



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission

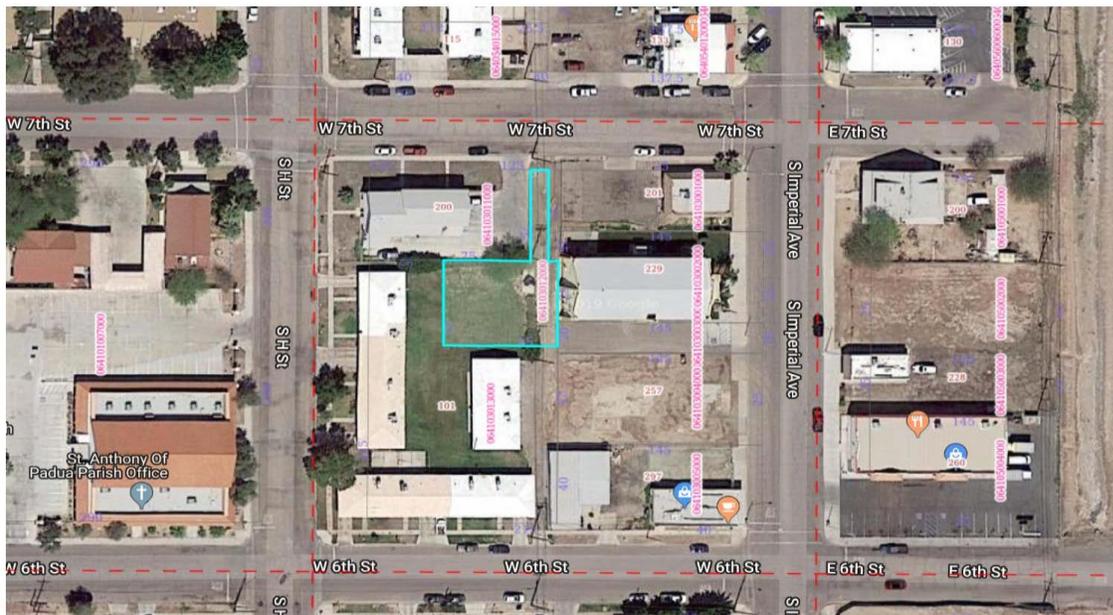
From: Lisa Tylanda, Planner

Date: January 2, 2020

Item: Variance-VAR (19-07)-Tim Godsey Apartment Project:
Deviation from ordained “rear-yard setback requirements, block wall fence requirements, and utilization of plastic garbage containers instead of dumpsters” outlined in the City Residential Zoning District Ordinance.

Applicant:	Tim Godsey
Project Location:	APN#: 064-103-012; Imperial, CA 92251
Zoning:	R-A (Residential Apartment)
Recommendation:	Planning Commission to review Variance request.

VAR(19_07)-Tim Godsey Apartment Project



1" = 94 ft	City of Imperial	01/02/2020		
This map may represents a visual display of related geographic information. Data provided here on is not guarantee of acutual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up to date information.				

Background

The applicant is requesting a Variance Permit to allow for deviation from the City of Imperials' "Property Development Standards" Section 24.03.120, "Performance Standards" Section 24.03.130 (B.)(1.) and (8.) of the zoning code. Granting of the Variance Permit would allow the following deviations from the Zoning Code, "setback requirements" for the side and rear yards of the property from the ordained 10 feet to 6'6 feet to allow the development of a two-story 4 unit apartment complex. The applicant is also requesting the deviation of the ordained block wall to allow the placement of a chain link fence with privacy guard around the perimeter of the property instead, due to the construction of the block wall fence not being feasible for the development. The parcel is a "Flag lot" and due to the unusual shape, size and location of the parcel, it is difficult for the developer to fit the project onto the site. Currently, the proposed trash enclosure location would block the drive way, the applicant is also requesting as part of this variance, to utilize garbage/recycled containers for each unit, instead of having an enclosed dumpster location for the apartment complex so that he may use the parcel space to its maximum potential and accommodate the development of the project. A noise study was not provided by the applicant.

