

**MINUTES OF THE
PLANNING COMMISSION MEETING
October 25, 2023**

The Imperial County Planning Commission convened a Meeting on Wednesday, October 25, 2023, at 9:00 a.m. in the Board of Supervisors Chambers, El Centro, California.

Staff present: Director, Jim Minnick, Assistant Director, Michael Abraham / Planning Division Manager, Diana Robinson, Planner I, Luis Valenzuela, Planner I Rocio Yee, Planner II Evelia Jimenez, Planner II Derek Newland, Clerks- Laryssa Alvarado & Aimee Trujillo.

Chairman Rudy Schaffner called meeting to order at 9:00 a.m.

- I. **Roll Call: Commissioners present:** Schaffner, Kalin, Roben, Cabañas, Bergh, Medina, Wright, and Pacheco
 - II. **Pledge of Allegiance:**
 - III. **Public Hearings**
 1. **Approval of Minutes:** Chairman Schaffner entertained a motion to approve the Planning Commission Minutes for the **September 13, 2023** meeting as submitted by staff; **Commissioner Kalin** made motion to approve minutes seconded by **Commissioner Cabanas** and carried on the affirmative vote by the Commissioners present Schaffner (yes), Kalin (yes), Roben (yes), Cabañas (yes), Bergh (yes), Medina (yes), Wright (yes) Pacheco (yes) to approve minutes as they stand.
 2. **Consideration of Appeal #23-0001** as submitted by HouseSavers, LLC., who is requesting to appeal the Planning Director's Interpretation did not fully take into consideration all the available business use options that are set forth in the Imperial County Land Use Ordinance, Title 9, Division 5, Chapter 7 Section 90507.01(a) and Section 90507.02 to allow Hay Tarps, as an Agricultural Accessory Use, to be stored on an A-1-U parcel where the primary use is residential. Assessor's Parcel Number 054-091-002-000 (294 W. Horne Road, El Centro, CA 92243; Supervisory District #2) is legally described as Lot 8 Multnomah Acres 4.76 AC.; [Evelia Jimenez, Planner II at (442) 265-1736, extension 1747 or via email at ejimenez@co.imperial.ca.us
- Jim Minnick, Director;** Gave a brief description of the project, and introduced **Evelia Jimenez**, Planner II, to read the project into the record.
- Evelia Jimenez, Planner II;** Read the PowerPoint Presentation of the project into the record.
- Chairman Schaffner;** Asked if there was a representative for the project to approach the podium.
- Carlos Gomez, Applicant;** Introduced himself.
- Chairman Schaffner;** Asked if he had any questions or comments regarding the project, and if he read and agreed with everything.
- Carlos Gomez, Applicant;** Stated that they read and did not agree with everything on the project.
- Carlos Gomez, Applicant;** Basically, what our business consists of is installing hay tarps out on the field to protect Alfalfa, Bermuda, all the different forms of products. We also work with some of the seed companies and some of the fertilizer companies protecting those assets as well. One hundred percent of our work is done out in the County fields.

Chairman Schaffner; Opened the public portion of the meeting.

