



PLANNING COMMISSION

Darren Smith, Chairman

Robert Palacio, Vice-Chairman

Eugene Bumbera Jay Goyal Kevan Hutchinson

George A. Marquez Ramon Castro

AGENDA

**PLANNING COMMISSION
REGULAR MEETING
WEDNESDAY, NOVEMBER 4, 2015 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 OCTOBER 7, 2015
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.

REGULAR BUSINESS

5. An application for a Alley Vacation (AV15-01) requesting the abandonment of a portion of an obsolete alley which is currently being used as a parking lot.
Applicant: Brawley Union High School District
 480 North Imperial Avenue
 Brawley, CA 92227.
Location: Southeast Corner of C Street and North Imperial Avenue, more particularly described as a portion of an alley being part of Block 61 and being bound on the northerly side by the eastern extension of the south line of Lot 5 and being bound on the southerly side by the western extension of the south line of Lot 7, Townsite of Brawley, City of Brawley, State of California to be absorbed by APN 047-262-020

6. **CONTINUED ITEM** - An application for a parcel map (PM15-03) to subdivide the current parcel into two (2) parcels for finance phasing of an approved apartment complex.

Applicant: Imperial Valley Housing Authority
1402 D Street
Brawley, CA 92227

Location: Southeast Corner of Malan Street and South 1st Street, more particularly described as Lot B, Amended Map of Malan Park, City of Brawley, County of Imperial, State of California, APN048-275-055

7. ZONING CODE ENFORCEMENT

8. NEXT MEETING DATE

9. ADJOURNMENT

**City of Brawley
Planning Commission Meeting
Minutes for October 7, 2015**

The Planning Commission of the City of Brawley, California, met in Regular Session at 5:30PM, 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 the G.C.54954.

1. CALL TO ORDER/ROLL CALL

The meeting was called to order by Chairman Smith 5:31PM.

Present: Palacio, Castro, Bumbara, Goyal
Late: Marquez (5:40PM)
Absent: Hutchinson (excused absence)

2. APPROVAL OF AGENDA

Motion: The Planning Commission approves the agenda as presented.
M/S/C Palacio/Goyal 5-0

3. APPROVAL OF MINUTES

Motion: The Planning Commission approves the minutes of September 7, 2015 as presented.
M/S/C Goyal/Castro 5-0

4. PUBLIC APPEARANCES

Chairman Smith called for public appearances. There were none.

5. PUBLIC HEARING

Application for a Parcel Map (PM 15-03) to Subdivide the Current Parcel into Two Parcels for Finance Phasing of an Approved Apartment Complex

Property Owner: Imperial Valley Housing Authority
1402 D Street
Brawley, CA 92227

Co- Applicant/Developer: AMG Associates LLC
16633 Ventura Blvd., Suite 1014
Encino, CA 91436

Location: Southeast Corner of Malan Street and South 1st Street, more particularly described as Lot B, Amended Map of Malan Park, City of Brawley, County of Imperial, State of California, APN: 048-275-055

Commissioner Palacio recused himself from the review of Agenda Item 5, stating on the record that he is a seated member of the Imperial Valley Housing Authority Board.

Gordon Gaste, Planning Director, provided an overview of the project. The project involves a proposed split of a single parcel for finance phasing purposes. The City of Brawley previously approved the project site plan as it conforms with adopted City standards for the R-3 zoning designation.

The subject property, zoned R-3 since 1990, is planned for apartments. Development of apartments is allowed by right, provided all City standards per the Municipal Code are met.

Cameron Johnson, Vice President, AMG Associates (Co-Applicant), provided a detailed overview of the project which involves the development of 81 low income apartments. Mr. Johnson stated that because it is a tax credit financed project, significant project oversight will be involved. Areas of attention span ongoing maintenance, safety, and any other issues that are reasonably anticipated to arise in a low income housing project. All tenants will be subject to a screening process that entails credit and criminal background checks.

Andrea D. Roark, Executive Director, Imperial Valley Housing Authority (Property Owner), urged the Planning Commission to approve the parcel split. Ms. Roark stated that more than 3,000 individuals are on the waiting list for these apartments. She stated that the project will address housing needs for Brawley residents.

Planning Commissioner Comments & Questions for Property Owner and Co-Applicant:

Commissioner Goyal expressed concerns regarding the site plan. He stated that the pool was a luxurious feature for low income housing during a drought.

Commissioner Castro inquired about the maximum occupancy of the project, the timeframe of the tax credit funding of the project, the developer's duration of responsibility for the project's success and asked for other local projects accomplished by the developer.

Co-Applicant's Response to Planning Commissioner Comments & Questions:

Mr. Johnson informed the Planning Commission that the pool is an existing site amenity, approved as part of the site plan process which has already concluded. It is the developer's duty to provide project features that will enhance tenants' quality of life regardless of economic status. The duration of responsibility is a 15 year compliance period. However, the project has a fifty-five year regulatory agreement with the tax credit agency. Other local projects are located in the cities of Holtville, Calexico, Imperial, El Centro, Calipatria, and Seeley.

Chairman Smith opened the public comment period at 5:45PM.

The following Brawley residents entered public comments into the record:

- | | | |
|--------------------|---------------------|------------------|
| - Sergio Favela | - Caty A. Santillan | - Marvin Lewis |
| - Lupe Navarro | - Debbie Shehan | - Maria Martinez |
| - Yolanda Smith | - Chris Flores | - Sarah Walters |
| - Ashley Mendibles | - Hugo Rodriguez | |

Identified areas of concern during public comments:

- Overall objection to increased density and overcrowding of surrounding area
- Non-disclosure of R-3 by developer and sellers of single family dwellings
- Project location previously proposed for park use
- Park or school parking as better use of the proposed location
- No prior knowledge of R-3 zoning designation
- Public notification process for R-3 zone change
- Prior notification regarding site plan approval process
- Landscaping standards for project
- Fence treatment surrounding proposed project
- Project phasing and project completion
- Incomplete subdivision infrastructure improvements
- Potential crime associated with multi-family dwellings
- Public safety as it relates to children and families
- Onsite project management
- Devaluation of single family residential properties as a result of multi-family apartments
- Increased traffic and congestion on Malan Street and in the surrounding area
- Pedestrian safety and Malan crosswalks
- Traffic during construction period
- Absence of a traffic study
- Overcrowded Witter Elementary School site
- Use of Community Facilities District (CFD) funds in the subdivision/s

City of Brawley Planning Director Gordon Gaste advised that traffic analyses were prepared at the time of the zone change and tentative map which included the current proposed site, in addition to nearby developments. The traffic studies contemplated the R-3 zoning that allows for the Malan Street Apartments project. It was also noted that the CFDs are for fire and police services, as well as maintenance of offsite landscaping. The funds collected can only be utilized for specified and defined purposes.