Section 24.19.400 et seq. of the Imperial Zoning Ordinance allows for variances from development standards "only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification."

Required Findings:

For the Planning Commission to approve a variance, all of these findings must be made:

- A. 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;
- B. 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,
- C. 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.
- D. 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
- E. 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.
- F. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

The applicant has provided justification for the required findings. Please see below:

Findings for 7th Street Property

A. The property is partially land locked with access to a short 20' foot entrance from 7th Street. Property is surrounded by a privately owned four (4) plex and city owned apartments. The city's apartments have no fencing around the perimeter of the property. There is a 4' slotted fence between my property and the four (4) plex next door which is currently dilapidated and needs to be removed. Allowing for a slotted fence would enhance the landscaping planned for my surrounding property. A cement wall would appear to shade the area planned for this work. The proposed smaller garbage cans for each unit would be consistent with the surrounding 4 (4) plex and the city's apartment uses. They use the smaller cans for garbage. The larger dumpsters would block the entrance into the parcel from 7th Street. Please see site plan for details. This property is zoned for multi-family residents.

B. Granting this Variance would allow for the construction of the proposed four plex. The proposed west side of my unit currently has no fencing between the city owned apartments and my lot. The proposed six foot six inch set back would allow my residents to access their apartment safely from 7th Street. Please see details on site plan.

C. Without the variance for setback, the front entrance would not be wide enough for safe entry and exit. The variance for smaller dumpsters instead of the larger one on side alley would not block the front entrance to my lot and provide a safer exist. Slotted fencing would provide for more sunlight around this parcel and allow for easier maintaining of outdoor environment. Safety would not be comprised as the fencing can be built to any height necessary. Seeing through fencing may allow for a safer environment .

D. The surrounding landowners do not have fencing on their back side or have wooden fencing, additionally, all these landowners have smaller type dumpsters, so my proposed variance would be consistent with their properties. The three (3) foot variance would not appear to be a special privilege as this extra space would be allocated on the front driveways for safer passage.

E. The granting of this variance would not allow for a use or activity not allowed on parcel. All proposed variances allowed. Fencing, garbage variances would help facilitate the construction and design of structures with safety for the public in mind.

F. The General Plan allows for multi-family residents on this parcel. This parcel is surrounded by multifamily units and this lot has been vacant for a number of years. The proposed structures would be an improvement to existing conditions on parcel.

Environmental:

The project is Categorically Exempt from the California Environmental Quality Act via the following categorical exemptions: Section 15303 (b.) (e.) and Class 32 In-fill Exemption.

