

To: Laura Fischer, General Manager
Heber Public Utility District
Board of Directors

From: George Galvan, AICP, Principal Planner

Date: August 20, 2020

Re: El Toro Zone Change and Expansion

Summary

The County of Imperial Board of Supervisors approved a Mitigated Negative Declaration and a Zone Change allowing the expansion of the feed yard to double the capacity to a total of 34,000 head of cattle. The Board's decision is final and cannot be appealed.

Background

The El Toro has been in continuous operation as a feed yard near Heber since the 1965 predating a majority of the homes in the community. In the early 2000's the County updated its Zoning Code which left El Toro as the only feed yard in the County to be located in an A-2 Medium Agriculture zone. All other feed yards were zoned A-3 Heavy Agriculture. This, along with the addition of a composting facility, prompted an application for a zone change to A-3 Heavy Agriculture. As a Condition of Approval, no future growth was allowed, restricting the footprint of the feedlot operation to remain unchanged. El Toro Export (El Toro Land and Cattle) submitted an application to remove the "No Growth" condition.

Public Hearing Process

A Scoping Meeting was supposedly held in 2019 to introduce the project and to solicit input from the public and reviewing agencies regarding the scope of the environmental review. Additional comments were solicited in November 2019. Much of the issues brought up at the Scoping Meeting appeared to focus on air quality and odor.

The County Environmental Evaluation Committee (EEC) held a public hearing in February 2020 but was continued due to insufficient information regarding the air quality analysis. Written comments were submitted to the EEC prior to the meeting. Many of the written comments were from County agencies including the Air Pollution Control District, County Public Works, and the IID. Mr. Tony Sandoval submitted a comment letter as a Heber Resident. Mr. Sandoval's letter expressed concerns regarding dust, noise, traffic, and unknown impacts. Another resident submitted an email opposing the project but did not indicate whether he was a resident of Heber, and no reasons were given regarding the opposition.

The Holt Group prepared a letter on behalf of HPUD on February 27, 2020. The letter appears to have been signed on March 19, 2020 but was not received by the County until July 29, 2020. The letter outlined deficiencies in the Air Quality Report with regards to inaccuracies related to distance from existing Heber residences and the Heber Elementary School. The letter also identified the need to examine the cumulative impacts of the proposed expansion, as opposed to stating that the proposed expansion is consistent with surrounding uses because the expansion is next to an existing feed yard. Noise, traffic, and environmental justice issues were also brought up in the letter. The EEC subsequently took action on the project without the benefit of the letter and recommend the approval of a Mitigated Negative Declaration.

The County Planning Commission held its public hearing on June 24, 2020. The Project Report did not contain HPUD's letter. The Air Quality Study and Mitigated Negative Declaration (MND) still did not address the issues identified in HPUD's letter. The Planning Commission adopted a recommendation to approve the MND and to recommend approval of the Zone Change thereby removing the "No Growth" condition.

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Prior to the Board of Supervisors' meeting, The Holt Group requested copies of the Project Report in order to review public information and prepare comments on behalf of HPUD. County Staff was resistant in providing information. County Staff suggested submitting a Public Information Request which could take several days and involves the payment of fees. It was not until a request was made to the Planning Director that the Project Report was provided to The Holt Group. A letter was prepared on behalf of HPUD outlining the same deficiencies that were not address from the March 2020 letter.

The Public Hearing started promptly at 11:00 AM. Chairman Plancarte and Supervisor Ryan Kelley were physically present at the hearing, while Supervisors Michael Kelly, Castillo, and Escobar were virtually present.

Written comments were included in the board packet but were not read out loud. Written comments include HPUD's letter and a letter from one Heber resident in opposition of the project. Other written comments include three letters from Heber residents supporting the expansion. An adjacent land owner, farmer, Brandt Beef, and Steven Birdsall (former County Agriculture Commissioner) also wrote letters in support of the proposed expansion.

Planning Director Jim Minnick provided a very brief overview of the project, followed by Tom Dubose of Dubose Design Group and then by Bill Plourd of El Toro Export.

Steve Scaroni and his sister Linda Scaroni appeared via teleconference and outlined their opposition to the project. The Scaronis' attorney (former County Counsel) Katherine Turner presented additional arguments outlining the County's improper noticing and inadequate analysis to support approval of the proposed expansion. The Scaronis suggested that the process was being fast-tracked bypassing public scrutiny of the project. In the end, Mr. Scaroni threatened legal action against the County if the expansion is approved.

Ms. Turner also presented an email from former Board of Supervisor Gary Wyatt providing his recollection of the 2007 action to limit the growth at El Toro. Records from the 2007 meeting are unavailable along with other digital records from a 3-year period. Mr. Wyatt's email suggested that the condition on the project was to limit the footprint of the cattle feedlot operation, but Mr. Bill Plourd stated that the limit was only placed on the composting facility.

Public comments were overwhelmingly in support of the proposed expansion. Representatives from several local feed yard operations spoke in support of the project. Brandt Beef also spoke in support of cattle operations in the supporting the County's economy. Mr. Alex Cardenas (IID Board) speaking as a County resident warned the Board of Supervisors not to be intimidated by Mr. Scaroni's threat of legal action.

Comite Civico del Valle provided the only verbal comment opposing the project.

Supervisor Michael Kelley was concerned about the original condition restricting growth and suggested that the matter be kicked back to the Planning Commission to be able to examine original growth restriction further. Supervisor Castillo supported the suggestion. Supervisor Escobar disagreed and moved to approve the project. Chairman Plancarte clarified the motion to separate the vote into two separate actions. Supervisor Escobar moved approve the Mitigated Negative Declaration and seconded by Chairman Plancarte. Supervisor Ryan Kelley and Chairman Plancarte explained that the project has been on their radar screens for at least 6-7 years or more. The motion passed unanimously. Supervisor Escobar moved to approve the Zone Change which was seconded by Ryan Kelley. The motion also passed unanimously.

The Board of Supervisor's approval is final and cannot be appealed. There are no additional discretionary actions necessary. El Toro can now submit for building permit for the proposed expansion.