City of Brawley City Manager Rosanna Bayon Moore reviewed the action before the Planning Commission. She stated that the proposed project is not the Malan Streets Apartment site plan. It is the subdivision of the project area from one parcel into two parcels. The site plan is already approved, as is the two phased approach. The City was required to conduct an environmental analysis when the zoning designation changed. At this time, the owner and developer have the ability to pull a City of Brawley building permit as long as the project conforms with City standards for a R-3 zone.

Commissioner Bumbera asked the City Attorney if the item could be passed to the City Council for the City Council to decide.

City Attorney Bill Smerdon indicated that the City Council shall serve as the appeal body should the Planning Commission's action be appealed by parties in favor or opposed to the parcel map approval. Mr. Smerdon advised that a narrow definition for denial is defined by the Subdivision Map Act and no such information has been presented to the Planning Commission.

Commissioner Castro stated that by approving the parcel map, the Planning Commission is facilitating the financing of the project. By denying the parcel split, the Planning Commission may delay the financing of the project.

Chairman Smith closed the public comment portion of the public hearing at 6:53PM.

Commissioner Castro motioned to deny the request to subdivide the property. Motion was seconded by Commissioner Marquez.

Discussion: Chairman Smith discussed the legal advice given by the City Attorney with the Commissioners. Chairman Smith reminded the Commissioners that they have no legal grounds to deny the parcel split of the property.

M/S/C Castro/Marquez (3-2) Motion did not carry
Ayes: Bumbera, Castro, Marquez; Noes: Goyal, Smith

Commissioner Goyal motioned to approve the parcel split. Motion was seconded by Chairman Smith.

No discussion.
M/S/C Goyal/Smith (2-3) Motion did not carry.
Ayes: Goyal, Smith; Noes: Bumbera, Castro, Marquez

City Attorney Bill Smerdon advised the Planning Commission that if no action is taken, the parcel map application would be approved by right due to State law.

Commissioner Marquez motioned to table the item for the next regular meeting.

No discussion.
M/S/C Marquez/Castro (4-1) motion carried.
Ayes: Marquez, Castro, Goyal, Bumbera; Noes: Smith

6. ZONING CODE ENFORCEMENT

Building Official Francisco Soto stated that there is nothing to report at this time.

7. NEXT MEETING DATE

The Planning Commission adjourned to the next regular meeting date and time on November 4, 2015 at 5:30PM.

8. ADJOURNMENT

Motion: The Planning Commission meeting adjourned at 7:37 p.m.
M/S/C Goyal/Bumbera 5-0

PLANNING COMMISSION STAFF REPORT

Abandonment/Vacation #: Alley Vacation (AV15-01) - Brawley Union High School Parking Lot

Property Owner: City of Brawley

Applicant: Brawley Union High School District

Representative: Sanders Inc. Architecture/Engineering

Legal Description: Portion of an alley being part of Block 61 and being bound on the northerly side by the eastern extension of the south line of Lot 5 and being bound on the southerly side by the western extension of the south line of Lot 7, Townsite of Brawley, City of Brawley, State of California to be absorbed by APN 047-262-020

Location: Southeast corner of C Street and North Imperial Avenue

Area: 0.1 Acres (600) Square Feet

Zoning: Transportation/ R-3 (Residential Medium Density) adjacent

Existing Use: Parking Lot for High School

Proposed Use: Same

Surrounding Land Uses:

North - P-F (Public Facilities) / High School

South - R-2 (Residential Medium Density) / Single Family Dwellings

East - R-2 (Residential Medium Density) / Single Family Dwellings

West- P-F (Public Facilities) / Junior High School

General Plan Designation: Transportation

CEQA Status: Exempt per 15305(a)

**PLANNING COMMISSION MEETING, NOVEMBER 4, 2015,
5:30 P.M., CITY COUNCIL CHAMBERS, 383 MAIN STREET,
BRAWLEY, CALIFORNIA**

Abandonment/Vacation: AV15-01

General Information:

The applicant is requesting the abandonment of a portion of an obsolete alley which is currently being used as a high school parking lot. The property is currently zoned Transportation with R-3 (Residential Medium Density) adjacent and is .01 acres in size. Access is proposed via C Street. There are no zoning conditions currently imposed on this property.

Information to the Committee:

The alley has not been used for many years for that purpose. It also contains an inactive sewer line which would require property abandonment.

Staff Recommendation:

If approved, the Planning Department recommends the following conditions:

1. Property Owner, Applicant or Legal Representative shall defend, indemnify, and hold harmless the City of Brawley, or its agents, officers and employees from any claim, action or proceedings 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 abandonment. The City of Brawley shall promptly notify the Property Owner, Applicant, or Legal Representative of any claim, action or proceedings and shall cooperate fully in the defense.
2. 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.
3. Property Owner, Applicant, or Legal Representative shall pay all fees associated with review and approval of the abandonment.
4. The new property owner shall pay for all costs of abandoning the existing sewer line per Engineering standards.

The recommendation is based on the following findings:

1. The proposal is exempt from CEQA pursuant to Section 15305(a).
2. The location of the project and surrounding land uses make it unlikely the project will cause significant environmental impacts.
3. The alley vacation does not grant special privileges to the proponent.
4. Granting the alley vacation 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 size of the new parcel is consistent with the Zoning ordinance.
6. The size of the new parcel is consistent with the General Plan.
7. The alley is no longer in use or required by the City of Brawley.
8. The unused sewer line shall be disconnected and abandoned per Engineering Standards.
9. An easement shall be maintained for the Southern California Gas Company for the existing gas pipe.

