

RESOLUTION NO. 4035

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, APPROVING AGRICULTURAL DIMINISHMENTS 07-011 AND 07-0025 AND APPROVING TENTATIVE CANCELLATION OF LAND CONSERVATION CONTRACTS 07-0011 AND 07-0025, GRANTING TENTATIVE CANCELLATION OF LAND CONSERVATION CONTRACTS FOR APPROXIMATELY 49.3 ACRES OF LAND IN THE PERRIS VALLEY AGRICULTURAL PRESERVE NO. 2 IN THE CITY OF PERRIS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, Wal-Mart Stores, Inc., a Delaware corporation, Trachman Indevco, a California Limited Liability Company, and Lowe's HIW, Inc., a Washington corporation, (collectively, "Developers") own certain property that 49.3 acres (the "Property") within the City that is subject to Williamson Act Contract for Perris Valley Agricultural Preserve No. 2 (the "Williamson Act Contract"); and

WHEREAS, the Property has been zoned for Community Commercial and the Perris General Plan designated the Property for Community Commercial uses; and

WHEREAS, the Developers have proposed a commercial retail center, identified as the Perris Marketplace, for the Property that includes two major retail buildings and eleven out parcels; and

WHEREAS, the Developers submitted a Notice of Non-renewal for the 49.3 acres subject to the Williamson Act Contract to the City for review and the City Council approved the Notice of Non-renewal on July 10, 2007, in accordance with Perris Municipal Code section 19.74.030; and

WHEREAS, the Developers recorded the Notice of Non-renewal for a cancellation of the Williamson Act Contract, which specifies that the Williamson Act Contract as it applies to the property owned by the Developers shall expire on February 24, 2018; and

WHEREAS, the Developers have petitioned the City for a Cancellation of the Williamson Act Contracts with respect to a total of 49.3 acres out of the 475 acres covered by the Williamson Act Contract and such petition includes a proposal for a specified alternative use of the land; and

WHEREAS, an Environmental Impact Report (EIR) was prepared for cancellation of the Williamson Act Contracts (on file in the City of Perris Planning Division); and

WHEREAS, public notice was provided in accordance with Government Code Section 51232 of the California Land Conservation Act of 1965; and

WHEREAS, the County Assessor has certified to the City Council that the cancellation valuation of the subject property for Agricultural Diminishment 07-0011/Tentative Cancellation of Land Conservation Contract 07-0011 (Lowe's, HIW, Inc.) is two million and sixty-five thousand dollars (\$2,065,000.00) and that the cancellation valuation of 12.5% results in a cancellation fee of two hundred fifty-eight thousand , one hundred twenty-five dollars (\$258,125.00); and

WHEREAS, by copy of this Resolution, the City Council certifies to the County Auditor that based on the County Assessor's determination, certified to the City Council by letter dated May 7, 2007, the cancellation fee for this request is two hundred fifty-eight thousand, one hundred twenty-five dollars (\$258,125.00), to be paid to the County Treasurer prior to granting of Final Cancellation; and

WHEREAS, the County Assessor has certified to the City Council that the cancellation valuation of the subject property for Agricultural Diminishment 07-0025/Tentative Cancellation of Land Conservation Contract 07-0025 (Wal-Mart Stores, Inc.) is seven million and eighty-seven thousand dollars (\$7,087,000.00) and that the cancellation valuation of 12.5% results in a cancellation fee of eight hundred eighty-five thousand, eight hundred seventy-five dollars (\$885,875.00); and

WHEREAS, by copy of this Resolution, the City Council certifies to the County Auditor that based on the County Assessor's determination, certified to the City Council by letter dated May 9, 2007, the cancellation fee for this request is eight hundred eighty-five thousand, eight hundred seventy-five dollars (\$885,875.00), to be paid to the County Treasurer prior to granting of Final Cancellation; and

WHEREAS, the State Department of Conservation provided comments regarding this request, attached hereto as Exhibit A, and a detailed response to those comments is provided in Exhibit B of this resolution; and

WHEREAS, a public hearing was conducted by the City Council on October 30, 2007 to consider facts as presented in the staff report prepared for this request, and to accept public testimony regarding this request for cancellation; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Perris, California, based upon the facts and analysis presented below, the staff report, public testimony received and subject to the conditions of approval listed below:

Section 1. The City Council finds that the proposed Cancellation of the Williamson Act Contracts is in the public interest in accordance with California Government Code sections 51282(a)(2) and 51282(c).

Section 2. The City Council finds that the public concerns substantially outweigh the objectives of the Williamson Act for the following reasons:

a. It is a goal of the City of Perris to orderly convert agricultural lands to developed land (Perris General Plan Conservation Element, page 42). All farmland within the City of Perris has been designated for development and the Agricultural land use designation has been removed from the General Plan Land Use Map.

b. The Property is located within General Plan Planning Area 4 which is designed for commercial development (Perris General Plan Land Use Element, page 19). Planning Area 4 is to be developed for business parks and associated retail uses (Perris General Plan Land Use Element, page 4).

c. The General Plan designation for the Property is Community Commercial. The Community Commercial designation is for professional offices, department stores, discount stores, and furniture or appliance outlets. It also allows for home improvement centers, entertainment centers and regional shopping centers (Perris General Plan Land Use Element, page 64). The Property is also zoned Community Commercial and agricultural uses are inconsistent with the Community Commercial zone.

