

Agenda Item

AGENDA SUPPORT



ASR Control 16-000983

MEETING DATE: 12/13/16
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 3
SUBMITTING AGENCY/DEPARTMENT: OC Public Works (Approved)
DEPARTMENT CONTACT PERSON(S): Shane Silsby (714) 667-9700
 Colby Cataldi (714) 667-8860

SUBJECT: Esperanza Hills General Plan Amendment, Zone Change, EIR and Specific Plan

CEO CONCUR Concur	COUNTY COUNSEL REVIEW Approved Resolution(s) and Ordinance(s)	CLERK OF THE BOARD Public Hearing
		3 Votes Board Majority

Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A
Staffing Impact: No **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years:** No

Prior Board Action: 06/02/15 #55, 03/10/15 #29

RECOMMENDED ACTION(S):

1. Read the title of the ordinance adopting Zone Change 16-05 and adopting Esperanza Hills Specific Plan.
2. Order further reading of the ordinance be waived.
3. Open the public hearing on Revised Final Environmental Impact Report No. 616, General Plan Amendment, Zone Change and Esperanza Hills Specific Plan ordinance, Planning Application PA120037 for the Project, take public testimony and close the public hearing.
4. Adopt Resolution, which includes each of the following actions:
 - a. Adoption of the Statement of Findings and Facts for Revised Final Environmental Impact Report No. 616 for the Project;
 - b. Adoption of the Mitigation Monitoring and Reporting Program for Revised Environmental Impact Report No. 616;
 - c. Adoption of the Statement of Overriding Considerations for Revised Environmental Impact Report No. 616;
 - d. Certification of Revised Environmental Impact Report No. 616 for the Project, which was revised in compliance with the Writ of Mandate issued in Protect Our Homes and Hills, et al.

v. County of Orange, et al. Case No. 30-2015-00797300; and

- e. Finding that the Revised Environmental Report No. 616 satisfies the requirements of CEQA for Modified Option 1.
5. Adopt Resolution for General Plan Amendment Land Use Element 16-01.
6. Adopt the Ordinance for Zone Change 16-05 and Esperanza Hills Specific Plan.
7. Adopt Resolution approving Vesting Tentative Tract Map 17552.

SUMMARY:

Adoption of the recommended actions certifies Revised Final Environmental Impact Report, approves the Esperanza Hills Development Project as modified and approves Vesting Tentative Tract Map 17552.

BACKGROUND INFORMATION:

On March 10, 2015, the Board of Supervisor's (Board) certified Final Environmental Impact Report (FEIR) No. 616 and approved the Esperanza Hills Development Project (Project). The Board's approval was for a gated community with a maximum of 340 single-family homes on 469 acres. The project density was 0.73 dwelling units per acre. The project approvals involved a General Plan Amendment, Adoption of a Zone Change and Specific Plan and certification of FEIR No. 616.

Following the County's certification of FEIR No. 616 on March 10, 2015, and the Board's approval of the Project on June 2, 2015, a Petition for Writ of Mandate (Writ) and Complaint for Injunction Relief was filed by Protect Our Homes and Hills, Hills for Everyone, Endangered Habitats League, California Native Plant Society and Friends of Harbors, Beaches and Parks, on July 7, 2015, challenging the adequacy of FEIR No. 616 pursuant to the CEQA (Protect Our Homes and Hills, et al. v. County of Orange, et al. Case No. 30-2015-00797300).

On August 24, 2016, the Judge issued a Writ, which was subsequently served on the County on October 12, 2016, and commanded that the County:

- a. Vacate certification of FEIR No. 616, adoption of the Mitigation Monitoring and Reporting Program, and Findings of Fact/Statement of Overriding Considerations made in support of the Project.
- b. Vacate all approvals of the Project based upon FEIR No. 616, including Board Resolution No. 15-018 certifying FEIR No. 616, Board Resolution adopting General Plan Amendment LUE 14-02, and Ordinance No. 15-010 adopting the Esperanza Hills Specific Plan and rezoning certain land from the A-1 General Agricultural and A1(O) General Agricultural/Oil Production Districts to the S "Specific Plan" District.
- c. Revise the FEIR in accordance with CEQA, the CEQA Guidelines, the Statement of Decision and the final Judgment to bring the FEIR into compliance with CEQA by resolving the deficiencies identified by the Court in its Statement of Decision.