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

The alley will be absorbed into an adjacent **R-3 (Residential Medium Density)** lot requiring a minimum lot size of 7,500 square feet. The new parcel will result in a parcel of greater than 7,500 square feet.

Abandonment/Vacation: AV15-01

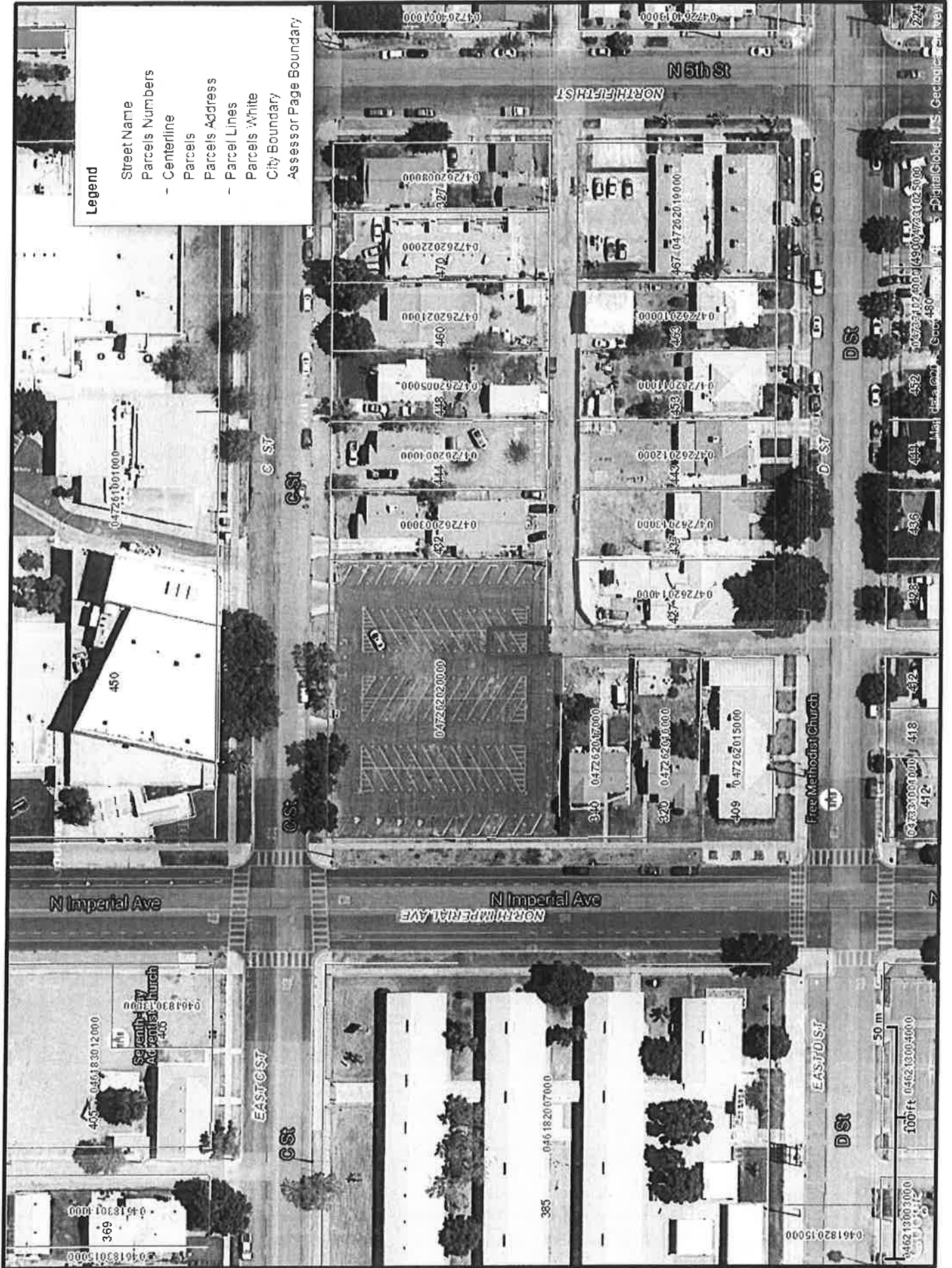
The Commission must determine the following:

- A. Will the Alley Vacation protect the best interest, health, safety and welfare of the public in general?
- B. The Alley Vacation complies with all of the standards and conditions applicable in the zoning district in which it is proposed to be located.
- C. This Alley Vacation is in accordance with and in furtherance of the General Plan for Brawley, any special neighborhood plans or policies adopted by the City regarding the development area, or any approved concept plan.
- D. The Alley Vacation is adequately served by and 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 proposed Alley Vacation on adjacent property are adequately mitigated with the design, proposed construction and phasing of the site development.
- F. The Alley Vacation is compatible with adjacent parcels.
- G. The proposed Alley Vacation is not materially detrimental to the enjoyment or valuation of the property adjacent to the site.

ATTACHMENT: Location Maps; Surveyor Legal Description Parcel Map.

