



Staff Report

Agenda Item No.

D-1

To City of Imperial Planning Commission
From Lisa Tylenda, Planner
Date November 7, 2019
Subject **Conditional Use Permit Request-CUP (19-07)**
Commercial Retail Development Project along Highway 86

Summary:

Applicant:	5 th Street Development, LLC
Project Location:	APN#'s 063-040-036 and 063-040-035
Zoning:	C-2 (Commercial General)
General Plan:	Commercial
Environmental:	Categorically Exempt; Class 32 In-Fill Project
Recommendation:	Approve Conditional Use Permit

Background

The applicant is requesting a Conditional Use Permit (CUP) to construct commercial uses with the operation of a gas station convenience store, the sale of alcoholic beverages and tentative drive-through restaurant use, of up-to two; on two currently vacant parcels that run along Highway 86 within the City of Imperial, CA.



Discussion/Analysis

The project is a proposed phased commercial retail development along Highway 86 that is tentatively, going to consist of 3 building on 2 parcels, that combined are approximately 3.3 acres in size. The subject site is currently zoned Commercial General (C-2). The land uses to the west of the site are Public Facilities and Residential uses; to the east of the project site is immediately highway 86, residential uses, and a gas station. The C-2 Commercial General Zoning designation is intended for the location of highway oriented retail service and wholesale commercial activities. Section 24.05.120.B.20.d of the Imperial Zoning Ordinance lists drive-through restaurants and gas stations as uses that are subject to obtaining a Conditional Use Permit.

Currently, the Department of Alcoholic Beverage Control (ABC) of California informs potential applicants that ABC may deny any retail licenses located (a) within the immediate vicinity of churches and hospitals, or (b) within at least 600 feet of schools, public playgrounds and nonprofit youth facilities. Generally, ABC will deny a license in the above situations when there is evidence that normal operation of the licensed premises will be contrary to public welfare and morals. **Mere proximity by itself is not sufficient to deny the license.** ABC will not license a new retail location within 100 feet of a residence unless the applicant can establish that the operation of the proposed premises will not interfere with the quiet enjoyment of the property by residents. (Section 23789 and Rule 61.4) The City of Imperial does not control nor oversee the ABC licensing process.

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 CUP. 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 C-2 Commercial General Zoning. The proposed operation of a gas station and tentative drive-through restaurant uses will not interfere or conflict with the purposes of the zone.

- 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 proposed location is ideal for facilities of this sort as it is abuts the Highway 86 corridor as it is surrounded by similar land uses. The project will be compatible with the adjacent land uses and will not adversely affect residents.

- 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.*

The project is very limited in nature, and as such, will not be detrimental to the public health, safety, or welfare. Cars waiting at drive through locations can sometimes cause traffic issues within parking lots and roadways. The proposed project will provide sufficient queueing space for cars as per California State Building Code Law and will comply with City ordinances. The Gas Station Convenience Store will abide by all City, County, and State Requirements regarding operations of facilities of this nature.

- 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 operation and use of a gas station and drive-through/restaurant uses will comply with all provisions of the Zoning Ordinance.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under the Class 32 Section for In-Fill Developments.

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 approval of **Resolution No. PC2019-17** approving a conditional use permit for a drive-through uses located at the following APN#'s:063-040-036 and 063-040-035 that are subject to the following conditions outlined within the Conditions of Approval.

Attachments:

- Resolution No. PC2019-17 with Conditions of Approval
- Site Plan
- Elevations

RESOLUTION PC2019-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A CONDITIONAL USE PERMIT (CUP 19-07) FOR OPERATION OF A GAS STATION CONVENIENCE STORE AND DRIVE-THROUGH USES LOCATED ON THE FOLLOWING ASSESSOR PARCEL NUMBERS: 063-040-036 AND 063-040-035

(5TH STREET DEVELOPMENT, LLC– CONDITIONAL USE PERMIT FOR THE OPERATION OF A GAS STATION CONVENIENCE STORE AND DRIVE-THROUGH USES)

WHEREAS, 5TH Street Development, LLC submitted a Conditional Use Permit application to allow the operation of a gas station convenience store and drive-throughs at the following Assessor Parcel Numbers: 063-040-035 and 063-040-036 ; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on November 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 Conditional Use Permit.

