as the changing or supplementing of vehicle fluids and the adjustment of mechanical components while on the vehicle. (Ord. 1135 N.S. § 3, 1993; Ord. 980 N.S. § 3 (part), 1990)

18.04.296 Mobile home.

"Mobile home" means a vehicle designed and equipped for human habitation, and for being drawn by motor vehicle. A mobile home is a type of "trailer" or "trailer coach" or "semi-trailer" as such terms are defined in the California Vehicle Code, and has the same meaning as "mobile home," as such term is defined in the California Health and Safety Code. For the purposes of Division I of this title, the terms "mobile home," "travel trailer" and "trailer," which are each separately defined terms in this division, are mutually exclusive terms. The term "mobile home" does not include "modular" or "manufactured dwellings" intended for assembly on-site on permanent foundations and not designed for subsequent or repeated relocation. (Ord. 899 N.S. § 1 (part), 1989: Ord. 559 N.S. § A (part), 1981)

18.04.300 Motel, motor hotel.

"Motel" or "motor hotel" means a group of buildings containing individual sleeping or living units, designed for use by automobile tourists or transients, with garage attached or parking space conveniently located to each unit. (Ord. 559 N.S. § A (part), 1981)

18.04.305 Natural land slope.

"Natural land slope" means the predominant slope (or slopes) in its natural condition, disregarding minor surface humps or hollows. (Ord. 559 N.S. § A (part), 1981)

18.04.310 Nonconforming building.

"Nonconforming building" means a building or structure or portion thereof which:

A. At the time of construction complied with the height requirements of the district in which it was located, and was sited on the lot on which it was constructed in compliance with the area and yard requirements of such district at that time; but

B. Does not now conform to the presently existing height regulations of the district where located; or

C. Is sited on the lot where it is situated in such a manner that there is a lack of conformity with the presently existing area or yard requirements of the district where located. (Ord. 559 N.S. § A (part), 1981)

18.04.315 Nonconforming lot.

"Nonconforming lot" means a lot which, when lawfully created or established, complied with the width and area requirements of the district where located, but which does not conform to the presently existing area or width regulations of the district where located, or which does not conform to the presently existing requirements of the Subdivision Ordinance governing lot standards. (Ord. 559 N.S. § A (part), 1981)

18.04.320 Nonconforming use.

"Nonconforming use" means a use which, when commenced, complied with the use regulations of the district in which such use was commenced, and which does not conform to the presently existing use regulations of the district where the use is being conducted or carried on. The term "nonconforming use" shall be applicable to use of buildings, structures and land. (Ord. 559 N.S. § A (part), 1981)

18.04.321 Non-Profit Organization

"Non-profit organization" means an organization formed for a charitable or social welfare purpose, and which possesses non-profit status pursuant to Internal Revenue Code section 501(c)(3). (Ord. 1653 N.S., § 1, 2004)

18.04.322 Nudity or semi-nudity.

"Nudity" means the appearance of the human anus, male genitals, female genitals or the areola or nipple of the female breast. "Semi-nudity" means the covering of these areas solely by small patches of cloth or similar material, held to the body solely by straps, strings or adhesives. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.325 Nursery.

"Nursery" means an area where agricultural products are grown for transplanting, for use of stock for building and grafting, or for sale on the premises. (Ord. 559 N.S. § A (part), 1981)

~~**18.04.330 Nursery school, children's nursery school, child day care service, family day care home.**~~

~~"Nursery school," "children's nursery school," "child day care service" or "family day care home" means an establishment for the part-time care and instruction of children, whether or not for compensation, other than those resident on the site. Uses under this definition shall be further defined in accordance with the following hierarchy:~~

~~A. Small Family Day Care Homes. The use of a residential dwelling providing care for up to eight children.~~

~~B. Large Family Day Care Homes. The use of a residential dwelling to provide care for up to fourteen children.~~

~~C. Nursery Schools. An establishment providing care and instruction to more than twelve children. (Ord. 1473 N.S. § 3, 2000: Ord. 1215 N.S. § 11, 1995; Ord. 726 N.S. § 2, 1985: Ord. 559 N.S. § A (part), 1981)~~

18.04.335 Nursing home or convalescent hospital.

"Nursing home" or "convalescent hospital" means any place or institution which makes provisions for bed care, or for chronic or convalescent care for one or more persons, exclusive or relatives, who by reason of illness or physical infirmity are unable to properly care for themselves. Institutions for the care of alcoholics, drug addicts, persons with mental diseases, and persons with communicable diseases, such as contagious tuberculosis, are not included within the meaning of "nursing home" or "convalescent hospital." (Ord. 559 N.S. § A (part), 1981)

