



PLANNING COMMISSION

Mark Hammerness – Chairperson

Veronica Harvey – Vice Chairperson

Alice Abatti – Commissioner

Ruben Rivera – Commissioner

AGENDA

PLANNING COMMISSION

TRAFFIC COMMISSION

220 West 9th Street
IMPERIAL, CA 92251

**WEDNESDAY, JANUARY 25, 2023
6:30 P.M.**

The Imperial Planning Commission Meetings, including public comments, are being Livestreamed on the City's social media pages. If attending in person, by remaining in the room, you are giving your permission to be recorded.

1. You are encouraged to observe the City Council meetings via Livestream at the City of Imperial Facebook page.
2. Email public comments to cityclerk@cityofimperial.org by 5:00 pm on Wednesday, January 25, 2023. Comments received by 5:00 pm will be read into the record during the regular meeting.
3. All documents containing an executive summary and staff recommendation associated with open session action items are made available for public inspection on the City's website, www.cityofimperial.org seventy-two (72) hours prior to the posted meeting time. Government Code Section 54957.5(b)(2)(B).

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT (760) 355-4373. NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING [28CFR 35.102-35.104 ADA TITLE II]

A. PLANNING COMMISSION CALL TO ORDER:

6:30 PM

ROLL CALL

PLEDGE OF ALLEGIANCE

ADJUSTMENTS TO THE AGENDA

B. PUBLIC APPEARANCES

B-1. Matters not appearing on the agenda. If you wish to address the Planning Commission concerning any item not appearing on the agenda and within the Commission's jurisdiction, please raise your hand and be acknowledged by the Chairperson, and at that time state your name and address for the record. The Chairperson reserves the right to place a time limit on each person's presentation of three (3) minutes. It is requested that longer presentations be submitted to the Commission in writing.

C. CONSENT CALENDAR

All items appearing under "Consent Agenda" will be acted upon by the Planning Commission in one motion without discussion. Should any Commissioner or other person request that any item be considered separately, that item will then be taken up at the time as determined by the Chairperson.

C-1. Approve Planning Commission Meeting Minutes for December 14, 2022.

D. PUBLIC HEARING: (DISCUSSION/ACTION –RECOMMEND/DENY)

D-1: Subject: Public Hearing, Discussion/Action: Variance 22-02 for George Bernal to allow the deviation of the development side yard setback standards for the continued use of an existing patio structure located at 643 Costa Azul Street, APN 064-272-006.

1. **Public Hearing**
2. **Staff Report – Public Comment**
3. **Commission Discussion**
4. **Close Public Hearing**
5. **Recommended Action:** Approve/Deny Resolution No. PC2023-01: A Resolution of the City of Imperial Planning Commission approving Variance 22-02 for George Bernal allowing the deviation of the ordained three feet side yard setback requirement to allow a one-foot side yard setback for the continued use of an existing patio structure located at 643 Costa Azul Street (APN 064-272-006). The item is categorically exempt from the California Environmental Quality Act (CEQA) per Section 15301–Existing Facilities, and 15303-New Construction or Conversion of Small Structures.

E. REPORTS:

E-1: Commissioners’ Reports

E-2: Staff Reports

ADJOURN PLANNING COMMISSION MEETING UNTIL NEXT REGULARLY SCHEDULED MEETING FEBRUARY 8, 2023 AT 6:30 P.M

NOTE: Any documents produced by the City and distributed to a majority of the Planning Commission regarding any item on this agenda will be made available at the front counter at City Hall, located at 420 South Imperial Avenue, during normal business hours.



PLANNING COMMISSION

Mark Hammerness – Chairperson

Veronica Harvey – Vice Chairperson

Alice Abatti – Commissioner

Stacy Mendoza – Commissioner

Ruben Rivera - Commissioner

Minutes

PLANNING COMMISSION TRAFFIC COMMISSION

220 West 9th Street IMPERIAL, CA 92251

WEDNESDAY, DECEMBER 14, 2022

6:30 P.M.

A. PLANNING COMMISSION CALL TO ORDER:

Chairperson Hammerness called the meeting to order at 6:32 P.M.