Greg McDonough; Good morning members of the commission, my name is Greg McDonough. I live at 239 W Horne Road. I've lived there 33 years. I moved to that location in 1990. I am opposed to this appeal. I'm asking the commission to deny it. Horne Road intersects 4th Street and 8th Street. 4th and 8th are a currently a main source of traffic in and out of the city. Horne Road is used as a cross traffic street between 4th & 8th Street. I am opposed to having any type of business going into the corner of 8th and Horne Road. I support the Planning Department's recommendation that this is residential. When I moved in 1990 it was residential, it was not agricultural in any nature of that area except for a few goats that people had on their property. Currently on Horne Road, on the south side of where I live, there are 17 houses from 4th to 8th. On the north side of Horne Road, there are currently 13 houses from 8th to 4th. Kilgore and Virginia Lane are streets that intersect Horne Road. Kilgore has 8 houses. Virginia Lane has 7. So were talking about a total of almost 45 houses in the area where the applicant wants to start a business down there. I assume to rent, sell or transport hay tarps. We have enough traffic on Horne Road as it is. It is a road that when I moved there in 1990, it was very little traffic. In the last 30 years, the traffic is atrocious, 4th Street and 8th Street. We don't need to add more trucks moving hay tarps in and out of the corner of 4th and 8th which is just going to create more traffic, more noise, pollution and problems for the neighborhood. This neighborhood has been residential ever since I moved there in 1990. And now to have someone come in and say "Well I'm going to start a business on the corner of this even though it's zoned as A-1" I think the Planning Commission should take into consideration what the nature of the area has been over the last 30 years since I moved there. It's always been houses. In fact, right across the street from where they moved in, a house was built about 5 or 6 years ago. Many of you might be familiar with it and it is not agricultural in the sense where we don't live in an area where half a mile away I have another neighbor and in between there are agricultural fields. We live in a residential neighborhood and to put a business in the corner of 8th and Horne is ridiculous. As I said, it is going to increase the traffic, increasing problems that we already have out there. The streets being torn up because we have 18-wheelers going down there at times. I'm opposed to it and I'm asking the Planning Commission to deny the appeal and support what the Planning Department recommended. Thank you.

Chairman Schaffner; I want to give him a chance to respond first. Is there going to be any 18-wheeler going there?

Carlos Gomez, Applicant; No, actually the only traffic that we generate is one truck that goes in, that leaves my property and comes in.

Chairman Schaffner; How big is that truck? Is it an 18-wheeler?

Carlos Gomez, Applicant; No it's just a regular truck that leaves in the morning and comes back once a day.

Angie Havens; Good morning Chairman Schaffner & members of the Commission, I come before you this morning regarding the operation at said property as noted in the project description. The zone is A-1-U. According to the section, and I'm not going to use the ones that they cited, but this is section 90501.02 which establishes the base areas one of them being A-1 which is rural residential which is allowed within urban areas only. Additionally this area has an overlay zone U which is urban area. Additionally that same section states that upon permit of development applicable urban area regulations will be followed. So with that being said, if we go to section 90501.08 of the land use ordinance, the U zone states land classified in the U zone shall be classified in another zone. In this case, it is A-1. The U zone is therefore intended to be an overlay zone to designate areas that are within an urban area of an incorporated city or in urban areas designated on the County's General Plan with regards to urban areas around incorporated cities it is the intent of the County of Imperial to adhere to the standards rules and regulations and ordinances of said urban jurisdiction. To that end the Board of Supervisors directs staff to work with the respective counterparts in the urban area and to the use to the extent feasible and possible of the urban area regulations in implementing any proposed land use action. The City of El Centro has identified as rural residential in the general land use plan of 2040. Additionally that is their land use map. The City of El Centro also identifies the property directly to the North and I know the planning department classified it as A-1 but it is not. It is

within the city zone map. It is actually zoned R-1. It is not zoned rural residential, it is zoned single family residential. With that being said, I think what is being asked is support the Planning Department, support the land use ordinance. It's an urban area. It would be no different if I asked my husband tomorrow to bring in grain trailers, combines and park them at my lot. You would tell me he couldn't. Few years ago, thank goodness, one of the property's across the street over, went into foreclosure and somebody purchased it. For years there were port a potty's there, why because it was a use that supported farm use. My neighbor Peggy had put up with port a potty for years why because somebody thought it was an AG related use. I think that is it. This a corner property, it is the first thing you see when you pull into our neighborhood. It is a bunch of tarps. At one point you had trailers back there, we're trying to clean up this area. I mean that's one of the issues. We want to make this neighborhood look better. There're plans this eventually get put into the city, maybe and if it does there is already a plan asking to keep it urban or already designating it rural residential. The zone directly to the north is R-1. There is housing development to the left.

Chairman Schaffner; I am confused. Is this in the city or not in the city? It's not in the city because we're dealing with it right?

Jim Minnick, Director; It is in the edge of the City.

Chairman Schaffner; So it is not in the City and the zone is?

Jim Minnick, Director; The zone is A-1-U.

Chairman Schaffner; So it is not R-1?

