

EXECUTIVE OFFICER'S REPORT

To The

Local Agency Formation Commission

TO:

Commissioner	DAVID WEST (Chair)	[Public]	Commissioner	MICHAEL KELLEY	[Supervisor]
Commissioner	JASON JACKSON	[City]	Commissioner	RAY CASTILLO	[Supervisor]
Commissioner	MARIA NAVA-FROELICH	[City]			
	(Vice Chair)				
	Alt Commissioner	LUIS PLANCARTE		[Supervisor]	
	Alt Commissioner	JIM PREDMORE		[City]	
	Alt Commissioner	RALPH MENVIELLE		[Public]	

REPORT DATE: May 1, 2017

FROM: Jurg Heuberger, AICP, CEP, Executive Officer

PROJECT: Russell Court IM 5-15 (Imperial)

HEARING DATE: May 25, 2017 **TIME:** 8:35 a.m.

AGENDA ITEM NO: 10

HEARING LOCATION: 1275 Main St., El Centro, Ca. (City Council Chambers)

RECOMMENDATION(S) BY THE EXECUTIVE OFFICER (In summary & order)

ANALYSIS

- OPTION #1:** Approve the Annexation as requested and recommended by Executive Officer.
- OPTION #2:** Approve the Annexation as modified following the hearing.
- OPTION #3:** Deny the Annexation.
- OPTION #4:** Continue the item not to exceed 70 days.

Project Data:

DATA & FACTS:

Project ID	IM 5-15	
Project Name:	Russel Court Annexation	
Applicant/Proponent:	Shine Real Estate, Roben LLC, Stephen & Vicki Uhri	
Application Type:	Petition	
Application Filed:	April 18, 2016	EXHIBIT "A"
Certificate of Filing:	March 31, 2017	EXHIBIT "B"
Area/Size:	29.98 Acres Annexation	
Location/Legal:	See attached Map and Legal Description as well as boundary description, for detailed information.	EXHIBIT "C"
Proposed Project:	Annexation of 29.92 acres to the City of Imperial.	
MSR/SAP:	The property is within the SOI of Imperial and the City does have a current SAP/MSR.	

TAX AGREEMENT:

Board of Supervisors Action:	Tax & Fiscal Impact Agreement	EXHIBIT "D"
City Resolution:	2017-10 dated April 19, 2017	EXHIBIT "E"
Tax Split:	Auditor-Controller 03/28/17	EXHIBIT "F"

CEQA:

Lead Agency:	City of Imperial	
Documentation:	Mitigated Negative Declaration	EXHIBIT "G"

ANALYSIS

I: General Background:

The project is to annex 29.92 acres to the City of Imperial and is located on the northwest corner of Brewer Road and Nance Road. The subdivision will include 130 single family residential units, 66 apartments, and one single family home.

The City of Imperial appears to be willing to accommodate this action and in order to process the LAFCO application the City needed to take action on the required Land Use changes.

The property is contiguous to the City of Imperial and much of the area around this parcel is either in the City or receiving city services.

II: City Council Approvals:

- | | | |
|----|--|--------------------|
| 1) | RESOLUTION 2017-07: <i>Dated April 19, 2017 by the Imperial City Council certifying the mitigated negative declaration for the annexation, subdivision, general plan amendment, pre-zone and text amendment.</i> | EXHIBIT "H" |
| 2) | RESOLUTION 2017-08: <i>Dated April 19, 2017 by the Imperial City Council conditionally approving the subdivision of land under tentative tract map 16-01.</i> | EXHIBIT "I" |
| 3) | RESOLUTION 2017-10: <i>Dated April 19, 2017 by the Imperial City Council approving Fiscal Impact Agreement for the Exchange of Property Tax Revenues between the City of Imperial and the County of Imperial.</i> | EXHIBIT "J" |
| 4) | ORDINANCE 794: <i>Dated May 3, 2017 by the Imperial City Council approving annexation, general plan amendment, pre-zone and text amendment.</i> | EXHIBIT "K" |

III: County Land Use:

- 1) *County General Plan:* Under the County's General Plan, the area being proposed for annexation is shown to be Urban for the future expansion of Imperial.
- 2) *County Zoning:* A1-L1U Rural residential.
- 3) *Surrounding Land Uses:* The land uses to the north, south, west, and east are residential areas or isolated undeveloped lots within an urban built environment.