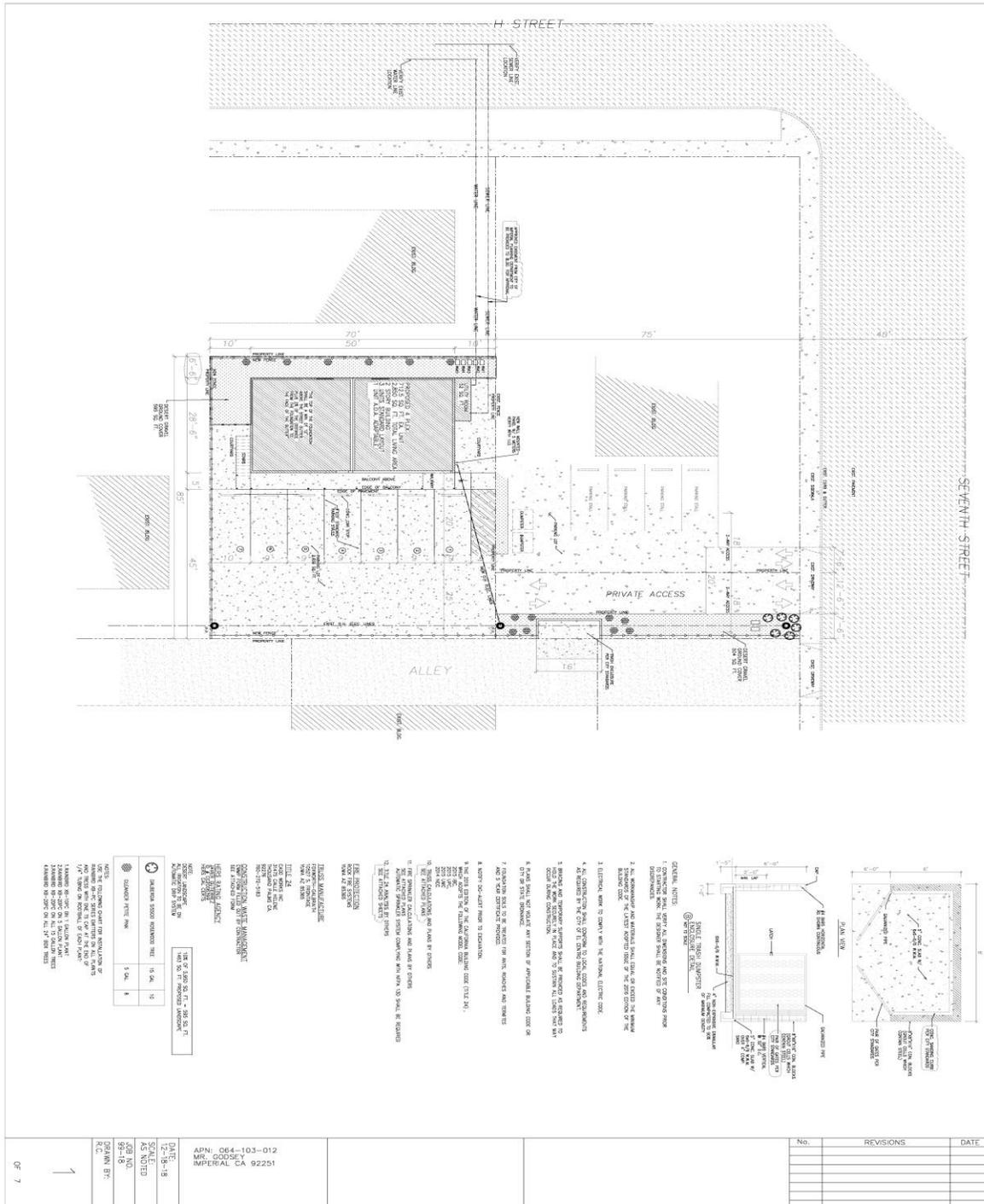
Attachments:

- Site Plan
- Email from Division Manager of Republic Services for Residential Cart Service Clearance.
- Resolution
- Conditions of Approval

Recommendation:

Staff recommends that the Planning Commission conduct a public hearing as required by Section 24.19.425 of the Imperial Zoning Ordinance.

Site Plan of Proposed Apartment Project:



Trash Enclosure Letter:

Tim Godsey

7th Street, Imperial, Ca. 92251

(760)791-4107

tsgodsey@sbcglobal.net

November 25, 2019

Lisa N. Tylenda
Planner

Dear Lisa,

I talked to German Hernandez about setting up residential cart services for my 4 unit apartment building. He is the Division Manager for Republic Services for the entire Imperial County. He stated that he was fine with me utilizing cart services as long as I pull the carts out to 7th Street every Tuesday night or Wednesday morning. I also have to put them back in once the carts have been emptied. I have attached the email from Mr. Hernandez to this document.

Sincerely yours,

Tim Godsey

Republic Services Division Manager Letter:

From: Hernandez, German GHernandez4@republicservices.com 
Subject: 7th Street Apartment Complex- Imperial
Date: November 25, 2019 at 11:11 AM
To: ltylenda@cityofimperial.org
Cc: tsgodsey@sbcglobal.net

Good Morning Lisa,

Tim Godsey is in my office regarding setting up residential cart services for his future 4 unit apartment complex. We are ok with him utilizing cart services as long as he pulls the carts out 7th street and puts them back in.

I copied Mr. Godsey on this email so he is aware of the required cart service pull out.

