

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

616B



FROM: TLMA - Planning Department

SUBMITTAL DATE:
June 6, 2008

SUBJECT: CONDITIONAL USE PERMIT NO. 3574 (FTA NO. 2007-39) – MITIGATED NEGATIVE DECLARATION – Applicant: Matich Corporation – Engineer / Representative: RRM Properties - Fifth Supervisorial District – Pass and Desert Zoning District – The Pass Area Plan: Rural: Rural Desert (R-RD) (10 Acre Minimum), Rural Residential (R-RR) (5 Acre Minimum) and Community Development: Light Industrial (0.25 - 0.60 Floor Area Ratio) – Location: Southerly of Interstate 10 between Apache Trail and Fields Road – 55.4 Gross Acres - Zoning: Controlled Development Areas - 10 Acre Minimum (W-2-10) and Manufacturing - Service Commercial (M-SC) - **REQUEST:** The Conditional Use Permit proposed an asphalt batch plant with an average annual production of up to 750,000 tons of asphalt. The plant includes three silos for dispensing product into delivery trucks; truck trips estimated not to exceed 300 per day. Operating hours will be five days a week (Monday through Friday) from 4:00 a.m. to 6:00 p.m. and occasionally on Saturday for emergency services. The plant will be located on the Cabazon Quarry, operated by Robertson's Ready Mix.

RECOMMENDED MOTION:

THE PLANNING DEPARTMENT RECOMMENDED:

ADOPTION of a **MITIGATED NEGATIVE DECLARATION** for **ENVIRONMENTAL ASSESSMENT NO. 41584**, based on the findings incorporated in the initial study and the conclusion that the project, subject to the proposed mitigation measures, will not have a significant effect on the environment; and,

APPROVAL of **CONDITIONAL USE PERMIT NO. 3574**, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the staff report.

Ron Goldman
Planning Director

RG:cv

REVIEWED BY EXECUTIVE OFFICE

DATE 6/9/08
Tina Grance
Departmental Concurrence

Policy Policy
Consent Consent
Dept't Recomm.: Per Exec. Ofc.:

Prev. Agn. Ref.

District: Fifth

Agenda Number:

15.3

BEST BEST & KRIEGER

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July 3, 2008

Riverside County Board of Supervisors
c/o The Clerk of the Board
4080 Lemon Street, 1st Floor
P.O. Box 1147
Riverside, CA 92502-1147

Re: Agenda Item on July 15, 2008 Agenda
Conditional Use Permit No. 3574 (FTA2007-39)

Dear Supervisors Buster, Tavaglione, Stone, Wilson and Ashley:

The above matter will be considered by the Board at its July 15, 2008 meeting. It involves a requested Conditional Use Permit allowing an asphalt batch plant on property owned by Robertson's Ready Mix, south of Interstate 10 and west of Apache Trail. A client and long time friend owns a five acre commercially zoned parcel bordering Apache Trail, south of Interstate 10. We hope that the Supervisors will consider his concerns as this matter is discussed and decided on July 15th.

The owner of this property, Apache Trail Venture, LLC, recently received an offer to purchase the property. That offer contemplated development of a "Fairfield Inn" type of hotel/motel facility. Once the potential buyer became aware of the possibility of up to 300 truck trips per day on the same freeway access that its customers would use, the offer was quickly withdrawn.

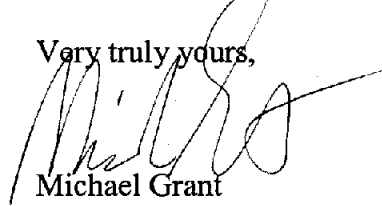
We understand that this neighboring property has been used for many years for quarry and aggregate purposes – and that the asphalt batch plant use may be a logical extension of this. However, we would hope that the effects of this use might be mitigated somewhat by shorter hours (such as 4:00 a.m. through 4:00 p.m.) and a lower maximum trips per day threshold.

BEST BEST & KRIEGER
ATTORNEYS AT LAW

Riverside County Board of Supervisors
July 3, 2008
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We will appreciate your sensitivity to these issues as this matter is considered.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Grant", written over the typed name.

