

FORM APPROVED COUNTY COUNSEL 2/12/15  
 BY: GREGORY P. PRIAMOS DATE

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

224



**FROM:** TLMA – Planning Department

**SUBMITTAL DATE:**  
 February 4, 2015

**SUBJECT:** INDIGO RANCH SOLAR PROJECT – Set Aside and Terminate Approvals of Agricultural Preserve Case No. 1027, Conditional Use Permit No. 3693, Development Agreement No. 78, and Mitigated Negative Declaration for Environmental Assessment No. 42580 and Introduction of Ordinance No. 664.55 Repealing Ordinance No. 664.54 Regarding the Approval of Development Agreement No. 78.

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Set aside and terminate the approvals of Agricultural Preserve Case No. 1027, Conditional Use Permit No. 3693, Development Agreement No. 78, and Mitigated Negative Declaration for Environmental Assessment No. 42580 regarding the Indigo Ranch Solar Project pursuant to the provisions of Condition of Approval 20 Planning 05 for Conditional Use Permit No. 3693 and Section 2.7 of Development Agreement No. 78 as requested by the applicant; and
2. Introduce and adopt on successive weeks Ordinance No. 664.55, an ordinance repealing Ordinance No. 664.54 Approving Development Agreement No. 78.

(continued on page 2)

Juan C. Perez  
 TLMA Director  
 SW:lr

*Steve Weiss*  
 Steve Weiss, AICP  
 Planning Director

| FINANCIAL DATA                              | Current Fiscal Year: | Next Fiscal Year: | Total Cost: | Ongoing Cost:                 | POLICY/CONSENT<br>(per Exec. Office)  |
|---|----------------------|-------------------|-------------|-------------------------------|---|
| COST  | \$ N/A               | \$ N/A            | \$ N/A      | \$ N/A                        | Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/> |
| NET COUNTY COST                             | \$ N/A               | \$ N/A            | \$ N/A      | \$ N/A                        |   |
| <b>SOURCE OF FUNDS:</b> Deposit based funds |                      |                   |             | <b>Budget Adjustment:</b> N/A |   |
|   |                      |                   |             | <b>For Fiscal Year:</b> N/A   |   |

**C.E.O. RECOMMENDATION:**

APPROVE

County Executive Office Signature

BY: *Denise C. Harden*  
 Denise C. Harden

**MINUTES OF THE BOARD OF SUPERVISORS**

- Positions Added
- Change Order
- A-30
- 4/5 Vote

Prev. Agn. Ref.: 16-1 of 4/22/14; 3-20 of 4/29/14

District: 4

Agenda Number:

3-35

**FORM 11: INDIGO RANCH SOLAR PROJECT – Set Aside and Terminate Approvals of AG Preserve Case No. 1027, CUP No. 3693, DA No. 78, and MND for EA No. 42580 and Introduction of Ordinance No. 664.55 Repealing Ordinance No. 664.54 Regarding the Approval of DA No. 78.**

**DATE: February 4, 2015**

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**BACKGROUND:**

The Indigo Ranch Solar Project ("Project") proposed a 4.5 megawatt photovoltaic solar power plant on two parcels of private land totaling 40.12 acres. The public hearing on the Indigo Ranch Solar Project was held on April 22, 2014 as agenda item 16-1. At the conclusion of public testimony, the Board of Supervisors closed the public hearing, (i) adopted a Mitigated Negative Declaration for Environmental Assessment No. 42580, (ii) adopted Resolution No. 2014-050 regarding Agricultural Preserve Case No. 1027, (iii) tentatively approved Agricultural Preserve Case No. 1027, (iv) approved Conditional Use Permit No. 3693 subject to conditions of approval, and (v) introduced Ordinance No. 664.54 Approving Development Agreement No. 78. On April 29, 2014, the Board adopted Ordinance No. 664.54 finalizing the Board's approval of Development Agreement No. 78 (DA No. 78) for the Project.

