



PLANNING COMMISSION

George A Marquez, Chairman

Kevan Hutchinson, Vice-Chairman

Eugene Bumbera Jay Goyal Eric M. Reyes

Ramon M. Sagredo Darren Smith

AGENDA

**PLANNING COMMISSION
REGULAR MEETING
WEDNESDAY, MARCH 5, 2014 AT 5:30 P.M.
CITY COUNCIL CHAMBERS
383 MAIN STREET
BRAWLEY, CALIFORNIA**

1. CALL TO ORDER / ROLL CALL
2. APPROVE AGENDA
3. APPROVE MINUTES OF FEBRUARY 5, 2014
4. PUBLIC APPEARANCES

The Planning Commission encourages citizen participation on all matters presented for their consideration. Members of the public who wish to speak on an issue that is not on the agenda may do so during the "Public Appearances" section at any meeting. The Planning Commission does not take action on items presented under Public Appearances.

PUBLIC HEARING

5. An application for a variance (VAR14-01) from the standard requirement of a masonry wall in commercial areas to allow the installation of cloth shielding on a chain link fence in a P-D (Planned Development) zone located within the Downtown Specific Plan-Civic Center Neighborhood zone.

Applicant: Alan D. Huber, Elms Equipment Rental for
Kalena Rebollar, Vettern, LLC
P.O. Box 371
Brawley, CA 92227

Location: 245 North 8th Street, Brawley, more particularly described as Lots 10 to 15 inclusive, Block 80, Townsite of Brawley, City of Brawley, State of California, APN 047-344-001

6. Discussion and recommendations regarding the adoption of a proposed amendment to the Brawley Municipal Code, Chapter 27-Zoning Ordinance, Article XII-Special Development Standards and Uses, adding Section 27.183, for the purpose of establishing procedures to assure fair housing protections for individuals with disabilities.

COMMISSION ACTION

6. ZONING CODE ENFORCEMENT
7. NEXT MEETING DATE
8. ADJOURNMENT

Supporting documents are available for public review in the Planning Department, 400 Main Street, Suite 2, Brawley, Monday through Friday, during regular posted business hours. Individuals who require special accommodations are requested to give 24-hour prior notice.
Contact: Alma Benavides, City Clerk, 760-351-3080

The Planning Commission of the City of Brawley, California, met in Regular Session at 5:00 p.m., City Council Chambers, 383 Main Street, Brawley, California, the date, time, and place duly established for the holding of said meeting. The City Clerk attests to the posting of the agenda pursuant to G.C. 54954.

CALL TO ORDER/ROLL CALL

The meeting was called to order by Chairman Marquez at 5:30 p.m.

Present: Hutchinson, Marquez, Sagredo, Reyes, Smith (5:32 p.m.), Goyal (5:33 p.m.)

Absent: Bumbera

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APPROVAL OF AGENDA

Motion: The Planning Commission approves the agenda as presented. m/s/c Sagredo/Hutchinson 4-0

APPROVAL OF MINUTES

Motion: The Planning Commission approves the minutes of November 6, 2013 as presented. m/s/c Segredo/Hutchinson 4-0

PUBLIC APPEARANCES

Chairman Marquez called for public appearances. There were none.

PUBLIC HEARING

Due notice having been given, now is the time to consider an application for a condition use permit (CUP13-05) to allow the construction of a wireless communications facility tower disguised as a palm tree in an M-1 (Light Manufacturing) zone.

Applicant: DePratti, Incorporated for
AT&T Mobility
1264 Basswood Ave
Carlsbad, CA 92008

Location: 830 K Street more particularly described as Lots 13, 14 and 15, Pellet Tract, City of Brawley, County of Imperial, State of California, APN 049-182-025

Gordon Gaste, Planning Director gave an overview of the project.

Tim Hension, AT&T Representative summarized the project and offered to answer any questions.

Mr. Marquez open the public hearing at 5:40 p.m.

There were no comments or questions.

Mr. Marquez closed the public hearing at 5:41 p.m.

Motion: The Planning Commission makes findings consistent with the Planning Commission Staff Report and approves the conditional use permit (CUP13-05) allowing the construction of a wireless communication tower disguised as a palm tree subject to compliance with the conditions of approval.

