

4.I.
04/26/2007

TO: Local Agency Formation Commission
FROM: Wayne M. Fowler, Sr. Local Government Analyst

**SUBJECT: LAFCO 2006-152-5- SPHERE OF INFLUENCE AMENDMENT
(addition) TO THE CITY OF DESERT HOT SPRINGS AND
ROGANIZATION TO INCLUDE CONCURRENT ANNEXATION 30 TO THE
CITY OF DESERT HOT SPRINGS AND DETACHMENT FROM THE
RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT.**

EXECUTIVE SUMMARY:

This report addresses an application for an reorganization of approximately 2114 acres of uninhabited, undeveloped land into the City of Desert Hot Springs for provision of municipal levels of services. The proposal consists of the 1766 acre Palmwood Specific Plan and what is referred to as the "out parcels" consisting of approximately 160 acres. The remaining acreage consists of roadways and stream courses. The proposed development as outlined in the Palmwood Specific Plan, would include a 27 hole championship golf course, club house, golf academy with a par-3 golf course, 130 acres of commercial and mixed use, a 400 unit hotel & spa, and 1,853 residential units of varying densities. The "out parcel" area would have potential development potential for an additional 672 single family homes. As the area of this proposal is outside of the Desert Hot Springs Sphere of Influence, this application also seeks to amend the sphere to match the boundaries of this proposed annexation. This proposal has generated a great deal of controversy because of the Coachella Valley Multi Species Habitat Conservation Plan (CVMSHCP or HCP) and related environmental concerns within the area of the proposed development.

GENERAL INFORMATION:

APPLICANT: Landmark Properties, Palm Springs, CA., has initiated this proposal by landowner petition.

LOCATION: The proposed Annexation is generally located south of the Riverside / San Bernardino County boundary line, north of the City of Desert Hot Springs, east of Soza Road and west of Augusta Avenue.

POPULATION: It is estimated that the population within the reorganization area is 0.

REGISTERED VOTERS: The County Registrar of Voters has reviewed this proposal and has found that there are no registered voters living within the boundaries of the proposed reorganization making this proposal legally uninhabited. The Registrar shows that there are 51 registered voters living within a 500' radius of this proposal.

AREA: This proposal consists of two areas. One is the 1,766 acres Palmwood Specific Plan and the second area consisting of approximately 160 acres which is included so that the boundaries of the Palmwood proposal would not create an island. No development is currently proposed for the 160 acre "out parcel" areas. This proposal also includes approximately 188 acres which are within roadway right of ways and stream channels.

CEQA DETERMINATION: The City of Desert Hot Springs, as lead agency for CEQA purposes, has prepared and certified an Environmental Impact Report (EIR) with a Findings of Fact and Statement of Over-Riding Considerations for this annexation proposal.

The Commission has been supplied copies of the certified and adopted EIR for review. The Findings of fact and Statement of Over-Riding Considerations is attached with this Staff Report. The City of Desert Hot Springs in adopting the EIR and Notice of Determination has complied with the provisions of the California Environmental Quality Act (CEQA) and all appropriate State Guidelines.

It should be mentioned here, that the Center for Biological Diversity and the Sierra Club have filed a lawsuit against the City of Desert Hot Springs challenging the Environmental Impact Report. LAFCO was not named as a party to the lawsuit.

PROPERTY TAX EXCHANGE: The City of Desert Hot Springs and the Riverside County Board of Supervisors have adopted corresponding master property tax resolutions. These resolutions call for the City to receive 25 percent of the County General Fund allocation.