ROLL CALL

Commissioners Present:

Mark Hammerness – Chairperson, Veronica Harvey- Vice Chairperson, Stacy Mendoza-Commissioner,
At 6:40 p.m. Alice Abatti – Commissioner, At 6:34 p.m. Ruben Rivera – Commissioner

City Staff Present:

Dennis Morita- City Manager, Alexis Brown- Assistant City Manager, Katie Turner- City Attorney,
Othon Mora- Director of Community Development, Luis Anguiano-Information Technology Support
Technician, Jillian Mehdipour-Public Records Analyst, Yvonne Cordero-Community Development
Planner, and Andrew Loper-Fire Department.

PLEDGE OF ALLEGIANCE:

Led by Veronica Harvey

ADJUSTMENTS TO THE AGENDA

None

B. PUBLIC APPEARANCES

B-1. Matters not appearing on the agenda.

None

B-2. Matters appearing on the agenda.

None

C. CONSENT CALENDAR

C-1. Approve Planning Commission Meeting Minutes for October 26, 2022 and November 9, 2022.

Action:

Commissioner Mendoza requested the items be separated due to her not attending the meeting on November 9, 2022 meeting. Chairperson Hammerness agreed. **Mendoza made a motion** to approve the October 26, 2022 minutes. **Rivera seconded** the motion.

Ayes: 4- Hammerness, Rivera, Harvey, Mendoza

Nays: 0

Absent: 0

Abstained: 0

Motion Passed 4-0

Rivera made a motion to approve the November 9, 2022 meeting minutes. **Abatti seconded** the motion.

Ayes: 3- Hammerness, Rivera, Abatti

Nays: 0

Absent: 2 Harvey, Mendoza

Abstained: 0

Motion Passed 3-0

D. PUBLIC HEARING: (DISCUSSION/ACTION –RECOMMEND/DENY)

D-1: Subject: Public Hearing, Discussion/Action: Amendment to Conditional Use Permit 20-05 for Robert Sawyer, owner of Dunes 2 Dezert, located at 408 E. 2nd Street (APN 064-180003) to allow for the use of off-road accessories retail sales and installation services for RV and off-road vehicles.

Public Hearing Opened at 7:46p.m.

Cordero, presented the staff report. The applicant, Robert Sawyer, was on site to answer questions. Rivera, asked if the applicant was familiar with the other businesses occupying the same building. Mendoza, is there a fence separating the house from the property? Sawyer, on the south side, there is an interior fence and a side fence, as well as a western and southern fence. Rivera, so you are going to do retail? I see you're going to have a lot of trailers. Sawyer, Yes, about 2,000 square feet will be retail. Rivera, there will be no welding or fabrication. Sawyer, we do no welding or fabrication for our parts. For the trailers on site there are some cameras installed and we will be adding additional cameras. Hammerness, what is your time frame to be ready? Sawyer, I have city staff reviewing the grading plan; then we can move forward. That will take about 60 days, then a final review with the city to finish it.

Close Public Hearing 06:58 p.m.

Action:

Harvey made a motion to Approve “Resolution No. PC2022-13: A Resolution of the Planning Commission Amending Conditional Use Permit 20-05 for Robert Sawyer, owner of Dunes 2 Dezert, located at 408 E. 2nd Street (APN 064-180-003) to allow for the use of off-road accessories retail sales and installation services for RV and off-road vehicles. The project is categorically exempt from the

California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines – Existing Facilities” **Mendoza seconded** the motion.

Ayes: 5- Hammerness, Rivera, Abatti, Harvey, Mendoza

Nays: 0

Absent: 0

Abstained: 0

Motion Passed 5-0

D-2: Subject: Public Hearing, Discussion/Action: Conditional Use Permit 22-02 for Dennis Chavez to allow the use of a trucking storage facility located at 426 E. 4th Street, APN 064194-006.

Public Hearing Opened at 7:00 p.m.