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

AV15-01



Legend

- GraphicLines
- CatchBasin
- Fittings
 - Cross
 - Plug
 - Tee
 - Wye
- LiftStation
- Manhole
- OtherPoints
 - Inlet
 - JunctionStructure
 - Outlet
- ForceMain
- GravityMain
- LateralLines
- ManholeSD
- LateralSD
- Parcels White
- City Lot

CSt

CSt

CSt

N Imperial Ave

N Imperial Ave

Google

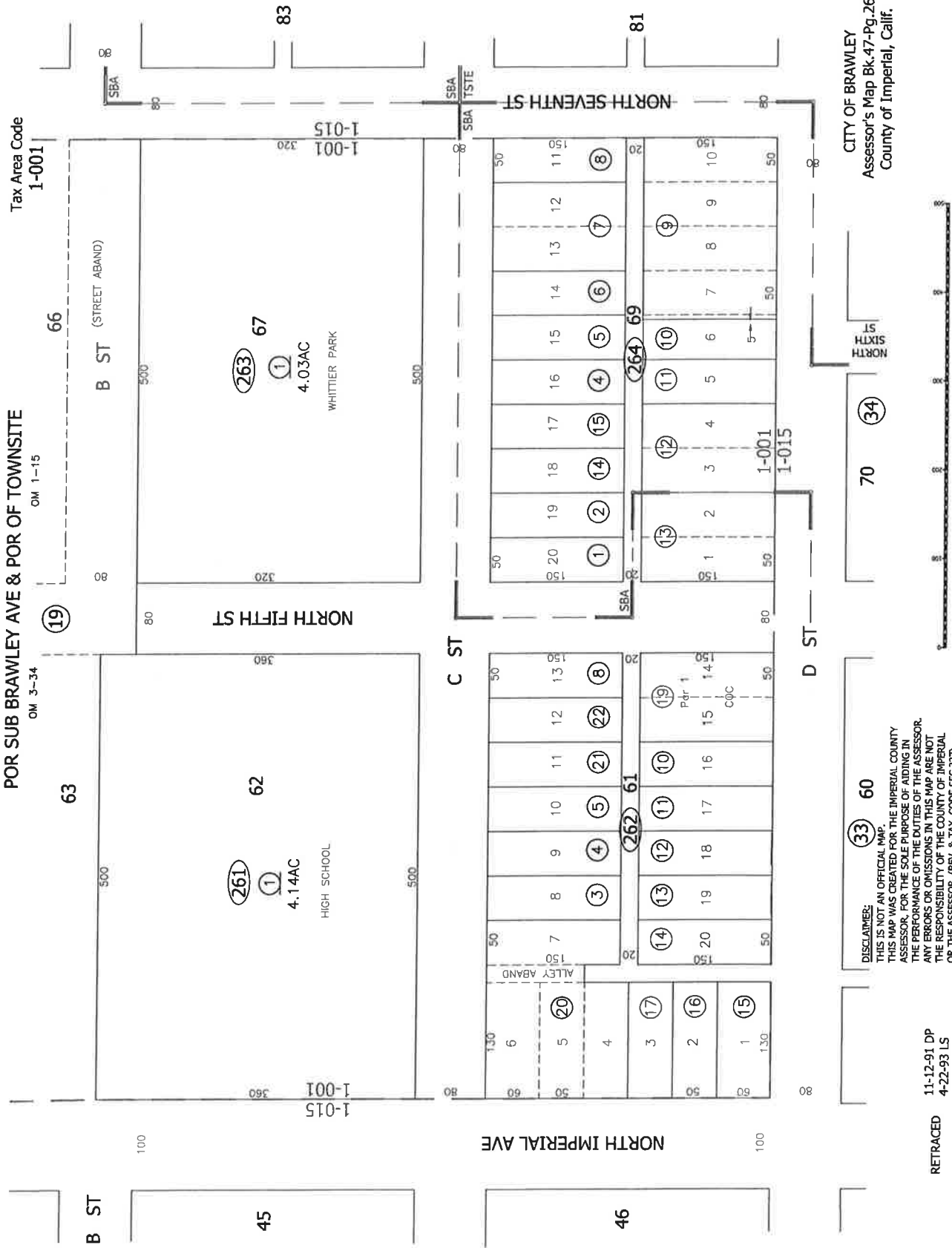
50-ft

20 ft



plgical

map data ©2011

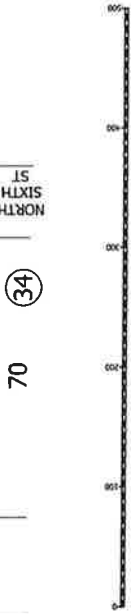


Tax Area Code
1-001

POR SUB BRAWLEY AVE & POR OF TOWNSITE
OM 1-15

OM 3-34

CITY OF BRAWLEY
Assessor's Map Bk.47-Pg.26
County of Imperial, Calif.



DISCLAIMERS
 THIS IS NOT AN OFFICIAL MAP.
 THIS MAP WAS CREATED FOR THE IMPERIAL COUNTY
 ASSESSOR, FOR THE SOLE PURPOSE OF AIDING IN
 THE PERFORMANCE OF THE DUTIES OF THE ASSESSOR.
 ANY ERRORS OR OMISSIONS IN THIS MAP ARE NOT
 THE RESPONSIBILITY OF THE COUNTY OF IMPERIAL
 OR THE ASSESSOR. (REV. & TAX. CODE SEC.327)

11-12-91 DP
4-22-93 LS

RETRACED

EXHIBIT "B"

ALLEY ABANDONMENT

LEGAL DESCRIPTION

A PARCEL OF LAND AND A PORTION OF AN ALLEY BEING A PART OF BLOCK 61, TOWNSITE OF BRAWLEY, IN THE CITY OF BRAWLEY, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO MAP No. 920 ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, A COPY OF SAID MAP BEING ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY.

SAID PARCEL IS BEING BOUND ON THE NORTHERLY SIDE BY THE EASTERN EXTENTION OF THE SOUTH LINE OF LOT 5, AND BEING BOUND ON THE SOUTHERLY SIDE BY THE WESTERN EXTENSION OF THE SOUTH LINE OF LOT 7 IN BLOCK 61.

