

ORDINANCE NO. MC-1641

ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, APPROVING SPECIFIC PLAN AMENDMENT 23-02 AMENDING THE CALMAT/CAJON CREEK SPECIFIC PLAN 90-01 DESIGN GUIDELINES GOVERNING MINING DEPTHS AND AREAS WITHIN THE CITY OF SAN BERNARDINO AREAS K, L, M, AND N, PURSUANT TO AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT.

WHEREAS, on May 10, 1993, the City of San Bernardino approved the CalMat/Cajon Creek Specific Plan 90-01 that is a comprehensive planning and zoning document encompassing approximately 1,392 acres that authorized aggregate (sand and gravel) mining and related uses, industrial uses and open space; and Conditional Use Permit 91-31/Reclamation Plan that authorized mining and processing operations at the Cajon Creek Quarry on approximately 298 acres comprised of Areas L, M, and N, certified an Environmental Impact Report (California State Clearinghouse No. 1990020908/1993104312) for the CalMat/Cajon Creek Specific Plan and adopted the Mitigation Monitoring and Reporting Program; and

WHEREAS, on January 22, 1998, the City of San Bernardino approved the sequential development of the aggregate plant and the hot-mix asphalt plant under Development Permit Type II 97-24; and

WHEREAS, on September 3, 2020, the County of San Bernardino approved a zone change, conditional use permit and reclamation plan (PROJ-2019-00073) for mineral extraction in the area immediately south of the Cajon Creek Quarry known as Area Q to provide additional materials for ongoing operations at the Cajon Creek Quarry, certified an Environmental Impact Report (California State Clearinghouse No. 2020010528) for Area Q and adopted the Mitigation Monitoring and Reporting Program; and

WHEREAS, together, Specific Plan Amendment 23-02 and Conditional Use Permit Revision 23-11 constitute the Cajon Creek Consolidated Quarry Mine Reclamation Plan (“Project”); and

WHEREAS, Specific Plan Amendment 23-02 is a request to amend the CalMat/Cajon Creek Specific Plan Design Guidelines governing mining depths and areas within the City of San Bernardino Areas K, L, M, and N; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”; Public Resources Code, § 21000 et seq.), Section 21069, and State CEQA Guidelines (California Code of Regulations, § 15000 et seq.), Section 15381, the City of San Bernardino is the Responsible Agency for the Project; and

WHEREAS, pursuant to requirements of Section 15164(b) (Addendum to an EIR) of the California Environmental Quality Act, the Planning Division of the Community Development and

Housing Department accepted the Addendum to the Final EIR prepared by Sespe Consulting on behalf of and submitted by the applicant for Project; and

WHEREAS, On June 12, 2024, the Development and Environment Review Committee of the City of San Bernardino recommended that Specific Plan Amendment 23-02 and Conditional Use Permit Revision 23-11 move to the Planning Commission for consideration.

WHEREAS, on July 9, 2024, the Planning Commission of the City of San Bernardino held a duly-noticed public hearing to consider public testimony and the staff report, and, by a vote of 9-0, adopted Resolution No. 2024-024 forwarding a recommendation that the Mayor and City Council recommending approval of Specific Plan Amendment 23-02 and Conditional Use Permit Revision 23-11 amending Conditional Use Permit 91-31/Reclamation Plan and the CalMat/Cajon Creek Specific Plan's Design Guidelines governing mining depths and areas; and, allow the consolidation of the City's Reclamation Plan with an updated Amended Reclamation Plan allowing for the continuation of an aggregate mining operation within the San Bernardino County Area Q and City of San Bernardino Areas K, L, M, and N on a project site containing approximately 530.5 acres located southwest of Cajon Boulevard between Institution Road to the north and Devils Creek Diversion channel to the south within Specific Plan – Calmat/Cajon Creek Industrial Extractive And Industrial Light; and consider the Addendum to the final Environmental Impact Report under the California Environmental Quality Act; and

WHEREAS, notice of the August 21, 2024, public hearing for the Mayor and City Council's consideration of this proposed Ordinance was published in The Sun newspaper on August 10, 2024, and was mailed to property owners and occupants of property within a 1,000-foot radius of the project site and interested parties in accordance with Development Code Chapter 19.52 (Hearings and Appeals); and

WHEREAS, no comments made in the public hearing conducted by the Mayor and City Council, and no additional information submitted to the City Council, has produced substantial new information requiring substantial revisions that would trigger recirculation of the Addendum to the Final Environmental Impact Report or additional environmental review under State CEQA Guidelines Section 15164; and

WHEREAS, pursuant to the requirements of Chapter 19.64 (Specific Plans) and Chapter 19.68 (Surface Mining and Land Reclamation) of the City of San Bernardino Development Code, the Mayor and City Council has the authority to take action on Specific Plan Amendment 23-02 would be considered.

