

ORDINANCE NO. 2149, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE CONNEMARA PROJECT LOCATED ON THE SOUTH SIDE OF WATSONVILLE ROAD, AT THE SOUTHERLY TERMINATION OF LA ALAMEDA THE AMENDMENT EXTENDS THE COMMENCEMENT OF CONSTRUCTION DATES FOR THE EIGHT FISCAL YEAR 2014-2015 BUILDING ALLOCATIONS FOR TWELVE MONTHS AND INCORPORATES EIGHT FISCAL YEAR 2016-17 ALLOCATIONS

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, awarded application MC-10-01: Watsonville-Dividend, 12 building allotments for FY 2016-17 in February 2015; and

SECTION 2. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 3. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 4. On April 3, 2013, the City Council adopted Ordinance No. 2067, N.S. which approved a development agreement establishing 'commence construction' dates for a 24-unit portion of the 37-unit project which received allocations from MC 10-01: Watsonville-Dividend.

SECTION 5. On October 22, 2009, the City Council adopted Council Policy CP-09-02, establishing criteria by which to evaluate ELBA requests filed by developers.

SECTION 6. In accordance with Policy CP-09-02, this project has in timely manner reached step eight of the of the permitting process and there is unique circumstance where two of the eight FY 2014-15 allocations could not be utilized by the developer due to the street length limitation placed on Phase I of the project.

SECTION 7. A 12-month extension is hereby granted to the eight allocations awarded for FY 2014-15 extending their commencement of construction date from June 30, 2015 to June 30, 2016.

SECTION 8. The City Council hereby recognizes the total number of units within the project has been reduced from 37 to 36 and that four existing dwelling units within the project boundary can be replaced without the need of a building allocation. The replacement of the four dwelling units reduces the number of building allocations needed from 12 to 8 to complete phase II of the project.

SECTION 9. The elimination of the need for four of the 12 FY 2016-17 allocations results in a total of 8 FY 2016-17 allocations being incorporated into the project development agreement. The applicant recognizes they have no claim or ownership of the four FY 2016-17 allocations. The four allocations can be redistributed at the discretion of the City Council.

SECTION 10. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner(s) set forth in detail the development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 11. The City Council of the City of Morgan Hill found that, on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis, and that the Mitigated Negative Declaration was adopted prior to action taken to adopt the original project proposal. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 12. ADOPTION OF AMENDED DEVELOPMENT AGREEMENT. The City Council hereby approves the Development Agreement Amendment for DAA 12-03: Watsonville-Dividend as attached in Exhibit "A" of this ordinance.

SECTION 13. If the applicant fails to comply with the development schedule outlined in the attached Exhibit "A", the exception to loss of building allotment is subject to revocation per Section 18.78.150 of the Morgan Hill Municipal Code.

SECTION 14. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 15. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 16. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 17. Effective Date; Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 3rd DAY OF JUNE 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 17th DAY OF JUNE 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

**AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:**

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

Effective July 17, 2015

⌘ CERTIFICATION ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2149, New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the 17th day of June 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit B shall be amended as follows:

<i>EXHIBIT B</i>	
DEVELOPMENT SCHEDULE	
MC-10-01: Watsonville-Dividend	
FY 2012-13 (16 units); FY 2014-15 (8 units); FY 2016-17 (8 units +4 existing)	
I. SUBDIVISION APPLICATION	
Applications Filed:	March 29, 2012
II. SITE REVIEW APPLICATION:	March 29, 2012
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	
FY 2012-13 (16 units)	December 1, 2013
FY 2014-15 (8 units)	December 1, 2014
<i>FY 2016-17 (8 units)</i>	<i>December 1, 2016</i>
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	
FY 2012-13 (16 units)	January 1, 2014
FY 2014-15 (8 units)	January 1, 2016
FY 2016-17 (8 units)	January 1, 2017
V. BUILDING PERMITS	
Obtain Building Permits	
FY 2012-13 (16 units)	May 1, 2014
FY 2014-15 (8 units)	May 1, 2016
FY 2016-17 (8 units)	May 1, 2017
Commence Construction:	
FY 2012-13 (16 units)	June 30, 2014
FY 2014-15 (8 units)	June 30, 2016
FY 2016-17 (8 units)	June 30, 2017

Failure to commence construction by the dates listed above, shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 7 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.