Angie Havens; It is not but the property she identified directly north of it is R-1 which is right adjacent to the City already. Again the information I am presenting you is asking that you take into consideration what the land use ordinance is asking. When we are in any sort of development that we are looking at that you take into consideration what the City's plans are which is urban.

Commissioner Cabanas; Where are the boundaries between the City and the County there?

Jim Minnick, Director; To the North. The progression of the City will eventually absorb Horne Road.

Commissioner Cabanas; Do they have prominent domain to be part of the City of El Centro eventually?

Jim Minnick, Director; The City of El Centro, if it's going to develop any further to the south has to absorb Horne Road. So there will be an annexation. The way the general plan and the zoning code works in the urban areas is there 2 types of urban areas. There's urban areas like Heber which is an urban area and there's urban areas around all of the cities. They're anticipated areas for growth of the City itself and any zoning or any uses that we do needs to be compatible to the extent that we can with the city knowing that at some future in time it is going to be absorbed into the City. That's what she was reading in that segment. Our actions have an adverse effect on the future of what the City wants

Chairman Schaffner; How big is this lot?

Carlos Gomez, Applicant; Almost 5 acres, 4.97 or 4.87. 4.76

Chairman Schaffner; That's awful big for a house

Jim Minnick, Director; Actually there's 2 houses on the property right now

Chairman Schaffner; You got another one?

Commissioner Cabanas; No that's it .

Carmen Manzano; Good morning, I am in support of JC and Victoria. From the truck issue, there haven't been any trucks that I've seen. The only one is his truck. From when I've passed by and seen they have everything really organized. I think since they moved in, there was before lots of people I'm assuming just leaving the county jail and going down Horne Road and now you don't see much as the crime I think because that house was purchased and they remodeled it. I'm not sure if they are going to work on the

house next door but I don't see any problem with their business. There's no trucks, there's no nuisance or anything that I've seen. I just see his truck, they're good people. They are just trying to do good and I don't see any problem with them running their business.

Commissioner Cabanas; Where do you live?

Carmen Manzano; I live at 219 W Horne

Commissioner Cabanas; With reference to them?

Carmen Manzano; I am across from Mrs. Havens.

Carlos Gomez, Applicant; One of our neighbors gave us a notice to give you guys as a comment. I am not sure if that's relevant or not.

Chairman Schaffner; Yeah you can read into the record and give us a copy and we will keep it.

Carlos Gomez, Applicant; It says October 25th, 2023 To Whom It May Concern the inclusion of the Gomez family to our street has had a huge positive impact to our area. As they rehabilitate a property that was almost abandoned 20 years, we have had the benefit of seeing our property values increase and have noticed a huge reduction in crime. They have personally worked with ALL the residents in our neighborhood by helping us repair our leaking water lines. We do not have any complaints whatsoever as to anything they have going on and are grateful to have them as neighbors. Kind Regards, Dustin Nelson. I didn't make copies.

Chairman Schaffner; So the biggest issue here is tarps? That's what it is?

Jim Minnick, Director; He's operating a business on the property. And the zoning doesn't allow that business.

Chairman Schaffner; Is there any businesses operating on that street?

Jim Minnick, Director; Not that I am aware of.

Chairman Schaffner; Do you know of any?

Carlos Gomez, Applicant; I don't want to comment on that.

Peter Villalobos; I live at 1198 Farmer Drive which is west of Horne actually it's a little north west of where the location is at on Horne so I'm not really near that business but I'd say it is within the same area maybe a mile or less than a mile. My concern is just with the gentleman that came in earlier he lives down in the area. My concern is as well as the other residents that live in the same area that I live at over by Wake Avenue is given in changing the zoning for this gentleman. I understand that right now at this point he is only using a small vehicle but if its changed that business will increase, additional trucks will come in, dirt, noise, traffic, pollution. So that is something that some of our residents in the area where I live at have concerns. Some of them are elderly and some retired, some couldn't come in but I just wanted to bring up some of the questions they had and concerns.

Chairman Schaffner; Have you mitigated anything for dust control?