d. Immediately to the south of the Property is a commercial retail center identified as the Perris Plaza. North of the Property on Perris Boulevard is another commercial retail center. Residential development is immediately to the east of the Property, across Perris Boulevard. The development of the Property as a commercial retail center is part of a continuation of commercial retail development along Perris Boulevard.

e. Thus, the Property is within an area that is urbanizing and will continue to urbanize in the future. Agricultural uses within an urbanizing area are inconsistent with the surrounding uses and may create conflicts where the farming uses are adjacent to the urban uses. For example, the act of discing the Property every year will increase the levels of PM₁₀ and PM_{2.5} in the surrounding areas; especially near the residences along the eastern side of Perris Boulevard.

f. To minimize the potential conflicts between the agricultural uses on the Property (and the surrounding property under the Williamson Act Contract) and the surrounding urban uses, the property owners have used the Property for sod farming. Other potential agricultural uses would create greater conflicts as they may increase the dust in the area and create additional noise from agricultural machinery. Thus, the Property can not be used for its highest and best agricultural use.

g. Therefore, the City Council finds that the public's concerns regarding orderly development of the City, compliance with the Perris General Plan and

avoidance of conflicting uses outweighs the preservation of the Property for agricultural purposes.

Section 3. The City Council finds that that there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land for the following reasons:

a. The City General Plan designates the Property as Community Commercial. As indicated above, the Community Commercial Land Use designation is for department stores and discount stores. Other areas designated Community Commercial are: along Ramona Expressway between I-215 and Webster Avenue; along Ramona Expressway between Barrett Avenue and Redlands Avenue; south of San Jacinto Avenue between G Street and Murrieta Road; and near the Ethanac Road and I-215 Interchange. The property designated as Community Commercial near Ethanac Road is already developed or is in the process of being developed.

b. The land along Ramona Expressway between Barrett Avenue and Redlands Avenue is unacceptable because it is within March Air Reserve Base/March Inland Port Airport Influence Area I (Area I). According to the Riverside County Airport Land Use Plan, Area I must be kept free of “high risk land uses” (Riverside County Airport Land Use Plan, Policy 1, page 7). “High risk land uses” include those uses that have a “high concentration of people” such as department stores, supermarkets, and drug stores (Riverside County Airport Land Use Plan, Appendix B, “High Risk Land Use Examples”) Therefore, this land is not available for the Project-related uses because the uses are inconsistent with the Riverside County Airport Land Use Plan.

c. The land along Ramona Expressway between I-215 and Webster Avenue is not the appropriate size or configuration for the proposed alternative use. The land is also within a potential route for the Mid County Parkway (“MCP”). The MCP is a proposed transportation corridor that will connect the cities of San Jacinto and Corona. It is a multi-jurisdiction project that is being led by the Riverside County Transportation Commission (“RCTC”). Construction is planned to start in 2011. The RCTC engineers are evaluating the appropriate route for the MCP, one of which will go through the land near the Ramona Expressway (Notice of Preparation of an Environmental Impact Statement and Environmental Impact Report for the Mid County Parkway Project (SCH# 2004111103), Alternative 2, 4, 5, 6, and 7). Therefore, this not is not available because it not the appropriate size for the Project and may be condemned for the construction of a freeway.

d. It should also be noted that the land along the Ramona Express way is in northern Perris which has been primarily designated as an industrial area. The Property is located closer to residential neighborhoods and provides better access for the residents of Perris.

e. The land near I-215 and San Jacinto Avenue is not suitable because it currently does not have adequate access and is already partially developed. The nearest freeway access is the I-215/4th Street off ramps. According to the City, the I-215/4th Street off-ramps are not sufficient to serve a major retail center. The City Council has plans to improve the intersection, but the improvement plans are contingent on funding and are not planned to begin until 2010 and may not be completed until 2013. The Perris Marketplace is scheduled to open by 2009.

f. The other areas in the City are not designated for commercial uses and will require a General Plan amendment to allow for commercial development. The City General Plan identifies specific areas for commercial development.

Section 4. The City Council hereby tentatively approves the request for final cancellation of the Land Conservation Contract, based on the above findings.

Section 5. The City Clerk is directed and authorized to record a Certificate of Tentative Cancellation for the property.

Section 6. Within one year of the date of the recordation of the Certificate of Tentative Cancellation the cancellation fee set by the County Tax Assessor shall be paid. If the fee is not paid within one year the fee shall be recomputed.

Section 7. Within two years of the effective date of this resolution, or as extended in accordance with the approved Conditions of Approval, the Developer shall secure final subdivision map approved for the project.

Section 8. The City Council declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any 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 9. The Mayor shall sign this Resolution and the City Clerk shall certify to the adoption of this Resolution.

ADOPTED, SIGNED and APPROVED this 30th day of October 2007.

MAYOR, DARYL R. BUSCH

ATTEST:

City Clerk, Judy Haughney

Attachments: **Exhibit A** Department of Conservation letter dated April 20, 2007
Exhibit B Response letter to Department of Conservation dated July 10, 2007.

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

I, JUDY HAUGHNEY, City Clerk of the City of Perris, do hereby certify that the foregoing Resolution Number 4035 was duly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 30th day of October 2007, by the following vote:

AYES: Yarbrough, Landers, Motte, Rogers, Busch
NOES: None
ABSTAIN: None
ABSENT: None

City Clerk, Judy Haughney