



PLANNING COMMISSION

Mark Hammerness – Chairperson

Veronica Harvey – Vice Chairperson

Alice Abatti – Commissioner

Rebecca Terrazas-Baxter – Commissioner

Ruben Rivera – Commissioner

AGENDA

Regular Meeting of the Imperial Planning Commission

City Council Chambers

220 West 9th Street

Imperial, CA 92251

WEDNESDAY, JUNE 14, 2023

Open Session: 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. 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, 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 Agenda

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. Approval of Planning Commission Meeting Minutes for May 4, 2023.

D. Public Hearing: (Discussion/Action – Recommend/Deny)

D-1. Public Hearing, Discussion/Action: Recommend Approval of Conditional Use Permit 23-01 for Beatriz Gonzalez, for the on-site sale and consumption of alcoholic beverages at El Zarape Restaurant located at 139 S. Imperial Avenue.

Staff Report: Othon Mora, Community Development Department

- 1. Open Public Hearing**
- 2. Staff Report – Public Comment**
- 3. Commission Discussion**
- 4. Close Public Hearing**
- 5. Recommended Action**

- 1) Approve Resolution No. PC2023-16: A Resolution of the Planning Commission of the City of Imperial, approving a Conditional Use Permit for the on-site sale and consumption of alcoholic beverages at El Zarape Restaurant located at 139 S. Imperial Avenue, Imperial, CA 92251, APN 064-054-012.

D-2. Public Hearing, Discussion/Action: Recommend Approval of Conditional Use Permit 23-02 for Omar Fernandez, for the construction of a fifteen-foot accessory structure within a Residential Zone Located at 320 N. F Street.

Staff Report: Othon Mora, Community Development Department

- 1. Open Public Hearing**
- 2. Staff Report – Public Comment**
- 3. Commission Discussion**
- 4. Close Public Hearing**
- 5. Recommended Action**

- 1) Approve Resolution No. PC2023-17: A Resolution of the Planning Commission of the City of Imperial, California, approving a Conditional Use Permit for a fifteen-foot accessory structure within a Residential Zone located at 320 N. F Street, APN 063-244-010.

D-3. Public Hearing, Discussion/Action: Recommend approval of Conditional Use Permit 23-04 for Francisco Gonzalez, for the installation of a fifteen-foot four-inch accessory structure within Residential Zone located at 317 S. K Street.

Staff Report: Othon Mora, Community Development Department

- 1. Open Public Hearing**

- 2. Staff Report – Public Comment**
- 3. Commission Discussion**
- 4. Close Public Hearing**
- 5. Recommended Action**

- 1) Approve Resolution No. PC2023-18: A Resolution of the Planning Commission of the City of Imperial, California, approving a Conditional Use Permit for a fifteen-foot four-inch accessory structure within a Residential Zone located at 317 S. K Street, APN 064-092-003.

E. Reports

- E-1. Department Report**
- E-3. City Manager Report**
- E-2. Chairman and Commission Reports**

F. Adjournment

- F-1. Adjournment of this Regular Meeting of the Imperial Planning Commission Until the Next Regularly Scheduled Meeting, Wednesday, June 28, 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: June 8, 2023

