

# MEETING AGENDA

The City Council/Successor Agency of the City of Firebaugh  
Vol. No.19/02-04

---

**Location of Meeting:** Andrew Firebaugh Community Center  
1655 13<sup>th</sup> Street, Firebaugh, CA 93622  
**Date/Time:** February 4, 2019/6:00 p.m.

## CALL TO ORDER

**ROLL CALL**  
Mayor Marcia Sablan  
Mayor Pro Tem Elsa Lopez  
Council Member Freddy Valdez  
Council Member Brady Jenkins  
Council Member Felipe Pérez

In compliance with the Americans with Disabilities Act, if you need special assistance to access the Andrew Firebaugh Community Center to participate at this meeting, please contact the Deputy City Clerk at (559) 659-2043. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Andrew Firebaugh Community Center.

Any writing or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the Deputy City Clerk's office, during normal business hours.

## PLEDGE OF ALLEGIANCE

## PUBLIC COMMENT

## CONSENT CALENDAR

Items listed on the calendar are considered routine and are acted upon by one motion unless any Council member requests separate action. Typical items include minutes, claims, adoption of ordinances previously introduced and discussed, execution of agreements and other similar items.

### 1. APPROVAL OF MINUTES – The City Council Regular Meeting on January 22, 2019.

## PUBLIC HEARING

### 2. RESOLUTION NO. 19-08 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING GENERAL PLAN AMENDMENT 2018-01 (CEN CAL BUILDERS).

**Recommended Action:** - Council receives public comment and approve Res. No. 19-08.

### 3. ORDINANCE NO. 19-01 - AN ORDINANCE OF THE CITY OF FIREBAUGH, COUNTY OF FRESNO, STATE OF CALIFORNIA, AMENDING ORDINANCE NO. 359, OF THE CITY OF FIREBAUGH, RELATING TO THE CLASSIFICATION OF THE ZONE OF PARTICULAR PARCELS OF REAL PROPERTY – FIRST READING.

**Recommended Action:** - Council receives public comment and waives first reading of Ord. 19-01.

### 4. RESOLUTION NO. 19-09 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING TENTATIVE SUBDIVISION MAP 2018-01 (CEN CAL BUILDERS (DEL RIO PLACE)).

**Recommended Action:** - Council receives public comment and approve Res. No. 19-09.

5. **RESOLUTION NO. 19-10 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH ADOPTING A MITIGATED NEGATIVE DECLARATION FOR THE CEN CAL BUILDERS PROJECT (DEL RIO PLACE).**

**Recommended Action:** - Council receives public comment and approve Res. No. 19-10.

#### NEW BUSINESS

6. **RESOLUTION NO. 19-11 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH FOR THE ACCEPTANCE OF Q STREET ROADWAY IMPROVEMENTS, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION WITH FRESNO COUNTY AND AUTHORIZING THE CITY TO MAKE FINAL PAYMENT OF RETENTION MONIES TO AJ EXCAVATION, INC.**

**Recommended Action:** - Council receives public comment and approve Res. No. 19-11.

7. **THE CITY COUNCIL OF THE CITY OF FIREBAUGH TO DISCUSS AND CONSIDER CLOSURE OF THE AIRPORT ON FEBRUARY 22<sup>ND</sup> & FEBRUARY 24<sup>TH</sup>.**

**Recommended Action:** - Council receives public comment and gives staff direction.

8. **RESOLUTION NO. 19-12 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING AMENDMENT TO EMPLOYMENT AGREEMENT FOR BENJAMIN GALLEGOS TO EXTEND TERM OF EMPLOYMENT.**

**Recommended Action:** - Council receives public comment and approve Res. No. 19-12.

#### STAFF REPORTS

#### PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY

#### CLOSED SESSION

9. **Government Code Section 54957**

PUBLIC EMPLOYEE EVALUATION: City Manager.

#### ANNOUNCEMENT AFTER CLOSED SESSION

#### ADJOURNMENT

##### **Certification of posting the Agenda**

I declare under penalty of perjury that I am employed by the City of Firebaugh and that I posted this agenda on the bulletin boards at City Hall, January 31, 2019 at 5:00 p.m. by Rita Lozano Deputy City Clerk.

# SPECIAL MEETING MINUTES

The City Council/Successor Agency of the City of Firebaugh  
Vol. No. 19/01-22

Location of Meeting: Andrew Firebaugh Community Center  
1655 13<sup>th</sup> Street, Firebaugh, CA 93622  
Date/Time: January 22, 2019/6:00 p.m.

**CALL TO ORDER** Meeting called to order by Mayor Pro Tem Lopez at 6:00 p.m.

**ROLL CALL PRESENT:** Mayor Marcia Sablan 6:04 pm  
Mayor Pro Tem Elsa Lopez  
Council Member Freddy Valdez  
Council Member Brady Jenkins  
**ABSENT:** Council Member Felipe Perez

**OTHERS:** City Attorney J. Sanchez; City Manager/Acting Public Works Director, Ben Gallegos; Deputy City Clerk, Rita Lozano; Finance Director, Pio Martin; Police Chief, Sal Raygoza; City Engineer Noe Martinez, Wanda Breshears, & others.

**PLEDGE OF ALLEGIANCE:** Council Member Jenkins led pledge of Allegiance.

**PUBLIC COMMENT:** None

## CONSENT CALENDAR:

### 1. APPROVAL OF MINUTES – The City Council regular meeting on January 7, 2019.

*Motion to accept minutes by Council Member Jenkins, second by Council Member Valdez; motion pass by unanimous 3-0 vote.*

### 2. WARRANT REGISTER – Period starting December 1, and ending on December 31, 2018.

December 2018	General Warrants	#37583 - #37707	\$ 749,212.88
	Payroll Warrants	#70331 - #70434	\$ 223,847.98
<b>TOTAL</b>			<b>\$ 973,060.86</b>

*Motion to accept warrants by Council Member Valdez, second by Council Member Jenkins; motion pass by unanimous 3-0 vote.*

### 3. CITY OF FIREBAUGH 2019 HOLIDAY SCHEDULE.

*Motion to accept 2019 Holiday Schedule with a change for City Hall to be closed on February 11<sup>th</sup> instead of February 12<sup>th</sup> (Lincoln's Birthday), by Council Member Valdez, second by Council Member Jenkins; motion pass by unanimous 4-0 vote.*

### 4. CITY OF FIREBAUGH 2019 COUNCIL MEETING SCHEDULE.

*Motion to accept 2019 Council Meeting Schedule with changes for February 18<sup>th</sup> to February 19<sup>th</sup> & September 2<sup>nd</sup> to September 3<sup>rd</sup>, by Council Member Valdez, second by Council Member Lopez; motion pass by unanimous 4-0 vote.*

### 5. CITY OF FIREBAUGH 2019 COMMITTEE ASSIGNMENT.

*No recommended changes*

**NEW BUSINESS**

6. **RESOLUTION NO. 19-07 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH AWARDING A CONTRACT TO GOUVEIA ENGINEERING, INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT FOR ON-CALL ENGINEERING SERVICES FOR FEDERALLY FUNDED TRANSPORTATION PROJECTS FOR THE CITY OF FIREBAUGH.**

*Motion to approve Res. No. 19-07 by Council Member Sablan, second by Council Member Jenkins; motion pass by unanimous 4-0 vote.*

7. **THE CITY COUNCIL OF THE CITY OF FIREBAUGH TO DISCUSS AND CONSIDER AMENDING ORDINANCE 18-02 TO ALLOW CANNABIS DISPENSARIES (ONE DISPENSARY PER 10,000 RESIDENTS).**

Council Members Valdez & Sablan stated they are in favor of allowing dispensaries, with deliveries being allowed to everywhere per state law, the City should consider to try and capture some funding from dispensaries by allowing a facility in the city, which will help fund Public Safety personnel and other programs that the city wouldn't normally receive or get by other means. (Unfunded liability). City Manager could negotiate the permit fee for added revenue the City will receive, the funds from the dispensaries would help target the problem the Police Chief has recently seen increase the schools and assist in providing resources to help fight the problem. Police Chief Raygoza stated kids at Mills School and at the Jr. High have shown an increase of vaping, and would like to amend the current Ordinance to increase punishment of the violation, to be higher than the State law currently states, because High School kids have been found with vape pens & are selling vaping products on school grounds, because they have little consequences, infraction fee is a \$50 or \$100 fine or misdemeanor. Police Chief would like to discuss the issue with the school to address and correct the problem. When adults provide vaping or marijuana products to a minor, the punishment is not harsh enough to detour them from committing delinquency of a minor. Wanda Breshears, 1759 Thatcher, stated, "I don't think it's a good thing for Firebaugh, the City should find other ways to evolve, grow and earn money, I am not in favor of allowing dispensaries".

*Majority of the Council Members in favor of staff to proceed with the research, to present recommendation to Council for consideration to amend Ord. 18-02 to allow dispensaries, Council Member Jenkins not in favor.*

8. **THE CITY COUNCIL OF THE CITY OF FIREBAUGH TO DISCUSS AMENDING ORDINANCE 18-02 TO REDUCE THE REVENUE RAISING FEE RELATED TO COMMERCIAL CANNABIS OPERATIONS WITHIN THE CITY.**

Council discussed and considered action to amend Ord 18-02 by changing the square (sq.) footage (ft.) fee for commercial operational cannabis businesses that would affect city revenue. Currently, the fee is \$25 per sq. ft., City Manager Gallegos recommends it be reduced to \$7 per sq. ft. for the first 3,000 sq. ft., then, it can be increase or reduced after the 3,000 sq. ft. City Manager Gallegos's recommendation is \$2 per sq. ft. after the first 3,000, recommendation is based on staff research comparable to surrounding cities and their rates. Deputy City Clerk Lozano, advised all amendments to any ordinance requires a Public Hearing, a 1<sup>st</sup> and 2<sup>nd</sup> reading with a Newspaper Publishing, recommends added language to the ordinance, "rates, fees and charges shall become effective upon the approval of the city council set forth by resolution, but do not exceed the established reasonable cost of providing the service for which the rates, fees, or charges are levied" to avoid future additional cost of amending Ord. 18-02.

*All Council Members are in favor of the recommendation, and have language to be added by amending Ord. 18-02, to set fees per resolution.*

9. **THE CITY COUNCIL OF THE CITY OF FIREBAUGH TO DISCUSS CANNABIS FESTIVAL.**

Attorney advised, there is no facility or area for the applicant to use at this time for a Cannabis venue due to strict regulations and current law.

*No Action, Information item only.*

**STAFF REPORTS**

- **Police Chief Sal Raygoza** – Excited about the stats for the year, crime continue to be down. Sent reports to Fresno State, think we did a great job with low crime rate. PD lost one officer to City of Merced, there is an advertisement to fill the opening, it has been hard to hire, with other cities that are paying higher rates or signing bonuses. Some graduating from the Police Academy have already received a job, we try to hire local residents from the academy to help fill our open positions.
- **Finance Director, Pio Martin** – Waiting for the Audit, AT&T changing of the phone lines (upgrade to fiber lines) and service were postponed to Feb. 8, 2019, the new service should reduce the fees to half the cost. The new ladies are doing well.
- **City Engineer, Noe Martinez** – Update on Q St, which is almost complete, just finishing the punch list, one item on the list will be postponed until warmer weather to do the slurry.
- **City Manager Ben Gallegos** – With the approval of the FHwy contract, the city can move forward with the grant. The 8<sup>th</sup> St. project will begin in the summer. Mario's office is working on the VFW hall rehab project, A site visit to attract a new business is scheduled for Friday, will show Perez Packing as an option. School District sold property so the Model homes is in Mendota, because it's the same developer. Site Plan review for Tommy's project was approved by Planning, Mario will review project, five homes already sold, with a list of 50 waiting. Had the 1<sup>st</sup> AC energy audit, on the list was energy usage for each city building, with options of shade structures at City Hall, Maldonado Park, water site & other locations, other facilities can be added. Police Chief Sal applied for a solar grant to purchase two vehicles, one for PW and one for PD. Met with FAA to rename the landing runway, as long as there is no stripping or name change of the Firebaugh Municipal Airport it can be done, by placing a sign dedicating the strip to the Lorenzetti Family with general funds or a donation for the signage. Airport Grant funds will be used to fix the fence and additional minor repairs will be done to the airport, max allowed in grant funds is \$600,000, so city must use these funds.
- **Council Member Valdez** – A new housing project, which is awesome, is going to tackle affordability, working with the school to adjust impact fees. New School Board Member is Mr. Gamino.
- **City Attorney James Sanchez** – Transition of City files from previous Attorney and are looking them over, working with PD matters and Pio asked about the retention policy.

**PUBLIC COMMENT ON CLOSED SESSION ITEM ONLY**

*Motion to enter closed session by Council Member Jenkins, second by Council Member Valdez; motion pass by unanimous 4-0 vote at 7:44 p.m.*

**CLOSED SESSION****10. Government Code Section 54957**

PUBLIC EMPLOYEE EVALUATION: City Manager.

*Motion to enter open session at 8:41 p.m. by unanimous 4-0 vote.*

**ANNOUNCEMENT**

*No Action Taken*

**ADJOURNMENT**

*Motion adjourn by Council Member Sablan, second by Council Member Valdez; motion pass by unanimous 4-0 vote at 8:41 p.m.*

## **FIREBAUGH CITY COUNCIL**

### **STAFF REPORT**

**Date:** February 4, 2019  
**To:** Firebaugh City Council  
**From:** Karl Schoettler, City Planning Consultant  
**Subject:** Cen Cal Builders Project (Del Rio Place)

#### **Summary/Recommendation**

The project (referred to as “Del Rio Place”) proposes a 42-lot single family residential subdivision and a 56-unit multi family residential complex, on separate portions of a 14.7-acre site, located on the east side of N. Dos Palos Road (State Highway 33) at the Lyon Avenue alignment. Four approvals are requested, including a General Plan Amendment, a zone change, a Tentative Subdivision Map, and an environmental analysis.