SAID PORTION OF AN ALLEY CONTAINS ± 600 SQUARE FEET = ± 0.01 ACRES MORE OR LESS



RAYMOND TODD DIAL, PLS 7341, LIC EXP. 12-31-2015

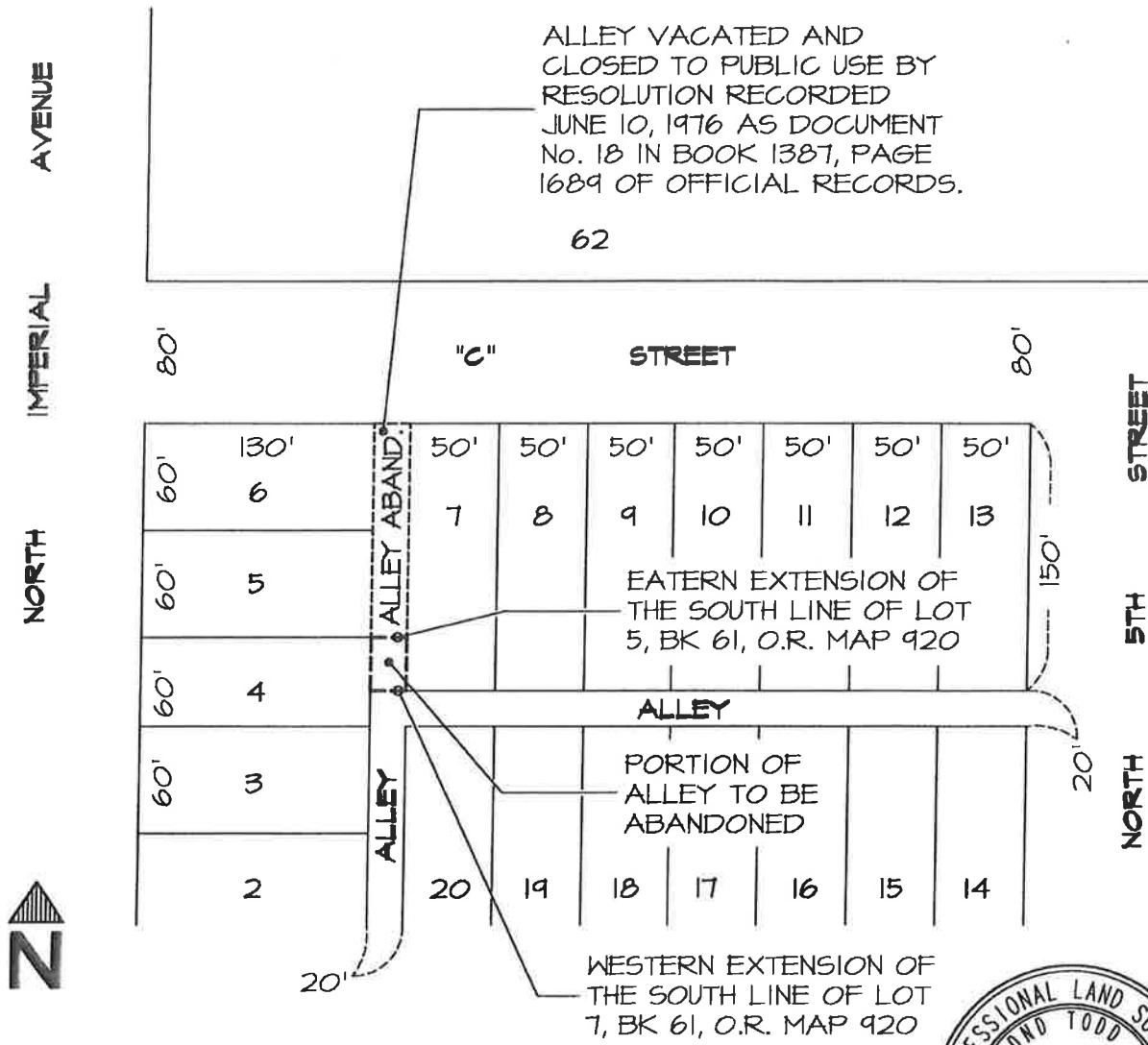


JULY 16, 2015

DATE

EXHIBIT "C"

ALLEY ABANDONMENT



LEGEND

- ALLEY TO BE ADONDONED
- - - - - EXISTING ALLEY ABANDONMENT



<p>Sanders, INC. Architecture/Engineering 1102 INDUSTRY WAY, SUITE A EL CENTRO, CA 92243 760 353 5440 FAX 760 353 5442</p>	Project Title Brawley Union High School District	Scale 1"=100'	Date 05-07-15
	Sheet Title Alley Abandonment	Drawing Number 1	

DRAFT

RESOLUTION NO. 2015-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRAWLEY, CALIFORNIA, SUMMARILY VACATING A RIGHT OF WAY

WHEREAS, the proceedings to vacate were conducted in accordance with Chapter 4, Part 3, Division 9 of the California Streets and Highways Code (Sections 8330, et seq.); and

WHEREAS, on ??? ??, 2015, the City Council of the City of Brawley ("City") considered whether the following described property should be summarily vacated:

A PARCEL OF LAND AND A PORTION OF AN ALLEY BEING A PART OF BLOCK 61, TOWNSITE OF BRAWLEY, IN THE CITY OF BRAWLEY, COUNTY OF IMPERIAL, STATE OF CALIFORNIA, ACCORDING TO MAP No. 920 ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, A COPY OF SAID MAP BEING ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY.

SAID PARCEL IS BEING BOUND ON THE NORTHERLY SIDE BY THE EASTERN EXTENTION OF THE SOUTH LINE OF LOT 5, AND BEING BOUND ON THE SOUTHERLY SIDE BY THE WESTERN EXTENSION OF THE SOUTH LINE OF LOT 7 IN BLOCK 61.

SAID PORTION OF AN ALLEY CONTAINS ±600 SQUARE FEET=± 0.01 ACRES MORE OR LESS

WHEREAS, the portion to be vacated is described in the Legal Description in Exhibit "A" and Map shown in Exhibit "B"; and

WHEREAS, the Right of Way is impassable for vehicular travel and has not been used for the purpose for which it was granted for greater than 5 years; and

WHEREAS, no public money has ever been expended for maintenance of the Right of Way.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. The Right of Way is hereby summarily abandoned and vacated.

3. The city clerk shall cause a certified copy of this resolution to be recorded in the office of the Imperial County Recorder.

APPROVED, PASSED AND ADOPTED at a regular meeting held on the ??th day of ???1, 2015.

