

February 13, 2017

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**VIA E-MAIL (irmatorrez@morganhill.ca.gov)**

Members of the City Council  
City of Morgan Hill  
c/o Irma Torrez, CMC, City Clerk  
17575 Peak Avenue  
Morgan Hill, CA 95037

**Re: Clarification of Staff Recommendation  
2/15/17 Council Hearing, Agenda Item 23, File # 17-059,  
Appeal of Residential Building Allotment for Fiscal Year 2018-19  
Application No. RDCS 2016-0018-Condit-Presidio Evergreen**

Hon. Councilmembers:

I submit this letter on behalf of Presidio Evergreen LLC, the applicant for the Condit-Presidio Evergreen multi-family project. Our appeal of RDCS allocations is being heard by the Council on Wednesday, together with another appeal of RDSC allocations that was filed by TRI Pointe Homes for its Laurel-DeRose project.

While staff recommends that you deny both appeals, staff also proposes you “Determine that the projects are eligible ongoing projects and direct the Planning Commission to include these projects as ongoing for Measure S for Fiscal Year 2019/2020.” (Legislative Details, p. 2) However, staff’s proposed resolution does not include the language proposed by which the Council would formally make the recommended determination. We support the staff recommendation, but request that the recommended determination be incorporated into a resolution, so that it will be binding in Fiscal Year 2019/2020. We are concerned that without a formal Council resolution, uncertainty and questions may arise later regarding the details of your determination. Accordingly, we suggest some language (below) and ask that you incorporate that text in your resolution.

Staff’s recommendation relating to ongoing projects addresses Council Policy CP-09-03 under Measure C, which provides that, when RDCS competitions occur annually, a project that has received all discretionary approvals within one year of receiving allotments may be eligible “as an on-going project only for the following year,” and may accordingly receive up to 15 allotments outside of the competition process. Staff recommends that Policy CP-09-03 be applied to these two projects under Measure S. This recommendation is appropriate in light of the almost-finished nature of these projects. The majority portions of both projects have already received allocations, and Measure S precludes the City from requiring that those portions be redesigned. (§ 18.78.030) It is not feasible, and perhaps not even possible, to redesign the small, unallocated portions of the projects to meet the new Measure S requirements while maintaining the design of the majority. Moreover, because there are no other projects in these

circumstances, a decision to apply Policy CP-09-03 to these two project would not be precedent-setting.

Applying Policy CP-09-03 for Fiscal Year 2019/2020 would result in a deduction of only 29 allocations from the 215 allocations available under Measure S.<sup>1</sup> It therefore would not substantially interfere with Measure S allocations for that year.

Accordingly, we suggest that the following underlined text be added to the resolution proposed by staff:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DENYING THE APPEALS SUBMITTED BY TRI POINTE HOMES FOR RDCS2016-0014: LAUREL-DEROSE AND BY PRESIDIO EVERGREEN LLC FOR RDCS20016-0018: CONDIT-PRESIDIO EVERGREEN AND REAFFIRMING THE DISTRIBUTION OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM BUILDING ALLOTMENTS FOR FISCAL YEAR 2018-2019 AND DETERMINING THAT THESE PROJECTS ARE SUBJECT TO COUNCIL POLICY CP-09-03 UNDER MEASURE S

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SECTION 4. Based upon the above facts and findings the City Council determines as follows:

A. The distribution of allotments granted by the Planning Commission on January 10, 2017 were made consistent with City Council Resolution 16-080 and Morgan Hill Municipal Code Section 18.78.125. Therefore, the appeals submitted regarding the RDCS Building Allotments for Fiscal Year 2018-19 should not be approved.

B. The Planning Commission distribution of allotments as set forth in Planning Commission Resolution No. 17-01, attached hereto as Exhibit A and incorporated herein by this reference, is hereby affirmed and approved.

C. The Laurel-DeRose/TRI Pointe Homes and Condit-Presidio Evergreen projects face unique circumstances in that they are

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<sup>1</sup> As ongoing projects, Condit-Presidio Evergreen would receive the final 14 allocations it needs to complete its project, and Laurel-DeRose/TRI Pointe would receive 15 of the remaining 20 allocations that it needs to complete its project. This would total 29 allocations awarded under Measure S in Fiscal Year 2019/2020. Staff is also recommending that Laurel-DeRose/TRI-Pointe receive 13 allocations for Fiscal Year 2016/17 and 1 allocation for Fiscal Year 2017/2018. However, these earlier allocations would be Measure C allocations that were initially granted to others but never used; they would not be Measure S allocations and would not be deducted from the Measure S allocation pool.

facing the transition from Measure C to Measure S at a time when each project is almost complete. Both projects have received RDCS scores high enough to obtain building allotments in all prior years for which each has applied, both have received all discretionary approvals, and both require only a relatively small number of RDCS allotments to complete the project. Because of these unique circumstances, Policy CP-09-03 shall continue to apply to these two projects under Measure S. Provided it meets the requirements of Policy CP-09-03, each project is entitled to an award of 15 allocations in Fiscal Year 2019/2020 (to the extent needed to complete each project) outside of the RDCS competition process, which allotments shall be subtracted from the total allocations that would otherwise be available under Measure S for that year.

SECTION 5. For the reasons set forth above, the appeals are DENIED and the above determination regarding applicability of Policy CP-09-03 is adopted.

Thank you for your consideration.

Very truly yours,



Cecily T. Barclay