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) 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
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorically Exempt under Class 32 In-Fill Development Categorical Exemption of the California Environmental Quality Act; and
- E) That the utilization of drive-through is consistent with those uses allowed in the C-2 Commercial General Zone.
- F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Conditional Use Permit CUP (19-07) for a drive-through usage at the following assessor parcel numbers: 063-040-035 and 063-040-036 conditions of approval outlined in Exhibit A and based on the following findings:
 - 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.
 - 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.

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

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 11th day of December 2019.

Planning Commission Chairman

ATTEST:

Planning Secretary

**EXHIBIT A
RESOLUTION PC2019-17**

CONDITIONS OF APPROVAL

For

Conditional Use Permit 19-07

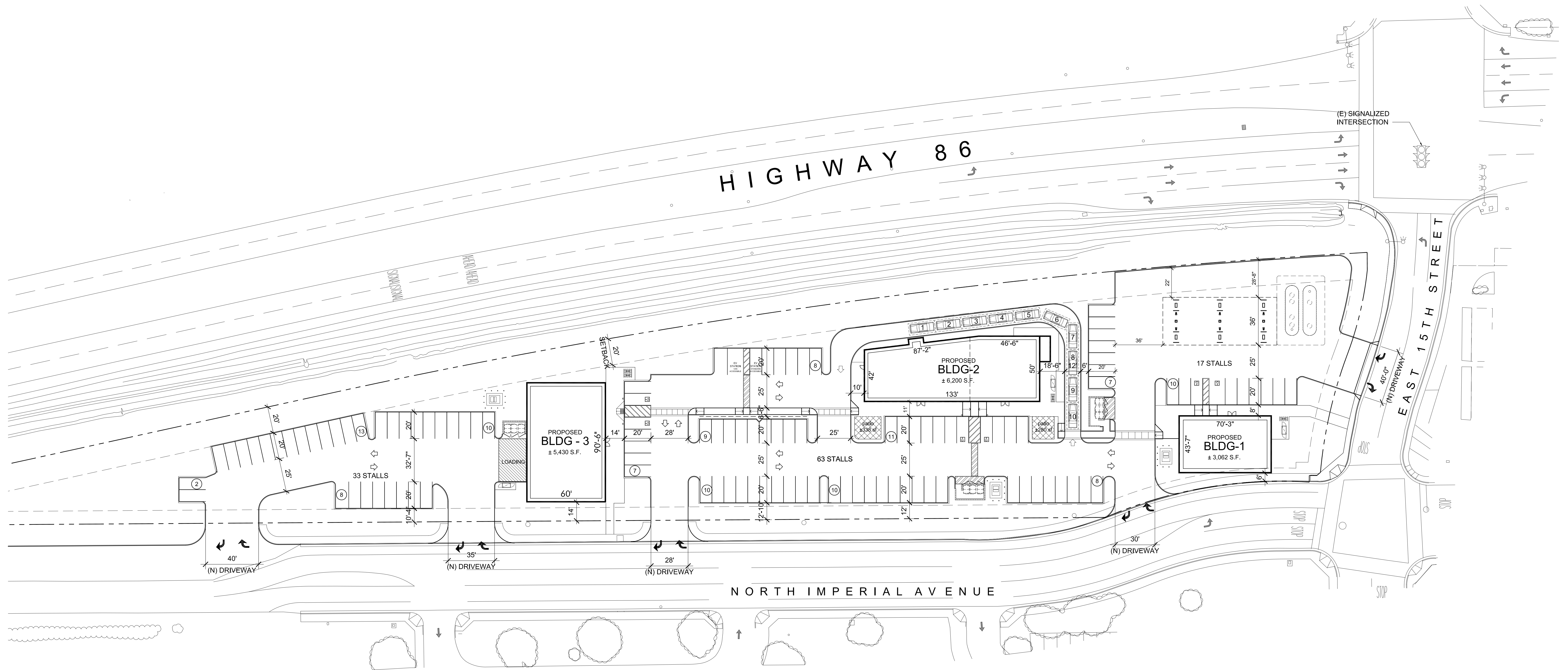
**5th Street Development, LLC
Assessor Parcel Numbers: 063-040-035 and 063-040-036
Imperial, CA 92251**

