

**RESOLUTION NO.**

**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**

**WHEREAS**, the people of the City of Morgan Hill approved and enacted by initiative measure that certain Residential Development Control System codified at Chapter 18.78 (Residential Development Control System) of Title 18 (Zoning) of the Morgan Hill Municipal Code (the "RDCS"); and

**WHEREAS**, the RDCS provides for the award and issuance of building allotments each fiscal year in order to obtain measured growth in the City and provides for a process whereby such building allotments can be requested and made by City; and

**WHEREAS**, building allotment requests under the RDCS were made for fiscal year 2018-19 and such requests were considered by the Planning Commission at its regular meeting of January 10, 2017, at which time said Planning Commission distributed the RDCS building allotments in accordance with City Council Resolution No. 16-080; and

**WHEREAS**, two certain applicants, TRI Pointe Homes for RDCS2016-0014 and Presidio Evergreen LLC for RDCS2016-0018, filed an appeal of the Planning Commission's decision on their respective applications to the City Council pursuant to the applicable provisions of the Morgan Hill Municipal Code (RDCS2016-0014 and RDCS2016-0018 are collectively referred to as the "Applications"); and

**WHEREAS**, at the time and place noticed for a hearing on these appeals, the City Council of the City of Morgan Hill conducted a *de novo* appeal hearing on the Applications, provided all interested persons an opportunity to be heard, and received, reviewed and considered all testimony and other evidence provided regarding the subject of this appeal.

**NOW, THEREFORE, BASED UPON ALL OF THE INFORMATION SUBMITTED TO THE CITY COUNCIL FOR THESE APPEALS AT THE PUBLIC HEARING CONDUCTED FOR THESE APPEALS, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** Following are the relevant facts in connection with Application RDCS2016-0014:

- A. On September 1, 2016, City received an RDCS Application for 45 residential building allotments on undeveloped property located at Laurel Road and E. Dunne Avenue (the "Laurel-DeRose Property");
- B. The project was not amongst the highest scoring projects within the open/market category; and,
- C. Through the 2014 RDCS competition, the project received 5 FY 2016-17 allotments. Through the 2015 RDCS competition, the project received 15 FY 2017-2018 allotments.

1. Morgan Hill Municipal Code Section 18.78.125.C allows the Planning Commission to award fewer than the total number of allotments requested by an applicant if doing so would help create a more balanced and equitable distribution of allotments and help to achieve the goals of the City's General Plan. At its meeting on January 10, 2017, the Planning Commission awarded the project 11 building allotments for FY 2018-19, resulting in the project receiving 9 percent of the allotments within the designated category and 24 percent of their requested allotments.

**SECTION 2.** Following are the relevant facts in connection with Application RDCS2016-0018:

- A. On September 1, 2016, City received an RDCS Application for 102 residential building allotments on the real property located at San Pedro Avenue and Condit Avenue (the "Condit-Presidio Evergreen Property");
- B. The project was not the highest scoring project within the large multi-family category; and,
- C. Through the 2015 RDCS competition, the project received 80 FY 2017-18 allotments and 85 FY 2018-2019 allotments.
  1. Morgan Hill Municipal Code Section 18.78.125.C allows the Planning Commission to award fewer than the total number of allotments requested by an applicant if doing so would help create a more balanced and equitable distribution of allotments and help to achieve the goals of the City's General Plan. At its meeting on January 10, 2017, the Planning Commission awarded the project 3 additional building allotments for FY 2018-19, resulting in the project receiving 90 percent of the allotments within the designated category and 86 percent of their requested allotments.

**SECTION 3.** Based upon the above facts, the City Council finds as follows:

- A. Review and distribution of RDCS allotments is not a project subject to CEQA as no physical changes in the environment will occur as a result of such action; and
- B. The facts set forth above are true and correct and new facts have not been provided to the City Council through the public hearing(s) conducted on the appeals related to the Applications that negate or materially alter the relevant facts set forth above or that would otherwise support a determination that the appeals should be granted, such that the City Council finds that:
  1. The TRI Pointe Homes project (RDCS2016-0014) received 11 allotments which is an equitable distribution of allotments within the Open/market Category.
  2. The Evergreen Presidio LLC project (RDCS2016-0018) received 3 additional allotments for Fiscal Year 2018/19 to increase the total allotment received for the fiscal year to 88 building allotments which is an equitable distribution of allotments within the large Multi-family Category.

**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.

**SECTION 5.** For the reasons set forth above, the appeals are **DENIED**.

**PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017 AT A REGULAR MEETING OF THE CITY COUNCIL BY THE FOLLOWING VOTE:**

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

**DATE:** \_\_\_\_\_

**Steve Tate, MAYOR**

**∞ 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 Resolution No. \_\_\_\_\_, adopted by the City Council at the meeting held on \_\_\_\_\_, 201\_.

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

**DATE:** \_\_\_\_\_