IV: Sphere of Influence:

EXHIBIT "L"

The proposed project is within the boundary limits of the current Sphere of Influence for the City of Imperial, and the City recently updated and therefore has a current SAP/MSR.

V: Cortese/Knox/Hertzberg Reorganization Act of 2000:

Government Code Section 56668 specifically requires that certain factors be considered in the review of any proposal, and shall include but not be limited to Items A through P.

- (A) *Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.*

Comment: The proposed project is to accommodate the development of a residential subdivision. This project is anticipated to generate a population of 660 consistent with 3.35 persons per household. The project site is vacant undeveloped land and existing land uses surrounding the site are residential. Land in and around the City of Imperial is primarily flat. The density is consistent with the planned area and the surroundings. The natural boundary and drainage are in the proposed plan and consistent.

- (B) *Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.*

'Services,' as used in this subdivision, refers to governmental services whether or not the services are services, which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

Comment: The SAP for the City has indicated as has the MND that the City does have the capacity to service this project. This project furthers the goal to eliminate "pockets" and improve the City boundary. It does however add to the potential of creating an island.

- (C) *The effect of the proposed action and of alternative actions, on adjacent area, on mutual social and economic interests, and on the local governmental structure of the County.*

Comment: The proposed project will not affect social or economic interests.

- (D) *The conformity of both the proposed and its anticipated effect with both the adopted Commission policies on providing planned, orderly, efficient pattern of urban development, and the policies and priorities set forth in Section 56377.*

Comment: The proposed project is consistent with the Commissions policies.

- (E) *The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.*

Comment: This area is not and has not been in agricultural use for years, in part due to size, but in more due to surrounding urban uses.

- (F) *The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or of corridors of unincorporated territory and other similar matters affecting the proposed boundaries.*

Comment: The project is within the Sphere of Influence of the City of Imperial and does not create an island.

- (G) *A regional transportation plan adopted pursuant to Section 65080, and consistency with City and County General and Specific Plans.*

Comment: This project neither impacts or is impacted due to the regional transportation plan.

- (H) *The Sphere of Influence for any local agency, which may be applicable to the proposal being reviewed.*

Comment: This area will within the City of Imperia's Sphere of Influence.

(I) *The comments of any affected local agencies.*

Comment: No significant adverse comments have been received for this project by any responsible agency.

(J) *The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.*

Comment: The City has indicated that it has adequate capacity to service this project area and that is shown by the City's SAP.

(K) *Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.*

Comment: The project as analyzed by the City of Imperial indicates that the City does have adequate water for this project.

(L) *The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.*

Comment:

(M) *Any information or comments from the landowner or owners, voters, or residents of the affected territory.*

Comment: None received as of the writing of this report.

(N) *Any information relating to existing land use designations.*

Comment: The area is planned urban by both County & City.

(O) *The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.*

Comment: The proposed project is not considered to have an impact on environmental justice.

(P) *Other considerations!*

Comment: None

Public Notice:

Public notice for the proposed project hearing before the Imperial County Local Agency Formation Commission has been given, according to Section 56660 and 56661. Notice was issued in the form of a publication in the Imperial Valley Press at least twenty-one (21) days prior to said hearing, and posted on the Web. In addition, direct mail notices were at least sent to all property owners within 500 feet in the incorporated territory and ½ mile within the unincorporated areas.

Report:

In accordance with Section 56665, the Executive Officer has prepared a report, and presented said report to your Commission and to any public member requesting such report. In addition, a copy of said report has been issued to the applicant, the County Counsel, County Executive Office, County Public Works, Imperial Irrigation District, City of Imperial, El Centro Regional Medical Center, and the Applicant.