Thank you,

German Hernandez
Division Manager

3354 Dogwood Road
Imperial, CA 92251
e ghernandez4@republicservices.com
o 760.337.2412 c 818.974.7796
f 760.337.2447 w www.republicservices.com



We'll handle it from here.™



RESOLUTION PC2020-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A VARIANCE PERMIT (19_07) FOR TIM GODSEY ALLOWING THE DEVIATION OF THE FOLLOWING ORDAINED DEVELOPMENT AND PERFORMANCE STANDARDS: DEVIATION OF THE 10' FOOT REAR-YARD SETBACK REQUIREMENTS TO ALLOW A 6'6 FOOT REAR-YARD SETBACK, DEVIATION FROM THE REQUIRED BLOCK WALL AND APPROVAL OF A CHAIN LINK FENCE WITH PRIVACY GUARD AROUND THE PERIMETER OF THE APARTMENT COMPLEX, AND APPROVAL OF DEVIATION OF TRASH ENCLOSURE AND ALLOWED USAGE OF INDIVIDUAL TRASH RECEPTICALS FOR THE DEVELOPMENT OF A FOUR UNIT APARTMENT COMPLEX LOCATED ON ASSESSOR PARCEL NUMBER: 064-103-012; IMPERIAL, CA 92251; AND ADOPTION OF CEQA CATEGORICAL EXEMPTION 15303 (B) AND CLASS 32 IN-FILL EXEMPTION.

WHEREAS, Tim Godsey submitted a request for a Variance for the deviation of the ordained development standards regarding rear-yard setback requirements, fencing requirements and trash enclosure standards; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during an adjourned meeting on January 8, 2020 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 exempt from the California Environmental Quality Act via the following categorical exemptions: Class 32 In-fill exemption and 15303(b.).
- D) There are no sensitive resources located within the area of the project 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-**VAR 19-07** for Tim Godsey, allowing for the following development and performance standards deviation of the “rear-yard setbacks” requirements, “Fencing Requirements” and “Trash enclosure” requirements. The rear-yard setback will be 6’6 feet, the residents will use individual trash receptacles in lieu of have an on-site trash enclosure, and approval of chain-link fence with privacy guard instead of the ordained block wall due to the following findings:

- A. That there are exceptional or extraordinary circumstances applying to the property (size, shape, topography, location or surroundings) or the intended use of the property, and because of this, the strict application of the zoning ordinance deprives the property of privileges enjoyed by other properties in the vicinity under identical zoning classification; and
- B. That owing to such exceptional or extraordinary circumstances the literal enforcement of specified provisions of this Code would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;
- C. That granting the variance or its modifications will not be materially detrimental to the public health, safety of welfare or injurious to the property of improvement in such vicinity and zone in which the property is located; and
- D. 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; and
- E. 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.
- F. 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 January 8, 2020.

Planning Commission Chairman

ATTEST:

Planning Secretary

**RESOLUTION PC 2020-01
CONDITIONS OF APPROVAL**

For

Variance Permit #VAR 19-07

Tim Godsey

APN#: 064-103-012

Imperial, CA 92251

1. A building permit from the City of Imperials' Community Development Department must be obtained after variance approval along with any required development and/or construction plans required and payment of processing fees as well.
2. Applicant shall not hold the City of Imperial or any of its employees responsible for any incidents regarding this Variance Permit.
3. The provisions of this Variance 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.
4. The proprietor/owner shall be responsible for the removal of all graffiti from the property within 72 hours of its appearance on the property.
5. The proprietor/owner shall be responsible for maintaining the locations where the building is located and adjacent to- areas free of litter at all times.
6. 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.
7. The conditional approval of the Variance 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.
8. The Applicant shall pay all impact and capacity fees as required by the city.
9. Applicant must obtain an approved Building Permit from the Community Development Department within 6 month of approval of the Variance Permit. If the applicant does not obtain and approved Building Permit from the Community Development Department, the Variance Permit becomes null and void based on the final date of approval of the Variance Permit.
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 Variance, 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 Variance, 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 approved project.
13. Applicant must comply and obtain any permits required from Local, State, and/or Federal agencies.



Project Proposal

Prepared for: Imperial Planning Commission
Prepared by: Tim Godsey, Owner of Property
January 8, 2020

Unwanted and Abused for Decades!