EXISTING CONDITIONS: The site is located north of the City, generally along State Highway 62 and is bisected by Indian Avenue. Presently there is no development within the area of the proposed annexation, although there are several unimproved roads and trails through the site. The site has experienced illegal dumping and vandalism in the form of firearm target shooting. This area geologically has the Mission Creek Fault running along the southerly front of the mountains. Additionally the site being at the base of the Little San Bernardino mountains, contains several stream channels (washes) coming out of the mountains which form the broad bajadas (alluvial fans) which are so characteristic of

this entire area. The mountains and stream channels are a vital component of the sand generation and distribution systems feeding fluvial sediments downstream to the sand dunes within the Willow Hole Preserve established as a preserve for the Coachella Valley Fringe-toed Lizard, a federally listed threatened species. These washes are also vital habitat for the Little San Bernardino Mountain Linanthus. Additionally, area within the proposed annexation includes modeled territory and evaluated habitat for the Desert Tortoise (federally and state threatened), Palm Springs pocket Mouse, Triple-ribbed Milkvetch and several other species of plants, insects and vertebrates of concern. Listed County zoning for this area consists of W-2 (Open Space) with County land use designated as OS-RUR (open space rural), OS-W (open space water course), RD (Rural Desert), CR (Commercial Retail) and RR (Rural Residential).

LAND USE PLANS: The proposed Palmwood Specific Plan would seek to develop 544 acres as a 27 hole championship golf course / club house facility, a Golf Academy with an 18 hole par 3 course, with a proposed City of DHS land use designation of OS-PV (Private Open Space), 130 acres of General Commercial/Mixed Use Residential with a DHS land use designation of C-G (General Commercial), 28 acres of land with a Residential Visitor Serving land use designation (R-VS-1) to include the site of a proposed 400 unit hotel, approximately 351 acres Residential (R-M and R-L) on which a proposed 1,853 residential units will be build and lastly the Specific Plan proposed to keep 713 acres in Mountain Reserve Open Space. The approximately 160 acres within the "out parcel " area has no development plans and has a pre-zoning land use designations consisting of R-H (residential high density), OS-W (Open Space Water Course), P-U (Public Utility), R-L and R-M residential land uses. The 160 acre "out-parcels" could add an additional 672 single family homes to the total.

SIGNIFICANT ISSUES:

BOUNDARY: The boundaries of this proposal encompass over 2100 acres (3.3 square miles) of territory along the City's northern boundary. The City of Desert Hot Springs currently has an approximate land area of 23 square miles with approximately 14 square miles of that territory undeveloped (60% undeveloped). The development proposed would create potential service issues, with development separated by large amounts of open space creating inefficient service provision patterns.

REORGANIZATION SERVICES: The City of Desert Hot Springs has submitted a plan of how municipal services would be extended into the annexation area and their impact upon City services. A copy of that plan is included with this staff report. Staff does have concerns about the impact upon services that this proposal would impose upon the City. Presently the City collects \$623 per capita

for City provided services but expends \$670 per capita to deliver those services. The City is currently showing a \$980,940 deficit for the 2006-2007 budget year. Following are those services of concern with discussion related to the plan of services.

POLICE PROTECTION: Presently, this area is provided Police services by the County of Riverside Sheriff's Department out of their Palm Desert substation located approximately 17 miles distant from the southern edge of the proposal. Upon annexation, the City of Desert Hot Springs which has its own Police Department will assume provision of law enforcement services. The City of Desert Hot Springs currently employees 20 sworn officers (submitted Plan of Services indicates 20 sworn officers and the MSR shows 25 sworn officers) and two non sworn community service officers. The City service standard is to provide a service level of one sworn officer for every 800 residents (1.2 officers per 1000 residents). Current service levels show that the sworn officer to population ratio to be 1:1060 or .94:1,000. This service level is below City established service standards but above current County police protection service levels of 1 officer per 1,250 persons (County service standards are 1 sworn officer per 1,000 persons). The Plan of Services indicates that the southern boundary of the annexation at Indian Avenue is approximately 4 miles from the City police station and that response times would be "no more than three or four minutes". Staff believes that real world response times to this southern most point would be closer to 5 minutes and more like 7 minutes to the intersection of Indian Avenue and Highway 62, depending on the location within the City of the responding officer.

