



staff report

Agenda Item No. D-2

To: City of Imperial Planning Commission
From: Othon Mora, Community Development Director
Date: December 7, 2022
Subject: **Conditional Use Permit Request 22-02**
Truck Storage Facility
426 E. 4th Street

Summary:

Applicant:	Dennise Chavez-JD Freight Forward, LLC
Project Location:	426 E. 4 th Street
Project Description:	Conditional Use Permit 22-02 to allow a truck storage facility within a General Industrial Zone
Zoning:	I-1 General Industrial
General Plan:	General Industrial
Environmental:	Categorically Exempt
Recommendation:	Approve, Subject to Conditions

Background

Applicant Dennise Chavez submitted a Conditional Use Permit application for a truck storage facility located at 426 E. 4th Street (APN 064-194-006). The applicant's trucking company, JD Freight Forward, LLC, intends to use their location for parking 2-4 trucks and/or trailers for a limited time. Their fleet consists of semi-trucks, platform trucks, flatbeds, dry vans and tank trucks which transport a variety of goods such as building materials, clothes and racks for retail sales and food goods within California.

The applicant does not intend to build an office or any building structure at the site other than a carport and comply with the development standards detailed in the Conditions of Approval. Estimated hours of operation will be 7:00AM-9:00PM with an occasional variance to those times for any unforeseen traffic delays. Daily truck traffic to the site will be approximately 2-4 trucks with no loading or unloading taking place at the site. Applicant does not intend to store any freight on site.

Vicinity Map



Discussion/Analysis

The City’s Development Review Committee reviewed the project and their comments are detailed in the Conditions of Approval. Staff recommendation was to conduct a noise study to evaluate the noise impacts the project will have on the abutting Residential Zone. Staff obtained a quote from Dudek and the general range for a baseline noise study is between \$10,000 to \$14,000. The applicant has opted to forego the costly expense of contracting an agency to conduct a noise study. Instead, the applicant met with the residents in close proximity of the project and collected their signatures on a Neighbor’s Consent Form to confirm and document there are no objections to the project. The applicant has agreed to install a six-foot masonry wall and landscaping to provide a barrier between the site and the residential zone that will assist in attenuating the noise. In addition, the Imperial County Public Works Road Distribution Yard has been located West of the property for many years with heavy equipment and trucks traveling in and out of the yard. The

residents Ms. Chavez contacted are accustomed to the heavy equipment traffic and truck noise and find no objections to her project.

The Imperial County Fire Department is requiring the installation of a fire hydrant located within 300 feet for fire services. The applicant is asking the Planning Commission to consider removing the installation of a fire hydrant requirement as it is a costly expense and has pointed out that a fire hydrant is located in close proximity on L Street. The existing fire hydrant, measured in a straight line, is located approximately 240 feet from the project site. Imperial County Fire Department maintains that the measurement is based on an approved route that a fire apparatus would use and not a straight line.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15322 of the guidelines for in-fill development projects.

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 the I-1 General Industrial Zone, which is intended as an area for modern industrial, research, and administrative facilities that can meet high performance and development standards.

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 surrounded by a variety of land uses. The parcel abuts a Residential Zone to the North, Rail Served Industrial Zone to the East and General Industrial to the South and West. Although compatible with Industrial Zone uses, the truck storage facility seemingly presents an issue with adversely affecting the residential homes located across the street with noise pollution. The applicant has ensured the affected residents are in agreement with the project and

has agreed to mitigate the noise with a six-foot masonry wall and landscaping, which are acceptable attenuation measures.

- 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.

- 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 December 14, 2022 was duly noticed in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation on December 1, 2022 and a Notice of Public Hearing was sent 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, and the Conditions of Approval are imposed, Staff recommends that the Planning Commission approve Conditional Use Permit 22-02 to allow for the use and operation of a truck storage facility at 426 E. 4th Street.

