



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, FEBRUARY 22, 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 Planning Commission meetings via Livestream at the City of Imperial Facebook page.
2. If you are unable to participate in-person, and wish to address the Planning Commission on matters within their jurisdiction, please email public comments to cityclerk@citofimperial.org.
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 CONVENES TO OPEN SESSION AT 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 January 25, 2023 and February 8, 2023.

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

D-1: Subject: Continued 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. **Resume Public Hearing**
2. **Staff Report – Public Comment**
3. **Commission Discussion**
4. **Close Public Hearing**
5. **Recommended Action:** Approve/Deny/Amend 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

F. ADJOURNMENT

F-1. Subject: Adjourn the Planning Commission Meeting Until the Next Regularly Scheduled Meeting March 8, 2023 At 6:30pm.

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.



MINUTES
PLANNING COMMISSION
TRAFFIC COMMISSION
JANUARY 25, 2023

A. PLANNING COMMISSION CALL TO ORDER:

CHAIRPERSON HAMMERNESS CALLED THE MEETING TO ORDER AT 6:30 PM

ROLL CALL OF PLANNING COMMISSION:

PHYSICAL ATTENDANCE: RIVER, ABATTI, HARVEY AND HAMMERNESS

PLEDGE OF ALLEGIANCE LED BY RIVER

ADJUSTMENTS TO THE AGENDA: NONE

B. PUBLIC APPEARANCES:

B-1. MATTERS NOT APPEARING ON THE AGENDA.

PUBLIC APPEARANCES: NONE

C. CONSENT CALENDAR

C-1. APPROVE PLANNING COMMISSION MEETING MINUTES FOR DECEMBER 14, 2022

MOTIONED BY RIVERA AND SECONDED BY HARVEY TO APPROVE MINUTES.

MOTION CARRIED: 4-0

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 CISTA AZYK STREET, APN 064-272-006.

1. PUBLIC HEARING: START TIME 6:42 PM

2. **STAFF REPORT – PUBLIC COMMENT:** MR. BERNAL IS HERE TODAY DUE TO A CODE COMPLIANCE CASE OF HIS PATIO STRUCTURE BUILT IN 2006. THE STRUTURE HAS A SETBACK MEASUREMNET OF ONE FOOT FIVE INCHES.
3. **COMMISSION DISCUSSION:** RIVER ASKED MR. BERNAL WHEN HE HAD PURCHASED HIS HOME. MR. BERNAL SAID APPROXIMATELY IN 2005. HARVY ASKED MR. BERNAL IF HE PARKS MULTIPLE CARES UNDER THE PATIO STRUCTURE OR JUST THE ONE THAT SHOWS IN THE PICTURES. MR. BERNAL STATED JUST THAT ONE CAR. RIVER WAS WANTING TO KNOW IF THAT AREAR WAS ALL DIRTY BEFORE THE PATIO STRUVCTURE WAS BUILT. MR. BERNAL STATED YES. ABATTI COMMENTED ON HOW CLEAN THE AREA WAS UNDER THE PATIO MR. BERNAL EXPLAINED HOW THEY SPEND A LOT OF TIME THERE UNDER THE PATIO SO THEY KEEP IT VERY CLEAN. HARVY ASKED MR. BERNAL ABOUT THE REAR PATIO IF IT WAS ALREADY THERE WHEN HE PURCHASED THE HOUSE OR DID HE HAVE IT INTALLED AFTER. MR. BERNAL HAD THE REAR PATIO INTALLED AFTER AND DID GO TO THE CITY FOR A PERMIT TO HAVE THE WORK DONE ON THE REAR CONCRETE AND PATIO. THE SIDE PATIO WAS BUILT A COUPLE YEARS LATER. HAVEY ASKED MR. BERNAL WHAT WAS HIS THOUGHT PROCESS AS FAR AS NOT COMING FORWARD TO GET A PERMIT FOR THE SIDE PATIO. MR. BERNAL STATED HE WAS NOT AWARE OF ALL THE RULES AND REGULATIONS OF THE CITY HALL AND MORE INTERESTED IN HAVING SHADE. HAMMERRNESS EXPLAINED TO MR. BERNAL THAT CALIFORNIA BUILDING CODE STATES THAT YOU CAN'T HAVE A ROOF EAVES OR STRUCTUES WITHIN THREE FEET OF THE PROPERTY LINE WHICH WOULD ALLOW SIX FEET FROM EVE TO EVE. THE STRUTURE IS ALSO AGAINST FIRE CODE.

