



Attachment 6

PLANNING COMMISSION AGENDA REPORT

CITY OF DIAMOND BAR ~ 21825 COPLEY DRIVE ~ DIAMOND BAR, CA 91765 ~ TEL. (909) 839-7030 ~ FAX (909) 861-3117

- ITEM NO.** 7.1
- DATE:** April 13, 2010
- CASE/FILE NUMBER:** "Site D" Specific Plan -
General Plan Amendment No. 2007-03, Zone Change No. 2007-04, Specific Plan No. 2007-01, Tentative Tract Map No. 70687, and Environmental Impact Report 2007-02 (SCH No. 2008021014).
- PROJECT APPLICANT:** Walnut Valley Unified School District and City of Diamond Bar
- LEAD AGENCY:** City of Diamond Bar, Community Development Department
- PROJECT LOCATION:** Site D is comprised of approximately 30.36 acres located at the southeast corner of Brea Canyon Road and Diamond Bar Boulevard (Los Angeles County Assessor's Parcel Numbers 8714-002-900, 8714-002-901, 8714-002-902, 8714-002-903 and 8714-015-001).
- APPLICATION REQUEST:** To recommend that the City Council take the following actions:
1. Certify Environmental Impact Report 2007-02 which provides a detailed analysis of potential environmental impacts associated with the development of the Specific Plan area. The EIR includes mitigation measures for the project, addresses project alternatives, and identifies the environmentally superior project alternative. Because the project will result in environmental impacts that cannot be mitigated to less than significant levels, adoption of a Statement of Overriding Considerations would be required before the City Council can approve the Specific Plan.
 2. Adopt Facts and Findings and Statement of Overriding Considerations for the Site D Specific Plan based on findings that the Specific Plan would result in identified economic and social benefits that will accrue to the City, to the School District, and to the region, and important public policy objectives will result from the implementation of the proposed Specific Plan. Therefore the proposed Specific

Plan's identified benefits override a number of significant environmental impacts that cannot be mitigated.

3. Adopt General Plan Amendment No. 2007-03 to change the land use designations from Public Facility (PF) and General Commercial (C) to Specific Plan (SP).
4. Adopt Zone Change No. 2007-04 to change the zoning districts from Low Density Residential (RL) and Neighborhood Commercial (C-1) to Specific Plan.
5. Adopt Specific Plan No. 2007-01 to adopt the Site D Specific Plan for the approximately 30.36-acre site for the construction of up to 202 residential dwelling units; up to 153,985 gross sq. ft. of commercial; and approximately 8 acres of open space areas, easements and rights-of-way. The Specific Plan contains development standards and guidelines tailored to take into account the physical characteristics of the property and its context, and to prescribe design criteria that will govern the future build-out of the site.
6. Approve Tentative Tract Map No. 70687 to establish separate residential, commercial, and open space parcels; create an internal circulation system and common open space areas; and establish easements and other rights-of-way for utility and other purposes.

STAFF RECOMMENDATION:

Open the public hearing to take public testimony from the public regarding the Draft Environmental Impact Report and all land use entitlements, and continue the matter to the April 27, 2010 meeting.

SUMMARY:

The Site D Specific Plan (SDSP) was prepared to facilitate processing and approval of an approximately 30.36-acre property referred to as Site D, and its associated discretionary and administrative approvals. The Specific Plan will guide the build-out of the property in a manner which is consistent with City and State policies and standards, and assures that the project is properly developed in a coordinated manner. The proposed Specific Plan would allow the construction of 202 residential dwelling units; 153,985 gross square feet of commercial use; and approximately 8 acres of open space areas, easements and rights-of-way.

The Specific Plan is a detailed policy document, which replaces the land use designation and zoning of the underlying properties with more detailed criteria and performance standards. It is not a development plan to construct the residential and commercial buildings. Future developers will be required to submit project-specific development plans in accordance with the criteria set forth in the Specific Plan, which will be subject to review and approval by the City.

BACKGROUND:

The SDSP project area consists of 30.36 acres and comprise of the following properties:

- The Walnut Valley Unified School District owns 28.71 acres. As early as the 1970s, the District has found the property unnecessary for future school use and declared it surplus property.
- A 0.98-acre strip of land along Brea Canyon Road is owned by the City.
- A 0.67-acre segment of a flood control channel, owned and maintained by the Los Angeles County Flood Control District, separates the City and School District properties. Under the proposed Specific Plan, the channel will be covered and used for parking, non-habitable structures, and landscape and circulation elements, which are allowed under a lease agreement with the Flood Control District.

Prior Development Proposals

In 1990, the School District prepared a tentative tract map to subdivide Site D into 87 lots for the purpose of developing single-family detached residences. This effort prompted the City to study the feasibility of purchasing the land from the District for the purpose of developing a community park, which was supported by a School Board appointed advisory committee (the "7-11 Committee"). In 1991, the City pursued park development grants for Site D and the Pantera Park site, but received grant monies for Pantera Park only. In the years following this endeavor, the City completed upgrades to nearby Heritage Park, and the School District upgraded the recreational facilities at Castlerock Elementary School (the City and School District have joint-use agreements for the recreational facilities at all of the schools located in Diamond Bar).

The City and School have since agreed to cooperate and collaborate in the planning efforts for Site D so that each may advance its respective objectives for the disposition of the property.

PROJECT OBJECTIVES

The Walnut Valley Unified School District desires the disposition of the property to yield the maximum return to the District for the benefit of its constituents and its educational mission.

The City of Diamond Bar desires that the project site be developed in a manner as to assure compatibility with and to meet the needs of the surrounding area; to implement Senate Bill 375 through the creation of a mixed-use development that promotes reductions in greenhouse gas emissions through reductions in vehicle miles traveled; to help respond to the identified housing demand outlined in the current Regional Housing Needs Assessment (RHNA); and to provide a desirable level of sales tax revenues to the City.

On July 1, 2007, the City and the Walnut Valley Unified School District executed a Memorandum of Understanding (MOU) whereby the parties agreed to collaborate in the planning of the future land use for the project site—through the creation of a Specific Plan—so that both parties may each advance their respective objectives for the disposition of the property. The MOU further stipulates that “(o)f the usable acreage, on Site D, a minimum of fifty percent (50%) will be designated for residential development, and fifty percent (50%) will be designated for commercial use, exclusive of necessary infrastructure.” A copy of the MOU is provided as Attachment #4.

The land use parameters set forth in the MOU establish the following additional project objectives:

- Pursue the establishment of site-specific land use policies that allow, in reasonable comparable acreage, the development of both commercial and residential uses of the property, accommodating the provision of additional housing opportunities and the introduction of revenue-generating uses; and
- Establish a specific plan as the guiding land-use policy mechanism to define the nature and intensity of future development, and to establish design and development parameters for the project site, so as to allow conveyance of the subject property to one or more developers and/or master builders, and provide to the purchasers reasonable assurance as to the uses that would be authorized on the project site and the nature of those exactions required for those uses.

The District and the City are currently not partnered with or in discussions with any developers. The focus at this time is solely to adopt a prescriptive land use plan while the public entities, as the property owners, are in a position to exert maximum control/influence over the outcome of subsequent development.

SURROUNDING LAND USES AND DEVELOPMENT:

The vacant 30.36-acre site is located in the southwestern portion of the City of Diamond Bar, on the southeast corner of Brea Canyon Road and Diamond Bar Boulevard. The site is bordered on the north by Diamond Bar Boulevard, single-family neighborhoods to the southeast and southwest, and Brea Canyon Road to the west. The Brea Canyon Flood Control Channel runs roughly parallel to Brea Canyon Road and cuts through the western portion of the property. The area north of Diamond Bar Boulevard is developed with a church, and single-family residential homes, and the area across Brea Canyon Road is developed with a gas station and professional office buildings.

