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CITY COUNCIL

AGENDA REPORT

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**TO:** Honorable Mayor and Members of the City Council

**VIA:** James DeStefano, City Manager

**TITLE:** General Plan Amendment No. 2007-03, Zone Change No. 2007-04, Specific Plan No. 2007-01 ("Site D Specific Plan"), 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).

**SUMMARY:**

The Site D Specific Plan (SDSP) was prepared to facilitate the processing and approval of future development proposals and associated discretionary and administrative approvals on a 30.36-acre property referred to as Site D. The City and the Walnut Valley Unified School District agreed to collaborate in the planning efforts for the property so that each may advance its respective objectives for the disposition of the property. Key objectives of the Specific Plan are as follows:

- Allow for a maximum of 202 residential dwelling units;
- Allow for a maximum of 153,985 gross square feet of commercial use;
- Provide approximately 10 acres of open space areas, easements and rights-of-way;
- Establish an "A-Level" development framework that provides details for the backbone vehicular circulation system, the creation of master development pads to organize land uses on site, and the infrastructure plan;

- Establish architectural guidelines to promote unifying design elements;
- Prescribe the architectural, landscape and streetscape design criteria to create a visual continuity throughout Site D property; and
- Deliver a “green” and sustainable community through the use of energy efficiency, healthy indoor air quality, waste reduction, water efficiency, pedestrian and bicycle links to reduce vehicle trips, use of renewable and recyclable materials for building construction, water-efficient landscaping featuring indigenous, non-invasive and climate appropriate plant types, etc. The required energy standards for the project exceed those currently mandated by State Title 24.

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.

#### **RECOMMENDATION:**

1. Certify **Environmental Impact Report 2007-02**;
2. Adopt **Findings of Fact 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, the School District, and the region, and important public policy objectives will result from the implementation of the proposed Specific Plan, which override the significant environmental impacts that cannot be mitigated to less-than-significant levels;
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), Low/Medium Density Residential (RLM), and Neighborhood Commercial (C-1) to Specific Plan;
5. Adopt **Specific Plan No. 2007-01** for Site D Specific Plan, establishing the land use and development standards to facilitate the construction of up to 202 residential dwelling units; up to 153,985 gross sq. ft. of commercial floor area; and a minimum of 10.16 acres of open space areas, easements and rights-of-way; and
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.

## **BACKGROUND:**

The Site D Specific Plan project area consists of 30.36 acres, comprised 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 owned by the City; and
- 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 would be 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 work cooperatively in the planning efforts for Site D so that each may advance its respective objectives for the disposition of the property.

## **ANALYSIS:**

The Planning Commission staff reports in Attachment 6 provide a detailed analysis of the project objectives, surrounding land uses, site characteristics, key elements of the Specific Plan, development standards, circulation and traffic improvements, and the EIR process. Graphic exhibits are included in Attachment 16.

## **Framework of Site D Specific Plan/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 believes that it is in the community's best interest to establish a comprehensive, enforceable planning strategy for Site D, and to do so prior to putting the property on the market. To further this goal, staff determined that a Specific Plan would be the most appropriate planning tool to better ensure a predictable outcome for the eventual build-out of Site D.

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 formal 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.

## **Fulfillment of Goals and Objectives in City's General Plan**

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. While there is tension among several General Plan policies – such as meeting regional housing needs, preserving open space, promoting economic development, and reducing traffic congestion – the role of the City’s decision makers is to determine which goals and policies should be furthered, given the objectives, context, and opportunities associated with each decision under consideration, and thus balance that tension given all the factors in play. The Site D Specific Plan implements the vision of the City’s General Plan as follows:

- Contributes to the diversity of the City’s housing stock in order to provide attractive housing which accommodates people of all ages, cultures, occupations and levels of financial status;
- Promotes viable commercial activity. While Diamond Bar has established local control by incorporating into a City, attendant to that is the responsibility for planning for the economic well being of the City through opportunities for generation of sales tax revenue. Moreover, the proposed commercial component of the Specific Plan provides the opportunity to better serve the southern part of the City by enhancing the range of conveniently-located neighborhood retail uses; and
- Creates a community environment which nurtures social and recreational opportunities for its residents. As recommended by the Planning Commission, a neighborhood public park space of 1.3 net acres is to be incorporated into the commercial development.

The Specific Plan further meets the goals and objectives as listed in the Draft Specific Plan and Finding of Fact attached to the Draft Resolution in Attachment 1.

### **Specific Plan/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;
  - Promoting 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
  - Integrating 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; use of renewable and recyclable materials for building construction, solar panels, and low energy lighting, 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;

- Provides traffic improvements to the Diamond Bar Boulevard/Brea Canyon Road intersection which 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 Impact Report**

In accordance with the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared for the Site D Specific Plan. The EIR provides a detailed analysis of potential environmental impacts associated with the development of the Specific Plan area, identifies mitigation measures to lessen those impacts, and analyzes a range of project alternatives.