18.04.336 Office, administrative or general.

"Administrative office" means offices and service facilities performing as headquarters, regional, or other level management for a company, or other establishments of a company, or for other firms and institutions and having limited contact with the general public. Activities include a range of day-to-day office administrative services, including financial planning; billing and record keeping; personnel

18.04.336.1 Office, professional.

The office of a member of a recognized profession maintained for the conduct of that profession, including offices of lawyers, engineers, designers, architects, accountants, consultants etc. A profession is an occupation requiring advanced study in a specialized field, licensing, and maintenance of professional standards applicable to the field. Does not include medical/dental offices. (See "Medical/Dental clinics and offices.")

18.04.337 Off-site Improvements.

"Off-site improvements" means those improvements required to be installed as a result of development, either in the form of new construction, tenant improvements, or remodeling, outside the boundaries of the parcel. (Ord. 1653 N.S., § 1, 2004)

18.04.338 On-site Improvements.

"On-site improvements" means those improvements required to be installed as a result of development, either in the form of new construction, tenant improvements, or remodeling, within the boundaries of the parcel. Examples of such improvements include the requirements of Chapters 18.24, 18.50, and 18.74 of the Municipal Code. (Ord. 1653 N.S., § 1, 2004)

18.04.340 Open space, essentially unimproved.

A. "Open space," for the purposes of Division I of this title, means any parcel or area of land or water which is essentially unimproved and devoted to an open-space use, as defined in Section 65560 of the Government Code. "Essentially unimproved" means any parcel of land with a building coverage of five percent or less of the total parcel area.

B. "Open space" also means an outdoor area created by artificial or natural design not otherwise occupied by buildings (open spaces may be integral with, but may not be totally covered by, building areas, except as otherwise specified by district regulations), or paved areas for vehicular circulation or parking. (Ord. 559 N.S. § A (part), 1981)

18.04.345 Overlay district.

"Overlay district" means a district described by the zoning map, within which, through imposition of a special designation, additional regulations and requirements apply in addition to those of the district to which such designation is added. (Ord. 559 N.S. § A (part), 1981)

18.04.346 Owner.

An "owner" of an "adult business" means any person, corporation, partnership or other form of ownership, which (a) controls the business, other than a hired manager; or (b) receives over ten percent of the net receipts of the business. The word "owner" applies to any and all "owners" singly and collectively. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.350 Parking space.

"Parking space" means a permanently surfaced area of not less than one hundred eight square feet, either within a structure or in the open, excluding driveways or access drives, for the parking of a vehicle. (Ord. 559 N.S. § A (part), 1981)

18.04.355 Performance standards.

"Performance standards" means regulations for the control of "dangerous or objectionable elements," as defined in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.357 Personal service.

A use providing services of a personal convenience nature. Personal service uses include but are not limited to the following:

- ***Beauty and barber shops***
- ***Nail salons***
- ***Tattoo parlors***
- ***Massage and health spa establishments***
- ***Shoe repair***
- ***Self-service laundry and cleaning services***
- ***Laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere)***
- ***Repair, alteration and fitting of clothes and personal accessories***

~~**18.04.357 Personal service.**~~

~~"Personal service" means a use providing services of a personal convenience nature; beauty and barber shops, massage therapy, shoe repair, self-service laundry and cleaning services, laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere), repair and fitting of clothes and personal accessories, copying, and similar services. (Ord. 1215 N.S. § 12, 1995; Ord. 1135 N.S. § 4, 1993; Ord. 899 N.S. § 1 (part), 1989)~~

18.04.357.1 Pet grooming.

A commercial facility for the washing, brushing, trimming and other activities for the grooming of household pets.

18.04.358 Police permit.

A "police permit" shall mean a permit, as described in Section 5.60.010 et seq. of the Municipal code, and issued by the chief of police or other person appointed to act in his or her position by the city manager, which verifies the credentials and law enforcement history, if any, of the owner or owners and/or manager or managers of any "adult business" and other matters necessary to protect the public health, safety and general welfare. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.360 Principal permitted use.

