



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission
From: Lisa Tylanda, Planner
Date: February 8, 2019
Subject: **Variance-VAR(19-01)
Deviation of Advertisement Sign size and location.**

Summary:

Applicant:	Daniel Dobron- Monterrey Subdivision
Project Location:	Please see location map within staff report.
Zoning:	Proposed location site is near R-1 (Residential Single Family) in City-right-of way.
Recommendation:	Approve Variance with Conditions of Approval

Background

The applicant is requesting a Variance Permit to allow for deviation from the City of Imperials' "Sign Ordinance" code standards regarding "Subdivisions" in the following subjects: placement/location of proposed Monterrey Park Subdivision sign and size. The sign dimensions are 8' tall x 20' wide.

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:

The applicant has provided the following information in red, regarding the required findings.

1. **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; **We have had an 8' x 20' advertising sign installed on south side of Brewer Road facing Austin Road right at the bridge for over 8 years. The homeowner refused to trim their trees which ended up blocking our main advertising sign so we**

moved the sign location and updated the sign to the north side of Brewer Road. The sign is a vinyl sign (8' x 20') same size as it was on the opposite side of the same street facing Austin Road.

2. 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, This variance request will not be detrimental to the public health, safety, or welfare of any individuals, nor will it be detrimental to the property or neighborhood.
3. 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. These variances for signs have been granted before in the City of Imperial. The City of Imperial Planning Department approved resolution **No. PC 2017-13** - a Resolution of the Planning Commission of the City of Imperial granting the Variance and the Conditions of Approval Outlined in Resolution No. PC 2017-13 for the Jim and Tory Lessley - Victoria Park Imperial -to allow for deviations from the City of Imperial Municipal Code and Zoning Ordinances in regards to size, amount, placement, and locations of advertising signs and flags throughout various locations in the City of Imperial. Granting our variance would not grant a special privilege and will not allow us to build in a way that would not be allowed for someone else.

Environmental

The proposed project is not subject to CEQA since it is categorized as a minor project.

Recommendation

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

- A. That granting the Variance 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.
- B. 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.
- C. The granting of this Variance does not allow a use or activity which not otherwise expressly authorized by the zoning regulation governing the parcel of property.
- D. That granting the Variance or its modification will not be incompatible with the City of Imperial General Plan.

RESOLUTION PC2019-02

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
IMPERIAL APPROVING A VARIANCE FOR MONTERREY SUBDIVISION
ADVERTISING SIGN SIZE AND LOCATION, LOCATED AT THE NORTH EAST
CORNER OF AUSTIN AND BREWER ROAD IN THE CITY OF IMPERIAL, CA
92251**

WHEREAS, Daniel Dobron submitted a request for a Variance for a subdivision advertisement sign size and location within the City; and

WHEREAS, a duly notified public hearing was held by the Planning Commission during an adjourned meeting on February 13, 2019 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 sign is ministerial and therefore exempt from CEQA.
- 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 19-01** for Daniel Dobron for a Monterrey Park Subdivision advertising sign based on the following findings:
 - 1. That granting the Variance of 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.

2. 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.
3. The granting of this Variance does not allow a use or activity which not otherwise expressly authorized by the zoning regulation governing the parcel of property.
4. 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 February 13, 2019.

Planning Commission Chairman

ATTEST:

Planning Secretary

**EXHIBIT A
RESOLUTION PC2019-02
CONDITIONS OF APPROVAL**

For

**Variance Permit #VAR 19-02
Daniel Dobron
Monterrey Subdivisions Imperial
Imperial, CA 92251**

1. An encroachment permit from the City of Imperials' Community Development Department must be obtained before any advertising sign may be placed.
2. Applicant shall not hold the City of Imperial or any of its employees responsible for any incidents regarding this Variance Permit. Applicant is full responsible for advertising signs and flags and any happenings that may transpire while they are in use.
3. 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. The Variance Permit is only valid for 2 years from date of resolution approval.
4. The proprietor/owner shall be responsible for the removal of all graffiti from the advertising signs and flags within 72 hours of its appearance on the property.
5. The proprietor/owner shall be responsible for maintaining the locations where the advertising signs and flags are placed and adjacent 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. Applicant must maintain advertising signs and flags clean and neat while signs are in usage.
9. The Applicant shall pay all impact and capacity fees as required by the city.
10. All applicable Conditions of Approval shall be completed prior to advertisement signs or flags being placed.
11. 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.

12. 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.

13. 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.