MORITA EXPLAINED TO MR. BERNAL THAT THE ONE FACTOR AT PLAY HERE IS THAT HE DID NOT OBTAIN A BUILDING PERMIT FOR HIS SIDE PATIO STRUCTURE. THERE ARE BUILDING CODE REQUIREMENTS FOR HAVING FOOTING OF CERTAIN DEPTH AND ALL OTHER SORTS OF THINGS. MORITA ALSO EXPLAINED THAT THE CITY JUST AMENDED THE SIDE YARD SETBACK TO THREE FEET INSTEED OF FIVE FEET. IF THE COMMISSION WAS TO GRANT THE VARIANCE ONE OF THE REQUIREMNETS WOULD BE TO GET THE BUILDING PERMIT THAT SHOULD HAVE BEEN OBTAINED PRIOR TO CONSTRUCTION BECAUSE THE CHALLENGE NOW IS THAT YOU CAN'T SEE HOW DEEP THE FOOTINGS ARE.

ABATTI ASKED MR. BERNAL IF HE CAN PUSH THE PATIO BACK TWO FEET AND HOW MUCH IT WILL COST HIM COMPARED TO THE LIABILITY HE WILL HAVE IF SOMETHING WAS TO HAPPEN.

4. RECOMMENDED ACTION:

HARVEY WOULD LIKE TO APPROVE THE VARIANCE DUE TO EVERYTHING THAT HAS BEEN STATED.

ABATTI ADDRESSED HER CONCERNS ON REQUIRED FINDINGS ON PAGE FIVE.

RIVER WOULD LIKE TO CLARIFY THAT MR. BERNAL NEW TO GET A PERMIT FOR THE BACK PATIO OF THE HOUSE BUT NEGLECTED TO FOLLOW THROUGH WITH THE SIDE PATIO.

HAMMERNESS WANTED TO REVIEW THAT THIS PROJECT WAS DONE BACK IN 2006 AND IT IS NOW 2023. CODE ENFORCEMENT NOTICED THIS PROJECT IN 2021. MR. BERNAL WENT TO THE CITY APRIL 2021 PAID SIXTEEN HUNDRED DOLLARS AND CHARGE TO START THE PERMIT PROCESS. DURING THIS TIME THINGS FELL THROUGH THE CRACKS AND MR. BERNAL WAS ASKED TO COME BACK IN TO THE CITY TO REAPPLY. MR. BERNAL WENT BACK TO THE CITY WITH RECEIPTS SHOWING HE ALREADY PAID. HE DID TRY TO MAKE THINGS RIGHT BUT CAN'T EXPLAIN WHAT HAPPEN IN THAT TWO-YEAR GAP.

HAMMERNESS CALLED FOR A MOTION TO APPROVE OR DENY. HARVEY MOTIONED TO APPROVE VARIANCE 22-02 FOR GEORGE BERNAL TO ALL 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. HAMMERNESS CALLED FOR A SECOND NO SECOND WAS MOTIONED SO MOTION DIES.

RIVER WOULD LIKE TO MAKE A MOTION TO DENY AND SECONDED BY ABATTI.

MOTION SPLIT: 2 – 2

HAMMERNESS MAKES A MOTION TO GRANT THE VARIANT THAT WE REQUIRE THE PATIO TO BE MODIFIED WITH A TWO TO THREE FEET SETBACK AND SECONDED BY ABATTI.

TURNER EXPLAINED THAT THEY WOULD ONLY NEED THE VARIANCE TO GO SHORTER THAN THE THREE FEET. TURNER LET HAMMERNESS KNOW THAT HE CAN MAKE A MOTION TO GO BACK AND FIND A WAY TO MAKE THE STRUCTURE THREE FEET AND WOULDN'T NEED TO APPROVE THE VARIANCE AT THIS POINT.