"Principal permitted use" means a use for which no conditional use permit is required, but which may be subject to site plan and architectural approval, planned unit development approval, or performance standards procedure, as specified in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

~~**18.04.362 Professional offices.**~~

~~"Professional offices" means an office from which and at which a doctor, lawyer, engineer, architect, accountant or similar professional persons may offer services. (Ord. 899 N.S. § 1 (part), 1989)~~

18.04.364 Public facility.

"Public facility" means a noncommercial use established primarily for the benefit and enjoyment of the community in which it is located, including a library, school, museum, recreation center, water well, reservoir and similar facilities. (Ord. 899 N.S. § 1 (part), 1989)

18.04.365 Public use.

"Public use" means a use operated exclusively by a public body, such use having the purpose of serving the public health, safety or general welfare, and including uses such as public schools, parks, playgrounds, hospitals, and administrative and service facilities. (Ord. 559 N.S. § A (part), 1981)

18.04.370 Quasi-public use.

"Quasi-public use" means a use operated by a private nonprofit educational, religious, recreational, charitable or medical institution, such use having the purpose primarily of serving the general public, and including uses such as churches, private schools, and universities, community, youth and senior citizen recreational facilities, private hospitals, and the like. (Ord. 559 N.S. § A (part), 1981)

18.04.373 Research and development.

"Research and development" means a use engaged in study, testing, design, analysis, and experimental development of products, processes, or services, including incidental manufacturing of products or provision of services to others. (Ord. 899 N.S. § 1 (part), 1989)

18.04.381 Recreational vehicle long-term space.

"Recreational vehicle long term space" is one which is occupied by any resident or family or vehicle for longer than two hundred and forty-four days in any consecutive three hundred and sixty-five day period, which would be in violation of this section. A short term space, occupied thirty consecutive days or less; or a transitional space, occupied thirty-one to two hundred and forty-four days, in any consecutive three hundred and sixty-five day period, is not a "recreational vehicle long term space." (Ord. 1233 N.S. § 4, 1995; Ord. 1100 N.S. § 1 (part), 1992)

18.04.382 Recreational vehicle (RV) park.

"Recreational Vehicle (RV) park" means any use of land upon which two or more recreational vehicles are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation or transitional housing purposes. For purposes of this definition, RV parks shall be owned by a single owner or organization and all recreational vehicle lots or spaces shall be rented or leased to the same person or group of persons who occupy the same recreational vehicle for a period not to exceed that provided by section 18.49.010 et seq. The term of stay or occupancy, and mix thereof, by vehicles in different sections of a park may be defined by each conditional use permit for each park, except that the maximum time limits specified in Section 18.04.381 shall be observed. For spaces which are defined for short term or transitional occupancy, no longer term occupancy shall be permitted without an amendment to the conditional use permit. (Ord. 1233 N.S. § 5, 1995; Ord. 1100 N.S. § 1 (part), 1992; Ord. 1059 N.S. § 1, 1991)

18.04.382.5 Recreational vehicle short-term space.

A recreational vehicle park space which is designated for stays of thirty days or less in one continuous stay, and no more than ninety days in any consecutive three hundred and sixty-five day period, shall be determined to be a "recreational vehicle short-term space," providing for short-term stays for recreational vehicles. (Ord. 1233 N.S. § 6, 1995)

18.04.382.7 Recreational vehicle transitional space.

A recreational vehicle space which is designed for stays of thirty-one to two hundred forty-four days in any consecutive three hundred and sixty five day period shall be determined to be a "recreational vehicle transitional space," for persons moving to the city who may be in transition to permanent housing and require a temporary address in lieu of such permanent housing. The number, term of stay, location within the park and other parameters of recreational vehicle transitional spaces, as a proportion of a recreational vehicle park's spaces, shall be determined by conditional use permit. Any and all short-term stays, singly or combined, as defined in Section 18.040.382.5 shall be included as a portion of a transitional stay, if such short-term stay occurs within the same consecutive three hundred sixty-five day period as the transitional stay. (Ord. 1233 N.S. § 7, 1995)

~~**18.04.382.8 Restaurant, fast food.**~~

~~A fast-food restaurant is any establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out, and whose design or principal method of operation includes both of the following characteristics:~~

~~1. Foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and~~

~~2. The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building is allowed, or encouraged. (Ord. 1487 N.S., 2000)~~

18.04.382.8 Restaurant, fast food.

An establishment whose principal business is the sale of prepared or quickly prepared foods, frozen desserts, or beverages in disposable containers and wrappers to the customer for consumption either within the restaurant building or for carryout. Customers pay before food is consumed. The fast food restaurant may include a drive-thru window and may allow consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, at other facilities on the premises outside the restaurant building or at ancillary seating areas provided within the restaurant building. Fast food restaurants may include but are not limited to the following:

- ***Bakeries***
- ***Ice cream parlors***
- ***Coffee and juice shops***
- ***Pizza parlors***
- ***Sandwich shops***
- ***Delicatessens***

~~**18.04.382.9 Restaurant, sit-down.**~~

~~A sit-down restaurant is any establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:~~

~~1. Customers, normally provided with an individual menu, are served their food, desserts, or beverages on reusable tableware by a restaurant employee at the same table or counter at which said items are consumed.~~

~~2. A cafeteria-type operation where food, desserts, or beverages generally are consumed within the restaurant building. (Ord. 1487 N.S., 2000)~~

18.04.382.9 Restaurant, sit-down.

An establishment whose principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics:

A. Customers, normally provided with an individual menu, are served their food, desserts, or beverages on reusable tableware by a restaurant employee at the same table or counter at which said items are consumed.

B. A cafeteria-type operation where food, desserts, or beverages generally are consumed within the restaurant building.

A facility shall be classified as a sit-down restaurant only if it receives at least 50% of its gross revenues from serving food. A sit-down restaurant may include a bar serving alcoholic beverages and may have a "take-out" component which does not include a drive through component (unless a conditional use permit has been obtained), provided that the restaurant's on-site food sales account for more than 50% of its gross revenues.

~~**18.04.383 Retail, extensive.**~~

~~"Extensive retail" means retail sales where more than seventy-five percent of the gross floor area is used for display, sales, and related storage of bulky commodities, such as household furniture and appliances, lumber and building materials, carpeting and floor covering, heating and air conditioning equipment, and similar goods which demonstrably generate a demand for fewer parking spaces than do "intensive retail uses." (Ord. 1025 N.S. § 2 (part), 1991)~~

18.04.383 Retail, extensive.

Retail uses where more than 75% of the gross floor area is used for display, sales, and related storage of bulky commodities, and which demonstrably generate a demand for fewer parking spaces than do "less extensive retail uses." Extensive retail uses include the following:

- ***Carpeting and floor covering.***
- ***Catalog and mail order sales.***
- ***Catering and party rentals.***
- ***Construction equipment and machinery.***
- ***Garden and farm equipment.***
- ***Heating, ventilating, air conditioning, and other mechanical equipment and supplies.***
- ***Kitchen, bathroom and plumbing appliances, equipment and supplies.***
- ***Lumber and building materials.***
- ***Office furniture, equipment and machinery, including computers.***
- ***Household furniture.***

18.04.384 Retail, intensive.

"Intensive retail" means any retail use that is not extensive. (Amended during 8/93 supplement; Ord. 1025 N.S. § 2 (part), 1991)

18.04.385 Sales, wholesale.

"Wholesale sales" means the sale of goods for resale, or the sale of goods produced or processed from raw or primary materials on the premises, or the sale of construction materials which require bulk delivery of the product. (Ord. 559 N.S. § A (part), 1981)

18.04.390 Salvage yard.

"Salvage yard" means a place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled or stored, including auto wrecking yards, house wrecking yards, used-lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase or storage of used furniture and household equipment, used cars in operable condition, or salvaged materials incidental to manufacturing operations. (Ord. 559 N.S. § A (part), 1981)

18.04.391 School, business, trade, or tutoring.

A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills or on-site tutoring. Includes specialized schools offering instruction in the following:

- ***Business, secretarial, and vocational schools***
- ***Computers and electronics training schools***
- ***Courses by mail***
- ***Driver education schools***
- ***Firearms training center***
- ***Language schools***
- ***Trade schools***
- ***Tutoring centers***

18.04.393 Senior citizen housing.

"Senior citizen housing" means a dwelling unit which is designed for, and limited to the occupancy by persons who are of sixty-two years of age or older. (Ord. 899 N.S. § 1 (part), 1989)

18.04.394 Sensitive areas or sensitive uses.

"Sensitive areas" or "sensitive uses" shall mean and include any of the following, for which proximity to an "adult business" can cause diminished real estate values, urban blight and other adverse secondary effects:

