



Staff Report

TO: City Council
FROM: Todd Parton, City Manager
DATE: September 21, 2021
SUBJECT: **Second Reading of Ordinance Rescinding All Prior Approvals for the Legacy Highlands Specific Plan Project**

Background and Analysis:

The following project entitlements related to the proposed Legacy Highlands Specific Plan Project ("Project") were previously considered and approved by the City Council on January 15, 2008:

- Resolution No. 2008-05 certifying the Final Environmental Impact Report ("EIR") for the Project,
- Resolution No. 2008-06 adopting Specific Plan No. 07-02,
- Resolution No. 2008-07 requesting initiation of annexation proceedings,
- Ordinance No. 924 adopting a zone change to pre-zone the Project area from County of Riverside W-2 (Controlled Development) to City of Beaumont SP-A (Specific Plan Area) and R-R (Rural Residential), and
- Ordinance No. 925 adopting the Development Agreement between the City of Beaumont and The Preserve LLC.

CEQA Lawsuit and Judgment: Following a final action by the City, a lawsuit was filed under the California Environmental Quality Act ("CEQA") in February 2008, challenging the City's actions. A hearing on the writ petition was conducted in February 2009. The Court found the EIR deficient with respect to water supply impacts and alternatives analysis. Further, the court held that the statement of Overriding Consideration did not comply with CEQA. The remaining challenges to the EIR were found to be without merit. A statement of decision, judgment and peremptory writ of mandate ("Writ") were issued on March 30, 2009, that directed the City to set aside and vacate its certification of the final EIR for the Project. In addition, the court directed City set aside and vacate the land use approvals related to the Project.

Bankruptcy Proceeding: The Preserve, LLC, the Project's applicant, filed a Chapter 11 bankruptcy case in the United States Bankruptcy Court, Central District of California during the CEQA litigation, which was subsequently converted to one under Chapter 7. In December 2008, the United States Bankruptcy Court entered an order granting relief from the automatic stay to permit the CEQA action to proceed.

Enacting Resolution No. 2009-24: On June 30, 2009, the City complied with the judgment and the Writ by enacting Resolution No. 2009-24, which rescinded all prior approvals for the Project. Specifically, the City Council set aside and vacated its (a) adoption of Resolution No. 2008-05; and (b) approvals of the Legacy Highlands Project, including the Legacy Highlands Specific Plan and the development agreement.

Stipulation Voiding Resolution No. 2009-24: In the fall of 2017, The Preserve, LLC, asserted that the City violated the automatic stay of the bankruptcy court by enacting Resolution 2009-24. The City disputed such assertion. Nevertheless, out of an abundance of caution, the parties stipulated that Resolution 2009-24 was enacted in violation of the automatic stay and thus was void, withdrawn and cancelled. In December 2017, the stipulation was approved by the United States Bankruptcy Court.

Partially Recirculated Environmental Impact Report: The purchaser of the Project has prepared a Partially Recirculated Environmental Impact Report ("PREIR") based on the CEQA judgment. The PREIR was circulated for a 45-day review period: December 14, 2020, through January 28, 2021. A final PREIR was prepared and submitted to the City on February 3, 2021, and was ready for review and approval or disapproval by the City. However, in light of the stipulation, the City could not take any action related to the final PREIR until the automatic stay was lifted. To do otherwise would not only be in direct violation of the stipulation, but also in violation of the judgment and the Writ. The purchaser of the Project disagreed with the City's position that it needed to comply with the judgment and writ in the CEQA action.

Motion for Relief from the Automatic Bankruptcy Stay: On May 21, 2021, the City filed a Notice of Motion and Motion for Relief from the Automatic Stay under 11 U.S.C. § 362 in the United States Bankruptcy Court. After reviewing the pleadings submitted by the parties, and after conducting a hearing, the United States Bankruptcy Court granted the City's motion for relief from automatic stay on June 29, 2021. The Court ordered, among other things, that the City may comply with the Statement of Decision, the judgment and the Writ in the Riverside County Superior Court CEQA action, and review and act upon the currently proposed final PREIR.