Carlos Gomez, Applicant; Yes I've ran a six inch water line to the north end of my property and we're in the process of installing a fire hydrant. In addition we have a water buffalo that we run up and down. It's one truck that comes in and out of the property. As far as dust, there is no dust generated. We've created a large grass patch to help with the dust as well.

Commissioner Cabanas; How often do you water?

Carlos Gomez, Applicant; The road? The grass?

Commissioner Cabanas; The property

Carlos Gomez, Applicant; The grass we flood once every 15 days. The water buffalo as needed. It's pretty hard packed. The area that we drive in it's hard packed so we don't get any. The hard packed crush repines or gravel we lay down doesn't generate enough to water on a daily basis

Angie Havens; I want to make a note. At a previous hearing, I did submit some paperwork to the Planning Department as well as other departments where I showed that there is not just one truck that is on the property. There's multiple vehicles that are parked. I don't know if you have that file with you but I went ahead when there was a parcel map being processed, I submitted a letter. And in that letter, were attachments and those attachments included pictures. And what you see is the employees, all the employees parked. So while there may be one truck with a trailer that you've identified, you haven't identified all the employees that park there. It's not just you. Additionally, I also submitted the staff report from the City of Imperial for DJR which is also a tarping business. The reason I did that is because I did not want to assume what tarping business has or what it includes and I submitted that to Imperial County Planning. And this was there similarity of use they had to provide to the City in order to operate in an industrial zone because it wasn't allowed. I don't know if you would want this for the record

Chairman Schaffner; Do we know how many vehicles can park on 5 acres? Or many tarps are allowed to be on 5 acres?

Jim Minnick, Director; Based on our interpretation of the code, no tarps are allowed, no businesses are allowed.

Chairman Schaffner; You can't have one tarp on that property for AG use?

Jim Minnick, Director; For what purpose? For the purpose on the property, absolutely. If you had a horse and you wanted to tarp your hay because you buy hay once a year, absolutely. Can you have a business in that zone? Not according to the interpretation that we presented. As to how many vehicles you can have on the property, if you're a car enthusiast you can have a number of vehicles. Can you have your employees roll in, pick up, drop off and do all that stuff? Not if you're not allowed to have a business on the property.

Commissioner Roben; Can I interject something here? I have developed numerous houses in the County of Imperial and around bigger lots similar to this size. In some cases the County has authorized an accessory use and over the years they turn into businesses, machine shops you name it. Once they get in when they are allowed to put a business in, they could become any business. In the City of Imperial, a small area, there's businesses all over the place running trucking outfits and all that stuff in the middle of a residential area. Its not necessarily a problem with his particular use but once it's done it's done. If it's authorized the business can operate in there and do whatever they want.

Jim Minnick, Director; If it's authorized, absolutely. And as you are aware there is stuff on the west side of Imperial that we are constantly chasing and going after whether its truck parking. That's in the A-zone as well. The reality is that if I have a lot of land on my property I should be able to have my own business and what the zoning says its ruled for residential for residential purposes. If you have a business you should be in a commercial zone or if its an AG Business it should be in an AG zone or industrial AG zone. So when we're looking at this and we understand there is certain aspects, can I have a horse there? Can I grow crop there? Absolutely, can I have equipment that I need to grow my crop there? Yes. But there is a fine line between what we consider an industrial or commercial business versus a residential business. We try to keep those separated. We hundred percent support the fact that they went in and remodeled the house that had been there vacant and the subdivision that they're proposing to do but what we don't support though is a business on a zone because that's not what our interpretation of the A-1 is.

Commissioner Roben; I think I agree with you. When you develop housing, and a guy that has a larger lot puts an accessory that becomes a full on machine shop that doesn't go together with the housing that's right next to door where they are sandblasting and all of that. That's what it can become by allowing a business in there.

Jim Minnick, Director; At the beginning of this description of what's going on, again we support the remodeling of the house very much so we did what we could on that. They installed or brought on the property a commercial coach on the north side of the property and also brought on a single wide mobile in which they are remodeling without permits. We were instructed that the coach was meant to be their office which if we have 5 acres of tarps and office and a business there, that's what we are trying to prevent because we don't find the zone to be compatible with what their operations are. As far as the grass, I've seen that. The grass is really beautiful. That's not what the business is on. Tarps are not on the grass its just a component of their residential. I would like to get pointers because that grass is growing really good.