1. Any religious institution, on land leased or owned by any church, synagogue, mosque, temple or any school or meeting hall operated by such institution.
2. Any public or private elementary, junior high or high school, preschool or child day care center.
3. Any public park on which recreation games may be played, including lawn and parking areas, but excluding natural open space on slopes exceeding twenty percent.
4. Any public assembly or public use civic building, including City Hall, the Library and the Post Office, but excluding police and fire stations.
5. Any area developed with or shown on the General Plan for future residential development.
6. Any hospital except a veterinary hospital.
7. Any Freeway or arterial street which is identified in the General Plan Circulation Element, and which residential and visitor traffic uses to access other "Sensitive Uses". (Ord 1150 § 2 (part), 1993)

18.04.395 Setback.

"Setback" means the distance between the building and any lot line. (Ord. 1473 N.S. § 5, 2000)

18.04.396 Setback Line.

"Setback Line" means that line which defines the minimum required distance from any lot line, within which a must be placed. (Ord. 1473 N.S. § 6, 2000)

18.04.399 Site, building.

"Building site" means the ground area of a building or buildings, together with all open spaces required by Division I of this title. (Ord. 1473 N.S. § 4, 2000: Ord. 559 N.S. § A (part), 1981)

18.04.399.1 Social services.

Establishments providing assistance and aid to those persons requiring counseling and/or treatment for psychological problems, addictions, learning disabilities, and physical disabilities or to those persons in need of jobs, food, or clothing. Does not include residential care on an overnight, short-term, or long-term basis.

18.04.400 Special residential care facilities.

"Special residential care facilities" means any state-authorized, certified or licensed family-care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons, or dependent and neglected children or the elderly, when such homes provide care on a twenty-four-hour a day basis. (Ord. 559 N.S. § A (part), 1981)

18.04.401 Specified anatomical areas.

"Specified anatomical areas" shall mean and include any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, anus or female breasts below a point immediately above the top of the areolae; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. (Ord. 1150 N.S. § 2 (part), 1993)

18.04.402 Specified criminal acts.

"Specified criminal acts" shall mean conviction of an act or acts which are sexual crimes against children, sexual abuse, or rape; as well as crimes connected with an adult business including, but not limited to, sexual assault, distribution of obscenity or material harmful to minors, prostitution, solicitation of prostitutes, pimping or pandering, unlawful acts of sexual intercourse, sodomy, oral copulation or masturbation occurring on the premises of the "adult business". Indictment or accusation does not constitute a "specified criminal act." (Ord. 1150 N.S. § 2 (part), 1993)

18.04.403 Specified Sexual Activities.

"Specified Sexual Activities" shall mean and include any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or
3. Masturbation, actual or simulated; or
4. Human genitals in a state of sexual stimulation, arousal or tumescence;
5. Excretory functions as part of or in connection with any of the activities set forth in this Section. (Ord 1150 § 2 (part), 1993)

18.04.405 Stable.

"Stable" means a building or portion thereof, or other enclosure, not including pastures, used to confine, feed, exercise, show or provide shelter for horses, cows or other hoofed animals, whether for private, public or commercial use. "Stable" includes, but is not limited to, stall, corral, paddock, barn, exercise area and arena, along with structures accessory thereto. (Ord. 559 N.S. § A (part), 1981)

18.04.410 Standard industrial classification manual (SIC).

"Standard industrial classification manual (SIC)" means the latest publication prepared by the Statistical Policy Division, Office of Management and Budget, Executive Office of the President of the U.S., and available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. As used in Division I of this title, the SIC shall constitute the detailed descriptions of uses enumerated in the various use districts, except where such uses are otherwise defined in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.415 Story.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it. (Ord. 559 N.S. § A (part), 1981)

18.04.420 Street frontage.

"Street frontage" means:

A. The existence of a street lot line; or

B. The lineal foot measurement of a lot at a street lot line. (Ord. 559 N.S. § A (part), 1981)

18.04.425 Structure.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, except benches, statuary, planter boxes less than thirty-six inches in height, fish ponds less than eighteen inches in depth, and wood fences seventy-two inches or under in height. (Ord. 559 N.S. § A (part), 1981)

~~**18.04.427 Use, temporary.**~~

~~"Temporary use" means a use established on private property, that exists for a specified length of time, and which is discontinued within that time period. (Ord. 866 N.S. § 1, 1988)~~

18.04.427 Theater

1. ***A motion picture theater where films, motion pictures, video, slides or similar photographic reproductions are regularly shown for any form of consideration: not including adult businesses (("Adult Business") or***