HAMMERNESS DIRECTED STAFF TO MEET WITH MR. BERNAL TO DISCUSS OPTIONS ON MODIFYING HIS PATIO.

HEARING WAS CONTINUED AT: 8:07 PM TO A SPECIFIED DATE OF FEBRUARY 22, 2023.

E. REPORTS:

E-1. COMMISSIONERS' REPORTS:

ABATTI COMMENTED ON LA BRUCHERIE RD. FINALLY BEING OPEN.

RIVER WAS INQUIRING ABOUT THE STRIPING ON LA BRUCHERIE RD. BEING OFF A BIT AND THE PLAYGOURND CANOPY AT LAS DUNAS BING REPLACED BEFORE SUMMERTIME. ALSO, WOTHE POLICE DEPARTMENT IS AWARE OF THE GRAFFITI THAT HAS BEEN POPING UP AND THEY ARE KEEPING AN EYE OUT.

HAMMERNESS ASKED ABOUT THE HOTEL PROGRESS.

E-2. STAFF REPORTS:

BROWN MENTIONED THAT THE APPLICATIONS FOR PLANNING COMMISSION CLOSES ON THE 31ST OF JAN. IF ANYONE IS INTERESTED YOU CAN APPY ONLINE OR AT THE CITY HALL.

HAMMERNESS ADJOURNED PLANNING COMMISSION MEETING AT 8:23 PM UNTIL NEXT REGULARLY SCHEDULED MEETING FEBRUARY 8, 2023 AT 6:30 PM



MINUTES
PLANNING COMMISSION
TRAFFIC COMMISSION
FEBRUARY 8, 2023

A. WORK SESSION OF THE IMPERIAL PLANNING COMMISSION AT 5:30 PM.

B. PLANNING COMMISSION CONVENES TO OPEN SESSION AT 6:30 PM.

CHAIRPERSON HAMMERNESS CALLED THE MEETING TO ORDER AT 6:31 PM.

ROLL CALL OF PLANNING COMMISSION:

PHYSICAL ATTENDANCE: RIVER, ABATTI, HARVEY AND HAMMERNESS

PLEDGE OF ALLEGIANCE LED BY CHAIRPERSON HAMMERNESS.

ADJUSTMENTS TO THE AGENDA:

BROWN PULLED MEETING MINUTES FROM JANUARY 25, 2023 TO BE APPROVED ON FEBRUARY 22, 2023. NOT POSTED WITHIN 72 HOURS.

C. PUBLIC APPEARANCES

B-1. MATTERS NOT APPEARING ON THE AGENDA.

NONE

D. CONSENT CALENDAR

D-1 APPROVE PLANNING COMMISSION MEETING MINUTES FOR JANUARY 25, 2023.

MOVED TO FEBRUARY 22, 2023.

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

**E-1. SUBJECT: PUBLIC HEARING, DISCUSSION/ACTION:
RECOMMEND CITY COUNCIL APPROVAL OF THE GENERAL PALM AMENDMENT, ZONE CHANGE, SUBDIVISION REVISION TO THE MORNINGSTAR TENTATIVE TRACT MAP AND CERTIFYING A NEGATIVE DECLARATION FOR APN 063-010-089.**