Cordero, presented the staff report. The applicant, Dennis Chavez, was on site to answer any questions. Mendoza, has it been taken into consideration how the truck will depart now that there is increased truck traffic at 4th Street and Highway 86, where there is no intersection there? Chavez, they would be going west. Mendoza, there was no noise study; how were the applicants notified of what they were signing for? Othon, we sent notification to the residents with all the information. The applicant also went to the doors and talked to the residents. Mendoza, how are you going to prevent the noise of the trucks running while they sit to warm up? Othon, there is a requirement for a wall in the conditions of approval that will detour the noise. Abatti, so is this just a rented parking space for the trucks? Chavez, this is my company, and these are my trucks. It's a hauling business. Harvey, this will be only your company trucks? I see that it's 2-4 trucks for a limited time. Chavez, yes, and it's for overnight. Abatti, the mason wall, why are we making her build it and not the last person? Othon, there will be only one wall in the front, and this is to block the noise. Harvey, I see there are only three signatures in the place of the noise study. Why is that, and are they the only ones affected? Chavez, there are only three homes to the west where they will be passing. Othon, there was a total of 11 residents notified. Harvey, the application states there is a fire hydrant 240 feet away, and fire says it's on an approved route. Can I get some elaboration on this? Loper, an approved fire route a fire apparatus would take. When we look at it, the two closest hydrants are on L Street and 4th Street, which is about 562 feet of road. The second is 4th Street, south of K Street, with approximately 750 feet of roadway. The city's fire code requires 300 feet of space. Since there is not one in the 300-foot range, we would recommend one be installed. Hammerness, what does it cost to install a fire hydrant? Othon, 12–15 thousand. Abatti, \$20,000 for a wall, it all adds up to big bucks. Abatti, you have plenty of space to keep the trucks apart, I recommend doing it. You have a lot of space. Harvey, what type of materials are you hauling? Chavez, stucco, and sheet rock. Mendoza, the trucks will be filled or will they be sitting overnight not filled. Chavez, they are mostly empty; if filled, they will be with stucco and sheetrock. Abatti, has there been any compliance for the county facility that is right there for all of the trucks that come in and out of there? I don't think these four trucks will make a difference. Morita, the big expense with the conditional permit is for a hydrant and mason wall, for just four trucks to be parked in an industrial area. The Industrial area is for these things. Mendoza, there are three houses there; what fire hydrants serve these houses in the area? We will now impose the cost on the applicant. That should have been done by the city or whoever built the houses. Rivera, do you plan to expand? Where is your office located? Chavez,

yes, by Fonta in Bloomington. Hammerness, did you rent or buy the property? Chavez, I purchased the property.

Public Hearing Closed at 7:41 p.m.

Action:

Mendoza made a motion to Approve of “Resolution No. PC2022-12: A Resolution of the Planning Commission approving Conditional Use Permit 22-02 for Dennis Chavez located at 426 E. 4th Street (APN 064-194-006). The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15322 of the Guidelines for In-Fill Development Projects.” With the amendment to remove the condition on the fire hydrant and landscaping. **Abatti seconded** the motion.

Ayes: 5- Hammerness, Rivera, Abatti, Harvey, Mendoza

Nays: 0

Absent: 0

Abstained: 0

Motion Passed 5-0

E. REPORTS:

E-1: Commissioners’ Reports

Abatti, when will La Brucherie be open? Othon, the end on December. Abatti, have we got the plants for Aten Road? Brown, Yes, we did.

Mendoza, this is my last meeting with the Planning Commission. I look forward to my new projects with the city, and commented on city events.

Harvey, congratulated Mendoza on her elections to City Council.

Hammerness, on Rodeo and 15th there is a large standing pool of water that sticks coming from the veterinary clinic over watering their grass. Congratulated Mendoza on her election to City Council.

E-2: Staff Reports

Morita, congratulated Mendoza on her new elected position and invited the commissioners to attend the next Council meeting for the change of order.

Brown, another resident relayed the Rodeo and 15th comment this week, and the city is working to resolve the issue. Congratulations to Mendoza on her new elected position.

F. ADJOURNMENT

F.1 CHAIRPERSON HAMMERNESS MADE AN ADJOURNMENT OF PLANNING COMMISSION MEETING UNTIL NEXT REGULARLY SCHEDULED MEETING JANUARY 11, 2023 AT 8:06 P.M.