Conflict of Interest Statement:

To date (at the writing of this report May 1, 2017) no Commissioner has indicated that there is any conflict of interest with regard to this project, nor has any Commissioner reported any communications with the Applicant, Proponent or Opponent. The Commissioners will be asked to declare that during and prior to the public hearing. The Executive Officer does not have any known conflict of interest, does not own any property within the project area.

EXECUTIVE OFFICERS RECOMMENDATION

RECOMMENDATION:

It is the recommendation of the Executive Officer that LAFCO conduct a public hearing and consider all information presented in both written and oral form. The Executive Officer then recommends, assuming no significant public input warrants to the contrary, that LAFCO take the following action;

OPTION #1:

- I: Approve the project as requested by the applicant and supported by the City and as presented with the conditions herein.
- II: Take the action subject to the following:
 - 1: Certify the Mitigated Negative Declaration as presented and prepared by the City of Imperial and as attached hereto.
 - 2: Make the finding that this project with the conditions imposed herein (or as modified) is in substantial compliance with the provisions of the Cortese/Knox/Hertzberg Reorganization Act of 2000 and the Imperial County LAFCO Policy, and Procedures.
 - 3: Make the findings pursuant to Gov. Code Section 56375 that:
 - a) The project has been pre-zoned under the City of Imperial's current zoning Ordinance.
 - b) The project is prohibited per section 56375 (e) from being "re-zoned" for a period of two years following annexation.
 - c) The project is contiguous to the City, does not create an island, and is a logical extension of the City and is within the sphere of Influence, and or urban area plan.
 - d) The protest proceedings pursuant to Part 4 commencing with Section 57000 are hereby initiated, and are in compliance with the resolution of approval by the Commission.
 - 4: Approve the **Annexation** subject to all the following conditions:
 - A. Authorize the Executive Officer to forward the Resolution of approval to the City of Imperial, as an information item and for compliance with all relevant conditions imposed herein. *(Pursuant to the Cortese/Knox/Hertzberg Reorganization Act of 2000, enacted through AB 2838, a conducting authority process, i.e. the City being the Conducting Authority, no longer exists and the LAFCO has been delegated the Conducting Authority Process).*
 - B: Pursuant to Cortese-Knox-Hertzberg, authorize the Executive Officer to record the annexation with the County Recorder and the State Board of Equalization, ONLY upon compliance by the applicant and the City, with all applicable conditions, payment of requisite fees, and receipt of all documents necessary and required from the proponents, the City and/or other agencies.
 - C: The Annexation boundary shall be as per map and legal description (**Exhibit – C**) attached hereto. The annexation shall include all contiguous Roads; Road Right of Ways; Canals, Canal Right of Ways; and Public Easements. The final annexation map shall be prepared by a California Licensed Engineer licensed to practice in the Category of work to be performed. Said final map shall be reviewed by the Surveyor of the County of Imperial and the Public Works Director of the City of Imperial to assure that the map complies with the correct boundary and surveying requirements, as well as legal descriptions.

