

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

510B



FROM: TLMA - Planning Department

SUBMITTAL DATE:
January 24, 2006

SUBJECT: APPEAL of CHANGE OF ZONE NO. 6779 / CONDITIONAL USE PERMIT NO. 3395 (FTA2001-11) - Appellant: Chris Hopper - Applicant: Ray Borel and Agriscape - Engineer / Representative: James Unland and Associates - Third Supervisorial District - Rancho California Zoning District - Southwest Area Plan: Open Space: Conservation (OP-C) and Community Development: Light Industrial (CD-LI) (0.25-0.60 Floor Area Ratio) - Location: Easterly of Sky Canyon Dr. and southerly of Borel Road - 20.55 Gross Acres - Zoning: Specific Plan (SP) - REQUEST: The Change of Zone is a request to amend the zoning ordinance for SP265 to allow for recycling of green wastes and concrete. The Conditional Use Permit is an application to relocate an existing un-permitted operation (Agriscape) for manufacturing of compost for retail sale through the recycling of green and construction wastes and asphaltic concrete / concrete recycling. The operation will also include concrete batch processing. The project also includes two 1,000 gallon above-ground fuel storage tanks, storage of 55-gallon barrels of motor oil and hydraulic fluid, 1 cylinder of oxygen (275 cubic feet) and 1 cylinder of acetylene (130 cubic feet).

BACKGROUND:

This project was given fast track status on April 16, 2001. Approximately two years later, the Conditional Use Permit and the Zone Change applications were filed with the County Planning Department on March 19, 2003. Approximately two years later, the applicant submitted a written request (dated 7/14/05) demanding that the project be moved forward to a public hearing before the Planning Commission.

During the two-year period between application filing and the applicant's decision to force a public hearing, a number of outstanding issues were identified and remain unresolved: A HANS application was filed but the process was never completed. The Local Enforcement Agency (County Environmental Health Department) informed the applicant of the requirement to obtain

David Mares For
Robert C. Johnson
Planning Director

RCJ:sn

REVIEWED BY EXECUTIVE OFFICE
David Mares For
DATE 1/30/06

Departmental Concurrence

Policy
 Policy

Consent
 Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.

District: Third

Agenda Number:

16.1

The Honorable Board of Supervisors

RE: APPEAL of CHANGE OF ZONE NO. 6779 / CONDITIONAL USE PERMIT NO. 3395

(FTA2001-11)

January 24, 2006

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a Solid Waste Facilities Permit. Due to the proximity (within the Airport Influence Area) of the site to the French Valley Airport, the project is required to obtain clearance from the County Airport Land Use Commission. A Supplemental EIR was required to address impacts that had not been anticipated by the originally certified EIR. Questions and concerns raised by the County Waste Management Department.

Because these concerns and issues were unresolved at the time project was heard before the Planning Commission, Planning Staff was compelled to recommend denial of the project. The Planning Commission, after a continuance of the hearing in order to allow time for the 3rd District Commission to communicate with the applicant about the outstanding issues. At the second meeting the Commission voted unanimously to deny the project.

At the December 6th Board of Supervisor's hearing to consider the applicant's request to appeal the Planning Commission's denial of their project, the Board directed to the applicant to complete the items described in staff report within 180 days. The Board then directed the applicant to come before them on February 7th to give them a 60 day progress report as to which items have been completed and the progress on the other items. As of this writing, no progress has been made by the applicant to address the concerns stated in the staff report.

RECOMMENDED MOTION:

THE PLANNING DEPARTMENT RECOMMENDS:

CONSIDERATION of the above referenced appeal received on November 2, 2005 of the Planning Commission decision.

THE PLANNING COMMISSION took the following actions on October 12, 2005:

DENIED CHANGE OF ZONE NO. 6779 and **CONDITIONAL USE PERMIT NO. 3395**, based upon the findings and conclusions incorporated in the staff report.

Agenda Item No.:
Area Plan: Southwest
Zoning District: Rancho California
Supervisorial District: Third
Project Planner: Larry Ross
Board of Supervisors: February 7, 2006
Continued from: December 6, 2005

FAST TRACK NO. 2001-11
CHANGE OF ZONE NO. 6779
CONDITIONAL USE PERMIT NO. 3395
Applicant: Ray Borel and Agriscape
Engineer/Rep.: James Unland and
Associates

COUNTY OF RIVERSIDE PLANNING DEPARTMENT STAFF REPORT ADDENDUM

BACKGROUND

The case was given fast track status at a meeting on April 16, 2001 and comments were given to the applicant. In March 2003, the applicant applied for CUP03395. In July 2005, the applicant demanded that his cases be sent to next available hearing.