Commissioner Roben; Well not in Imperial, nothing grows in Imperial. I agree with you I think that if it's residential with a A-1 basically residential with an urban overlay, that's residential. You don't want to mix businesses with residential, that's my personal opinion.

Commissioner Medina: Is there any home office businesses in the area? Any bookkeeping? Or any other businesses?

Jim Minnick, Director; You can do home offices you just said bookkeeping absolutely. Home offices is a whole code section for that but this is not a home office. They want to do all their booking and information at their house, absolutely. But the storing of a product and employees coming and going in a residential neighborhood is not normally accepted.

Commissioner Roben; It's basically a business operation if you're on a commercial lot you have to get parking in, you have to do all the things that are required by the County Ordinance. I don't know if they proposed any of that I didn't see any of that so then that's a whole another issue.

Jim Minnick, Director; It hasn't been discussed but yes you have a bonafide business you have to provide parking lot and handicap access and all that sort of stuff.

Commissioner Roben; Restrooms, everything it's big.

Jim Minnick, Director; Probably if the amount of employees or people that enter the property exceeds 25 you are going to have to put a water plant in and based on the size you might have to put a septic plant for sewer, absolutely. It's a different animal.

Carmen Manzano; There are other businesses on there and their workers park on the street. If he does have workers I've never seen them on the street. There is another property I think there I don't know if they rent or what but they have a bunch of little apartments. They have a little dumpster in the front overfilled with trash, that's a nuisance.

Commissioner Roben; Well that's a complaint to the County

Jim Minnick, Director; That property with the fence is in violation. We have a number of properties in violation.

Carmen Manzano; That's fine

Commissioner Roben; That happens and most of the time people don't come in and ask. They just do it. They remodel all their house and start operating their business out in the back and it becomes this big thing.

Jim Minnick, Director; That's in violation too.

Carlos Gomez, Applicant; I've been in business almost 10 years now. We have 2 full time employees year round during that whole time period. We hire seasonal during our 3 month busy season which are the summer months when the grass grows faster, we hire other people. We have 2 work trucks. It is one working and one spare. When we have to service one of the work trucks, the second one gets used. As far as traffic goes, as far as trying to make this huge, and I understand your point, making it a huge operation that's just not the case. If there were limits if you guys want to put whatever we discuss or what not, I'm okay with it. But as far as growing and trying to do other stuff its just not something that we ever thought about. Like I said we have two full time employees and we hire 2 maybe 3 seasonal workers. We're working out of

one work truck that goes out once a day and comes back once a day. We have a second work truck that's operated exactly the same. When this one has to get maintenance or what not but as far as traffic goes, hardly any traffic. I mean the UPS trucks deliver more stuff than my guys go in and out all day. Dust, we have preventive measures we can set for the dust control. We're not opposed to complying or making our property comply with what we are trying to do.

Commissioner Bergh; Can you see the problem that if I own property say north east of you I don't know if you have children or not but I'm going to open up a open air spray booth and spray cars there and automobiles or whatever and that's contamination that's going all over the place. I'm ignoring the county. Besides your business you have more violations on that property that you have built buildings, you have a trailer. I went by there the other day and there were a number of vehicles parked in the front. If you compound it, the County says okay you can do this then what's to stop the next guy to come along and put a different booth in there or a different kind of operation in there that is pollution, leaks pollution or whatever, how are you going to complain against that?

Carlos Gomez, Applicant; We personally own 4 vehicles for ourselves. Those are the only ones that park in the front in our driveway. The two trailers that were mentioned they are single wide trailers we bought them unknowingly thinking that you don't need a permit or nothing like that. As soon as we got the complaint we stopped working on them, and the shed or the building that you guys are referencing we had to put a new sistern in our property there was no water. It was on another section of the property so we put a brand new sistern, filters and all of that good stuff. We made a 8x12 shed to house these things and filters and all that. Again, it is not a huge building if we have to tear it down we will tear it down it is not a big deal its just to protect the filters that we have our water pump and all that.

