

RESOLUTION NUMBER 2754

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, RIVERSIDE COUNTY, APPROVING TENTATIVE PARTIAL CANCELLATION OF A LAND CONSERVATION (WILLIAMSON ACT) CONTRACT (PLANNING CASE NUMBER 99-0168)

WHEREAS, the City of Perris has received an application for diminishment, or partial cancellation, of a land conservation contract (pursuant to the Williamson Act) from the Coudures Family Limited Partnership (“Landowner”) with respect to that certain 43.82 gross acres of land located east of Indian Avenue (formerly Riverside Avenue) and south of the Ramona Expressway (formerly Martin Street) and more particularly depicted on Exhibit “A” attached hereto and made a part hereof (Assessor's Parcel Numbers 303-060-001, -002, -003, and a portion of -004, and a portion of 303-070-001) (the “Subject Property”); and,

WHEREAS, the Subject Property lies within the Perris Valley Agricultural Preserve Number 1 – Map Number 56, and is subject to that certain Land Conservation Contract dated January 1, 1970 and recorded on February 27, 1970, as Instrument No. 19066 in the Official Records of the County of Riverside, California, as reformed and restated in that certain Reformed and Corrected Land Conservation Contract dated January 1, 1985 and recorded on January 18, 1995 as Instrument No. 11676 in the Official Records of the County of Riverside, California (the “Landowner’s Land Conservation Contract”).

WHEREAS, Government Code Section 51282 permits a landowner to petition the City Council of the City of Perris (“City Council”) to cancel a portion of a land conservation contract; and

WHEREAS, Government Code Section 51282 permits the City Council to grant tentative approval for the cancellation of a land conservation contract (or a portion thereof) where the City Council finds that certain requirements have been satisfied; and,

WHEREAS, City of Perris Municipal Code Section 19.74.040 specifies procedures for tentative cancellation of a land conservation contract; and,

WHEREAS, the Landowner’s application to cancel the Landowner’s Land Conservation Contract relative to the Subject Property was accompanied by a proposal for an alternative land use for the Subject Property and approximately 75 acres of adjoining property (outside the boundaries of any land conservation contract) consisting of the development and use of an approximate 1,209,987 square foot building and related loading and truck and trailer parking areas for the Western Regional Distribution Center for Lowe's HIW, Inc. (Development Plan Review 99-067); and,

WHEREAS, the following information has been submitted to warrant findings that the cancellation of the Land Conservation Contract is consistent with the purposes of the Williamson Act (Government Code Section 51240 et seq.):

1. The Landowner has served a notice of nonrenewal relative to the Landowner's Land Conservation Contract on the City in compliance with Government Code Section 51245; and the City accepted Landowner's service of the notice of nonrenewal pursuant to Resolution Number \_\_\_\_\_.
2. The Subject Property will become an integral part of a larger 120 (+/-) acre property (the "Site") which abuts existing industrial development to the west and continues the existing pattern of industrial development within the City. Adjacent lands will be separated and buffered from the Site by arterial roads. Adjacent lands remaining subject to the Landowner's Land Conservation Contract are part of a contiguous ownership of the Landowner, and are currently leased (together with the Subject Property) to a single operator for sod production. Approximately forty acres of additional land, currently outside the Perris Valley Agricultural Preserve Number 1 – Map Number 56 (or other agricultural preserves) will be leased to said operator by the Landowner to replace the acreage that is being removed from the Landowner's Land Conservation Contract. It is not likely that the cancellation of Landowner's Land Conservation Contract for the Subject Property will result in the removal of the adjacent lands from agricultural use.
3. The City of Perris General Plan adopted in 1991 envisioned and contemplated the gradual elimination of agricultural land within the City and designated the Subject Property and surrounding lands with a Light Industrial General Plan Land Use Designation. Therefore, the existing General Plan Land Use designation for the Site is Light Industrial. The proposed alternative land use is the Western Regional Distribution Center for Lowe's HIW, Inc. Warehouse distribution uses are consistent with the Light Industrial designation in that, the General Plan description states: "Light Industrial uses include manufacturing, research, warehousing/distributing, and assemblage of non-hazardous products and materials."
4. The properties situated to the west of the Site are developed with industrial uses, including a major warehouse distribution operation for Starcrest Products. These properties and the Site are designated for Light Industrial uses by the General Plan Land Use Element. The proposed use of the Site (including the Subject Property) with a significant distribution center will continue the pattern of urban development contemplated by and consistent with the City's General Plan.
5. Agents for Lowe's HIW, Inc. have conducted an extensive search throughout the Inland Empire (Riverside and San Bernardino Counties), as well as the eastern portions of Los Angeles and Orange Counties to locate a site of sufficient size (greater than one hundred acres) to accommodate a 1,209,987 square foot building and related loading and truck and trailer parking areas. Other necessary criteria for the proposed facility include a site which is close to major transportation corridors with suitable access and visibility, provides ready access