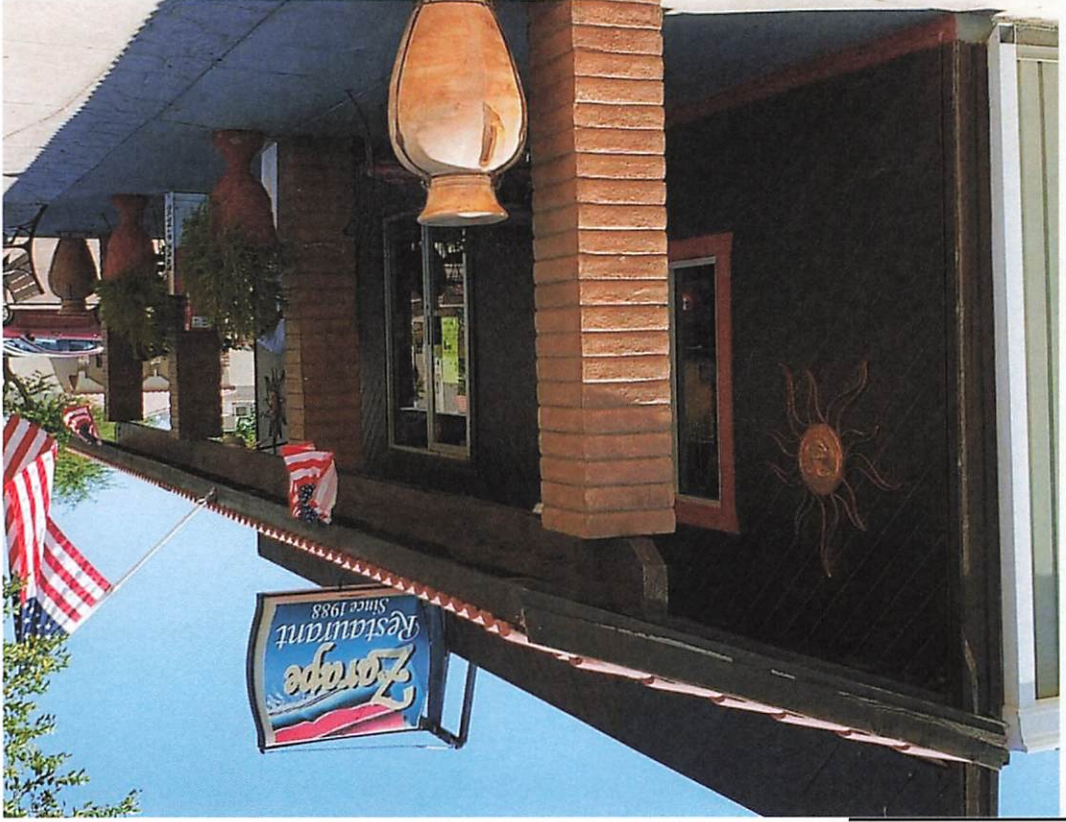
Subject: Conditional Use Permit Request 23-01
El Zarape Restaurant, Inc.
139 S. Imperial Ave.
Imperial, CA 92251

Summary:

Applicant:	Beatriz Gonzalez
Project Location:	139 S. Imperial Ave
Project Description:	Conditional Use Permit (CUP) to allow the onsite sale and consumption of alcoholic beverages
Zoning:	V-C (Village Commercial)
General Plan:	Commercial Village
Environmental:	Categorically Exempt – 15301 Existing Facilities
Recommendation:	Approve, subject to conditions

Background

The applicant, Beatriz Gonzalez, and owner of the established El Zarape Restaurant is proposing to expand their menu options and attract more patrons by offering the sale of alcohol, beer and wine for on-site consumption. The applicant has applied for a Type 47 license with the Department of Alcoholic Beverage Control (ABC) and ABC is awaiting approval of this Conditional Use Permit before Ms. Gonzalez can proceed. The existing hours of operation of 9:00 AM to 11:00 PM Monday to Saturday will remain the same.



Storefront View



Aerial View

Discussion/Analysis

The project site is zoned V-C Village Commercial. The Village Commercial zone is intended as the social and civic heart of the City of Imperial with small retail shops, outdoor dining, parks and civic facilities in a vibrant, pedestrian friendly and family-oriented atmosphere.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301-Existing Facilities of the Guidelines.

Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP. The required findings are listed below in ***bold italics***, followed by an evaluation:

- 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.***

The subject site is located within a Commercial Village zone, which is intended to provide restaurants, retail and business uses located within the Downtown Core area.

- 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.***

The location is ideal for the restaurant as it is surrounded by other downtown restaurants, retail businesses. The project site abuts a multi-family apartment complex to the West of the property within the R-1 Residential Zone. The project is compatible with the adjacent land uses and it will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.

