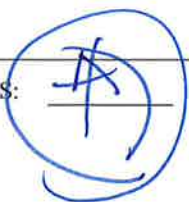



DATE SUBMITTED 5/24/2017
 SUBMITTED BY ACTING PLANNING DIRECTOR MORA
 DATE ACTION REQUIRED 6/7/2017

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED (X)
 RESOLUTION 2
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS mf

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

SUBJECT: Add additional conditionals of approval to the Justo Felix annexation project.	
DEPARTMENT INVOLVED: Planning & Development	
BACKGROUND/SUMMARY: Justo Felix applied for a pre-zone change and annexation of his property at 2475 Clark Road, T.O. Transportation. A public hearing was held by the Planning Commission on May 11, 2016. Upon hearing and considering all testimony and arguments, the Planning Commission recommended approval of the pre-zone change and annexation (Resolution PC2016-06). City Council approved the annexation on June 1, 2016 with conditions. During the May 17, 2017 council meeting, Mr. Felix was represented by his attorney, Carlos Fox, who argued in favor of continuing with the pre-zone change and annexation. A Paseo Del Sol resident expressed his disapproval of the Felix annexation for the following reasons: Hours of operation are as early as 4:30 am., Clark Road is not designed for heavy trucks, semi-trucks are constantly blocking traffic on Clark Road and there are too many trucks operating within the business. There is a school bus that picks up children on Clark Road and semi-trucks travel at a high rate of speed. After hearing both sides, Council did not repeal its original approval of the annexation and Tax Sharing Agreement. Council is requesting LAFCo continue the hearing to allow Council to add additional Conditions of Approval.	
FISCAL IMPACT:	F.O. INITIALS: 
STAFF RECOMMENDATION: Staff recommends Council add additional Conditionals of Approval.	
MANAGER'S RECOMMENDATION:	MANAGER'S INITIALS 
MOTION:	
SECONDED: AYES: NAYES: ABSENT:	APPROVED () REJECTED () DISAPPROVED () DEFERRED () REFERRED TO:



staff report

Agenda Item No.

D-1

To: Imperial City Council

From: Othon Mora, Interim Director of Planning and Development

Date: June 7, 2017

Project: Add additional conditionals of approval to the Justo Felix annexation project.

Summary:

Project Location:	West Side of Clark Road ("P" Street) North of Aten Road (27.01 acres) Assessor's Parcel Numbers: 044-200-077, 044-200-079, and 044-200-081
Zoning:	City of Imperial I-2 Rail Served Industrial
General Plan:	Existing: County Land Use Designation Urban Area Proposed: City of Imperial Rail Served Industrial (No Change)
Environmental:	Negative Declaration

INTRODUCTION AND BACKGROUND

T.O. Transport Company began developing a truck parking and storage facility at 2475 Clark Road located in an unincorporated area of the County of Imperial across the street from the Bratton Subdivision. The development project was done without a building permit and was subsequently red-tagged by the County of Imperial. The owner then started the compliance process. The County required that the project obtain water and sewer services from the City of Imperial and City Council approved the extension of services to the project site. Since the project is located outside of City limits, the owner had to also obtain approval from the Local Area Formation Commission (LAFCo). LAFCo required that 2475 Clark Road and the adjacent parcels be annexed into the City of Imperial because of their proximity to the City boundaries (see Exhibit B).

Mr. Felix applied for a pre-zone change and annexation of his property on January 6, 2016. A public hearing was held by the Planning Commission on May 11, 2016. Upon hearing and considering all testimony and arguments, the Planning Commission recommended approval of the annexation, pre-zone change and negative declaration (Resolution No. PC2016-06) subject to the conditions of approval outlined in Exhibit A.

During the regularly scheduled City Council Meeting on June 1, 2016, Council approved the Felix annexation of 27.01 acres of land. The Tax Sharing Annexation was approved by City Council on January 18, 2017 (Resolution No. 2017-01). Under the tax sharing agreement, 40% of the base year tax revenues would be transferred to the City of Imperial. Once the property was developed, the tax increment would be distributed evenly between the City of Imperial and the County of Imperial.

