

RESOLUTION NO. 11344

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE RESCINDING RESOLUTION NO. 11187, WHICH CERTIFIED AND ADOPTED FINAL ENVIRONMENTAL IMPACT REPORT NO. 1857-18 (SCH NO. 2017031020), ADOPTED FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATION, A MITIGATION MONITORING AND REPORTING PROGRAM, AND IMPOSED OTHER PROJECT CONDITIONS FOR THE TRAILS AT SANTIAGO CREEK PROJECT

WHEREAS, project applicant Milan REI X, LLC proposed the Trails at Santiago Creek Project (“Project”), a residential project involving 128 units and 68.5 acres of open space for the site located at 6145 E. Santiago Canyon Road in the City of Orange (“Project Site”); and,

WHEREAS, on March 3, 2017, the City issued a Notice of Preparation for the Project and its intention to prepare an Environmental Impact Report (“EIR”) pursuant to the California Environmental Quality Act (“CEQA”) (Pub. Resources Code, § 21000, et seq.) to analyze the potentially significant environmental impacts of the Project; and,

WHEREAS, the City issued the Final EIR for the Project on July 5, 2019; and,

WHEREAS, on October 22, 2019, the City Council adopted Resolution No. 11187 certifying the adequacy of the Final EIR and adopting Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program, and imposing other Project conditions for the Trails at Santiago Creek Project; and,

WHEREAS, on October 22, 2019, the City Council adopted Resolution No. 11188 approving General Plan Amendment No. 2018-0001 requesting to change the General Plan land use designation of the Project Site from low-density residential (approximately 15.4 acres), Resource Area (approximately 77.3 acres), and Open Space (approximately 16.5 acres), to Low-Density Residential (approximately 40.7 acres) and Open Space (approximately 68.5 acres) to allow for the for the Trails at Santiago Creek Project; and,

WHEREAS, the City issued other related Project approvals in Ordinance No. 07-19 [Zoning Amendments] and Ordinance No. 08-19 [Development Agreement]; however, Section II of Resolution No. 11188 stated that “[t]he other subordinate project entitlements shall not take effect unless this General Plan Amendment becomes effective;” and,

WHEREAS, on January 8, 2020, the Orange County Registrar of Voters determined that a referendum petition submitted to the City of Orange entitled “Petition for a Referendum Against

Resolution No. 11188 Adopted by the Orange City Council on October 22, 2019” (“Referendum” or “Measure AA”) contained 7,005 valid signatures and notified the Chief Clerk; and,

WHEREAS, on February 11, 2020, the City Council adopted Resolution Nos. 11213 and 11214 accepting the Chief Clerk’s Declaration of Sufficiency of the Referendum consenting to consolidation of elections and submittal of Resolution No. 11188 to the voters for consideration at the forthcoming November 3, 2020 General Municipal Election, respectively; and,

WHEREAS, Measure AA was placed on the ballot for voter consideration at the November 3, 2020 General Municipal Election; and,

WHEREAS, a vote “YES” on Measure AA supported authorizing the Trails at Santiago Creek Project and a vote “NO” on Measure AA opposed authorizing the Project; and,

WHEREAS, the certified results of the election contained in Resolution 11287 show that Measure AA failed to pass, with 39,877 of the City’s registered voters voting “NO” on Measure AA, and 23,290 voting “YES;” and,

WHEREAS, all of the entitlements for the Trails at Santiago Creek Project have been rescinded pursuant to the voter’s rejection of Measure AA, or by the terms of the effective date language which stated that “[t]he other subordinate project entitlements shall not take effect unless this General Plan Amendment becomes effective,” thereby also nullifying Ordinance No. 07-19 and Ordinance No. 08-19; and

WHEREAS, certification of the Final EIR contained within Resolution 11187 is no longer needed due to the lack of underlying Project approvals for the Trails at Santiago Creek Project (CEQA Guidelines §§ 15090, 15092); and

WHEREAS, given the lack of Project approvals for the Trails at Santiago Creek Project, the applicant Milan REI X, LLC submitted a request to the City, set forth in Attachment B to the accompanying staff report, on July 2, 2021 stating “on behalf of Milan, this email is to request that the City Council rescind Resolution 11187 adopted on October 22, 2019.”

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The City finds that the above recitals are true and correct, and are incorporated herein by reference.

Section 2. The City of Orange hereby rescinds Resolution No. 11187, except as provided by Section 3 of this Resolution.

Section 3. The indemnity provision, set forth in Attachment C of Resolution No. 11187, “Other Project Related Conditions,” remains effective notwithstanding Section 2 above, to address any outstanding fees, costs, or liabilities associated with the Trails at Santiago Creek Project. That surviving provision states:

“The applicant agrees to indemnify, hold harmless, and defend the City, its officers, agents and employees from any and all liability or claims that may be brought against the City arising out of its approval of this permit, save and except that caused by the City’s active negligence. The City shall promptly notify the applicant of any such claim, action, or proceedings and shall cooperate fully in the defense.”

ADOPTED this _____ day of _____, 2021.

Mark A. Murphy, Mayor of the City of Orange

ATTEST:

Pamela Coleman, City Clerk of the City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 13th day of July, 2021, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

Pamela Coleman, City Clerk of the City of Orange