It is recommended the City Council take the following actions:

1. Ask for the City Planner to deliver the staff report;
2. Ask any questions of staff regarding the project;
3. Open the public hearing for any comments; Close the public hearing.
4. Final Council comments and questions. The Mayor should then ask for a motion for action on the project. Staff and the Planning Commission are recommending the City Council approve the project by adopting:
  - a. Resolution 19-08, approving the General Plan Amendment;
  - b. Introduction of Ordinance 19-01, approving the zone change;
  - c. Resolution 19-09, approving the Tentative Subdivision Map to create 42 single family residential lots; and
  - d. Resolution 19-10, approving a Mitigated Negative Declaration as the environmental finding for the project.

#### **Discussion/Analysis**

The applicant is seeking approval for the construction of a 42-lot single family residential subdivision and also a 56 unit multi-family residential complex, on a 14.7±acre site, generally located on the east side of North Dos Palos Road around the Lyon Avenue alignment (see Maps 1 and 2). Five separate approvals are being requested. The actions include:

**General Plan Amendment 2018-01.** This action would change the General Plan’s land use designation for the site from “Neighborhood Commercial” to “Medium Density Residential” (for the single family subdivision) and “Medium High Density Residential” (for the multi family residential development).

**Zone Change 2018-01.** This action would change the zoning of the site from C-1 (Neighborhood Commercial) to R-1-5 (Single Family Residential (5,000 square foot minimum lot size)) – for the single family residential subdivision, and to R-3 (High Density Residential) – for the multi-family complex. These zone districts are consistent with the proposed General Plan land use designations discussed above.

**Tentative Subdivision Map 2018-01.** This action would approve a subdivision map to create 42 single family residential lots on that portion of the site that is northwest of Lyon Avenue.

**Environmental Analysis.** This action proposes adoption of a “Mitigated Negative Declaration” as the environmental “finding” for the project. This indicates that the project could have significant impacts on the environment, but mitigation measures will be incorporated into the design and operation of the project to reduce these impacts to a “less than significant” level.

### **Multi Family Complex**

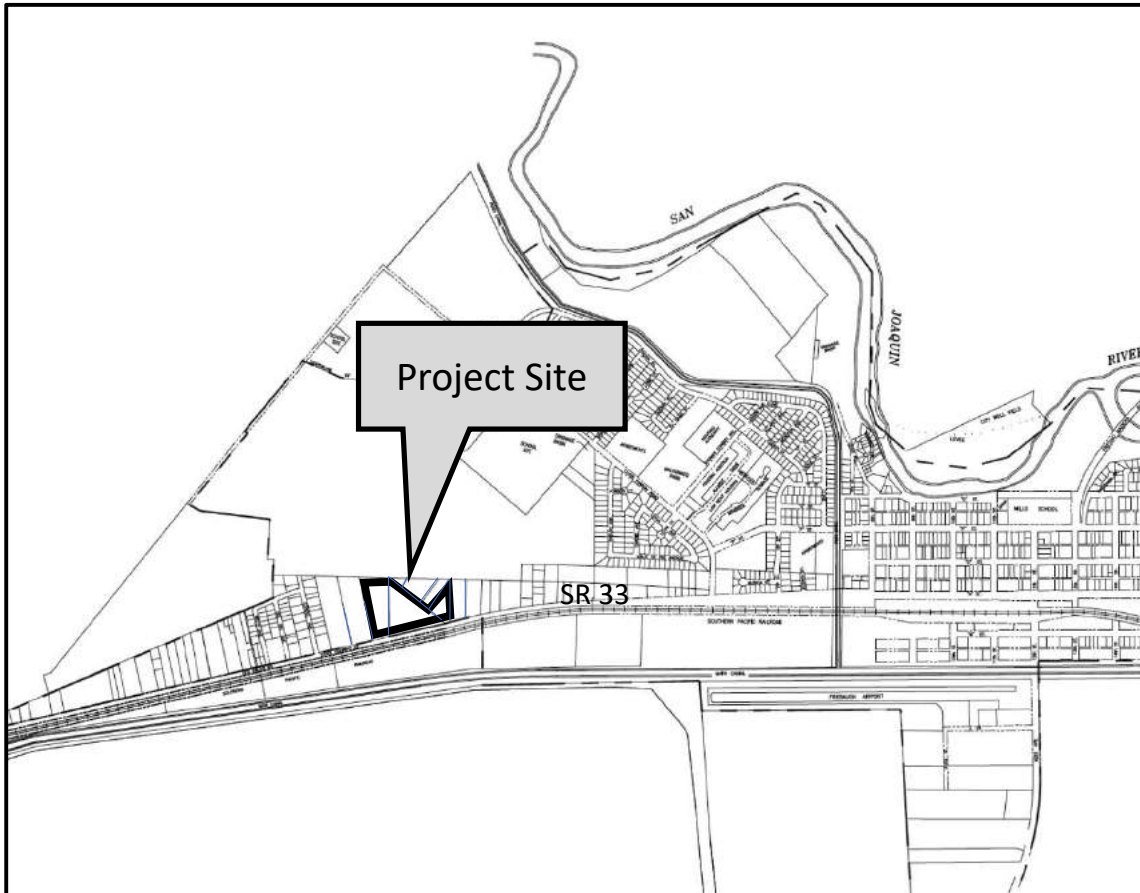
The project application also includes a Site Plan Review for a 56-unit multi family residential complex on that portion of the site that is southeast of the Lyon Avenue alignment. The City Council does not take action on Site Plan Review – the Planning Commission reviewed and approved this portion of the project at their meeting in January. However, a review of that component of the project is provided for the City Council’s information.

Each of the foregoing actions are discussed in greater detail below.

### **Existing site and surroundings**

The site is currently undeveloped, although it has been used for growing field crops in the past. Surrounding properties include a variety of uses, including agriculture and scattered dwellings (to the east) vacant parcels to the south, north and west, and a ranch and the railroad to the west. There are existing homes and scattered outbuildings on the east side of Lyon Avenue, east (and north) of the site.

**Map 1: Projection Location**





**Map 2: Aerial Photo**



### **Proposed Land Use and Zoning Designations**

The site is currently zoned C-1 (Neighborhood Commercial) and is designated “Neighborhood Commercial” by the land use map of the Firebaugh General Plan. The General Plan had envisioned this area (and adjacent parcels) as a potential site for a community shopping center. However, the City Council has previously indicated its willingness to allow these designations to be changed to allow for the proposed residential project.

Proposed zoning for the project includes:

- R-1-5 (Single Family Residential – 5,000 square foot minimum lot size). This zone will be applied to the subdivision and allows for lots 5,000 square feet in area and larger.
- R-3 (Multi family Residential). This zone will be applied to the multi family residential complex and allows for the development of apartments at a density up to one dwelling per 1,500 square feet of lot area.

The General Plan land use map is similarly proposed to be amended to “Medium Density Residential” (for the subdivision) and “Medium High Density Residential” (for the multi family complex). These designations are consistent with the proposed zoning districts.

### **Subdivision Design**

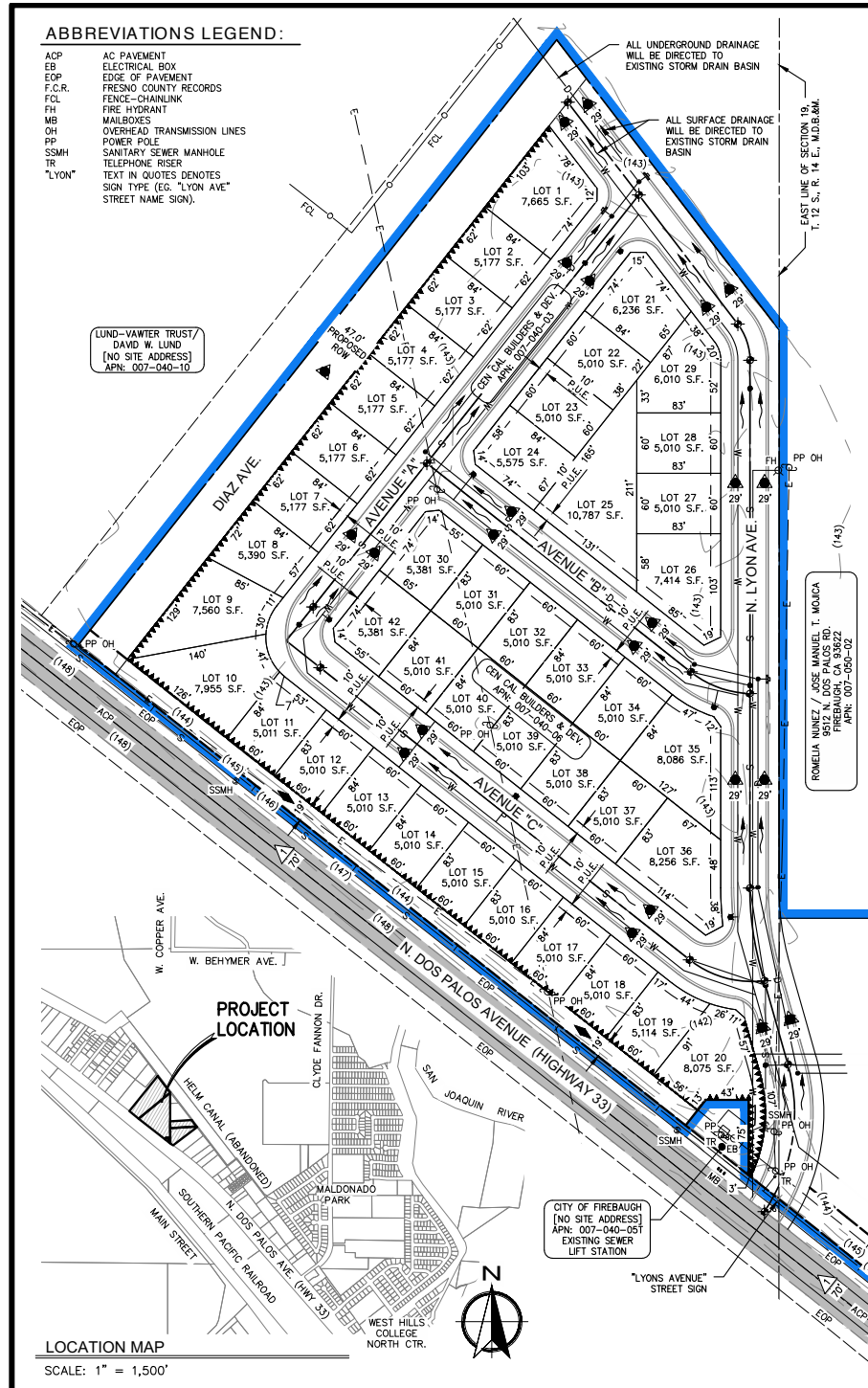
The proposed subdivision is situated on the north end of the site and will feature 42 lots (see Exhibit 1). The lots will range in size from 5,000 square feet to 10,787 square feet. The average lot size will be 5,738± square feet.

The subdivision features a modified “loop” street pattern with internal streets connecting to Lyon Avenue on the south, and also a connection to the future “Diaz” Avenue to the north. Lots will “back up” to Highway 33 and Diaz with a concrete masonry wall and landscaping.

The future Diaz Avenue is ultimately designated by the General Plan as a “Collector” roadway that is designed to connect Highway 33 east to Clyde Fannon Road – thus providing a secondary traffic connection for the north part of the City to Highway 33. The Del Rio Place project is conditioned to install one-half of the road along the project’s frontage.

When this road connection is completed to the east (by future developments) it will help relieve traffic congestion where Clyde Fannon Road intersects Highway 33. The road will be completed by future development projects that occur east of the subject site (between Highway 33 and Clyde Fannon Road).

**Exhibit 1: Proposed Subdivision Design**



The developer has preliminarily indicated that they will offer two single-story floor plans (4 bed/2 bath and 3 bed/2 bath) in the subdivision.

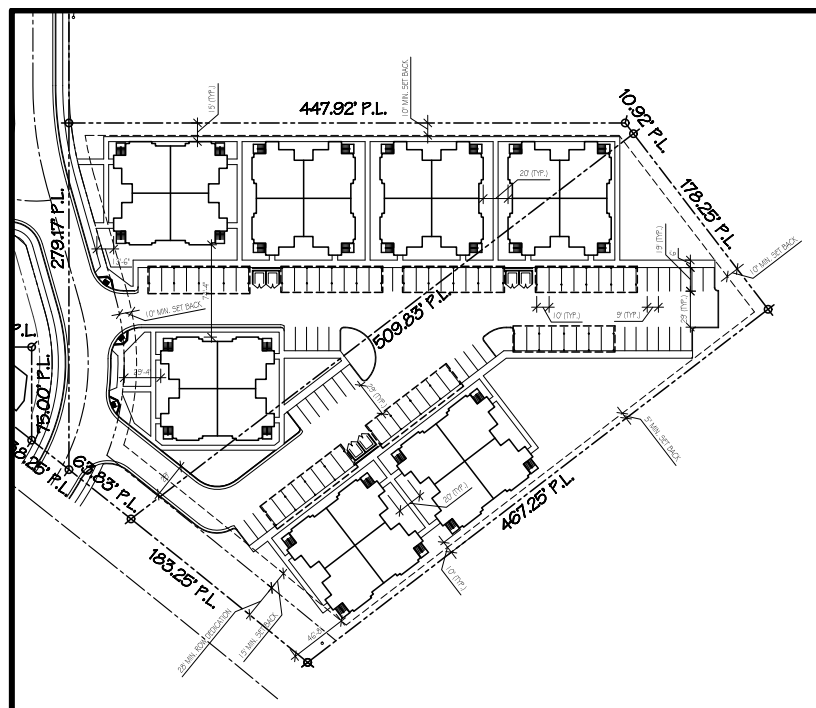
### **Multi Family Project Design**

As noted previously, this portion of the project was approved by the Planning Commission (Site Plan Review permits do not come before the City Council unless appealed) but a review of the project is provided here for the City Council's information.