After the annexation approval by City Council, a home owner obtained eighty-seven (87) signatures within a radius of approximately 1,000 feet from the trucking business opposing the annexation due to safety issues (see Exhibit B).

Homeowners attended a LAFCo board meeting to express their disapproval of the Felix Annexation and submitted a letter opposing the annexation, as well as the signatures collected. LAFCo continued the annexation pending discussion with homeowners and action by City Council.

On April 15, 2017, staff met with three homeowners to discuss the possible repeal of the Justo Felix Annexation. During the meeting, homeowners stated their concern of the following: the safety of school children as there is a school bus that picks up and drops off children on Clark Road, the high rate of speed of truck drivers, hours of operation have been as early as 4:30 a.m., Clark Road not being a designated road for heavy vehicles, and trucks constantly blocking traffic.

During the May 3, 2017 council meeting, a homeowner from Paseo Del Sol expressed his disapproval of the Justo Felix annexation. His concerns were the same as addressed during the April 15th meeting with staff.

On May 10, 2017, Mr. Felix met with staff and said he had purchased other lots and was in the process of moving his trucking business. Mr. Felix desires to move forward with the annexation process.

During the May 17, 2017 council meeting, Mr. Felix brought his attorney Carlos Fox. Mr. Fox made some inaccurate statements with regard to Mr. Felix meeting all of the Conditions of Approval and that the easement was granted in exchange for waiver of water and sewer capacity fees once the location is eligible for those services. In the end, Council did not repeal their original approval of the annexation and Tax Sharing Agreement. Council is requesting LAFCo continue the hearing to allow Council to place additional Conditions of Approval to the project.

RECOMMENDATION

Staff recommends Council place additional Conditions of Approval to the project and secure bonds or cash deposit for offsite improvements, timeline for completion of offsite improvements, add additional conditions of approval, installation of block wall, and hours of operation.



(Photo of the north side of 2475 Clark Road)



(Photo of south side of 2475 Clark Road)

EXHIBIT A

CONDITIONS OF APPROVAL

For

FELIX ANNEXATION AND PRE-ZONE

1. The Applicant shall dedicate a twenty-foot (20') right-of-way along the frontage of the project site in conformance with the requirements of the General Plan Circulation Element to ensure that Clark Road / "P" Street is developed as a Major Arterial.
2. The Applicant shall widen the center turn lane to a minimum of 15' in width and extend the center turn lane to the north to provide sufficient merging distance for trucks.
3. Acceleration and deceleration lanes shall be provided along the frontage of the project site. These lanes shall be provided with a 10:1 taper to the existing roadway and shall be a minimum of 12' width.
4. The Applicant shall install sidewalk, and curb and gutter along the frontage of the project site.
5. A new 80' east-west roadway shall be created to provide emergency secondary access to all portions of the properties. This shall be accomplished through the granting of an irrevocable offer of 40' right-of-way from the northern portion on APN 044-200-079 and a 40' right-of-way from the southern portion on APN 044-200-077.
6. All gates shall be located a minimum of 100' from the edge of right-of-way to ensure sufficient truck cueing space away from roadways
7. Drought-tolerant landscaping shall be installed along the project frontage. At a minimum, landscaping shall include one 24-inch box tree for every 30' of street frontage and shrubs. A Landscaping Plan shall be submitted to the City of Imperial for review and approval prior to the issuance of a building permit. All landscaped areas shall be irrigated with automatic sprinkler systems.
8. All storage areas shall be screened from view of the public. No double-stacking of cargo containers is allowed.
9. Hours of operation shall be limited to between 7:00 a.m. and 6:00 p.m. Mondays through Fridays. No trucks shall enter or exit the project site outside of these hours. No storage containers or materials inside the facility shall be moved outside of these hours.