- 1. START PUBLIC HEARING: 6:34 PM**
- 2. STAFF REPORT – PUBLIC COMMENT:**

GOOD EVENING PLANNING COMMISSION IF YOU CAN ALL GO TO PAGE FIFTEEN THAT IS THE ORIGINAL MORNING STAR SUBDIVISION MAP. BACK IN 2005 MACMILLAN LAND DEVELOPMENT SUBMITTED AN APPLICATION TO ANNEX AND SUBDIVIDE A HUNDRED- AND SEVEN-ACRE SITE INTO 489 SINGLE FAMILY HOMES, SCHOOL SITE AND TWO PARK SITES. LOCATED ON THE SOUTHWEST CORNER OF HIGHWAY 86 AND RALPH ROAD. NOW, THE CURRENT OWNER AND DEVELOPER R1 IS PROPOSING A GENERAL PLAN AMENDMENT, ZONE CHANGE AND REVISIONS TO THE TENTATIVE MAP. THE PROPOSED CHANGES IN REVISIONS WILL ELIMINATE THE SCHOOL SITE WHICH IS APPROXIMATELY 10.8 ACRES. THE IMPERIAL UNIFIED SCHOOL DISTRICT HAS PROVIDED A LETTER THAT THOSE ACRES ARE NOT NEEDED. THIS WILL CREATE 5.93 ACRES OF RESIDENTIAL APARTMENTS AND 14.93 ACRES FOR COMMERCIAL USE. THE OVERALL FOOTPRINT WILL REMAIN THE SAME. IF YOU LOOK AT THE CONDITIONS OF APPROVAL THE COUNTY FIRE DEPARTMENT IS REQUESTING A CAPITAL PURCHASE OF A FIRE ENGINE. THE DEVELOPER DOSE NOT AGREE WITH THIS CONDITION AND IS REQUESTING THE PLANNING COMMISSION CONSIDER RECOMMENDING THE PROJECT WITHOUT THE IMPOSED CONDITION FOR APPROVAL.

3. COMMISSION DISCUSSION:

ABATTI WOULD LIKE TO KNOW WHAT TYPE OF APARTMENTS ARE BEING CONSIDERED? RAY FROM R1 EXPLAINED THEY DON'T HAVE SPECIFICS RIGHT NOW. ABATTI THEN ASKED IF THE COUNCIL DECIDES TO APPROVE THE REQUEST AND SOMEONE COMES IN AND SAYS I'M JUST SETTING UP MY GROUND FOR APARTMENTS AND THEN DECIDE IF ITS GOING TO BE LOW INCOME OR SECTION 8. DOSE IT ALLOW THAT? MORA SAID IT DOSE. HE ALSO EXPLAINED THAT ONE OF THE GOALS UNDER THE HOUSING ELEMENT IS TO BRING MORE LOW-INCOME HOUSING WITHIN THE CITY.

HARVEY ASKED IF THE RESIDENCE THAT PURCHASED THE SINGLE-FAMILY HOMES WHERE NOTIFIED OF A POTENTIAL PLAN CHANGE. RAY EXPLAINED THAT RIGHT NOW THERE ARE NO HOME NEAR THIS LAND THAT IS BING DESIGNED. THIS PROPERTY IS OFF ON THE NORTH SIDE OF THE HOTEL.

RAY FROM R1 WANTED TO ADD THAT THEY DIDN'T INITIATE THIS ZONE CHANGE. THE CITY INITIATED IT AND APPROACHED US AND ASKED IF WE WOULD CHANGE TO COMMERCIAL WHEN THE SCHOOL DECIDED THEY DIDN'T WANT A SCHOOL THAT CLOSE TO HIGHWAY 86 DO TO ALL THE TRAFFIC ISSUES. SO,

WHEN THAT HAPPENED HIGHWAY 86 LAND IS A NATUAL PLACE FOR COMMERCIAL STUFF TO GO. THIS PROJECT WAS STARTED TWO YEARS AGO BUT WAS HELD UP BY CALTRANS.

HARVEY ASKED IF COUNTY FIRE MENTIONED HOW MUCH IT WOULD COST TO PURCHASE THE FIRE ENGINE? MORA BELIEVES THE HAD MENTION A LITTLE OVER A MILLION DOLLARS. RAY EXPLAINED FROM A LEGAL STANDPOINT COUNTY FIRE HAS NO RIGHT TO ASK FOR US TO PURCHASE A FIRE ENGINE. WE HAVE ALREADY BEEN IN CONTACT WITH OUR LEGAL TEAM. RAY ALSO INCLUDED THAT WE PAY EVERYTHING THROUGH OUR IMPACT FEES.