Upon annexation this proposal would add an additional 2100 plus acres of uninhabited and undeveloped territory into the City. While the immediate service needs within the annexed area would not be great, this would give an already understaffed police department the additional duties of policing illegal dumping, several additional miles of roadway to patrol and provide vehicular accident investigation. As this project builds out, this project would add a potential 1850 residential units or an estimated 5,180 additional residents, into the City. Add to that the potential of another 672 homes with another 1,880 persons being built out within the "out-parcels". To meet City service standards, this would require the hiring of an additional 8-9 sworn officers.

The Plan of Services indicates that the Palmwood development would be "high-end, gated, and largely second home development that will not represent the typical demand for police safety services." While if true about the higher end nature of the development, this would not lessen the need for additional police officers to provide service. These residents will expect a high level of police services within their community much like they would expect to have in their primary place of residence.

Presently according to the recently adopted MSR, the City expends approximately \$218 per capita to provide police services. This is the lowest per capita amount of any of the 6 cities within the MSR. The City of Rancho Mirage for an example of a "high end" city, expends \$337 per capita for police services.

The City of Desert Hot Springs does charge one time development impact fees on new development for police services. These fees are shown in the attached plan of services. Additionally residents of the City have passed a public safety assessment which helps to fund the police services within the City, although as the MSR points out this Public Safety Fund, sunsets in 2010 and there is no guarantee that city residents will pass another Public Safety assessment to replace the lost revenues from this current assessment. Last years budget for police services was \$6,390,000. It should be noted that last year in a budget balancing measure, the City laid off 20% of staff which included 5 police officer positions.

FIRE PROTECTION: Fire protection services to this site are currently provided by County Fire, which also provides contract Fire Protection services to the City of Desert Hot Springs. The County Fire Department has three fire stations which provide service within the City of Desert Hot Springs. Station 37 which is located at 65958 Pierson Boulevard within the City boundaries and is approximately 4 miles from the southerly edge of the annexation, Another fire station #36 is located in North Palm Springs at 72985 Dillon Road and is approximately 4 miles south of the annexation. The approximate response time from Stations 36 & 37 is stated as 5 minutes. Currently the City expends \$51 per capita for fire services within the City. This is far below the per capita expenditures of any of the cities within the Western Coachella Valley MSR(Cathedral City \$135, Indian Wells \$598, Palm Desert \$179, Palm Springs \$200 and Rancho Mirage \$298 per capita amounts spent for fire services).

DOMESTIC WATER: Potable water to the annexation area would be provided by Mission Springs Water District (MSWD). The project is already within the service boundaries of MSWD, but no service is currently provided.

The plan of services discusses the requirement for several new wells which would be sited in the annexation area as well as several new water storage reservoirs which would be required for services within the development. The EIR indicates that a Water Supply Assessment (WSA) was prepared, but the Plan of Services says that a Water Supply Assessment will need to be prepared. Staff consulted with the District and the District has prepared a WSA which shows that there are adequate water supplies to serve this proposal. Staff has no water service concerns.

WASTEWATER: The area of the annexation is within the service boundaries of Mission Springs Water District, who would provide

wastewater collection and treatment for the proposed development. The Plan of Services does not discuss the projected amount of effluent which would be generated by this project nor does it discuss the impact upon the District's treatment capacity. Speaking with the District about this issue, the District has no problems with providing service to the proposal. Staff has no wastewater service concerns.

STREET MAINTENANCE: The Plan of Services and Specific Plan both show that all residential areas would be within gated communities and discusses that only two streets (Worsley Road and Indian Avenue) within the annexation would be public streets. If all other streets are private streets, that would make public access to the Golf Course and Golf Academy and some areas of the Commercial/ Retail developments difficult and in staff's opinion reduce the fiscal return for the City. The Plan of Services says that the addition of Indian Avenue and Worsley Road into the City would "...not add any mileage to the City's overall public street system...". Staff's estimates that the annexation will add with just these two streets, approximately 3.25 miles of roadway into the City's maintained road system.

The City presently expends \$10 per capita yearly on street maintenance, again much less than any of the neighboring cities.