These actions were to occur within 90 days of service of the Writ in accordance with Code of Civil Procedure Section 1096, requiring personal service on the County, or on January 10, 2017.

On this agenda prior to the public hearing, the Board considered vacating all previous approvals and certification of FEIR No. 616 as ASR #16-001461. The project applicant, Yorba Linda Estates, LLC (Applicant), requests that the Board further comply with the Writ by reconsidering the Project approvals in light of a Revised Final Environmental Impact Report (RFEIR) and revised Specific Plan. The Esperanza Hills Development Project is located in the unincorporated area of Orange County within the sphere of influence of the City of Yorba Linda (City). Applicant seeks approvals for the development of a residential community on an undeveloped site located north of the SR-91 freeway off Yorba Linda Boulevard, south and west of Chino Hills State Park, and adjacent to the existing residential development located in the City. Immediately west of the Project site is the proposed Cielo Vista residential project.

The Project proposal is to construct a 340-unit, gated community with large lot, low-density residential neighborhoods on approximately 469 acres, for an overall density of 0.73 dwelling units per acre. Once developed, approximately 62% of the Project site will be open space, parks and landscape areas. The Project proposal requires certification of RFEIR No. 616, approval of a General Plan Amendment, approval of a Zone Change, approval of the Esperanza Hills Specific Plan establishing development regulations for the site, and approval of a Vesting Tentative Tract Map (VTTM) 17522.

The property currently has a General Plan designation of Open Space (5) and is Zoned A1 "General Agriculture" and A1-O "General Agriculture" with Oil Production Overlay. The proposed Project is consistent with the City's General Plan which provides for the development of low density residential housing that averages one dwelling unit per acre over the entire area. The City's General Plan anticipates a project access via Stonehaven Drive and San Antonio Road.

The previously approved Specific Plan set forth two project access configurations: (1) Aspen Way Drive Access Configuration, involving a road going west from the Project across Aspen Way, connecting to San Antonio Road and a secondary access south to Stonehaven Drive, and (2) the San Antonio Drive Access Configuration with a main access off San Antonio Road, south of Aspen Way and secondary access off Stonehaven Drive. The Specific Plan now being proposed replaces those with a modified version of the Stonehaven Drive Access Configuration, which involves primary access off Stonehaven Drive with emergency access off Via Del Agua, which was previously proposed by the Applicant but removed from the Specific Plan by the Board.

The modified version involves reconfiguring the main access street alignment and also the emergency access connection point. The entry street from Stonehaven Drive would be realigned to limit steep grades, turns and reduce biological impacts and grading quantities. The access would include a lengthened bridge with a more direct orientation into the gated project entry on a wider road. In addition, the connection point of emergency access would be relocated northwesterly in order to further separate the main project entry from the emergency access. The emergency access would originate from the same location along an access easement through the adjacent property owned by the Richards Trust behind lots 1-30 and connecting to Esperanza Hills Parkway closer to the Orange County Fire Authority (OCFA) Emergency Fire Staging Area. The emergency access road would also provide a separate connection point to Esperanza Hills Parkway resulting in a secondary emergency connection for use at the discretion of OCFA. The Applicant asserts that all legal entitlements for the proposed access to public roads are in place and are based on two easement documents. The first, for the proposed main access road to Stonehaven Drive, was granted to David H. Murdock, the predecessor in interest to the Esperanza Hills property, as a perpetual easement for non-exclusive use of any roads or roadways now or hereafter located on or within the adjacent Ahmansen Development, Inc. property (Tract 12850) for ingress and egress from all or any portion of the Esperanza Hills property. The easement for the proposed emergency access-only road (and utility corridor), lies within a 50-foot wide easement for roadway and utility purposes granted by virtue of a partition action by the Orange County Superior Court in 1958. The existence of the easement was confirmed by an Orange County Superior Court judgment in October 2014, and again confirmed on appeal by the California Court of Appeals in December 2015. Copies of these documents are in the project file with OC Development Services.

