



Staff Report

Agenda Item No. E-1

To: City of Imperial Planning Commission
From: Yvonne Cordero, Planner
Date: June 21, 2024
Item: Variance 23-04 and Conditional Use Permit 23-07 – Deviation from the Residential Property Development Standards

Applicant:	Mark Gaddis
Project Location:	121 N. F Street
Zoning:	R-1 Single-Family Residential
Environmental:	Categorically Exempt from CEQA – 15301 Existing Facilities
Recommendation:	Staff does not recommend Planning Commission approval of Variance 23-04 and Conditional Use Permit 23-07.

Background

Mark Gaddis submitted a Planning Application for the legalization of an existing metal and fabric accessory structure constructed at his residence located at 121 N. F Street. The accessory structure has an overall height of thirteen feet and six inches and was constructed with ten-inch setbacks from the property line. The City of Imperial's

Residential Property Development Standards for Accessory Structures require a setback measurement of three feet and a maximum height of twelve feet for accessory structures.

Mr. Gaddis was paid a courtesy call by our Code Enforcement Division to obtain a building permit for the legalization of his accessory structure. He informed Code Enforcement that the structure had been constructed approximately one year prior to the City's notice. During the building permit review process, staff advised Mr. Gaddis of the structure's height and setback violations and he opted to apply for a variance to deviate from the required setback and height requirements.

The City of Imperial's Development Review Committee reviewed Variance 23-04 and Conditional Use Permit 23-07 and recommend the accessory structure be either removed or modified to comply with the City's Residential Property Development Standards. Upon review of the project, the Development Review Committee requested the Imperial Irrigation District's review of the structure, due to the proximity of IID's power poles and power lines located at the Northwest corner of Mr. Gaddis' property shown in the picture below. IID conducted a site inspection and verified the structure was constructed within IID's Right of Way/Easement and provided their Distribution Line Clearance Specifications detailing the area distances that are to be clear of buildings/structures for 15KV power poles/lines (Attachment B) and Regulation No. 23-Clearance Requirements for Power Line Corridors (Attachment C).



Community Development staff met Mr. Gaddis at his property on February 9, 2024 to verify the structure's measurements. Staff's measurements confirmed that the accessory structure is in violation of IID's Distribution Line Clearances and the City's Property Development Standards. Mr. Gaddis informed staff he submitted an IID Encroachment Permit for permission to encroach within the IID's right of way/easement, but the IID Encroachment Permit was rejected (Attachment D). IID's recommendation is for Mr.

Gaddis to reapply for an Encroachment Permit after modifying the accessory structure to conform with IID's Regulation No. 23 (Attachment C).

The City of Imperial Planning Commission conducted a public hearing on March 27, 2024. The Planning Commission directed Mr. Gaddis to inquire about what other recourse or appeals process was available to him after IID's Encroachment Permit denial. The public hearing was unanimously continued by the Planning Commission pending the information to be provided by Mr. Gaddis at the continued public hearing scheduled for April 24, 2024.

Mr. Gaddis contacted IID's Real Estate Section and IID requested a letter from City staff summarizing the Planning Commission's instructions and he provided staff with the Encroachment Permit rejection email (Attachment D).

At the April 24, 2024, continued public hearing the Planning Commission unanimously voted on giving Mr. Gaddis an additional six weeks to contact IID and obtain a resolution. The public hearing was once again continued to June 12, 2024. Mr. Gaddis provided a project update statement (Attachment F), indicating IID is formulating a cost sheet to reroute power lines and the power pole located on his property. Staff contacted IID regarding Mr. Gaddis' project for an update, but did not receive any information by the June 12, 2024 public hearing and continued the public hearing to June 26, 2024. Direction was given for staff to contact IID for a project update and to request an IID representative be present at the June 26 continued public hearing.

Staff received a project update from IID and provided a power pole removal and power line rerouting plan (Attachment G). This plan confirms that the removal of the overhead power lines from power pole #1 (6372) to pole #3 (6373) and the recordation of the IID-approved right-of-way/easement will resolve the infractions. Mr. Gaddis' cost to execute the removal and rerouting plan is \$83,820.56, as demonstrated in IID's cost estimate (Attachment H). Mr. Gaddis indicated he intends to move forward with IID's proposition to remove the power poles and reroute the power lines to clear IID's infractions and to allow him to preserve his shade structure (Attachment I).