RIVER ASKED WHERE DID THE FIRETRUCK COME FROM? TURNER REPLIED THAT THE IMPERIAL COUNTY FIRE SUGGESTED IT. SHE ASLO MENTIONED THAT IMPERIAL COUNTY FIRE IS HIRED BY THE CITY TO BE THERE FIRE DEPARTMENT. IT IS ROUTINE FOR THE COUNTY TO ASK FOR THINGS LIKE THIS DEPENDING ON WHAT YOU ARE BUILDING.

ALEXIS STATED THAT THE CITY IS IN THE PROCESS OF REVIEWING OUR DEVELOPMENT IMACT FEES AND HOW THEY ARE ASSESSED. WE DO IDENTIFY THOSE CAPITAL EXPENDITURES. THERE ARE MECHANISMS THAT ALLOW FOR CAPITAL PURCHASE INSTEAD OF PAYING FEES. AS OF NOW THE CITY OF IMPERIAL DOSE NOT HAVE THAT TYPE OF MECHANISM.

4. **CLOSE PUBLIC HEARING:** 6:54 PM
5. **RECOMMENDED ACTION:** APPROVE RESOLUTION NO. PC2023-02: A RESOLUTION OF THE CITY PLANNING COMMISSION OF THE CITY OF IMPERIAL, CALIFORNIA, RECOMMENDING THE CITY COUNIL APPROVAL OF THE GENERAL PALN AMENDMENT, ZONE CHANGE, SUBDIVISION REVISION TO THE MORNINGSTAR TENTATIVE TRACT MAP AND CERTIFYING A NEGATIVE DECLARATION FOR APN 063-010-089.

MOTIONED BY ABATTI TO APPROVE THE GENERAL PLAN AMENDMENT ZONE BUT STRIKING ITEM ELEVEN BY REMOVING THE CAPITAL PURCHASE OF A FIRE ENGINE FOR IMPERIAL COUNTY FIRE. SECONDED BY RIVER.

MOTION CARRIES: 4-0

F. REPORTS

F-1. STAFF REPORTS: NONE

F-2. COMMISSIONERS' REPORTS:

ABATTI ASKED ALEXIS WITH SPRING COMING UP DOSE SHE KNOW WHEN LANDSCAPING WILL STAR. ALEXIS REPLIED THAT SOME OF THAT WORK HAS BEEN STARTED AROUND MONTEREY PARK AND IT IS NEXT ITEM ON THE PROJECT LIST. ABATTI ALSO TALKED ABOUT WILDFLOWER AND HOW SHE PAYS A LANDSCAPE LIGHTING LINE TAX BILL AND WOULD HOPE SOMEBODY WOULD CLEAN UP THE AREA. SHE ALSO STATED THAT IF IT WAS ON THE AGENAD THEN MYBE THE DEPARTMENT THAT HANDLES THAT WILL TAKE CARE OF IT. ALEXIS COMMENTED THAT THE CITY NEED TO SEE WHERE THAT AREA FALLS INTO AND IF ITS WITHIN OUR JURISDICTION WE CAN TAKE CARE OF IT OR TALK TO THE PROPERTY OWNERS OF THAT SUBDIVISION.

RIVER STATES WHEN GOING NORTH ON LA BRUCHERIE RD. AND THEN TURNING LEFT ONTO ATEN RD. GOING WEST THERE IS A POTHOLE THAT IS JUST GOING TO GET BIGGER EVERY TIME SOMEONE HITS IT. I ASK THAT WE TAKE A LOOK AT IT. RIVER ALSO ASKED ABOUT PLAYGROUND SHADE AT MONTEREY PARK AND IF WE CAN STILL HAVE THE PD PATROLLING THE CITY DO TO MORE GRAFFITI POPING UP AROUND TOWN.

HAMMERNESS ASKED ABOUT THE HOTLE. THE BUILDING INSPECTOR CODY EXPLAINED THAT IS A SLOW PROCESS. THE CITY IS STILL WAITING FOR THE FIRE ALARM PLAN BUT ALL THE PLUMBING INSIDE FROM TOP TO BOTTOM HAS BEEN REPLACED. THE ELECTRICAL ON THE FOURTH AND THIRD FLOOR IS INSTALLED. ALEXIS JUST EXPLAINED THAT THERE IS A LOT GOING ON IN THAT 22 ACRE SITE AND AT THE END IT WILL NOT ONLY BE A HOTEL.

