



# City of Morgan Hill

## Legislation Details (With Text)

**File #:** 15-869      **Version:** 1      **Name:**  
**Type:** Staff Report      **Status:** Consent Calendar  
**File created:** 12/7/2015      **In control:** City Council  
**On agenda:** 12/16/2015      **Final action:** 4/1/2016  
**Title:** ADOPT ORDINANCE 2181, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE DEL MONTE - GIOVANNI PROJECT LOCATED ON THE EAST SIDE OF DEL MONTE AVENUE, 600 FEET NORTH OF WRIGHT AVENUE. THE AMENDMENT EXTENDS THE OBTAIN BUILDING PERMIT DATE THREE MONTHS AND THE COMMENCEMENT OF CONSTRUCTION DATE SIX MONTHS FOR THE SIX FISCAL YEAR 2014-2015 BUILDING ALLOCATIONS

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2181 DAA-13-11A Del Monte Giovanni

Date	Ver.	Action By	Action	Result
12/16/2015	1	City Council	waived reading of the Ordinance	Pass

### CITY COUNCIL STAFF REPORT MEETING DATE: DECEMBER 16, 2015

PREPARED BY: Angie Garcia, Council Services Assistant/Administrative Services  
APPROVED BY: City Manager

**ADOPT ORDINANCE 2181, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL APPROVING AN AMENDED DEVELOPMENT AGREEMENT FOR THE DEL MONTE - GIOVANNI PROJECT LOCATED ON THE EAST SIDE OF DEL MONTE AVENUE, 600 FEET NORTH OF WRIGHT AVENUE. THE AMENDMENT EXTENDS THE OBTAIN BUILDING PERMIT DATE THREE MONTHS AND THE COMMENCEMENT OF CONSTRUCTION DATE SIX MONTHS FOR THE SIX FISCAL YEAR 2014-2015 BUILDING ALLOCATIONS**

#### RECOMMENDATION(S)

Waive the reading, Adopt Ordinance No. 2181 New Series, and Declare that said title, which appears on the Agenda, shall be determined to have been read by Title and further reading waived.

#### COUNCIL PRIORITIES, GOALS & STRATEGIES:

##### Ongoing Priorities

Maintaining fiscal responsibility

## **2015 Focus Areas**

Stimulate Economic Development

### **REPORT NARRATIVE:**

In introducing the Development Agreement Amendment Ordinance to allow the extension of the Obtain Building Permit and Commence Construction dates, the City Council directed that the ordinance provide for a three (3) month extension to obtain building permit(s) and a six (6) month extension for the commence construction date. Council also directed staff to verify and include as facts in the ordinance the number of steps the project has already completed in accordance with Council Policy CP-09-02. The following was added to the ordinance:

Section 5. In accordance with Policy CP-09-02, the project has not completed steps one through six of the eight developer "actions" defined in Council Policy CP-09-02 to be considered more favorably for an extension; however, the project has completed steps one and two (Planning applications submitted and approved), steps three and four (Final map/Improvement plans submitted and approved) and is nearing completion of steps five through eight with Final map/Improvement plan recordation pending payment of fees and Building permit issuance pending Final map/Improvement plan recordation and the project has been found to be subject to unique circumstances and therefore an extension may be allowed under the same policy.

On December 2, 2015, the City Council Introduced Ordinance No. 2181 New Series, by the Following Roll Call Vote: AYES: Carr, Constantine, Librers, Siebert; NOES: None; ABSTAIN: Tate; ABSENT: None.

### **COMMUNITY ENGAGEMENT: Consult**

Notice of the Development Agreement Amendment request was mailed to property owners and residents within 300-feet of the subject site and published in the Morgan Hill Times for the minimum 10-day public noticing period.

### **ALTERNATIVE ACTIONS:**

None

### **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

On November 10, 2015, the Planning Commission considered the Development Agreement Amendment request and recommended that the City Council approve the request to allow a six (6) month extension.

Some commissioners were of the opinion that the project does not meet the City Council Policy for extensions and therefore should not be granted an extension. The Commission discussed this issue extensively with several Commissioners indicating serious concern with the number of extensions being granted to projects. Chair Mueller suggested value in seeing improvements to Del Monte Avenue be completed in combination with the City Ventures project and noted that the public interest would not be served by allowing the project's allotments to expire and result in more delay in development of the site.

The Commission agreed, on a 5-1-1 vote (Spring opposed, Tanda absent), that the project should receive one final extension with the following recommendation:  
Based on the findings required in Section 18.78.125 of the Municipal Code and Council Policy CP-09

-02 and recent progress demonstrated by the project applicant toward the commencement of construction for the project, and in consideration of the potential for delay due to weather conditions, holidays, and staff workload, the City Council approve the subject Development Agreement Amendment to allow a 6-month extension, but that no further extensions should be granted.

**FISCAL AND RESOURCE IMPACT:**

No budget adjustment required. The applicant has paid application fees applied to project.

**CEQA (California Environmental Quality Act):**

Project, Description of CEQA requirements

In accordance with Section 15162 of the CEQA Guidelines (Subsequent Negative Declarations), there is no substantial evidence, in light of the whole record, that the projects as revised may have a significant effect on the environment; therefore no further environmental analysis is required. A Mitigated Negative Declaration was adopted for the project and a Notice of Determination was filed.

**LINKS/ATTACHMENTS:**

Ordinance 2181