EXISTING SITE CHARACTERISTICS:

The site is a relatively flat plateau with steep slopes facing north and west. The elevation differential falls approximately 100 feet from a high point in the northeast to the low point in the southwest portion of the property. The site is currently characterized by the following features:

- Much of the site is covered with annual grasses, brush and small trees. However there are areas of dense brush and trees located in the central and northern portions of the site. A stand of mature eucalyptus trees is located on the slope adjacent to Diamond Bar Boulevard.
- Three species of protected trees, as listed on the City's tree preservation and protection ordinance exist, including 75 Southern California Black Walnuts, two Coast Live Oaks and five Willows. The Oaks and Willows, however, do not meet the size criteria in the tree ordinance to be classified as protected trees.
- Foot trails and access roads traverse the site.
- A Restricted Use Area (RUA) exists along the rear slope areas coterminous with the property. The RUA is comprised of engineered slopes and designed to transmit surface waters away from the slopes.
- A small area at the eastern portion of the property drains northerly to Diamond Bar Boulevard. The balance of runoff flows westerly to the Brea Canyon Storm Drain Channel, a concrete-lined flood control channel owned and maintained by the Los Angeles County Flood Control District.
- Three intermittent blue-line streams flow generally from east to west. "Blue-line streams" are naturally-occurring watercourses that are depicted on the official maps of the U.S. Geological Survey.




 Site D Project
 Area boundaries

Site and Surrounding General Plan, Zoning and Land Uses

	General Plan Designation	Zoning District	Land Use
Site	Public Facility and General Commercial	RL, C-1 RLM	Vacant
North	Low-Medium Residential	RLM	Diamond Bar Blvd., Church and Single-Family Residential
South	Low Density Residential	RL, RLM	Single-Family Residential
East	Low Density Residential	RL	Single-Family Residential
West	Professional Office	C-1	Brea Canyon Road, Gas Station and Professional Office Buildings

KEY ELEMENTS OF THE SITE D SPECIFIC PLAN:

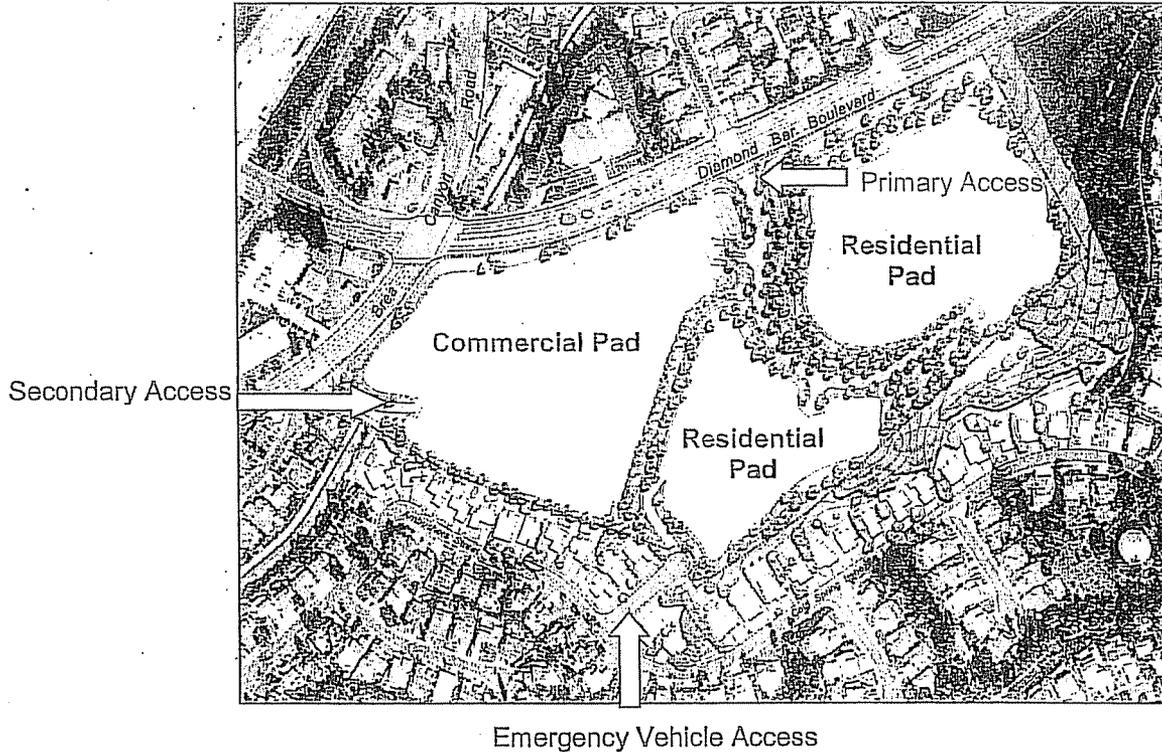
The proposed Specific Plan seeks to promote the creation of a high-quality, mixed-use development through the establishment of development standards and design guidelines. Copies of the draft Specific Plan have been distributed to the Commission under separate cover. Copies have also been made available at City Hall, County of Los Angeles Public Library, and on the City's website.

The Site D Specific Plan creates a master planned community, with three building pads. The Specific Plan incorporates physical design elements that reflect the unique topographical characteristics of Diamond Bar through the creation of a landform grading design that emulates natural topographic contours and undulations. One building pad will be graded to a slightly elevated level above the surrounding streets and designated for commercial use. The remaining two building pads are elevated as it slopes up along Diamond Bar Boulevard and designated for residential use.

Without a Specific Plan proposed for this area, the City will have less input or control in the manner in which the property is developed, the nature of the resulting land uses, and the design standards established for the new uses. Conditions of project approval are included into the Specific Plan as performance standards.

Land Use Plan

The illustrative site plan and summary below depict the primary components of the SDSP:



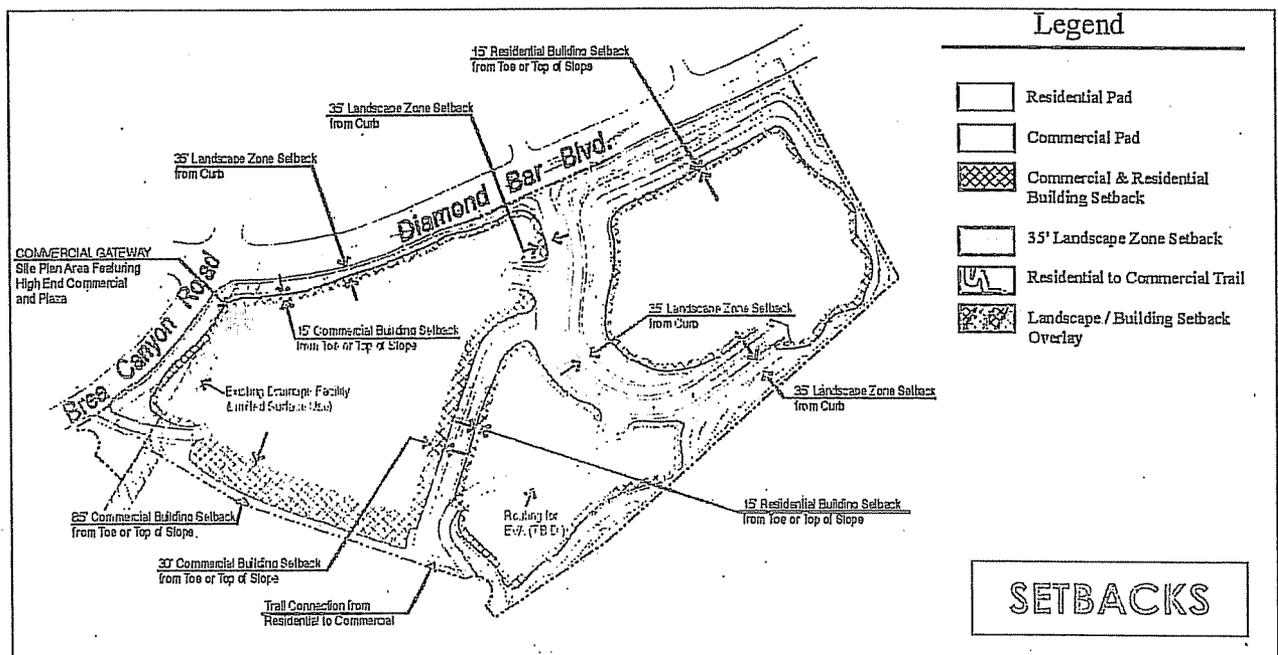
- Three elevated building pads (one commercial and two residential pads);
- A maximum of 202 residential dwelling units. The Site D Specific Plan intended residential uses will be “for sale” products only. It is envisioned that an attached townhome product would be best suited for the site, but does not preclude the development of any of a variety of housing product types, such as attached or detached single-family units, attached multi-family units, condominiums, townhomes, senior housing, or affordable housing;
- Up to maximum of 153,985 sq. ft. of commercial use could be developed on the project site. The intent is to have a small grocery store as the major anchor with secondary anchor retail commercial and free-standing restaurants to be located at the project entry corners in high profile locations. The permitted uses include those allowed under the Community Commercial (C-2) zone of the City’s development code with certain exclusions such as manufacturing, auto sales/rental, second hand stores, bed and breakfast inns, car wash, child day care centers, medical services, vehicle services, etc.; and
- L.A. County Flood Control Channel will be covered and used for parking, non-habitable structures, landscape and circulation.