1. This Conditional Use Permit is granted for the operation of a gas station convenience store and drive-through restaurant and/or use at assessor parcel numbers: 063-040-035 and 063-040-036, Imperial, CA 92251;
2. This conditional use permit shall be null and void if a building permit is not obtained within a year;
3. The parking lot shall be paved and must be ADA compliant with the State of California American Disabilities Act Standards.
4. Internal Fire Hydrants may be required for the project and that determination will be made during the Building Permit Process.
5. The drive-through shall be paved with room for cars stacking;
6. Desert landscape shall be installed in the required setbacks before a certificate of occupancy is issued.
7. A Right-in and Right-out turn on 15th street is required, with no left turn out on 15th Street.
8. On-site Retention Basin is required and will be reviewed and approved by the Community Development Department during the Building Permit Process.
9. The Gas Station, fast-food drive through restaurant, and Mini-Market will be allowed to operate twenty-four (24) hours a day for seven (7) days a week.
10. On-site camera security shall be provided and twenty-four hour daily access shall be granted to the Imperial Police Department.
11. Signs shall be posted with current language of the Penal Code, Business and Professions Code, and Imperial Municipal Code, regarding the prohibition of loitering, open containers, and consumption of alcoholic beverages at the premises.
12. No illuminated alcohol advertising will be located on the windows or door of the storefront.
13. Sales of alcoholic beverages shall be permitted between the hours of 6:00am and 2:00am midnight.
14. Underground storage tanks CUPA/above ground will require review and approval by the Imperial County Fire Department during the Building Permit Process Phase.
15. Proprietor/owner shall maintain a paved walking path at all times;
16. Three (3) copies of a signage plan shall be submitted for approval by the Community Development Director at the time of building plan issuance to be in compliance with the Municipal Code and Design

Guidelines. Such plan shall be comprehensive and shall include: location, height, square-footage, method of attachment, construction materials, and colors of each sign proposed to be placed on the site.

17. All necessary permits shall be obtained from the Community Development Department prior to any construction, remodeling, or replacement of buildings or other structures.
18. Landscaping in the form of trees, hedges, and low-laying vegetation shall be installed along the street frontage; Plant Palette to mirror the Development Standards and suggested features outline in the City of Imperials Downtown Redevelopment Plan.
19. Decorative architectural treatments shall be provided on all sides of the building; Colors, features, enhancements and structures to mirror the Development Standards and suggested features outline in the City of Imperials Downtown Redevelopment Plan.
20. The developer shall be responsible for the installation of one (1) master sign displaying all lessees at the location. The master sign shall conform to zoning code 24.16;
21. 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. This Conditional Use Permit is only valid for assessor parcel numbers 063-040-035 and 063-040-036;
22. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property;
23. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times;
24. 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;
25. The conditional approval of 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;
26. Applicant must implement sound maintenance and housekeeping procedures;
27. The Applicant shall pay all impact and capacity fees as required by the city;
28. All applicable Conditions of Approval shall be completed prior to opening for business;
29. 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 CUP, 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 CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority;
30. 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;

31. 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.
32. This conditional use permit will not be effective until ten (10) working days after the date upon which it is granted by the Planning Commission and until the applicant has executed and returned to the Community Development Division an authorized acceptance of the conditions of approval applicable to said permit.
33. Colors should visually relate building elements to each other, and also individual facades to each other. The colors chosen for a building façade should relate, but not replicate, neighboring facades. No more than three colors should be used on any given façade. This includes any "natural" colors such as unpainted brick or stone. The three colors constitute the:
 - Primary Base Color. The color of the top, upper portion of the wall façade and the bottom storefront piers is defined as the primary base color. The larger and plainer the building, the more subtle the base color should be.
 - Secondary Color. A secondary color can be used to give additional emphasis to architectural features such as building bases, pilasters, cornices, and bands.
 - Minor Trim Color. If a minor trim is a third color, it should strengthen the color scheme already established by the base and secondary colors. In most cases, when two colors are used on the trim, the minor trim should be darker than the



