

**MINUTES OF THE
PLANNING COMMISSION MEETING
MARCH 9, 2022**

The Imperial County Planning Commission convened a Meeting on Wednesday, March 9, 2022 at 9:00 a.m. in the Board of Supervisors Chambers, El Centro, California.

Staff present: Director, Jim Minnick/ Assistant Director, Michael Abraham/Planning Division Manager, Diana Robinson/ Clerks- Carina Gomez & Valerie Grijalva.

Chairman Rudy Schaffner called meeting to order at 9:00 a.m.

- I. **Roll Call: Commissioners present:** Kalin, Bergh, Cabanas, Wright, Roben, Medina, Dunn, and Schaffner in attendance.
Zoom Call: Roben, Wright, and Medina.

Absent: Castillo & Pacheco

- II. **Pledge of Allegiance:**

- III. **Public Hearings**

Chairman Schaffner, Before we get started #6 has been continued, if there's anybody here for agenda item #6. That's going to be continued. Do we have a date on that yet?

Jim Minnick, Director, Yes sir, we are requesting that it'd be continue to April 13th. Item #6 was TR#00992 and was requested to continue it to April 13th, any questions?

Chairman, Schaffner, No.

Jim Minnick, Director, You're good with that?

Chairman, Schaffner, We're good.

Jim Minnick, Director, Applicant?

Dave Davis, Yes.

Jim Minnick, Director, On the record.

Project **TR#00992 Miraluz Affordable Hosuing/ Initial Study #22-0002** stands to be continued to the April 13, 2022 Planning Commission Hearing.

1. Consideration of **Brown Act Resolution** to "Adopt resolution authorizing remote teleconference meetings in accordance with Assembly Bill 361." The Commission took the following actions:

Motion was made by Commissioner **Kalin** seconded by Commissioner **Cabañas** and carried on the affirmative vote by the Commissioners present Kalin (yes), Bergh (yes), Cabañas (yes), Wright (yes), Roben (yes), Medina (yes), Dunn (yes), and Schaffner (yes) to adopt resolution authorizing remote teleconference meetings in accordance with Assembly Bill 361.

2. **Approval of Minutes:** Chairman Schaffner entertained a motion to approve the Planning Commission Minutes for the **February 23, 2022** meeting as submitted by staff.

Motion was made by Commissioner **Kalin** seconded by Commissioner **Bergh** and carried on the affirmative vote by the Commissioners present Kalin (yes), Bergh (yes), Cabañas (yes), Wright (yes), Roben (yes), Medina (yes), Dunn (yes), and Schaffner (yes) to approve minutes as they stand.

3. **Continued Item:** Consideration of **Conditional Use Permit #19-0014/Initial Study #19-0016** as submitted by Lorena Guillen on behalf of Xpress Enterprises, LLC. Applicant proposes to operate two trucking terminal businesses (McKinney Trailer Rentals and Abba International Transportation) from the property and develop 300 new parking spaces with a new guard shack. The property is legally described as a Portion of Tract 122, Township 16 South, Range 14 East, SBBM; Assessor's Parcel Numbers 054-080-038-000, (486 E. Chick Rd., El Centro CA 92243) (Supervisory District #5). The commission took the following action:

Jim Minnick, Director; gave a brief description of the project, and introduced Michael Abraham, Assistant Director, to read the project into the record.

Michael Abraham, Assistant Director; read the PowerPoint presentation of the project into the record and asked if there were any questions.

Chairman, Schaffner, we'll open this up to the project representative. Are they here, on the TV? You're here, good.

Manuel Yañez, approached the podium and introduced himself as the applicant representative. We have been working for the past two-three years. The only comment that I have, we have already discussed about the fare calculation for the distribution. The only comment is related with the street distribution. According to the traffic study, 60% of the trips are going to go through 111, and 40% are going to go through the Highway 8. And in the last meeting we had the neighbor making comments that he's probably going to have some bad paving or some bad road because of this project. He's the only one that was making a comment and I think that, that's what I believe, that it will be fair just to get the improvements for that portion of the road, and not to impact on the project because this is going to be a huge impact on the project and the owner didn't consider before his expenses. And I really appreciate you taking this into consideration and Mr. Gay can make any comments or he can make any discretion of the things I'm talking about.

