



## Legislation Text

---

File #: 15-844, Version: 1

---

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

PREPARED BY: Gina Paolini, Senior Planner/Planning Department

APPROVED BY: City Manager

**AP 15-07- APPEAL OF THE PLANNING COMMISSION'S EVALUATION OF RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) APPLICATION MC-15-12 (JARVIS-MWEST)-PROPOSED DEVELOPMENT WOULD BE 374 RENTAL UNITS AT FULL BUILD-OUT. THE PROPERTIES, IDENTIFIED BY ASSESSOR PARCEL NUMBER(S) 726-25-078, 726-25-079, 726-25-066 AND 726-25-067, ARE LOCATED AT THE NORTHEAST CORNER OF JARVIS DRIVE AND MONTEREY ROAD (MWEST PROPCO., APPLICANT)**

#### **RECOMMENDATION(S)**

Adopt resolution denying the appeal and affirm the final project score for MC-15-12 (Jarvis-MWest) for the 2015 RDCS competition.

#### **COUNCIL PRIORITIES, GOALS & STRATEGIES:**

##### **Ongoing Priorities**

Protecting the environment

Preserving and cultivating public trust

#### **REPORT NARRATIVE:**

MWest PropCo XXIII, LLC (the "Applicant") is appealing the final scoring for MC-15-12 (Jarvis-MWest), pursuant to Section 18.78.130.B (Appeal procedures) of the Morgan Hill Municipal Code (Attachment 2). In accordance with the Residential Development Control System (RDCS), the Applicant may appeal to the City Council the scoring evaluation of a proposed development project within 15 days after notice of the evaluation. The Planning Commission approved Resolution No. 15-66 at the November 10, 2015 meeting, approving the RDCS final scores for the 2015 RDCS competition (Attachment 3). The Applicant submitted a timely appeal request on November 30, 2015 within the fifteen day appeal period.

### **Planning Commission Action**

The Applicant's initial RDCS Part 2 self-score was 165.5. The Planning Officer recommended a Part 1 score of 9.5 and a Part 2 score of 141.5. As part of the RDCS scoring process, the Applicant requested that the Planning Commission adjust the award of project points in several categories:

1. Open Space;
2. Orderly and Contiguous;
3. Parks and Paths;
4. Housing Needs;
5. Lot Layout and Orientation;
6. Circulation;
7. Natural and Environmental; and,
8. Livable Communities.

The Applicant provided additional information to the Planning Commission to clarify their request. The Planning Commission considered the Applicant's request at their October 27, 2015 meeting and requested staff to re-evaluate points in the Housing Needs, Parks and Paths and Livable Communities categories, by considering additional information provided by the Applicant. The Planning Commission considered staff's re-evaluation of the project and point adjustments at their November 10, 2015 meeting. After further consideration, the Planning Commission determined that a data table provided by the Applicant to clarify points requested was considered "new" information that could not be considered at this stage of the RDCS competition process. The Planning Commission approved a final Part 1 score of 9.5 and Part 2 score of 139.5.

Pursuant to Section 18.78.125.B (Award and issuance of allotments) of the Morgan Hill Municipal Code, developments which have not been assigned a minimum of seven and one-half points under Section 18.78.115 (Impact on existing facilities) or a minimum of one hundred sixty points under Section 18.78.120 (Design and amenity criteria) shall not be given a development allotment. This project does not qualify for allotments based on the Planning Commission final score.

The project narrative and project plans have been provided (Attachments 4 and 5). The Planning Commission staff reports have been attached (Attachments 6 and 7).

### **Appeal**

In the appeal letter dated December 3, 2015 (Attachment 8), the Applicant has requested that the City Council modify the final RDCS score of 139.5 approved by Planning Commission, and adjust the award of project points in the following categories:

1. Open Space (1 point);
2. Orderly and Contiguous (2 points);
3. Housing Needs (2 points);
4. Lot Layout and Orientation (12 points; note that only 6 additional points are possible in this category because of the category's maximum score); and,
5. Livable Communities (8 points).

Although the Applicant does recognize that their 165.5 self-score was low compared to other projects within the RDCS competition and that they decided not to purchase points through the competition,

they have stated that they do not believe their project should be scored low when they have a superior site design. The Applicant has requested that the City Council review the overall design and merits of the project as it reviews the overall RDCS scoring.