<p>NWC OF E 15TH STREET & N IMPERIAL AVE IMPERIAL, CALIFORNIA</p> <p>VICINITY MAP NOT TO SCALE</p>	<p>PROJECT SUMMARY</p> <p>ZONING</p> <p>CLIENT: HALFERTY DEVELOPMENT COMPANY JURISDICTION: CITY OF IMPERIAL, CALIFORNIA</p> <p>SITE AREA</p> <p>SITE AREA: (± 3.37 AC) ± 142,423 S.F.</p>	<p>BUILDING DATA</p> <p>BUILDING AREA</p> <p>PROPOSED BUILDING-1 (RETAIL / FUEL) ± 3,062 S.F. PROPOSED BUILDING-2 (DRIVE-THRU) ± 6,200 S.F. PROPOSED BUILDING-3 (RETAIL) ± 5,430 S.F. TOTAL BUILDING AREA ± 14,692 S.F.</p> <p>F.A.R. 0.10</p>	<p>PARKING SUMMARY</p> <p>PARKING REQUIRED</p> <p>BUILDING-1 (RETAIL) ±3,000 SF @ 1/300 S.F. 10.20 STALLS BUILDING-2 (DRIVE THRU) ±6,200 SF @ 1/75 S.F. 82.67 STALLS BUILDING-3 (RETAIL) ±9,180 SF @ 1/300 S.F. 18.10 STALLS TOTAL PARKING REQUIRED: 110.97 STALLS</p> <p>TOTAL PARKING PROVIDED: 113 STALLS</p> <p>ADA: 6 STALLS ELEC. VEHICLE: 2 STALLS STANDARD: 105 STALLS</p> <p>TOTAL PARKING RATIO 7.6 /1,000 S.F.</p> <p>MIN. DRIVE AISLE WIDTH 25'-0" STANDARD PARKING STALL 9'-0" x 20'-0" QUEUE LINE AT LEAST EIGHT (8) VEHICLES</p>	<p>PROPOSED SITE PLAN SCALE: 1" = 30'-0"</p> <p>NORTH</p> <p>GRAPHIC SCALE 1 inch = 30 feet</p> <p>PRELIMINARY SITE PLAN SUBJECT TO CHANGE. PROPERTY LINES ARE BASED ON STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION DISTRICT 11, EXCESS PARCEL MAP DD1999-01-01</p>
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Halferty Development Company
 199 South Los Robles Avenue., Suite 480
 Pasadena, California 91101