10. A six-foot high, decorative masonry wall shall be installed along the street frontage of the project site.
11. The Imperial County Fire Department shall conduct a ministerial review of the Tentative Tract Map and may provide additional requirements consistent with applicable standards. Such requirements may include, but are not limited to, the location and sizing of fire hydrants, premise identification numbers (address numbers), roadway access, storage limitations related to highly flammable materials, and the installation of fire sprinklers. The following Conditions of Approval shall also apply:

Fire Protection Water Supply

- a. Private Fire Service main and water supply shall meet the California Fire Code Chapter 5 Section 507.
- b. All plans shall be reviewed and approved by Imperial County Fire Department before construction of the private fire protection water supply is started.
- c. All construction of underground fire lines will be inspected by Imperial County Fire Department.
- d. All components of the will be reviewed and approved by Imperial County Fire Department before any construction of the private fire protection water supply is started.

Firefighting Access

- e. Access to the property shall meet the requirements set forth in the 2013 California Fire Code, and all City of Imperial codes and ordinances.
- f. Firefighting Access shall meet all requirements of the 2013 California Fire Code Chapter 5 Sec. 503.
- g. Access Gates should meet all requirements of the 2013 California Fire Code Chapter 5 sec. 503.6.
- h. An approved KNOX Box/Lock will be required to be installed at all access points to the property.
- i. Secondary Access to the property shall be installed in accordance with the 2013 California Fire Code Chapter 5 Sec. 503.1.2 and local requirements, codes, and ordinances.
- j. An annual fire inspection will be conducted at the facility, in accordance with the California Fire Code 106.1 Inspection authority. The fire code official is authorized to enter and examine any building, structure, marine vessel, vehicle or premises in

accordance with Section 104.3 for the purpose of enforcing this code.

