

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL APPROVING A
DEVELOPMENT AGREEMENT APPLICATION DA-14-
09: MONTEREY – KB GIPPETTI (KB HOME) (APN 726-
25-004).**

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

SECTION 1. 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 2. 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 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Morgan Hill Municipal Code has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MC 13-12: Monterey – UCP	26 building allotments (FY 2015-16)
	26 building allotments (FY 2016-17)
MC 14-13: Monterey – KB Gippetti	6 building allotments (FY 2016-17)

SECTION 4. 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 Developer 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 5: The City Council of the City of Morgan Hill hereby finds that, on the basis of the whole record before it (including the Addendum to 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 adopted by the Planning Commission on October 14, 2014 reflects the Planning Commission's independent judgment and analysis, and that the Addendum to the Mitigated Negative Declaration prepared for the project did not identify any new project specific impacts. The Mitigated Negative Declaration was adopted prior to action taken to adopt the Ordinance. The custodian of the documents or other material which constitute the record shall be the Community Development Department.

SECTION 6. The City Council hereby finds that the development proposal and agreement 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 7. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process including the development agreement for DA 14-09: Monterey – KB Gippetti in the form attached.

SECTION 8. 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 9. 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.

SECTION 10. MODIFICATION OF DEVELOPMENT SCHEDULE. The Council hereby approves an amendment to the development schedule as attached in Exhibit B, and by this reference incorporated herein.

SECTION 11. Notice is hereby given that, pursuant to the Mitigation Fee Act, the City of Morgan Hill charges certain fees (as such term is defined in Government Code Section 66000) in connection with approval of your development project for the purpose of defraying all or a portion of the cost of public facilities related to your development project (Mitigation Fee Act Fees). These fees do not include fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements, or as a part of your application for development allocations under the City's Residential Development Control System. The Mitigation Fee Act Fees applying to your project are listed in the schedule of fees provide. Notice is also hereby given that you have the opportunity to protest the imposition of the Mitigation Fee Act Fees within 90 days of the approval of the approval or conditional approval of your development project and that the 90-day approval period in which you may protest has begun. This right to protest does not apply to voluntary Residential Development Control System fees.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 2nd DAY OF SEPTEMBER 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____, 2015 AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

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 Ordinance No. _____, New
Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held
on the _____ day of _____, 2015.

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

DATE:_____

IRMA TORREZ, City Clerk