

TO: Planning Commission

AGENDA DATE: May 24, 2023

FROM: PLANNING & DEVELOPMENT SERVICES AGENDA TIME: 9:00 a.m. / No. 4

PROJECT TYPE: Variance #	23-0001 (Brianna S	cherer)SUPI	ERVISOR DIS	T: <u>#2</u>
LOCATION: 65 V	V. Palo Verde Rd	APN:	033-306-0	03-000
	nirage Community A		7 0	
ZONE (existing) R-1 (Lo				
GENERAL PLAN FINDINGS	CONSISTENT	☐ INCONSISTENT	MAY BE/	FINDINGS
PLANNING COMMISSION DE	<u>CISION</u> :	HEARING DA	TE:	5/24/2023
	APPROVED	DENIED	OTHER	
PLANNING DIRECTORS DECISION:		HEARING DA	TE:	N/A
	APPROVED	DENIED	OTHER	
ENVIROMENTAL EVALUATIO	N COMMITTEE DE	CISION: HEARING DA	.TE:	N/A_
		INITIAL STUD)Y:	
☐ NEG	ATIVE DECLARATION	MITIGATED NEG. I	DECLARATION	EIR
DEPARTMENTAL REPORTS / PUBLIC WORKS AG APCD E.H.S. FIRE / OES OTHER Que	APPROVALS: NONE NONE NONE NONE NONE NONE		ATTACHED ATTACHED ATTACHED ATTACHED ATTACHED	

REQUESTED ACTION:

IT IS RECOMMENDED THAT YOU CONDUCT A PUBLIC HEARING, THAT YOU HEAR ALL THE OPPONENTS AND PROPONENTS OF THE PROPOSED PROJECT. STAFF WOULD THEN RECOMMEND THAT YOU TAKE THE FOLLOWING ACTIONS:

- 1. FIND THAT VARIANCE #23-0001 IS CATEGORICALLY EXEMPT FROM CEQA PER ARTICLE 19, SECTION 15305 (A) CLASS 5 MINOR ALTERATIONS TO LAND USE LIMITATION OF CEQA AND THAT NO FURTHER ENVIRONMENTAL DOCUMENTATION IS NECESSARY; AND
- 2. CONSIDER THE APPROVAL <u>OR</u> DENIAL OF VARIANCE #23-0001 TO ENCROACH INTO THE REAR AND SIDE YARD SETBACKS.

STAFF REPORT

Planning Commission Meeting May 24, 2023

Project Name: Variance #23-0001

Applicant: Brianna Scherer

65 W. Palo Verde Ave, Ocotillo, CA 92259

Project Location:

The proposed Variance is located within the Ocotillo Townsite at 65 W. Palo Verde Ave Ocotillo, CA 92259; further identified as Assessor's Parcel Number (APN) 033-306-003-000, and is legally described as Lot 45, Townsite of Ocotillo Unit 1.

Project Summary:

The applicant submitted a Variance application (Variance #23-0001) to allow for two (2) metal cargo containers, on a concrete slab, to encroach into the rear (south) and side (east) yard setbacks in an R-1 (Low Density Residential) zone. The applicant is requesting to retain both the eight by twenty foot (8' x 20') and the eight by forty foot (8' x 40') cargo containers, which encroaches into the twenty five foot (25') rear setback by two (2') feet, and the five foot (5') side yard setback by three (3') feet. The metal cargo containers were in place at time of property purchase, and used for storage.

Land Use Analysis:

The project site is designated as "Residential" and under the Imperial County General Plan and is zoned "R-1" (Light Residential) per Zoning Map #59 of the Imperial County Title 9 Land Use Ordinance. Current setback requirements for an "R-1" zone include a twenty five foot (25') rear setback and a five (5) foot side setback. The requested Variance would allow two (2) metal cargo containers and stairs to remain in place as it was when applicant purchased the property.

Surrounding Land Use Ordinance:

DIRECTION	CURRENT LAND USE	ZONING	GENERAL PLAN
Project Site	Residential	R-1 (Low Density Residential)	Urban
North	Residential	R-1 (Low Density Residential)	Urban
South	Residential	R-1 (Low Density Residential)	Urban
East	Residential	R-1 (Low Density Residential)	Urban
West	Residential	R-1 (Low Density Residential)	Urban

Environmental Review:

The proposed project is exempt from CEQA (California Environmental Quality Act) per section 15305 Minor alterations in land use limitation which include "...variances not resulting in the creation of any new parcel."