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: January 17, 2023

Item: Variance 22-02
Deviation from Side Yard Setback Development Standards

Applicant:	George Bernal
Project Location:	643 Costa Azul Street
Zoning:	R-1 (Residential Single Family)
Recommendation:	Planning Commission Variance 22-02 Review Request

Background

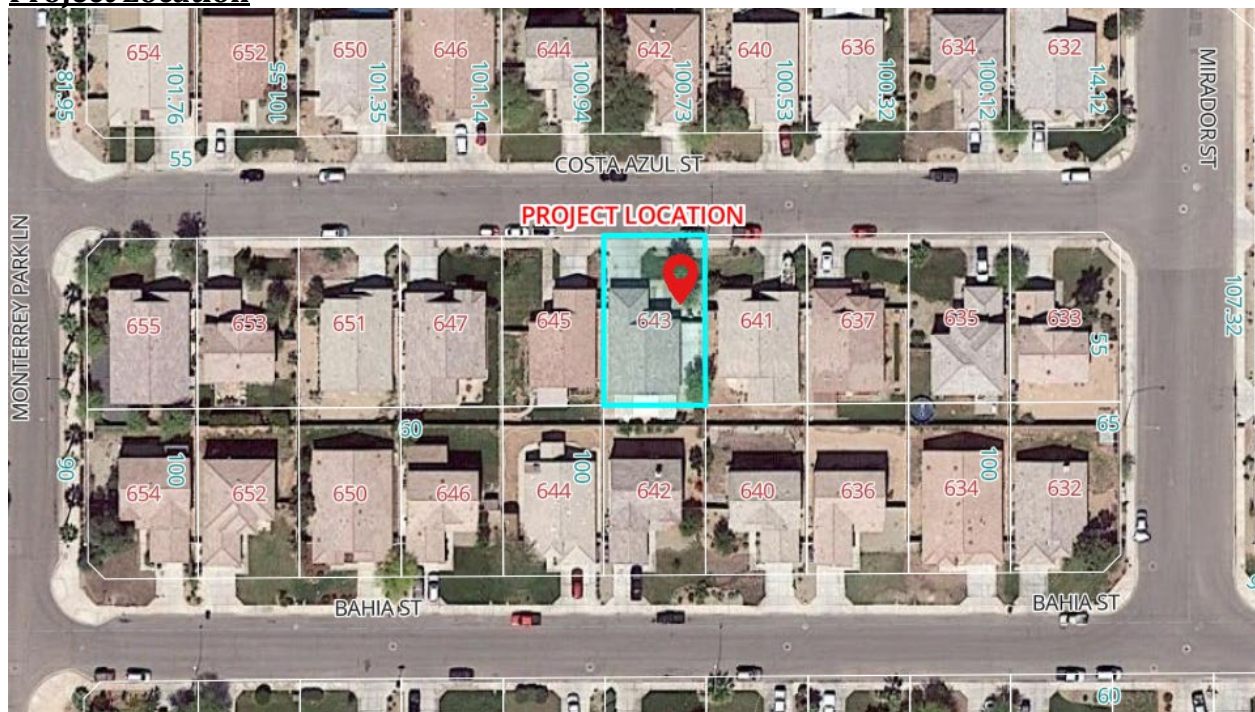
Applicant, George Bernal, is requesting a review of Variance 22-02 to allow the deviation from the City of Imperial's Property Development Standards. In January 2022, the City of Imperial amended Section 24.03.140 of the City of Imperial Municipal Code relating to Development Standards for Detached Canopies in Residential Zones. Municipal Code Section 1: Section 24.03.140(A)(1) reads as follows:

"Accessory buildings or structures, attached or detached, may be located within an interior side yard or rear yard; provided that such structure is located no closer than three (3) feet to an interior side or rear lot line."

After living in El Centro for a few years, Mr. Bernal returned to Imperial and resettled into 643 Costa Azul in 2009. Mr. Bernal considers Imperial to be his hometown and prefers Imperial's elevated quality of life and safer neighborhoods for his family. Mr. Bernal's 6,000 square foot property is positioned in the center of the block with surrounding neighbors closely abutting his property to the South, East and West, thus providing no significant air circulation to allow him to enjoy any outside hobbies or provide a pleasant outside area for his grandchildren when the temperatures rise. His home has three East