The multi family project will be located on the southeast side of Lyon Avenue (see Exhibit 2). The project will feature 56 units in eight 2-story buildings. The buildings will generally be situated around the perimeter of the site with parking areas on the interior.

The parking lots will feature a total of 103 parking spaces, which exceeds the City's requirement of 1-1/2 spaces per unit. Carports will be provided at a rate of one covered parking space per unit. As with the Rio Villas development (P and 13<sup>th</sup> Street), it is recommended the project be required to install gable-roof style carports (as opposed to flat top designs). This is recommended by the Design Guidelines contained within the recently-adopted Zoning Ordinance.

### **Exhibit 2: Proposed 56-Unit Multi Family Complex**

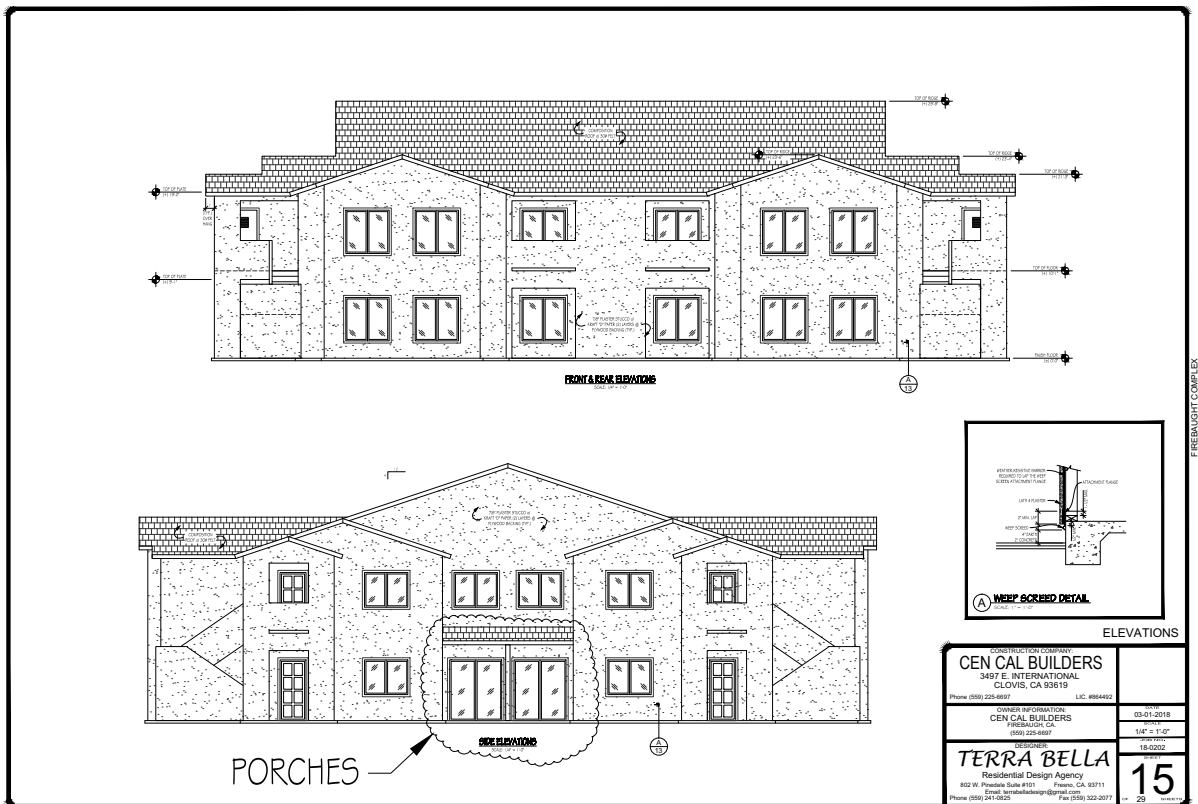


In addition to required setback areas (around the perimeter of the site and between buildings) the project will feature three landscaped open space areas for use by residents.

### Architectural

The multi family buildings will be two-story stucco structures, as shown in Exhibit 3. Units fronting onto Lyon Avenue will feature front porches. It is also recommended that windows on these units be of the double-hung variety – to evoke a more historic architectural feeling.

### Exhibit 3: Architectural Drawings for Multi Family Residential Buildings



## **Circulation**

Access to the site is provided by the following:

**Highway 33** runs past the west side of the site. Caltrans controls the highway and has provided requirements for this project. Key requirements include:

- The project will be required to install a northbound right turn lane and a southbound left turn lane on Highway 33 at Lyon Avenue.
- The project may be required to install frontage improvements, including curb, gutter, sidewalk, and curb ramps at the project frontage and placed at the ultimate right-of-way location.
- The project shall dedicate 19 feet along the site frontage for the future expansion/widening of Highway 33.
- The project will pay fair share impact fees for future improvements to Highway 33 (particularly traffic signals at Clyde Fannon Road and Morris Kyle Drive (and modifications to the existing intersection at Highway 33 and 12<sup>th</sup> Street). The project's total fees to Caltrans are estimated at \$66,188. A final determination of fees will be made by Caltrans, who will require the project to enter into a mitigation agreement.

**Lyon Avenue** is currently an easement that will be developed as a public street. This road will provide access to both the single family subdivision and also the multi-family complex, as well as three other parcels on the east side of the street. This street will be developed to "Local" roadway standards (36 feet wide, paved surface from curb to curb)

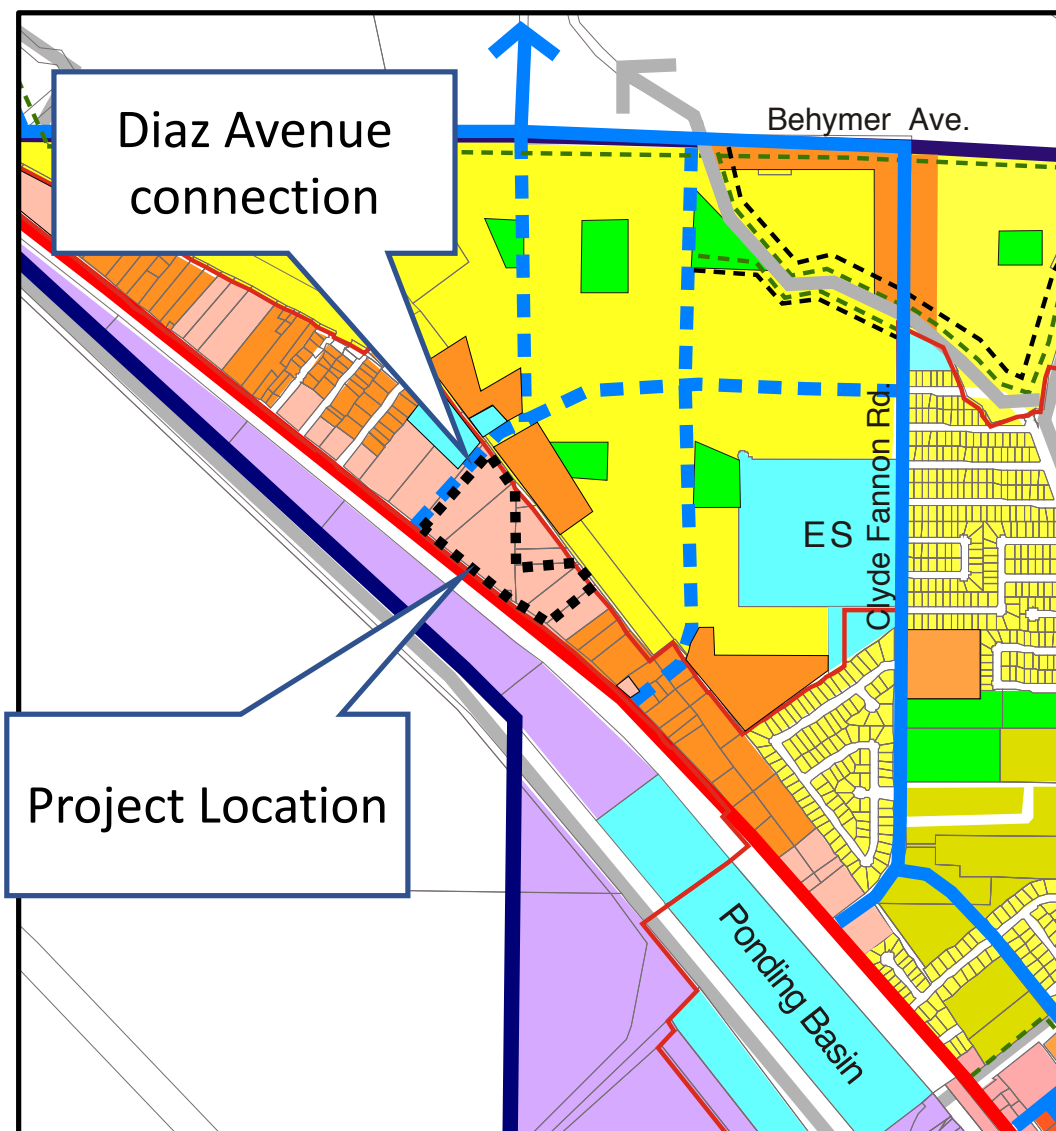
Streets within the subdivision will also be constructed to "local" street standards and will include parkways with street trees (as will Lyon Avenue).

**Diaz Avenue** will border the subdivision along the north side. As noted above, this "new" roadway is designated in the General Plan as a "Collector" street that will ultimately connect Highway 33 east to Clyde Fannon Road. Map 3 shows this connection illustrated in the 2030 Firebaugh General Plan. When completed it will offer a second route for northern neighborhoods to connect to the highway – relieving traffic at the intersection of Clyde Fannon Road and Highway 33.

The project is conditioned to construct ½ of this road along the site's frontage. However, at the Planning Commission's hearing, the applicant seemed surprised by this requirement and asked that it be deleted. Ultimately the Planning Commission approved the project with the requirement intact, with the understanding that the City would work with Caltrans to resolve this issue – particularly as it concerns improvements that would be required along Highway 33 to accommodate the Diaz Avenue intersection (e.g. right- and left-turn lanes along the highway).

As of the writing of this staff report, Caltrans was still considering the issue. Staff is still recommending in favor of the requirement. A condition stating that the project must comply with City and Caltrans requirements is included for the subdivision.

**Map 3: Diaz Avenue Collector Street (from 2030 Firebaugh General Plan)**





### **Utilities**

The project will connect to existing water and sewer lines that run underneath Highway 33 and will connect to an existing stormwater basin immediately north of the site. City staff report there is adequate capacity in the water and wastewater systems to serve the project.

The project will be required to install improvements to all systems, including potentially an upgrade to existing nearby sewer lift stations, to ensure flows are properly conveyed. The project will also pay the City's impact fees for water, sewer and storm drain systems.

### **Fire and Police Safety**

The project has been reviewed by staff of the city's police and fire departments. The Fire Department will require fire hydrants be installed at appropriate locations throughout both the subdivision and multi family complex. All buildings (both single family and multi family dwellings) will feature fire sprinklers. Both Police and Fire Departments are satisfied with circulation and accessibility throughout the project.

### **Landscape and Lighting District**

The project is being required to enter into the City's Landscape and Lighting District. Individual parcels will be taxed to provide funding for maintenance of certain public improvements including walls, landscaping and street lights. This mechanism has been required for all of Firebaugh's most recent subdivisions.

### **Noise Exposure**

Similar to the recently-approved N Street Apartments project to the south, the site is subject to noise generated by aircraft taking off and landing at the Firebaugh Airport, as well as traffic on Highway 33 and the railroad. Both the subdivision and multi family project are conditioned to require a noise study to identify appropriate noise-mitigation building techniques that will be incorporated into dwellings.

### **Environmental Review**

Staff has prepared an analysis of potential environmental impacts of the project, as required by the California Environmental Quality Act (CEQA). The study determined the project could have significant impacts in the area of greenhouse gases, water supply, noise and traffic. Mitigation measures and conditions of approval have been applied to the project to ensure these impacts are reduced to a "less than significant" level. These measures are listed in the resolution adopting the Mitigated Negative Declaration.



### **Planning Commission Action**

The Planning Commission conducted a public hearing to consider the project on January 14, 2019. The Commission voted unanimously to recommend in favor of the project. No members of the public spoke, other than the applicant.

### **Conclusion**

As noted above, the project has been reviewed by City staff, including planning, engineering, public works, police and fire. With conditions of approval in the attached resolutions, it is recommended that the City Council approve the project.

### **BACKGROUND INFORMATION**

Applicant/: Cen Cal Builders  
Owner 3497 E. International Avenue  
Clovis, CA 93619

Location: The subject site is located on the east side of North Dos Palos Road (Highway 33) on both sides of the Lyon Avenue alignment. The Assessor Parcel Numbers are 007-040-003, 007-040-006, 007-050-004 and 007-050-005.

Request: The applicant is requesting approval of the following:

**General Plan Amendment 2018-01.** This action would change the General Plan's land use designation for the site from "Neighborhood Commercial" to "Medium Density Residential" (for the single family subdivision) and "Medium High Density Residential" (for the multi family residential development).

**Zone Change 2018-02.** This action would change the zoning of the site from C-1 (Neighborhood Commercial) to R-1-5 (Single Family Residential (5,000 square foot minimum lot size)) – for the single family residential subdivision, and to R-3 (High Density Residential) – for the multi family complex. These zone districts are consistent with the proposed General Plan land use designations.

**Tentative Subdivision Map 2018-01.** This action would approve a subdivision map to create 42 single family residential lots on that portion of the site that is northwest of Lyon Avenue.

**Environmental Analysis.** This action proposes adoption of a “Mitigated Negative Declaration” as the environmental “finding” for the project. This indicates that the project could have significant impacts on the environment, but mitigation measures will be incorporated into the design and operation of the project to reduce these impacts to a “less than significant” level.

