



# BOARD AGENDA FACT SHEET

<b>CLERK USE ONLY</b>
BOS ACTION
# _____

Planning & Development Services Dept.  
 Department /Agency

March 2, 2021  
 Requested Board Date

**1. Request:**

<b>Board Approval</b>	<input type="checkbox"/>	<b>Information Only/Presentation</b>	<input type="checkbox"/>
<b>Other (specify)</b>	<input type="checkbox"/>	<b>Schedule Hearing Time: <u>11:00 am</u></b>	<b>XX</b>

**2. Requested Action:** *Type requested action below*

Conduct a public rehearing of the El Toro Feedlot Expansion Project originally approved by the Board of Supervisors on August 11, 2020, and consider the following actions (4/5 vote required):

1. Adopt ordinance-repealing Ordinance No. 1562 concerning approval of Zone Change # 18-0006, and authorizing the reinstatement of Conditional Zone Change #06-0011.
2. Adopt resolution repealing Resolution No. 2020-79 concerning approval of certain findings for Zone Change #18-0006.
3. Adopt resolution repealing Resolution No. 2020-78 concerning the adoption of the Mitigated Negative Declaration for Zone Change #18-0006.
4. Adopt the Notice of Exemption for the rescission of Ordinance No. 1562 and Resolution Nos. 2020-78 and 2020-79, and for the reinstatement of Conditional Zone Change #06-0011, pursuant to the "common sense" exemption under CEQA Guidelines § 15061, subdivision (b)(3) and the "existing facilities" exemption under CEQA Guidelines § 15031.

3. Cost \$ N/A Source: N/A
4. If approval of Contract, reviewed/approved by County Counsel on: N/A  
 By: N/A Action Request: # N/A  
Assigned by County Counsel's Office
1. If approval of position allocation change, approved by Human Resources on: N/A  
 By: N/A
2. Electronic copy submittal date: 02/18/21 By: Rosa A. Soto, Office Supervisor

  
 \_\_\_\_\_  
 Department Head/Agency Representative

**INSTRUCTIONS:** Back-up must be submitted 11 BUSINESS days prior to requested date. Back-up submitted must contain an Original and 6 copies. Copies must be submitted double sided and three (3) hole punched. Back-up must be submitted in a PDF format to [cobstaff@co.imperial.ca.us](mailto:cobstaff@co.imperial.ca.us).

**CEO/CLERK USE ONLY:**

**DATE STAMP**

**BOARD DATE:** \_\_\_\_\_

Action \_\_\_\_\_ Filing \_\_\_\_\_

Consent \_\_\_\_\_ Presentation \_\_\_\_\_

Hearing \_\_\_\_\_ CEO Approval \_\_\_\_\_

Other (specify) \_\_\_\_\_

\_\_\_\_\_  
 CEO Date



# Imperial County Planning & Development Services Planning / Building

Jim Minnick  
DIRECTOR

TO: Board of Supervisors

February 18, 2021

FROM: Jim Minnick, Director of Planning & Development Services

M/O \_\_\_\_\_

SUBJECT: Reinstatement of Conditional Zone Change #06-0011

Dear Board Members:

### REQUESTED ACTION:

The Imperial County Planning & Development Services Department respectfully requests the Board of Supervisors ("Board") conduct a public rehearing of the El Toro Feedlot Expansion Project that was originally approved by the Board on August 11, 2020, and consider the following actions (4/5 vote required):

1. Adopt ordinance repealing Ordinance No.1562 concerning approval of Zone Change #18-0006, and authorizing the reinstatement of Conditional Zone Change #06-0011.
2. Adopt resolution repealing Resolution No. 2020-79 concerning approval of certain findings for Zone Change #18-0006.
3. Adopt the attached resolution repealing Resolution No. 2020-78 concerning the adoption of the Mitigated Negative Declaration for Zone Change #18-0006.
4. Adopt the Notice of Exemption for the recession of Ordinance No. 1562 and Resolution Nos. 2020-78 and 2020-79, and for the reinstatement of Conditional Zone Change #06-0011, pursuant to the "common sense" exemption under CEQA Guidelines § 15061, subdivision (b)(3) and the "existing facilities" exemption under CEQA Guidelines § 15031.

### BACKGROUND:

On August 11, 2020, the Board of Supervisors took action to approve a project to expand the size and operations of the El Toro feedlot ("Project"). Specifically, the Board through Ordinance No. 1562, adopted Zone Change # 18-0006, to change the zone on the Project property from Conditional A-3 (Heavy Agriculture) to A-3 (Heavy Agriculture). The Board also adopted Resolution Nos. 2020-78 and 2020-79, which approved the findings associated with Zone Change # 18-0006, and the Mitigated Negative Declaration associated with Zone Change # 18-0006.