CITY OF BRAWLEY, CALIFORNIA

George A. Nava, Mayor

ATTEST:

Alma Benavides, City Clerk

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

I, ALMA BENAVIDES, City Clerk of the City of Brawley, California ***DO HEREBY CERTIFY*** that the foregoing Resolution No. 2015- was ***passed and adopted*** by the City Council of the City of Brawley, California, at a regular meeting held on the ??th day of ??, 2015 and that it was so adopted by the following roll call vote: m/s/c

AYES:

NAYES:

ABSENT:

ABSTAIN:

DATED: ??? ??, 2015

Alma Benavides, City Clerk

PLANNING COMMISSION STAFF REPORT-CONTINUED ITEM

Minor Subdivision: PM15-03 (Parcel Map) - Malan Street Apartment Site

Property Owner/

Applicant: Imperial Valley Housing Authority

Representative: BJ Engineering & Surveying, Inc.

Legal Description: Lot B, Amended Map of Malan Park, City of Brawley, County of Imperial, State of California, APN048-275-055

Location: Southeast corner of Malan Street and South 1st Street

Area: 5.00 Acres (217,990 Square Feet)

Zoning: R-3 (Residential Medium Density)

Existing Use: Vacant

Proposed Use: Apartments

Surrounding Land Uses:

North - P-F (Public Facilities) / Elementary School

South - R-1 (Residential Single Family) / Single Family Dwellings

East - R-1 (Residential Single Family) / Single Family Dwellings

West- R-3 (Residential Medium Density)/ Apartments-Condos

General Plan Designation: Medium Density Residential

CEQA Status: Exempt

Minor Subdivision: PM15-03

General Information:

The parcel map was submitted in order to subdivide the property for finance phasing of an approved apartment complex to be located on this site. The property is currently zoned R-3 (Residential Medium Density). The site is currently vacant and is 5.00 acres in size. Access is proposed via South 1st Street and Malan Street. There are zoning conditions currently imposed on this property from a recent site plan review.

Staff Recommendation:

If approved, the Planning Department recommends the following conditions:

1. The applicant shall obtain an encroachment permit from the Department of Public Works for any new, altered or unpermitted driveways necessary to access each of the parcels from a public street.
2. The applicant shall obtain a tax certificate from the County Tax Collector.
3. The applicant shall pay all fees associated with review and approval of the site plan, parcel map, and variance.
4. The applicant shall pay fees to record the final parcel map.
5. The applicant shall defend, indemnify, and hold harmless the City of Brawley, or its agents, officers and employees from any claim, action or proceedings 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 subdivision. The City of Brawley shall promptly notify the applicant of any claim, action or proceedings and shall cooperate fully in the defense.
6. 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.
7. Provide sewer and water, curb and gutter, sidewalks and other improvements to City standards before City issues certificate of occupancy for any structure for each parcel.

The recommendation is based on the following findings:

1. The proposal is exempt from CEQA pursuant to Sections 15301(a), 15315 and 15332.
2. The location of the project and surrounding land uses make it unlikely the project will cause significant environmental impacts.
3. Approval of the parcel map will not be detrimental to the public welfare or detrimental to the health and safety of the residents of the City of Brawley.
4. The tentative parcel map is consistent with the character of the area for that type of land use.
5. The size of the new parcels is consistent with the Zoning ordinance.
6. The size of the new parcels is consistent with the General Plan.
7. The Parcel map was performed in compliance with the Subdivision Map Act and Subdivision Ordinance requirements.

The Brawley General Land Use Map designates this property for **Medium Density Residential** land uses.

R-3 (Residential Medium Density) zoning permits apartments by **Right**. The new parcels will be greater than the minimum 7,500 square foot lot size.

Minor Subdivision: PM15-03

The Commission must determine the following:

- A. The proposed Parcel Map protects the best interest, health, safety and welfare of the public in general.
- B. The proposed Parcel Map complies with all of the standards and conditions applicable in the zoning district in which it is proposed to be located.
- C. The proposed Parcel Map is in accordance with and in furtherance of the Brawley General Plan and Brawley Housing Element.
- D. The proposed Parcel Map is adequately served by and 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 of the proposed Parcel Map on adjacent property are adequately mitigated with the design, proposed construction and phasing of the site development.
- F. The design of the Parcel Map mitigates substantial environmental problems.
- G. The proposed Parcel Map provides adequate landscaping and/or screening where needed to reduce separate and blend with adjacent uses.
- H. The proposed Parcel Map is compatible with adjacent structures and uses.
- I. The Parcel Map is not materially detrimental to the enjoyment or valuation of the property adjacent to the site.

ATTACHMENT: Location Maps; Proposed Parcel Map; Previous Parcel Entitlement History.