The Project was proposed to use two (2) separate legal parcels: APN 808-240-010 (the "Jojoba Parcel") and APN 808-240-007 (the "Draskovich Parcel"). At the request of the applicant, Conditional Use Permit No. 3693 and Development Agreement No. 78 each contained provisions automatically terminating all approvals related to the Project if a building permit had not been issued on or prior to September 5, 2014 for either of the parcels. Condition of Approval 20 Planning 05, which was specifically sought by the applicant, states:

If a building permit has not been issued on or prior to September 5, 2014 which reflects that portions of the Solar Power Plant will be located on either the Draskovich Parcel or the Jojoba Parcel, then all Development Approvals (including but not limited to Conditional Use Permit No. 3693, Agricultural Preserve Case No. 1027 and Development Agreement No. 78) shall be automatically terminated and null and void as of such date with respect to both the Jojoba Parcel and the Draskovich Parcel. Applicant/Permittee (also defined as OWNER as used in Development Agreement No. 78) expressly acknowledges and expressly agrees that such termination shall be automatic and shall not require a hearing by the COUNTY or opportunity for the Applicant/Permittee to be heard by the COUNTY prior to such termination taking effect. Following any such termination of Development Approvals, Applicant/Permittee and COUNTY shall execute an appropriate instrument in recordable form evidencing such termination, and shall cause such instrument to be an amendment to Development Agreement No. 78 to be processed in accordance with COUNTY's "Procedures and Requirements for the Consideration of Development Agreements (Solar Power Plants)" set forth in COUNTY Resolution No. 2012-047.

Development Agreement No. 78 contained similar provisions in Section 2.7. It has been verified that a building permit was not issued on or prior to September 5, 2014 for any portion of the Project on either parcel described above. Planning staff repeatedly made the applicant aware of the September 5, 2014 deadline. The September 5, 2014 deadline date was a date requested by the applicant, as was the rest of the language set forth in Condition of Approval 20 Planning 05 set forth above. The applicant notified the Planning Department on September 12, 2014 that the applicant was not moving forward with the Project and acknowledged and confirmed that the approvals would be cancelled. Planning Staff has notified the applicant in writing of this agenda item.

The Board's action on this agenda item will set aside and terminate all approvals related to the Indigo Ranch Solar Project. Since Development Agreement No. 78 was adopted by ordinance as required by state law, it is now necessary to repeal that ordinance.

**Impact on Residents and Businesses**

Not Applicable.

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**SUPPLEMENTAL:**

**Additional Fiscal Information**

Staff labor and expenses to process this project have been paid directly through Indigo Ranch's deposit based fees. After the Board's action to set aside the approvals, the remaining deposit based fees will be returned to the applicant in accordance with Ordinance No. 671.

**ATTACHMENTS:**

- A. Ordinance No. 664.55**

1 ORDINANCE NO. 664.55

2 AN ORDINANCE OF THE COUNTY OF RIVERSIDE

3 REPEALING ORDINANCE NO. 664.54

4 APPROVING DEVELOPMENT AGREEMENT NO. 78

5  
6 The Board of Supervisors of the County of Riverside ordains as follows:

7 Section 1. Ordinance No. 664.54 entitled "An Ordinance of the County of Riverside  
8 Approving Development Agreement No. 78" is repealed in its entirety in accordance with Section 2.7 of  
9 Development Agreement No. 78 and Condition of Approval 20 Planning 05 of Conditional Use Permit  
10 No. 3693.

11 Section 2. Effective Date. This ordinance shall take effect thirty (30) days after its  
12 adoption at which time Ordinance No. 664.54 is hereby repealed.

13 .  
14 BOARD OF SUPERVISORS OF THE COUNTY  
OF RIVERSIDE, STATE OF CALIFORNIA

15  
16 By: \_\_\_\_\_  
Chairman

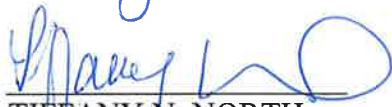
17 ATTEST:

18 CLERK OF THE BOARD:

19 By: \_\_\_\_\_  
Deputy

20  
21 (SEAL)

22 APPROVED AS TO FORM  
23 February 11, 2015

24 By:   
25 TIFFANY N. NORTH  
26 Deputy County Counsel