Staff has reviewed the point adjustments requested in the appeal and is confident that the Planning Commission considered the same detailed information submitted by the Applicant. A detailed spreadsheet has been provided (Attachment 9). The Applicant had provided elevation articulation information, a data table and clarification regarding parks and paths at the October 27 2015 Planning Commission meeting. However, it was determined that the information provided was considered "new" information that could not be provided after the September 1, 2015 RDCS deadline.

In the appeal, the Applicant has requested point modifications in areas where they do not meet the requirements of the Specific Standards and Criteria. This was confirmed by the Planning Commission. The Lot Layout and Orientation category is an example of one category with specific criteria that must be met to receive the points (setback variation, parking visibility and building articulation). The Applicant has stated that they believe the project meets the spirit and intent of the criteria. There are other points that had not been awarded by Planning Officer and Planning Commission because the project narrative and supplemental submitted with the initial application had not provided enough detailed information to support the requested points.

The applicant's justification for point adjustments along with the staff and Planning Commission evaluation is provided in the attached spreadsheet. In several instances the applicant's appeal is based upon new information that was not included in their initial RDCS application. The RDCS process does not allow new information to be provided by applicants after the initial submittal so that all applicants can compete on an even basis. Allowing submittals of new information would allow an applicant to modify their project based upon the submittals and scores of other applicants.

It is important to note that if the City Council were to grant all or a majority of the point adjustments requested, the project would not receive the minimum Part 2 score of 160 points. The applicant has requested an adjustment of 12 points within the Lot Layout and Orientation category; however, the maximum score within this category is 15 points. The Planning Commission has awarded nine points within this category. Therefore, even if the project score is revised to the extent requested, pursuant to Section 18.78.125.B (Award and issuance of allotments) of the Morgan Hill Municipal Code, this project will not achieve the minimum score necessary to be eligible for allotments. This has been discussed with the applicant and they agreed, but indicated they would still like to proceed with the appeal so that they have an opportunity to further discuss the project design and RDCS process with the City Council, as well as make their case for the additional points they believe should be awarded to the project.

## **Conclusion**

The Applicant has requested that the City Council consider adjusting RDCS application MC-15-12 (Jarvis-MWest) by up to 25 points. Pursuant to Section 18.78.125.E (Award and issuance of allotments) of the Morgan Hill Municipal Code, any applicant whose development evaluation has been completed and where any appeals, if applicable, have been resolved and who does not receive an allotment for the competition will not be considered automatically for the subsequent competition. The Applicant would be encouraged to file a Preliminary RDCS application for the 2016 RDCS competition to receive early input on the project.

It is important to note that Section 18.78.180.B. of the Morgan Hill Municipal Code clearly states "*the RDCS is a competitive qualifying process intended only to compare projects and allow the highest scoring projects to proceed on in the development process. Developers and City staff should not construe it as a Design Review or an absolute approval with any entitlement other than the right to file a Tentative Map or Development Plan. Changes to the project (1) are encouraged to improve its quality; and (2) may be required for formal project approval.*"

**COMMUNITY ENGAGEMENT:        Involve**

The Planning Commission reviewed the project at their meeting held on October 27, 2015 and continued the item to November 10, 2015 to allow time for staff to re-evaluate the project scores based on information provided by the Applicant.

A notice of the appeal hearing was mailed to property owners within 300 feet of the subject property. A notice of hearing was not published in the Morgan Hill Times, as it was not required by state law.

**ALTERNATIVE ACTIONS:**

Adopt a Resolution granting the appeal, revising the final project score for MC-15-12 (Jarvis-MWest) for the 2015 competition.

**PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

The Planning Commission voted 6-0-0-1(Commissioner Tanda absent), to approve the final 2015 RDCS competition scores at the November 10, 2015 meeting.

**FISCAL AND RESOURCE IMPACT:**

The RDCS appeal fee is \$4,336.00. The Applicant has paid the required appeal fee.

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

Not a Project

The RDCS application evaluation process is not a project subject to CEQA.

**LINKS/ATTACHMENTS:**

1. Resolution
2. Holland and Knight Appeal Letter-November 30, 2015
3. Planning Commission Resolution No. 15-66
4. Narrative Evaluation
5. Project Plans
6. Planning Commission Staff Report- October 27, 2015
7. Planning Commission Staff Report- November 10, 2015
8. MWest Letter- December 3, 2015
9. RDCS Scoring Comments