



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.

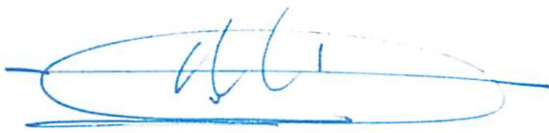
Recommendation

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,



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.