

January 30, 2017

DEVELOPMENT
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CITY OF MORGAN HILL

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

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City of Morgan Hill
City Clerk's Office
Attn: Irma Torrez, CMC
17575 Peak Avenue
Morgan Hill, CA 95037

**Re: Appeal of Residential Building Allotment for Fiscal Year 2018-19
Application No. RDCS 2016-0018-Condit-Presidio Evergreen**

Dear Ms. Torrez:

On behalf of Presidio Evergreen LLC, the applicant for the Presidio Evergreen multi-family project, I am appealing the Planning Commission's apparent decision in Resolution No. 17-01 not to provide 2019-2020 RDCS allotments to the project, when such an award is clearly warranted.¹ As is further discussed below, our client needs only 14 more allocations to complete its 256-unit project. We understand the City has been focusing its attention on the citywide issues presented by the transition from Measure C to Measure S, but we believe our project merits your attention as well. Granting 14 allocations for the FY 2019-2020 period will not disrupt any ongoing processes, especially in light of the 215 allocations available for the next competition.

The Presidio Evergreen project is unique in that it has already received all discretionary approvals except for RDCS allocations. The Presidio Evergreen team has complied with the requests of the City throughout the entitlement process and has gone above and beyond in planning efforts and commitments. This is reflected in its high scores within the RDCS competition, and the award of 95% of the allocations needed to complete development. At this late stage, with improvement plans and construction drawings in process, and construction awaiting only these final 14 allocations, our client does not have the ability to alter its project. We are filing this appeal to ask the City to provide a clear path to completion.

The Presidio Evergreen project has two components: 74 for-sale homes and 182 apartments. The for-sale homes are fully allotted and are not the subject of this appeal. For the apartments, Presidio Evergreen's 2015 application was awarded 80 first-year allotments and 85 second-year allotments for a total of 165 apartment allocations. In 2016, Presidio Evergreen was awarded an additional 3 apartment allotments. However, the Planning Commission did not consider whether to grant allotments for future years.

¹ Resolution No. 17-01 was adopted by the Planning Commission at its January 10, 2017, meeting. The specific grounds for this appeal are discussed herein. The Uniform Application, documents related to the Public Hearing Noticing Requirements, and filing fee are enclosed.

City Clerk
January 30, 2017
Page 2

Presidio Evergreen's 2016 application merits another allotment. Section 18.78.125(C) envisions future-year allotments "to encourage high-scoring applicants to complete their projects." Similarly, if a project is already 50% allotted, Section 18.78.125(F) allows the City to award allotments for future years that are "similar to the number of units awarded per year for the major portion of the project." Presidio Evergreen is 95% allotted and previously received annual allotments of 80 and 85 for the "major portion" of apartments. Given that Presidio Evergreen is more than 50% allotted, received high RDCS scores, and only needs 14 more allotments, we believe our 2016 application should have been awarded a future year allotment for the 14 remaining apartments.

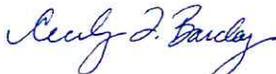
Presidio Evergreen also qualifies as an "on-going" project under Council Policy (CP) 09-03. Under CP 09-03, on-going projects can automatically receive an additional 15 allotments per year. The purpose of the policy is "to facilitate build-out of projects that are substantially underway."² Presidio Evergreen, with discretionary entitlements completed and 95% allotted, is "substantially underway." Though this policy would support increasing the 3 allocations granted in 2016, we are not seeking reconsideration of that decision. We acknowledge that granting 14 allocations for an additional year would serve to implement build-out plans.

Finally, approval of an award for the remaining 14 units would be generally consistent with Measure S. Multi-year allotments are permitted under Measure S if the City will benefit from reducing the number of applications it needs to review for a single project.³ At present, Presidio Evergreen would need to file an additional application for only 5% of the project, even though 215 allotments will be available for the next competition. The application would thus increase the administrative burden on City staff without any corresponding benefit. Moreover, even if the City were unable to proceed under Measure C, the City should promptly develop a plan and definition for completion of on-going projects under Measure S.

Accordingly, we respectfully request that the Council determine, prior to the expiration of Measure C, that the project merits an on-going award of 14 allotments for the 2019-2020 period, which would complete the project.

Thank you for your consideration.

Very truly yours,



Cecily T. Barclay

Enclosures: Uniform Application, Public Hearing Noticing Requirements, Filing Fee

² May 24, 2011, Memorandum from Community Development Department to Planning Commission regarding "Amendment to Policy for Tentative Map Approval Prior to Award of Allocations."

³ Section 18.78.140(E)(3).