2. ***An establishment regularly featuring live performance of dramatic productions for any form of consideration, not including adult businesses ("Adult Business")***

18.04.430 Tract office, temporary.

"Temporary tract office" means an office facility used on a temporary basis only, located on or immediately adjacent to a tract or subdivision with new development thereon, for sales and administrative activity associated with the development. (Ord. 559 N.S. § A (part), 1981)

18.04.435 Townhouse.

"Townhouse" means a dwelling unit which is a portion of a multiple dwelling and has one or more common walls with other dwelling units, where such unit is the sole dwelling unit on a separate lot, and where ownership of such dwelling unit includes an interest in common areas other than the lot upon which the dwelling unit is situated. (Ord. 559 N.S. § A (part), 1981)

18.04.437 Transportation terminal.

"Transportation terminal" means a depot, terminal, or transfer facility for passenger transportation services. (Ord. 899 N.S. § 1 (part), 1989)

18.04.439 Travel trailer or recreational vehicle.

"Travel trailer" or "recreational vehicle" or "coach" shall have the same definition as in Sections 18010 and 18215.5 of the California Health and Safety Code, except that all recreational vehicles or travel trailers parked for more than thirty days in a park in Morgan Hill shall have a tag of certification as described in Sections 4030 and 4032 of Title 25, Division 1, Chapter 3 of the California Code of Regulations. Such vehicles exclude home-made or nonstandard travel trailers or recreational vehicles and specifically exclude camper shells or other removable sections of pickup trucks. Such vehicles so excluded from stays of over thirty days are not excluded from stays of thirty days or less at recreational vehicle short term occupancy spaces in Morgan Hill. A "travel trailer" is not a "residential development," except where a stay exceeds two hundred forty-four days, in any consecutive three hundred sixty-five day period, in any recreational vehicle park or other lawful location. (Ord. 1233 N.S. § 8, 1995; Ord 1100 N.S. § 1 (part), 1992)

18.04.440 Use, allowed.

"Allowed use" means a use that is either permitted or conditional within a zoning district. (Ord. 559 N.S. § A (part), 1981)

18.04.445 Use, permitted.

"Permitted use" means a use for which no conditional use permit is required, but which may be subject to other approval proceedings as specified in this chapter. (Ord. 559 N.S. § A (part), 1981)

18.04.446 Use, temporary.

"Temporary use" means a use established on private property, that exists for a specified length of time, and which is discontinued within that time period. (Ord. 866 N.S. § 1, 1988)

18.04.447 Vehicle space.

"Vehicle space" means any portion of a park which may be leased or subject to a subdivision map, sold to any person with the intent of occupancy by a recreational vehicle or travel trailer. If the intent to occupy or actual occupancy of the space exceeds the limits of Section 18.04.383, the vehicle space shall be defined as a "residential development" under Section 18.78.020 of the municipal code, and shall only have such long-term occupancy if an allocation is granted under Section 18.78.010 et seq. of the Municipal Code. (Ord. 1100 N.S. § 1 (part), 1992)

18.04.447.1 Veterinary clinic and hospital.

Office and medical treatment facilities used by veterinarians where animals receive medical and surgical treatment, including large and small animal veterinary clinics and animal hospitals. Grooming and temporary boarding of animals for 30 days is included if incidental to the hospital use. Does not include kennels ("Kennels") or pet stores ("Retail Sales").

18.04.448 Warehousing and distribution.

"Warehousing and distribution" means a use engaged in storage, wholesale and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials which are flammable or explosive or which create hazardous or commonly recognized offensive conditions. (Ord. 1415 N.S. § 35, 1998; Ord. 899 N.S. § 1 (part), 1989)

18.04.450 Yard, front.

"Front yard" means an open space extending the full width of the lot, between a building and the front lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.455 Yard, front, least depth.

"Front yard least depth" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the front lot line. Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts (the front lot line); provided, however, that if the proposed location of the right-of-way line of such street, as adopted by the city, differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as adopted, or shall be measured from any officially adopted setback lines. (Ord. 559 N.S. § A (part), 1981)

18.04.460 Yard, rear.

"Rear yard" means an open space between a building and a rear lot line, extending the full width of the lot (except for any portion thereof which overlaps a street side yard), unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.465 Yard, rear, least depth.