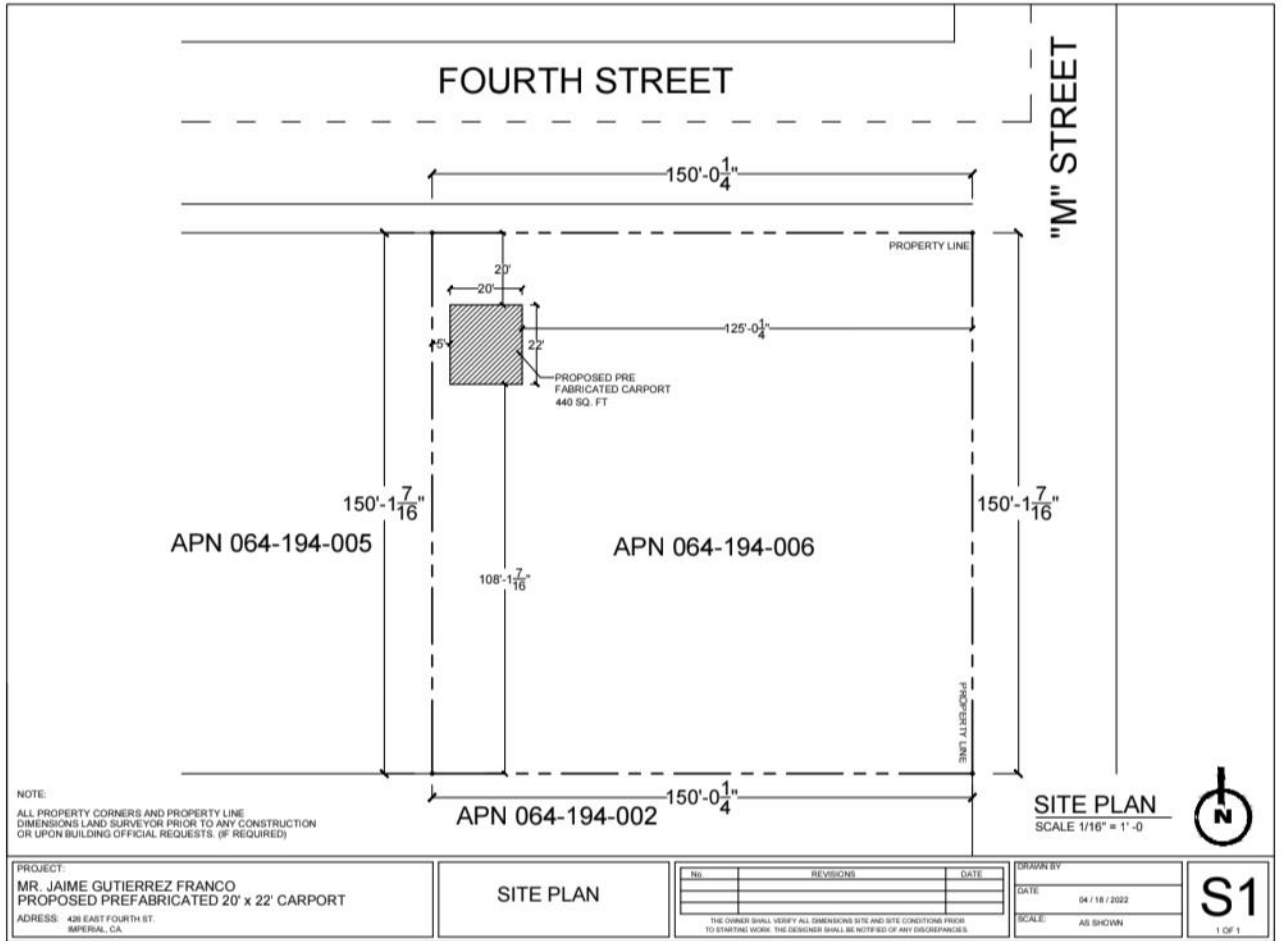
Attachments

- Site Plan
- Neighbor's Consent Form
- Draft Resolution PC2022-12 with Conditions of Approval

Respectfully submitted,

Othon Mora, MCM, CBO
Community Development Director

Site Plan



Neighbor's Consent Form

NEIGHBOR'S CONSENT FORM

Date: 9-10-22

We, the undersigned, are the neighbors around the Truck Yard located at 426 E 4th street, Imperial, Ca 92251. We have no objections/complaint for the future operation of this applicant namely JD Freight Forward, LLC

Name and address of Neighbor

Signature

422 S K ST Imperial 760 718-22-40
Udefonso Ayala

Udefonso Ayala

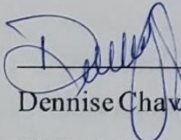
Viola Rinien 422 E 4th St Imperial

Viola Rinien

Frank Morales 421 S. L St.

Frank Morales

Certified true and correct


Dennise Chavez
JD Freight Forward LLC

DRAFT RESOLUTION NO. PC2022-12

**A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL,
APPROVING CONDITIONAL USE PERMIT 22-02 FOR A TRUCK STORAGE FACILITY
LOCATED ON 426 EAST 4TH STREET (APN 064-194-006),
SUBJECT TO THE ATTACHED CONDITIONS**

WHEREAS, Dennise Chavez, owner of JD Freight Forward, submitted an application for a truck storage facility; and

WHEREAS, the subject site is located within an Industrial Zone and a truck storage facility is conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on December 14, 2022, to hear testimony for and against the proposed Conditional Use Permit; and

WHEREAS, upon hearing and considering all testimony and arguments, examining the environmental study, 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) 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 Section 15301 of the California Environmental Quality Act; and
- E) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit 22-02** to allow the truck storage facility, subject to the conditions of approval outlined in Exhibit A and based on the following findings:

1. 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 I-1 General Industrial Zone, which is intended as an area for modern industrial, research, and administrative facilities that can meet high performance and development standards.