As mentioned above, the Planning Commission previously approved a 56-unit multi family residential complex on that portion of the site that is east of the Lyon Avenue alignment. Additional improvements will include 103 parking spaces, landscaping, lighting, trash enclosures, walkways and utility connections.

Site: The subject site includes five adjacent parcels containing approximately 14.7 acres total.

Zone: The site is currently zoned C-1 (Neighborhood Commercial). This zone allows for commercial uses geared toward serving residential neighborhoods with uses like cafes, markets, cleaners, barbers and other personal services. Key development standards for the C-1 district are as follows:

Front yard setback:	10 feet, minimum;
Rear yard setback:	No requirement, except 10 foot setback required where site abuts residential zoning.
Side yard setback:	No requirement, except 10 foot setback required where site abuts residential zoning.
Building height:	Two stories; 35 feet, maximum;
Parking:	By use

The site is proposed to be zoned R-1-5 (for the single family residential subdivision) and R-3 for the multi family residential complex). Standards for these zones are as follows:

**R-1-5 Zone**

Front yard setback:	20 feet, minimum, except that a front yard setback of 14 feet (minimum) is permitted if a front porch is provided that is at least 6 feet deep and 10 feet wide. Regardless, garages and carports facing a street must be set back at least 20 feet.
Rear yard setback:	10 feet, minimum.

Side yards:	
Internal Lots	5 feet, minimum
Corner lots street	
Side:	10 feet, minimum, except 20 feet required where a garage or carport faces a street.
Building height:	Two stories; 35 feet, maximum;
Parking:	Two covered spaces per dwelling
Lot Size:	5,000 square feet, minimum
Lot Widths:	
Interior lots:	50 feet, minimum
Corner lots:	55 feet, minimum
Lot Depth:	90 feet, minimum

R-3 Zone

Front yard setback:	15 feet, minimum.
Rear yard setback:	10 feet, minimum.
Side yards:	
Internal Lots	5 feet, minimum
Corner lots street	
Side:	10 feet, minimum, except 20 feet required where a garage or carport faces a street.
Building height:	Two stories; 35 feet, maximum;
Parking:	1.5 spaces per unit; one space per unit must be covered by a carport or garage
Lot Size:	7,500 square feet, minimum
Lot Depth:	100 feet, minimum
Density:	One unit per 1,500 square feet of lot area
Lot Coverage:	80 percent, maximum

Surrounding zone classifications are as follows:

North: C-1 (Neighborhood Commercial) and G (Government)

South: R-3 (High Density Multi Family Residential)

West: County agricultural zoning

East: R-1 (Single Family Residential) and R-3 (High Density Multi Family Residential)

General Plan: The subject site is currently designated “Neighborhood Commercial” by the Land Use Element of the 2030 Firebaugh General Plan. The C-1 zone is consistent with this designation.

Land Use: The site is undeveloped but has been used for growing field crops in the past. Surrounding land uses are as follows:

North: Vacant land and stormwater ponding basin  
South: Vacant land (but is approved for “N Street Apartments” project (40 multi family units)  
East: Agriculture, vacant land and scattered dwellings  
West: Railroad, vacant land and ranch

Access: Access to the site is provided by State Highway 33 and the Lyon Avenue alignment. Highway 33 is designated an “Arterial” roadway by the Circulation Element of the Firebaugh General Plan and is improved with one travel lane in each direction along with gravel shoulders. Lyon Avenue is not currently a dedicated public roadway but is surfaced with dirt and gravel. A future Collector roadway (Diaz Avenue) will be established along the north side of the site.

Infrastructure: There are existing water and sewer lines under N. Dos Palos Road that can be tapped to serve the project. There is currently no storm drainage service on this site. The project will be required to install storm drain lines that connect to the existing city storm drain basin immediately north of the site.

Services: Police and fire protection is currently provided to the site by the City of Firebaugh.

Environmental: The City has prepared an environmental analysis of the project, consistent with the California Environmental Quality Act. The study (Initial Environmental Study) found the project could have significant impacts but these can be reduced via the incorporation of mitigation measures. Accordingly, the study recommends the City adopt a Mitigated Negative Declaration for the project.

**RESOLUTION 19-08**

**BEFORE THE CITY COUNCIL  
CITY OF FIREBAUGH, COUNTY OF FRESNO  
STATE OF CALIFORNIA.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH  
APPROVING GENERAL PLAN AMENDMENT 2018-01  
(CEN CAL BUILDERS)**

**WHEREAS**, a General Plan Amendment and zone change was requested by Cen Cal Builders, 3497 E. International Avenue, Clovis, CA 93619 for four parcels containing a total of approximately 14.7 acres, located on the east side of State Highway 33 at the Lyon Avenue alignment, in the City of Firebaugh. The Assessor Parcel Numbers are 007-040-003, 007-040-006, 007-050-004 and 007-050-005 and

**WHEREAS**, the site is currently designated “Neighborhood Commercial” on the Land Use Map of the 2030 Firebaugh General Plan, and further, the site is zoned C-1 (Neighborhood Commercial) on the official zoning map of the City of Firebaugh, and

**WHEREAS**, the applicant is requesting the site be re-designated a combination of “Medium Density Residential” and “High Density Residential” on the Land Use Map of the General Plan, and to be zoned “R-1-5” (Single Family Residential (5,000 square foot minimum parcel size)) and “R-3” (High Density Multiple Family Residential), and

**WHEREAS**, the purpose of these amendments is to facilitate development of a 42-lot single family residential subdivision and a 56-unit multiple family residential development, and

**WHEREAS**, the Firebaugh Planning Commission conducted a public hearing to consider this matter on January 14, 2019 and voted unanimously to recommend approval of the General Plan Amendment (and associated zone change) and

**WHEREAS**, property owners within 300 feet of the subject site were notified of the meeting and a public hearing notice was published ten (10) days prior to the City Council’s meeting, and

**WHEREAS**, the Planning Department has prepared a staff report and environmental finding, and

**WHEREAS**, the City Council held a public hearing on the General Plan Amendment and accepted testimony.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council, after considering all the evidence presented, determined the following findings were relevant in evaluating this request:

1. The proposed request will not have an adverse impact on the health, safety or welfare of surrounding residents or on the community.

2. The proposed request is consistent with the goals, objectives and policies of the Firebaugh General Plan.

3. The City has conducted an Initial Environmental Study consistent with the requirements of CEQA (California Environmental Quality Act) which found that the proposed project will not have a significant impact on the environment provided that mitigation measures are incorporated into the project. Accordingly, a Mitigated Negative Declaration has been prepared for adoption.

4. The property is within Firebaugh's sewer, water and storm drain service areas.

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Council hereby approves General Plan Amendment 2018-01, as shown in Map 1.

The foregoing resolution was adopted upon a motion of Council member \_\_\_\_\_, second by Council member \_\_\_\_\_, at a regular meeting of the Firebaugh City Council on the 4th day of February, 2019, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

---

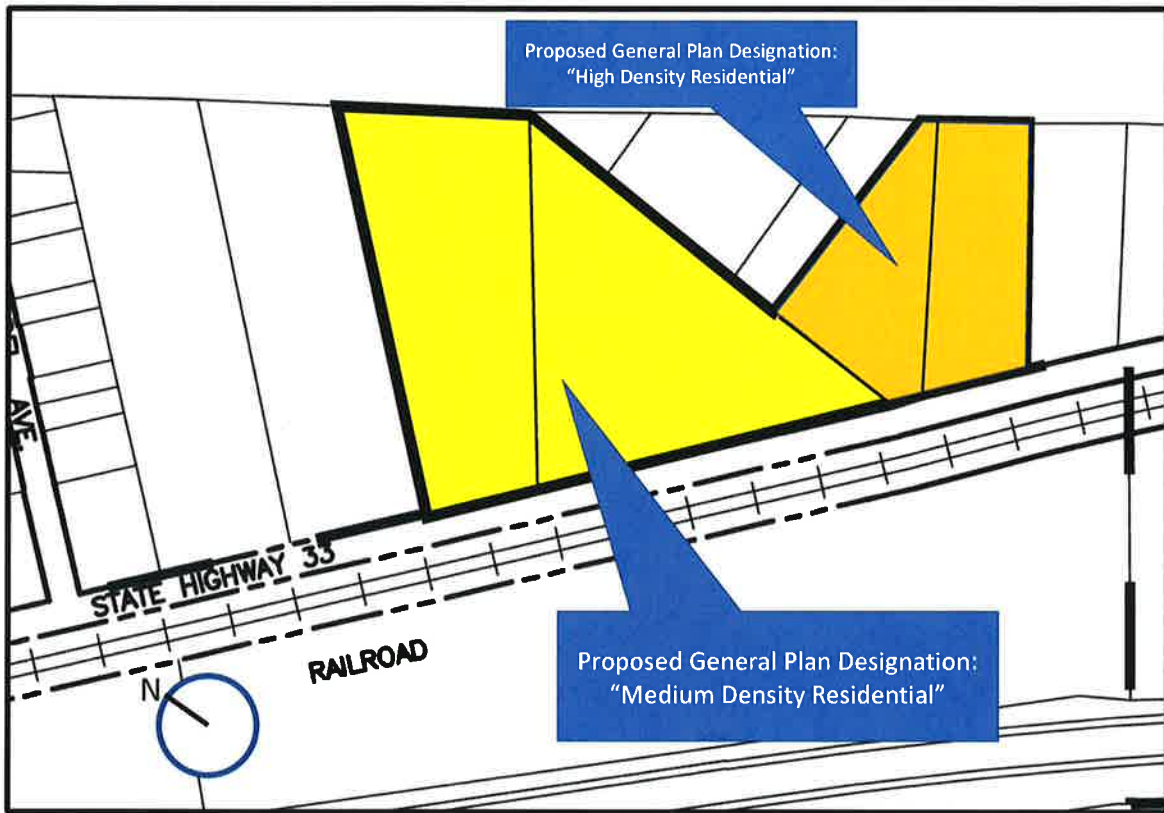
Marcia Sablan, Mayor  
Firebaugh City Council

ATTEST:

---

Rita Lozano, Deputy City Clerk  
City of Firebaugh

**Map 1: *Proposed General Plan Land Use and Zoning Designations***



**ORDINANCE NO. 19-01**

**AN ORDINANCE OF THE CITY OF FIREBAUGH, COUNTY OF FRESNO, STATE OF CALIFORNIA, AMENDING ORDINANCE NO. 359, OF THE CITY OF FIREBAUGH, RELATING TO THE CLASSIFICATION OF THE ZONE OF PARTICULAR PARCELS OF REAL PROPERTY**

The City Council of the City of Firebaugh does ordain as follows:

**SECTION 1.** Section 25-2.1 of the Municipal Code of the City of Firebaugh is amended by changing the Zoning Map to redesignate two existing parcels zoned C-1 (Neighborhood Commercial) to R-1-5 (Single Family Residential (5,000 square foot minimum lot size) and two parcels zoned C-1 (Neighborhood Commercial) to R-3 (Medium Density Multiple Family Residential) as shown on Map 1. The subject parcels are situated on the east side of North Dos Palos Road (State Highway 33) on both sides of the Lyon Avenue alignment.

**SECTION 2.** Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

**SECTION 3.** This ordinance shall take effect thirty (30) days after its passage.

**SECTION 4.** The City Clerk is hereby ordered and directed to certify the passage of this Ordinance and to cause the same to be published once in a newspaper of general circulation, published in the County of Fresno.

I hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Firebaugh held on the 4th day of February, 2019, and passed and adopted at a regular meeting of the City Council held on the \_\_\_\_ day of \_\_\_\_\_, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

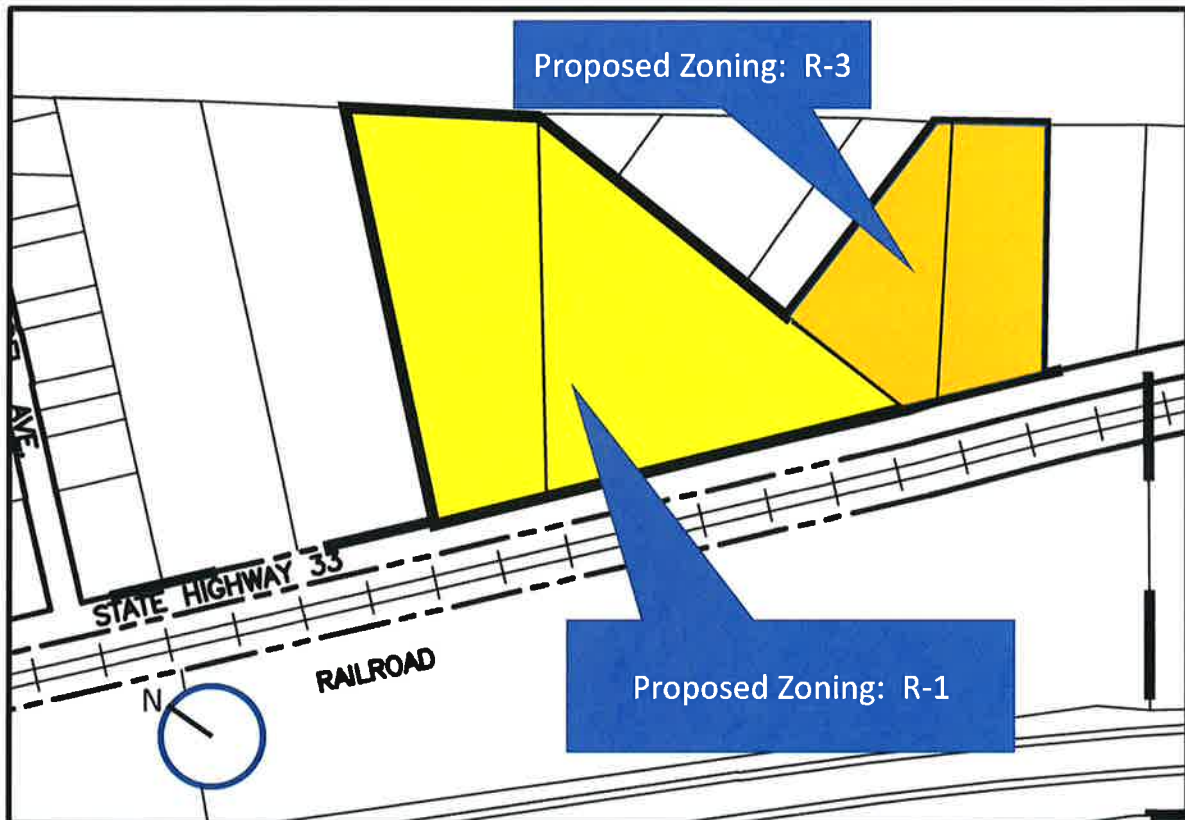
\_\_\_\_\_  
Marcia Sablan, Mayor  
City of Firebaugh