N.W.C. of Imperial Avenue & E 15th Street
 Imperial, California

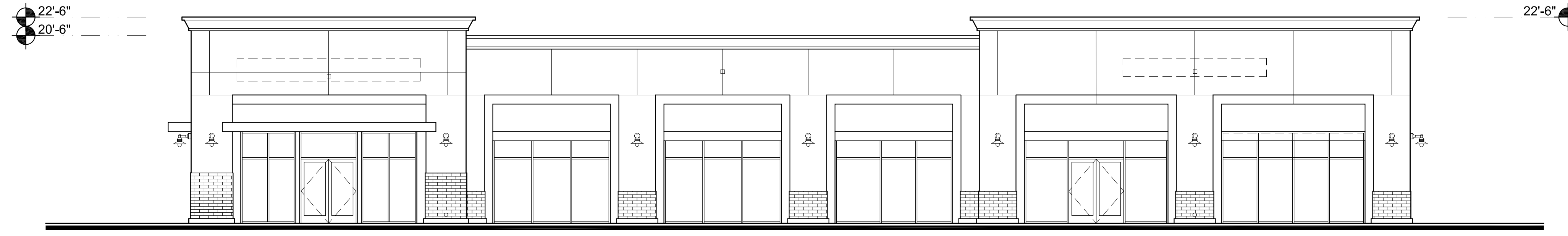
**McKently
Malak
ARCHITECTS**

35 Hugus Alley, Suite 200
 Pasadena, California 91103-3648
 TEL 626.583.8348 FAX 626.583.8387

PROPOSED SITE PLAN

12.03.2019 17154TMA

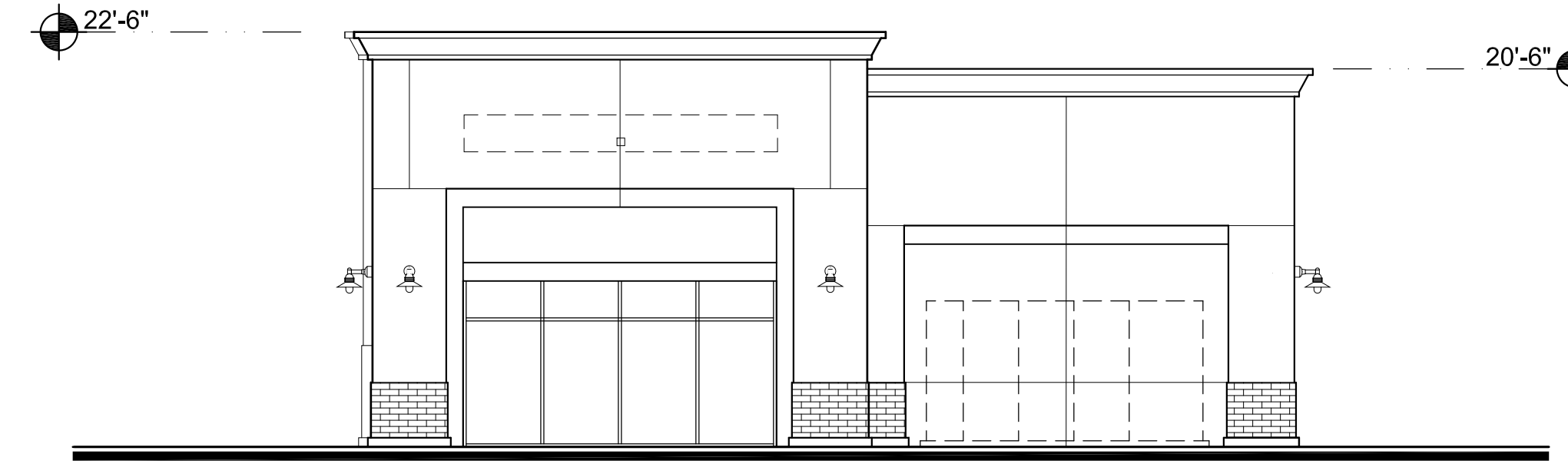
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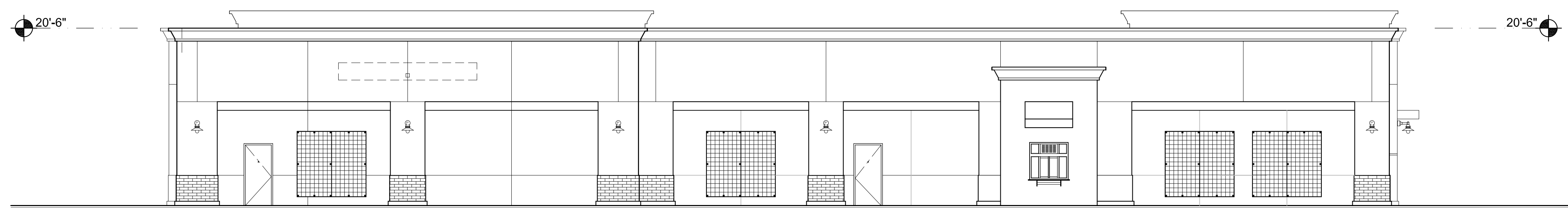
① WEST ELEVATION
SCALE: 1/8" = 1'-0"



④ NORTH ELEVATION
SCALE: 1/8" = 1'-0"



② SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



③ EAST ELEVATION
SCALE: 1/8" = 1'-0"

BUILDING -2