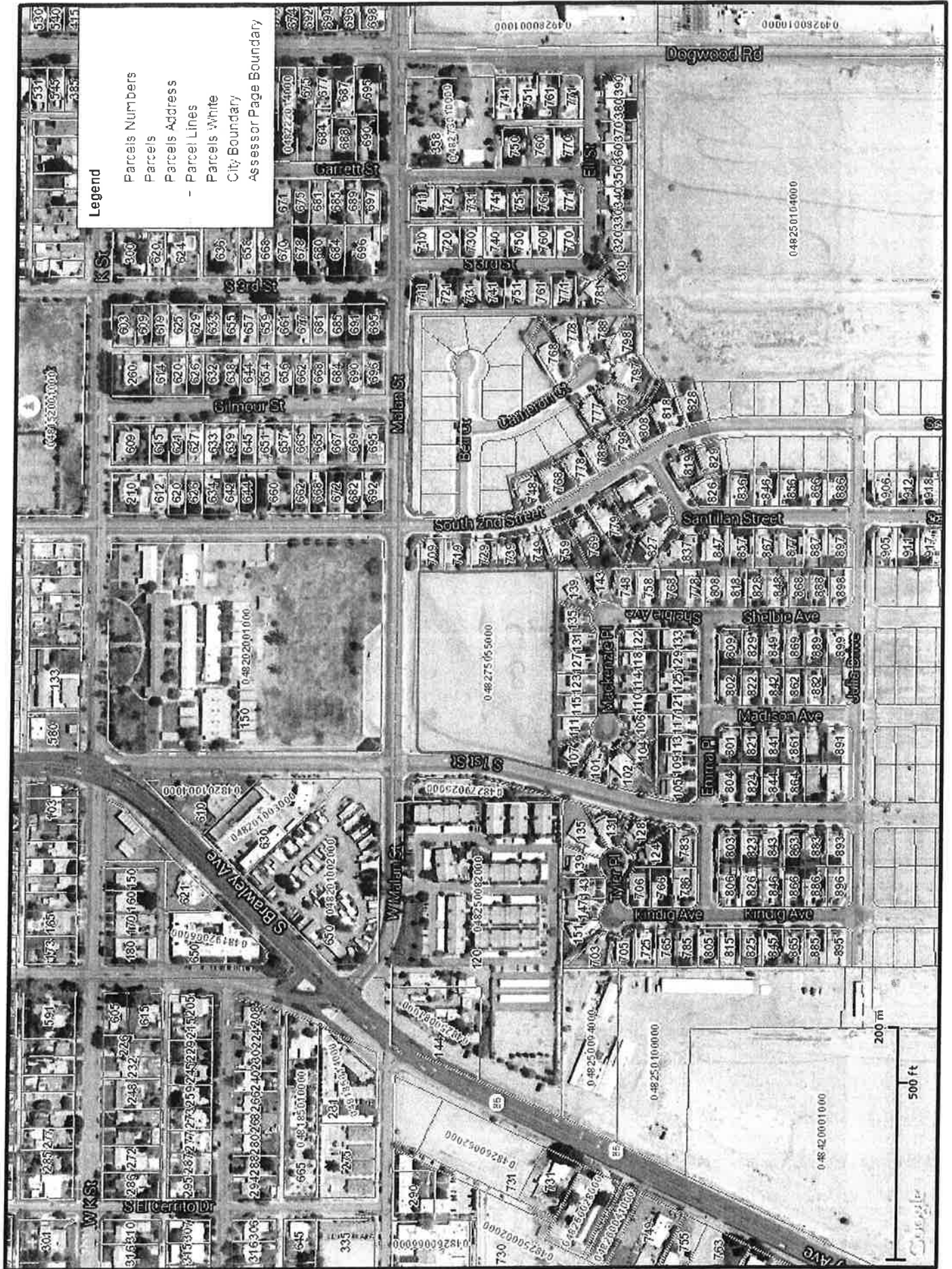
NOTE TO THE PROPERTY OWNER: PLANNING COMMISSION POLICY REQUIRES THAT THE APPLICANT OR REPRESENTATIVE BE PRESENT AT THE MEETING FOR THIS ITEM. PLEASE DIRECT ANY QUESTIONS CONCERNING THIS REPORT TO THE PLANNING DEPARTMENT AT (760) 344-8822.

Timeline of Zoning History for Malan Apartments

November. 6th. 1989	CEQA Notice of Determination filed for Pre-zoning and annexation application submittal.							
January. 16th. 1990	Approved 1st reading of annexation ordinance 90-02 by City Council.							
February. 5th 1990	Ordinance approved for 2nd Reading and passed and adopted by the City Council.							
February. 20th 1990	Annexation of territory approved, passed, and adopted by City Council.							
June.28th. 2005	Traffic Impact Study submitted for Malan Park Subdivisions CEQA Process. Prepared by P&D consultants from Orange, CA.							
July.7th. 2005	DRC reviewed tentative tract map, zone change (R-3 to R-1), & recommended the adoption of a mitigated negative declaration for project.							
August. 3rd. 2005	City Council hearing for General Plan Amendment Consideration for zoning.							
September. 20th. 2005	Zoning Map adopted and amended. Portion of R-3 change to R-1. Zone classification reconfiguration approved by City Council .							
January. 9th. 2015	CEQA: Notice of Exemption for project issued by Planning Director.							

*** "CEQA" stands for California Environmental Quality Act. It is a statute that requires state and local agencies to diagnose the significant environmental impacts of certain development and project actions in order to avoid or mitigate those impacts, if feasible.