John Gay, Thank you honorable chair and commission. Yes, we had a meeting last week or a couple of weeks ago, and we looked at this project. There's two things that we're considering, the first is that the traffic study show additional turning lanes for this project that they are going to have to build and so we are definitely in support of that. And then we also considered, I think, what the neighbor was concerned about. And so, in communicating with Mr. Yañez what we learned is that the trips to this project site are going to be primarily traveling East along Chick Road to Bowker. That provides a direct link to Interstate 8 and they have full turning movement at that location. Similarly, there's nothing that limits the trucks from heading Westbound to SR-111 and turning right to go into the Interstate, and so communicating with Mr. Yañez, what or department decided to do was basically have them pay a fare share for that improvement. Not only in front of the neighbors, I guess it's a home, but also for the impacts that will be happening mostly Eastbound. And so, what does that mean? That formula? Basically, it's about 3%. So 3% of the total cost of construction to improve that road. If you figure a million dollars a mile, that would be worst case. You are talking 3% of a million and half dollars. And so, if you do some quick math, it's about \$50,000 dollars. It's a one-time fee that they would have to pay. And we have done that before on other developments. Solar; Solar actually has paid more, but we've done that before. So we are trying to treat them consistently as we've done with other developments. So, I'd be happy to answer any questions.

Chairman Schaffner, Yeah the question I have is, so if they pay the \$50,000 they are going to use that to fix the road or are they just going to put that in the coffers and use it for whatever they want. Because that has happened, many times.

John Gay, So we have a lot of different priorities and to be sensitive to this, I'm willing to, let's make this clear and even condition it so that money has to go to that. I think that would be good to do. That way it lives beyond me and makes it transparent. And that goes to that road. So I think that's fine.

Chairman Schaffner, Where you going?

John Gay, I'm not going anywhere, but I work Tuesday to Tuesday.

Commissioner Cabañas, Has this agreement been communicated to the owner of that property? He's aware the improvement will be made? Or he's still in the dark?

John Gay, So you're talking about the owner of the development? Or I'm sorry, the owner-

Commissioner Cabañas, No the property. The neighbor.

John Gay, I have not had a chance to speak to that neighbor. So no, I have not. But again, I think that what we're doing is again consistent with what we've done with other developments. And there's a process to actually request a road to be repaired and we do have money under SB 1. So this money can go into that to help, in addition to the money we'd have to spend publicly for that.

Vice-Chairman, Kalin, So Mr. Minnick, currently the use of the funds is not conditioned in this project?

Jim Minnick, Director, No.

Vice-Chairman, Kalin, So we will need to add a condition. Ok. And is the owner of the project in agreement with the estimated fare share fee?

Manuel Yañez, Yes, he is in agreement. The only comment he made is related with the street distribution. According to the traffic study 60% are going to go to the neighbors property and 40% are going to go to the East. And what we were talking about, if it's possible, to apply the 60% distribution like it is right now in the traffic study. I guess that is up to you to make that consideration or not. Mr. Gay already explained that.

John Gay, I mean if you want to get into the weeds, you can apply 60% of the fare share to the westerly trips from the project site and the other 40% to- we want to make sure the entire road is actually fare shared out. Because we need to do that, because we know now that trips are going to be going eastbound. And so it makes no sense just a portion of that road. That's going to be my recommendation.

Vice-Chairman Kalin, Ok.

Chairman Schaffner, You can't put a turn left only sign as they leave so they go East?

John Gay, So we could, not the enforcement of that-

Chairman Schaffner, No, I understand.

John Gay, So yeah.

Chairman Schaffner, Ok so you've read the entire project and agree with everything in it?

Manuel Yañez, Yes, everything else, yes.

Chairman Schaffner; opened/closed the public portion of the meeting, there were no public comment he then turned it over to the Commission for any questions and/or comments.

Motion made by Commissioner **Kalin** and seconded by Commissioner **Cabañas**, on the affirmative vote by the Commissioners present as follow Kalin (yes), Bergh (yes), Cabañas (yes), Wright (yes), Roben (yes), Medina (yes), Dunn (yes), and Schaffner (yes) to adopt the Negative Declaration by finding that the proposed project would not have a significant effect on the environment as recommended at the Environmental Evaluation Committee (EEC) hearing held on January 13, 2022; make the De Minimus findings as recommended at the EEC hearing that the project will not individually or cumulatively have an adverse effect on Fish and Wildlife Resources, as defined in Section 711.2 of the Fish and Game Codes; and adopt the Resolutions and supporting findings, approving Conditional Use Permit (CUP) #19-0014 subject to all the conditions, and authorize the Planning and Development Services Director to sign the CUP contract upon receipt from the permittee.

Jim Minnick, Director stated that **Conditional Use Permit #19-0014** project stands approved and adopted by the Planning Commission. If any interested party or member of the public wishing to appeal this decision to the Board of Supervisors, may do so within 10 days from today's hearing and submit the appropriate fee of \$650.00 to the Planning &

Development Services Department.