Outreach efforts to solicit citizen and public agency input throughout the EIR process included the following actions:

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 EIR, 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. 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.

## Findings of Fact and Statement of Overriding Considerations

Prior to approving the proposed Specific Plan, the City Council must first certify that the Final EIR has been completed in accordance with CEQA; that the Final EIR was presented, reviewed and considered by the City Council; and that the Final EIR reflects the City's independent judgment and analysis. The Council is required to adopt findings in accordance with CEQA Guidelines Section 15091 when significant effects have been identified in the Draft EIR which cannot feasibly be mitigated to less-than-significant levels.

As documented in the Draft EIR, all potential impacts associated with the proposed Specific Plan can be mitigated to less-than-significant levels, except air quality impacts. Specifically, it was determined that construction and operational air quality impacts would exceed daily emissions thresholds established by the Air Quality Management District (AQMD). No alternatives (excluding the "No Project" alternative) or mitigation measures were identified which could reduce air quality impacts below a level of significance; this is largely attributable to the fact that the South Coast Air Basin is already subject to unhealthful air quality levels.

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 Findings of Fact and Statement of Overriding Considerations are attached as Exhibit A to the draft resolution certifying the EIR and adopting the mitigation reporting and monitoring program (Attachment 1). The Findings of Fact identify economic and social benefits that will accrue to the City, to the School District, and to the region, as well as important public policy objectives that will result from the implementation of the proposed project. Therefore, the City Council may find that the proposed project's identified benefits override the project's air quality impacts.

### **Comment Letters Received**

Correspondence received to date is included in the Draft EIR, Response to Comments on the Draft EIR and Planning Commission Staff Reports. Correspondences not published in these documents are included in Attachments 10 through 14.

On May 23, 2010, a letter from Andy Salas, Chairman of the Gabrieleño Band of Mission Indians is included as Attachment 14. The letter contends that the City failed to

perform adequate outreach to the Native American tribes that may have a cultural connection to the area. In accordance with the State's "Tribal Consultation Guidelines" (April 15, 2005), the City has fully complied with all applicable noticing requirements with regards to outreach efforts, including sending a "Local Government Tribal Consultation List Request" to the Native American Heritage Commission (NAHC) on February 1, 2008 and sending copies of the Notice of Preparation to the NAHC, the Gabrieleno/Tongva Tribal Council, the Gabrielino Tongva Nation, and the Gabrielino Band of Mission Indians. The mailing list was obtained from the NAHC website (accessed in late January 2008) which lists the names/contact information for tribal organizations throughout the state. In addition, a Phase I cultural and paleontological resource assessment was prepared as a technical appendix to the EIR. The assessment included direct consultation with the NAHC. The NAHC performed a Sacred Lands File (SLF) record search, which failed to indicate the presence of Native American cultural resources in the immediate project area. Moreover, the NAHC provided the consulting archaeologists with Native American contact list, and letters were sent to each of the contacts via certified mail, and no responses were received. Still, as indicated in the Draft EIR, Mitigation Measure 11-1 requires that a qualified archaeologist shall monitor initial vegetation removal activities in the event that cultural resources, Native American or otherwise, are encountered. A letter from the City's environmental consultant, Environmental Impact Sciences, is included as Attachment 15.

### Specific Plan Amendments

Among the public comments received, it was noted that Section 6.5 of the Specific Plan may grant the Community Development Director overly broad authority to approve revisions to the Specific Plan. To address this concern, staff drafted modified language to more clearly define the limits to the Director's authority. The proposed revised Section 6.5 is provided as Attachment 9, and will be incorporated into the document if the Specific Plan is approved.

### **PLANNING COMMISSION ACTION:**

On April 11, 2010, the Commission opened the public hearing to take public testimony from the public regarding the Draft Environmental Impact Report and all land use entitlements, closed the public hearing, and continued the matter to the April 27, 2010 meeting. Eleven members of the public spoke, and voiced opposition to some or all aspects of the proposed Specific Plan. Concerns revolved largely around the following issues:

- Traffic impacts;
- Visual and aesthetic impacts;
- Opposition to commercial development;

- Conservation of existing open space and preservation of existing trees on-site; and
- Air quality and construction impacts.

A detailed summary of the public testimony is provided in the minutes, which are included in Attachment 7 of this report.