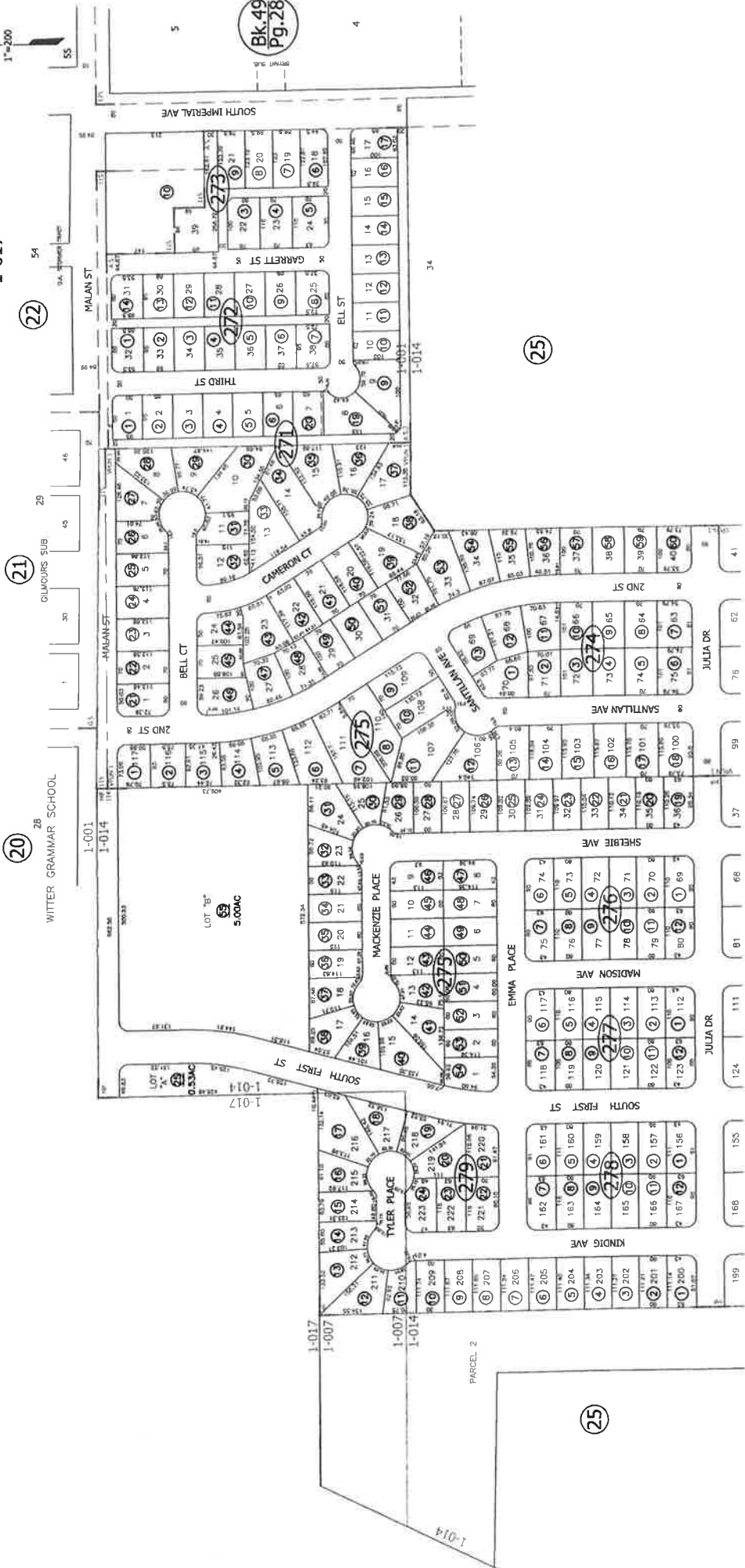
PM15-03



ASHURST SUB. & POR. VICTORIA PARK UNIT NO. 1 & POR TRACT 115 & MALAN PARK
 FM 9-56 FM 23-24 FM 25-63

Tax Area Code
 1-001
 1-007
 1-014
 1-017

48-27



DISCLAIMER:
 THIS IS NOT AN OFFICIAL MAP.
 THIS MAP WAS CREATED FOR THE IMPERIAL COUNTY ASSESSOR FOR THE SOLE PURPOSE OF AIDING IN THE PERFORMANCE OF THE DUTIES OF THE ASSESSOR. ANY ERRORS OR OMISSIONS IN THIS MAP ARE NOT THE RESPONSIBILITY OF THE COUNTY OF IMPERIAL OR THE ASSESSOR. (REV. & TAX. CODE SEC.327)

05-04-07 MF
 12-28-05 RM
 09-09-05 RM
 4-8-83 RW
 5-26-76 II

12-29-11 MF

CITY OF BRAWLEY
 Assessors Map Bk. 48-Pg. 27
 County of Imperial, Calif.



Information for the Public

Re: Malan Street Apartments Parcel Map Application

Due to the level of public interest in the Malan Street Parcel Map scheduled for potential action by the City of Brawley Planning Commission on November 4, 2015, a summary explanation of the application process has been prepared by the City Attorney.

The City's Role in the Process:

The City of Brawley does not own the property that is the subject of the application. The owner and developer have applied for a parcel map that, if approved, will split the property into two legal parcels. The City's role is to process this application. The City's staff, appointed officials and elected officials are required to follow the law applicable to the application in a fair and impartial manner.

The Issue to be Decided by the Planning Commission:

The only issue before the Planning Commission is whether or not the applicant may file a parcel map splitting the subject property into two legal parcels. The subject property is zoned for the proposed project and the City does not have the legal right to deny the owner from building the proposed project.

Conflicts of Interest:

The City Attorney researched the concerns raised at the most recent City Council meeting about possible conflicts of interest and prepared opinions for the Commissioners in question. It is up to the individual Commissioners to apply the law to the facts and determine if a conflict exists.

The Vote Needed to Take Action:

The Planning Commission consists of seven members. At least four members must be in attendance at a meeting for the Commission to consider an application. California law requires a vote of the majority of the Commission to take action on a matter such as the pending parcel map action. Therefore, four votes are required in support of a motion to approve or deny the application. If a motion to approve or deny the application receives three votes or less, the motion fails as a matter of law. Commissioners that determine they have a conflict of interest may not vote.

What Happens if the Commission Does Not Take Action?

California law imposes a time limit on the City to consider a parcel map application. The City has 50 days to consider an application. If the Planning Commission does not approve or deny the application within that time limit, the law provides that the parcel map will be deemed approved as a matter of law, provided the map meets all of the applicable zoning requirements. The Malan Street parcel map meets all of the zoning requirements. Therefore, if the Planning Commission does not act by November 13, 2015, the parcel map will be deemed approved and the applicant may request proof of that from the City Clerk on or after November 16, 2015.

The Factors that the Planning Commission Must Apply:

California Government Code Section 66474 establishes the factors that the Planning Commission must apply when it considers this application. The text of the statute is reproduced on the following page. Interested parties are cautioned that they should seek legal advice when reviewing the statute.

CAL. GOVT. CODE § 66474

A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

- (a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
- (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- (c) That the site is not physically suitable for the type of development.
- (d) That the site is not physically suitable for the proposed density of development.
- (e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- (g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

The Right to Appeal:

Any interested party may appeal the decision of the Planning Commission. The City Council hears the appeal. The right to appeal also applies if the Planning Commission is unable to act and the parcel map is deemed approved as a matter of law.

Interested parties are cautioned that there is a ten day time limit to file an appeal. Be advised that the applicable Brawley Ordinance Section 27.287 indicates that an appeal may be filed in within 15 days. The Brawley Ordinance is in conflict with state law applicable to this application. California Government Code

Section 66452.5 imposes a 10 day limit. The City is required to follow state law. Therefore, any appeal received after the expiration of the 10 day limit will not be considered.

The 10 days start running when the Planning Commission takes action. In the event the Planning Commission does not take action, the 10 days will start on November 16, 2015.

If an appeal is filed, a public hearing will be held and the public will be provided an opportunity to provide comment and evidence.

Interested parties are advised to seek legal advice on this issue. This memo is for informational purposes only and is not intended to provide legal advice.