4. Consideration of **Lot Line Adjustment #00324** as submitted by Orita Properties, LLC, who is requesting to move the existing property line lying west of Wores Drain to match the north fence of Border Valley Trading and to move the property lying east of Wores Drain to the center of Wores Drain. The intent is to correct an encroachment through the existing stack pads of Border Valley Trading. On properties legally described as Parcel 1 and Parcel 2 of PM 02394 recorded in Bk 13 Pg 1, Township 14 South, Range 14 East, SBM&M. Assessor's Parcel Number 049-250-004 & -005-000 (640 Mead Road, Brawley, CA) (Supervisorial District # 5). The commission took the following action:

Jim Minnick, Director; gave a brief description of the project, and introduced **Diana Robinson**, Planning Division Manager, to read the project into the record.

Diana Robinson, Planning Division Manager; read the PowerPoint presentation of the project into the record.

Taylor Preece, approached the podium and introduced himself and the project representative.

Chairman Schaffner, And you read the entire project and agree with everything in it?

Taylor Preece, Yes.

Chairman Schaffner, Any questions or comments?

Taylor Preece, No.

Chairman Schaffner; opened/closed the public portion of the meeting, there were no public comment he then turned it over to the Commission for any questions and/or comments.

Motion made by Commissioner **Kalin** and seconded by Commissioner **Cabañas**, on the affirmative vote by the Commissioners present as follow Kalin (yes), Bergh (yes), Cabañas (yes), Wright (yes), Roben (yes), Medina (yes), Dunn (yes), and Schaffner (yes) to find that the project is exempt from CEQA under Government Code Section 15305, and that no further environmental documentation is necessary; find that Lot Line Adjustment #00324 is consistent with applicable zoning, State laws, and County and building ordinances; make the findings and approve Lot Line Adjustment #00324, subject to the conditions.

Jim Minnick, Director stated that **Lot Line Adjustment #00324** project stands approved and adopted by the Planning Commission. If any interested party or member of the public wishing to appeal this decision to the Board of Supervisors, may do so within 10 days from today's hearing and submit the appropriate fee of \$650.00 to the Planning & Development Services Department.

5. Consideration of **Conditional Use Permit #21-0002** as submitted by Infra Towers, LLC, who proposes a modification of a previously approved 160-foot telecommunication tower. The project site is located at 373 E. Aten Road, Imperial, CA, on property identified as Assessor Parcel Number 044-230-014-000, and is further described as that portion of the north one-half of Tract 69, Township 15 South, Range 14 East, S. B.M., according to the plat of resurvey approved December 22, 1908, and filed in the District Land Office, (Supervisorial District #5). The commission took the following action:

Jim Minnick, Director; gave a brief description of the project, and introduced Diana Robinson, Planning Division Manager, to read the project into the record, and stated for the record, Commissioners Carson and Schaffner, although we don't feel they have a conflict, are on the board of historical society and to make sure there are no question they have stepped down and removed from the building but not by force.

Commissioner Cabañas took place of chairman for the agenda item #5 Conditional Use Permit #21-0002 Infra Towers, LLC.

Diana Robinson, Planning Division Manager; read the PowerPoint presentation of the project into the record.

Commissioner Cabañas, Thank you very much Diana. Do we have the representative for this project online?

Debbie DePompei, Yes, good morning. And we reviewed all the revised conditions that we worked closely with staff on. And we accept all conditions as written.

Commissioner Cabañas, So you agree with everything that is on the revised document correct?

Debbie DePompei, Yes, we do.

Commissioner Cabañas, Ok, very good.

Commissioner Cabañas; opened/closed the public portion of the meeting, there were no public comment he then turned it over to the Commission for any questions and/or comments

Commissioner Bergh, Yes.

Commissioner Cabañas, Go ahead sir.

Commissioner Bergh, So they're changing the engineering to accommodate lighting, is that the excuse? I guess, I must have been asleep in my engineering class, I don't see it. Ok? I think that the planning commission should keep it what it was. The original design, even though it's not really nice looking. From a stand point of fabrication it is cheaper to build lattice work than it is the other set up. Because they have to go to the heavier steel, a different composition of steel structure so, I could not vote for something like this. Leave it the way it was originally voted on. That's my intake on it.

Commissioner Cabañas, Very good, any other comments from any other of the commissioners?

Jim Minnick, Director, In order for a motion to be carried one way or the other, we have ten seated commissioners therefore we have to have a vote of six or more for one direction or the other. As it stands right now, we have six commissioners available today. So just so you understand the math. That was all. Go ahead.