Commissioner Bergh; You didn't realize it required a permit?

Carlos Gomez, Applicant; For that permit, no. It's less than 120 square foot. The reason why it requires a permit is because we ran electrical, that's where the permit comes into play. We're willing to tear it down or bring it up to code that's not an issue at all.

Commissioner Cabanas; So when you have those temporary employees, they park in your property?

Carlos Gomez, Applicant; Yes

Commissioner Cabanas; So then we do have extra vehicles parked on the property?

Carlos Gomez, Applicant; Yes

Victoria Gomez, Applicant; In the back.

Irene Preciado; Good morning. I mean I'm not against anyone trying to make a living but I do want to comment. I live on 282 Horne Road. I live on the North side of Horne Road, on the same side that he is on. We haven't met yet but nice to meet you. At one time we had 5 acres and we subdivided 2.5, I made the mistake of not subdividing more. We sold the other 2.5. We built a house on the other 2.5 because we needed to for my husband's business. He passed away last year so my house is at 2.5 acres. It is really a lot. I have a lot of empty lot in the back I wish I could make some money out of it too you know? I don't mind but maybe lease it or rent it but on the other 2.5 acres there's 3 houses, one in front, there's 3 houses. They subdivided it and when we tried to subdivide it oh you cant do that anymore. I don't know I need to see what the regulations are now that was like 15 years ago, 20. My son wanted to build in the back and he couldn't do it. You have to do this and this, the water, it was really expensive. Well its always been like that. How come the neighbors can subdivide their houses and have trailers? Oh because we weren't enforcing it then but were enforcing the regulations now. That's what I was told. But anyways, I have an issue with the traffic. There is a lot of traffic and it is a narrow road. When I turn into Horne Road, I have to turn into more or less the center of the road, if I turn to the right there is potholes. Its chipping the road is chipping off right there. It's very narrow and I've seen people pass and they go very fast. They go from one side of Horne Road to the other and they go very fast. I don't know the speed limit there but we should have a sign. I go get my mail and I have to make sure there are no cars coming. Of course my mailbox is not on the road but you

know they go very fast. There's a lot of traffic a lot of trucks. They go from one side to the other. You know all the houses on the West side they go through Horne Road to get through to the mall to get to the other side. There's a lot of traffic really there is. They go fast. They don't go residential slow they go shoo Straight ahead and its four blocks 8th Street to 4th Street. They go well I have the right away and then boom you know.

Commissioner Cabanas; Your concern is from traffic in general?

Irene Preciado; Yes

Commissioner Cabanas; Not because of them?

Irene Preciado; Not because of them, no.

Commissioner Cabanas; We want to make sure that's clear.

Irene Preciado; But if I could have a business in the back and earn some extra money hey you know I wouldn't mind that either. I also want to mention the north side and the south side of Horne Road they are completely different. The houses on the south side they have I don't know what you call it but they have regulations that the houses needed to be at least 1 acre or an acre and a half. On this side, no regulations on the south side. There is a lot of trailers mobile homes a lot of overgrown grass a lot of weeds. I guess I have to report it because I am afraid, they might catch fire especially during the summer and my neighbor has a lot in her backyard. The lots are big and they are not well kept. I'm glad something is being done with that corner because it's been vacant. I don't know who owned it before but I remember the Crystals owning it a long time ago. The Crystal's electrical business and they got divorced and nobody ever lived there anymore. It was a nice house at one time. The house on the corner no, it wasn't nice. There's no regulations. I believe I have a nice home and I want to keep it that way. I want my neighbors to also keep it up, at least clean.

Jim Minnick, Director; A couple things the zoning out there allows technically for half-acre lots. However Environmental Health Services Department requires septic systems on certain lot sizes I believe they are at acre lot in A-1 zone is the minimum lot size. You can always appeal with them to see if you can get it shrunk down lower but it is not a zoning issue. Zoning has not changed in 50 years. The other thing I want to bring up before we conclude is that the question in interpretation is about the storage of agricultural products. Regardless of this gentleman's business, if its permitted that now we can have equipment that is used in agricultural businesses allowed, that means all A-1's will be allowed to do that, any kind of equipment that is related to agricultural production will now be allowed on every A-1 zone not just this parcel. I'm not trying to pick on this parcel we're trying to interpret our regulations based on what our understanding is so please be aware of that.