Eliminating IID's infractions will allow the City's Planning Commissioners to move forward and address the variance to allow the shade structure's setbacks that deviate from the three-foot setback required in our Residential Zone's Property Development Standards. It will also allow the proper evaluation of the Conditional Use Permit request to permit the existing structure's height of thirteen feet, 6 inches to exceed the Residential Zone's twelve-foot height limitations for accessory structures.

Project Location



Aerial View



Required Findings for Variance 23-03:

In order to approve Variance 23-03, 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. There are special circumstances, such as size topography, location or surroundings applicable to the property 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.**

There are no special circumstances that apply to this property regarding its size, shape or topography that deprive the property of the privileges enjoyed by other properties within the Residential Zone. The subject parcel's size is approximately 9,074 square feet, much larger than the minimum lot size of 6,500 square feet in a Residential Zone, therefore allowing sufficient space for the required three-foot setbacks.

- 2. The granting of the variance or its modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property for which the variance is sought.**

Although Mr. Gaddis' property right to construct an accessory structure is recognized and has not been denied, the granting of the variance, in its original or modified form, is not necessary to preserve the property owner's right possessed by other residential properties in the vicinity. Permitted accessory structures in Residential Zones comply with the Residential Zone's Property Development Standards by going through the City of Imperial's Community Development's building permit review process or by the approval of a variance.

- 3. That granting the variance or its modification 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.**

Granting the variance is a potential detriment to the public health, safety and welfare to the property and properties in the project site's vicinity. The applicant built the structure without going through the proper building permit process that includes foundation, structural, certified engineered, property development standards plan review, and all subsequent building inspections to verify the structure's integrity.

- 4. The variance will not constitute a privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.**

The approval of this variance will be granting a special privilege within the neighborhood and zone as other residential accessory structures that are reviewed by the City of Imperial's Community Development Department prior to being constructed are only approved when the building plans and inspections comply with the Property Development Standards set forth in Section 24.03.120 of the Residential Zone Ordinance.

- 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.**

Granting the approval of Variance 23-04 will allow a use unauthorized by the Residential Zone governing the parcel located at 121 N. F Street by deviating from the Residential Property Development Standards set forth in Section 24.03.120.

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

Variance 23-04 will be incompatible with The City of Imperial's General Plan's Safety Element. Objective 8 states the City is responsible for protecting the public to the maximum extent possible. Additionally, the Hazard Management Element's goals and objectives are to contain mitigation measures to protect the public health, safety and welfare. The applicant built the structure without going through the proper building permit process that includes foundation, structural, certified engineered, property development standards plan review, and all subsequent building inspections to verify the structure's integrity.

Required Findings for Conditional Use Permit 23-07:

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 Residential Single-Family Zone, which is intended as an area for single-family residential development. Additional uses, such as the accessory structure, that are complementary to and that

exist in harmony with a single-family residential neighborhood are permitted, provided that they follow the Residential Property Development Standards. Exceeding the height limitations requires a Conditional Use Permit.

- 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 accessory structure, a metal and fabric shade structure utilized for the storage of a recreational vehicle, does not propose to be a detriment that will adversely affect his residence, or the adjacent residential uses, provided he legalizes the structure by going through the building permit process and complying with all building codes to verify the accessory structure's integrity.

- 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.**

Approval of Conditional Use Permit 23-07 is a potential detriment to the public health, safety and welfare to the property and properties in the project site's vicinity. The applicant built the structure without going through the proper building permit process that includes foundation, structural, certified engineered, property development standards plan review, and all subsequent building inspections to verify the structure's integrity.

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

The existing accessory structure does not comply with the provisions of the Residential Zoning Ordinance's Property Development Standards by being constructed with ten-inch setbacks and within a utility easement.

Environmental:

This project qualifies for a Categorical Exemption according to the California Environmental Quality Act (CEQA), Section 15301, "Existing Facilities", and is determined to be exempt from further environmental review requirements contained in CEQA.

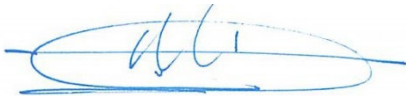
Staff Recommendation:

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 **DENIES APPROVAL** of Variance 23-04 to allow the deviation of the required setbacks defined in the City of Imperial's Property Development Standards and Conditional Use Permit 23-07 to allow the existing accessory structure with a height that exceeds the City of Imperial's Property Development Standards.