- D: The City of Imperial shall transmit to the Executive Officer certified copies of all approvals given or required to be given by the City of Imperial in approving the land use projects reported herein, including tax agreements unless that information has already been submitted.
- E: The City of Imperial shall within 90 days of the hearing by LAFCO, approving the annexation submit to the LAFCO a full City Boundary Map depicting the new annexation/de-annexation as part of the overall City Boundary. This City Boundary map shall be signed by a licensed Engineer and shall be submitted as follows;
- a) A digital copy in AutoCAD 2009 or later format
 - b) A 24" x 36" or larger copy
 - c) A 18" x 24" copy.
- F: Upon receipt of the City Boundary Map required in condition E, the Executive Officer shall transmit said map to all affected public agencies, including but not limited to law enforcement, Assessor, etc.
- G: The applicant (petitioner) and/or the City as appropriate shall provide to LAFCO the following items in order to complete the processing of the annexation/de-annexation.
- 1) Eight (8) copies of the Annexation maps and legal descriptions prepared by the licensed engineer, and one "Mylar" copy meeting the size established by the County Recorder's office.
 - 2) Check made payable to the State Board of Equalization as required by Statute.
 - 3) Check payable to LAFCO as determined by the Executive Officer to fully offset the cost of processing the application, including all costs incurred by County or City departments charged with the responsibility to review any portion of this project.
 - 4) A letter from the Petitioners agreeing to the terms and conditions of the LAFCO and waiving all rights to an appeal, or reconsideration of the LAFCO decision, unless petitioner can show that a technical error occurred that would have or could have altered the decision of the LAFCO.
- H: The annexation shall not be recorded until all conditions have been completed and all costs paid in full.
- I: The City of Imperial shall not change any of the zone(s) within the boundary of the project annexation area for a period of two years from the date of recordation, subject to the Government Code Section in the Cortese/Knox/Hertzberg Reorganization Act of 2000. The City shall notify the LAFCO and the County of any proposed change of zone within the boundary area at least 90 days prior to any such Council Hearing, if such is requested prior to the termination of 24 months from recordation. If the City does change the zone or the envisioned land use analyzed within this land use process, in the future and it affects any tax split agreements with other agencies, then the City shall be required to make the appropriate adjustments, with County.
- J: The City shall not enter this property into any type of "redevelopment" program or such other program that would adversely change the Fiscal impacts or in any way affect any fiscal impacts or tax sharing agreements with other agencies. If the City, following annexation and after recordation, does change the project so as to change the Fiscal information/outcome upon which LAFCO and/or other agencies relied, the City shall be required to fund any deficit that may occur as a result of their change.

- K: All conditions of approval made by or given by the City as evidenced by the Resolutions or Ordinances adopted by the City shall be part of the Conditions of LAFCO in this annexation as if written herein.
- L: The annexation shall not record until the City provides to LAFCO a hard copy as well as a digital copy of the "mitigation" measures that will be required to be implemented for this project. These mitigation measures will be made a part of the Resolution of approval by LAFCO and to the extent applicable will be required to be implemented or bonded for as appropriate.
- M: The annexation shall not record until the City provides to LAFCO a certified statement from the City engineer that the City has the capacity to provide sewer and water services to this project.
- N: The City shall require all IID canals that are within or contiguous to the project, to be under grounded (or eliminated), except for the canals identified by the IID as not feasible or not required.

OPTION #2: Approve the Annexation with modified conditions.

OPTION #3: Deny the Annexation.

OPTION #4: Continue the item not to exceed 70 days.

LAFCO Policy:

The proposed annexation/de-annexation application appears to be consistent with the Cortese/Knox/Hertzberg Reorganization Act of 2000, the Imperial LAFCO Policies and Procedures and the County of Imperial General Plan (Chapter IV. B. of LAFCO's Policies, Standards and Procedures). Furthermore, the City has (according to the Service Area Plan and/or its resolution of application) the ability to supply the necessary public service, and has assured LAFCO that it has the capacity to service the area.

NOTE: All "cc" submittals are the Executive Officer's Report only. Attachments are generally too voluminous and are only supplied on CD. Information about the project may also be found on the LAFCO web page at www.iclafco.com.

cc: County Board of Supervisors
Ralph Cordova, County Executive Officer
County Assessor
Raymond Loera, Sheriff
George Pacheco, Public Works
Tony Rohoutas, Fire/OES
Katherine Turner, County Counsel
Jim Minnick, Planning Director/County
IM 5-15

Applicant
Douglas R. Newland, Auditor – Controller
Bill Brunett, Public Works Director
Jeff Lyon, GS Lyon Engineering
Imperial Irrigation District, General Manager
Brad Poiriez, APCD
County Office of Education
City of El Centro

ATTACHMENTS:

EXHIBIT A- Application
EXHIBIT B- Certificate of Filing
EXHIBIT C- Map
EXHIBIT D- Tax & Fiscal Impact Agreement
EXHIBIT E – City Resolution #2017-10
EXHIBIT F- Auditor-Controller
EXHIBIT G- Mitigated Negative Declaration
EXHIBIT H- City Resolution #2017-07
EXHIBIT I- City Resolution #2017-08
EXHIBIT J- City Resolution #2017-10
EXHIBIT K- City Ordinance #794
EXHIBIT L- SOI Map