Hazardous Materials

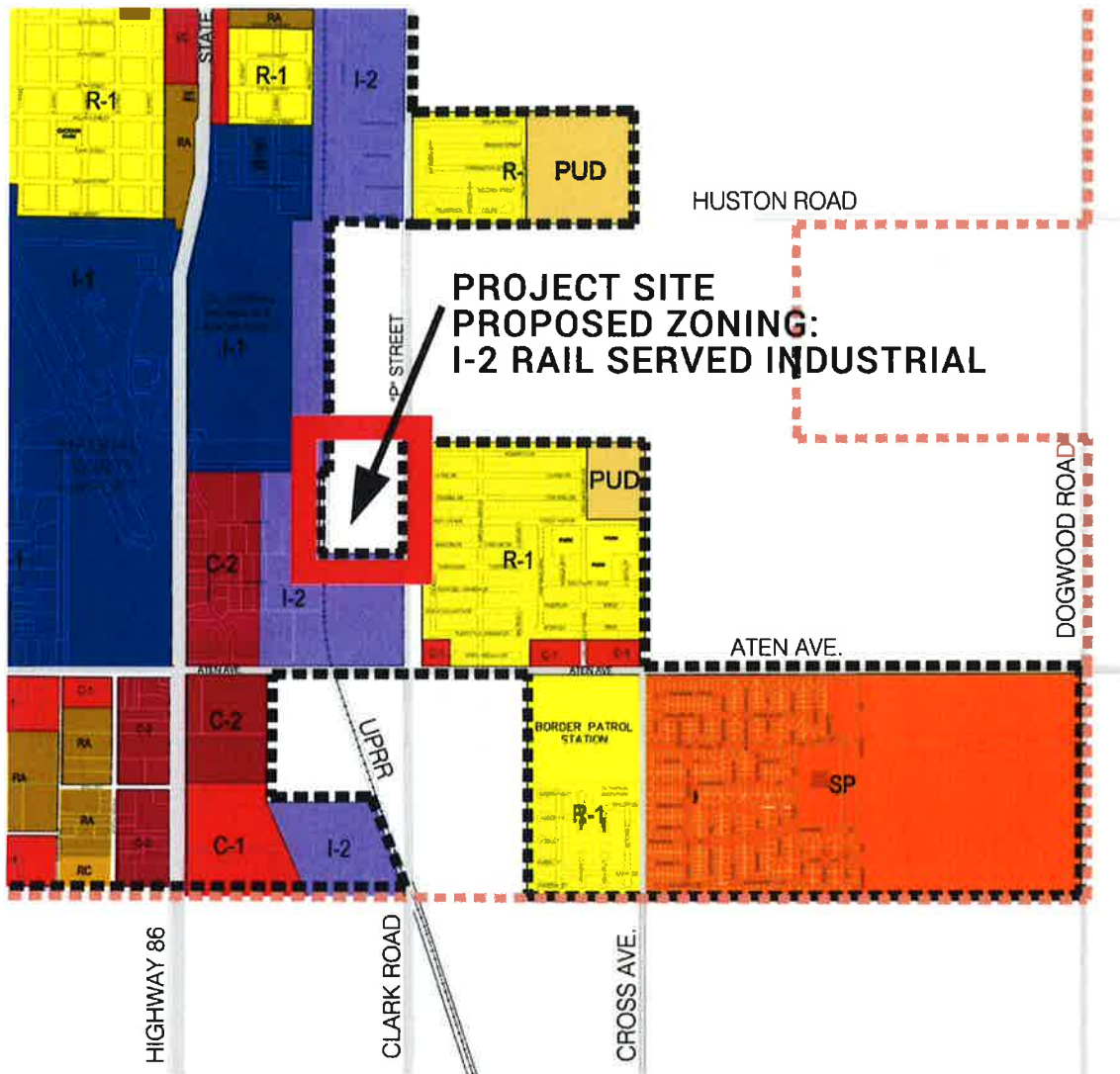
- k. Developer shall comply with Chapter 50 of the California Fire Coded for Hazardous Material and submit a hazardous material management plan and hazardous material inventory statement to Imperial County Fire Department and local CUPA.
- 10. The Developer/Applicant shall submit a lighting plan prior to any construction activity. All lighting installed shall be shielded and directed so as to minimize significant off-site glare or adverse light intrusion into neighboring properties. The lighting plan shall be reviewed and approved by the City of Imperial Planning Department and Building Department. The Planning Department may require light reducing techniques such as the installation of fencing, mature landscaping, or directing of lighting toward the ground;
- 11. Developer/Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
- 12. The Developer/Applicant shall offer for dedication all rights of way, easements, or parcels of land required for both on-site and off-site construction of streets, pipelines, utilities and the storm water retention basin.
- 13. The City Council shall have final approval of the Pre-Zone, Annexation and Environmental Review.
- 14. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the project. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
- 15. The Developer/Applicant shall pay all applicable impact and capacity fees.
- 16. The Developer/Applicant shall pay any and all amounts as determined by the City of Imperial to defray all costs for the review of maps, drawings,

reports, field investigations, or other activities related to compliance of this project with City ordinances and/or any other laws, regulations, or requirements that apply. No Subdivision Map shall record until such costs have been paid to the City.

17. All maps, plans, studies, cost estimates, designs and calculations required for this project shall be subject to the review and approval of the City Engineer, Department of Public Works and Department of Community Development prior to issuance of building permit.
18. All infrastructure improvements shall be constructed, or in lieu thereof, security provided to ensure construction, prior to the recordation of a Final Subdivision Map.
19. The Developer shall comply with the City's Water Master Plan to ensure sufficient volume and flow of water. The Developer shall construct new water mains in the project area if necessary and built according to City development standards.
20. The Developer shall comply with the City's Sewer Master Plan to ensure sufficient handling of waste. The Developer shall improve the collection system through the construction of new sanitary sewer mains and lift stations where required and in accordance with City development standards.
21. Prior to the start of any construction activity, a qualified biologist shall survey the site for any active owl burrows. Any burrows found shall be identified and flagged. Burrows shall not be disturbed during the mating season (February 15 to August 15). After the mating season ends, the burrows will be destroyed to prevent the return of the owls to these burrows during the next mating season.
22. The project shall comply with ICAPCD's standard mitigation measures for construction combustion equipment and mandatory Rule VIII to ensure that adequate air quality is maintained.
23. Construction sites shall control dust (PM-10) generation through daily watering in accordance with a dust control plan submitted to and approved by the Air Pollution Control District as required by Imperial APCD Rule 800.
24. A Hydrology Study shall be submitted to the City Engineer for review and approval during the design phase of this project. The Hydrology Study shall determine the need for a pump station and must adequately address drainage for all proposed parcels in compliance with the City's adopted standards.