- 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 proposed location is surrounded by a variety of land uses. The parcel abuts a Residential Zone to the North, Rail Served Industrial Zone to the East and General Industrial to the South and West. Although compatible with Industrial Zone uses, the truck storage facility seemingly presents an issue with adversely affecting the residential homes located across the street with noise pollution. The applicant has taken measures to ensure the affected residents are in agreement with the project and has agreed to mitigate the noise with a six-foot masonry wall and landscaping, which are acceptable attenuation measures.

- 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.

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.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 14th day of December, 2022.

Planning Commission Chairman

ATTEST:

City Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT 22-02 DENISSE CHAVEZ/JD FREIGHT FORWARD, LLC 426 E. 4th STREET

1. The Developer/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 Developer/Applicant shall pay all applicable impact and capacity fees.
3. The Conditional Use Permit (CUP) 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 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. Any storage areas shall be screened from public view and no double-stacking of cargo containers is allowed.
7. Hours of operation shall be limited between the hours of 7:00 a.m. to 9:00 p.m. No trucks shall enter or exit the project site outside of these hours.

8. Department Comments

Public Services:

- a) Applicant shall mitigate any truck fleet track-off dirt onto roads by installing a Class II base ground cover to proper compaction on the entire property.

Police Department:

- b) Applicant shall install sufficient lighting and surveillance cameras determined by the City on the entire property.

Community Development:

- c) Applicant shall abide by property development standards for any structure within the project site set forth in section 24.07.130 of the municipal code.
- d) A minimum setback of fifteen feet shall be required wherever a lot in the industrial zone abuts a lot in any residential zone.
- e) A minimum three-foot high landscaped earthen berm shall be constructed along all street frontages situated across any residentially zoned property.
- f) A maximum six-foot high masonry wall shall be constructed along lot lines adjacent to residential zones.
- g) Fifteen-gallon trees twenty feet on-center and shrubbery shall be installed and maintained along the inside of the wall in a five-foot wide, raised landscape planter to provide a dense landscape screen for street frontages situated across any residentially zone property. A Landscaping Plan shall be submitted to the City of Imperial's Community Development Department for review and approval.
- h) Streetscapes shall be enhanced to provide an ease in the transition from the street to any future building. Patios, parking and circulation spaces can be included in setback areas to help buffer adjoining parcels from one another.
- i) Landscaping within the required setbacks shall be landscaped with predominantly drought tolerant, low maintenance plant materials and shall be irrigated by automatic sprinklers. All landscaping shall be permanently maintained in a clean and health and thriving condition, free of weeds, trash and debris.
- j) All light sources shall be shielded in such a manner that no adverse light intrusion is visible from streets or adjoining properties. Freestanding lamp posts shall be no taller than eighteen feet. The intensity of light at the boundary of an industrial zone shall not exceed seventy-five foot lamberts from a source of reflected light. All lighting shall be approved by the City of Imperial Community Development Department.
- k) No use except a temporary construction operation shall be permitted which creates noise level which exceeds five decibels (as defined in the

Occupational Safety and Health Act of 1970) above the ambient level of the area measured at the property line.

- l) No use shall be permitted which creates odor in such quantities as to be readily detectable beyond the boundaries of the site.
- m) No use except a temporary construction operation shall be permitted which generates inherent and recurrent ground vibration perceptible, without instruments at the boundary of the lot on which the use is located.
- n) There shall be no emission on any site, for more than one minute in any hour, of air contaminants which, at the emission point or within a reasonable distance of the emissions point, are as dark or darker in shade as that designated as No. 1 on the Ringelman Chart as published in the United States Bureau of Mines Information Circular 7718.
- o) Outdoor storage areas shall be entirely enclosed by solid masonry walls not less than six feet in height to adequately screen view from the external boundaries of the properties.

Fire Department

- p) An approved public fire hydrant shall be installed within three hundred feet of the property as per City of Imperial details and specifications.
 - q) Fire Department access shall be a width of at least twenty feet and all-weather surface capable of supporting a fire apparatus. Gates will be in accordance with the current adapted fire code and the project site will maintain a Knox Box/lock for on-site access.
 - r) A Hazardous Material Management Plan (HWMP) shall be required for all hazardous materials on site and shall be submitted to Certified Unified Program Agency (CUPA) for their review and approval. All spills shall be documented and reported to Imperial County Fire Department and CUPA as required by the HWMP.
 - s) All storage and handling of flammable and combustible liquids shall be in accordance with the California Fire Code and all federal, state and local regulations, codes and ordinances.
 - t) Applicant shall remain in compliance with all the required sections of the fire code.
9. The provisions of the 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 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.

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.