ATTEST:

\_\_\_\_\_  
Rita Lozano, Deputy City Clerk  
City of Firebaugh



**Map 1: Zone Change 2018-02**



**RESOLUTION NO. 19-09**

**BEFORE THE CITY COUNCIL  
CITY OF FIREBAUGH  
COUNTY OF FRESNO, STATE OF CALIFORNIA**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH  
APPROVING TENTATIVE SUBDIVISION MAP 2018-01  
(CEN CAL BUILDERS (DEL RIO PLACE))**

**WHEREAS**, a request was submitted by Cen Cal Builders, 3497 E. International Avenue, Clovis, CA 93619 for a Tentative Subdivision Map to create 42 single family residential lots on two parcels containing a total of approximately 9.9 acres, located on the east side of State Highway 33 at the Lyon Avenue alignment, in the City of Firebaugh. The Assessor Parcel Numbers are 007-040-003, 007-040-006, and

**WHEREAS**, the applicant has requested approval of a General Plan Amendment and zone change to redesignate the site “Medium Density Residential” and zone the site R-1-5 (Single Family Residential (5,000 square foot minimum lot size) and

**WHEREAS**, the Firebaugh Planning Commission conducted a public hearing to consider the project on January 14, 2019 and voted unanimously to recommend approval of the proposed subdivision, and

**WHEREAS**, property owners within 300 feet of the subject site were notified of the meeting and a public hearing notice was published ten (10) days prior to the City Council’s meeting, and

**WHEREAS**, the Planning Department has prepared a staff report and environmental finding, and

**WHEREAS**, the City Council held a public hearing on the proposed Tentative Subdivision Map and accepted testimony.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council, after considering all the evidence presented, determined the following findings were relevant in evaluating this project:

1. The project is consistent with the Firebaugh General Plan, as amended.
2. The project will not have a significant impact on the environment provided that mitigation measures are incorporated into the project; a Mitigated Negative Declaration will be adopted, consistent with the Guidelines of the California Environmental Quality Act.
3. The subdivision design is consistent with standards of the Firebaugh Zoning Ordinance, Firebaugh Subdivision Ordinance and Firebaugh Improvements Manual.

4. The project will not have an adverse impact on the health, safety and welfare of residents in the neighborhood or community.

NOW, THEREFORE BE IT RESOLVED THAT Tentative Subdivision Map 2018-01, as shown in Exhibit 1, is approved subject to the following conditions:

1. All minimum conditions of subdivision approval in the Subdivision Ordinance are included by reference.
2. The final map shall comply with all provisions of the Subdivision Map Act.
3. A final map shall be prepared by a California licensed land surveyor or registered civil engineer and be filed for City Council approval within 24 months from the approval of the tentative subdivision map by the City Council.
4. Prior to approval of the Final Map and recording thereof, subdivider shall:
  - a. Construct all public improvements or provide the required surety for the construction thereof for acceptance by the City Council.
  - b. All necessary dedications for rights of way and easements shall be provided to the City of Firebaugh, public utility companies, and other affected agencies.
5. Prior to approval of the Final Map, improvement plans for streets, utilities, drainage facilities, survey monuments, grading, and erosion control shall be submitted for the City Engineer's approval.
6. Public improvements shall conform to the latest edition of the City of Firebaugh Improvement Standards and any modifications thereto approved by the City Engineer in place at the time of construction. Improvements shall conform to other City adopted documents including the General Plan, Water Master Plan, Sewer Master Plan and Storm Water Master Plan. The work shall comply with all applicable State, Federal, and local laws and regulations.
7. A soils report prepared by a California registered geotechnical engineer shall be submitted to the City Engineer as part of the improvement plans. The soils report shall include recommendations for the structural sections for streets, excavation, compaction, clearing, and grubbing requirements.
8. Prior to approval of the improvement plans, subdivider shall prepare a Storm Water Pollution Prevention Plan (SWPPP) pursuant to the California Water Resources Control Board Order No. 2009-0009-DWQ, NPDES No. CA000002 for construction activities.
9. Prior to approval of the improvement plans, subdivider shall prepare a Dust Control Plan (DCP) and file the Plan with the San Joaquin Valley Air Pollution Control District for approval of construction activities for the project if required.

10. Prior to the issuance of any grading and encroachment permits, subdivider shall pay the permit fee, plan check and inspection fees, and furnish improvement securities pursuant to the City's improvement standards, municipal code, and ordinances. Improvement securities will be in accordance with standard set for in the California Subdivision Map Act and the City's Municipal Code.
11. Prior to the issuance of a building permit, subdivider shall pay all development impact fees as specified and pursuant to the City's municipal code, ordinances, and resolutions. The fee assessment shall include all applicable fees for Municipal Facilities, Police, Fire Protection, Streets and Bridges, Water, Domestic Wastewater, Storm Drainage, and Parks. Fees shall be paid at the time of the issuance of each permit.
12. The single and multifamily residential parcels shall be annexed to the any applicable Landscape and Lighting Maintenance District and Community Facilities District for the City of Firebaugh for all required and applicable assessments, or, at the City's discretion, subdivider will agree to form a new landscape and lighting maintenance district and/or community facilities district for the parcels.
13. Subdivider shall construct a perimeter CMU-block wall along the street frontages of Diaz Avenue and along SR-33 to extend the length of the property lines for the proposed project(s). The area between the wall and public sidewalk shall have a landscape buffer at least ten feet wide, landscaped with an appropriate combination of shrubs, ground cover and shade trees, approved by the City Planner.
14. Provide utility services to each lot including electric power, gas, telephone, and cable television.
15. Construct all proposed utilities underground within the street rights of way or public utility easement. Existing overhead utilities within the proposed parcels shall be undergrounded within the street right of way or easement and all poles shall be removed.
16. The rights of way and easements shown on the Tentative Map shall be preliminary until they are reviewed and approved by Caltrans and the City of Firebaugh.
17. Caltrans approvals and permits shall be obtained as follows:
  - a. All improvements within the Caltrans right-of-way shall conform to Caltrans Standards and shall be reviewed and approved by Caltrans.
  - b. Applicant shall obtain Caltrans encroachment permit for all work within the Caltrans right of way.
  - c. Applicant shall enter into an agreement to make improvements and pay impact fees to Caltrans per the Caltrans letter dated October 16, 2018 on file with the City.

**Subdivision Public Improvements**

Streets

18. Dedicate rights of way and public utility/pedestrian easements for North Lyon Avenue, Avenue "A", Avenue "B" & Avenue "C" and construct street improvements pursuant to Local street standards for the City of Firebaugh or as approved by the City Engineer.
19. Roadway improvements shall include, but not be limited to, pavement section, curb, gutter, sidewalk, curb ramps, driveways, cul-de-sacs, street lighting, landscaping, signage, and striping and shall conform to the City's Improvement Standards.
20. Dedicate right of way and public utility/pedestrian easement for Diaz Avenue and construct street improvements pursuant to Collector street standards for the City of Firebaugh or as approved by the City Engineer. Subdivider shall dedicate the right of way and easement for the south half of Diaz Avenue and shall construct street improvements for 2/3 of the street including, but not limited to, the pavement section, curb, gutter, sidewalk, curb ramps, street lighting, landscaping, signage, and striping pursuant to the City's Improvement Standards.
21. Dedicate right of way and construct street frontage improvements for State Route 33 as required by Caltrans and the City of Firebaugh.
22. Construct a second ingress/egress for the proposed subdivision connecting to the required Diaz Avenue street improvements.
23. Install traffic control improvements for the intersections of Diaz Avenue and State Route 33 and N Lyon Avenue and State Route 33 as required to accommodate existing traffic plus project plus buildout. Subdivider shall prepare a traffic impact analysis for the proposed project to determine the required traffic control improvements for these intersections.
24. The knuckles as shown on the Tentative Map are not acceptable. Construct street knuckles to the dimensions and curve lines as required per the City's Improvement Standards.
25. Design avenues and right-of-way property lines so that the turn radius will accommodate the appropriate design vehicle. Review vehicular turn radius especially at the end of North Lyon Ave., and at intersections of N. Lyon Ave. and Avenue "A" and Avenue to Avenue "C". Refer to City of Firebaugh Improvement Standards Section 3.

Water System

26. Construct water mains, fire hydrants, blow offs, sampling stations, and lateral connections as necessary to serve each lot.
27. Water services shall be sized to meet domestic and fire protection demands and shall include shutoff valves, corporation stops, and water meters. Subdivider shall incorporate

water recirculation for residential sprinkler system at the water service or onsite plumbing.

28. Construct minimum 6-inch water mains on City streets and looped as needed to support the proposed development plan and as approved by the City Engineer. Pipe sizes greater than the minimum shall be determined from hydraulic calculations and/or modeling studies, consistent with the existing network grid, fire demand and service demand, or as recommended from the Water Master Plan.
29. Construct and/or extend water mains on State Route 33, North Lyon Avenue, Avenue "A", Avenue "B", Avenue "C", and Diaz Avenue.
30. Connect to the existing water main on State Route 33 and to the existing water main on the proposed North Lyon Avenue alignment to create an overall loop for the subdivision.

#### Sewer System

31. Construct sewer lines, lift stations, manholes, and lateral connections as necessary to serve each lot. Convey sanitary wastewater via a gravity flow system unless a lift station is required at points of connection due to topography restrictions.
32. Lateral connections shall include cleanouts and other required components per the City's Improvement Standards.
33. Construct minimum 8-inch sewer mains on City streets unless approved otherwise by the City Engineer. Pipe sizes greater than the minimum shall be determined from hydraulic calculations and/or modeling studies, consistent with the existing network grid, or as recommended from the Sewer Master Plan.
34. Construct and/or extend sewer mains on State Route 33, North Lyon Avenue, Avenue "A", Avenue "B", Avenue "C", and Diaz Avenue.
35. Convey all sewer flows from the proposed development to the City's existing Del Rio Pump Station #1 or to the existing 6" gravity main on State Route 33. Subdivider shall upgrade the existing lift station or gravity main to handle the additional sewer flows from the development or shall demonstrate these facilities have adequate capacity to handle the existing plus project flows.
36. The sewer flows from the proposed development would be conveyed by the City's existing Del Rio Pump Station #2 to the City's Wastewater Treatment Facility. Subdivider shall upgrade the existing Station #2 and the existing 4" force main between Cordel Avenue and Valle De Paz Avenue to handle the additional sewer flows from the development or shall demonstrate these facilities have adequate capacity to handle the existing plus project flows.

#### Storm Drainage

37. Construct storm drain lines, manholes, drain inlets, catch basins, detention basins, outfalls, lift stations, and lateral connections as necessary to serve each lot.
38. Construct storm sewers on City streets as determined from hydraulic calculations and/or modeling studies, consistent with the existing network grid, or as recommended from the

**Storm Drain Master Plan.**

39. All runoff from City streets shall be contained within the public rights of way or easements and conveyed to existing City storm drain basin located north and adjacent to the project site. The project's storm water shall be conveyed to the existing basin site using a new gravity main or via a new lift station and force main. Provide calculations and complete earthwork excavation at the existing basin as required to accommodate the additional storm water volume from the project site or demonstrate that this facility has the adequate capacity to handle the existing plus project flows.

**Fire Department**

40. The project shall comply with requirements of the Fire Department, including installation of fire hydrants and no-parking areas, at locations directed by the Fire Chief

**Planning**

41. The front yards and street side yards of all lots within the subdivision shall be landscaped prior to occupancy. Conceptual plans for the landscaping shall be submitted prior to approval of a building permit, and the landscaping shall be installed prior to approval of occupancy for a lot.
42. Street trees (of species to be approved by the City Planner) shall be planted within the parkway in front of each lot within the subdivision at a spacing of approximately every 25 feet. A street tree-planting plan shall be approved as part of the improvement plans for the subdivision.
43. Street lights on local streets shall be a decorative antique style as approved by the City Planner and City Engineer (similar to those established within the Valle Del Sol subdivision).
44. The location of gang mailboxes shall be shown on the improvement plans and shall be subject to approval by the Firebaugh Postmaster. If possible, gang mailboxes shall be situated against landscaping, including shrubs.
45. Fence setbacks on corner lots. Fences on the street side yard of corner lots shall be set back at least five feet behind the sidewalk. The intervening area shall be landscaped with

an appropriate combination of groundcover and shrubbery. Climbing vines shall be trained onto the exterior fence surface for graffiti prevention and beautification.

46. The applicant shall prepare an acoustical analysis to identify measures to reduce noise generated by aircraft operations at Firebaugh Municipal Airport, traffic on Highway 33, as well as the railroad. Appropriate noise-reducing measures identified in the study shall be incorporated into the project design and construction.
47. Street sign poles. Support poles for street signs and all other traffic control signs shall be painted gloss black.