Due Diligence



The property was rezoned from residential to multi-family units. Thank you!



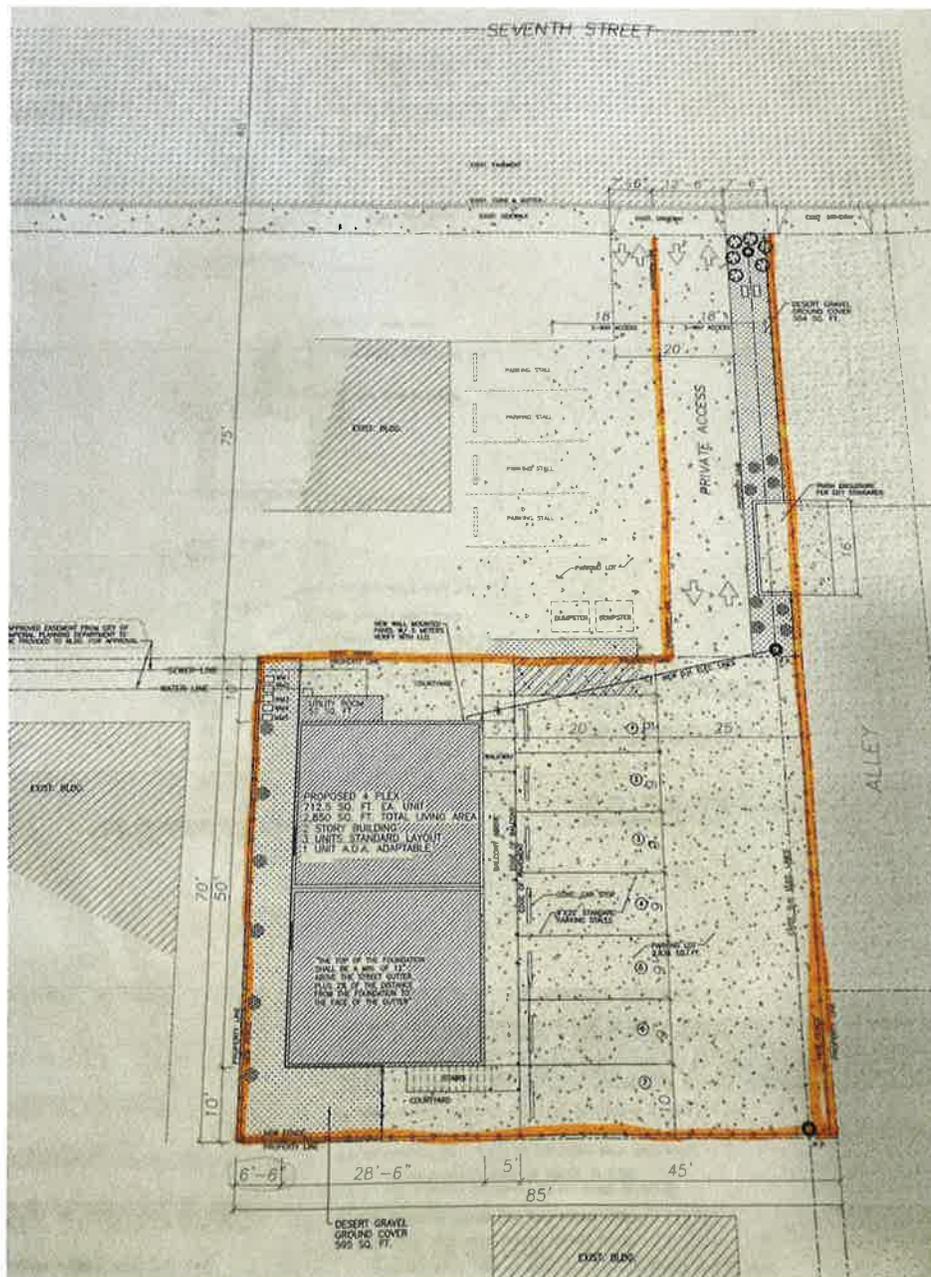
The property has been leveled and cleaned.