On October 2, 2020, the County of Imperial ("County") received a request from El Toro to have the Board rescind the approvals of the Project that were granted during the August 11th public hearing. On November 12, 2020, the County received a follow-up letter from El Toro, again requesting that the County rescind the approvals of the Project, and reinstate Conditional Zone Change # 06-0011. In its November 12th letter, El Toro states that the economic opportunities presented by the Project have changed such that the expansion of the facility no longer makes sense at this time.

Action taken by the Board to approve or deny a Project is generally considered to be a final action. However, there are certain instances under the County of Imperial Codified Ordinances where the Board can rehear a Project. Such exceptions include, but are not limited to, when the Board makes adequate findings to rehear a Project with a four-fifth (4/5) vote.

The Planning Department has determined that rescission of the August 11th Project approvals is exempt from the California Environmental Quality Act under the "common sense" exemption, pursuant to CEQA Guidelines § 15061, subdivision (b)(3), and the "existing facilities" exemption under CEQA Guidelines § 15031.

**Fiscal Impact:**

No impact to General Fund. Charges are to applicant account 7004000-301000.

Staff will attempt to answer any questions you may have. Thank you.

**Exhibits:**

- A. ETX, LLC Rescind letter 11-12-2020
- B. Ordinance for repealing of Ordinance No. 1562 for Zone Change #18-0006
- C. Resolution for repealing of Resolution No. 2020-79, adopting Findings
- D. Resolution for repealing of Resolution No. 2020-78, adopting MND
- E. NOE for repealing ZC 18-0006 & reinstatement of ZC 06-0011

cc: Tony Rouhotas, County Executive Officer  
Adam Crook, County Counsel  
Jim Minnick, Director of ICPDS  
Michael Abraham, AICP Assistant Director of ICPDS  
Files ZC18-0006; APN 054-250-012-001

**EXHIBIT A**

ETX, LLC Rescind Letter 11-12-2020

Mailing Address:  
P.O. Box 1109  
El Centro, California 92244



Physical Address:  
1469 La Brucherie Road  
El Centro, California 92243

Phone: (760) 352-4157 · Fax: (760) 352-5754  
Email: [bplourd@eltoroexport.com](mailto:bplourd@eltoroexport.com)

Tony Rouhotas, Jr., Executive Officer  
Adam Crook, County Counsel  
Jim Minnick, Director, I.C.P.D.S.  
County of Imperial  
940 West Main Street  
El Centro, California 92243

November 12, 2020

RE: Zone Change No. 18-0006

Dear Mr. Rouhotas, Mr. Crook, and Mr. Minnick:

On behalf of ETX, LLC, I am requesting that the County rescind Zone Change No. 18-0006 (the Project). While we greatly appreciate the time and effort County staff spent reviewing the Project, as well as the Board's consideration and approval of the Project, the economic circumstances supporting the Project have changed since we originally sought approval, and at this time we are choosing not to pursue an expansion of operations at our Heber Facility.

Specifically, we originally submitted the application for the Project in October 2018, and ultimately received approval on August 11, 2020. During that time, the economic opportunity presented by the Project changed such that we have determined that the expansion of the Heber Facility does not make sense for our company at this time. Further, given the community's interest in the Heber Facility, at this time we believe it makes more sense for us as a company to continue to operate the Heber Facility at its current capacity under the terms of the Condition Zone Change No. 06-0011 approved by the County in 2007.

We look forward to working with the County and the community in the future.

My Regards,

ETX, LLC  
El Toro Land and Cattle Company  
El Toro Export, LLC

A handwritten signature in blue ink, appearing to read "W. Plourd", is written over a light blue circular stamp.

WILLIAM R. PLOURD  
President/C.E.O.

**EXHIBIT B**

**Ordinance for repealing of Ordinance No. 1562 for Zone Change #18-0006**



1           **SECTION 8: California Environmental Quality Act.** Adoption of this Ordinance is not subject  
2 to review under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000)  
3 because it is not a “project” as defined by CEQA. (CEQA Guidelines, §§ 15378, 15060, subd. (c)(2).)  
4 Adoption of this Ordinance is exempt from CEQA review pursuant to the “common sense” exemption,  
5 which exempts a project from CEQA “[w]here it can be seen with certainty that there is no possibility  
6 that the activity in question may have a significant effect on the environment.” (CEQA Guidelines, §  
7 15061, subd. (b)(3).) Existing operations on the subject site (APN 054-250-012 and 054-250-014) may  
8 continue, without expansion or modification, pursuant to the “existing facilities” exemption under CEQA  
9 Guidelines section 15031.

10  
11           **PASSED, ADOPTED, AND APPROVED** by the Board of Supervisors of the County of Imperial  
12 this 2nd day of March, 2021.