Chairman Schaffner; He then closed the public portion of the meeting and turned it over to the Commission for any questions and/or comments.

Carlos Gomez, Applicant; On our zoning on section 90507-1 it says accessory agricultural, stuff that are allowed, it says permitted uses. And one of them says implement shelter, implement being a tool. For us the tarps are a tool to protect the hay that we cover, just wanted to make that comment.

Jim Minnick, Director; An implement shelter is also a barn for you to store your equipment. If you read on the same thing it says provided no livestock or any building enclosed with animals or within a certain distance.

Chairman Schaffner; So, in that barn you can't put in a tarp?

Jim Minnick, Director; Yes sir you can put a tarp in, absolutely. Yes you can. Can you have a tarp business? No. Can you have a tarp? Absolutely. He's welcome to have a tarp.

Commissioner Kalin; I don't think I can make a motion to approve the appeal because if we did that it would be in violation of county ordinances.

Commissioner Roben: So this is an appeal so we don't want to make a motion to deny the appeal.

Commissioner Kalin: Exactly. Russ you're correct, if we deny the appeal then we're allowing something that's not legal to happen and you can't do that. So, I guess I'm going to make a motion and I hate to do it to you guys because you're a good company and I think it needs to grow but the A-1 does not allow for a business. Is that correct Jim?

Jim Minnick, Director; That's my understanding of the A-1 zone. That's what we are here for to determine whether or not I have it wrong essentially.

Commissioner Kalin; Is there a possibility of a conditional use permit of some kind?

Jim Minnick, Director; I looked at the conditional use permit category and I don't see anything related to an AG business.

Commissioner Kalin: Made a motion to deny the appeal seconded by **Commissioner Bergh** and the affirmative vote by the Commissioners present as follow Schaffner (no), Kalin (yes), Roben (yes), Cabañas (no), Bergh (yes), Medina (no), Wright (yes), Pacheco (yes).

Jim Minnick, Director; Stated **Agenda Item #2** stands denied by this Commission.

3. **Consideration of Time Extension #23-0008 for CUP #08-0001** as submitted by Pyramid Construction & Aggregates, Inc. for a new fifteen (15) year term for Conditional Use Permit #08-0001 for an existing Commercial Water Well with an allowed annual extraction of (57) fifty seven acre-feet of water for dust suppression and to facilitate the existing mining operations of aggregate materials (sand and gravel) at the American Girl Mine located at 3737 American Girl Road, Winterhaven, CA (APN 050-320-031-000). The property is located at 3707 American Girl Road, Winterhaven, CA 92283; also known as Assessor's Parcel Number 050-120-009-000 and legally described as Section 25, T15S, R20E, S.B.B.M., in the unincorporated area of the County of Imperial. (Supervisory District #5) [Gerardo A. Quero, Planner II at (442) 265-1736, extension 1748 or via email at gerardoquero@co.imperial.ca.us]

Jim Minnick, Director; Gave a brief description of the project, and introduced **Rocio Yee, Planner I**, to read the project into the record.

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Chairman Schaffner; Asked if there was a representative for the project to approach the podium.

Diana Valdez, Applicant; Introduced herself

Chairman Schaffner; Asked if she had any questions or comments regarding the project, and if she read and agreed with everything.

Diana Valdez, Applicant; Stated that she read and did agree with everything on the project.

Chairman Schaffner; Opened the public portion of the meeting. There were no public comments; he then closed the public portion of the meeting and turned it over to the Commission for any questions and/or comments.

Commissioner Kalin: Made a motion in favor of Agenda Item #3 seconded by **Commissioner Roben** and the affirmative vote by the Commissioners present as follow Schaffner (yes), Kalin (yes), Roben (yes), Cabañas (yes), Bergh (yes), Medina (yes), Wright (yes), Pacheco (yes).