ZONING CODE ENFORCEMENT

Francisco Soto, Building Official, from the Community Development Services Department had nothing to report.

Commissioner Goyal inquired how to trim trees that are obstructing stop signs. Mr. Soto advised to call the Community Development Services or Public Works Department to report the problem.

Commissioner Goyal inquired about having the City develop a standard list of vendors who perform annual backflow preventer inspections. Mr. Soto said he would bring the matter to Public Works for review. He pointed out that the only requirement for the city is to the public water system. On private property, the property owner is required to be in compliance with Building and Fire Codes to meet their annual certification.

Commission Goyal inquired about how the City enforces water conservation measures. Mr. Soto and Mr. Gaste replied that the City has adopted a Water Efficient Landscape Ordinance that applies to all new project, however, there is no authority to force a change in existing properties unless they seek new permits. Mr. Soto also informed the commission

that the new California Building Code requires that all fixtures in a structure be upgraded to current water conservation thresholds when a building permit for an addition or alteration to the plumbing is submitted. Commissioner Smith inquired about the status of the Graffiti Abatement program. Mr. Soto advised that the program is still active and that the new Police Chief, Mike Crankshaw, is once again placing higher priority on the program to paint over graffiti as soon as possible after it is reported.

NEXT MEETING DATE

The Commission voted to adjourn to the next regularly scheduled meeting on February 5, 2014.

ADJOURNMENT

Motion: The meeting of the Planning Commission adjourns at 6:10 p.m. m/s/c Reyes/Segredo 6-0

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PLANNING COMMISSION STAFF REPORT

Variance: VAR14-01 - Elms Fence Screening

Property Owner: Vettern LLC, Kalena Robollar

**Applicant/
Representative:** Elms Equipment Rental, Inc., Alan D. Huber

Legal Description: Lots 10 to 15 Inclusive, Block 80, Townsite of Brawley, City of Brawley, State of California, APN 047-344-001

Location: 245 North 8th Street

Area: 1.09 Acres (47,391 Square Feet)

Zoning: P-D (Planned Development) - Downtown Specific Plan (Civic Center Neighborhood)

Existing Use: Equipment Rental

Proposed Use: Same without requirement of obscuring fence

Surrounding Land Uses:

- North -** R-3 (Residential Medium Density), C-2 (Medium Commercial) - Single Family Dwellings, Auto Parts Store
- South -** P-D (Planned Development), Downtown Specific Plan (Civic Center Neighborhood) / Auto Repair Shop, Taxi Stand
- East -** P-D (Planned Development) Downtown Specific Plan (East Village Enterprise) / Vacant Grain Growers Building
- West-** R-3 (Residential Medium Density) / Single Family Dwellings

General Plan Designation: Mixed Use

**PLANNING COMMISSION HEARING, MARCH 5, 2014,
5:30 P.M., CITY COUNCIL CHAMBERS, 383 MAIN STREET, BRAWLEY,
CALIFORNIA**

Variance: VAR14-01

General Information:

The applicant is requesting a variance to waive the requirement for shielding on a chain link fence. The property is currently zoned P-D (Planned Development) - Downtown Specific Plan (Civic Center Neighborhood). The site is currently an equipment rental business and is 1.09 acres in size. There are no zoning conditions currently imposed on this property.

Information to the Commission: The zoning ordinance requires storage areas in commercial zones to be shielded with a masonry wall. However, since this was an existing building, staff allowed the applicant to use slats in the existing chain link fence. No shielding is required for the display area located on the northeast portion of the property or where buildings are up to the property line and no chain link fence exists. The slats are required for approximately 300 feet of chain link fencing.

Staff Recommendation:

If approved, the Development Review Committee recommends the following conditions:

1. The applicant shall obtain an encroachment permit from the Department of Public Works for any work performed in the right of way.
2. The applicant shall pay all fees associated with review and approval of the variance
3. The property owner and/or tenant shall keep the property in an organized and clean condition to mitigate aesthetic impacts resulting from the shielding waiver.
4. The applicant shall defend, indemnify, and hold harmless the City of Brawley, or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul, an approval by the Planning Commission or City Council concerning the variance. The City of Brawley shall promptly notify the applicant of any claim, action or proceeding and shall cooperate fully in the defense.
5. Any person or party who succeeds to the interest of the present owner by sale, assignment, transfer, conveyance, exchange or other means shall be bound by the conditions of approval.