"Rear yard least depth" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the rear lot line. (Ord. 559 N.S. § A (part), 1981)

18.04.470 Yard, side.

"Side yard" means an open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward, except as specified elsewhere in Division I of this title. (Ord. 559 N.S. § A (part), 1981)

18.04.475 Yard, side, least width.

"Side yard least width" means the shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted, and the nearest side lot line. Such width shall be measured from the nearest side lot line and, in case the nearest side lot line is a side street lot line, from the right-of-way line of the existing street; provided, however, that if the officially adopted location of the right-of-way line of such street differs from that of the existing street, then the required side yard least width shall be measured from the right-of-way of such street as adopted. (Ord. 559 N.S. § A (part), 1981)

RESOLUTION NO. 06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF AMENDING THE ZONING DESIGNATION FROM CO, ADMINISTRATIVE OFFICE, TO CRR RESTRICTIVE COMMERCIAL RESIDENTIAL ON SEVEN PARCELS TOTALING 8.82 ACRES (APNs 726-24-018 & 019, 767-17-046 & 047, 817-02 036, 037 & 051) AND AMENDING THE ZONING DESIGNATION FROM CG, GENERAL COMMERCIAL TO CRR RESTRICTIVE COMMERCIAL RESIDENTIAL ON FIFTY SEVEN PARCELS TOTALING 34.34 ACRES (APNs 726-24-013 thru 017 & 021, 764-13-020, 022 thru 025 & 044 thru 049, 766-25-001, 002, 004, 005, 767-18-002, 005, 019, 020, 021, 027, 031, 032, 035, 036, 039, 046 & 050, 817-01-002 thru 007, 817-02-014 thru 020 & 025, 817-03-002 thru 010, 050 & 054) LOCATED ON THE EAST AND WEST SIDES OF MONTEREY RD. SOUTH OF BISCEGLIA AVE. AND NORTH OF WEST EDMUNDSON AVE., AND ON THE EAST AND WEST SIDES OF MONTEREY RD. NORTH OF CENTRAL AVE. AND SOUTH OF THE RAILROAD OVERCROSSING.

WHEREAS, such request was considered by the Planning Commission at their regular meeting of July 25, 2006, at which time the Planning Commission recommended approval of application ZA-06-03: City of Morgan Hill-Restricted Commercial Zoning; 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 proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan. The zoning designation from CO Administrative Office and CG, General Commercial to CRR, Restricted Commercial Residential on 64 parcels totaling 43.16 acres shall be amended.

SECTION 2. The proposed zoning map amendments are compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Planning Commission finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.

SECTION 3. The Planning Commission hereby finds: CEQA Section 21157.1 allows for use of a Master EIR (MEIR) for subsequent projects if it can be determined that the subsequent projects were described as being within the scope of the MEIR, the City was the lead agency, and an Initial Study is prepared to analyze whether the

subsequent project may cause any significant effect on the environment that was not examined in the MEIR. An Initial Study has been prepared for the proposed CRR zoning district and zoning map amendments, and it documents that the GP MEIR was prepared in accordance with the requirements of Section 21157 of the Public Resources Code (CEQA), with the intention of providing for substantial reduction of the environmental review of subsequent projects that are consistent with the General Plan. Zoning activities consistent with the General Plan, and carried out in accordance with applicable regulations and procedures, were specifically identified as the type of subsequent projects and implementation tools that were declared to be within the scope of the GP MEIR. The zoning amendments are consistent with the city's General Plan and the GP Master EIR will be used, and no further EIR or Negative Declaration is required. The Initial Study documents the determination that it is not necessary or feasible to incorporate any of the General Plan MEIR mitigation measures or other alternatives into the CRR zoning district text and map amendments project. In accordance with CEQA, public notice was provided of the city's intent to use the GP MEIR for the zoning amendments.

SECTION 4. There hereby are attached hereto and made a part of this resolution, zoning plats entitled "Exhibit A" and "Exhibit B" gives the boundaries of the described parcels of land.