Land Use

Use	Proposed Area
Commercial	10.1 acres (153,985 Sq. Ft.)
Residential	10.1 acres (202 dwelling units)
Open Space, Easements, Rights-of-Way	8 acres
Total	30.36

Development Standards

- **Green, Sustainable Development:** Provides a green and sustainability model requirement looking at energy efficiency, healthy indoor air quality, waste reduction, water efficiency, use of renewable and recyclable materials for building construction, etc. The required energy standards for the project exceed those currently required by State Title 24;
- **Building Setbacks:** The buildings will have minimum setbacks requiring 15 feet from Diamond Bar Boulevard and Brea Canyon Road measured from top or toe of pad, 85 feet from the southerly property line (which abut residential), and 30 feet from the easterly edge. Visual analysis was performed to understand how the building massing of both commercial and residential would look from the street and neighboring properties. This analysis led the City to expand some of the building setbacks;
- **Landscaped Setbacks:** There are minimum parking lot setbacks that will have landscaped screenings and buffer, providing 35 feet setback from Diamond Bar Boulevard and Brea Canyon Road and 30 feet from the southerly property line and easterly edge;



- Retaining Walls: Plantable crib walls will be used as retaining walls, which are filled with suitable backfill and live vegetation planted in the individual cells;
- Protected Species: Replant Southern California Walnut Woodland within the development;
- Landscape and Streetscape Requirements: There will be planting of a dense stand of native California trees such as Sycamores and Willows that are more native to the environment within the large slopes and predominately around the internal streets along the perimeter of the residential pads to replace the removal of Eucalyptus trees;
- Streetscape: Parkways, sidewalks, and bike trails link the site to Brea Canyon Road and Diamond Bar Boulevard; and
- Recreational Facilities: Incorporate private, passive and active recreational facilities.

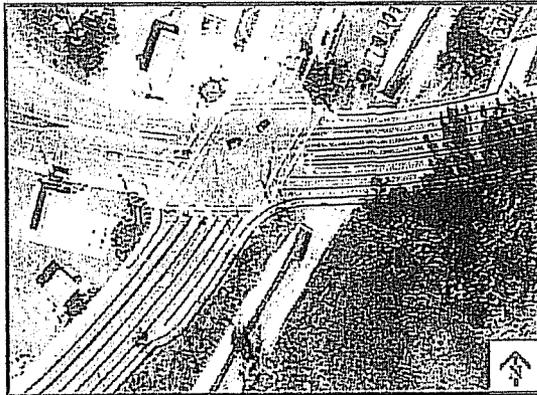
Circulation Plan

- Primary entryway/access will be via a new signalized intersection located at Cherrydale Drive. The primary access will consist of a 60-foot wide right-of-way, consisting of two 18-foot wide travel lanes. A 7-foot wide curb-adjacent parkway and a 5-foot wide sidewalk will align both sides of the street; and
- Secondary entryway/access to the commercial site will be provided along Brea Canyon Road, via a right-in and right-out only point of ingress and egress. Additional emergency-only access to the project site will be provided from Posado Drive.

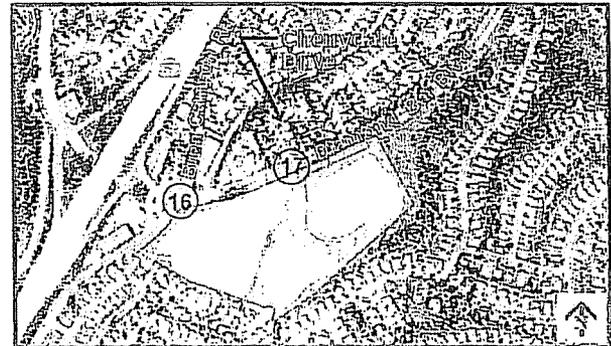
Traffic Improvements

- The existing roadways will be improved as part of implementing the Specific Plan. The development's obligations toward the existing, and plus project traffic conditions will be improved through the following traffic improvements:
 - Pathfinder Road at Brea Canyon Cutoff Road: Widen and/or restripe eastbound Brea Canyon Cutoff Road to provide one left-turn lane, two through lanes and a separate right-turn lane. The implementation of this improvement may require some modification to existing traffic signal equipment (i.e. re-cut/install new vehicle loop detectors, modification to traffic signal controller);
 - SR-57 Southbound Ramps at Brea Canyon Cutoff Road/Diamond Bar Boulevard: Install a traffic signal. The implementation of this improvement may require some modification to existing signing and striping on Brea Canyon Cutoff or SR-57 southbound ramps; and

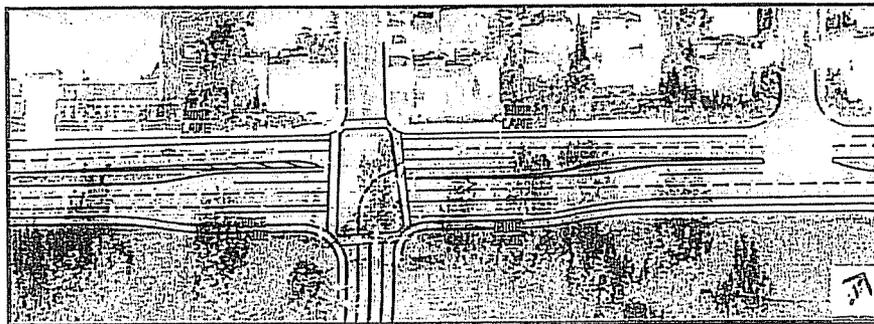
- **Cherrydale Drive at Diamond Bar Boulevard:** Provide an option left/through lane and a separate right-turn lane on the northbound approach; restripe southbound approach to provide an option left/through/right-turn lane on Cherrydale. Widen eastbound approach to provide a separate right-turn lane. Modify median and restripe Diamond Bar Boulevard to provide dual westbound left-turn lanes. Install traffic signal. The implementation of this improvement may require some modification to existing signing and striping on Cherrydale Drive or Diamond Bar Boulevard.



Intersection 16 - Brea Canyon Road and Diamond Bar Boulevard



Site Location Map



Intersection 17 - Cherrydale Drive and Diamond Bar Boulevard

Brea Canyon Road at Diamond Bar Boulevard
Widen and/or re-stripe northbound approach on Brea Canyon Road to provide a second right-turn lane. Widen and/or re-stripe eastbound approach and departure of Diamond Bar Boulevard to a third through lane. Re-stripe westbound approach on Diamond Bar Boulevard to provide a second left-turn lane.

Cherrydale Drive at Diamond Bar Boulevard
Provide an option left/through lane and a separate right-turn lane on the northbound approach; re-stripe southbound approach to provide an option left/through/right-turn lane on Cherrydale. Widen and/or re-stripe eastbound approach and departure on Diamond Bar Boulevard to a third through lane and provide a separate right-turn lane. Modify median and re-stripe Diamond Bar Boulevard to provide dual westbound left-turn lanes. Install traffic signal.