3. *That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

4. *That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.*

The proposed project complies with all provisions of the Zoning Ordinance.

Public Notification

The public hearing scheduled for June 14, 2023 was duly noticed in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation on June 1, 2023. A Notice of Public Hearing was mailed to all property owners within 300-feet of the property. The City of Imperial has not received any public comments for or against this project as of the date of this report's publication.

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 approve Conditional Use Permit 23-01 to allow for the use and operation of a restaurant with onsite sale and consumption of alcoholic beverages.

Attachment

- Resolution No 2023-16 and Conditions of Approval
- Department of Alcohol Beverage Control Application

Respectfully submitted,



Othon Mora, MCM, CBO
Community Development Director

RESOLUTION NO. 2023-16

**A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL,
APPROVING A CONDITIONAL USE PERMIT FOR THE ONSITE SALE AND
CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL ZARAPE RESTAURANT
LOCATED AT 139 S IMPERIAL AVENUE, IMPERIAL, CA 92251, APN 064-054-012**

WHEREAS, Beatriz Gonzalez submitted an application for the onsite sale and consumption of alcoholic beverages for El Zarape Restaurant located at 139 S. Imperial Avenue; Imperial, CA. 92251

WHEREAS, the subject site is located within the V-C Village Commercial Zone and eating and drinking establishments with alcoholic beverages and/or entertainment are conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on June 14, 2023, to hear testimony for and against the proposed Conditional Use Permit;

WHEREAS, upon hearing and considering all testimony and arguments, examining the environmental study, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project; and

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) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Conditional Use Permit #23-01 subject to the conditions of approval outlined in Exhibit A and based on the following findings:
 - 1. 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.
 - 2. The initial environmental assessment shows that there is no substantial evidence that the proposed land use will have a significant impact on the environment.
 - 3. The project meets all the requirements per section 24.19.340 of the Imperial Zoning Ordinance for granting said conditional use permit as follows:
 - a) That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the

Imperial General Plan, and the development policies and standard of the City.

The subject site is located within a Commercial Village zone, which is intended to provide restaurants, retail and business uses located within the Downtown Core area.

- b) That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

The location is ideal for the restaurant as it is surrounded by other downtown restaurants, retail businesses. The project site abuts a multi-family apartment complex to the West of the property within the R-1 Residential Zone. The project is compatible with the adjacent land uses and it will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures or natural resources.

- c) That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

- d) That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

The proposed facility complies with all provisions of the Zoning Ordinance.

- C) The City Attorney is authorized to make minor typographical changes to this Resolution that does not change the substance of this Resolution;

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 14th day of June, 2023.

Mark Hammerness
Planning Commission Chairman

ATTEST:

Kristina Shields
City Clerk

EXHIBIT "A"

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT 23-01 FOR THE ONSITE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT EL ZARAPE RESTAURANT LOCATED AT 139 S IMPERIAL AVENUE, IMPERIAL, CA 92251, APN 064-054-012

1. This Conditional Use Permit is granted for El Zarape Restaurant at 139 S Imperial Ave, Imperial, CA 92251. This Conditional Use Permit shall only be valid so long as the Type 47 ABC License is valid for the original applicants.
2. The sales of alcoholic beverages are to begin at 9:00AM and end at 11:00PM Monday through Saturday.
3. No sales or service to intoxicated patrons.
4. No alcoholic beverages shall be consumed outside of the enclosed building. The City, at its sole discretion, may issue a Temporary Use Permit to allow for special events where alcoholic beverages may be consumed outdoors.
5. The provisions of this Conditional Use Permit 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.
6. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control (ABC) license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
7. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.
8. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times.
9. 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.
10. The conditional approval of the Conditional Use Permit 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.
11. Applicant must implement sound maintenance and housekeeping procedures.
12. The Applicant shall pay all impact and capacity fees as required by the city.

13. All applicable Conditions of Approval shall be completed prior to opening for business.
14. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
15. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit 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.



