



San Bernardino County

Legislation Text

File #: 3050, Agenda Item #: 3

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF THE COUNTY OF SAN BERNARDINO
AND RECORD OF ACTION**

October 20, 2020

FROM

TERRI RAHHAL, Director, Land Use Services Department

SUBJECT

Church of the Woods Development Project Appeal

RECOMMENDATION(S)

1. Conduct a public hearing to consider an appeal of a Planning Commission action approving a Conditional Use Permit for a religious facility consisting of a 27,364-square foot, two-story Youth Center/Gymnasium, recreational facilities, 41,037-square foot, two-story assembly building with a maximum seating capacity of 600, and a 1,500-square foot, two-story maintenance/caretaker unit in two phases on a 13.6-acre portion of a 27.12-acre site.
 - Appellants: Save Our Forest Association, Inc., Sierra Club - San Bernardino Mountains Group, San Bernardino Valley Audubon Society
 - Applicant: Church of the Woods
 - Community: Rimforest
 - Location: North side of State Route 18, west of Daley Canyon Road.
2. Deny the appeal and take the following actions for project approval:
 - a. Certify the Environmental Impact Report, SCH No. 2004031114.
 - b. Adopt the California Environmental Quality Act Findings of Fact and Statement of Overriding Considerations.
 - c. Adopt the Mitigation Monitoring and Reporting Program.
 - d. Adopt the recommended Findings for approval of the Conditional Use Permit.
 - e. Approve the Conditional Use Permit for the religious facility, subject to the recommended Conditions of Approval.
 - f. Direct the Clerk of the Board to file a Notice of Determination.

(Presenter: Heidi Duron, Planning Director, 387-4110)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

FINANCIAL IMPACT

Consideration of this item will not result in the use of additional Discretionary General Funding (Net County Cost). Sufficient appropriation and revenue to complete this action have been included in the Land Use Services (LUS) Planning Division 2020-21 budget. All costs of processing this application are paid by the Applicant.

BACKGROUND INFORMATION

This item is an appeal of a Planning Commission action approving a Conditional Use Permit (CUP) for the Church of the Woods to construct a religious facility consisting of a Youth Center/Gymnasium, recreational facilities, sports field, an assembly building with a maximum seating capacity of 600, and a maintenance/caretaker unit. The improvements are proposed for development in two phases on a 13.6-acre portion of a 27.12-acre site (Project).

In 2003, a project of significantly larger scope, including a school, was proposed (Original Project). After approval of the Original Project by the Planning Commission on May 20, 2004, which included adoption of a Mitigated Negative Declaration, an appeal to the Board of Supervisors (Board) was filed by a consortium of environmental groups. The Board never decided the merits of the appeal on the Original Project. Instead, in September 2004, the Applicant submitted a smaller project without the school, and opted for the County to prepare an Environmental Impact Report (EIR). After the circulation of the Draft EIR (DEIR) in 2010 and issuance of the Final EIR (FEIR) in 2011, the County took no further action on the Project, pending further discussions with the Applicant. Based on the conclusions and the comments received in response to the Draft EIR, the Applicant submitted a revised CUP application, further reducing the size and scope of the Original Project in order to address some of the significant impacts identified in the Draft EIR. Due to the lapse in time and change in existing conditions from the 2010 Draft EIR and the 2011 FEIR, the County required a Draft Revised EIR (DREIR) to analyze the Project as currently proposed. The decision to prepare and recirculate a DREIR was based on the following factors:

- The need to evaluate potential changes to existing conditions since the circulation of the 2010 DEIR;
- The acquisition of a portion of the Project site by the County Public Works Department for the Rimforest Storm Drain project. The Rimforest Storm Drain project was subject to an EIR (SCH No. 2015051070) certified by the Board on May 23, 2017; and
- Modifications to the Project size and site plan.

The DREIR concluded that the Project would result in unavoidable significant adverse impacts to biological resources (cumulative), noise (during construction), transportation/circulation and land use. The County released the DREIR to the public on January 10, 2019. Comments received on the DREIR and subsequent errata have been incorporated into the FEIR.

The unavoidable adverse impacts require a Statement of Overriding Considerations to establish that the benefits of the Project outweigh the adverse impacts. Project benefits include the provision of a religious facility to serve the community, with shared space opportunities for local residents and organizations, such as meeting rooms, classrooms and recreational facilities.

A thorough discussion of the CUP, including analysis of General Plan consistency and compliance with the County Development Code and CEQA is included in the Staff Report submitted to the Planning Commission on January 23, 2020, which is included in the documents posted with this Report/Recommendation.

