

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - LAND USE
WEDNESDAY, JULY 17, 2024**

MINUTE ORDER NO. 11

**SUBJECT: NOTICED PUBLIC HEARING:
RESOLUTION TO SET ASIDE THE BOARD’S MAY 5, 2021 DECISION
GRANTING THE APPEAL IN NORTH COUNTY ENVIRONMENTAL
RESOURCES PROJECT AND AFFIRM THE FEBRUARY 5, 2021 DECISION
OF THE PLANNING COMMISSION APPROVING THE PROJECT AND
CEQA EXEMPTION (DISTRICT: 5)**

OVERVIEW

The North County Environmental Resources Project (Project) is a recycling facility that would recycle: 1) tree waste chipping and grinding; 2) wood and construction debris; and 3) concrete, asphalt, and inert material from demolition projects. The Project site is located west of Interstate 15, directly south of Mesa Rock Road, and within the Twin Oaks Community Sponsor Group Area of the North County Metropolitan Subregional Plan Area. The Project site consists of six contiguous parcels totaling 139.5 acres. However, the Project would be constructed on 18 acres in the southeast portion of the site, approximately 0.25 miles south of Mesa Rock Road. The Project includes construction of two steel buildings with an associated parking lot, one 100,000-gallon water tank, a security trailer, truck scales, and up to twenty storage containers.

On June 25, 2020, the County Zoning Administrator found the Project qualified for a 15183 California Environmental Quality Act (CEQA) exemption. CEQA Section 15183 applies to projects that are consistent with a community plan, zoning, and general plan policies for which an Environmental Impact Report (EIR) was certified. A 15183-consistency checklist is prepared by staff after the technical reports for the project have been completed and reviewed to demonstrate that there are no “peculiar” circumstances or impacts that will occur upon construction and implementation of a project that were not identified in the General Plan EIR or would require additional review.

Four groups-the Twin Oaks Valley Community Sponsor Group (CSG), Hidden Meadows CSG, City of Escondido, and Montreux Homeowners Association-filed administrative appeals challenging the Zoning Administrator’s determination. On February 5, 2021, the Planning Commission denied the appeals and granted the Project’s 15183 exemption. Those same four groups then filed administrative appeals to the Board. The Board granted the appeal on May 5, 2021 (14), denied the 15183 exemption and remanded the Project for the applicant to prepare an Environmental Impact Report (EIR). Following the Board’s decision, the applicant filed two lawsuits challenging the Board’s actions as unlawful under CEQA. The first lawsuit sought a writ of mandate to compel the Board to rescind its May 5, 2021, actions. The second lawsuit seeks damages alleging the Board’s unlawful denial of the 15183 exemption caused the applicant to incur damages such as additional processing costs and lost profits.

On October 3, 2022, the trial court ruled in favor of the County finding that the Board's actions denying the 15183 exemption and remanding the Project for the applicant to prepare an EIR were not unlawful. The applicant appealed and on February 16, 2024, the Court of Appeal reversed the trial court's judgment and directed the trial court to rule in favor of the applicant. The Court of Appeal determined that the applicant's environmental studies showed the Project would not have peculiar impacts and there was not substantial evidence supporting the Board's findings that the Project's impacts would not be mitigated by generally applicable policies and procedures.

On June 10, 2024, the trial court entered a revised judgement in favor of the applicant and issued a writ ordering the County to set aside the Board's May 5, 2021 actions and to issue a new decision denying the appeals and affirming the decision of the Planning Commission, dated February 5, 2021, approving the Project and the CEQA Exemption thereto.

Today's request is for the Board to adopt a resolution to comply with the June 7, 2024 writ and orders. Following the action on July 17th, the Project will have the ability to construct per the approved Site Plan decision and accompanying 15183 CEQA exemption pending the completion of all applicable conditions of approval, and the approval of necessary grading and building permits.

RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER

1. Adopt proposed Resolution titled: RESOLUTION TO SET ASIDE THE BOARD'S MAY 5, 2021 DECISION GRANTING THE APPEAL IN NORTH COUNTY ENVIRONMENTAL RESOURCES PROJECT AND AFFIRM THE FEBRUARY 5, 2021 DECISION OF THE PLANNING COMMISSION APPROVING THE PROJECT AND CEQA EXEMPTION (Attachment A)
2. Uphold the environmental determination of the Planning Commission finding the project in conformance with Section 15183 of the California Environmental Quality Act (CEQA) because the proposed use is consistent with the General Plan and Zoning Use Regulations and no peculiar or significant impacts not already identified in the General Plan Environmental Impact Report (EIR) would result from implementation of the Project, in part because uniform development standards and policies being applied would substantially mitigate the effects of the Project. (Attachment B)

EQUITY IMPACT STATEMENT

The Project would provide a benefit to the San Diego region by providing an additional recycling opportunity and improving the environment through the dedication of permanent onsite open space. The project will mitigate any potential impacts on the environment and community through project conditions.

SUSTAINABILITY IMPACT STATEMENT

The Project is a facility that recycles construction and demolition debris, which reduces Greenhouse Gas (GHG) emissions by intercepting construction and demolition waste, diverting it away from landfills, and converting it into repurposed materials. Construction and demolition debris is estimated to represent more than a third of all materials landfilled from the unincorporated County. The Project is also consistent with the Strategic Plan to Reduce Waste, which includes a goal to reach 75% waste diversion in the unincorporated County by 2025, reducing both the GHG emissions generated at landfills and the need for mining raw materials, further reducing GHG emissions.

FISCAL IMPACT

There is no fiscal impact associated with this rescission as presented today. Any costs incurred to continue this project, at such time the owner wishes to move forward, will be paid for by the applicant (or owner/developer). There will be no change in net General Fund costs and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Anderson, seconded by Supervisor Montgomery Steppe, the Board of Supervisors closed the Hearing, took action as recommended and adopted Resolution No. 24-101, entitled: RESOLUTION TO SET ASIDE THE BOARD’S MAY 5, 2021 DECISION GRANTING THE APPEAL IN NORTH COUNTY ENVIRONMENTAL RESOURCES PROJECT AND AFFIRM THE FEBRUARY 5, 2021 DECISION OF THE PLANNING COMMISSION APPROVING THE PROJECT AND CEQA EXEMPTION.

AYES: Anderson, Lawson-Remer, Montgomery Steppe, Desmond

ABSENT: Vargas

State of California)
County of San Diego)

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Andrew Potter