

CITY OF BRAWLEY

March 6, 2019

The Planning Commission of the City of Brawley, California, met in Regular Session at 5:30 p.m., City Council Chambers, 383 Main Street, Brawley, California, the date, time, and place duly established for the holding said meeting. The City Clerk attests to the posting of the agenda pursuant to the G.C.54954.

1. CALL TO ORDER/ROLL CALL

The meeting was called to order by **Chairman Goyal** @ 5:30 pm

PRESENT: Palacio, Goyal, Marquez, Smith, Bumbera, Castro, Hutchinson

ABSENT:

2. APPROVAL OF AGENDA

The agenda was **approved** as submitted. m/s/c Smith/ Palacio 7-0

AYES: Palacio, Goyal, Marquez, Smith, Bumbera, Castro, Hutchinson

NAYES: None

ABSENT: None

ABSTAIN: None

3. APPROVAL OF MINUTES

The minutes of January 9, 2018 were **approved with modifications** during the March 2019 Planning Commission meeting. m/s/c m/s/c Smith/ Palacio 7-0

AYES: Palacio, Goyal, Marquez, Smith, Bumbera, Castro, Hutchinson

NAYES: None

ABSENT: None

ABSTAIN: None

4. PUBLIC APPEARANCES

5. PUBLIC HEARING PM 19-01

A Parcel Map (PM 19-01) to subdivide one parcel into four parcels to allow for the construction of three additional single family residential units. The property is currently zoned R-2 (Residential Low Density) and is 0.67 Acres in size. The site is currently contains one Single Family Dwelling.

Property Owners: Rene and Alicia Vega

Representative: J. Carlos Romero, Proterra

Legal Description: East 146 Feet of South 200 Feet of Lot 7, Brawley Subdivision 1 OM 1 40, City of Brawley, County of Imperial, State of California APN 047-240-021.

Planning Director Gaste gave an overview and background information of the project as presented in the staff report.

Chairman Goyal asked about the current structure onsite noted on the plans and also inquired about setbacks.

Planning Director Gaste informed the Commission that the lots will be in setback compliance and the existing carport will be demolished.

OPEN PUBLIC HEARING @ 5:33 PM

Rene Vega, Owner, addressed the Commission and mentioned that their intent is to divide the property and construct four family homes.

PUBLIC HEARING CLOSED @ 5:34PM

The Commission **approved** the conditional use permit as proposed. m/s/c Palacio/Marquez 7-0

AYES: Palacio, Goyal, Marquez, Smith, Bumbera, Castro, Hutchinson

NAYES: None

ABSENT: None

ABSTAIN: None

6. PUBLIC HEARING TM 05-01

A modification of the Conditions of Approval to the Latigo Ranch (TM05-01) major subdivision. The proposed condition modification includes Best Canal remaining an open channel for an unspecified period of time, substitution of a property lien for bonds or a letter of credit and delayed timing of improvements. The property is currently zoned R-1 (Residential Single Family) and is 81.01 acres in size. The site currently contains 18 single family units and vacant land.

Property Owners:	Brawley Investment Ventures, LLC C/o Mark D. McMillin
Applicant/Representative:	Martin D. Coyne
Legal Description:	All Lots of Latigo Ranch Unit #1 and the Remainder Parcel of Latigo Ranch Unit #1 (to become the future Unit #2), City of Brawley, County of Imperial, State of California.

City Manager Bayon Moore, Planning Director Gaste and Public Works Director Sillas gave a joint presentation of the staff report.

Commissioner Castro asked if the security bonds have been estimated.

Public Works Director Sillas added that while the bonds need to be recalculated, it is likely that they will be close to the previously secured bonds.

City Manager Bayon Moore noted that the action that's before the Planning Commission has to do with the conditions of approval. Once it moves forward in whatever final form recommended to the City Council, it doesn't mean it's the end of the times for this discussion. A subdivision improvement agreement will come back to the Planning Commission. **(CORRECTION: A subdivision improvement agreement will be acted on by the City Council.)**

Commissioner Palacio asked Staff who would be liable for any incidences related to the canal if left open.

Planning Director Gaste added that the City would be liable.

Chairman Goyal asked if it was a condition to underground the Best Canal as the Applicant claims that it was not stipulated.

Public Works Director Sillas mentioned that it was a condition to underground the Best Canal. He added that conditions of approval are stated in general language and terms. The undergrounding of the Best Canal is part of the approved tentative map and the approved improvement plans.

Commissioner Marquez asked if the Bryant Drain was still being used and if it was exposed.

Public Works Director Sillas added that the Bryant Drain, while not being used for agricultural purposes, is part of the City's Storm Water System.

Chairman Goyal inquired about the note that IID constructs the facilities.

Public Works Director Sillas added that the IID designs and constructs their own facilities. The IID then bills the project applicant whether it is a Jurisdiction or Developer.

Chairman Goyal inquired about shared cost with the IID for undergrounding of the Canal.

City Manager Bayon Moore gave a general overview of the IID Pipeline Project Funds Program. If it is a City led project the shared cost is 75/25 and if it is a Developer led project the shared cost is 50/50.