25. The proposed project and design criteria must provide for the storage capacity of a 100-year storm. If the 100 year storm retention basin is unable to be drained within a 72-hour detention time, a Mosquito Abatement Plan shall also be required.
26. A Grading and Drainage Plan shall be submitted to the City Engineer for review and approval. The Grading and Drainage Plan shall address property grading and erosion control which shall include the prevention of sedimentation or damage to off-site properties. A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City of Imperial for review and approval. Best Management Practices shall be utilized to minimize or prevent storm water pollution.
27. The developer shall reduce potential impacts to the nearby noise-sensitive residential uses. During all project site excavation and grading on-site, the construction contractors shall equip all construction equipment, fixed or mobile with properly operating and maintained mufflers, consistent with the manufacturers' standards. The construction contractor shall place all stationary construction equipment so that emitted noise is directed away from the noise sensitive receptors nearest the project site.
28. Construction scheduling for the project area shall be limited to the hours of 7 a.m. and 8 p.m. Monday through Friday with the exception of legal holidays. The Building Department may issue a written "early work permit" if hot or inclement weather creates a need to start earlier than 7 a.m. The construction contractor shall limit haul truck deliveries to the same hours specified for construction equipment. To the extent feasible, haul routes shall not pass sensitive land or residential dwellings.
29. The conditional approval of the Pre-Zone and Annexation shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
30. The Developer/Applicant shall obtain, pay for and comply with all permits from the Imperial Irrigation District, and other applicable agencies for all improvements within, across, or affecting the respective rights of way.
31. All conditions of approval for this project shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.

EXHIBIT C



**CITY OF IMPERIAL
ZONING MAP**

CITY LIMITS [dashed black box]

SPHERE OF INFLUENCE [dashed red box]

RESOLUTION NO. 2017-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL
AMENDING THE CONDITIONS OF APPROVAL OUTLINED IN
RESOLUTION NO. 2016-19 FOR THE FELIX ANNEXATION**

WHEREAS, the City Council adopted Resolution No. 2016-19 approving the Felix Annexation subject to Conditions of Approval; and

WHEREAS, neighboring residents have expressed concerns to LAFCO and City Council with the project including but not limited to safety issues of school children in the vicinity of school bus stop on Clark Road, hours of operation of the business, speed travel of trucks entering and exiting the business and truck traffic; and

WHEREAS, based on these concerns, it is recommended to place additional Conditions of Approval on the project; and

WHEREAS, a duly notified public hearing was conducted by the Planning Commission on April 18, 2016 and continued to May 11, 2016; and

WHEREAS, a duly notified public hearing was also held by the City Council during its regular meeting on June 1, 2016 and June 7, 2017.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) That based on the evidence presented at the public hearing, the City Council hereby **APPROVES** an amendment of the Conditions of Approval for Resolution No. 2016-19 as outlined in Exhibit A.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Imperial, this 7th day of June, 2017.

James Tucker, Mayor

ATTEST:

Debra Jackson, City Clerk

EXHIBIT A
CONDITIONS OF APPROVAL

For
FELIX ANNEXATION AND PRE-ZONE

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Hazardous Materials

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 15. The City Council shall have final approval of the Pre-Zone, Annexation and Environmental Review.
 16. The Applicant shall agree to defend, indemnify, and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agenda, including consultants, officers and employees to attack, set aside, void, or annul the approval of the project. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
 17. The Developer/Applicant shall pay all applicable impact and capacity fees.
 18. The Developer/Applicant shall pay any and all amounts as determined by the City of Imperial to defray all costs for the review of maps, drawings, reports, field investigations, or other activities related to compliance of this project with City ordinances and/or any other laws, regulations, or requirements that apply. No Subdivision Map shall record until such costs have been paid to the City.
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