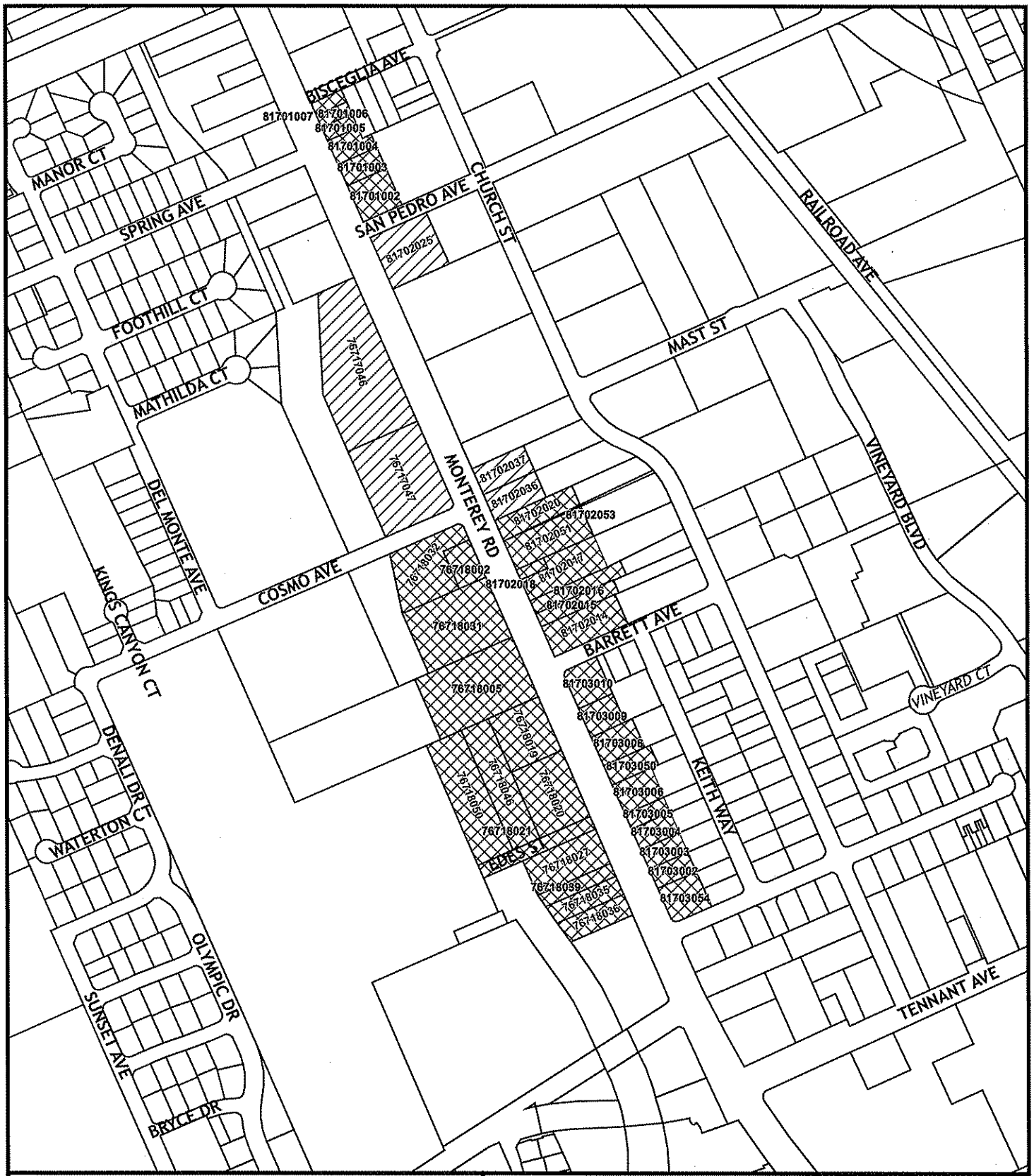
PASSED AND ADOPTED THIS 25th DAY OF JULY, 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST: **APPROVED:**

FRANCES O. SMITH, Deputy City Clerk **ROBERT J. BENICH, Chair**



0 190 380 760 1,140 1,520 Feet

ZA-06-03: City of Morgan Hill - Restricted Commercial Residential Zoning

Parcels Rezoned to CRR

- Rezoned from Administrative Office
- Rezoned from General Commercial

Exhibit A

This map was produced by the City of Morgan Hill Community Development Department. The data was collected from a variety of reliable sources. However, the City of Morgan Hill makes no representation as to its accuracy and disclaims any liability to persons who may rely upon it.

CITY OF MORGAN HILL

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0 105 210 420 630 840 Feet

ZA-06-03: City of Morgan Hill - Restricted Commercial Residential Zoning

Parcels Rezoned to CRR

Rezoned from Administrative Office

Rezoned from General Commercial

Exhibit B

This map was produced by the City of Morgan Hill Community Development Department. The data was collected from a variety of reliable sources. However, the City of Morgan Hill makes no representation as to its accuracy and disclaims any liability to persons who may rely upon it.

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