to areas in which Lowe's is locating retail stores, can be reasonably acquired and developed in the immediate future, is without major development constraints, and is adequately served by utilities and infrastructure to serve the proposed facility. The Site has been determined by Lowe's HIW, Inc. as the only available site within the Inland Empire or the City which would be suitable for its needs. Accordingly there are no proximate noncontracted lands within the City, surrounding cities, or in the region that fulfill the necessary criteria for development of the proposed facility; and,

WHEREAS, the City believes it has satisfied both its statutory obligations and its own procedures in finding that the cancellation of Landowner's Land Conservation Contract relative to the Subject Property is consistent with the purposes of the Williamson Act. However, for the sake of clarity, the following information has also been submitted to warrant findings that the cancellation of the Land Conservation Contract is in the public interest:

1. The location of the Lowe's Western Regional Distribution Center within the City is a matter of great importance to the City's economic development and to the State of California's economy. It is estimated that the Lowe's Western Regional Distribution Center will create approximately 800-1000 high quality jobs. The State Department of Economic Development and Southern California Edison Company Business Development Group have been active participants in the efforts to secure this use for the State and the region. It will significantly contribute to the economic vitality and job production of the City, County of Riverside, the region, and State. Further, the Lowe's Western Regional Distribution Center will facilitate the development of the surrounding area consistent with the City's General Plan.
2. Agents for Lowe's HIW, Inc. have conducted an extensive search throughout the Inland Empire (Riverside and San Bernardino Counties), as well as the eastern portions of Los Angeles and Orange Counties to locate a site of sufficient size (greater than one hundred acres) to accommodate a 1,209,987 square foot building and related loading and truck and trailer parking areas. Other necessary criteria for the proposed facility include a site which is close to major transportation corridors with suitable access and visibility, provides ready access to areas in which Lowe's is locating retail stores, can be reasonably acquired and developed in the immediate future, is without major development constraints, and is adequately served by utilities and infrastructure to serve the proposed facility. The Site has been determined by Lowe's HIW, Inc. as the only available site within the Inland Empire or the City which would be suitable for its needs. Accordingly there are no proximate noncontracted lands within the City, surrounding cities, or in the region that fulfill the necessary criteria for development of the proposed facility; and,

WHEREAS, the County of Riverside Office of the Assessor, in accordance with Government Code Section 51283, has determined and certified the cancellation value of the subject property as \$1,638,300; and,

WHEREAS, the City's procedures under Municipal Code Section 19.74.040 are consistent with the procedures required by the Williamson Act; and

WHEREAS, the City Council conducted a duly noticed public hearing concerning the application for tentative cancellation of Landowner's Land Conservation Contract with respect to the Subject Property; and,

WHEREAS, an Initial Study and Draft Mitigated Negative Declaration have been prepared, advertised, and circulated, pursuant to the California Environmental Quality Act with regard to the proposed use of the Site.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Perris as follows:

SECTION 1. The City Council has considered and hereby adopts the findings of fact set forth in the above recitals.

SECTION 2. The City Council has reviewed and considered the environmental documentation and information included in the staff reports prior to taking action on the Landowner's application for tentative cancellation of Landowner's Land Conservation Contract with respect to the Subject Property, and finds and determines that the proposed use of the Site will not cause or create a significant adverse effect on the environment because the mitigation measures described in the Initial Study will mitigate the impacts to less than significant, and that the Negative Declarations reflect the independent judgement of the City Council.

SECTION 3. The City Council has adopted Negative Declaration Number 2088 and the Mitigation Monitoring Plan, addressing the potential environmental impacts of the proposed use of the Site.