The recommendation shall be based on the following findings:

1. The proposal is exempt from CEQA pursuant to Section 15311 (Accessory Structures).
2. The location of the project and surrounding land uses make it unlikely the project will cause significant environmental impacts.
3. The lot variance does not grant special privileges to the proponent.
4. Granting of the variance will not be detrimental to the public welfare or detrimental to the health and safety of the residents of the City of Brawley.
5. The variance is consistent with the character of the area for that type of land use.

The Brawley General Plan Land Use Map designates this property for **Mixed Use** land uses.

P-D (Planned Development) - Downtown Specific Plan (Civic Center Neighborhood) zoning permits equipment sales and rentals by Conditional Use Permit. However, the use began before the adoption of the Downtown Specific Plan and no CUP was required. The Zoning Ordinance requires masonry walls for storage areas within Commercial zones and cloth shielding on a chain link fence is authorized by a Planning Commission variance only.

Variance: VAR14-01

The Commission must determine the following:

- A. The variance for the shielding waiver for the chain link fence protects the best interest, health, safety and welfare of the public in general.
- B. The variance for the shielding waiver for the chain link fence complies with all of the standards and conditions applicable in the zoning district in which it is proposed to be located.
- C. This variance for the shielding waiver for the chain link fence is in accordance with and in furtherance of the Brawley General Plan, Downtown Specific Plan, any special neighborhood plans or policies adopted by the City regarding the development area, and any approved concept plan.
- D. The proposed shielding waiver for the chain link fence will not impose an undue burden upon the public improvements and rights-of-way by which it will be served or benefited, or which exist or are planned for installation within its boundaries or their immediate vicinity.
- E. Any impacts created by the shielding waiver for the chain link fence on adjacent property are adequately mitigated with the design, proposed construction and phasing of the site development.
- F. The design of the shielding waiver for the chain link fence mitigates substantial environmental problems.
- G. The shielding waiver for the chain link fence does not have a negative impact on adjacent users.
- H. The shielding waiver for the chain link fence is compatible with adjacent structures and uses.
- I. The shielding waiver for the chain link fence is not materially detrimental to the enjoyment or valuation of the property adjacent to the site.

ATTACHMENT: Location Map; Photos.

NOTE TO THE PROPERTY OWNER: PLANNING COMMISSION POLICY REQUIRES THAT THE APPLICANT OR REPRESENTATIVE BE PRESENT AT THE PUBLIC HEARING FOR THIS ITEM. PLEASE DIRECT ANY QUESTIONS CONCERNING THIS REPORT TO THE PLANNING DEPARTMENT AT (760) 344-8822.





PLANNING COMMISSION AGENDA REPORT
City of Brawley

Meeting Date: March 5, 2014

City Manager: _____

PREPARED BY: Gordon R. Gaste, AICP, Planning Director

PRESENTED BY: Gordon R. Gaste, AICP, Planning Director

SUBJECT: Reasonable Accommodation Municipal Code Amendment

DEVELOPMENT REVIEW COMMITTEE RECOMMENDATION: Approve

DISCUSSION: Both the federal Fair Housing Act ('FHA') and the California Fair Employment and Housing Act ('FEHA') impose an affirmative duty on local governments to make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford 'disabled persons' an equal opportunity to use and enjoy a dwelling."

Local governments are encouraged to provide mechanisms for requesting reasonable accommodations that operate promptly and efficiently, without imposing significant costs or delays. The local government should also make efforts to ensure that the availability of such mechanisms is well known within the community.

The purpose of this new section is to establish a formal procedure for individuals with disabilities seeking equal access to housing to request a reasonable accommodation as provided by the federal Fair Housing Act and California's Fair Employment and Housing Act, and to establish criteria to be used when considering such requests. Reasonable accommodation means providing individuals with disabilities, or developers of housing for individuals with disabilities, flexibility in the application of land use and zoning regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities.

FISCAL IMPACT: N/A

ATTACHMENTS: Draft Ordinance, Draft Forms

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AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF BRAWLEY ADDING SECTION 27.183 TO CHAPTER 27 ARTICLE XII
OF THE BRAWLEY MUNICIPAL CODE TO ASSURE FAIR
HOUSING PROTECTIONS FOR INDIVIDUALS WITH
DISABILITIES.