The Specific Plan as now proposed by the Applicant also deletes a requirement in the previously approved Specific Plan that the Applicant complete a pre-annexation agreement with the City prior to obtaining final

approval of the Tentative Tract Map by the Board.

On October 26, 2016, the public hearing for the Project was held by the Planning Commission. Public notices for this hearing were mailed to residents within a 2,000-foot radius of the Project site, in a manner consistent with City noticing standards, and which exceeded the County standard requirement of a 300-foot radius. The Planning Commission heard presentations from staff concerning the revisions made in the RFEIR related to greenhouse gas (GHG) emissions. Staff also presented the modifications to the Specific Plan proposed by the Applicant and informed the Commission that analysis of the potential impacts of the revised Specific Plan had been completed with the conclusion that no subsequent or supplemental environmental analysis is required. The Planning Commission also heard from the Project Applicant, affected agencies and members of the public. Key issues discussed at the Planning Commission hearing were community concerns related to fire safety, evacuation traffic control, water availability, aesthetics related to the proposed bridge and traffic. Staff also presented the analysis in the proposed RFEIR which indicates that the Project continues to result in three unavoidable significant impacts including greenhouse gas emissions, noise (for the Aspen Way access only, which is no longer a part of the Specific Plan), and traffic (in that three mitigations measures are off-site and outside of County jurisdiction). After receiving testimony from the public on the Project, the Planning Commission directed questions and discussion of concerns raised to OCFA and OCSO, both of whom stated the developer has adequately addressed evacuation and fire concerns. The Yorba Linda Water District representative also responded affirmatively to Planning Commission questions regarding the adequacy of area water supply and project improvements. The Planning Commission voted unanimously to continue the item to a date certain of November 9, 2016.

On November 9, 2016, the Planning Commission discussion regarding the Project resumed. The Planning Commission heard presentations from staff regarding the follow up discussion items requested from the October 26, 2016, meeting including the bridge design associated with proposed Option 1 modified. After due consideration, the Planning Commission voted unanimously to recommend that the Board certify RFEIR No. 616 and subsequently voted 3:2 (McCormick and Irons opposed) to adopt resolutions recommending that the Board find that RFEIR No. 616 is adequate to satisfy the requirements of CEQA for the Project, approve adoption of General Plan Amendment, Zone Change and Specific Plan which make up Planning Application PA120037 filed by Applicant for development of a 468.9-acre site to allow for a maximum of 340 residential single-family homes.

On November 16, 2016, the public hearing for the VTTM 17522 for the Project was held by the Subdivision Committee. Public notices for this hearing were mailed to residents within a 2,000-foot radius of the Project site, in a manner consistent with City noticing standards, and which exceeded the County standard requirement of a 300-foot radius. The Subdivision Committee heard presentations from staff and the Applicant. After due consideration, the Subdivision Committee voted unanimously to adopt resolutions recommending that the Board approve VTTM 17522 for the Project.

As discussed earlier, in order to comply with the Writ, the GHG section of the FEIR No. 616 (Chapter 5.6) was revised. RFEIR No. 616 analyzes the GHG emissions reductions that result from design features that the County imposed on the Project as part of the adopted Specific Plan, together with additional recommended mitigation measures. The project design features and mitigation measures collectively achieve a 7.93% reduction in GHG emissions for the Project. This reduction is in addition to the anticipated 23.9% reduction in GHG emissions resulting from state regulations adopted in compliance with AB 32, the California Global Warming Solutions Act of 2006.

The FEIR previously certified by the Board provided a menu of reasonable control measures that could effectively reduce the Project's GHG emissions by 5%, which exceeded the remaining reduction necessary to meet the goal of a 28.9% total reduction in GHG emissions set by AB 32. The reasonable control measures to achieve the reductions were described in tabular form on page 5-271 in the FEIR previously certified, but these proposed reasonable control measures were not adopted as specific mitigation measures. Instead, the previously certified FEIR required a two-step approach to GHG mitigation including preparation of a plan for the reasonable control measures outlined in the referenced table to achieve at least a 5.0% reduction in GHG

emissions. The plan would be required prior to the construction of the Project. The second step involved preparation of a memo detailing the selected measures and associated long-term maintenance for the County's review and approval prior to issuance of a certificate of occupancy. The plan was intended to include suggested mitigation measures contained in the California Air Pollution Control Officers Association (CAPCOA) "Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures" (CAPCOA Report) as well as alternative strategies not listed in CAPCOA if approved by the County.