PUBLIC PARKS & RECREATION SERVICE: The Western Coachella Valley Municipal Services Review which was adopted by the Commission on February 22, 2007, and which includes the City of Desert Hot Springs, shows the City to be below the established parkland standards. The proposed project will have a golf amenity focus and will provide walking and bicycle paths as well as open space associated with the golf environment. No new public parks will be added with this project. If current standards were enforced, this project would be required to provide 18 acres of public parks. The Plan of Services discusses that the City is within the service area of the Coachella Valley Recreation and Parks District who would provide additional recreational opportunities. It should be noted that the City of Desert Hot Springs is not within the service boundaries or within the Sphere of Influence for the Coachella Valley Recreation and Parks District. The District does not collect any assessments from the residents of the City, nor does it provide any services within this area. The District could not even provide extraterritorial services to the City as the City is not within the District's Sphere of Influence.

PUBLIC LIBRARY SERVICES: The City of Desert Hot Springs presently contracts with the County of Riverside Library System. The annexation will impact current Library in that the current library facility has a floor space of approximately 3,500 square feet with 33,000 volumes (per Municipal Service Review). The current county service standard is for .5 square feet resident and 2 volumes per capita. Based upon that standard the City is presently below the service standard with .16 square feet of library floor space per

capita and 1.5 volumes per capita. Upon build out of this project, the City would find the current facility severely impacted. The City hopes to incorporate a library within the proposed new Civic Center, but at present there is no projected date of this project. The City does not have a Development Impact fee for Library services.

PUBLIC SCHOOL SERVICES: Public schooling is provided by the Palm Springs Unified School District (PSUSD) and will not change upon annexation. The proposed Palmwood Specific Plan does not contain any school sites.

FISCAL STUDY: The Fiscal study provided with this application shows a positive financial impact upon the City of Desert Hot Springs by the Palmwood development at build out. This may be correct, but there are several inconsistencies in the numbers used in the Plan of Services and the Fiscal Study. Staff believes the projected services cost are low in relation to actual cost. Additionally the Fiscal Study assumes that the Public Safety Assessment which sunsets in 2010 will be extended by the voters.

Comments on the Fiscal Study have been received which question many of the assumption made within the Report.

COMMENTS FROM AFFECTED AGENCIES/INTERESTED PARTIES: There have been significant comments on this proposal received from the Coachella Valley Conservation Commission, the County Executive Office, the Department of Interior - Bureau of Land Management, The Department of the Interior - Fish and Wildlife Service, the State Department of Fish and Game, The Center for Biological Diversity/Sierra Club, the Lenders and other individuals. Responses to some of the comments have been received from the applicant. All comment letters and responses are included with this staff report.

Without any doubt, the single most controversial aspect of this proposal is the impact upon the Coachella Valley Multi Species Habitat Conservation Plan and the majority of the comments received from agencies are about the effect upon this plan. The Coachella Valley Multi Species Habitat Conservation Plan is a comprehensive regional habitat conservation plan which in its intended form was to include all 8 cities within the Coachella Valley, several special districts and the County. This plan would provide a regional plan which balances environmental concerns consistent with both Federal and State laws and regional and local development projects within the Coachella Valley. This plan has been in the works since 1994. The plan would allow for example, 75 years of Caltrans projects to be permitted without costly delays. The HCP seeks to provide for 75 years of take permit for 27 listed and sensitive species and would protect almost 100,000 acres of habitat. An additional 150,000 acres of conservation land would be conserved through the cooperative efforts of the local permittees. The Plan included 21 conservation areas spread

through out the Coachella Valley. In June of 2006 the City of Desert Hot Springs decided not to approve the Plan, in part because of the impact upon the Palmwood project, a project the City feels vital to their economic future. After the City of Desert Hot Springs decision, the CVAG Executive Committee then rescinded its approval of the Plan and directed that the plan be revised to remove the City of Desert Hot Springs. The direct cost of this was estimated to be \$1,000,000. The revised plan has now been recirculated for public review. Finalization of the Plan and issuance of State and Federal permits are expected to take place in the late fall of 2007 or early 2008.