- The developers of the site will also be required to pay fair-share fees of the construction costs to implement additional improvements to mitigate the cumulative traffic impacts of existing traffic, future non-project traffic, and project traffic. See the Traffic and Circulation Improvements and Cost Estimates, and Traffic Improvement Study Maps attached to this report (Attachments #5 & 6).

ANALYSIS:

Review Authority (Diamond Bar Municipal Code Sections 22.70 and 22.60.010)

A General Plan Amendment, Zone Change, Specific Plan, Tentative Tract Map, and an Environmental Impact Report are required for the proposed Specific Plan. Each approval is described below:

General Plan Amendment No. 2007-03 is a request to change the land use designations from Public Facility (PF) and General Commercial (C) to Specific Plan (SP). The City's General Plan, adopted on July 25, 1995, is a long-range planning document developed as a comprehensive growth-management and community development strategy. It defines citywide policies that are achieved through subsequent community plans, ordinances, standards and guidelines, studies, capital improvements, economic development and other pertinent programs. The adopted policies of the General Plan guide the physical development pattern and promote the necessity of adequate public services and facilities.

The General Plan is the controlling document. The preparation, adoption, implementation and maintenance of the General Plan aids in informing developers, citizens, decision-makers, and others of the rules that will guide development, and provide a basis for local government judgments. All land use decisions of the City have a direct correlation to the established goals and policies of the General Plan.

The existing General Plan land use designation in the area east of the L.A. County Flood Control Channel is Public Facility (PF), and the area west of the Channel is General Commercial (C). It is the objective of the City to promote and facilitate the attainment of the goals, objectives, plans, and policies contained in the General Plan by requiring new development to be compatible with surrounding land uses, and balancing the retention of the natural environment with its conversion to urban form.

The project site is the only area within the City that was designated as Public Facility (PF). At the time the General Plan was prepared, this property was perceived as a unique property requiring a site-specific land-use status. The PF designation is designed to identify existing or potential (future) sites for necessary public facilities or infrastructure improvements. The primary purpose is to provide areas for the conduct of public and institutional activities, such as public schools, parks and water facilities, etc. With regards to the General Commercial (C) designation, the intent is to provide for regional, freeway-oriented, and/or community retail and service commercial uses at a floor area ratio between 0.25 and 1.0.

The land use designation is being changed to allow for more suitable uses. The PF designation no longer serves the long-term goals and objectives for the City or the School District.

Zone Change No. 2007-04 is a request to change the zoning districts from Low Density Residential (RL) and Neighborhood Commercial (C-1) to Specific Plan. The City has elected to prepare and process a Specific Plan for this property for the purposes of:

- Defining the types of permitted and conditionally permitted land uses that the City believes to be appropriate for the project site and the project setting;
- Defining the reasonable limits to the intensity and density of those uses; and
- Establishing the design and development standards for those uses.

Specific Plan No. 2007-01 is a request to adopt the Site D Specific Plan for the approximately 30.36-acre site for the construction of 202 residential dwelling units at a density of 20 units per acre; 153,985 gross sq. ft. of commercial use at a 0.35 floor area ratio; and approximately 8-acres of open space areas, easements and rights-of-way. The Specific Plan contains development standards and guidelines tailored to take into account the natural resources of the property.

A Specific Plan is a regulatory tool that local governments can use to implement the General Plan and guide development in a localized area. California Government Code Sections 65450 through 65454 establishes the authority to adopt a Specific Plan, identify the required contents of a Specific Plan, and mandate consistency with the General Plan. A Specific Plan is able to focus on the unique characteristics of a specific area by customizing the planning process and land use regulations for that area. It also provides for flexibility and encourages innovative use of land resources and development of a variety of land use types.

The use of a Specific Plan was chosen to guide the development on this site to establish development standards (e.g., permitted uses, setbacks, landscaping, sign criteria, subdivision, etc.), design guidelines, and public improvement requirements unique to this property that would facilitate the goals of the General Plan and augment the City's revenue base to better support public services and facilities.

Through the adoption of a site-specific planning document, the Site D Specific Plan seeks to promote the creation of a high-quality, mixed-use development through establishment of development standards and design guidelines. A maximum of 202 residential dwelling units and 153,985 sq. ft. of commercial use could be developed on the project site.

Tentative Tract Map No. 70687 is a request to establish separate residential, commercial, and open space parcels, create an internal circulation system and common open space areas, and establish easements and other rights-of-way for utility and other purposes. The subdivision of the project site creates separate development areas within the subject property that can be conveyed to subsequent holders of real property interests, as well as establish an internal circulation system and common open space areas.

The development of the project site will be designed with a common landscape and architectural theme. Trails and sidewalks will be provided to allow easy access to each use from within the project and from the surrounding community.

The Site D Specific Plan is a set of guiding criteria. A developer will have to go through another approval process for a development plan to construct the residential and commercial buildings.

General Plan Consistency

California Government Code states that a Specific Plan shall include a statement of the relationship of the Specific Plan to the General Plan, and further, that it may not be adopted or amended unless found to be consistent with the General Plan.

Consistency with the General Plan is achieved when the various land uses within the Specific Plan are compatible with the objectives, policies, general pattern of land uses and programs contained in the General Plan. The Site D Specific Plan implements the goals and policies of the City's General Plan, listed in the Draft Specific Plan and Findings of Fact.

Project Benefits

The proposed Specific Plan would result in a number of identifiable community benefits, some of which include:

- Defines the types of permitted and conditionally permitted land uses that will be appropriate for the project site and for the project setting, defines reasonable limits to the type, intensity, and density of those uses, and establishes the design and development standards for those uses;
- Serves as a valuable regulatory tool for the systematic implementation of the City's General Plan;
- Imposes reasonable development controls and standards designed to ensure the integrated development of the project site;
- Facilitates the School District's efforts to sell the surplus property by providing a subsequent purchaser reasonable certainty as to the type, intensity, and general configuration of allowable on-site land uses;
- Optimizes the benefits of the School District sale of surplus property of the benefit of its constituents and its educational mission;
- Results in the production of 202 new housing units within the City, thus helping the City to respond to the identified housing demand outlined in the current Regional Housing Needs Assessment (RHNA). This project would represent about 18.5 percent of the projected housing needs for the period between 2005-2014;
- Increases the diversity of housing types in the City;
- Presents homebuyers with additional purchase options and price variations allowing homebuyers to better match housing choices with household needs and demands through construction and sale of attached residential condominium units;

- Creates a mixed-use development that will promote the attainment of regional jobs-to-housing ratio objectives established by regional governmental entities and produce corresponding environmental benefits, consistent with Southern California Association of Governments Policies;
- Implements Senate Bill 375 which drives land use development to reduce greenhouse gas emissions by:
 - Promoting a mixed-use development by providing both residential and commercial uses on the same site which serve to reduce vehicle miles traveled (VMT) and corresponding air quality benefits;
 - Promote alternative modes of transportation by providing bike and pedestrian trails and bus stops located adjacent to Site D and facilitate alternative modes of transportation. Transit is expected to be provided by the Metropolitan Transit Authority (MTA), Foothill Transit, and the City's fixed-route transportation system; and
 - Integrate green building strategies into its design through energy efficiency; water-efficient land use and development using drought-tolerant landscaping and use of low-flow toilets, showerheads, and other fixtures; and use of renewable and recyclable materials for building construction, etc.
- Allows for the productive use of an underutilized property in the City's General Plan, converting a tax-exempt property to a private use, and introduces a land use that will generate sales and other taxes for the benefit of the City and its constituents;
- Traffic improvements to the Diamond Bar Boulevard/Brea Canyon Road intersection will improve traffic flow in and through that intersection; and
- Facilitates the ability of the City and other agencies to undertake improvements to specific public facilities through payment of school impact, park, and traffic impact fees and other exactions.

ENVIRONMENTAL ASSESSMENT:

The California Environmental Quality Act (CEQA) requires an environmental review of projects, and the Site D Specific Plan is a project that is subject to the provisions of CEQA. The Draft Environmental Impact Report (EIR) provides a detailed analysis of potential environmental impacts associated with the development of the Specific Plan area. The Draft EIR includes mitigation measures for the project, addresses project alternatives, identifies the environmentally superior project alternative, and adopts a statement of overriding considerations.