At the conclusion of deliberations during the April 27 meeting, three of the four Commissioners expressed intent to recommend certification of the Environmental Impact Report, and adoption of the General Plan Amendment and Zone Change. The same three Commissioners also expressed support for the Specific Plan with the addition of a recommendation to incorporate a neighborhood park feature into the plan and directed staff to prepare a revised resolution that reflects the majority's recommendation, and continued the matter to the May 11, 2010 meeting.

At the May 11, 2010 meeting, staff presented an analysis of park alternatives to assist the Commission in determining the size and type of public space to recommend to the City Council. By a 3-1 vote, the Commission recommended certification of the EIR and Statement of Overriding Considerations, adoption of the General Plan Amendment/Zone Change, and approval of the Specific Plan with the added recommendation to incorporate a 1.3 net acre usable neighborhood public park within the area of the project site designated for commercial development, adjacent to slope areas or water quality management areas, and which shall incorporate features such as, but not limited to, a tot lot, picnic tables, seating areas and shade structures. The Commission stated that the park shall be constructed to City standards, and then dedicated to the City. The staff reports, minutes and resolutions adopted at these meetings are attached as Attachments 6-8.

### **Neighborhood Park Recommendation:**

In addition to making the above recommendations, the Planning Commission recommended incorporating a 1.3 net acre usable neighborhood public park within the commercial component, adjacent to the slope areas or water quality management areas. The recommendation to include a neighborhood park is solely that of the Planning Commission. Should the City Council support the concept, it may also wish to consider the area adjacent to the terminus of Posado Drive as an alternative site. Although not within the commercial subarea of the land use plan, it does have a more direct linkage and access point to the existing neighborhood adjacent to Site D.

### **ALTERNATIVES TO STAFF RECOMMENDATIONS**

In addition to the staff's recommendation on Page 2, the following alternative actions available to the Council have been identified:

**Alternative Environmental Actions:**

1. Certify the Final Environmental Impact Report, but determine that the Findings of Fact do not warrant the adoption of the Statement of Overriding Considerations, continue the matter and direct staff to prepare the necessary resolution; OR
2. Identify the reasons why the Final EIR should not be certified, specifying the deficiencies in the environmental analysis and/or conclusions, and recommend that the City Council direct staff to revise the environmental analysis accordingly, continue the matter and direct staff to prepare the necessary resolution; OR
3. Continue the item for additional information or revisions to the environmental documents.

**Alternative Project Actions:**

1. Approve the proposed project as recommended by the Planning Commission (which includes a public park amendment) and adopt the resolutions and ordinances included as Attachments 1 through 5 with or without amendments; OR
2. Approve the proposed project and adopt the resolutions and ordinances with additional modifications and amendments as determined by the City Council; OR
3. Deny the proposed project and direct staff to prepare the necessary resolutions OR
4. Remand the proposed project to the Planning Commission with specific direction from the City Council.

**NOTICE OF PUBLIC HEARING:**

Public hearing notices were mailed to property owners within a 1,000-foot radius of the project site on June 4, 2010, and the notice was published in the Inland Valley Daily Tribune and San Gabriel Valley Tribune newspapers. 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, and hard copies are available for review at City Hall and the Diamond Bar Branch of the Los Angeles County Library.

**RECOMMENDATION FOR THE JUNE 15, 2010 MEETING:**

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 a date specified by the City Council.

Prepared by:

Reviewed by:

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Grace S. Lee  
Senior Planner

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Greg Gubman, AICP  
Community Development Director

Reviewed by:

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David Doyle  
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**Attachments:**

1. Draft Resolution No. 2010-XX (Certification of the FEIR and Adoption of the Mitigation Reporting and Monitoring Program and Statement of Overriding Considerations)
2. Draft Resolution No. 2010-XX (Approval of GPA)
3. Draft Resolution No. 2010-XX (Approval of TTM)
4. Draft Ordinance No. XX (2010) (Approval of ZC)
5. Draft Ordinance No. XX (2010) (Approval of SP)
6. PC Staff Reports dated April 13 & 27, May 11, 2010
7. PC Minutes of April 13 & 27, May 11, 2010
8. PC Resolution Nos. 2010-12,13,14
9. Revised Section 6.5 of the Specific Plan RE Amendments
10. E-mail from David R. Busse dated May 10, 2010
11. Letter from Mary E. Rodriguez dated May 7, 2010
12. Letter from James Eng dated May 13, 2010
13. Letter from Lindsay Maine dated May 16, 2010
14. Letter from Andy Salas, Chairman of the Gabrieleño Band of Mission Indians dated May 23, 2010
15. Letter from Environmental Impact Sciences Regarding Tribal Consultation dated June 9, 2010
16. Aerial Photo, Land Use Plan, Landscape Concept Plan, Site Sections and Tentative Tract Map

**\*\* To Review all the Documents – A full packet is available for review at the Diamond Bar Library and City Hall.**