Staff Report

Agenda Item No. D-2

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: June 8, 2023

Subject: Conditional Use Permit 23-02
Omar Fernandez
320 N. F. St.
Imperial, Ca. 92251

Summary:

Applicant:	Omar Fernandez
Project Location:	320 N. F. St. Imperial, CA. 92252
Project Description:	Conditional Use Permit 23-02 allowance of an 15' accessory structure
Zoning:	R-1 Residential Single Family
General Plan:	Residential Low Medium
Environmental:	Categorically Exempt
Recommendation:	Approve, Subject to Conditions

Background

Applicant, Omar Fernandez, is proposing to install a fifteen-foot storage shed within his property located at 320 N F. St. The submitted plans detail a fifteen-foot accessory structure used for storage. The fifteen-foot structure's height deviates from the twelve foot maximum allowable height within a Residential Zone. A Conditional Use Permit may be issued for accessory structures higher than twelve feet within Residential Zones. Other than the accessory structure's height, the proposed accessory structure meets all of the property development standards outlined in Imperial's Zoning Ordinance.

Aerial View of Project Site



Discussion/Analysis

The subject site is zoned R-1 (Residential Single-Family Zone). The surrounding land uses and zoning of the project site are R-1 as well. Residential Zones' designations are intended for family living at a broad range of dwelling unit densities consistent with the General Plan and with sound standards of public health, safety and welfare

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines.

Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a Conditional Use Permit. The required findings are listed below in ***bold italics***, followed by an evaluation:

1. ***That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the***

purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

The subject site is located within the R-1 (Residential Single-Family) zone which is intended to provide an area for single family residential development. Additional uses are permitted that are complementary to, and can exist in harmony with, a single- family residential neighborhood.

- 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.***

The applicant's residence is located at the Southeast corner of 11th Street and F Street. There is sufficient space at the rear of the property for the accessory structure. The structure will not be a detriment nor adversely affect his residence or the neighboring residences as it will be positioned at the rear of the property where it will not obstruct traffic visibility at the intersection. The applicant has agreed to make the structure compatible with the neighborhood's architecture by painting the structure in the same color scheme as his and the neighboring homes.

- 3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.***

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site. The applicant has submitted his structural plans to the City of Imperial's Building Division to ensure his project is structurally safe and abides by the California Building Codes adopted by the City.

- 4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.***

The proposed facility complies with all provisions of the Zoning Ordinance.

Public Notification

The public hearing scheduled for June 14, 2023 was duly noticed in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation on June 1, 2023. A Notice of Public Hearing was mailed to all property owners within 300-feet of the property.

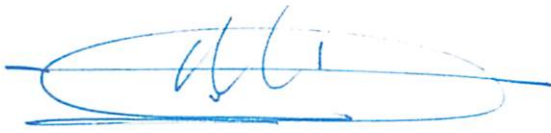
Recommendation

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 approve the Conditional Use Permit (CUP) application to allow for the installation of an eighteen-foot accessory structure within the applicant's property.

Attachments

- Resolution 2023-17 and Conditions of Approval
- Site Plan

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Othon Mora', is written over a horizontal line. The signature is stylized with a large 'O' and a long horizontal stroke.

Othon Mora, MCM, CBO
Community Development Director

RESOLUTION NO. 2023-17

**A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL,
APPROVING A CONDITIONAL USE PERMIT FOR A FIFTEEN-FOOT (15')
ACCESSORY STRUCTURE WITHIN A RESIDENTIAL ZONE LOCATED AT
320 N. F STEET, APN 063-244-010, SUBJECT TO THE ATTACHED CONDITIONS**

WHEREAS, Omar Fernandez submitted an application for a storage garage 24' wide x 40' long x 15' tall steel building with cement foundation accessory structure within a Residential Zone located at 320 N F. St.; and

WHEREAS, the subject site is located within an R-1 Residential Single-Family Zone and accessory structures over twelve feet in height are conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on June 14, 2023, to hear testimony for and against the proposed Conditional Use Permit;

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project; and

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) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit #23-02** subject to the conditions of approval outlined in Exhibit A and based on the following findings:
 - 1. 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.
 - 2. The initial environmental assessment shows that there is no substantial evidence that the proposed land use will have a significant impact on the environment.
 - 3. The project meets all the requirements per section 24.19.340 of the Imperial Zoning Ordinance for granting said conditional use permit as follows:
 - a) That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

The subject site is located within the R-1 (Residential Single-Family) zone which is intended to provide an area for single family residential development. Additional uses are permitted that are complementary to, and can exist in harmony with, a single- family residential neighborhood.