Public Notices and Meeting Dates

Notices	Dates
Notice of Preparation (NOP)	February 1 – March 5, 2008
Scoping Meeting	February 21, 2008
Notice of Completion (NOC)	June 25 – August 10, 2009
Neighborhood Meeting	August 3, 2009

Notice of Preparation: The City circulated a Notice of Preparation (NOP) to public agencies, special districts, and members of the public requesting such notice for a 30-day period commencing February 1, 2008 and ending March 5, 2008.

Scoping Meeting: During the NOP period, the City advertised a public scoping meeting on February 21, 2008 held at the South Coast Air Quality Management District/Government Center, Room CC-6. The meeting was intended to facilitate public input. Approximately 20 residents attended the meeting with the majority from the Ambushers Street neighborhood. Several issues raised at this meeting include impacts of view from Cherrydale, noise, traffic, buffer from commercial development, need for green space at entryway, preference to see residential development with less commercial, and to consider senior housing development.

Notice of Completion/Availability: The Draft EIR was prepared by the City's environmental consultant, Environmental Impact Sciences on June 2009. A Notice of Completion and Availability was filed with the Office of Planning and Research on June 22, 2009. The 45-day public review period was from June 25, 2009 through August 10, 2009.

Neighborhood Meeting: On August 3, 2009, a neighborhood forum was held at the Heritage Park Community Center to provide the public with an additional opportunity to ask questions and comment on the Draft Environmental Impact Report, prior to the close of the 45-day public review period. All written and verbal public testimony was taken, and written responses to the comments and issues raised are provided in the Response to Comments on the Draft EIR (Attachment #9). The Response to Comments includes all comments received during the 45-day public review period. CEQA requires that the City evaluate comments on environmental issues received from persons or agencies who prepared a written response.

Key Areas of Impacts Analyzed

The Draft EIR addresses significant and potentially significant environmental effects, including land use, population and housing, geotechnical hazards, hydrology and water quality, biological resources, traffic and circulation, air quality, noise, public services and facilities, utilities and service systems, cultural resources, aesthetics, and growth inducement. Where significant and potentially significant adverse impacts were identified, the Draft EIR proposes measures to mitigate them. The mitigation measures are set forth in the Mitigation Reporting and Monitoring Program listed in Table ES-2 in the Draft EIR.

Alternatives Explored

In addition to the analysis of the proposed project, one of the primary purposes of the EIR is to provide public agencies and other parties with an analysis of a reasonable range of alternatives to the proposed project that, if implemented, could reduce or avoid one or more of the project's significant environmental effects. Four development alternatives and one no-development alternative, representing a range of reasonable alternatives to the proposed project, are listed below:

Alternative 1 ("No Project"): No physical changes to the project site would occur, the property would remain in its present condition, and no new development activities or other public improvements would occur.

Alternative 2 ("Public Facilities"): Under this alternative, it is assumed that the estimated developable area of the project site (20.2 acres) is developed at a floor area ratio of 0.25. A total of 220,000 sq. ft. of public facilities use would be developed on the site. The Draft EIR assumes the sale of the property to a private entity and thus, assumes that the project would be developed to include a 73,000 sq. ft. (500-student) private school, and a 147,000 sq. ft. church.

Alternative 3 ("Community Commercial"): Based on the estimated net acreage of 20.2 acres at a floor area ratio of 0.35, a total of 307,969 sq. ft. of commercial use would be developed.

Alternative 4 ("Low-Density Residential"): Based on the estimated net acreage of 20.2 acres at a density of 3 dwelling units, a total of approximately 60 single-family detached and/or single-family attached units would be developed on the project site.

Alternative 5 ("High-Density Residential"): Based on the estimated net acreage of 20.2 acres, a total of approximately 404 dwelling units could be constructed on the site.

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LAND-USE ASSUMPTIONS FOR PROJECT ALTERNATIVES

Land Use	Proposed Project	Alternative 1	Alternative 2	Alternative 3	Alternative 4	Alternative 5
		No Project	Public Facilities	Community Commercial	Low-Density Residential	High-Density Residential
Project Acreage	29.7	29.7	29.7	29.7	29.7	29.7
Total Developed Acres (gross acres)	29.7	-	29.7	29.7	29.7	29.7
Retained Open Space (gross acres)	-	29.7	-	-	-	-
Developable Area (net acres)	20.2	-	20.2	20.2	20.2	20.2
Residential Acreage (net acres)	10.1	-	-	-	20.2	20.2
Number of Dwelling Units	202 DU	0	-	-	60 DU	404
Residential Density	20 DU/A	-	-	-	3 DU/A	20 DU/A
Commercial Acreage (net acres)	10.1	-	-	20.2	-	-
Commercial Square Footage	153,985 Sq. Ft.	-	-	307,969	-	-
Other Square Footage (square footage)	-	-	73,000 S.F. School 147,000 S.F. Church	-	-	-
Floor Area Ratio	0.35 ²	-	0.25 ³	0.35 ⁴	-	-
General Plan Amendment Required	Yes	No	City Property	District Property	City Property	City and District Properties
Zone Change Required	Yes	No	City Property	District Property	City Property	City and District
Specific Plan Approval Required	Yes	No	No ⁵	No ⁵	No ⁵	No ⁵

Notes:
 1. A "no project" alternative is specifically required under CEQA.
 2. Calculated by dividing the commercial acreage (10.1 acres or 439,956 sq. ft.) by the commercial square footage (153,885).
 3. Calculated by dividing the net developable area (20.2 acres or 879,912 sq. ft.) by the total square footage (220,000).
 4. Calculated by dividing the total site area (20.2 acres or 879,912 sq. ft.) by the commercial square footage (307,969).
 5. None of these alternatives preclude the development of a specific plan; however, because only a single land use is proposed, development could proceed absent the City's consideration of a specific plan. Source: TRG Land, Inc.

Alternatives Considered But Eliminated by the City (Lead Agency)

The following alternatives were considered but were rejected as infeasible during the environmental scoping process:

- **Alternative Site:** There is no comparable property which could be substituted for the project site;
- **Conservation/Retained Open Space:** The City has not identified a funding source which would allow for the public acquisition of the property, including its long-term maintenance. Additionally, the property is not designated for conservation or other open space purpose in the General Plan. To designate this property for open space requires approval of a bond measure with a favorable vote of the people;
- **Senior Housing:** The inclusion of one or more residential alternatives ensures the City's consideration of housing options; and
- **Component Parts:** The property could be developed separately under different ownership. However, it would eliminate or reduce the potential planning benefit inherent in a more holistic approach.

Selection of Environmentally Superior Alternative

CEQA requires an identification of the environmentally superior alternative. In circumstances such as this one where Alternative 1: No Project is environmentally superior (because it is the only one that reduces the unavoidable air impacts), it is necessary to identify a feasible, the second most environmentally superior alternative. In this case, Alternative 2: Public Facilities, Alternative 4: Low-Density Residential, and Alternative 5: High-Density Residential was considered to be environmentally superior to the proposed project. Since the economic feasibility of Alternative 4: Low-Density Residential cannot be determined at this time, the environmentally superior alternatives are the Alternative 2: Public Facilities and Alternative 5: High-Density Residential.

COMPARATIVE EVALUATION OF PROJECT ALTERNATIVES

Significant Environmental Effect	Proposed Project	Project Alternative				
		No Project	Public Facilities	Community Commercial	Low-Density Residential	High-Density Residential
Environmental Considerations						
Air Quality (Construction)	Significant	Not Significant	Significant	Significant	Significant	Significant
Air Quality (Operational)	Significant	Not Significant	Not Significant	Significant	Not Significant	Not Significant
Air Quality (Cumulative)	Significant	Not Significant	Significant	Significant	Significant	Significant
Number of Unmitigated Significant Impacts	3	0	2	3	2	2
Attainment of Stated Objectives						
Lead Agency	Yes	No	Yes	Yes	Yes	Yes
Applicant	Yes	No	Yes	Yes	Yes	Yes
Feasibility						
Economic ¹	Unknown ²	No	Unknown ²	Unknown ²	Unknown ²	Unknown ²
Legal	Yes	No	Yes	Yes	Yes	Yes
Socially	Yes	No	Yes	Yes	Yes	Yes
Technologically	Yes	Yes	Yes	Yes	Yes	Yes
Environmentally Superior Alternative						
	-	Superior	Superior		Superior	Superior
Notes:						
1. No detailed economic analysis, marketing study, or real property appraisal of the proposed project or the examined alternatives were developed by the Lead Agency or provided to the Lead Agency by the Applicant.						
2. Subject to an economic feasibility analysis.						