facing windows that allowed too much light and heat in and made it difficult to keep his home cool during our extreme hot Summers. In an effort to improve his energy efficiency, Mr. Bernal purchased and constructed a 600 square foot Alumawood® custom patio structure on the East side of his home with a side yard setback of one (1) foot and 5 inches for maximum protection from the unrelenting solar light and heat he experienced over sixty percent of the day. The custom patio structure constructed on the Southern portion of the home meets the development standard's rear yard setback requirement. At the time of ordering his custom Alumawood® Patio Kit, Mr. Bernal had limited size options available and he ordered the size that he believed would best suit his needs with the available side yard square footage. Since the custom patio structure was built, he, and his neighbor to the East, have experienced tremendous improvement in reducing the temperature in their homes, and have significantly improved energy efficiency that have consequently lowered their power costs. His surrounding neighbors are proponents of the project and find his patio structure beneficial, aesthetically pleasing and in no way unsafe or detrimental to the public's health/welfare. This Variance request has originated from a code compliance case that is pending Planning Commission's decision. If Variance 22-02 is not approved, Mr. Bernal will be forced to demolish or modify the existing Alumawood® custom built patio structure and concrete work with an estimated cost of \$16,000.

Project Location



Site Photos





Required Findings:

In order to approve Variance 22-02, the Planning Commission is required to review six findings per Section 24.19.400 of the City of Imperial's Zoning Ordinance. The findings are listed below, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

- 1. Special circumstances apply to the property. These can be it's size, shape, topography, location, or surrounding structures. You must explain how these circumstances deprive your property of the privileges enjoyed by other property in the neighborhood which is zoned the same, and;**

The location of the subject site is closely surrounded by residential homes to The South, East and West, blocking any air circulation or relief from the Imperial Valley's extreme temperatures.

- 2. The variance will meet the intent of the zoning on the parcel, and will not be detrimental to public health, safety, and welfare, and not be detrimental to other property in the neighborhood; and,**

The approval of the Variance meets the Residential Zone's purpose "to ensure adequate air and privacy and open space for each dwelling" and "to protect Residential properties from noise, illumination, odors, smoke and other objectionable influences." The patio structure does not present to be detrimental to public health, safety, welfare nor to other properties in the neighborhood.

- 3. The variance will not be a grant of special privilege in the neighborhood, and will not allow you to build in a way that would not be allowed for someone else.**

The Variance to deviate from the side yard setback development standards is considered an approved privilege for a property owner that will not be allowed for other property owners. However, Mr. Bernal, once made aware of the code compliance violation, quickly complied with Community Development in initiating the process of going through the appropriate measures to have said privilege approved.

- 4. The granting of the Variance or its modifications will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated; and**

The granting of the Variance to deviate from the side yard setback development standards is considered a privilege and will be inconsistent with limitations upon other property owners in the vicinity. Mr. Bernal has stated that his neighbors like his patio structure and are interested in the installation of similar structures on their properties. He has warned them of the code

compliance violation and discourages anyone that inquires to deviate from the City's development standards.

5. **The granting of this Variance does not allow a use or activity which is not otherwise expressly authorized by the zoning regulation governing the parcel of property.**

The granting of Variance 22-02 only modifies the Residential Zone Development Standards specifically identified; all other Residential Zone Development Standards must be adhered to.

6. **That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.**

The granting of Variance 22-02 will not be incompatible with the City of Imperial General Plan.

Environmental:

This item is Categorically Exempt from the California Environmental Quality Act (CEQA) per Section 15301-Existing Facilities and Section 15303-New Construction or Conversion of Small Structures.

Recommendation

The City's Development Review Committee met and reviewed Variance 22-02 in September 2022. The Committee's consensus was to have Mr. Bernal modify the patio structure to meet the City's side yard three-foot setback development standards. Staff recommends that the Planning Commission deliberate the required findings, conduct a public hearing as required by Section 24.19.425 of the Imperial Zoning Ordinance, consider the Applicant's testimony and any public testimonies for and against the project before approval or denial of Variance 22-02.