13  
14  
15 AYES: \_\_\_\_\_ NOES: \_\_\_\_\_ ABSENT: \_\_\_\_\_ ABSTAIN: \_\_\_\_\_  
16  
17

18 \_\_\_\_\_  
19 Michael W. Kelley, Chairman  
Imperial County Board of Supervisors

ATTEST: \_\_\_\_\_  
BLANCA ACOSTA, Clerk of the  
Board of Supervisors, County of Imperial,  
State of California



**EXHIBIT C**

Resolution for repealing of Resolution No. 2020-79, adopting Findings

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL  
REPEALING RESOLUTION NO. 2020-79, CONCERNING THE ADOPTION OF  
CERTAIN FINDINGS FOR ZONE CHANGE # 18-0006.**

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, on August 11, 2020, the County of Imperial (“County”) held a public hearing to consider the approval of Zone Change # 18-0006 (“Project”); and

**WHEREAS**, on August 11, 2020, the Board of Supervisors (“Board”) approved the Project, which included the adoption of certain findings as required under the California Environmental Quality Act (Public Resources Code, § 21000 et seq.) and other applicable land use and zoning laws, through the adoption of Resolution No. 2020-79; and

**WHEREAS**, on October 2, 2020, the County received a request from ETX, LLC, the Project applicant, to rescind all of the Project approvals granted by the Board during the August 11, 2020 hearing; and

**WHEREAS**, on November 12, 2020, the County received a letter from ETX, LLC, a copy of which is attached hereto as **Exhibit “A”** and incorporated herein by reference, providing additional findings for its decision to request that all the Project approvals be rescinded by the County; and

**WHEREAS**, on March 02, 2021, during a properly noticed public hearing held in accordance with applicable law, the Board heard public comment related to the repeal of Resolution No. 2020-79. After consideration of all the evidence presented during the hearing, the Board has elected to repeal Resolution No. 2020-79.

**WHEREAS**, the Board of Supervisors for the County of Imperial makes the following findings:

- (1) The adoption of Resolution No. \_\_\_\_\_ is not subject to review under CEQA pursuant to California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines), sections 15378 and 15060, subdivision (c)(2) because it is not a “project.” Rescinding the Project approvals does not have the potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Evidence in the record establishes that ETX, LLC no longer wishes to pursue the Project as it is no longer economically feasible for it to proceed. ETX, LLC has determined that it will continue to operate the facility at its current capacity under the terms approved by the County in 2007. Rescission of Project approvals ensures that future development proposals requiring discretionary approvals on the subject site will be required to go through a new environmental review process under CEQA.

- (2) The adoption of Resolution No. \_\_\_\_\_ is not subject to CEQA because it is exempt from review pursuant to the “common sense” exemption under CEQA Guidelines, section 15061, subdivision (b)(3), which exempts a project from CEQA “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Evidence in the record establishes that ETX, LLC does not wish to pursue the Project. Rescission of Project approvals ensures that future development proposals requiring discretionary approvals on the subject site will be required to go through a new environmental review process under CEQA.
  
- (3) The adoption of Resolution No. \_\_\_\_\_ is not subject to CEQA because it qualifies for the “existing facilities” categorical exemption established by CEQA Guidelines section 15301, which applies to “operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” Rescission of Project approvals means that the existing operation on the subject site will continue and cannot be expanded.

**NOW, THEREFORE,** the Board of Supervisors for the County of Imperial **DOES HEREBY RESOLVE AS FOLLOWS:**

- (1) The above recitals are true and correct.
- (2) Resolution No. 2020-79 is repealed.
- (3) The General Indemnification Agreement executed by ETX, LLC on October 25, 2018, shall survive the repeal of Resolution No. 2020-79.

**PASSED AND ADOPTED** by the Board of Supervisors, County of Imperial, State of California, this 2nd day of March, 2021 by the following roll call vote:

---

Michael W. Kelley,  
Chairman of the Board of Supervisors

ATTEST:

---

Blanca Acosta,  
Clerk of the Board of Supervisors

**EXHIBIT D**

Resolution for repealing of Resolution No. 2020-78, adopting MND

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL  
REPEALING RESOLUTION NO. 2020-78, CONCERNING THE ADOPTION OF THE  
MITIGATED NEGATIVE DECLARATION FOR ZONE CHANGE # 18-0006.**

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, on August 11, 2020, the County of Imperial (“County”) held a public hearing to consider the approval of Zone Change # 18-0006 (“Project”); and

**WHEREAS**, on August 11, 2020, the Board of Supervisors (“Board”) approved the Project, which included the adoption of a Mitigated Negative Declaration through Resolution No. 2020-78; and

**WHEREAS**, on October 2, 2020, the County received a request from ETX, LLC, the developer of the Project, to rescind all of the Project approvals granted by the Board during the August 11, 2020 hearing; and

**WHEREAS**, on November 12, 2020, the County received a letter from ETX, LLC, a copy of which is attached hereto as **Exhibit “A”** and incorporated herein by reference, providing additional findings for its decision to request that the Project approvals be rescinded by the County; and

**WHEREAS**, on March 02, 2021, during a properly noticed public hearing held in accordance with applicable law, the Board heard public comment regarding the repeal of Resolution No. 2020-78. After consideration of all the evidence presented during the hearing, the Board has elected to repeal Resolution No. 2020-78.