Frank Fiorenza, IID Water Department, added that the IID would be happy to place this project in their Indirect Pipeline Project List. Once a year, the IID Board of Directors reviews project and decides on projects to be funded. At this point, there are no guarantees that the money will be there or the money will be directed for Latigo Ranch. This project is at least 10 years out.

Chairman Goyal asked Mr. Fiorenza how the developer can ensure the safety features.

Mr. Fiorenza stated IID has yet to see plans from the developer that detail how the IID maintenance operations would be handled in the interim period. The channel is a risk to everybody and the IID's position is that it should be undergrounded.

Chairman Goyal made a suggestion for securing funds for improvements upfront.

City Manager Bayon Moore added that it's a great alternative but it is unfortunately at odds with the \$2 million offset that the City is offering to the project. The canal has been an issue for quite some time to get the project off the ground. The City proposed to waive the streets portion of the development impact fee for every unit in the subdivision to help provide that offset to the cost. In theory, the City is relieving the developer to have a payment upfront in order to make the project more feasible. She stated she has no knowledge of any other residential project in the city's history that resulted in a \$2 million offset.

Commissioner Castro asked if there have been projects in the past that have used property liens as a means of security instead of a bond.

City Manager Bayon Moore informed the Commission that prior requests have been denied. The decision is ultimately up to the Council.

OPEN PUBLIC HEARING @ 6:15PM

Martin D. Coyne, Applicant, introduced himself to the Commission, mentioned that he has been working on this project for approximately 10 months, and introduced his proposal. He added that he has been having discussions with the IID regarding the fence and programming for the project. If led by the City, Mr. Coyne would provide the City the 25% of project costs. He is appreciative of staff's work to find 2 million dollars. The reality is that the entire project would cost 6 million dollars and would make him lose 2 million dollars on the project. The site often has blight and attracts transient activity. Additionally, he visited with residents to understand their concerns.

Mr. Coyne provided the Commission with information on his other developments such as: the Strike Zone Bowling Alley, Coyne Power Sports Complex, and the Morningside Apartments in Imperial amongst other residential developments in the City of Imperial.

Chairman Goyal asked Planning Director Gaste what the costs of CFD's are in this area.

Planning Director Gaste, informed the Chairman that he does not have the exact numbers in front of him at this time. The CFD funds do not bring profit to the City and are only an offset to maintenance and operational expenses created by new development. Nexus studies have shown that fees incurred by developers and paid to the City are a wash.

Mr. Coyne informed the Commission the previous developer faced issues with the City over undergrounding the Best Canal as it wasn't outlined in the Conditions of Approval. He also asked why the City didn't foreclose on the original bonds when the development fell through. He added that when the Developers sued the City a couple years ago it resulted in release of a 6 Million Dollar Bond.

City Manager Bayon Moore informed the Commission that the settlement with McMillin wasn't a case of one party prevailing over another. McMillin is no longer in the residential building business. First, McMillin requested a Bond Reduction which we denied. Then, they requested release of the bonds. The City and McMillin eventually landed in mediation. An agreement was reached that resulted in the bonds being exonerated and the clear understanding that any future development would be subject to a subdivision improvement agreement and new bonds in place. She suggested to that this as a great negotiating opportunity for Mr. Coyne to secure a reduced sales price from McMillin.

Commissioner Hutchinson asked Mr. Coyne if he has been successful in the past with using property in lieu of bonds.

Mr. Coyne described issues some cities have faced with bonding companies and not fulfilling cities' needs. He added that he has been successful in Imperial with this type of security and introduced the use of property as security to the City of Imperial.

Robert Ibarra, 226 Appaloosa Street, commended Mr. Coyne for approaching residents directly. His concern is safety for children and residents as the only access to the subdivision is on Dogwood. It meant only as construction access. New construction will create additional traffic. He also expressed concerns related to the canal and securing it properly. He added that the bus program with the School District is in jeopardy of being cancelled to the area as there is an open canal.

Commissioner Castro asked Mr. Ibarra how much he paid in CFD's a year.

Audrey Noriega, 226 Appaloosa Street, informed the Commission how much she paid in taxes. She also expressed concerns regarding the open canal and the increased traffic.

Mr. Coyne added that he shares the same concerns and expressed that he is willing to pay for the 25% of shared cost of undergrounding the Canal. He also added that with the City Project for the west portion of Wildcat, and his paving of Wildcat, there would be access for the subdivision.

Commissioner Palacio asked for confirmation of access to the subdivision.

Public Works Director Sillas confirmed and added concerns for the undergrounding of the Canal. If undergrounding of the canal is not feasible now, it would be less feasible for future developers if the project is not completed and development ceases. This has been the case with other developments in the City. Allowing additional construction of properties diminishes the incentive to install the required infrastructure.

Commissioner Castro asked how the conditions for the Best Canal would change if the two subdivisions to the North go in and Latigo Ranch disappears.

Planning Director Gaste confirmed the actual CFD's collected for Latigo Ranch and explained the process of a project defaulting when property is used in lieu of a bond. He also explained that there would need to be appropriate barriers as there are single family dwellings that abut the canal. There would be two temporary lanes that would eventually be a four lane road.