Attachments

- Draft Resolution PC2023-01 with Conditions of Approval
- Site Plan
- Letter from Maria Rafaela Ramirez/Neighbor

DRAFT RESOLUTION PC2023-01

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL
APPROVING VARIANCE 22-02 FOR GEORGE BERNAL ALLOWING THE DEVIATION OF
THE ORDAINED THREE-FEET SIDE YARD SETBACK REQUIREMENT TO ALLOW A ONE
FOOT, FIVE-INCH SIDE YARD SETBACK FOR THE CONTINUED USE OF AN EXISTING
PATIO STRUCTURE LOCATED AT 643 COSTA AZUL STREET (APN 064-272-006)**

WHEREAS, George Bernal submitted a request for a Variance for the deviation of the ordained development standards regarding side yard setback requirements; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during a meeting on January 25, 2023 and;

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Variance.

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

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) Installation and alteration of the property and deviation from the setback requirements are ministerial and therefore categorically exempt from the California Environmental Quality Act per Sections 15301 and 15303.
- D) There are no sensitive resources located within the area or adjacent to the area of the project so as to be significantly impacted by the project; and
- E) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Variance 22-02 for George Bernal for the deviation of three-foot side yard setback requirements and allow a one-foot, five inch side yard setback and the continued use of the existing patio structure, subject to the conditions of approval outlined in Exhibit A and based on the following findings:
 - 1. That granting the Variance will not be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements in such vicinity and zone in which the property is located.

2. The granting of this Variance does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.
3. The granting of this Variance does not allow a use or activity which not otherwise expressly authorized by the zoning regulation governing the parcel of property.
4. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 25th day of January 2023.

Mark Hammerness
Planning Commission Chairman

ATTEST:

Kristina Shields
City Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

VARIANCE 22-02

George Bernal

643 Costa Azul Street

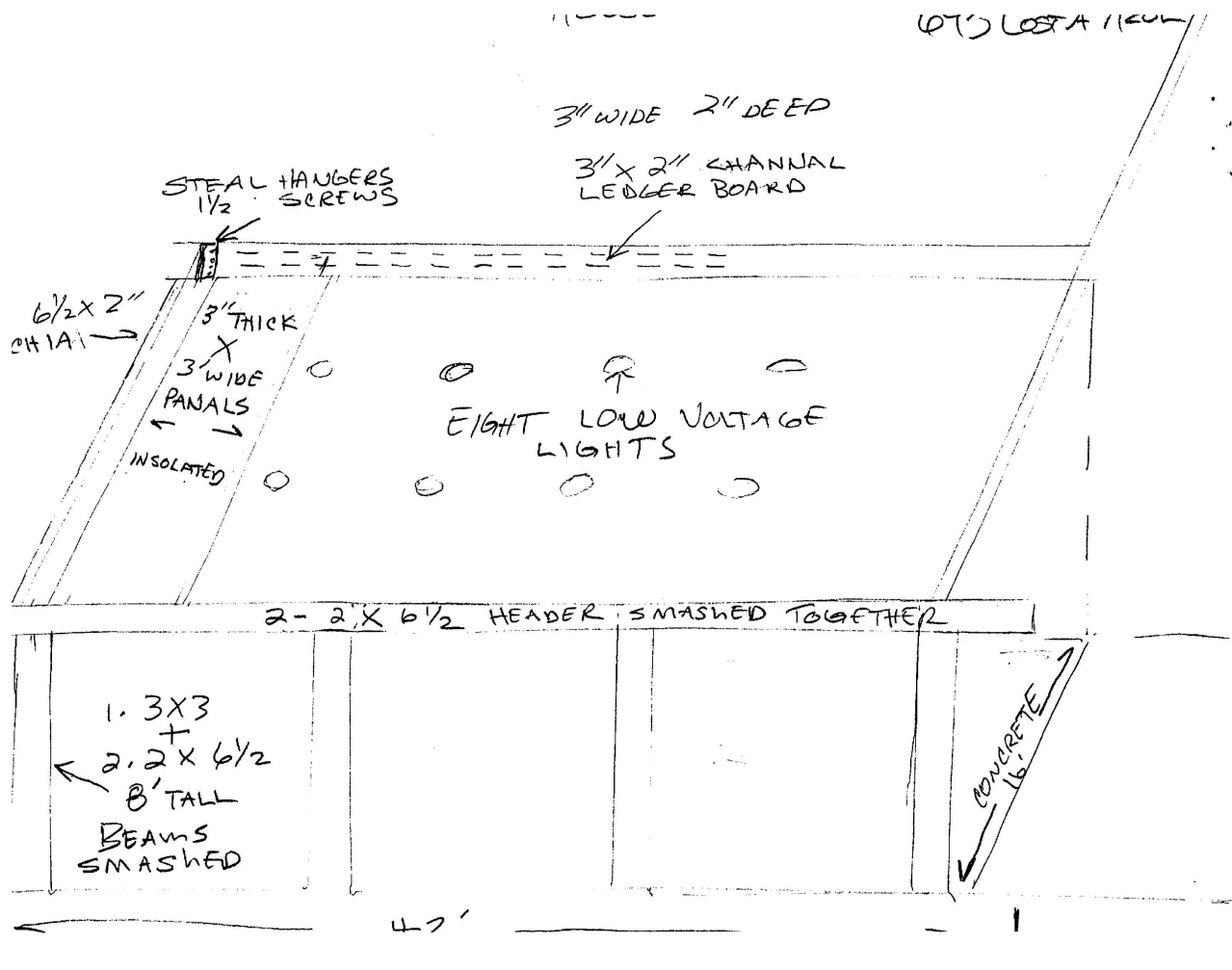
APN 064-272-006

1. Applicant is allowed to maintain the existing side yard patio structure with the one-foot, five-inch setback upon Planning Commission adoption of Resolution PC2023-01 for Variance 22-02, approving the deviation from the City of Imperial's Property Development Standards side yard setback requirements. Planning Commission denial of Variance 22-02 will constitute the Applicant bringing the existing side yard patio structure up to the three-foot side yard setback code.
2. Applicant must obtain a building permit from the City of Imperial's Community Development Department, whether Variance 22-02 is approved or denied, along with any required development and/or construction plans, including payment of processing fees.
3. Applicant shall not hold the City of Imperial or any of its employees responsible for any incidents regarding Variance 22-02.
4. The provisions of Variance 22-02 are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
5. The Applicant shall be responsible for the removal of all graffiti from the property within seventy-two (72) hours of its appearance on the property.
6. The Applicant shall be responsible for maintaining the property free of litter at all times.
7. Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
8. The approval of Variance 22-02 shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
9. The Applicant shall pay all applicable fees as required by the city.
10. Applicant must obtain an approved building permit from the Community Development Department within six (6) months of approval of Variance 22-02. If the applicant does not obtain an approved building permit from the Community

Development Department, Variance 22-02 becomes null and void based on the final date of approval.

11. If the Community Development Department finds and determines that the Applicant or successor-in-interest has not complied or cannot comply with the terms and conditions of Variance 22-02, or the Planning/Building Division determines that the permitted activities constitute a nuisance, the City shall provide the Applicant with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Applicant fails to comply, and/or (2) Applicant cannot comply with the conditions set forth in the Variance, then the matter shall be referred to the Planning Commission, or to the appropriate enforcement authority, for modification, suspension, or termination.
12. As between the City and the Applicant, any violation of Variance 22-02 approval may be a "nuisance per se". The City may enforce the terms and conditions of Variance 22-02 in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
13. Applicant shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the approved project.

Submitted Site Plan



Neighbor's Letter

April 5, 2021

City of Imperial
Imperial Code Enforcement Department
420 S Imperial Ave
Imperial, CA 92251

To whom it may concern,

I, Maria Rafaela (Perez) Ramirez, am the homeowner of 641 Costa Azul Street, Imperial CA 92251.

This letter is in regards to my neighbor George Bernal who lives at 643 Costa Azul Street, Imperial CA 92251.

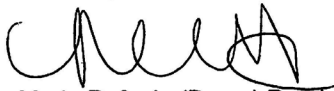
Mr. Bernal recently received a noticed from the city code enforcer, because of his covered patio. I do not agree with the city's recommendation that the patio be removed.

Mr. Bernal's covered patio is a beautiful addition to our neighborhood. As the closest neighbor, I enjoy the shade the patio offers my home. As you know, we have many hot sunny days in our desert community, so having a shaded area increase the value of our homes.

I graciously ask that you reconsider your request to have the patio removed.

Should you have any questions, please call me at 760-562-5797.

Grateful,



Maria Rafaela (Perez) Ramirez