SECTION 4. The City Council further finds and determines that there is no substantial evidence, in light of the whole record before the City, that the Project, as revised, would have a significant effect on the environment. The documents and other materials which constitute the record of proceedings upon which the City's findings and decision are based are located at the Department of Planning and Community Development, 101 North D Street, Perris, California 92570. The custodian of these documents and materials is the Director Department of Planning and Community Development.

SECTION 5. The City Council hereby finds and determines that the cancellation of the Landowner's Land Conservation Contract relative to the Subject Property is consistent with the purposes of the Williamson Act in that ~~the~~ the City Council finds that:

1. The cancellation is for land for which a notice of non-renewal has been served pursuant to Government Code Section 51245;
2. The cancellation is not likely to result in the removal of adjacent lands for agricultural use;
3. The cancellation is for the alternative use which is consistent with applicable provisions of the City's General Plan;
4. The cancellation will not result in discontinuous patterns of urban development; and
5. There is no proximate non-contracted land which is both available and suitable for the use to which the Subject Property is proposed be put, and, that development of the Subject Property will provide more contiguous patterns of urban development than development of proximate non-contracted land.

SECTION 6. The City Council hereby finds and determines that the cancellation of the Landowner's Land Conservation Contract relative to the Subject Property is in the public interest in that the City Council finds that:

1. Other public concerns substantially outweigh the objectives of the William Act; and
2. There is no proximate non-contracted land which is both available and suitable for the use to which the Subject Property is proposed be put, and, that development of the Subject Property will provide more contiguous patterns of urban development than development of proximate non-contracted land.

SECTION 7. Pursuant to Government Code Section 51283, the City Council hereby determines and certifies the amount of the cancellation fee, which Landowner shall pay the County Treasurer, as \$202,787.50, which is 12 ½ percent of the total cancellation value as determined by the County of Riverside Office of the Assessor.

SECTION 8. The City Council hereby finds that the provisions of the City of Perris Municipal Code Section 19.74.040 have been satisfied.

SECTION 9. The City Council hereby tentatively approves the cancellation of Landowner's Land Conservation Contract relative to the Subject Property; the cancellation of Landowner's Land Conservation Contract relative to the Subject Property shall be contingent upon the following conditions being satisfied:

1. The cancellation fee of \$202,787.50, computed under the provisions of Government Code Section 51283 and 51283.1, which was determined and certified by the City Council, shall be paid in full prior to the issuance of building permits. If the fee is not paid within one year from the date of the recording of the certificate of tentative cancellation, such fee shall be re-computed as of the date of notice when the landowner notifies the City Council that he has satisfied the conditions and contingencies enumerated in this Section 8.

2. The Landowner shall obtain approval of Development Plan Review 99-0167 (the discretionary permit necessary to commence the project) and shall obtain the grading permits to necessary to commence grading of the project.

SECTION 10. The City Council hereby directs the City Clerk to: (i) prepare, certify and transmit to the County Recorder a certificate of tentative cancellation (in a form meeting the requirements of Government Code Section 51283.4(a) and approved by the City Attorney); (ii) publish a notice of this Resolution in accordance with Government Code Section 51284 within 30 days of the date hereof; and (iii) deliver a copy of said published notice to the Director of Conservation in accordance with Government Code Section 51284.

SECTION 11. All actions heretofore taken by the officers of the City of Perris with respect to the partial cancellation of the Landowner's Land Conservation Contract are hereby approved, confirmed and ratified, and the Mayor and City staff are hereby authorized and directed to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Resolution.

SECTION 12. The City Council declares that, should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

SECTION 13. The Mayor shall sign, and the City Clerk shall certify to the passage and adoption of this Resolution.

ADOPTED, SIGNED and APPROVED this 9th day of November 1999.

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MAYOR OF THE CITY OF PERRIS

Attest:

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City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) §  
CITY OF PERRIS )

I, Margaret Rey, duly elected City Clerk of the City of Perris, California, do hereby certify that the foregoing Resolution Number 2754 was introduced at a regular meeting thereof held 9 November, and adopted by the City Council of the City of Perris at a regular meeting thereof held on the 9th day of November, 1999, by the following vote:

Ayes: 4 Larios, Torres, Yarbrough, Landers  
Noes:  
Absent: 1 Larragoitiy

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City Clerk