Attachments

- Attachment A - DRAFT Resolution PC2024-01 with Conditions of Approval
- Attachment B - IID Distribution Line Clearance Guidelines
- Attachment C - IID Regulation No. 23
- Attachment D - IID Encroachment Permit Application Rejection Notice
- Attachment E - Applicant's Accessory Structure's Building Plans
- Attachment F - Applicant's project status statement
- Attachment G - IID Power Pole Removal and Power Line Rerouting Plan
- Attachment H - IID Cost Estimate
- Attachment I - Applicant's Email Stating Intention to Proceed with IID's Proposed Plan

Respectfully submitted,



Othon Mora, MCM, CBO
Community Development Director

ATTACHMENT A
DRAFT RESOLUTION NO. PC2024-01

A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL, DENYING APPROVAL OF VARIANCE 23-04 AND CONDITIONAL USE PERMIT 23-07 FOR MARK GADDIS TO ALLOW THE DEVIATION OF THE RESIDENTIAL ZONE'S PROPERTY DEVELOPMENT STANDARDS FOR MAXIMUM HEIGHT AND SETBACK REQUIREMENTS FOR AN ACCESSORY STRUCTURE LOCATED AT 121 NORTH F STREET (APN 064-042-001)

WHEREAS, Mark Gaddis submitted a variance request for the deviation of the Residential Zone's Property Development standards for an accessory structure exceeding the maximum height limitations and setback requirements; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during a meeting on March 27, 2024, April 24, 2024, June 12, 2024 and June 26, 2024; 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 Variance 23-04 Conditional Use Permit 23-07.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial grants 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 Residential Zone's Property Development Standards are ministerial and therefore categorically exempt from the California Environmental Quality Act per Section 15301.
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorical Exempt under Section 15301 of the California Environmental Quality Act; and
- E) That based on the evidence presented at the public hearing, the Planning Commission hereby **DENIES APPROVAL of Variance 23-04 and Conditional Use Permit 23-07** for Mark Gaddis to allow for the deviation of the Residential Zone's Property Development Standards for maximum height and setback requirements, based on the following findings:

- 1. There are special circumstances, such as size topography, location or surroundings applicable to the property 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.**

There are no special circumstances that apply to this property regarding its size, shape or topography that deprive the property of the privileges enjoyed by other properties within the Residential Zone. The subject parcel's size is approximately 9,074 square feet, much larger than the minimum lot size of 6,500 square feet in a Residential Zone, therefore allowing sufficient space for the required three-foot setback.

- 2. The granting of the variance or its modification is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone and denied to the property for which the variance is sought.**

Although Mr. Gaddis' property right to construct an accessory structure is recognized and has not been denied, the granting of the variance, in its original or modified form, is not necessary to preserve the property owner's right possessed by other residential properties in the vicinity. Permitted accessory structures in Residential Zones comply with the Residential Zone's Property Development Standards by going through the City of Imperial's Community Development's building permit review process or by the approval of a variance.

- 3. That granting the variance or its modification 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.**

Granting the variance is a potential detriment to the public health, safety and welfare to the property and properties in the project site's vicinity. The applicant built the structure without going through the proper building permit process that includes foundation, structural, certified engineered, property development standards plan review, and all subsequent building inspections to verify the structure's integrity.

- 4. The variance will not constitute a privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.**

The approval of this variance will be granting a special privilege within the neighborhood and zone as other residential accessory structures that are reviewed by the City of Imperial's Community Development Department prior to being constructed are only approved when the building plans and

inspections comply with the Property Development Standards set forth in Section 24.03.120 of the Residential Zone Ordinance.

- 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.**

Granting the approval of Variance 23-04 will allow a use unauthorized by the Residential Zone governing the parcel located at 121 N. F Street by deviating from the Residential Property Development Standards set forth in Section 24.03.120.

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

Variance 23-04 will be incompatible with The City of Imperial's General Plan's Safety Element. Objective 8 states the City is responsible for protecting the public to the maximum extent possible. Additionally, the Hazard Management Element's goals and objectives are to contain mitigation measures to protect the public health, safety and welfare. The applicant built the structure without going through the proper building permit process that includes foundation, structural, certified engineered, property development standards plan review, and all subsequent building inspections to verify the structure's integrity.

- F) 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 26th day of June, 2024.