- b) That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

The applicant's residence is located at the Southeast corner of 11th Street and F Street. There is sufficient space at the rear of the property for the accessory structure. The structure will not be a detriment nor adversely affect his residence or the neighboring residences as it will be positioned at the rear of the property where it will not obstruct traffic visibility at the intersection. The applicant has agreed to make the structure compatible with the neighborhood's architecture by painting the structure in the same color scheme as his and the neighboring homes.

- c) That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site. The applicant has submitted his structural plans to the City of Imperial's Building Division to ensure his project is structurally safe and abides by the California Building Codes adopted by the City.

- d) That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

The proposed facility complies with all provisions of the Zoning Ordinance.

- C) The City Attorney is authorized to make minor typographical changes to this Resolution that does not change the substance of this Resolution;

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 14th day of June, 2023.

Mark Hammerness
Planning Commission Chairman

ATTEST:

Kristina Shields
City Clerk

EXHIBIT "A"

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT 23-02 OMAR FERNANDEZ FOR THE ALLOWANCE OF AN 15' ACCESSORY STRUCTURE LOCATED AT 320 N. F STREET; IMPERIAL, CA 92251 (APN 063-244-010)

1. The 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.
2. The Applicant shall pay all applicable permit fees.
3. The Conditional Use Permit 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.
4. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
5. All conditions of approval for this Conditional Use Permit shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
6. All storage of materials waiting or to be worked on shall be stored within the building during the time that the business is not open for business. There shall be no outdoor storage of materials.
7. Accessory structure shall comply with all Residential Zone setback requirements and shall be located no closer than three (3) feet to an interior side or rear lot line and is at least ten (10) feet from the main structure.

8. Accessory structure's paint colors shall be consistent with the residential structure's paint colors.
9. The provisions of the conditional use permit 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.
10. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the conditional use permit, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the conditional use permit, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
11. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit 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.
12. Permittee 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 re-located business.



Staff Report

Agenda Item No. D-3

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: June 8, 2023

Subject: Conditional Use Permit 23-04
Francisco Gonzalez
317 S. K. St
Imperial, CA. 92251