The property has been professionally surveyed by Precision Engineering and Surveying. This was necessary to avoid any confusion to the location of the property lines.

Block Wall

A block wall is used to reduce noise from the busy side streets. This property sits between two existing apartment complexes and an alley. Due to the location of the proposed apartments, a block wall should not be necessary as a noise barrier.



Block Wall Vs. Privacy Link Fence

Currently there is a chain link fence dividing the properties. If the variance is approved, I would replace the dilapidated chain link fence and extend it to include the perimeter of the property with a brand new Privacy Link Fence.

Block Wall - The block wall has to be 220 linear feet and 6 feet tall. My lowest bid was **\$19,000.00**.

Privacy Link Fence - The Privacy Link Fence will cost **\$5,280.00**

Due to the additional cost of \$13,720.00 to build the block wall, it may not be feasible to build this property unless this variance is approved.

The Morningside Apartments are beautiful, but they do not have a brick wall.



From: Joe Ortega jcfencesupply@yahoo.com @
Subject: Proposal-Big J Fencing, Inc.
Date: November 27, 2019 at 12:25 PM
To: tsgodsey@sbcglobal.net

Good Morning Tim,

Attached is the Proposal, please let me know you received for my confirmation.

Thank you,
Catalina

Big J Fencing Inc.
598 E. Main St. Ste.B
El Centro. CA 92243
Phone (760) 353-1800
Fax (760) 353-1803

IS A PROUD MEMBER OF THE FOLLOWING



U.S. Small Business Administration

PROPOSAL



Big J Fencing Inc.