Staff Recommendation:

Staff recommends that the Planning Commission hold a public hearing, hear all the proponents and opponents of the proposed project. Staff would then recommend that you take the following actions:

- Find that Variance #23-0001 is categorically exempt from CEQA per Article 19, Section 15305 (a) Minor Alterations to Land Use Limitation of CEQA and that no further environmental documentation is necessary; and
- 2. Consider the approval <u>or</u> denial of Variance #23-0001 to encroach into the rear and side yard setbacks.

Prepared By:

Evelia Jimenez, Planner II

Planning & Development Services

for

Reviewed By:

Michael Abraham, AICP, Assistant Director

Planning & Development Services

Approved By:

Jim Minnick, Director

Planning & Development Services

Attachments:

A. Vicinity Map

B. Site Plan

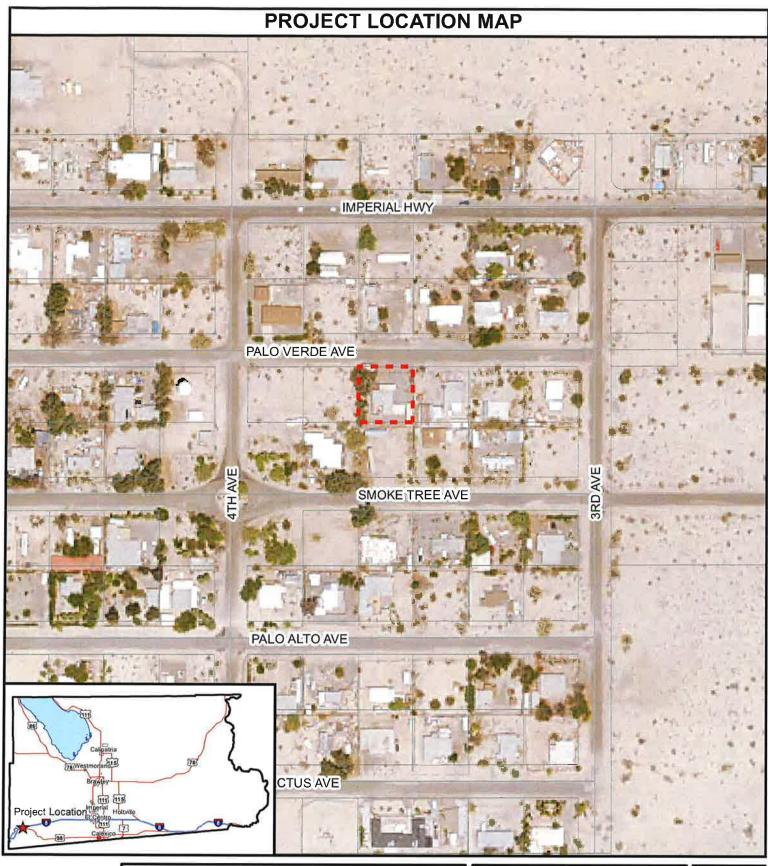
C. Planning Commission Resolutions

D. Conditions of Approval

E. Application

F. Comment Letters

Attachment A. Location Map



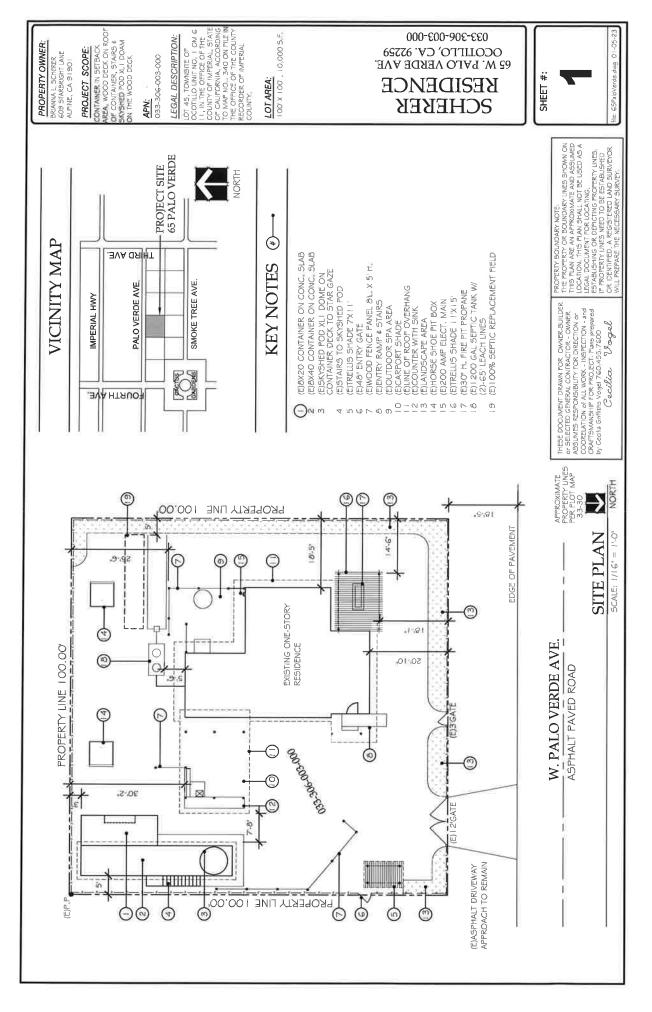


65 PALO VERDE, OCOTILLO V23-0001 APN 033-306-003-000





Attachment B. Site Plan



Attachment C. Resolutions & Findings

RESOL	LUTION	NO.	
RESOL	LUTION	NO.	

A RESOLUTION OF PLANNING COMMISION OF THE COUNTY OF IMPERIAL CALIFORNIA APPROVING\DENYING "VARIANCE #23-0001" FOR BRIANNA SCHERER.

WHEREAS, Brianna Scherer has submitted an application for Variance #23-0001 to allow for existing metal cargo containers on concrete slab to encroach into rear yard setback and the attached stairs to encroach into the side yard setback; and,

WHEREAS, Variance #23-0001 has been prepared in accordance with the requirements of the State Planning and Zoning Law, California Environmental Quality Act, the State CEQA Guideline, the County's "Rules and Regulations to Implement CEQA, and the County's Land Use Ordinance, Title 9 as amended; and,

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility for consideration of approval\denial for Variance #23-0001; and,

WHEREAS, public notice of the public hearing for said application has been given, and the Planning Commission has heard, received and considered all oral and written protest, objections and evidence presented by interested parties at a public hearing held with respect this item on May 24, 2023; and,

NOW THEREFORE, the Planning Commission of the County of Imperial DOES HEREBY RESOLVE as follows:

SECTION 1. The Planning Commission has considered the proposed Variance #23-0001 prior to approval\denial. The Planning Commission finds and determines that the Variance is adequate and prepared in accordance with the requirements of the State Planning and Zoning Law, the County's Land Use Ordinance, Title 9 as amended, and the California Environmental Quality Act (CEQA) which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning law; the County's Land Use Ordinance, Title 9 as amended; and the County of Imperial regulations, the following findings for the approval\denial of Variance 23-0001 and Findings have been made as follows:

 That there are special circumstances applicable to the property described in the application filed for such variance, or to its intended use, that do not apply generally to the property or class of use in the same zone or vicinity. (Imperial County Code§ 90202.08 A. (1))

The applicant submitted a Variance application for two (2) existing (8' x 20' foot and 8' x 40' foot) metal cargo containers, placed on a concrete slab, encroaching into the rear and side yard setback. The metal cargo containers was in place at time of property purchase.

2. That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located. County Code§ 90202.08 A (2)

The cargo containers are not materially detrimental to the public welfare or injurious to the property or improvements in the vicinity. Structures have been on-site and has caused no report of negative affect on surrounding land and/or landowners.

3. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. County Code§ 90202.08 A (3)

There is no special circumstances applicable to the subject property.

4. That the granting of such variance will not adversely affect the comprehensive General Plan.

The site location is designated R-1 (Low Density Residential) by the Imperial County Land Use Ordinance Title 9. A Variance for the sole purpose of retaining the eight foot by twenty foot (8' x 20') and the eight foot by forty foot (8' x 40') metal cargo containers that is within the rear yard setback, and, the attached stairs, that is within the east side yard setback, will not adversely affect the comprehensive General Plan.

NOW, THEREFORE, based on the above findings, the Imperial County Planning Commission DOES HEREBY APPROVE\DENY Variance #23-0001 for the encroachment into the rear and side yard setbacks.

Rudy Schaffner, Chairman Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on May 24, 2023 by the following vote:

AYES:		
NOES:		
ABSENT:		
ABSTAIN:		
ATTEST:		
Jim Minnick, Director of Secretary to the Plannin	f Planning & Development Services	

Attachment D. Conditions of Approval

CONDITIONS

OF APPROVAL

VARIANCE (V) #23-0001

APN 033-306-003-000

NOTICE TO APPLICANT!