**WHEREAS**, the Board of Supervisors for the County of Imperial makes the following findings:

- (1) The adoption of Resolution No. \_\_\_\_\_ is not subject to review under CEQA pursuant to California Code of Regulations, Title 14, Chapter 3 (CEQA Guidelines), sections 15378 and 15060, subdivision (c)(2) because it is not a “project.” Rescinding the Project approvals does not have the potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Evidence in the record establishes that ETX, LLC no longer wishes to pursue the Project as it is no longer economically feasible for it to proceed. ETX, LLC has determined that it will continue to operate the facility at its current capacity under the terms approved by the County in 2007. Rescission of Project approvals ensures that future development proposals requiring discretionary approvals on the subject site will be required to go through a new environmental review process under CEQA.

- (2) The adoption of Resolution No. \_\_\_\_\_ is not subject to CEQA because it is exempt from review pursuant to the “common sense” exemption under CEQA Guidelines, section 15061, subdivision (b)(3), which exempts a project from CEQA “[w]here it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Evidence in the record establishes that ETX, LLC does not wish to pursue the Project. Rescission of Project approvals ensures that future development proposals requiring discretionary approvals on the subject site will be required to go through a new environmental review process under CEQA.
  
- (3) The adoption of Resolution No. \_\_\_\_\_ is not subject to CEQA because it qualifies for the “existing facilities” categorical exemption established by CEQA Guidelines section 15301, which applies to “operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” Rescission of Project approvals means that the existing operation on the subject site will continue and cannot be expanded.

**NOW, THEREFORE,** the Board of Supervisors for the County of Imperial **DOES HEREBY RESOLVE AS FOLLOWS:**

- (1) The above recitals are true and correct.
- (2) Resolution No. 2020-78 is repealed.
- (3) The General Indemnification Agreement executed by ETX, LLC on October 25, 2018, shall survive the repeal of Resolution No. 2020-78.

**PASSED AND ADOPTED** by the Board of Supervisors, County of Imperial, State of California, this 2nd day of March, 2021 by the following roll call vote:

---

Michael W. Kelley,  
Chairman of the Board of Supervisors

ATTEST:

---

Blanca Acosta,  
Clerk of the Board of Supervisors

**EXHIBIT E**

NOE for repealing ZC 18-0006 & reinstatement of ZC 06-0011

# Notice of Exemption

Appendix E

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk  
County of Imperial  
940 Main Street  
El Centro, CA 92243

**From:** (Public Agency):  
County of Imperial  
Planning & Development Services  
801 Main Street  
El Centro, CA 92243

Project Title: ETX LLC Zone Change #18-0006

Project Applicant: ETX, LLC (El Toro Exports)

Project Location – Specific: 1469 La Brucherie Road, El Centro, CA 92243

Project Location – City: Town site of Heber Project Location – County: Imperial

**Description of Nature, Purpose and Beneficiaries of Project:**

Repealing of Zone Change 18-0006 & Reinstatement of Conditional Zone Change #06-0011, previously approved on July 3, 2007, pursuant to the "common sense" exemption under CEQA Guidelines, § 15061, subd. (b)(3), and the "existing facilities" exemption under CEQA Guidelines § 15031.

Name of Public Agency Approving Project: Imperial County Planning & Development Services

Name of Person or Agency Carrying Out Project: ICPDS; David Black, Planner IV

**Exempt Status: (check one):**

- Ministerial (Sec. 21080(b)(1); 15268);  
 Declared Emergency (Sec. 21080(b)(3); 15269(a));  
 Emergency Project (Sec. 21080(b)(4); 15269(b)(c));  
 Categorical Exemption. State type and section number: Common Sense, § 15061(b)(3)  
 Statutory Exemptions, State Code Number: Existing Facilities, § 15031

**Reasons why project is exempt:**

The project is exempt because it is an existing facility and no changes to the facilities will be conducted.

Lead Agency Contact Person: David Black Area Code/ Telephone Extension: 442-265-1746

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: ICPDS Director

MMS:\APN\0541240\022\CUP18-0028\PC Package\CUP18-0028 - NOE (NOTICE OF EXEMPTION).docx

Signed by Lead Agency  Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for Filing at OPR: \_\_\_\_\_