CHAIRPERSON HAMMERNESS ADJOURNED PLANNING COMMISSION MEETING AT 7:06 PM UNTIL NEXT REGULARLY SCHEDULED MEETING FEBRUARY 22, 2023 AT 6:30 PM.



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: February 16, 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:

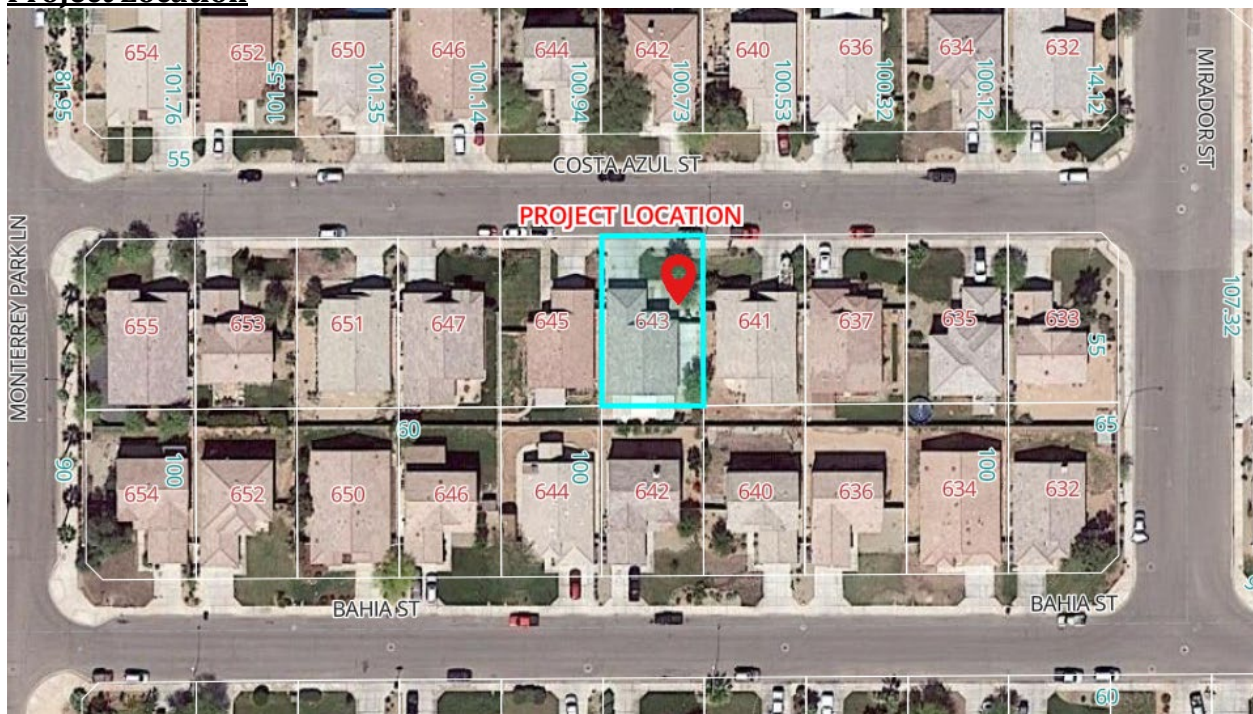
"Accessory buildings or structures, attached or detached, may be located within an interior side yard or rear yard; provided that such structure is located no closer than three (3) feet to an interior side or rear lot line."

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.

The project's public hearing, originally scheduled for February 8, 2022, was continued to the February 22, 2023 planning commission meeting for staff revisions and recommendation.

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

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, staff recommends that the Planning Commission **deny** the variance. The accessory structure shall be located no closer than three (3) feet to an interior side lot line as per the Imperial Municipal Code and the projection (overhang) must not encroached within two (2) feet from the lot line as per the California Residential Code.