Motion made by Commissioner **Roben** and seconded by Commissioner **Medina**, on the affirmative vote by the Commissioners present as follow, Bergh (no), Cabañas (yes), Wright (yes), Roben (yes), Medina (yes), and Dunn (yes) to adopt the Resolution(s) and support findings, approving modifications to Conditional Use Permit (CUP) #21-0002 subject to all the conditions, and authorize the Planning & Development Services Director to sign the Conditional Use Permit agreement upon receipt from the permittee.

Jim Minnick, Director, Alright motion fails.

Commissioner Cabañas, Ok so we will have to continue this to when we have a full-

Jim Minnick, Director, You can make that motion if you want to, or you can make the opposite motion then the projects denied.

Motion made by Commissioner **Cabanas** and seconded by Commissioner **Roben**, on the affirmative vote by the Commissioners present as follow, Bergh (no), Cabañas (yes), Wright (yes), Roben (yes), Medina (yes), and Dunn (yes) to continue the project until all commissioners are present to hear said project.

Jim Minnick, Director, Ok motion fails. Project is denied automatically.

Debbie DePompei, Excuse me, I'm just wondering what at this point, what do we do to move forward? Can we file an appeal so that it is heard? We've been working, you know hand in hand with the county on this and we are providing

space to the county, at no charge. FirstNet is also going to be on this tower. You know, when we were going through the approval process we were never told about the lighting condition. Until we received the final conditions and so that was a big surprise and that's why we decided to come back and try and revise the tower design because it requires a lot of ongoing maintenance with lighting. And so that was just blowing our budget out of the water and that's why we came back with the lattice tower design which will be less expensive for us of course to build in order for us to keep this project going. So, I'm just wondering, reach out, and asking for somebody's suggestions or staff of what we can do to have this reconsidered until you have six or more that would be in agreement. I mean this is definitely something that we're providing a service for the county and for the community and the new design is actually much less invasive. When we were first designing this tower, you know, we thought it'd be a great idea as an oil tower to have more of a rustic theme with the pioneer museum, but of course it is a lot more. As you can see with the photo simulation it's a lot bigger of a monstrosity than just doing the three legged lattice tower design and that of course will enable us to keep this project within our budget so we can build it and provide service and space to the county. So, I would like some reconsideration or if there's anything I can do on my end. Can we file an appeal? I mean this definitely took us by surprise, you know had I known this vote was going to go this way because one person voted against because some of the other members had to abstain. Well I could've definitely met and had those discussions before this hearing. Because we've been working hard on this project. AT&T is presently at the site on a temporary facility and so this was going to replace that facility and put them on a permanent structure. So this definitely jeopardizes their service to the area by declining, denying our application.

Jim Minnick, Director stated that **Conditional Use Permit #21-0002** project stands denied by the Planning Commission. If any interested party or member of the public wishing to appeal this decision to the Board of Supervisors, may do so within 10 days from today's hearing and submit the appropriate fee of \$650.00 to the Planning & Development Services Department. With regards to your existing conditional use permit, it stays unaffected by the action of the Planning Commission at this point. You were requesting to modify the existing conditional use permit, that modification has failed today. So, A. you can keep the existing the conditional use permit you have build the project that was proposed, or B. you can appeal the decision of the planning commission to the board of supervisors tat appeal must be done within the next 10 days.

Debbie DePompei, Ok thank you very much.

Jim Minnick, Director, You're welcome.

Commissioner Bergh, Jim they were not notified of the lighting requirements?

Jim Minnick, Director, It went to Airport Land Use Commission.

Commissioner Bergh, But they are saying they were never notified.

Jim Minnick, Director, It was a condition of approval it went before Airport Land Use, and it was approved that way.

Commissioner Bergh, Ok.

Commissioner Medina, Jim.

Jim Minnick, Director, Yes sir.

Commissioner Medina, Jim, is there anyway County Counsel can rule on the conflict by the two board members?

Jim Minnick, Director, We can reach out to County Counsel, but this commission has rendered its decision so the next

action is to appeal to the board. That's it for the agendas.

VI. Public Comments, NONE.

VII. Commissioner Comments, NONE.

VIII. Director Comments, NONE.

IX. Adjournment: Meeting adjourned at 9:35 a.m.

Submitted by Rudy Schaffner
Chairman of the Planning Commission

Attest:

Jim Minnick, Director of
Imperial County Planning Commission
Kimberly Noriega & Carina A. Gomez PC Recording Clerks
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