Source: Environmental Impact Sciences

The project site is currently zoned Low-Density Residential (RL) and Neighborhood Commercial (C-1). It should be assumed that the property can be developed for residential and commercial uses in accordance with existing land use policies. Without a Specific Plan, the City will have less input with regards to the manner in which the property is developed, the nature of the resulting land uses, and the design standards established for those uses.

Mitigation Reporting and Monitoring Program (MRMP)

A mitigation reporting and monitoring program has been prepared, which address site-specific conditions for the project. The purpose of the MRMP is to ensure compliance with the mitigation measures. The program also identifies the timing and responsibility for monitoring each measure and is attached as an exhibit to the draft resolution recommending certification of the DEIR and adoption of the mitigation reporting and

monitoring program (Attachment #1). At the time of the certification of the EIR, the MRMP is adopted as part of project approval.

Environmental Impacts That Cannot Be Mitigated

The construction of the site leads to temporary air quality impacts resulting from construction emissions and stationary source emissions. This project site lies in the South Coast Air Basin, an area that is already located in a non-attainment area. Based on South Coast Air Quality Management District's (SCAQMD) guidelines, any construction cannot be mitigated, but are subject to standard conditions and uniform codes.

The air quality impact could not be feasibly mitigated and would result in a significant and unavoidable impact with implementation of the proposed Specific Plan. The City is required to adopt findings in accordance with Section 15091 of the CEQA Guidelines and adopt a Statement of Overriding Considerations in accordance with Section 15093 of the CEQA Guidelines.

The proposed Specific Plan would produce significant unavoidable adverse impact in the following three areas:

1. Air Quality (Construction Impact): Combined emissions of reactive organic gases (ROG) are estimated at 136.02 pounds/day. This value would exceed the 75-pound/day threshold recommended by the South Coast Air Quality Management District and the impact would be deemed to be significant;
2. Air Quality (Operational Impact): Operationally, the proposed project is projected to create ROG, oxides of nitrogen (NOx), and carbon dioxide (CO) emissions in excess of the SCAQMD suggested daily threshold criteria; and
3. Air Quality (Cumulative Impact): Related project activities, in combination with the construction and operation of the proposed project, will incrementally contribute to regional air emissions within the South Coast Air Basin.

Facts of Findings and Statement of Overriding Considerations

Prior to approving the proposed Specific Plan, the City shall certify that the FEIR has been completed in accordance with CEQA; that the FEIR was presented, reviewed and considered by the decision making body; and that the FEIR reflects the decision making body's independent judgment and analysis. The City is required to adopt findings in accordance with CEQA Guidelines Section 15091 when significant effects have been identified in the Draft EIR relating to changes or alterations in the project, mitigation measures, and alternatives. The Findings of Fact and Statement of Overriding Considerations is attached as an exhibit to the draft resolution recommending certification of the DEIR and adoption of the mitigation reporting and monitoring program (Attachment #1). Details of these impacts are discussed in the Draft EIR. All impacts have been mitigated below a level of significance, except air quality impacts.

No alternatives or mitigation measures were identified which could reduce the air quality impacts below a level of significance.

Even though a review of environmental impacts shows that an environmentally superior alternative exists, the City can still approve the proposed project. According to Section 15093 of the CEQA Guidelines, CEQA requires that the City balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. If the benefits of the proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." In order to do this, the public agency must adopt a "Statement of Overriding Considerations" – a document that states the reasons for why the project should be approved even though there are environmental impacts that cannot be mitigated.

The City has identified economic and social benefits that will accrue to the City, to the School District, and to the region, and important public policy objectives that will result from the implementation of the proposed project. Therefore, the Planning Commission may find that the proposed project's identified benefits override the project's air quality impacts.

NOTICE OF PUBLIC HEARING:

Public hearing notices were mailed to property owners within a 1,000-foot radius of the project site on March 22, 2010, and the notice was published in the Inland Valley Daily Tribune and San Gabriel Valley Tribune newspapers on April 2, 2010. The project site was posted with a notice display board, and a copy of the public notice was posted at the City's three designated community posting sites. The draft Specific Plan and Environmental Impact Report were also posted on the City's website.

RECOMMENDATION:

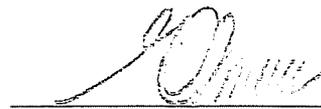
Open the public hearing to take public testimony from the public regarding the Draft Environmental Impact Report and all land use entitlements, and continue the project to the April 27, 2010 meeting.

Prepared by:



Grace S. Lee
Senior Planner

Reviewed by:



Greg Gubman, AICP
Community Development Director

Attachments:

1. Draft Resolution No. 2010-XX (Recommending Certification of the DEIR and Adoption of the Mitigation Reporting and Monitoring Program)
2. Draft Resolution No. 2010-XX (Recommending Approval of GPA and ZC)
3. Draft Resolution No. 2010-XX (Recommending Approval of SP and TTM)

4. Memorandum of Understanding Between the City of Diamond Bar and the Walnut Valley Unified School District, executed July 1, 2007
5. Tentative Tract Map No. 70687
6. Traffic Improvement Study Maps
7. Traffic and Circulation Improvements and Cost Estimates
8. E-mail from Judy Leung on April 6, 2010

Errata to April 13, 2010 PC Staff Report

The following corrections are made to the Planning Commission staff report dated April 13, 2010.

Page 8:

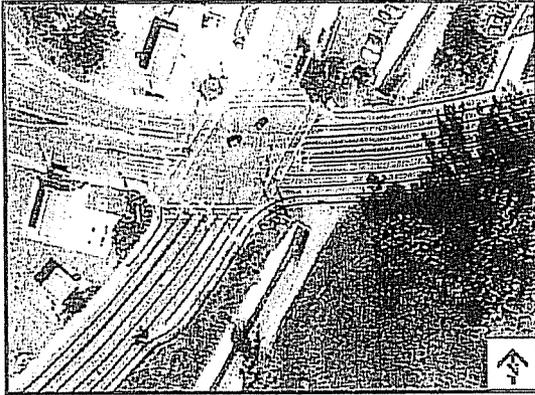
Land Use

Use	Proposed Area
Commercial	10.1 acres (153,985 Sq. Ft.)
Residential	10.1 acres (202 dwelling units)
Open Space	8 acres
Easements, Rights-of-Way	2.16
Total	30.36

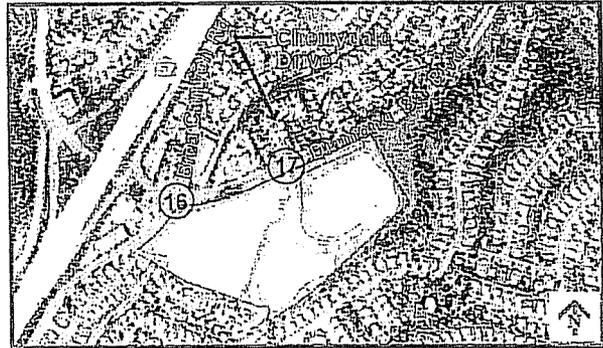
Page 9-10:

Traffic Improvements

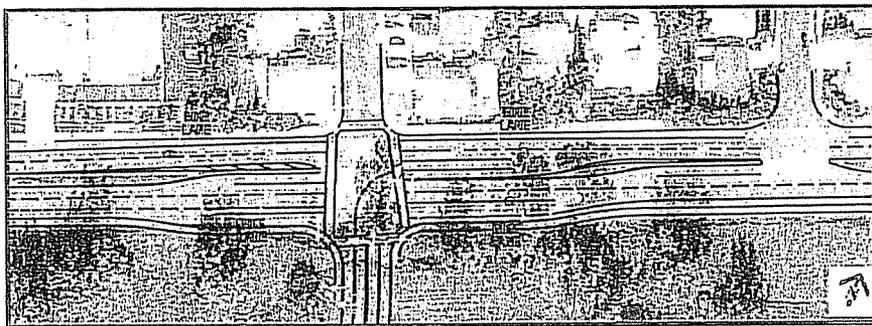
- The following roadway improvements will be required at the time of development:
 - Cherrydale Drive at Diamond Bar Boulevard: Provide an option left/through lane and a separate right-turn lane on the northbound approach; restripe southbound approach to provide an option left/through/right-turn lane on Cherrydale. Widen eastbound approach to provide a separate right-turn lane. Modify median and restripe Diamond Bar Boulevard to provide dual westbound left-turn lanes. Install traffic signal. The implementation of this improvement may require some modification to existing signing and striping on Cherrydale Drive or Diamond Bar Boulevard; and
 - Widen and/or restripe NB approach on Brea Canyon Road to provide a second right-turn lane. Widen and/or restripe EB approach and departure on Diamond Bar Boulevard to a third through lane. Re-stripe WB approach on Diamond Bar Boulevard to provide a second left-turn lane. The implementation of this improvement may require some modification to existing traffic signal equipment (i.e. recut/install new vehicle loop detectors, modification to traffic signal controller), as well as the termination of the existing bike lane.



Intersection 16 - Brea Canyon Road and Diamond Bar Boulevard



Site Location Map



Intersection 17 - Cherrydale Drive and Diamond Bar Boulevard

Brea Canyon Road at Diamond Bar Boulevard

Widen and/or re-stripe northbound approach on Brea Canyon Road to provide a second right-turn lane. Widen and/or re-stripe eastbound approach and departure on Diamond Bar Boulevard to a third through lane. Re-stripe westbound approach on Diamond Bar Boulevard to provide a second left-turn lane.

Cherrydale Drive at Diamond Bar Boulevard

Provide an option left/through lane and a separate right-turn lane on the northbound approach; re-stripe southbound approach to provide an option left/through/right-turn lane on Cherrydale. Widen and/or re-stripe eastbound approach and departure on Diamond Bar Boulevard to a third through lane and provide a separate right-turn lane. Modify median and re-stripe Diamond Bar Boulevard to provide dual westbound left-turn lanes. Install traffic signal

- The developers of the site will also be required to pay fair-share fees of the construction costs to implement additional improvements to mitigate the cumulative traffic impacts of existing traffic, future non-project traffic, and project traffic. See the Traffic and Circulation Improvements and Cost Estimates, and Traffic Improvement Study Maps attached to this report (Attachments #5 & 6).

Attachment 4

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("Memorandum") is executed as of July 1, 2007 by and between the City of Diamond Bar, California, a municipal corporation ("City") and the Walnut Valley Unified School District, a unified school district organized under the California Education Code ("District"), hereinafter together occasionally referred to as "the parties."

RECITALS

A. District owns an undeveloped parcel of real property within the territorial limits of City ("School Property"), and legally described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto and incorporated herein by reference. District has found the School Property to be unnecessary for future school use and has declared it surplus property.

B. City owns an approximate .93 acre undeveloped parcel of real property immediately adjacent to the School Property ("City Property"), legally described in Exhibit A-3 and depicted in Exhibit A-4, attached hereto and incorporated herein by reference.

C. District desires the disposition of the School Property to yield the maximum return to the District for the benefit of its constituents and its educational mission. City desires that the School Property and City Property (collectively referred to hereinafter as "Site D") be developed in a manner as to assure compatibility with and to meet the needs of the surrounding area, to provide a desirable level of sales tax revenues to the City. The legal description of Site D is described in Exhibit A-5 and depicted in Exhibit A-6, attached hereto and incorporated herein by reference.

D. In light of the foregoing, the parties desire to cooperate and collaborate in the planning of the future land use and zoning designations for Site D in order that District and City may each advance its respective objectives for the disposition of the property.

NOW THEREFORE, in consideration of the foregoing, City and District hereby agree as follows:

1. Preparation of Specific Plan.

- 1.1 City agrees to engage the services of TRG Land, Inc. to prepare a specific plan for Site D in accordance with California Government Code sections 65450 through 65457, pursuant to its proposal dated June 6, 2007, and to advance the cost of preparation of the specific plan.
- 1.2 District shall reimburse City the cost of preparation of the specific plan upon sale of Site D, the reimbursement to be paid through escrow, from the proceeds of the sale. The reimbursement shall consist of the final direct cost of TRG Land Inc.'s services, the additional cost of associated consulting services provided by TRG's subconsultants and others for civil engineering, geotechnical engineering and environmental services, plus an administrative overhead charge of five percent (5%) of the total of the foregoing reflecting City staff time and public hearing expenses. Total reimbursement pursuant to this paragraph shall not exceed the sum of Two Hundred Ninety-Four Thousand Four Hundred Ninety-five Dollars and 45/100 (\$294,495.45)

absent written consent of District, which consent shall not be unreasonably denied or delayed. The not to exceed costs of TRG Land, Inc. and its subconsultants for the services to be rendered under this Memorandum are attached hereto as Exhibit B and incorporated herein by this reference.

- 1.3 The specific plan will include a mix of residential and commercial uses as more specifically described in the agreement for services between City and TRG Land, Inc based upon a mutually agreed upon site map such as is attached hereto as Exhibit C and incorporated herein by this reference. Of the usable acreage on Site D, a minimum of fifty percent (50%) will be designated for residential development, and fifty percent (50%) will be designated for commercial use, exclusive of necessary infrastructure. Should the specific plan adopted by City provide for less residential development than the minimum described above, District may, at its sole discretion, elect to be released from the reimbursement obligation set forth in paragraph 1.2 above, and upon such election shall have no further obligations under this Memorandum.

2. Consideration of Specific Plan by City.

- 2.1 City agrees to present the specific plan prepared pursuant to Paragraph 1 to its Planning Commission and City Council for consideration. Nothing herein, however, constitutes a commitment or guaranty that City will adopt the specific plan. City reserves all of its police powers relative to consideration of the specific plan, and City's Planning Commission and City Council retain the discretion to take any such action each deems appropriate with respect to the specific plan. Nothing contained herein shall be deemed to limit, restrict, amend or modify, nor to constitute a waiver or release of, the discretion vested in the City by its Municipal Code to make independent judgments, findings and decisions with regard to the approval or disapproval of the specific plan.
- 2.2 City agrees to use best efforts, subject to force majeure events beyond its control, to process the specific plan and related entitlements in accordance with the schedule attached hereto as Exhibit D and incorporated herein by this reference thereto.

3. Sale of Site D by District/City.

- 3.1 Upon City's approval of the specific plan for the development of Site D, District agrees to use its best efforts to sell the School Property as entitled by the City for the fair market value, in accordance with the provisions of California Education Code commencing with section 17455. City agrees to use its best efforts to sell the City Property for the fair market value. The parties agree to cooperatively work with each other to coordinate the sale of Site D.
- 3.3 In the event District and/or City fails to receive a responsive bid for either the residential or commercial components of Site D, as applicable, within thirty (30) days following the date in which no responsive bid has been received, the parties agree to meet in good faith to identify mutually acceptable option(s) to sell Site D.

4. Term.

This Memorandum shall commence on July 1, 2007 and remain in effect until the actions contemplated herein have been fully consummated. Notwithstanding, the parties agree, subject to force majeure events beyond the reasonable control of the parties, that should the specific plan for Site D not be approved by City within eighteen (18) months from the date and year first written above consistent with the schedule attached as Exhibit D, either party may terminate this Memorandum upon providing written notice to the other party. In the event this Memorandum is terminated pursuant to this paragraph 4, District shall be released from the reimbursement obligation set forth in paragraph 1.2 above.