**48. Environmental Mitigation**

Measures identified on the Mitigated Negative Declaration are required, as follows:

**1. Greenhouse Gas Emissions**

The project shall demonstrate compliance with the applicable BPS (Best Practical Solutions) strategies to the Planning Division prior to the issuance of a building permit. The following PBS strategies are considered to be applicable, feasible, and effective in reducing greenhouse gas emissions generated by development on the site:

- a. The project applicant shall provide a pedestrian access network that internally links all residential units and connects to the existing surrounding external streets and pedestrian facilities.
- b. The project applicant shall ensure site design and building placement minimize barriers to pedestrian access and interconnectivity. Physical barriers such as wells, berms, landscaping, and slopes between residential uses that impede bicycle or pedestrian circulation shall be eliminated. In addition, barriers to pedestrian access of neighboring facilities and sites shall be minimized.
- c. Any transit stops associated with the project shall be provided with safe and convenient bicycle/pedestrian access and provide essential transit stop improvements (i.e., shelters, route information, benches, and lighting).
- d. The project applicant shall install energy efficient roofing materials.
- e. The project applicant shall incorporate bike lanes and routes into the street system.
- f. The project applicant shall plant trees to provide shade.
- g. The project applicant shall install only natural gas or electric stoves in residences. The project applicant shall install energy efficient heating and cooling systems, appliances and equipment, and control systems.
- h. Require truck idling to be restricted during construction and operational phases of the project. During construction, the site shall be posted with signs that restrict truck idling to fifteen minutes or less.
- i. Reuse and recycle construction and demolition waste;
- j. Use low or zero-emission vehicles where practical, including construction vehicles;



- k. Conservative use of both potable and non-potable water to the maximum extent practicable;
- l. Use graywater where practical. (Graywater is untreated household waste water from bathtubs, showers, bathroom wash facilities, and water from washing machines).

Time Frame: Prior to and during construction

Responsible Party: Project contractor, Building Official and City Planner

## **2. Hydrology and Water Quality**

- a. Water hoses used during construction shall be equipped with automatic shut-off (e.g. spray gun),
- b. Landscaping shall feature drought-tolerant species, and irrigation shall be a low-flow drip (or equivalent) automatic system with soil moisture and rain shut-off sensors. Landscaping and irrigation plans shall be submitted for review and approval by the City Planner, prior to installation.

Time Frame: Prior to construction

Responsible Party: Project Contractor and Building Official

## **3. Noise**

- a. Noise-generating construction activities at the site shall be limited to daylight hours, Monday through Saturdays.
- b. The applicant shall incorporate noise-reducing materials within dwellings to mitigate noise generated by traffic on Highway 33, railroad traffic, as well as aircraft operations at Firebaugh Municipal Airport.

Time Frame: During construction

Responsible Party: Project Contractor and Building Official

## **4. Transportation/Traffic**

- a. The project will comply with Caltrans requirements for improvements along the project frontage along State Highway 33, including payment of fair share costs for impacts on State Highway facilities.

Time Frame: During Construction

Responsible Party: Project contractor and Caltrans

**NOW, THEREFORE BE IT RESOLVED THAT** Tentative Subdivision Map 2018-01, as shown in Exhibit 1 and on file with the City of Firebaugh, is hereby approved by the Firebaugh City Council.

The foregoing resolution was adopted upon a motion of Council member \_\_\_\_\_, second by Council member \_\_\_\_\_, at a regular meeting of the Firebaugh City Council on the 4th of February, 2019, by the following roll call vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

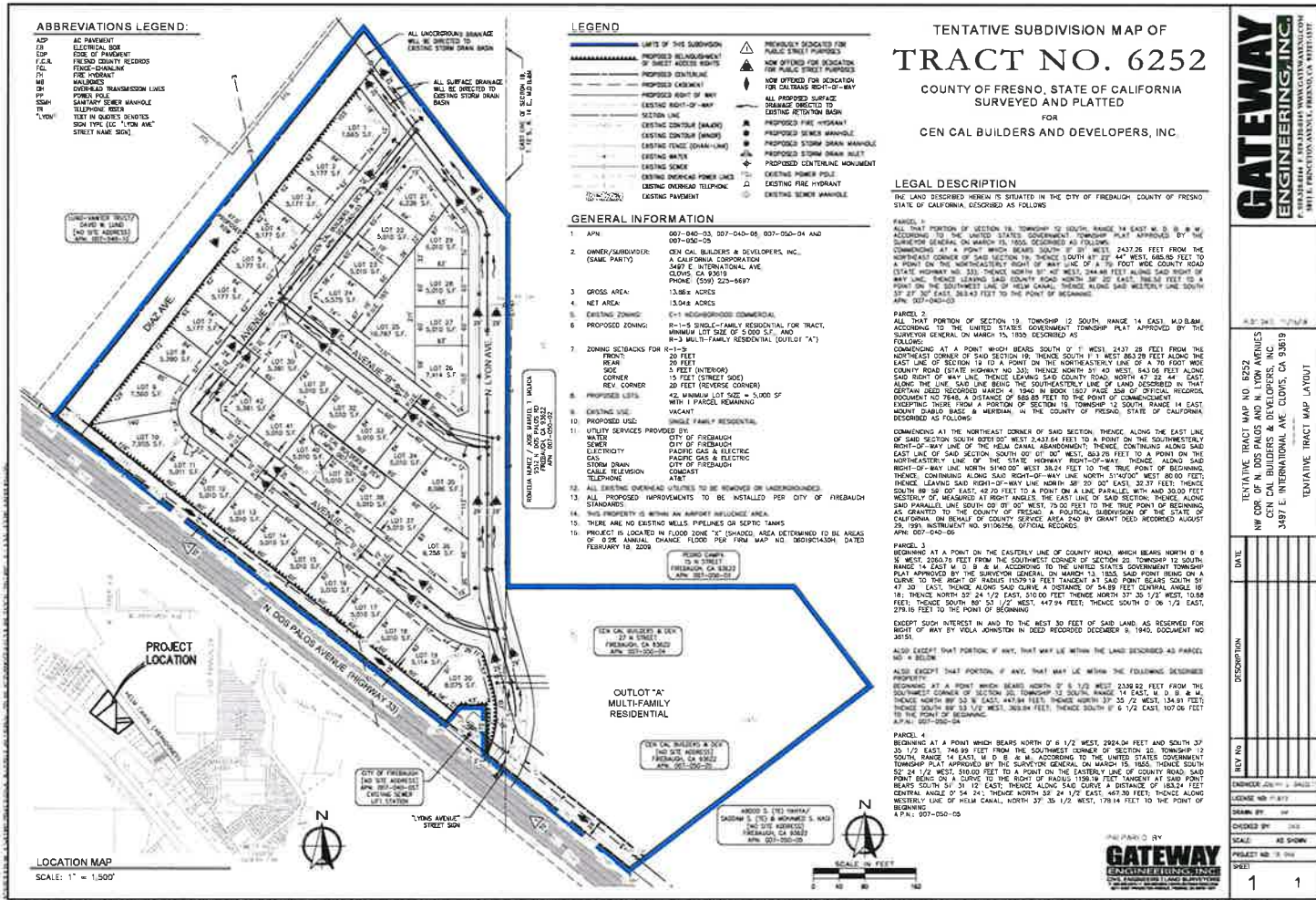
APPROVED:

\_\_\_\_\_  
Marcia Sablan, Mayor  
Firebaugh City Council

ATTEST:

\_\_\_\_\_  
Rita Lozano, Deputy City Clerk  
City of Firebaugh

Exhibit 1: Tentative Subdivision Map 2018-01



**RESOLUTION NO. 19-10**

**BEFORE THE CITY COUNCIL  
CITY OF FIREBAUGH  
COUNTY OF FRESNO, STATE OF CALIFORNIA**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH  
ADOPTING A MITIGATED NEGATIVE DECLARATION FOR THE CEN CAL  
BUILDERS PROJECT (DEL RIO PLACE).**

**WHEREAS**, an application for a General Plan Amendment, Zone Change, Tentative Subdivision Map and Site Plan Review was submitted by Cen Cal Builders, 3497 E. International Avenue, Clovis, CA 93619 with the ultimate result being a 42-lot tentative subdivision map and a 56-unit multiple family residential development, on a four parcels located on the east side of State Highway 33, on both sides of the Lyon Avenue alignment. The Assessor Parcel Numbers of the site are 007-040-003, 007-040-006, 007-050-004 and 007-050-005, and

**WHEREAS**, the applicant's specific requests include:

1. An amendment of the General Plan's Land Use Map designation from "Neighborhood Commercial" to a combination of "Medium Density Residential" and "High Density Residential";
2. A zone change to change the zoning of the site from C-1 (Neighborhood Commercial) to a combination of R-1-5 (Single Family Residential (5,000 square foot minimum lot size) and R-3 (High Density Multiple Family Residential);
3. A Tentative Subdivision Map for the creation of 42 single family residential lots;
3. A Site Plan Review permit to develop a 56-unit multiple family residential complex and associated improvements, including parking, landscaping, lighting, trash enclosures, utility connections and street improvements, and

**WHEREAS**, the planning requests are considered a "project" under the Guidelines of the California Environmental Quality Act (CEQA) and accordingly the City has prepared an Initial Environmental Study consistent with CEQA, and

**WHEREAS**, the Initial Environmental Study determined that the proposed project would not result in significant impacts to the environment provided that mitigation measures are incorporated into the project design and operation, and

**WHEREAS**, the City advertised and circulated the Initial Environmental Study for public review and comment, with a closing date of December 17, 2018 for comments to be submitted, and

**WHEREAS**, by the end of the comment period two comment letters were received by the City, including:

- County of Fresno Department of Public Health
- San Joaquin Valley Air Pollution Control District

Neither of these letters challenged the findings of the environmental study or required changes to the project design, and

**WHEREAS**, the Firebaugh Planning Commission conducted a public hearing to consider the project on January 14, 2019 and voted unanimously to recommend adoption of the Mitigated Negative Declaration, and

**WHEREAS**, the Planning Department has prepared a staff report on the project.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council, after considering all the evidence presented, determined the following findings were relevant in evaluating this action:

1. The proposed project is consistent with the goals, objectives and policies of the 2030 Firebaugh General Plan and the Firebaugh Zoning Ordinance.

2. The City has prepared an Initial Environmental Study, consistent with the requirements of CEQA. The study determined the project will not have significant impacts on the environment provided that mitigation measures are incorporated into the project construction and operation. Accordingly, a Mitigated Negative Declaration (Attachment "A") has been prepared.

3. The proposed action will not have an adverse impact on the health, safety and welfare of residents in the neighborhood or community

**NOW, THEREFORE BE IT RESOLVED THAT** the Initial Environmental Study prepared for the project and the Mitigated Negative Declaration as shown in Attachment “A”, are hereby adopted by the Firebaugh City Council.

The foregoing resolution was adopted upon a motion of Council member \_\_\_\_\_, second by Council member \_\_\_\_\_, at a regular meeting of the Firebaugh City Council on the 4th day of February, 2019, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

\_\_\_\_\_  
Marcia Sablan, Mayor  
Firebaugh City Council

ATTEST:

\_\_\_\_\_  
Rita Lozano, Deputy City Clerk  
City of Firebaugh

**ATTACHMENT A**

**CITY OF FIREBAUGH  
PROPOSED MITIGATED NEGATIVE DECLARATION**

FIREBAUGH PLANNING DEPARTMENT

1133 "P" STREET

FIREBAUGH, CA 93622

(559) 659-2043

**APPLICANT:** Cen Cal Builders  
3497 E. International Avenue,  
Clovis, CA 93619

**PROJECT TITLE:** Cen Cal Builders Project (Del Rio Place)

**PROJECT LOCATION:** The project includes four parcels containing approximately 14.7 acres located on the east side of N Street (State Highway 33) on both sides of the Lyon Avenue alignment in the City of Firebaugh.

**PROJECT**

**DESCRIPTION:** The applicant is proposing a General Plan Amendment to designate the site "Medium Density Residential" and "High Density Residential" and zone the site R-1-5 (Single Family Residential (5,000 square foot minimum lot size) and R-3 (High Density Multiple Family Residential). The applicant is also requesting approval of a Tentative Subdivision Map for a 42-lot single family residential subdivision, and a Site Plan Review to construct and operate a 64-unit multiple family residential complex.

**FINDINGS OF NO SIGNIFICANCE:**

1. The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.
2. The project does not have the potential to achieve short-term economic gain, to the disadvantage of long-term environmental goals.
3. The project does not have the potential to have impacts which are individually limited but cumulatively considerable.
4. The project will not cause substantial adverse effects on people, either directly or indirectly.

**DETERMINATION:**

On the basis of an initial environmental assessment and the findings mentioned above, the City of Firebaugh determines that the project will not have a significant impact on the environment.

\_\_\_\_\_  
City Planner

\_\_\_\_\_  
Date Adopted by City Council

## **MITIGATION MEASURES AND MITIGATION MONITORING PROGRAM**

### **1. Greenhouse Gas Emissions**

The project shall demonstrate compliance with the applicable BPS (Best Practical Solutions) strategies to the Planning Division prior to the issuance of a building permit. The following PBS strategies are considered to be applicable, feasible, and effective in reducing greenhouse gas emissions generated by development on the site:

- a. The project applicant shall provide a pedestrian access network that internally links all residential units and connects to the existing surrounding external streets and pedestrian facilities.
- b. The project applicant shall ensure site design and building placement minimize barriers to pedestrian access and interconnectivity. Physical barriers such as wells, berms, landscaping, and slopes between residential uses that impede bicycle or pedestrian circulation shall be eliminated. In addition, barriers to pedestrian access of neighboring facilities and sites shall be minimized.
- c. Any transit stops associated with the project shall be provided with safe and convenient bicycle/pedestrian access and provide essential transit stop improvements (i.e., shelters, route information, benches, and lighting).
- d. The project applicant shall install energy efficient roofing materials.
- e. The project applicant shall incorporate bike lanes and routes into the street system.
- f. The project applicant shall plant trees to provide shade.
- g. The project applicant shall install only natural gas or electric stoves in residences. The project applicant shall install energy efficient heating and cooling systems, appliances and equipment, and control systems.
- h. Require truck idling to be restricted during construction and operational phases of the project. During construction, the site shall be posted with signs that restrict truck idling to fifteen minutes or less.
- i. Reuse and recycle construction and demolition waste;
- j. Use low or zero-emission vehicles where practical, including construction vehicles;
- k. Conservative use of both potable and non-potable water to the maximum extent practicable;
- l. Use graywater where practical. (Graywater is untreated household waste water from bathtubs, showers, bathroom wash facilities, and water from washing machines).