Planning Commission Action

The Project was considered in a public hearing by the Planning Commission on January 23, 2020 with a staff recommendation for approval. At the hearing, 37 members of the public expressed their concerns about the Project and asked that the Project be denied. Also at the hearing, 26 members of the public expressed support for the Project and asked that the Project be approved. By a vote of 5-0, the Planning Commission approved the Project.

Appeal of the Planning Commission Action

Staff received an appeal application filed by Shute, Mihaly & Weinberger, LLP, on behalf of the Appellants, contesting the Planning Commission's approval of the Project. A summary of Appellants' arguments raised in the appeal and responses from LUS are provided below. A complete copy of the appeal and a detailed response is included in the documents posted with this Report/Recommendation.

1. Appellants' Argument: The EIR does not comply with CEQA, as it does not adequately describe the Project. The EIR failed to adequately evaluate and mitigate the Project's impacts on: biological resources, traffic, evacuation routes, drainage and water quality, geology and soils, aesthetics, land use, and cumulative impacts. In addition, the Appellants assert that the EIR failed to provide adequate Project alternatives, and that new information in the FEIR necessitated recirculation.

LUS Response: The Appellants claim that the EIR does not comply with CEQA because the EIR does not adequately describe the Project. The Project Description detailed in the Church of the Woods DREIR includes all the requirements listed in State CEQA Guidelines Section 15124 and, therefore, complies with CEQA.

The Appellants claim that the EIR failed to adequately evaluate and mitigate the Project's impacts on numerous environmental categories. The County responded to all of the specific claims in response to public comment as part of the FEIR, and the County's responses are supported by substantial evidence. There are no items raised in the appeal that change the conclusions of the FEIR that was certified by the Planning Commission. Further, the County is not required to conduct every test or perform all research, studies, or experimentation at the Appellants' request to further prove that impacts are mitigated as concluded by the FEIR.

The FEIR concluded that with implementation of mitigation measures, Project-level impacts would be reduced to below levels of significance with the exception of cumulatively considerable impacts to special-status species wildlife habitat, construction noise, impacts to intersections that are under the control of Caltrans outside of the County's jurisdictional authority to assure mitigation, and land use associated with level of service on local roadways. Of note, in accordance with Senate Bill 743, and changes that the California Natural Resources Agency made to the CEQA Guidelines in December 2018, automobile delay, as measured by "level of service", no longer constitutes a significant environmental effect under CEQA.

Lastly, the Appellants claim that the EIR failed to provide adequate alternatives. The Project is a reduced version of a project that was previously presented to the County and not approved. In that light, the currently-proposed Project is a reduced project alternative to the previously-proposed project. Additionally, three alternatives to the Project were evaluated, which includes a No Project/No Development Alternative, a No Project/Feasible Development Alternative, and a Reduced Project/Alternative Site Design Alternative. The Appellants do not identify any way in which the alternatives analysis presented in the DREIR is inadequate.

2. Appellants' Argument: The Project fails to comply with State Planning and Zoning Law because some of the Project's land uses are not allowed by the General Plan or Development Code. The Project is also inconsistent with numerous Development Code standards.

LUS Response: According to the California Office of Planning and Research General Plan Guidelines, an action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and will not inhibit or obstruct their attainment. State law does not require an exact match between a land use decision and the general plan. The local agency has discretion to determine compatibility and consistency with the goals and policies of its General Plan. The County has determined that the proposed Project is consistent with the General

Plan, Lake Arrowhead Community Plan, and Development Code.

3. Appellants' Argument: The CUP Findings are not supported by evidence. Due to topographical limitations, the site is not adequate to accommodate the proposed use, and there is no evidence that there is adequate emergency access. The Project is inconsistent with numerous General Plan and Lake Arrowhead Community Plan policies, and does not comply with the Development Code.

LUS Response: The Appellants fail to provide any specific detail as to how the site has specific topographical limitations. The site development plan has been designed to minimize the amount of grading required. Over half of the site, that portion that tends to have more slope, is being maintained as open space. The DREIR has an extensive discussion regarding emergency access and other related hazards and emergency impacts. Finally, the Appellants' arguments with regard to General Plan and Development Code consistency and compliance are addressed in Response 2 above.

PROCUREMENT

Not Applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bart Brizzee, Principal Assistant County Counsel, and Jason Searles, Deputy County Counsel, 387-5455) on August 18, 2020; Finance (Kathleen Gonzalez, Administrative Analyst, 387-5412) on August 26, 2020; County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on October 8, 2020.