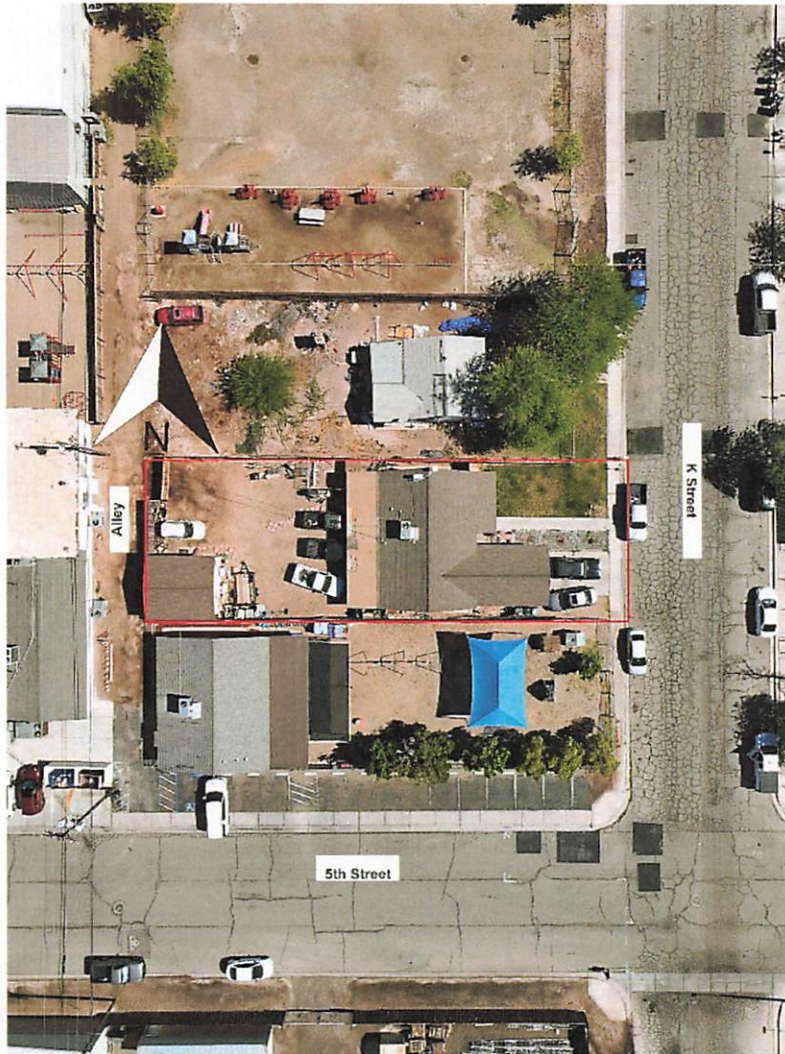
Summary:

Applicant:	Francisco Gonzalez
Project Location:	317 S. K St. Imperial, CA
Project Description:	Conditional Use Permit 23-04 allowance of a 15'4" accessory structure
Zoning:	R-1 Residential Single Family
General Plan:	Residential Low Medium
Environmental:	Categorically Exempt
Recommendation:	Approve, Subject to Conditions

Background

Applicant and property owner, Francisco Gonzalez, is proposing to install a fifteen-foot four-inch pre-manufactured storage shed within his property located at 317 S. K St. The submitted plans detail a fifteen four-foot structure located between the main dwelling and an accessory dwelling unit (ADU) that is intended to be used for storage. The fifteen-foot four-inch structure's height deviates from the twelve foot maximum allowable height within a Residential Zone. A Conditional Use Permit may be issued for accessory structures higher than twelve feet within Residential Zones. Other than the accessory structure's height, the proposed accessory structure's site plan meets all of the property development standards outlined in Imperial's Zoning Ordinance. The Development Review Committee discussed the project, submitted comments and determined there were no issues with the construction of the accessory structure.

Aerial View of the Project Site



Discussion/Analysis

The subject site is zoned R-1 (Residential Single-Family Zone). The surrounding land uses and zoning of the project site are R-1 (Single Family) to the North, South and East and C-1 Commercial Neighborhood to the West. Residential Zones' designations are intended for family living at a broad range of dwelling unit densities consistent with the General Plan and with sound standards of public health, safety and welfare

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines.

Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a Conditional Use Permit. The required findings are listed below in ***bold italics***, followed by an evaluation:

1. ***That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.***

The subject site is located within the R-1 (Residential Single-Family) zone which is intended to provide an area for single family residential development. Additional uses are permitted that are complementary to, and can exist in harmony with, a single- family residential neighborhood such as the case with this project abutting a Commercial Neighborhood Zone.

2. ***That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.***

The applicant property is located on a parcel with sufficient space for the accessory structure to constructed between the main dwelling and an existing accessory dwelling unit (ADU) at the rear of the property. The structure will not be a detriment nor adversely affect his residence, ADU or the neighboring preschool as long as the structure is built according to the submitted site plan with the required 3-foot side yard setback abutting the daycare. The applicant has agreed to make the structure compatible with the neighborhood's architecture by painting the structure in the same color scheme as his and the neighboring homes.

3. ***That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.***

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site. The applicant has submitted his structural plans to the City of Imperial's Building Division to ensure his project is structurally safe and abides by the California Building Codes adopted by the City.