Time Frame: Prior to and during construction

Responsible Party: Project contractor, Building Official and City Planner

**2. Hydrology and Water Quality**

- a. Water hoses used during construction shall be equipped with automatic shut-off (e.g. spray gun),
- b. Landscaping shall feature drought-tolerant species, and irrigation shall be a low-flow drip (or equivalent) automatic system with soil moisture and rain shut-off sensors. Landscaping and irrigation plans shall be submitted for review and approval by the City Planner, prior to installation.

Time Frame: Prior to construction

Responsible Party: Project Contractor and Building Official

**3. Noise**

- a. Noise-generating construction activities at the site shall be limited to daylight hours, Monday through Saturdays.
- b. The applicant shall incorporate noise-reducing materials within dwellings to mitigate noise generated by traffic on Highway 33, railroad traffic, as well as aircraft operations at Firebaugh Municipal Airport.

Time Frame: During construction

Responsible Party: Project Contractor and Building Official

**4. Transportation/Traffic**

- a. The project will comply with Caltrans requirements for improvements along the project frontage along State Highway 33, including payment of fair share costs for impacts on State Highway facilities.

Time Frame: During Construction

Responsible Party: Project contractor and Caltrans

---

## STAFF REPORT

---

AGENDA ITEM: Resolution of the City Council of the City of Firebaugh Accepting Completion of the Q Street Roadway Improvements, Authorizing the City Clerk to file a Notice of Completion with Fresno County, and Authorizing the City to Make Final Payment of Retention Monies to AJ Excavation, Inc.

MEETING DATE: February 4, 2019

PREPARED BY: Mario Gouveia, City Engineer

---

### RECOMMENDATION:

1. Accept the work as complete.
2. Authorize the City Clerk to record a Notice of Completion with Fresno County.
3. Authorize the City to make payment of retention monies to AJ Excavation, Inc. following the expiration of 35 days from the date of recordation of the Notice of Completion.

### BACKGROUND/DISCUSSION:

The City of Firebaugh advertised the Q Street Roadway Improvement project on August 8, 2018, and received a total of 6 bids for this project. AJ Excavation submitted the lowest responsible bid and was awarded a contract for \$426,900.00.

The project's construction phase started on October 22, 2018 and the major work consisted of planning and placing asphalt concrete, replacing curb and gutter, sidewalk, driveways, and constructing storm drain improvements on Q Street in the City of Firebaugh.

A final inspection was performed and the work was found to be in compliance with the Contract Documents with the exception of minor pavement repairs that were deferred to a later date when weather conditions will be more favorable. The deferred items will be considered warranty items and are as follows:

1. Place slurry seal at popcorn areas on new pavement. Locations will be coordinated in the field.
2. Place slurry seal at areas of ponding on new pavement. Locations will be coordinated on the field.
3. Place slurry seal along existing curb on northside of street between station 11+90 to station 14+50.

Deferred work will be completed during warmer and dryer weather conditions later this year.

Therefore, the work should be accepted as complete and a Notice of Completion filed. If no claims are filed within 35 days after recordation, retention in the amount of \$22,658.84 should be paid to AJ Excavation, Inc.

### FISCAL IMPACT:

The final construction contract cost inclusive of all authorized work was \$453,176.90. Funding of the construction of the project is covered using \$181,400 TDA, \$181,400 Measure C, and \$137,200 SB1 Funds.

### PROJECT COST SUMMARY

Contract Amount	\$ 426,900.00
Change Orders	\$ 26,276.90
Actual Construction Cost	\$ 453,176.90

### ATTACHMENTS:

1. Resolution No. 19-11

**RESOLUTION NO. 19-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH FOR THE ACCEPTANCE OF Q STREET ROADWAY IMPROVEMENTS, AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION WITH FRESNO COUNTY AND AUTHORIZING THE CITY TO MAKE FINAL PAYMENT OF RETENTION MONIES TO AJ EXCAVATION, INC.**

**WHEREAS**, the City advertised the Project on August 8, 2018; and

**WHEREAS**, the City received and the Deputy City Clerk publicly opened bids on September 5, 2018; and

**WHEREAS**, the City Council awarded a contract to AJ Excavation, Inc. in the amount of \$426,900.00, on September 17, 2018; and

**WHEREAS**, the Public Works Department and City Engineer have completed a final inspection of the Project and recommend final acceptance; and

**WHEREAS**, upon approval of the final acceptance of the Project by the City Council, the City Clerk will record a Notice of Completion with Fresno County and the City will release the retention monies due the Contractor 35 days after the recording date.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Firebaugh hereby:

1. Adopts a Resolution to accept the Q Street Roadway Improvements.
2. Authorizes the City Clerk to record a Notice of Completion with Fresno County.
3. Authorizes the City to make final payment of retention monies to AJ Excavation, Inc. 35 days after the recording date.

Passed and adopted this 4<sup>th</sup> day of February 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

APPROVED:

\_\_\_\_\_  
Marcia Sablan, Mayor  
City of Firebaugh

\_\_\_\_\_  
Rita Lozano, Deputy City Clerk  
City of Firebaugh

ATTEST:

I, hereby certify that the forgoing resolution was regularly introduced, passed and adopted at a regular meeting of the City Council of the City of Firebaugh this 4<sup>th</sup> day of February 2019.

\_\_\_\_\_  
Rita Lozano, Deputy City Clerk  
of the City of Firebaugh

**RECORDING REQUESTED BY:**

City Clerk  
City of Firebaugh

**WHEN RECORDED RETURN TO:**

City of Firebaugh  
1133 "P" Street  
Firebaugh, CA 93622

**NOTICE OF COMPLETION**

**NOTICE IS HEREBY GIVEN:**

1. That the interest of estate stated in paragraph 3 below in the real property hereinafter described is owned by the following:

NAME	STREET AND NO.	CITY	STATE
City of Firebaugh	1133 "P" Street	Firebaugh	CA

(if more than one owner of the interest stated, the name and address of each must be inserted)

2. That the full name and address of the owner of said interest or estate, if there is only one owner, and the full names and addresses of all the co-owners who own said interest or estate as joint tenants, as tenants in common or otherwise, if there is more than one owner, are set forth in the preceding paragraph.
3. That the nature of the title of said owner, or if more than one, then of said owner and co-owner is: **In Fee.**
4. That on the 22<sup>nd</sup> day of January, 2019 a work of improvement on the real property hereinafter described was completed.
5. That the name of the original contractor, if any for such work of improvement was:

AJ Excavation, Inc.

(If no contractor for work of improvement as a whole, insert "No Contractor")

6. That the real property herein referred to is situated in the City of Firebaugh , County of Fresno, State of California, and is described as follows:

The major work consisted of planing and placing asphalt concrete, replacing curb and gutter, sidewalk, driveways, and constructing storm drain improvements on Q Street in the City of Firebaugh.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
**Ben Gallegos, City Manager**  
Print Name

**VERIFICATION**

I understand, state:

I am the person who signed the foregoing notice. I have read the above notice and know its contents, and the facts stated therein are true of my own knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Firebaugh, California  
This 4<sup>th</sup> day of February, 2019.

\_\_\_\_\_  
**City of Firebaugh**  
Owner

By: \_\_\_\_\_  
**Ben Gallegos, City Manager**



## STAFF REPORT

---

**TO:** Firebaugh City Council  
**FROM:** James Sanchez, City Attorney  
Meera H. Bhatt, Deputy City Attorney  
**DATE:** January 30, 2019  
**SUBJECT:** Amendment to City Manager Employment Agreement – Benjamin Gallegos

---

### DISCUSSION

On November 20, 2017, the City Council adopted Resolution No. 17-49, which approved the appointment of Benjamin Gallegos to the positions of City Manager and Acting Public Works Director. Exhibit "A" to Resolution No. 17-49 ("Agreement") sets forth the terms and conditions of Mr. Gallegos' employment and currently provides for a term of employment of three years from the effective date of the Agreement (November 6, 2017 with expiration on November 6, 2020), with the option of continuing an additional two years solely in the position of City Manager.

Mr. Gallegos is currently serving in the positions of City Manager and Acting Public Works Director. The City Council recently met in closed session and conducted a thorough annual performance evaluation of Mr. Gallegos, providing him with a positive performance evaluation. Following the evaluation, the City Council directed the City Attorney to amend the Agreement to extend the term of the Agreement. The proposed amendment provides that Mr. Gallegos' employment under the Agreement would continue until November 6, 2022 in both the roles of City Manager and Acting Public Works Director, with the option of Mr. Gallegos continuing an additional two years solely in the position of City Manager. In all other respects, the terms and conditions of employment as stated in the Agreement remain unchanged.

### RECOMMENDATION

Consider adoption of Resolution Approving Amendment to Employment Agreement for Benjamin Gallegos to Extend Term of Employment.

### FISCAL IMPACT

The Agreement provides for an annual base starting salary of \$130,000 per year from the November 6, 2017 effective date of Agreement. Mr. Gallegos is eligible for annual 5% salary raises based upon satisfactory annual evaluations as well as certification pay available to other City employees.

Presently, there is sufficient funding available for the increase in the current budget and the expense will be accounted for in the Budget for the General Fund.

### ATTACHMENTS

1. Resolution No. 17-49
2. Resolution No. 19-12 - Approving Amendment to Employment Agreement for Benjamin Gallegos to Extend Term of Employment
3. Amendment to Employment Agreement: Benjamin Gallegos – to Extend Term of Employment (Exhibit "A" to Resolution No. 17-49)

**RESOLUTION NO. 17-49**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING  
APPOINTMENT OF BENJAMIN GALLEGOS TO THE POSITION OF CITY MANAGER**

**WHEREAS**, the City of Firebaugh is authorized by the laws of the State of California and Firebaugh Municipal Code to appoint a City Manager, whom shall have all of the power and authority that is vested in the City Manager; and

**WHEREAS**, the City Council of the City of Firebaugh appointed Benjamin Gallegos to serve as the acting City Manager of the City, effective January 1, 2016, who is currently serving satisfactorily in that capacity; and

**WHEREAS**, the City Council of the City of Firebaugh desires to enter into an agreement with Benjamin Gallegos, to serve as the City Manager and continue to serve as acting Public Works Director; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FIREBAUGH, CALIFORNIA** that the City of Firebaugh hereby appoints Benjamin Gallegos as City Manager and acting Public Works Director and approves an Employment Agreement with Benjamin Gallegos, effective November 6, 2017, which is attached and incorporated herein by this reference.

\* \* \* \* \*

The foregoing Resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the 20th day of November, 2017, by the following vote:

AYES: Council Member(s)  
NOES: Council Member(s)  
ABSENT: Council Member(s)  
ABSTAIN: Council Member(s)

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Brady Jenkins  
Mayor

\_\_\_\_\_  
Rita Lozano  
Deputy City Clerk

Approved as to Legal Form:

CITY ATTORNEY

By \_\_\_\_\_  
Meggin Boranian

**RESOLUTION NO. 19-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIREBAUGH APPROVING  
AMENDMENT TO EMPLOYMENT AGREEMENT FOR BENJAMIN GALLEGOS TO  
EXTEND TERM OF EMPLOYMENT**

**WHEREAS**, the City Council of the City of Firebaugh adopted Resolution No. 17-49 which approved an Employment Agreement appointing Benjamin Gallegos to serve as the City Manager and Acting Public Works Director, effective November 6, 2017; and

**WHEREAS**, Benjamin Gallegos is currently serving in the positions of City Manager and Acting Public Works Director and has received a positive annual performance evaluation dated January 22, 2019; and

**WHEREAS**, Benjamin Gallegos and the City Council of the City of Firebaugh now desire to amend the terms of the Employment Agreement such that Benjamin Gallegos shall have an additional term of employment through November 6, 2022 as City Manager and Acting Public Works Director, with an option of an additional two (2) years solely in the position of City Manager.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FIREBAUGH, CALIFORNIA** that the City of Firebaugh hereby approves and extends the term of Benjamin Gallegos' employment according to the terms set forth in the attached Amendment to Employment Agreement with Benjamin Gallegos, effective February \_\_, 2019, which is attached and incorporated herein by this reference.

\* \* \* \* \*

The foregoing Resolution was approved and adopted at a regular meeting of the City Council of the City of Firebaugh held on the \_\_\_\_ day of February, 2019, by the following vote:

AYES: Council Member(s)  
NOES: Council Member(s)  
ABSENT: Council Member(s)  
ABSTAIN: Council Member(s)

APPROVED:

ATTEST:

\_\_\_\_\_  
Marcia Sablan  
Mayor

\_\_\_\_\_  
Rita Lozano  
Deputy City Clerk

Approved as to Legal Form:  
CITY ATTORNEY

EMPLOYEE:

By \_\_\_\_\_  
James Sanchez

By \_\_\_\_\_  
Benjamin Gallegos

**EMPLOYMENT AGREEMENT**

**AN AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN THE  
CITY OF FIREBAUGH (HEREINAFTER CALLED "CITY") AND BENJAMIN GALLEGOS  
(HEREINAFTER CALLED "EMPLOYEE")**

**WHEREAS**, since December of 2015, Benjamin Gallegos has served as the acting City Manager of the City of Firebaugh ("City"); and

**WHEREAS**, the City of Firebaugh ("City") desires to employ Ben Gallegos as City Manager and Acting Public Works Director of the CITY as provided by certain regulations of the CITY; and

**WHEREAS**, it is the desire of the CITY to provide certain benefits, establish certain conditions of employment and to set working conditions of said EMPLOYEE.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, effective November 6, 2017, the parties agree as follows:

**Section 1. DUTIES**

A. CITY hereby agrees to employ Ben Gallegos as City Manager and Acting Public Works Director of the City of Firebaugh to perform the functions and duties specified in applicable City ordinances, applicable law, and current job descriptions, as the same presently exist or may hereafter be amended, and to perform other legally permissible and proper duties and functions consistent with the position of City Manager and Acting Public Works Director and which the City Council may from time to time assign.