NOW THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Compliance with the California Environmental Quality Act. Based on the Addendum, the EIRs, Environmental Findings, Mitigation Monitoring and Reporting Programs, the Statement of Overriding Considerations, and all related information presented to the City Council, the City Council finds that the preparation of a subsequent or supplemental EIR is not

required because the modification specified in the Addendum: (1) does not constitute substantial changes to the Project that will require major revisions of the 1993 EIR or 2020 EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) does not constitute substantial changes with respect to the circumstances under which the Project is administered that will require major revisions of the 1993 EIR or 2020 EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and (3) does not contain new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the 1993 EIR or 2020 EIR was certified, that shows any of the following: (a) the modification will have one or more significant effects not discussed in the 1993 EIR or 2020 EIR; (b) significant effects previously examined will be substantially more severe than shown in the 1993 EIR or 2020 EIR; (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the City Council declined to adopt such measures; or (d) mitigation measures or alternatives considerably different from those analyzed in the 1993 EIR or 2020 EIR would substantially reduce one or more significant effects on the environment, but which the City Council declined to adopt.

SECTION 3. Finding of Facts – Specific Plan Amendment 23-02

Finding No. 1: The proposed plan is consistent with the General Plan.

Finding of Fact: The CalMat/Cajon Creek Specific Plan is a comprehensive planning and zoning document encompassing approximately 1,392 acres that laid out sixteen (16) planning areas (A-P), with development standards, guidelines, and authorized aggregate (sand and gravel) mining and related uses. The plan contains land use designation tailored to closely to the topography, the vegetation, the natural resources, and the public infrastructure of the Specific Plan area. Areas within the plan have been designated by the State of California as aggregate deposits of regional significance and thus the plan as a regulatory document serves as a zoning ordinance allowing for the safe extraction of those resources. Additionally, the City of San Bernardino General Plan includes primary goals and policies to guide future development within the City. Accordingly, the Specific Plan provides a detailed explanation of the Specific Plan’s relationship to the City’s General Plan, including a comparison of goals, objectives and policies.

Specific Plan Amendment 23-02 proposes to amend the design guidelines governing mining depths and areas to allow for mining in Area K to a depth of 240 feet below ground surface (bgs), mining in Areas L and M to a depth of 240 bgs (an increase of the permitted 120 bgs), mining in the northern portion of Area N (currently designated for mineral processing) to a depth of 120 bgs, and mining the resources between Areas K, L and the County of San Bernardino’s Area Q. The Specific Plan’s zone designation is Industrial Extractive and Industrial Light and allows for the existing mining activity and proposed amendments as requested. With the approval of Specific Plan Amendment 23-02, as proposed the areas will be consistent with the City’s General Plan.

Finding No. 2: The proposed plan would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding of Fact: The CalMat/Cajon Creek Specific Plan established a land use and development framework on public infrastructure that respects the City's natural resources and established an industrial corridor that preserves those resources. The Specific Plan is intended to encourage and capitalize on those industries that provide key industrial services while protecting the non-renewable characteristic of mineral deposits for safe extraction that is an important component to the regional economy.

The Specific Plan is not detrimental to the public interest, health, safety, convenience, or welfare of the City in that the primary purpose of the Specific Plan is to provide a vision and implementation program for the future development of vacant or under-utilized properties within Specific Plan boundaries and contains a comprehensive set of goals, objectives, strategies and guidelines to be used by the City to support, attract, facilitate and maintained development while preserving the environmental environs. Additionally, the Specific Plan will be maintained in accordance with all the mitigation measures contained in within the Mitigation Monitoring and Reporting Program, all Conditions of Approval and all Standard Requirements as outlined in the Specific Plan. Therefore, Specific Plan Amendment 23-02 as proposed would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding No. 3: The subject properties are physically suitable for the requested land use designations and the anticipated land use developments.