A. Recitals.

- (i) On March 5, 2014, the Planning Commission of the City of Brawley conducted and concluded a duly noticed public hearing concerning the Municipal Code amendments contained herein, as required by law. At the conclusion of the hearing, the Planning Commission recommended adoption of said amendments.
- (ii) On April 1, 2014, the City Council of Brawley conducted and concluded a duly noticed public hearing concerning the Municipal Code amendments contained herein as required by law.
- (iii) All legal prerequisites to the adoption of this Ordinance have occurred.

B. Ordinance.

NOW, THEREFORE, the City Council hereby ordains as follows:

Section 1. The facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

Section 2. The provisions of this Ordinance and the Municipal Code amendments contained herein have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act, as amended, and the Guidelines promulgated there under. The City Council finds that this Ordinance and said Municipal Code amendments are exempt from the requirements of the California Environmental Quality Act pursuant to the provisions of Section 15061(b)(3) of the Guidelines.

Section 3. A new Section 27.183 is hereby added to Chapter 27 of the Brawley Municipal Code to read as follows:

Section 27.183 REASONABLE ACCOMMODATION

- 1. **Purpose.**
- 2. **Definitions.**
- 3. **Procedures.**
- 4. **Findings.**
- 5. **Notice.**
- 6. **Appeal of Determination.**

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1. Purpose.

The purpose of this section is to establish a formal procedure for individuals with disabilities seeking equal access to housing to request a reasonable accommodation as provided by the federal Fair Housing Act and California's Fair Employment and Housing Act, and to establish criteria to be used when considering such requests. Reasonable accommodation means providing individuals with disabilities, or developers of housing for individuals with disabilities, flexibility in the application of land use and zoning regulations or policies (including the modification or waiver of certain requirements), when it is necessary to eliminate barriers to housing opportunities.

2. Definitions.

Whenever the following terms are used in Section 27.183, they shall have the meanings established by this Section:

- a. "Acts": The Federal Fair Housing Act and California's Fair Employment and Housing Act.
- b. "Individual with a disability": As defined under Acts, a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having such impairment, or anyone who has a record of such impairment.

3. Procedures.

- a. A written request for reasonable accommodation shall be made on a form provided by the City by any individual with a disability, his or her representative or a developer or provider of housing for individuals with disabilities when the application of a land use or zoning regulation or policy acts as a barrier to fair housing opportunities.
- b. A request for reasonable accommodation shall state the basis of the request including but not limited to a modification or exception to the regulations, standards and practices for the siting, development and use of housing or housing related facilities that would eliminate regulatory barriers and provide an individual with a disability equal opportunity to housing of his or her choice.
- c. The Planning Director or designee may request additional information necessary for making a determination on the request for reasonable accommodation that complies with fair housing law protections and the privacy rights of the individuals with a disability to use the specified housing. If additional information is requested, the 45 day time period for making a determination on the request stops running until the additional information is provided.
- d. The Planning Director or designee shall issue a written determination within 45 days and either, grant, grant with modifications, or deny a request for reasonable accommodation.
- e. While a request for a reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

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4. Findings.

The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with Acts, shall, if granted, be granted to an individual and shall not run with the land (unless the Planning Director or designee determines that such a modification is physically integrated into the residential structure and cannot easily be removed), and shall be based on consideration of the following factors:

- a. Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities under the Acts;
- b. Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the Acts;
- c. Whether the requested accommodations would impose an undue financial or administrative burden on the City;
- d. Whether the requested accommodation would require a fundamental alteration in the nature of the City's land use and zoning program and;
- e. Whether there are any alternative reasonable accommodations which may provide an equivalent level of benefit to the applicant.

All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodations in the appeals process as set forth in Section 27.287.

5. Notice.

Notice of the determination shall be provided to abutting owners of the property which is subject of the request for reasonable accommodation. The notice shall provide a general description of the accommodation that was deemed necessary for the use of the house or dwelling unit, as a result of the applicant's disability.