PROJECT DESCRIPTION AND LOCATION:

Conditional Use Permit No. 3395 is an application to relocate an existing operation (Agriscape) for manufacturing of compost for retail sale through the recycling of green and construction wastes and asphaltic concrete/concrete recycling. The operation will also include concrete batch processing. The project also includes two 1,000 gallon above ground fuel storage tanks, storage of 55 gallon barrels of motor oil and hydraulic fluid, 1 cylinder of oxygen (275 cf) and 1 cylinder of acetylene (130 cf).

Change of Zone No. 06799 is a request to amend the zoning ordinance for SP265 to allow for recycling of green wastes and concrete.

The project is located east of Sky Canyon Dr. and south of Borel Road.

FURTHER PLANNING CONSIDERATIONS:

December 6, 2005

At the December 6th Board of Supervisor's hearing to consider the applicant's request to appeal the Planning Commission's denial of their project, the Board directed to the applicant to complete the items described in staff report within 180 days. The Board then directed the applicant to come before them on February 7th to give them a 60 day progress report as to which items have been completed and the progress on the other items. As of this writing, no progress has been made by the applicant to address the concerns stated in the staff report.

October 12, 2005

Since the issues of potential concern were unresolved at the time project was heard before the Planning Commission on August 31, 2005, Planning Staff was compelled to recommend denial of the project. The Planning Commission, after a continuance of the hearing in order to allow time for the 3rd District Commission to communicate with the applicant about the outstanding issues. At the second meeting, October 12, 2005 the Commission voted unanimously to deny the project.

ISSUES OF POTENTIAL CONCERN:

HANS/JPR review:

HANS No. 1101 was applied for on May 28, 2005. As of this writing, this HANS has not been completed. In an August 1, 2005 letter the applicant was informed that numerous habitat assessments

and urban/wildlands interface compliance would be required before a HANS determination could be made.

Environmental Health Department – Local Enforcement Agency Issues:

In August 2003, the Health Department informed the applicant that they were required to have a Solid Waste Facility Permit. This California State permit would allow the applicant to compost and process composted materials. As of this writing, a complete application has not been submitted to the LEA. In July 2005, the Department of Health denied the applicant's request for an extension of time on submitting a complete application for the original site. The Department of Health has given the applicant until August 19, 2005 to turn in a complete application for this Solid Waste Facility Permit, after which time they will be required to take enforcement action.

Airport Land Use Commission hearing:

The project is within the French Valley Airport Influence Area, as such it requires an application to be turned in by the applicant to the Airport Land Use Commission for their review. As of this writing, the appropriate hearing has not occurred.

Required Fire Department corrections to the site plan:

Incorrect driveway surface, driveway width to 24 feet, show driveway radius, turnouts not shown, floor plans and elevations needed for all buildings, show location and size of all above/underground fuel tanks, show gate width, primary and secondary access not shown, a fire protection engineers report required.

Planning Department outstanding issues:

Supplemental EIR required, Air Quality Report required, ALUC clearance required, Land Use exhibits for Specific Plan conformance, address issues raised in Waste Management letter.

New regulatory Environment:

The County Departments have not seen this case since its initial development review back in May of 2003. In the intervening two years, most departments have increased their regulatory oversight, and therefore additional requirements may be needed beyond what has been conditioned or has been requested as corrections. Examples of this increased regulatory oversight would be higher water quality requirements and increased setbacks for fuel modification zones.

SUMMARY OF FINDINGS:

- | | |
|-----------------------------------|--|
| 1. Existing Land Use (Ex. #1): | Vacant |
| 2. Surrounding Land Use (Ex. #1): | Vacant |
| 3. Existing Zoning (Ex. #3): | Specific Plan (SP) |
| 4. Surrounding Zoning (Ex. #3): | Specific Plan (SP) |
| 5. General Plan: | Land Use: Light Industrial (LI) and Open Space Conservation (OS-C) |
| 6. Project Data: | Total Acreage: 20.55
Specific Plan 265 Borel Air Park Center
Planning Area 2.0 |
| 7. Environmental Concerns: | Unresolved |

RECOMMENDATIONS:

DENIAL of the **APPEAL** of the Planning Commission Denial of **CHANGE OF ZONE NO. 6779 and CONDITIONAL USE PERMIT NO. 3395**, based upon the findings and conclusions incorporated in the staff report.