Planning Commission Chairperson

ATTEST:

City Clerk

CONDITIONS OF APPROVAL

VARIANCE 23-04

Mark Gaddis

121 N. F Street

APN 064-042-001

1. Applicant understands that the Planning Commission's decision may include:
 - a) approval of Resolution PC2024-01 to maintain the existing carport structure located at the western property line of APN 064-042-001, approving the deviation from the City of Imperial's Property Development Standards setback and height requirements; or
 - b) approval of Resolution PC2024-01 with additional conditions imposed during the public hearing by the City of Imperial's Planning Commission; or
 - c) denial of Resolution PC2024-01 effecting the removal or reconstruction of the existing side yard carport structure to comply with the City of Imperial's Residential Development Standards for accessory structures and the Imperial Irrigation District's Right of Way Building Clearance Regulations.
2. Applicant must obtain a building permit from the City of Imperial's Community Development Department along with any required development and/or construction plans, including payment of any related project fees.
3. Applicant shall not hold the City of Imperial or any of its employees responsible for any incidents regarding Variance 23-04.
4. The provisions of Variance 23-04 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 23-04 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 23-04. If the applicant does not obtain an approved building permit from the Community Development Department, Variance 23-04 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 23-04, 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 23-04 approval may be a "nuisance per se". The City may enforce the terms and conditions of Variance 23-04 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.

ATTACHMENT G

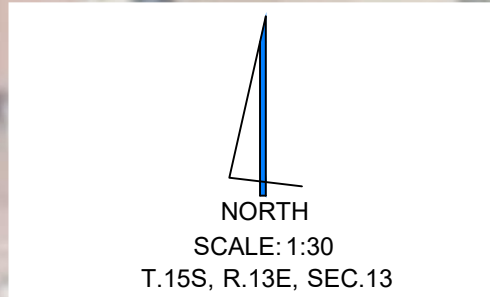
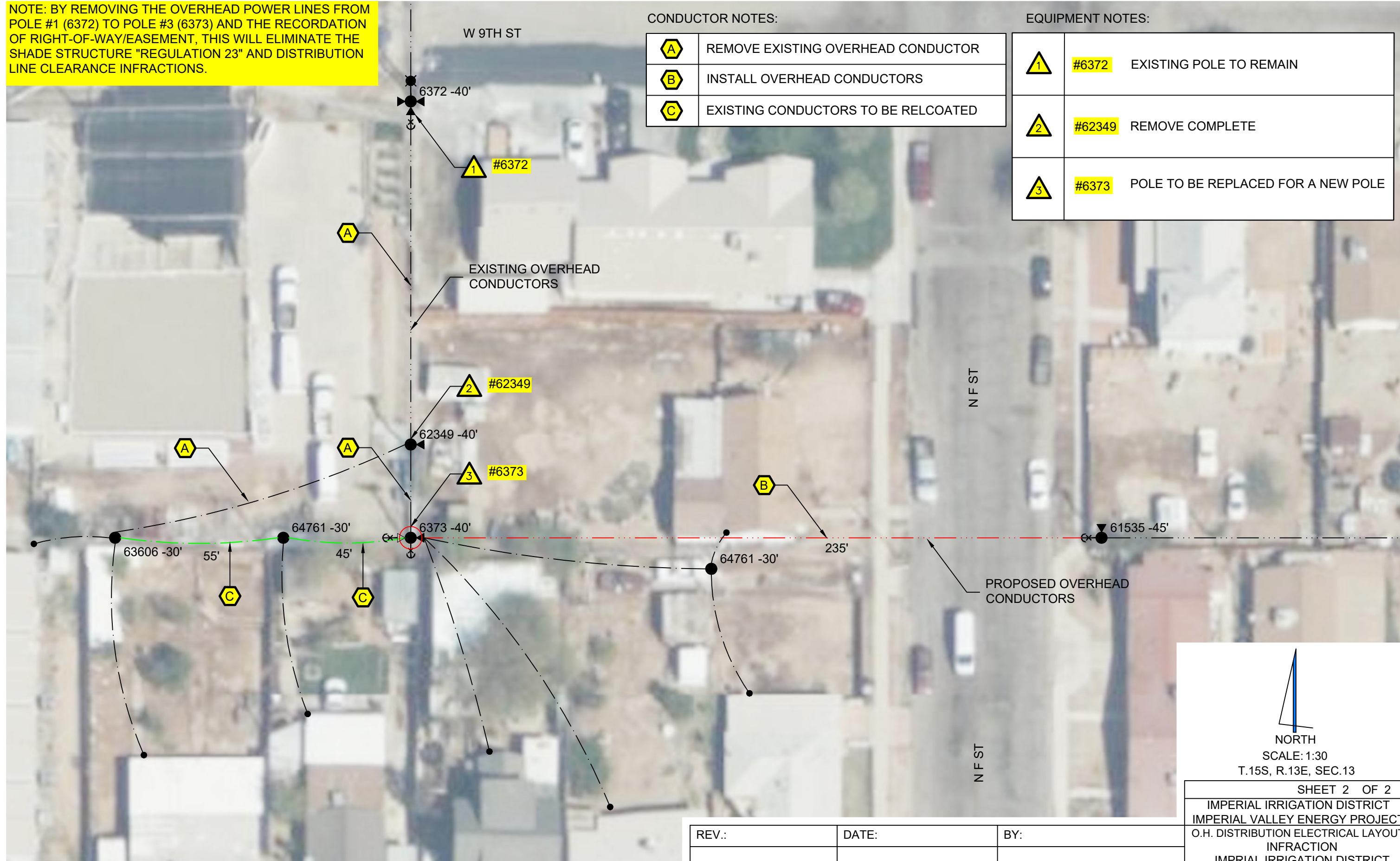
NOTE: BY REMOVING THE OVERHEAD POWER LINES FROM POLE #1 (6372) TO POLE #3 (6373) AND THE RECORDATION OF RIGHT-OF-WAY/EASEMENT, THIS WILL ELIMINATE THE SHADE STRUCTURE "REGULATION 23" AND DISTRIBUTION LINE CLEARANCE INFRACTIONS.