PROJECT CASE HISTORY:

Project Location: The Project site is located southerly of SR-60 and westerly of SR-79 in unincorporated Riverside County, adjacent to the boundary of the City of Beaumont. The Project site lies within the City of Beaumont Sphere of Influence (SOI) and would be annexed to the City as one of the Project's requested discretionary actions.

Project Summary: The Project would provide for a total of up to 2,868 dwelling units (1,107 single family residential units + 1,761 active adult, low density residential units), 100 acres (approximately 1.20 million square feet) of commercial/industrial uses, a 20-acre school site, various neighborhood parks, undeveloped open space, and all supporting infrastructure and utilities. In addition to approval of the specific plan, the Project required approval by the City Council of a zone change to pre-zone 1,616.89 acres of land from County of Riverside W-2 (Controlled Development) to City of Beaumont SP-A (Specific Plan Area) and R-R (Rural Residential). The Project also required the City Council to request the Local Agency Formation Commission of Riverside County to initiate proceedings for the annexation of the Project area to the City of Beaumont and concurrent detachment from the Riverside County Waste Management Resources District, and annexation to the Beaumont Cherry Valley Water District. The Project applicant also requested approval of a 25-year development agreement between the City of Beaumont and The Preserve, LLC, which would have given The Preserve, LLC, a vested right to develop and construct the Project in accordance with the entitlements received from the City pursuant to its discretionary approvals as well as all existing land use regulations and development standards in existence at the time the development agreement was approved.

CITY ACTIONS TO COMPLY WITH COURT ORDER:

As noted above, on March 30, 2009, the court issued a Writ and judgment directing the City to set aside and vacate its adoption of Resolution No. 2008-05 certifying the final Environmental Impact Report for the Project, adopting findings of facts and a statement of overriding considerations, and adopting the mitigation monitoring program pursuant to CEQA. The writ/judgment also directed the City to set aside and vacate its approvals of the Project, including the Legacy Highlands Specific Plan, and its adoption of Resolution No. 2008-06, Resolution No. 2008-07, Ordinance No. 924, and Ordinance No. 925.

The City has been unable to comply with the judgment and Writ in the Superior Court CEQA action because of the automatic stay imposed by the United States Bankruptcy Court. However, as set forth above, the automatic stay has now been lifted by the

Bankruptcy Court. Therefore, the City must comply with the statement of decision, the judgment and the Writ in the Riverside County Superior Court CEQA action. Once everything has been vacated, the next step will be to review and act upon the currently proposed final PREIR.

The action called upon City Council in order to comply with the judgment and peremptory Writ of mandate issued on March 30, 2009, by the Superior Court, will be to ordain the following rescission of prior approvals:

- Resolution No. 2008-05 certifying the Final Environmental Impact Report for the Project,
- Resolution No. 2008-06 adopting Specific Plan No. 07-02,
- Resolution No. 2008-07 requesting initiation of annexation proceedings,
- Ordinance No. 924 adopting a zone change to pre-zone the Project area from County of Riverside W-2 (Controlled Development) to City of Beaumont SP-A (Specific Plan Area) and R-R (Rural Residential), and
- Ordinance No. 925 adopting the Development Agreement between the City of Beaumont and The Preserve LLC.

Fiscal Impact:

City staff estimates the cost to prepare this report to be \$2,925.

Recommended Action:

Waive the full second reading and adopt by title only, “An Ordinance of the City Council of the City of Beaumont, California, Decertifying the Final Environmental Impact Report; Rescinding Adoption of Findings Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program, Specific Plan No. 07-02, Pre-Zoning Ordinance No. 924, Development Agreement Ordinance No. 925, and Request for the Local Agency Formation Commission to Initiate Annexation Proceedings as to the Legacy Highlands Specific Plan, Site Plan, Land Division, Annexation, Pre-Zoning and Zoning.”

Attachments:

- A. Ordinance