Finding of Fact: The CalMat/Cajon Creek Specific Plan is a comprehensive planning and zoning document encompassing approximately 1,392 acres that laid out sixteen (16) planning areas (A-P), with development standards, guidelines, and authorized aggregate (sand and gravel) mining and related uses. Specific Plan Amendment 23-02 proposes to amend the design guidelines governing mining depths and areas to allow for mining in Area K to a depth of 240 feet below ground surface (bgs), mining in Areas L and M to a depth of 240 bgs (an increase of the permitted 120 bgs), mining in the northern portion of Area N (currently designated for mineral processing) to a depth of 120 bgs, mining the resources between Areas K, L and the County of San Bernardino's Area Q. The Specific Plan's zone designation is Industrial Extractive and Industrial Light and allows for the existing mining activity and proposed amendments as requested. Therefore, the project site is physically suitable for the requested land use designation and the proposed land use development with the approval of Specific Plan Amendment 23-02.

Finding No. 4: The proposed plan shall ensure development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood.

Finding of Fact: The CalMat/Cajon Creek Specific Plan is intended to encourage and capitalized on those industries that provide key industrial services while protecting the non-renewable characteristic of mineral deposits for safe extraction that is an important component to the regional economy. The land use plan accommodates for the increase in those developments and resource extractions and establishes sixteen (16) planning areas (A-P), that guide future development of those properties throughout the project area.

Specific Plan Amendment 23-02 proposes to amend the design guidelines governing mining depths and areas to allow for mining in Area K to a depth of 240 feet below ground surface (bgs), mining in Areas L and M to a depth of 240 bgs (an increase of the permitted 120 bgs), mining in the northern portion of Area N (currently designated for mineral processing) to a depth of 120 bgs, mining the resources between Areas K, L and the County of San Bernardino's Area Q to allow for mining resources located between Areas K, L, and Q (County of San Bernardino's Area) in one mining area, and M and N in another, creating two consolidated mining pits for efficient mineral resource recovery, which is an operation that is vital for development and will be compatible with existing and proposed development in the surrounding neighborhood with the implementation of the Reclamation Plan.

Finding No. 5: The proposed plan will contribute to a balance of land uses so that local residents may work and shop in the community in which they live.

Finding of Fact: The CalMat/Cajon Creek Specific Plan is a comprehensive planning and zoning document encompassing approximately 1,392 acres that laid out sixteen (16) planning areas (A-P), with development standards, guidelines, and authorized aggregate (sand and gravel) mining and related uses. Furthermore, the Specific Plan intended to encourage and capitalized on those industries that provide key industrial services while protecting the non-renewable characteristic of mineral deposits for safe extraction that is an important component to the regional economy.

Specific Plan Amendment 23-02 proposes to amend the design guidelines governing mining depths and areas to allow for mining in Area K to a depth of 240 feet below ground surface (bgs), mining in Areas L and M to a depth of 240 bgs (an increase of the permitted 120 bgs), mining in the northern portion of Area N (currently designated for mineral processing) to a depth of 120 bgs, mining the resources between Areas K, L and the County of San Bernardino's Area Q to allow for mining resources located between Areas K, L, and Q (County of San Bernardino's Area) in one mining area, and M and N in another, creating two consolidated mining pits for efficient mineral resource recovery, which is an operation that is vital for development which

contributes to a balance of land use with the approval of the Specific Plan Amendment 23-02.

SECTION 4. Specific Plan Amendment 23-02 is a request to amend the CalMat/Cajon Creek Specific Plan Design Guidelines governing mining depths and areas within the City of San Bernardino Areas K, L, M, and N, attached hereto and incorporated herein by reference as Exhibit A, is hereby approved.

SECTION 5. Notice of Determination: The Planning Division of the Community Development and Housing Department is hereby directed to file a Notice of Determination with the Clerk of the Board of San Bernardino County and the Office of Planning and Research within five (5) working days of final project approval certifying the City’s compliance with the California Environmental Quality Act in approving the Project.

SECTION 6. Severability: If any section, subsection, subdivision, sentence, or clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 7. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

SECTION 8. Notice of Adoption. The City Clerk of the City of San Bernardino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under Section 36933 of the Government Code of the State of California.

APPROVED and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this ___ day of _____, 2024.

Helen Tran, Mayor
City of San Bernardino

Attest:

Genoveva Rocha, CMC, City Clerk

Approved as to form:

Sonia Carvalho, City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF SAN BERNARDINO)

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1641, adopted at a regular meeting held on the __ day of __ 2024 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this __ day of __ 2024.

Genoveva Rocha, CMC, City Clerk