The above-referenced Variance, upon approval by the County, shall be subject to all of the following conditions, which may include modification or rescission, in whole or in part, by the PLANNING COMMISSION and/or BOARD OF SUPERVISORS from the conditions recommended by staff. In the event any conditions are deferred the APPLICANT or any subsequent owner(s), shall comply with all of the CONDITIONS specified herein, whether at the time of approval of the Variance or prior to any development permits. It is the obligation of the property owner (current or future) to comply with these conditions; hereinafter the term "applicant" shall mean the current and future owners. If approved, this project having been reviewed for compliance with the General Plan and County Land Use Ordinance, the applicant shall comply with all of the requirements of said documents whether specified herein or not.

SITE SPECIFIC CONDITIONS:

- 1. The applicant must submit building permit and fees for the cargo containers.
- 2. The use shall be limited to incidental storage and shall not be used to store hazardous materials unless approved by the Fire Department.
- 3. The use shall not allow human occupancy of the cargo containers.
- 4. The cargo containers shall not be connected to a power source.
- 5. The cargo containers shall be maintained in good condition and free of graffiti at all times.

Attachment E. Application

VARIANCE

I.C. PLANNING & DEVELOPMENT SERVICES DEPT. 801 Main Street, El Centro, CA 92243 (760) 482-4236

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

PROPERTY OWNER'S NAME	EMAIL ADDRESS
Priana Scherer	
1 WIND ADDRESS IN THE PER	ZIP GODE PHONE NUMBER
2. MAILING ADDRESS (Street / P O Box, City, State)	
3. ENGINEERS NAME CA. LICENSE NO.	91901 760-455-7600
3. ENGINEERS NAME CA. LICENSE NO.	EMAIL ADDRESS
OB	a company and and
A MICHAEL ADDRESS OF	TID CODE LOUIS NUMBER
4. MAILING ADDRESS (Street / P O Box, City, State)	ZIP CODE PHONE NUMBER
5. ASSESSOR'S PARCEL NO.	ZONING (audation)
	ZONING (existing)
6. PROPERTY (site) ADDRESS	KI
PROPERTY (site) ADDRESS	SIZE OF PROPERTY (in acres or square foot)
65 Palo Jerde Opotillo	10,000 3,5
7. GENERAL LOCATION (i.e. city, town, cross street)	
7. GENERAL ECCATION (i.e. city, town, cross sheet)	
Ocatillo	
8. LEGAL DESCRIPTION Lot US Townsite of	acatilla Doit no I oma in the
20042 of 10 2 10 1 10 10 2 2 2	to portlai H. Co. C. H. C. I
office of 10 according to map no 34	
8. DESCRIBE VARIANCE REQUESTED (i.e. side yard set-back reduc	tion, etc.)
Corgo Containers are extraching	& onto the rear Set back
9. DESCRIBE REASON FOR, OR WHY VARIANCE IS NECESSARY	•
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Status attached. Stars enclo	each ato sideset but by 31
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PLANNING & DEVELOPMENT SERVICES Administration / Building & Safety / Planning / Parks & Recreation

Imperial County



NOTICE TO APPLICANT

SUBJECT: PAYMENT OF FEES

Dear Applicant:

Pursuant to County Codified Ordinance Division 9, Chapter 1, Section 90901.02, all Land Use Applications must be submitted with their appropriate application fee. Failure to comply will cause application to be rejected.

Please note that once the Department application is received and accepted, a "time track" billing will commence immediately. Therefore, should you decide to cancel or withdraw your project at any time, the amount of time incurred against your project will be billed and deducted from your payment. As a consequence, if you request a refund pursuant to County Ordinance, your refund, if any, will be the actual amount paid minus all costs incurred against the project.

Please note there will be no exceptions to this policy. Thank you for your attention.

Sincerely yours,

Jim Minnick, Director

Planning & Development Services

RECEIVED BY: Cacilio Voge DATE: 1-6-23

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Revised 03/05/15

Attachment F. Comment Letters

Melina Rizo

From: Jill McCormick < historic preservation@quechantribe.com>

Sent: Monday, April 17, 2023 3:35 PM

To: Melina Rizo

Subject: RE: [EXTERNAL]:V23-0001 AB52 Letter

Follow Up Flag: Follow up Flag Status: Flagged

CAUTION: This email originated outside our organization; please use caution.

This email is to inform you that we do not wish to comment on this project.

Thank you, H. Jill McCormick, M.A.