Commissioner Hutchinson asked when the project to the North of the property would begin paving of the road.

Chairman Goyal also asked if Malan and Victoria Parks were allowed to build their subdivision before they were required to underground the Brian Drain and pave Wildcat.

Planning Director Gaste added that the North project is about to reach the maximum before paving will be required.

City Manager Bayon Moore also informed the Commission that development thresholds are established by Staff and the Developers in order to develop a reasonable timeline to install required infrastructure. If the projects at the north were to cease development, the City would have to call the bonds in order to install the necessary infrastructure. This is not a likely possibility as the developer has expressed wishes to continue developing the property. In addition, the developers to the North are currently in the plan check process.

Planning Director Gaste also mentioned that Malan and Victoria Parks are different than Latigo Ranch as they already have direct access to a major street.

Kay A. Pricola, COLAB, stated that she has been having conversations with the IID independent from Mr. Coyne. She would argue that this may be a higher priority project for IID Pipeline Funds and added that a formal application must be submitted by the City by April 1st in order to be considered for funds.

Monica Torres, 168 Appaloosa Street, commented that while she is glad there is potential to develop the subdivision, it is of great concern that there is limited access to the subdivision and there is an open Canal. She would like the Canal undergrounded. Additional concerns regarding the development are the potential for decreased property values.

Daniel Torrez, 181 Monterrey Street, added that he has concerns regarding the Canal. He asked the developer what his plan of development is. He also asked if the homes built will be rentals.

Mr. Coyne, informed property owners that, in the past, there were homes that were about 2,600 square feet and sold for close to \$400,000 dollars. That is not the market of today. Other subdivisions that he has developed average between 1,400 and 1,900 square feet. He has had experience blending his development ideas with previously established developments. He also has experience with selling his properties and has had leased properties in previous developments. The intent of the development project is to sell the single family homes.

Planning Director Gordon Gaste informed the Commission that he was contacted by Mr. Shafner who lives on Monterrey Street. He mirrored concerns with other owners of the Latigo Ranch properties. His main concern is with circulation of the subdivision and not with additional development if the Subdivision's owner maintains the property.

Chairman Goyal asked Mr. Coyne when he expects to record Phase 2 of the Subdivision. He also asked Mr. Coyne for clarification on what he is requesting.

Mr. Coyne informed the Commission that he intends to record Phase 2 as soon as possible as the Map expires in November 2019. A key portion to the request is to release all building permits but limit the release of Certificate of Occupancy to completion of infrastructure phases.

Public Works Director Sillas mentioned to the Commission that security for the subdivision must be upfront per the Subdivision Map Act.

City Manager Bayon Moore added that the proposal presented tonight has not been presented to Staff.

Commissioner Hutchinson asked for clarification of the installation of Wildcat and pipelining of the Canal not occurring concurrently. There appears to be a change to the alignment.

Planning Director Gaste mentioned that the road would be built where the undergrounded canal should go and would leave a 60 foot area between eastbound and westbound lanes.

Mr. Coyne presented his In Closing/Final Proposal Statement to the Commission which detailed his request.

Commissioner Castro shared his concerns with the Commission regarding using property in lieu of bonds and asked for clarification on the bonding process.

City Manager Bayon Moore explained the process of calling the bonds. She also gave history on calling for bonds with the downturn of the economy. She stated that the City never called the bonds for McMillin as there was a relationship with McMillin and an understanding that development would continue at a point. She also mentioned that using property in lieu requires there to be a willing buyer in order for the City to sell the property and obtain any funds.

Planning Director Gaste added that the benefit to using a bonding company, while not always successful in obtaining the complete amount, is that there is a fixed number attached to the improvements. Using property in lieu leave funds obtained up to whatever the market yields.

Mr. Coyne asked the Commission to consider the position in which the City would be better off.

PUBLIC HEARING CLOSED @ 7:58 PM

The motion made by Planning Commission was to recommend the following to Council:

1. Relief of approximately \$2 Million Dollars in fees and removal of conditions 17, 23, 24, & 25 as recommended by staff.
2. Issue all building permits and release 50 Certificates of Occupancy. Release the remaining certificate of occupancy upon 100% completion of temporary Wildcat Improvements. Local match shall be on deposit prior to issuance of the remaining Certificates of Occupancy.
3. Accept the Phase 2 portion of the property in lieu of bonds based on a value established by a licensed real estate appraiser.
4. Undergrounding the Best Canal shall be a City led project if approved by the IID. Local match will be paid by the developer whether it be a 50% match or 25%.
5. The Best Canal will be fenced as approved by the City and IID in perpetuity until a time where funds are available to underground the Canal.

m/s/c Goyal/Smith 7-0

AYES: Palacio, Goyal, Marquez, Smith, Bumbera, Castro, Hutchinson

NAYES: None

ABSENT: None

ABSTAIN: None

7. INFORMATIONAL REPORTS

*Annual Report Presented by **Planning Director Gaste**.

8. ADJOURNED TO May 1, 2019.

9. ADJOURNMENT @ 8:52 pm

Gordon R. Gaste AICP CEP, Development Services Director