B. The City Council retains ultimate authority over all decisions respecting the CITY, but has delegated authority to the City Manager as the operational chief of the CITY, and all employees, both regular and contract, report directly to him, excepting only the City Attorney. This operational authority extends to all areas of assignments, duties, reporting, discipline, evaluation and termination. In keeping with the duties delegated to the City Manager, all directives of the City Council to City's Department Heads and their Departments shall be made through the City Manager, and not through the City Council or its individual members.



C. Notwithstanding the foregoing, the City Manager shall use his best efforts to comply with the legal directives enacted by a majority of a quorum of the City Council, and to implement such directives and other City policies according to prevailing professional standards. It is understood by both parties that pursuant to the City's Ordinance Code and applicable law, the EMPLOYEE reports to the entire Council and not to a single Council Member and from time to time may render decisions and make recommendations that the EMPLOYEE believes serve the best interests of the CITY, even though such decisions or recommendations may conflict with the preferences of individual members of the Council or the Mayor. The City Council recognizes that these conflicts may arise and will endeavor to evaluate the performance of the City Manager solely on professional criteria as to what is in the best interest of the City of Firebaugh as a whole.

**Section 2. COMPENSATION AND TERM OF SERVICE**

A. Compensation. EMPLOYEE's base salary shall be in the amount of \$130,000.00 per year from and after the effective employment date written above. The Council will evaluate the EMPLOYEE at six (6) months and determine whether to adjust the starting salary at least 5%, which shall occur with a satisfactory evaluation of EMPLOYEE. Thereafter, EMPLOYEE will be evaluated annually at anniversary date of employment and shall be eligible for a 5% raise upon a satisfactory annual evaluation. However, the Council may evaluate EMPLOYEE more frequently providing a majority of the Council wish to do so.

B. Term of Employment. Employment under this Agreement shall begin on the effective date and shall continue at will, except as otherwise provided herein. EMPLOYEE shall have a three (3) year term as City Manager and acting Public Works Director, with the option of continuing an additional two (2) years solely in the position of City Manager. At any time during the three (3) year term, either party may give notice that EMPLOYEE will no longer be employed as City Manager and acting Public Works Director but shall return to the position of Public Works Director at the annual pay and benefits applicable to EMPLOYEE and the position.

C. Severance Benefits. If the employment of EMPLOYEE ends the fourth or fifth year of this Agreement (during the two years following EMPLOYEE exercising his option to continue his employment solely in the position of City Manager), pursuant to an involuntary separation from employment, EMPLOYEE

shall receive an aggregate severance payment in the amount of three (3) times the total monthly value of base salary, health insurance, and retirement benefits which EMPLOYEE is receiving on the last day of actual employment, according to the provisions of this Section 2. The severance payment shall be paid in installments on a schedule similar to the City's then-existing payroll schedule. No severance payment shall be due or owing unless the EMPLOYEE has signed a separation agreement which shall include a statement that the severance payment resolves all issues or claims relating to the employment relationship and this Agreement. Any and all amounts paid pursuant to this Section shall be fully reimbursed by EMPLOYEE to CITY if EMPLOYEE is convicted of a crime involving abuse of his office or position as required by Government Code Section 53243.2.

For the purposes of this Section 2:

1. "last day of actual employment" means a day in which the EMPLOYEE is performing the services or functions of his office, and does not include a vacation day, holiday, administrative leave day or other paid or unpaid day off.

2. "total monthly value of base salary, health insurance, Stipend, longevity and retirement benefits" does not include vacation, sick leave, or other accrual of paid time off.

3. "involuntary separation" shall mean discharge or dismissal by the City Council or the EMPLOYEE's resignation following a salary reduction greater in percentage than an across-the-board reduction for all employees, or his resignation following a witnessed or written suggestion to him, by the City Council, that he resign. Involuntary separation does not include termination for a cause for discipline, or a resignation under circumstances other than those described above.

D. Acknowledgment of "At Will" Nature of Employment; Notice of Termination. **This Agreement creates a mutually binding "at will" employment relationship which may be terminated by either party without advance notice or cause, subject to the provisions herein.** Before voluntarily resigning his position, EMPLOYEE agrees to give City Council at least four (4) weeks' notice in writing of his intention to resign, stating the reasons therefore and the effective date thereof. CITY, with EMPLOYEE's concurrence, may waive notice and permit resignation to take immediate effect.

E. Rights in Connection with Separation or Termination. The parties agree that the rights set forth in this Agreement shall be the exclusive rights available to the parties in the event of termination or separation from the employment.

**Section 3. SUPPLEMENTAL BENEFITS**

A. Retirement. CITY will provide retirement benefits standard for all employees. CITY reserves the right to modify or eliminate its retirement system, provided that EMPLOYEE shall be treated in any retirement plan in a manner similar to CITY's other employees similarly situated. The parties recognize that state or federal law may have the effect of modifying the above provisions or any of the provisions of this Agreement.

B. Vacation. EMPLOYEE will earn 176 hours of vacation time per year accruing at 7.33 hours per pay period. 40 hours of accrued leave may be paid to the EMPLOYEE, may cash out up to 40 hours of vacation time per fiscal year, of that fiscal year. The maximum accrual of vacation time is 280 hours.

C. Administrative Leave. EMPLOYEE will earn 80 hours of Administrative Leave per year at the beginning of each fiscal year, which is standard for all management employees. Said leave shall be used in the fiscal year it is accrued or may be paid to EMPLOYEE 80 hours of that fiscal year.

D. Sick Leave. EMPLOYEE will earn 96 hours of sick time per year accruing at 3.69 hours of Sick Leave time per pay period, which is standard for all employees.

E. Certification Pay. EMPLOYEE will earn Certification Pay on a monthly basis as determined by the current MOU between the CITY and the Firebaugh Miscellaneous Employees Association.

F. Health Insurance. CITY shall provide medical, dental and vision health insurance coverage and is currently providing EMPLOYEE as follows:

Full coverage of premiums for EMPLOYEE and family with no out-of-pocket costs.

G. Holidays. CITY shall provide to EMPLOYEE fourteen (14) paid holidays, two (2) of which are half days, which is standard for all employees.

H. City Vehicle. CITY shall provide EMPLOYEE with a vehicle and gasoline for his use when conducting CITY business. Said vehicle shall be maintained by CITY for EMPLOYEE'S sole use.

I. Equipment. CITY shall provide and pay for a cell phone and laptop computer and/or tablet for EMPLOYEE for the purpose of conducting CITY business only.

J. Professional Development Activities. CITY shall pay the registration, enrollment and other related expenses of EMPLOYEE for professional activities, including certifications and training, official travel, meetings and occasions useful to the continued professional development of EMPLOYEE and to adequately pursue necessary official and other related functions for CITY, subject to review and approval by the City Council and budget limitations. Provided that necessary funds are appropriated, EMPLOYEE may make use of educational programs provided by organizations such as the California League of Cities or the International City/County Management Association ("ICMA"). Membership in these and other similar organizations shall be paid by the CITY for the benefit of EMPLOYEE.

#### **Section 4. GENERAL PROVISIONS**

A. Validity of Agreement; Severability. If any provision or any portion thereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof is deemed to be severable, and shall remain in full force and effect.

B. Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof, and supersedes any prior agreement between the parties on the subject matter hereof. No promises, representation, warranty, or covenant not included in this Agreement has been or is relied on by either party. Each party has relied upon his own examination of this Agreement, the counsel of his own advisors, and the warranties, representations, and covenants in the Agreement itself. The failure or refusal of either party to read the Agreement or other documents or to obtain legal or other advice relevant to this Agreement constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advice.

C. Construction. Headings at the beginning of each section and subsection are solely for the convenience of the parties and are not a part of and shall not be used to interpret this Agreement. The singular form shall include plural and vice versa. This Agreement shall not be construed as if it had been prepared by one of the

parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this Agreement.

D. Modifications Shall Be In Writing and Authorized by the City Council. This Agreement may be modified or amended only by a writing duly authorized and executed by both parties. It may not be amended or modified by oral agreements or understanding between the parties. Any modification or amendment thereto shall only be effective if authorized by the City Council of the City of Firebaugh.

E. Attorney's Fees. If either party commences an action against the other to enforce this Agreement, or because of the breach by either party of this Agreement, the prevailing party in this action shall be entitled to recover attorney fees and costs incurred in connection with the prosecution or defense of this action, including any appeal of the action, in addition to all other relief. Prevailing party within the meaning of this Section shall include, without limitation, a party who successfully brings an action against the other party for sums allegedly due or performance of covenants allegedly breached, or that party who obtains substantially the relief sought in the action.

F. Notices. Any notices required by law or this Agreement shall be in writing and deemed delivered when given in person or sent by first-class mail with postage prepaid and addressed as follows:

For CITY:

City Clerk, City of Firebaugh  
1133 P Street  
Firebaugh, CA 93622

For EMPLOYEE:

Benjamin Gallegos  
619 Diaz Street  
Firebaugh, CA 93622

Dated this 20<sup>th</sup> day of November, 2017

CITY OF FIREBAUGH

EMPLOYEE

BY:

\_\_\_\_\_  
Brady Jenkins, Mayor

By:

\_\_\_\_\_  
Ben Gallegos

Approved as to Legal Form:

\_\_\_\_\_  
Meggin Boranian, City Attorney

ATTEST:

---

Rita Lozano, City Clerk

**AMENDMENT TO EMPLOYMENT AGREEMENT: BENJAMIN GALLEGOS**  
**TO EXTEND TERM OF EMPLOYMENT**  
**(Exhibit "A" to Resolution No. 17-49)**

THIS FIRST AMENDMENT to Exhibit "A" of Resolution No. 17-49 ("Employment Agreement") is made and entered into as of the \_\_\_\_ day of February, 2019, by and between the CITY OF FIREBAUGH, a political subdivision of the State of California ("CITY"), and BENJAMIN GALLEGOS, an individual ("EMPLOYEE," collectively "PARTIES").

**RECITALS**

A. The CITY employs EMPLOYEE as the City Manager and Acting Public Works Director pursuant to the terms of Exhibit "A" to Resolution No. 17-49, approved and adopted at a regular meeting of the City Council on November 20, 2017.

B. EMPLOYEE received a positive annual performance evaluation dated January 22, 2019.

C. The PARTIES now desire to amend the terms of the Employment Agreement, as set forth below. In all other aspects, the Employment Agreement shall remain in full force and effect.

D. The CITY, through its labor negotiator, has negotiated with EMPLOYEE to amend the Employment Agreement.

**AMENDMENT**

1. Subsection B, "Term of Employment" of Section 2, "Compensation and Term of Service" of the Employment Agreement is amended to read as follows:

"B. **TERM OF EMPLOYMENT.** Employment under this Agreement shall continue at will, except as otherwise provided herein. EMPLOYEE shall have an additional term through November 6, 2022 as City Manager and Acting Public Works Director. EMPLOYEE shall have the option of continuing an additional two (2) years solely in the position of City Manager. At any time until November 6, 2022, either party may give notice in writing that EMPLOYEE will no longer be employed as City Manager and/or Acting Public Works Director. In the event either party provides notice in writing that EMPLOYEE will no longer be employed as City Manager, EMPLOYEE shall return to the position of Public Works Director and continue to receive the annual pay and benefits applicable to the Public Works Director position."

2. Subsection C, "Severance Benefits" of Section 2 "Compensation and Term of Service" of the Employment Agreement is amended to read as follows:

“C. **SEVERANCE BENEFITS.** If the EMPLOYEE is subject to involuntary separation after the EMPLOYEE exercises the option to continue his employment solely in the position of City Manager, EMPLOYEE shall receive an aggregate severance payment in the amount of three (3) times the total monthly value of base salary, health insurance, and retirement benefits which EMPLOYEE is receiving on the last day of actual employment, according to the provisions of this Section 2. The severance payment shall be paid in installments on a schedule similar to the City’s then-existing payroll schedule. No severance payment shall be due or owing unless the EMPLOYEE has signed a separation agreement which shall include a statement that the severance payment resolves all issues or claims relating to the employment relationship and this Agreement. Any and all amounts paid pursuant to this Section shall be fully reimbursed by EMPLOYEE to CITY if EMPLOYEE is convicted of a crime involving abuse of his office or position as required by Government Code Section 53243.2. For the purposes of this Section 2:

1. “last day of actual employment” means a day in which the EMPLOYEE is performing the services or functions of his office, and does not include a vacation day, holiday, administrative leave day or other paid or unpaid day off.
2. “total monthly value of base salary, health insurance, Stipend, longevity and retirement benefits” does not include vacation, sick leave, or other accrual of paid time off.
3. “involuntary separation” shall mean discharge or dismissal by the City Council or the EMPLOYEE’s resignation following a salary reduction greater in percentage than an across-the-board reduction for all employees, or his resignation following a witnessed or written suggestion to him, by the City Council, that he resign. Involuntary separation does not include termination for a cause for discipline, or a resignation under circumstances other than those described above.”

3. In all other respects, the Employment Agreement adopted and approved by the City Council on November 20, 2017 through Resolution No. 17-49 shall remain in full force and effect.

[SIGNATURES ON NEXT PAGE]



IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above written.

CITY OF FIREBAUGH

EMPLOYEE

By \_\_\_\_\_  
Marcia Sablan, Mayor

By \_\_\_\_\_  
Benjamin Gallegos

APPROVED AS TO LEGAL FORM:

By \_\_\_\_\_  
James Sanchez, City Attorney

ATTEST:

By \_\_\_\_\_  
Rita Lozano, City Clerk