Quechan Indian Tribe Historic Preservation Officer P.O. Box 1899

Yuma, AZ 85366-1899 Office: 760-572-2423 Cell: 928-261-0254

E-mail: historicpreservation@quechantribe.com



RECEIVED

APR 17 2023

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES

From: Melina Rizo <melinarizo@co.imperial.ca.us>

Sent: Monday, April 17, 2023 9:55 AM

To: Jill McCormick < historic preservation@quechantribe.com >

Cc: Jim Minnick < JimMinnick@co.imperial.ca.us>; Michael Abraham < MichaelAbraham@co.imperial.ca.us>; Diana Robinson < DianaRobinson@co.imperial.ca.us>; Evelia Jimenez < EJimenez@co.imperial.ca.us>; Aimee Trujillo

<aimeetrujillo@co.imperial.ca.us>; John Robb <JohnRobb@co.imperial.ca.us>; Kamika Mitchell

<kamikamitchell@co.imperial.ca.us>; Laryssa Alvarado <laryssaalvarado@co.imperial.ca.us>; Melina Rizo

<melinarizo@co.imperial.ca.us>; Rosa Soto <RosaSoto@co.imperial.ca.us>; Valerie Grijalva

<ValerieGrijalva@co.imperial.ca.us>

Subject: [EXTERNAL]:V23-0001 AB52 Letter

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

150 SOUTH NINTH STREET EL CENTRO, CA 92243-2850



TELEPHONE: (442) 265-1808 FAX: (442) 265-1799

February 23, 2023

Jim Minnick
Planning & Development Services Director
801 Main Street
El Centro, CA 92243

SUBJECT:

Variance #23-0001 - Brianna Scherer

Dear Mr. Minnick:

The Imperial County Air Pollution Control District ("Air District") appreciates the opportunity to review and comment on Variance (V) #23-0001 ("Project") to allow existing cargo containers, which cannot be moved due to existing decks and stairs, to continue encroaching onto the rear setback. The Project is located at 65 Palo Verde, Ocotillo also identified as Assessor's Parcel Numbers 033-306-003.

The Air District is requesting the date(s) when the containers were originally installed. After reviewing its Rule 310 files, the Air District was unable to identify records of the installation of cargo containers and the Air District requests this information to help verify compliance with its Rules and Regulations.

The Air District's rules and regulations can be found online for your review at https://apcd.imperialcounty.org/rules-and-regulations/. Should you have any questions please feel free to contact the Air District for assistance at (442) 265-1800.

Respectfully,

Ismael Gareia

Environmental Coordinator I

Monica N. Soycier APO Division Manager RECEIVED

FEB 24 2023

IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES



Imperial County Planning & Development Services Planning / Building

Jim Minnick

County Agencies

County Executive Office - Rosa Lopez/

February 10, 2023 REQUEST FOR REVIEW AND COMMENTS

Cities/Other

Ag. Commissioner – Margo

The attached project and materials are being sent to you for your review and as an early notification that the following project is being requested and being processed by the County's Planning & Development Services Department. Please review the proposed project based on your agency/department area of interest, expertise, and/or jurisdiction.

State Agencies/Other

IC Sheriff's Office - Robert

Miguel Figueroa County Counsel – Eric Havens APCD – Monica Soucier/Belen Leon/Jesus Ramirez EHS – Jeff Lamoure/Mario Salinaa/ Alphonso Andrade/Jorge Perez/Vanessa R Martinez		Benavidez/Ryan Kelley/ Manuel Deleon/Scott Sheppeard	Sanchez/Ana L Gomez/Jolene Dessert/ Sandra Mendivil/ Carlos Ortiz Campo Band of Mission Indians – Marcus Cuero	
		⊠ Board of Supervisors – Luis Plancarte - District #2 ☐ CHP – Chris Hamilton/Jose Serrano		
			⊠ IID – Donald Vargas	
		☑ IC Fire/OES Office – Andrew Loper/ Alfredo Estrada/Robert Malek	☑ Public Works – Guillermo Mendoza/John Gay	
From:	Diana Robinson, Planning	Division Manager - (442) 265-1736 or ICP		
Project ID:	Varience #23-0001 RECEIVE		RECEIVED	
Project Location:	65 Palo Verde, Ocotillo CA. APN 033-306-003-000		FEB 15 2023	
Project Description:	Applicant requests a Vari	ance for cargo containers that are encroa deck above and stairs attached. Stairs en	IMPERIAL COUNTY croach which should be serviced	
Applicants:	Brianna Scherer			
Comments due by:	February 24, 2023 at 5:00	PM		
COMMENTS: (attach a		no comments, please state below and mail, fax,	or e-mail this sheet to Case Planner)	
Name: Ana Gu	emez Signature:	GCTitle:_A	g. Biologist	
Date: 2/14/2023	Telephone No.: (442) 2	Title: A	a co. imporial. ca.us	
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