Michael Grant
of BEST BEST & KRIEGER LLP

MG:jo

cc: George Mooradian

July 3, 2008

Clerk of the Board
4080 Lemon Street, First Floor
Post Office Box 1147
Riverside, CA 92502-1147

Re: Conditional Use Permit No. 3574 (FTA 2007-39)

Dear Clerk,

Please accept this letter as a formal statement of opposition to specific aspects of Conditional Use Permit No. 3574 (FTA 2007-39) applied for by Match Corporation – RRM Properties which proposes an asphalt batch plant with an average annual production of up to 750,000 tons of asphalt at a project site between Apache Trail and Fields Road in the Pass and Desert Zoning District.. I request that a copy of this letter be given to each Supervisor and that it be placed in the Public Record.

I am the Managing Member of an LLC which owns property on Apache Trail known as APN No's 519-210-018, 020, 021, 022 and 023 which is in close proximity to the contemplated asphalt project site. We recently had accepted an offer to purchase our parcels by a hotel developer who had informally conferred with the county which responded favorably to a plan to construct a 120 room Fairfield Inn by Marriott on our site. Shortly after we informed the buyer of CUP 3574, they withdrew their offer to purchase our property stating that the approval of such a plant on a nearby property and the estimated 300 trucks per day beginning at 4:00 a.m. causing noise and dust would not be acceptable for a hotel on our property.

Since our site is accessed from the Interstate 10 and Apache Trail, customers of the proposed hotel development would travel to and from the hotel site by passing a point of egress for the Match project site. As stated in the Notice of Public Hearing, the Conditional Use Permit proposes a plant which "includes three silos for dispensing product into delivery trucks; truck trips estimated not to exceed 300 trips per day. Operating hours will be five days a week (Monday through Friday) from 4:00 a.m. to 6:00 pm." Delivery truck trips at the estimated maximum of 300 per day, would mean a truck would either be leaving or returning to the Match site every two minutes and forty-eight seconds. Not only would this create a negative traffic impact on Apache Trail and have a negative impact on retail commercial traffic that would be traveling to our site, it also would take an otherwise unassuming and nondescript roadway which compliments the natural environment of the area and turn it into a very distinct industrial thoroughfare with all the noise, pollution, congestion and odors attendant to the use contemplated in Conditional Use Permit 3574. If the smells associated with the asphalt plant could not be contained to the site on which the facility is located, how many of the permitted uses of our site would no longer be marketable? How many hotel guests would want to go sit by the pool if they were going to experience the lingering smell of asphalt?

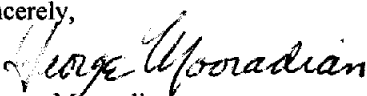
The contemplated Conditional Use Permit goes against the grain of the standard caveat that all private uses of property shall not negate nor infringe upon the rights or proper uses of others on their property. It would, at the very least, cause a nuisance to hotel guests traveling to and from our site and at worst would cancel our rights to full enjoyment and the highest and best use of private property, rendering our parcels and others in the vicinity much less valuable than at the present time. Indeed, this may constitute an uncompensated "taking" of our property, sometimes characterized as "inverse condemnation" - in this case, it would be the government's permitted use by private interests of a parcel of real property that diminishes the value or potential uses of other real property.

For the larger general public interest, we ask the Board of Supervisors of Riverside County to require Match Corporation to:

1. Limit their hours of operation of the asphalt plant to 4:00 am to 4:00 pm. Monday Through Friday
2. Limit the maximum number of truck trips per day to 100.
3. Use all technological means possible to limit the spread of the asphalt odors and operational noise.

We hope that the Board will decide in favor of our approach which benefits the community at large. We are determined to protect the value, use and potential of our property and we look forward to testifying at the July 15 Public Hearing in order to help provide a sensible solution that both enables the business efforts of Match Corporation while providing for the future commercial and residential growth of the Cabazon area.

Sincerely,


George Mooradian
Managing Member
Apache Trail Venture, LLC

cc: Supervisor Marion Ashley
Randy Anderson, John Mooradian – Members, Apache Trail Venture, LLC

2008-07-075043