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 continued on February 22, 2023;

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 22th day of February, 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

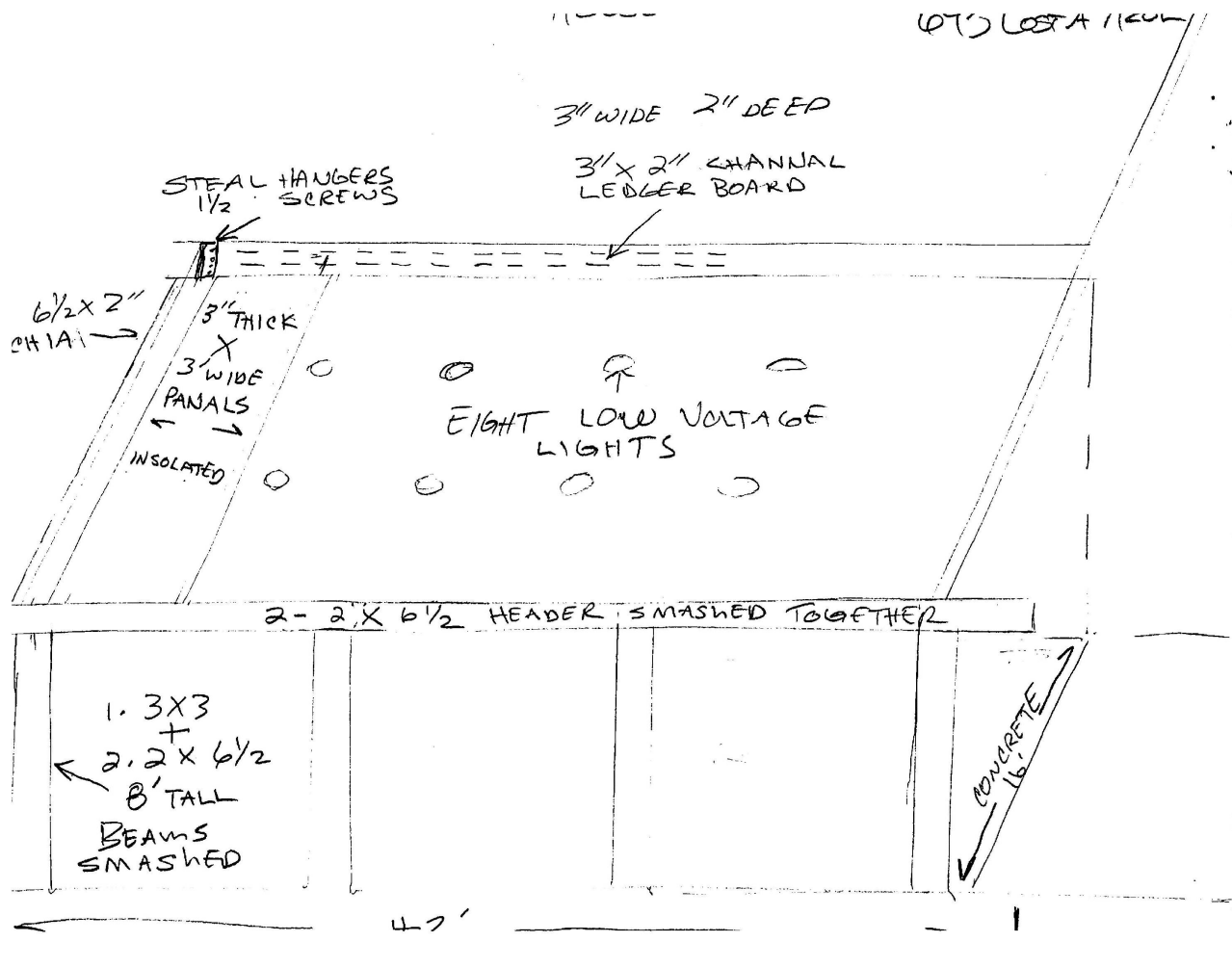
APN 064-272-006

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.

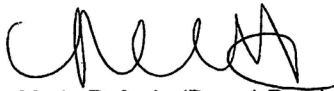
Mr. Bernal recently received a noticed from the city code enforcer, because of his covered patio. I do not agree with the city's recommendation that the patio be removed.

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