Under the CVMSHCP the proposed development in its currently proposed form could not be built. The proposed Palmwood Specific Plan and out parcels would have significant impact on several endangered species even with permitted disturbance. For instance, the Linanthus habitat would under the Palmwood Specific Plan, would disturb an estimated 388 acres of habitat. Under the MSHCP permit only 115 acres of the Linanthus habitat could be disturbed. The projected impact is some 337% greater than the permitted totals. The impact is similar for several other species found or habitat modeled within the Palmwood Specific Plan. Even species not found within the Palmwood and out parcels annexation could be affected by the proposed development. One such species is the Coachella Valley Fringed-Toed Lizard which inhabits sand dunes located in the Willow Hole Conservation area several miles south of the City of Desert Hot Springs. While the habitat is nowhere near this project, the source of sand sediments (mountain areas) and the sand transport system (Mission Creek and Little Morongo washes) is found within the Palmwood project area. Disruption of the source materials or the sand transport through the washes could have severe impacts upon the habitat of the lizard.

The real cost of the delay on the approval of the Habitat Conservation Plan however may be greater than the cost of revising the plan to exclude the City of Desert Hot Springs. The real cost may include the delayed projects, federal and state grant monies, impact fees and loss of habitat which may not be able to be mitigated in any other location. The delayed projects would include permitted road and interchange improvements to relieve regional traffic congestion. These projects cannot move forward until State and Federal permits are given and these are now delayed until some kind of plan is approved. There are Federal and State grants and loans which cannot be obtained without some kind of conservation plan and habitat permits. The impact upon the Coachella Valley Conservation Commission in the loss of development generated habitat impact mitigation fees, which would have been used to purchase additional conservation lands. There is also the cost in unmitigated habitat loss which the other agencies within the Coachella Valley may now not have any way to mitigate.

Lastly the cost may include a costly and time consuming revision

of the recently circulated EIR and Plan, if this annexation is approved and the area removed from the revised Habitat Conservation Plan. Staff wonders if there be support within the affected agencies for a third costly (time + money) revision of the plan? Without a regional plan, each agency would be tasked to develop its own plan to comply with Federal and State environmental regulations in regards to endangered species. To go this route would be costly and time consuming for each agency with no guarantee of success at the end of the process. The City of Desert Hot Springs has chosen this route.

Government Code Section 56668(i) gives the Commission discretion if they wish to consider the comments from affected agencies in their decision on an annexation.

WAIVER OF AUTOMATIC DETACHMENT FROM CSA 152: If the Commission approves this proposal, it should make specified findings in order to waive automatic detachment from County Service Area 152, since the City has annexed into CSA 152 in 1993.

DETACHMENT FROM COUNTY WASTE RESOURCES MANAGEMENT DISTRICT (RCWRMD): On March 24, 1994, the Commission approved the formation of the RCWRMD as a separate financial and legal entity to operate and finance solid waste facilities in Riverside County. The District became effective on May 2, 1994. As part of the Commission's action, it determined that future annexations to cities should detach from the RCWRMD unless those cities have annexed into the District. This is based on an understanding between the county and the Council of Government's (COG's), that annexation of cities to RCWRMD will be accomplished in an organized fashion to ensure appropriate representation on the governing board of the District. Therefore, staff will recommend concurrent detachment from the District.

CONCLUSIONS:

This proposal was initiated by Landmark Properties US., Inc. The proposal includes:

- 1766 acres Palmwood Specific Plan and 348 acres of territory outside of the plan for a total acreage of 2114.
- 27 hole championship caliber golf course with club house.
- 3-par 18 hole golf academy.
- 400 room resort hotel and spa.
- 130 acres of retail and commercial areas.
- Potential for 2,525 residential units, both gated and un-gated.

- An estimated 6,300 plus new residents.

There are some significant service concerns associated with this proposal especially in regards to Police, Roads, Library and Recreation services provided by the City. The annexation creates a dis-jointed service provision pattern which would only serve to increase cost of service provision.

