

# Item D.1: Daybreak Limited Remand

- Presentation by City Attorney's Office
- Presentation by NPLC BV (Developer)
  - Offer / Project Concessions
- Public Comment
- City Council Discussion
- Motion

# The Project

- In mid-2017, NPLC purchased ±980 acres of ranch land from the Butler family.
- In late 2017, NPLC submitted an application to the City to establish the Daybreak Master Planned Community (the “Project”).
- NPLC requested Master Plan and zoning map amendments allowing for a planned unit development consisting of 4,700 residential dwelling units (±545 acres), commercial development (±80.9 acres), and associated parks, greenways and open space (±322.5 acres).
- NPLC’s request included tentative approval of the Daybreak Planned Unit Development Handbook.

# The Project

- On May 18, 2018, NPLC formally presented the Project to the Planning Commission.
- On July 19, 2018, Planning Commission recommended City Council approve the Project.
- On November 28, 2018, City Council denied approving the Project.

# The Litigation

- On February 15, 2019, NPLC petitioned for judicial review, declaratory relief and damages.
- On March 29, 2019, City filed a Motion to Dismiss NPLC's complaint for damages.
- On September 27, 2019, the Court scheduled oral argument on City's Motion to Dismiss.
  - If City prevails on motion, litigation will be confined to the administrative record, i.e., preparation and submission of written briefs to the Court (no additional discovery or trial).
  - If City does not prevail on motion, litigation will not be confined to the administrative record, i.e., discovery begins (document production, interrogatories, depositions, motion practice in preparation for trial, and trial) and damages may be available.
- Trial, appeal, and court-ordered settlement conference(s).

# Order on Stipulation and Limited Remand

- March – August, 2019, legal counsel for both parties informally discussed the possibility of settlement.
- In August, 2019, NPLC offers City a limited remand and modified Project.
  - Remand limited to City Council approving or rejecting the modified Project Applications and Ancillary Agreements on or before September 27, 2019 (date of oral argument for City's Motion to Dismiss).
  - On limited remand, City Council cannot unilaterally impose new terms and conditions on Project—NPLC must consent to new terms and conditions.
- City Attorney's Office agrees to convey NPLC's settlement offer to City Council.
- On August 26, 2019, Court issues Order on Stipulation.
- September 11, 2019, City Council decides whether to hear modified Project Applications and Ancillary Agreements for possible approval on September 23, 2019.

# The Motion

- September 11, 2019: Motion to direct staff to present Project Applications and Ancillary Agreements at public hearing on September 23, 2019, for possible review and approval pursuant to the Order on Stipulation.
- September 23, 2019: Motion to approve or reject the Project Applications and Ancillary Agreements pursuant to the Order on Stipulation.
- Lacking either motion, parties will notify the Court, oral argument will proceed on September 27, 2019, and the litigation will continue.
  - Any evidence or testimony received on limited remand cannot be used in existing litigation.