

RESOLUTION NO. EIR 10-04

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA MAKING CERTAIN FINDINGS OF FACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM AND CERTIFYING THE FINAL SECOND TIER ENVIRONMENTAL IMPACT REPORT (EIR 10-04/SCH 2010061090) FOR THE OTAY RANCH VILLAGE 9 SECTIONAL PLANNING AREA PLAN AND TENTATIVE MAP PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, Otay Land Company, LLC, submitted applications requesting approvals for a Sectional Planning Area (SPA) Plan and Tentative Map (TM), for Otay Ranch Village 9 (Project); and

WHEREAS, a Draft Second Tier Environmental Impact Report (Draft EIR 10-04 or Draft EIR) for the Project was issued for public review on January 17, 2014, and was processed through the State Clearinghouse; and

WHEREAS, in consideration of the comments received on the Draft EIR and requirements of the California Environmental Quality Act (CEQA), a Final Second Tier EIR (Final EIR 10-04 or Final EIR) was prepared for the Project; and

WHEREAS, Final EIR 10-04 incorporates all comments and recommendations received on the Draft EIR, a list of all persons, organizations, and public agencies commenting on the Draft EIR, and the City's responses to all "significant environmental points" raised by public and agency comments submitted during the review and consultation process, in accordance with CEQA Guidelines Section 15132; and

WHEREAS, additional corrections to Final EIR 10-04 did not result in modifications to conclusions regarding significance of impacts or the addition of significant new information that would require recirculation of the EIR pursuant to CEQA Guidelines section 15088.5; and

WHEREAS, Final EIR 10-04 incorporates, by reference, the prior EIRs that address the subject property including the 2013 Chula Vista General Plan Amendment/Otay Ranch General Development Plan Amendment Supplemental EIR (SEIR 09-01), the 2005 Chula Vista General Plan Update EIR (EIR 05-01), and the Otay Ranch GDP/SRP Program EIR (EIR 90-01) as well as their associated Findings of Fact and Mitigation Monitoring and Reporting Programs; and

WHEREAS, the Chula Vista Planning Commission held a duly noticed public hearing for Final EIR 10-04 on May 14, 2014 and, following vote of 3-1-2-1, was not able to approve a resolution recommending the City Council make certain Findings of Fact; adopt a Statement of Overriding Considerations; adopt a Mitigation Monitoring and Reporting Program and certify Final EIR 10-04 for the Otay Ranch Village 9 SPA Plan and TM pursuant to CEQA; and

WHEREAS, to the extent that the Findings of Fact and Statement of Overriding Considerations for the Project, dated April 10, 2014 (Exhibit “A” of this Resolution, a copy of which is on file in the office of the City Clerk), conclude that proposed mitigation measures outlined in Final EIR 10-04 are feasible and have not been modified, superseded or withdrawn, the City of Chula Vista hereby binds itself and the Applicant and its successors in interest, to implement those measures. These findings are not merely information or advisory, but constitute a binding set of obligations that will come into effect when the City adopts the Resolution approving the Project. The adopted mitigation measures contained within the MMRP Section of Final EIR 10-04 are expressed as conditions of approval. Other requirements are referenced in the MMRP that are adopted concurrently with these Findings of Fact and will be effectuated through the process of implementing the Project.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL of the City of Chula Vista does hereby find, determine, resolve and order as follows:

I. PLANNING COMMISSION RECORD

The proceedings and all evidence introduced before the Planning Commission at their public hearings on Final EIR 10-04 held on **May 14, 2014**, and before the City Council at their public hearing held on **June 3, 2014**, as well as the Minutes and Resolutions resulting therefrom on Final EIR-10-04 shall be incorporated into the record of proceedings pursuant to Public Resources Code Section 21167.6. These documents, along with any documents submitted to the decision-makers, including documents specified in Public Resources Code Section 21167.6, subdivision (e), shall comprise the entire record of proceedings for any claims under the California Environmental Quality Act, Public Resources Code §21000 et seq. (“CEQA”). The record of proceedings shall be maintained by the City Clerk at City Hall.

II. FEIR 10-04 CONTENTS

That FEIR 10-04 consists of the following:

1. Second-Tier EIR for the Project SPA Plan and TM (including Mitigation Monitoring and Reporting Program and Technical Appendices); and
2. Comments and Responses

(All hereafter collectively referred to as “FEIR 10-04”)

III. ACCOMPANYING DOCUMENT TO FEIR 10-04

1. Findings of Fact and Statement of Overriding Considerations

IV. PRESENTATION TO THE DECISIONMAKING BODY

That the City Council does hereby certify that FEIR 10-04 was presented to the City Council as the decision-making body of the lead agency and that the City Council has reviewed and considered the information contained in FEIR 10-04 prior to approving the Project.

V. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

That the City Council does hereby certify that FEIR 10-04, the Findings of Fact and the Statement of Overriding Considerations (Exhibit "A" to this Resolution, a copy which is on file with the office of the City Clerk), and the Mitigation Monitoring and Reporting Program are prepared in accordance with the requirements of CEQA (Pub. Resources Code, §21000 *et seq.*), the CEQA Guidelines (California Code Regs. Title 14 §15000 *et seq.*), and the Environmental Review Procedures of the City of Chula Vista.

VI. INDEPENDENT JUDGMENT OF CITY COUNCIL

That the City Council does hereby certify that FEIR 10-04 reflects the independent judgment and analysis of the City of Chula Vista as lead agency for the Project.

VII. CEQA FINDINGS OF FACT, MITIGATION MONITORING AND REPORTING PROGRAM AND STATEMENT OF OVERRIDING CONSIDERATIONS

A. Adoption of Findings of Fact

The City Council does hereby approve, accept as its own, incorporate as if set forth in full herein, and make each and every one of the findings contained in Exhibit "A" to this Resolution, a copy of which is on file in the office of the City Clerk.

B. Mitigation Measures Feasible and Adopted

On the basis of the findings set forth in Exhibit "A" to this Resolution and as more fully identified and set forth in FEIR 10-04, the City Council hereby finds pursuant to CEQA Section 21081 and CEQA Guidelines Section 15091 that changes or alterations have been required in, or incorporated into the Project which avoid or substantially lessen the significant environmental effects identified in FEIR 10-04, and that such changes and alterations have eliminated or substantially lessened all significant effects on the environment where feasible as shown in the findings set forth in Exhibit "A" to this Resolution. Furthermore, the measures to mitigate or avoid significant effects on the environment, consisting of those mitigation measures set forth in Final EIR 10-04 and in Exhibit "A" to this Resolution, are fully enforceable through permit conditions, agreements or other measures, including but not limited to conditions of approval

of the Project TM, and will become binding upon the entity (such as the project proponent or the City) assigned thereby to implement the same.

C. Infeasibility of Mitigation Measures

As more fully identified and set forth in FEIR-10-04 and in the Findings of Fact for the Project, which is Exhibit “A” to this Resolution, certain mitigation measures described in said documents are infeasible.

D. Statement of Overriding Considerations

Even after the adoption of all feasible mitigation measures and any feasible alternatives, certain significant or potentially significant environmental effects caused by the project, or cumulatively, will remain. However, pursuant to CEQA Guidelines Section 15092, the City hereby finds and determines that any remaining significant effects on the environment which have been found to be unavoidable as shown in the findings set forth in Exhibit “A” to this Resolution are acceptable due to certain overriding concerns. Therefore, the City Council of the City of Chula Vista hereby approves, pursuant to CEQA Guidelines Section 15093, a Statement of Overriding Considerations in the form set forth in Exhibit “A” to this Resolution identifying the specific economic, social and other considerations that outweigh and render the unavoidable significant adverse environmental effects acceptable.

E. Infeasibility of Alternatives

As more fully identified and set forth in FEIR 10-04 and in Section XI of Exhibit “A” to this Resolution, the City Council hereby finds pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091 that alternatives to the project, which were identified in FEIR 10-04, were not found to reduce impacts to a less than significant level or meet the project objectives.

F. Adoption of Mitigation Monitoring and Reporting Program

As required by Public Resources Code Section 21081 and CEQA Guidelines Section 15091, the City Council hereby adopts the program for reporting on or monitoring the changes which it has either required in the Project or made a condition of approval to avoid or substantially lessen significant environmental effects, consisting of the Mitigation Monitoring and Reporting Program set forth in FEIR 10-04. The City Council further finds that the Mitigation Monitoring and Reporting Program is designed to ensure that, during Project implementation, the permittee/Project Applicant and any other responsible parties implement the Project components and comply with the mitigation measures identified in the Findings of Fact and the Mitigation Monitoring and Reporting Program.

VIII. NOTICE OF DETERMINATION

The Development Services Director of the City of Chula Vista is directed to file a Notice of Determination with the County Clerk of the County of San Diego, should City Council approve this Project.

BE IT FURTHER RESOLVED THAT the City Council of the City of Chula Vista on the basis of the findings as set forth above certifies FEIR 10-04, and adopts the Findings of Fact and Statement of Overriding Considerations (Exhibit "A" to this Resolution), and Mitigation Monitoring and Reporting Program in accordance with CEQA Guidelines Section 15091.

Submitted by

Approved as to form by

Kelly Broughton, FASLA
Development Services Director

Glen R. Googins
City Attorney

Exhibit A - Findings of Fact and Statement of Overriding Considerations

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