In order to remedy the Court's holding that specific GHG mitigation measures were not adopted as part of the FEIR and that the FEIR did not analyze the potential to achieve reductions in GHG emissions greater than 5.0%, the EIR was revised to exhaustively review potentially applicable mitigation measures in the CAPCOA Report referenced above. After a complete review of the CAPCOA Report, 65 distinct mitigation measures potentially applicable to residential projects were selected and analyzed in the EIR. Of those 65 measures potentially applicable to residential development, 25 measures were deemed infeasible and 40 measures were deemed feasible. The 40 mitigation measures (GHG-1 thru GHG-40) are proposed for adoption in RFEIR No. 616. The mitigation measures identify specific performance criteria in order to achieve a 7.93% reduction in GHG emissions for the Project.

However, even with implementation of the Project mitigation measures, as well as, reductions from state programs expected to be implemented directly by state and local agencies (an additional 23.9% or approximately 1,444.29MT CO₂e), annual emissions cannot be reduced below the GHG significance threshold of SCAQMD's screening level threshold of 3,000 MT CO₂e. The total reduction in GHG emissions that can be achieved by feasible Project mitigation of approximately 487.8 MT CO₂e (7.93%), and the expected reductions from mitigation from state and regional programs of 1,442.9 MT CO₂e (23.9%), results in total Project GHG operational emissions, after mitigation, of approximately 4,106.5 MT CO₂e. This exceeds the quantitative GHG significance threshold by approximately 1,106.5 MT CO₂e. Therefore, the long-term operational impacts of the Project on GHG remain significant and unavoidable, consistent with the determination in FEIR No. 616 as previously certified.

Compliance with CEQA: RFEIR No. 616 is complete and adequate to address all the environmental effects of the Project and fully complies with the requirements of CEQA, the CEQA Guidelines and the County of Orange CEQA Guidelines. See above background for information regarding revisions to Final EIR No. 616 in order to bring the EIR into compliance with a Court order. In addition, the requested modifications to the Specific Plan have been analyzed for their consistency with RFEIR No. 616 (Attachment I). The analysis concludes that the modifications are adequately analyzed in RFEIR No. 616 and that neither a subsequent nor supplemental environmental document is required.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Orange County Sheriff Department (OCSD)

ATTACHMENT(S):

Attachment A - Planning Commission Staff Report dated October 26, 2016 (without attachments)
Attachment B - Planning Commission Minutes from October 26, 2016 and Draft Minutes of November 9, 2016
Attachment C - Planning Commission Resolution No. 16-08
Attachment D - Revised Final EIR 616 Section 5-6 Greenhouse Gas Emissions (track changes redlined)
Attachment E - New Technical Appendix V Greenhouse Gas Mitigation to Revised Final EIR 616 Attachment
Attachment F - Revised Final Environmental Impact Report No. 616 (document available at Clerk of Board)
Attachment G- Revised FEIR No. 616 Mitigation and Monitoring Report Program (track changes redlined)
Attachment H- Revised FEIR No. 616 Mitigation and Monitoring Report Program
Attachment I - Findings and Statement of Overriding Considerations
Attachment J- Substantial Conformance Memorandum dated September 28, 2016 from CAA Planning as Revised on November 7, 2016
Attachment K - Draft Esperanza Hills Specific Plan
Attachment L – Exhibits of Option 1 and Option 1 Modified
Attachment M - Board Resolution for Certification of Revised Final EIR No. 616
Attachment N - Board Resolution for General Plan Amendment LUE 16-01
Attachment O- Ordinance for Zone Change ZC 16-05 and Esperanza Hills Specific Plan
Attachment P - Subdivision Committee Staff Report dated November 2, 2016 (with attachments)
Attachment Q- Vesting Tentative Tract Map 17522
Attachment R- Subdivision Committee Minutes from November 16, 2016
Attachment S - Subdivision Committee Resolution No. 16-13
Attachment T - Board Resolution for Vesting Tentative Tract Map 17522
Attachment U - Project Location Map
Attachment V - Comment Letters