The City of Desert Hot Springs is currently operating in deficient, and last year reduced staff by 20%. These staff reductions included service provision personnel and five police officers. The per capita cost of providing services is greater than the amount the City collects per capita to pay for the services.

The annexation does not have the written support of 100% of the affected landowners.

This proposal has generated considerable controversy over the impacts to the proposed Coachella Valley Multi Species Habitat Conservation Plan.

SPECIFIC RECOMMENDATIONS:

Staff is proposing two alternate recommendations, based on how the Commission may wish to consider several factors in this staff report.

Should the Commission wish to consider the service provision concerns and or the comments from affected agencies, STAFF RECOMMENDS that the Commission:

1. DENY LAFCO 2006-152-5 - SPHERE OF INFLUENCE AMENDMENT(addition) TO THE CITY OF DESERT HOT SPRINGS AND REORGANIZATION TO INCLUDE ANNEXATION 30 TO THE CITY OF DESERT HOT SPRINGS AND DETACHMENT FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT.

Should the Commission wish to approve this proposal, STAFF RECOMMENDS that the Commission:

1. Find the City of Desert Hot Springs as lead agency, has prepared and certified an Environmental Impact Report (EIR) for City of Desert Hot Springs annexation #30 - Palmwood Specific Plan and Out-parcels. As part of the Certification of the Final EIR, the City adopted a Findings of Fact and Statement of Over-Riding Considerations. The Statement of Over-Riding Considerations was adopted to address those impacts which could not be mitigated to a level of insignificance.

2. Find that the City of Desert Hot Springs has complied with the California Environmental Quality Act (CEQA) and all appropriate State Guidelines, and that the Commission has reviewed and considered the environmental documentation and adopts the attached STATEMENT OF OVER-RIDING CONSIDERATIONS;
3. Adopt the attached STATEMENT OF DETERMINATIONS for the proposed Sphere of Influence amendment (addition) to the City of Desert Hot Springs;
4. Amend the Sphere of Influence of the City of Desert Hot Springs (addition) of the approximately 2114 acres of territory involved with this reorganization;
5. Approve **LAFCO 2006-152-5 - REORGANIZATION TO INCLUDE CONCURENT ANNEXATION 30 TO THE CITY OF DESERT HOT SPRINGS AND DETACHMENT FROM THE RIVERSIDE COUNTY WASTE RESOURCES MANAGEMENT DISTRICT**, subject to the following terms and conditions:
 - a. The City of Desert Hot Springs shall defend, indemnify, and hold harmless the Riverside Local Agency Formation Commission ("RLAFCO" or "LAFCO"), its agents, officers and employees from any claim, action or proceeding against LAFCO, its agents, officers and employees to attach, set aside, void or annul an approval of LAFCO concern this proposal.
 - b. In accordance with Government Code Section 56886 (t) and 57330, the subject territory shall be subject to the levying and collection of any previously authorized charge, fee, assessment or tax of the City.
 - c. In accordance with Government Code Section 56375 (p), waive automatic detachment from County Service Area 152 based upon the following findings:
 - i. County Service Area (CSA) 152 is a funding mechanism for the implementation of the National Pollutant Discharge Elimination System (NPDES) emanating from the Federal 1972 Clean Water Act and re-authorized under the Federal 1987 Clean Water Act.
 - ii. The City of Desert Hot Springs annexed into CSA 152 and is included within the CSA's service area.
 - iii. Detachment would deprive the areas resident's services needed to ensure their health, safety or welfare.
 - iv. Waiving detachment will not affect the ability of the City to provide any service; and,

6. Pursuant to Government Code Section 56663 (a), authorize the Executive Officer to proceed with conducting authority proceedings (landowner protest);
7. Direct the Executive Officer to prepare and execute a Certificate of Completion upon receipt of fees required by Government Code Section 54902.5 (made payable to the State Board of Equalization).

Respectfully submitted,

Wayne M. Fowler
Sr. Local Government Analyst