4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

The proposed structure complies with all provisions of the Zoning Ordinance.

Public Notification The public hearing scheduled for June 14, 2023 was duly noticed in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation on June 1, 2023. A Notice of Public Hearing was mailed to all property owners within 300-feet of the property.

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 approve Conditional Use Permit 23-04 to allow for the installation of an fifteen-foot accessory structure at 317 S. K Street.

Attachments

- Resolution No. 2023-18 and Conditions of Approval
- Site Plan

Respectfully submitted,



Othon Mora, MCM, CBO
Community Development Director

EXHIBIT "A"

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT 23-04 FRANCISCO GONZALEZ FOR THE ALLOWANCE OF AN 15' 4" ACCESSORY STRUCTURE LOCATED AT 317 S. K STREET; IMPERIAL, CA 92251 (APN 064-092-003)

1. The 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.
2. The Applicant shall pay all applicable permit fees.
3. The Conditional Use Permit 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.
4. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
5. All conditions of approval for this Conditional Use Permit shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
6. All storage of materials waiting or to be worked on shall be stored within the building during. There shall be no outdoor storage of materials.
7. Accessory structure shall comply with all Residential Zone setback requirements and shall be located no closer than three (3) feet to an interior side or rear lot line and is at least ten (10) feet from the main structure.

8. Accessory structure's paint colors shall be consistent with the residential structure's paint colors.
9. The provisions of the conditional use permit 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.
10. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the conditional use permit, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the conditional use permit, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
11. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit 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.
12. Permittee 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 re-located business.

RESOLUTION NO. 2023-18

A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL, APPROVING A CONDITIONAL USE PERMIT FOR A FIFTEEN FOOT FOUR INCH (15' 4") ACCESSORY STRUCTURE WITHIN A RESIDENTIAL ZONE LOCATED AT 317 S. K STREET, APN 064-092-003, SUBJECT TO THE ATTACHED CONDITIONS

WHEREAS, Francisco Gonzalez submitted an application for a fifteen-foot four-inch (15' 4") metal storage accessory structure within a Residential Zone; located at 317 S. K. St.

WHEREAS, the subject site is located within an R-1 Residential Single-Family Zone and accessory structures over twelve feet in height are conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on June 14, 2023, to hear testimony for and against the proposed Conditional Use Permit;

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project; and

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) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit #23-04** subject to the conditions of approval outlined in Exhibit A and based on the following findings:
 - 1. 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.
 - 2. The initial environmental assessment shows that there is no substantial evidence that the proposed land use will have a significant impact on the environment.
 - 3. The project meets all the requirements per section 24.19.340 of the Imperial Zoning Ordinance for granting said conditional use permit as follows:
 - a) That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

The subject site is located within the R-1 (Residential Single-Family) zone which is intended to provide an area for single family residential development. Additional uses are permitted that are complementary to, and can exist in harmony with, a single- family residential neighborhood such as the case with this project abutting a Commercial Neighborhood Zone.

- b) That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

The applicant property is located on a parcel with sufficient space for the accessory structure to constructed between the main dwelling and an existing accessory dwelling unit (ADU) at the rear of the property. The structure will not be a detriment nor adversely affect his residence, ADU or the neighboring preschool as long as the structure is built according to the submitted site plan with the required 3-foot side yard setback abutting the daycare. The applicant has agreed to make the structure compatible with the neighborhood's architecture by painting the structure in the same color scheme as his and the neighboring homes

- c) That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site. The applicant has submitted his structural plans to the City of Imperial's Building Division to ensure his project is structurally safe and abides by the California Building Codes adopted by the City

- d) That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

The proposed facility complies with all provisions of the Zoning Ordinance.

- C) The City Attorney is authorized to make minor typographical changes to this Resolution that does not change the substance of this Resolution;

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 14th day of June, 2023.

Mark Hammerness
Planning Commission Chairman

ATTEST:

Kristina Shields
City Clerk