6. Appeal of Determination.

- a. A determination by the Planning Director shall be final unless appealed to the Planning Commission within 15 days.
- b. Only the aggrieved applicant and abutting owners who received notice of the reasonable accommodation determination have a right to appeal the decision.
- c. An appeal shall be made in writing, pursuant to procedures established in Section 27.287 of the Municipal Code.

Section 4. Severability. If any Section, subsection, sentence, clause, phrase or word or word of this ordinance is for any reason held invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

PASSED, ADOPTED AND APPROVED at a regular meeting of the City Council held on the 1st day of April 2014.

CITY OF BRAWLEY, CALIFORNIA

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Sam Couchman, Mayor

ATTEST:

Alma Benavides, City Clerk

**STATE OF CALIFORNIA)
COUNTY OF IMPERIAL)
CITY OF BRAWLEY)**

1st Reading

I, Alma Benavides, City Clerk of the City of Brawley, California, **DO HEREBY CERTIFY** that the foregoing Ordinance No. 2014- was passed and adopted by the City Council of the City of Brawley, California, at a regular meeting held on the 1st day of April 2014 and that it was so adopted by the following roll call vote: m/s/c/

**AYES:
NAYES:
ABSTAIN:
ABSENT:**

DATED: April 1, 2014

Alma Benavides, City Clerk

2nd Reading & Adoption

I, Alma Benavides, City Clerk of the City of Brawley, California, **DO HEREBY CERTIFY** that the foregoing Ordinance No. 2014- was passed and adopted by the City Council of the City of Brawley, California, at a regular meeting held on the 15th day of April 2014 and that it was so adopted by the following roll call vote: m/s/c/

**AYES:
NAYES:
ABSTAIN:
ABSENT:**

DATED: April 15, 2014

Alma Benavides, City Clerk

**APPLICATION FOR REQUEST FOR REASONABLE
ACCOMMODATION**

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NOTE: If you need help in completing this request form, the Department will assist you. Please contact the person at the counter where you received this request form for assistance.

1. Name of Applicant _____

Telephone Number _____

2. Address _____

3. Address of Housing At Which Accommodation Is Requested _____

4. Describe the accommodation you are requesting and the specific regulation(s) and/or procedure(s) from which accommodation is sought.

5. Give the reason that the reasonable accommodation may be necessary for you or, the individuals with disabilities seeking the specific housing, to use and enjoy the housing. You do not need to tell us the name or extent of your disability or that of the individuals seeking the housing.

6. If we have questions about your request for reasonable accommodation and you would like us to contact someone assisting you with this request, instead of you, please give us that person's name, address and telephone number.

7. Signature of Applicant _____ Date _____

**PLEASE ATTACH ANY DOCUMENTS THAT YOU THINK SUPPORT
YOUR REQUEST FOR REASONABLE ACCOMMODATION AND WOULD
ASSIST US IN CONSIDERING YOUR REQUEST.**

**NOTICE OF DECISION ON FAIR HOUSING
ACCOMMODATION REQUEST**

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1. Date of Application: _____

2. Date of Decision: _____

3. The request for a Fair Housing Accommodation is:

_____ Granted _____ Denied (See Notice below re right to appeal decision.)

4. The reasons for this decision are as follows:

5. The facts relied on in making this decision:

Signature of Designee _____ Date _____

NOTICE: If your request for accommodation was denied, you may appeal the reviewing authority's decision to the Planning Commission within thirty (30) days of the date of this decision. To file an appeal, complete and file an Appeal of Denial of Fair Housing Accommodation Request form with the Department. You may request reasonable accommodation in the procedure by which an appeal may be conducted.

APPEAL OF DENIAL OF FAIR HOUSING ACCOMMODATION REQUEST

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NOTICE: PLEASE ATTACH TO THIS APPEAL FORM (1) A COPY OF YOUR FAIR HOUSING ACCOMMODATION REQUEST ALONG WITH ANY ATTACHMENTS SUBMITTED WITH THE REQUEST AND (2) THE NOTICE OF THE DECISION DENYING YOUR ACCOMODATION REQUEST.

1. Date of Adverse Decision: _____

2. Date Appeal Filed: _____

3. State why you think the denial of your request for accommodation was wrongly decided:

4. Provide any new information, facts or documents that support your request for accommodation:

5. Signature _____ Date _____