598 E. Main St. Ste.B
El Centro, Ca 92243
Phone (760)353-1800
Fax (760)353-1803
Lic. # 925976

PROPOSAL No.	4720
P.O No.	
Date	11/27/2019

PROPOSAL SUBMITTED TO

Tim Godsey
[760-791-4107](tel:760-791-4107)
tsgodsey@sbcglobal.net

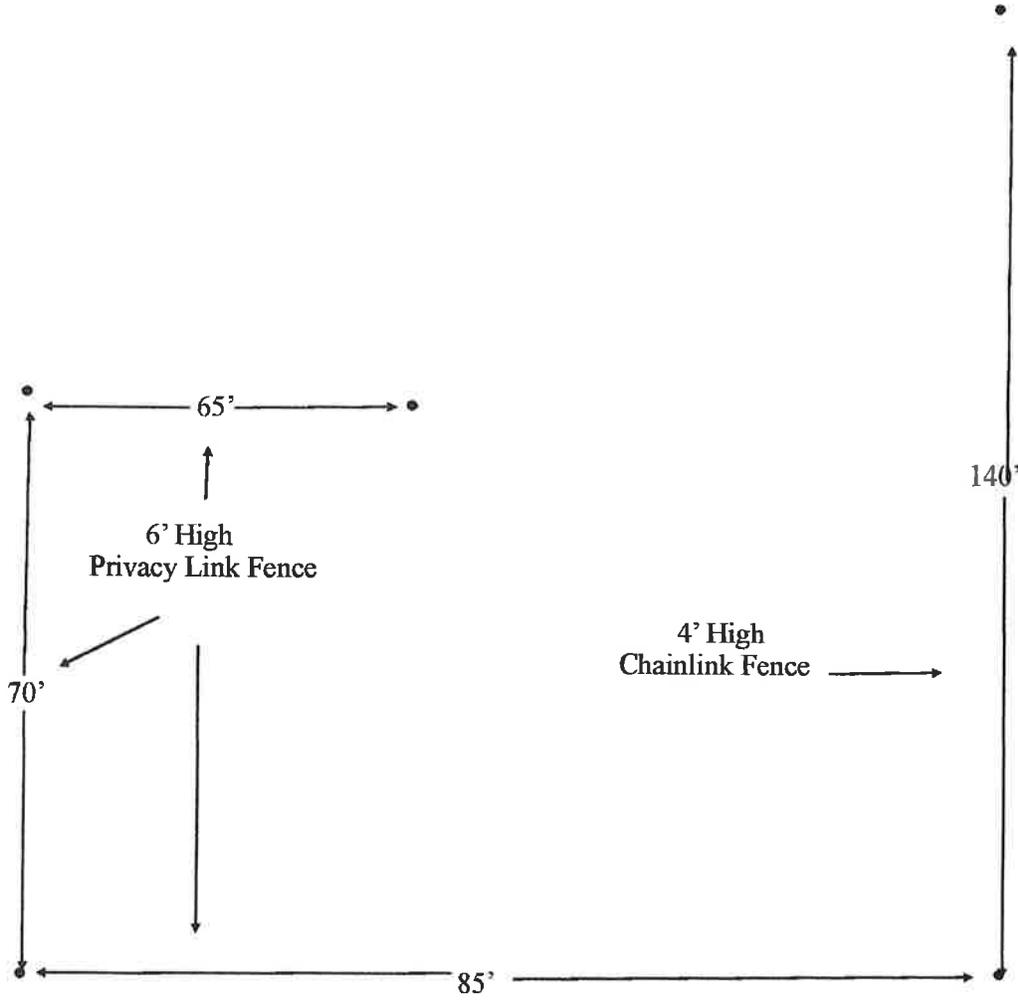
WORK TO BE PERFORMED AT

17th Street
Imperial

Big J. Fencing Inc.

598 E. Main St. Ste. B
El Centro, Ca 92243
Phone (760) 353-1800
Fax(760) 353-1803

Tim Godsey
4720



PROPOSAL AND CONTRACT

(Not for Residential Remodeling over \$500.00)

THIS PROPOSED AGREEMENT IS BETWEEN:

DATE: 1-6-20
PROPOSAL NO: 1



Alvaro Madrid Concrete Inc.
602 S. Imperial Ave. Imperial, CA 92251
Office: 760-355-2681 Cell: 760-996-5504
Fax: 760-355-0229 Lic # 860255
amadridcc@sbcglobal.net

Tim Godsey
(Owner's Name)

(Owner's Address)

(City, State & Zip)

(Telephone - FAX)

We hereby propose to furnish all materials and necessary equipment, and perform all labor necessary to complete the following work: 7th St. in Imperial

220' OF 6" X 6' FOOT TALL
Blockwall, Solid grouted, grey
natural color, with mud cap
on top

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of Nineteen
Thousand dollars (\$ 19,000) with payments to be made as follows:

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See attached Notice of Cancellation form for an explanation of this right. Cancellation by the buyer after the right to rescind has passed, shall be deemed a material breach of this agreement and entitles the contractor to damages.

RESPECTFULLY SUBMITTED,
Contractor's Name:
By: Alvaro Madrid
Contractor's License #: 860255
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____ FAX: _____

Note: This proposal may be withdrawn by us if not accepted within days. If accepted, work will begin (approximately) on _____, and will be substantially completed within (approximately) days.

ACCEPTANCE

You are hereby authorized to furnish all material, equipment and labor required to complete the work described in the above proposal, for which the undersigned agree to pay the amount stated in said proposal and according to the terms thereof. Any change involving extra cost of labor or materials will be executed only on submission and acceptance of a written change order.

DATE: _____ SIGNATURE: _____

Residential Cart Services

I would like to use residential cart services rather than dumpsters, as the larger dumpsters would block a portion of the driveway. My neighbor directly to the south and west of the property currently uses residential cart services for their five duplexes (See pictures below).

I also have a letter from German Hernandez the Republic Services Division Manager approving this property to use for residential cart services.



From: Hernandez, German GHernandez4@republicservices.com
Subject: 7th Street Apartment Complex- Imperial
Date: November 25, 2019 at 11:11 AM
To: ltylenda@cityofimperial.org
Cc: tsgodsey@sbcglobal.net

Good Morning Lisa,

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I copied Mr. Godsey on this email so he is aware of the required cart service pull out.

Thank you,

German Hernandez
Division Manager

3354 Dogwood Road
Imperial, CA 92251
e ghernandez4@republicservices.com
o 760.337.2412 c 818.974.7796
f 760.337.2447 w www.republicservices.com



We'll handle it from here™