CONCLUSIONS:

1. Due to the incomplete nature of the proposal it cannot be determined at this time if the proposed project is in conformance with the Light Industrial and Open Space Conservation Land Use Designations, and with all other elements of the Riverside County Comprehensive General Plan.
2. Due to the incomplete nature of the proposal it cannot be determined at this time if the proposed project is consistent with the Specific Plan zoning classification of Ordinance No. 348, and with all other applicable provisions of Ordinance No. 348.
3. It cannot be determined at this time if the public's health, safety and general welfare are protected through project design.
4. It cannot be determined at this time if the proposed project is compatible with the present and future logical development of the area.
5. It cannot be determined at this time if the proposed project will not have a significant effect on the environment.
6. It cannot be determined at this time if the proposed project complies with the reserve design for the Multi-Species Habitat Conservation Plan (MSCHP).

FINDINGS: The following findings are in addition to those incorporated in the summary of findings, and in the attached environmental assessment, which is incorporated herein by reference.

1. The project site is designated Light Industrial (LI) and Open Space Conservation (OS-C) on the Southwest Area Plan.
2. The proposed use, composting and concrete recycling, is a permitted use in the Light Industrial (LI) designation.
3. The project site is surrounded by properties which are designated Light Industrial (LI) to the north, Public Facility (PF) and Light Industrial (LI) to the west, and Light Industrial (LI) and Open Space Conservation (OS-C) to the east and south.
4. The zoning for the subject site is Specific Plan (SP).
5. The proposed use, composting and concrete recycling, is not a permitted subject to approval of a conditional use permit in the Specific Plan Zone.

6. The proposed use, composting and concrete recycling, is not consistent with the development standards set forth in the Specific Plan zone.
7. The project site is surrounded by properties which are zoned Specific Plan.
8. The directly adjacent properties are vacant, however the proposed use is operating on a near by parcel and similar uses have been constructed and are operating in the project vicinity.
9. This project is located within Criteria Area 5969, 5976, 6071, 6074 of the Multi-Species Habitat Conservation Plan, and as such is required to comply with the HANS/JPR findings. Due to the incomplete nature of the proposal it cannot be determined at this time if this project fulfills those requirements.

INFORMATIONAL ITEMS:

1. As of this writing, no letters, in support or opposition have been received.
2. The project site is not located within:
 - a. A city of sphere of influence.
 - b. A 100-year flood plain an area drainage plan, or dam inundation area.
 - c. California Gnatcatcher, Quino Checkerspot Butterfly habitat.
 - d. High Fire Area
3. The project site is locate within:
 - a. The boundaries of the Temecula Unified and the Temecula valley School Districts
 - b. The Valley Wide Recreation and Parks District.
 - c. Redevelopment Area
 - d. French valley Airport Influence Area
 - e. Zone B of Mt. Palomar light regulation zone
 - f. SKR fee area
4. The subject site is currently designated as Assessor's Parcel Number 957-320-013

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



16.3

1:30 p.m. being the time set for further public hearing on the appeal of Chris Hopper on the application of Ray Borel and Agriscapex concerning the Planning Commission denial of Zone Change 6779 to amend the zoning ordinance for SP 265 to allow for recycling of green wastes and concrete, and CUP 3395 to relocate an existing un-permitted operation (Agriscapex) for manufacturing of compost for retail sale through the recycling of green and construction wastes and asphaltic concrete/concrete recycling, located in the Rancho California Zoning District – Southwest Area Plan, 3rd District, the Chairman called the matter for hearing.

Ron Goldman, Planning staff, presented the matter.

Kenneth Friedman, representing Fred Fleming, Nancy Oren and Genevieve Fleming, opposed the appeal.

Supervisor Stone asked that the matter be referred back to staff for some definitive time lines that the applicant is going to have to follow as well as some performance standards, and if not met in a timely fashion, it will come back to the Board immediately for denial.

Katherine Lind, Principal Deputy County Counsel, suggested that the matter be continued for 60 days and brought back for a status report.

On motion of Supervisor Stone, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is continued to Tuesday, February 7, 2006 at 1:30 p.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on December 13, 2005 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors

Dated: December 13, 2005

Nancy Romero, Clerk of the Board of Supervisors, in and for the County of Riverside, State of California.

By: Jane Ehlmann Deputy

AGENDA NO.
16.3

xc: Planning, Appellant, Applicant, COB