5. Binding Effect.

This Memorandum is binding on the parties in accordance with its terms. The parties signing below represent and warrant that they have the legal authority to bind the party for whom they are signing.

6. Indemnity.

Each party agrees to indemnify, defend, and hold harmless the other party, its officers, agents and employees from any and all liabilities, claims, or losses of any nature, including reasonable attorneys' fees and costs of suit, to the extent caused by, arising out of, or in connection with, the indemnifying party's negligent or wrongful acts or omissions arising from its respective activities pursuant to this Memorandum.

7. Governing Law.

This Agreement shall be governed by the laws of the State of California.

8. Notices.

All notices permitted or required under this Memorandum shall be in writing, and shall be deemed made when delivered to the applicable party at the following addresses either by first class mail postage prepaid, facsimile or personal delivery:

If to City:

City of Diamond Bar
21825 E. Copley Drive
Diamond Bar, CA 91765
Attention: City Manager

If to District:

Walnut Valley Unified School District
880 South Lemon Avenue
Walnut, CA 91789
Attention: Superintendent

9. Entire Agreement

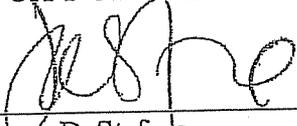
This Memorandum represents the entire integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, written or oral, regarding the joint program provided for herein. This Memorandum may be amended only by a written instrument signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the date and year first written above.

Dated: JUNE 20, 2007

CITY OF DIAMOND BAR

By: _____


James DeStefano
City Manager

Dated: _____, 2007

WALNUT VALLY UNIFIED SCHOOL DISTRICT

By: _____

Kent L. Bechler, Ph.D.
Superintendent

EXHIBIT A-1

LEGAL DESCRIPTION OF SCHOOL PROPERTY

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

THAT PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF LOT 76 (BREA CANYON CHANNEL) OF TRACT 27577, AS PER MAP RECORDED IN BOOK 702, PAGES 22 TO 25 INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY, DISTANT THEREON NORTH $30^{\circ}41'18''$ EAST 245.38 FEET FROM THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE SHOWN ON SAID MAP AS HAVING A BEARING AND DISTANCE OF NORTH $30^{\circ}41'18''$ EAST 745.38 FEET; THENCE SOUTH $59^{\circ}18'42''$ EAST 235.80 FEET; THENCE SOUTH $71^{\circ}00'13''$ EAST 580.00 FEET; THENCE SOUTH $34^{\circ}00'00''$ EAST, 120.00 FEET; THENCE NORTH $56^{\circ}00'00''$ EAST 340.00 FEET; THENCE NORTH $48^{\circ}00'00''$ EAST 980.00 FEET; THENCE NORTH $28^{\circ}07'43''$ WEST 570.00 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF DIAMOND BAR BOULEVARD, AS SHOWN ON MAP OF TRACT 25991, AS PER MAP RECORDED IN BOOK 702 PAGES 16 TO 21 INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY; SAID POINT BEING ON A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 2050.00 FEET, A RADIAL LINE TO SAID POINT BEARS SOUTH $28^{\circ}07'43''$ EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE, ALONG THE SOUTHEASTERLY LINE OF SAID DIAMOND BAR BOULEVARD; THROUGH A CENTRAL ANGLE OF $41^{\circ}1'33''$ AN ARC DISTANCE OF 150.00 FEET; THENCE TANGENT TO SAID LAST MENTIONED CURVE, ALONG THE SOUTHEASTERLY LINE OF SAID DIAMOND BAR BOULEVARD SOUTH $66^{\circ}03'50''$ WEST 875.89 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1050.00 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE, ALONG THE SOUTHEASTERLY LINE OF SAID DIAMOND BAR BOULEVARD, THROUGH A CENTRAL ANGLE OF $20^{\circ}50'10''$ AN ARC DISTANCE OF 381.83 FEET TO THE NORTHEAST CORNER OF SAID LOT 76; THENCE SOUTH $30^{\circ}41'18''$ WEST, ALONG THE SOUTHEASTERLY LINE OF SAID LOT 76, 500.00 FEET TO THE POINT OF BEGINNING.

EXCEPT THAT PORTION OF SAID SECTION 29 DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF LOT 76 OF TRACT 27577, AS PER MAP RECORDED IN BOOK 702 PAGES 22 TO 25 INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY, DISTANT THEREON NORTH $30^{\circ}41'18''$ EAST 259.67 FEET FROM THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE HAVING A BEARING OF NORTH $30^{\circ}41'18''$ EAST AND A DISTANCE OF 745.38 FEET; THENCE CONTINUING ALONG

THE SOUTHEASTERLY LINE OF SAID LOT 76; NORTH 30°41'18" EAST 485.71 FEET TO THE SOUTHERLY LINE OF DIAMOND BAR BOULEVARD, AS SHOWN ON MAP OF SAID TRACT 27577; SAID SOUTHERLY LINE BEING A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1050.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 421'50" AN ARC DISTANCE OF 79.97 FEET; THENCE SOUTH 30°41'18" WEST 527.99 FEET TO A LINE THAT BEARS SOUTH 63°26'06" EAST FROM THE POINT OF BEGINNING; THENCE NORTH 63°26'06" WEST 64.82 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPT THEREFROM SAID LAND ALL OIL, GAS AND OTHER HYDROCARBONS AND MINERALS NOW OR AT ANY TIME HEREAFTER SITUATED THEREIN OR THEREUNDER OR PRODUCIBLE THEREFROM, TOGETHER WITH THE FREE AND UNLIMITED RIGHT TO MINE, STORE, DRILL AND BORE BENEATH THE SURFACE OF SAID LAND AT ANY LEVEL OR LEVELS 500 FEET OR MORE BELOW THE SURFACE OF SAID LAND FOR THE PURPOSE OF DEVELOPING OR REMOVAL OF SUCH SUBSTANCES, PROVIDED THAT THE SURFACE OPENING OF SUCH WELL AND ALL OTHER SURFACE FACILITIES SHALL BE LOCATED ON LAND OTHER THAN DESCRIBED HEREIN, AND SHALL NOT PENETRATE ANY PART OF PORTION OF THE ABOVE DESCRIBED REAL PROPERTY WITHIN 500 FEET OF THE SURFACE THEREOF, AND ALL OF THE RIGHTS SO TO REMOVE SUCH SUBSTANCES ARE HEREBY SPECIFICALLY RESERVED, INCLUDING THE RIGHT TO DRILL FOR, PRODUCE AND USE WATER FROM SAID REAL PROPERTY IN CONNECTION WITH SUCH OPERATIONS, AS EXCEPTED AND RESERVED BY TRANSAMERICA DEVELOPMENT COMPANY, A CORPORATION WHICH ACQUIRED TITLE AS CAPITAL COMPANY, A CORPORATION, IN DEED RECORDED AUGUST 12, 1964 AS INSTRUMENT NO. 1401.

PARCEL 2:

THAT PORTION OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 9 WEST, SAN BERNARDINO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF LOT 76 OF TRACT 27577, AS PER MAP RECORDED IN BOOK 702, PAGES 22 TO 25, INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY, DISTANT THEREON NORTH 30°41'18" EAST 259.67 FEET FROM THE SOUTHWESTERLY TERMINUS OF THAT CERTAIN COURSE HAVING A BEARING OF NORTH 30°41'18" EAST AND A DISTANCE OF 745.38 FEET; THENCE CONTINUING ALONG THE SOUTHEASTERLY LINE OF SAID LOT 76, NORTH 30°41'18" EAST, 485.71 FEET TO THE SOUTHERLY LINE OF DIAMOND BAR BOULEVARD, AS SHOWN ON MAP OF SAID TRACT 27577, SAID SOUTHERLY LINE) BEING A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 1050.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH CENTRAL ANGLE OF 441'50" AN ARC DISTANCE OF 79.97 FEET; THENCE SOUTH 30°41'18" WEST 527.99 FEET TO A LINE THAT BEARS SOUTH 63°26'06" EAST FROM THE POINT OF BEGINNING; THENCE NORTH 63°26'06" WEST 64.82 FEET TO THE POINT OF BEGINNING.