CONDUCTOR NOTES:

A	REMOVE EXISTING OVERHEAD CONDUCTOR
B	INSTALL OVERHEAD CONDUCTORS
C	EXISTING CONDUCTORS TO BE RELCOATED

EQUIPMENT NOTES:

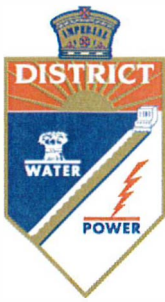
1	#6372	EXISTING POLE TO REMAIN
2	#62349	REMOVE COMPLETE
3	#6373	POLE TO BE REPLACED FOR A NEW POLE



SHEET 2 OF 2
IMPERIAL IRRIGATION DISTRICT
IMPERIAL VALLEY ENERGY PROJECT
O.H. DISTRIBUTION ELECTRICAL LAYOUT
INFRACTION
IMPRIAL IRRIGATION DISTRICT

REV.:	DATE:	BY:	FILE NAME: N/A
SERV. NOTIF.: N/A	SERV. ORDER: N/A	SUB: NEW IMPERIAL	DATE: 06/18/2024

DESIGNED: L. FLORES DRAWN BY: L. FLORES



11D

A century of service.

June 17, 2024,

Mr. Mark Gaddis
121 North F Street
Imperial CA, 92251

Re: Construction estimate to relocate overhead power line at 121 North F St. Imperial CA, 92251

Construction Estimate:

• Engineering:	\$ 2,635.05
• Tree Trimming:	\$5,000.00
• Traffic Control:	\$7,500.00
• Construction Labor:	\$37,737.50
• Transportation:	\$5,469.00
• Materials:	\$ 5,802.68
• Service Department:	\$1,989.50
• G&A Overhead:	\$17,686.83
Total:	\$83,820.56

From: [Nancy Murrieta](#)
To: [Yvonne Cordero](#)
Cc: [Othon Mora](#)
Subject: Re: IID Carport - 121 N. F St.
Date: Wednesday, June 19, 2024 10:23:15 AM
Attachments: [image001.png](#)
[image003.png](#)
[IIDLogo101x66px_201f6792-295d-4c4c-b1c9-296072e9e4cf.png](#)

CAUTION: This email originated from outside the City of Imperial. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Yvonne,

Mr. Gaddis plans on moving forward with the IID's proposition however Mr. Gaddis is currently out of town and won't be back until September. Therefore he would like to request a continuance on this matter. Can you please advise on the best way to move this continuance forward? Thank you.

Respectfully,

Nancy Murrieta
Office Manager
G/4 Construction
121 North F Street
Imperial, CA 92251
760-355-4332 Office
760-457-5310 Cell

On Tuesday, June 18, 2024 at 02:14:07 PM PDT, Yvonne Cordero <ycordero@cityofimperial.org> wrote:

Good Afternoon Mr. Gaddis and Nancy,

We have reviewed your proposed project with IID that will eliminate the infractions. Please advise as to how you plan on proceeding with this project to include the pertinent information and recommendations in my staff report and formulate the appropriate resolutions.

Also, your project's final decision will be discussed at the next continued public hearing scheduled for June 26, 2024. It is in your best interest that you are in attendance to provide any additional information and answer any of the Commissioner's questions.

Thank you,