Jim Minnick, Director; Stated **Agenda Item #3** stands approved by this Commission. In which the applicant or any member from the public want to appeal must be done by filing the appropriate appeal in the next ten (10) days.

4. **Consideration of Time Extension #23-0011 for CUP #04-0014** as submitted by Lily & Christian Grill for a new fifteen (15) year term for Conditional Use Permit #04-0014 for an existing Residential Water Well with an allowed annual extraction of (1) one acre-foot of water for residential purposes. The property is located at 985 East US Highway 98, Ocotillo, CA 92259; also known as Assessor's Parcel Number 033-540-006-000 and legally described as Lot 15 of Tract 776, T17S, R10E, S.B.B.M., in the unincorporated area of the County of Imperial. (Supervisory District #2) [Gerardo A. Quero, Planner II at (442) 265-1736, extension 1748 or via email at gerardoquero@co.imperial.ca.us]

Jim Minnick, Director; Gave a brief description of the project, and introduced **Rocio Yee, Planner I**, to read the project into the record.

Rocio Yee, Planner I; Read the PowerPoint Presentation of the project into the record.

Chairman Schaffner; Asked if there was a representative for the project to approach the podium.

Lily & Christian Grill, Applicants; Introduced themselves.

Chairman Schaffner; Asked if they had any questions or comments regarding the project, and if they read and agreed with everything.

Lily & Christian Grill, Applicant; Stated that they read and did agree with everything on the project.

Chairman Schaffner; Opened the public portion of the meeting. There were no public comments; he then closed the public portion of the meeting and turned it over to the Commission for any questions and/or comments.

Commissioner Kalin; Made a motion in favor of Agenda Item #4 seconded by **Commissioner Bergh** and the affirmative vote by the Commissioners present as follow Schaffner (yes), Kalin (yes), Roben (yes), Cabañas (yes), Bergh (yes), Medina (yes), Wright (yes), Pacheco (yes).

Jim Minnick, Director; Stated Agenda Item #4 stands approved by this Commission. In which the applicant or any member from the public want to appeal must be done by filing the appropriate appeal in the next ten (10) days.

5. **Consideration of Conditional Use Permit #23-0004** as submitted by NMH Investments, LLC. (DBA Valley Meds) to allow for the operation of an Adult Use & Medicinal Cannabis retail facility with delivery at 2092 Thomas R. Cannell Road, Salton City California on APN #015-261-020-000. The legal description for this parcel is "LOT 50 BLOCK 03 TRACT 537 FM 4 39", in unincorporated Salton City Urban area of the County of Imperial. State of California. (Supervisory District #4) [Luis Valenzuela, Planner I at 442-265-1736, extension 1749 or by email at luisvalenzuela@co.imperial.ca.us].

Jim Minnick, Director; Gave a brief description of the project, and introduced **Luis Valenzuela, Planner I**, to read the project into the record.

Luis Valenzuela, Planner I; Read the PowerPoint Presentation of the project into the record.

Chairman Schaffner; Asked if there was a representative for the project to approach the podium.

Stewart Namao, Applicant; introduced himself.

Chairman Schaffner; Asked if he had any questions or comments regarding the project, and if he read and agreed with everything.

Stewart Namao, Applicant; Stated that he read and did agree with everything on the project.

Chairman Schaffner; Opened the public portion of the meeting. There were no public comments; he then closed the public portion of the meeting and turned it over to the Commission for any questions and/or comments.

Commissioner Kalin; I got a question on specific condition #8 the last paragraph. It says "The County of Imperial requires NMH Investments to enter a specific cost reimbursement agreement for direct judicial prosecutorial services where as if a person or persons are tried in a court of law for potential crimes at the project site. The project site itself is required to reimburse the County for such cost" I thought we were a Country of you are innocent until proven guilty.

Commissioner Roben; That's a service that's supposed to be provided by our taxpayer.

Commissioner Kalin; this is illegal.

Chairman Schaffner; this is wide open.

Commissioner Kalin; I think that S-8 should be taken out in my opinion.

Chairman Schaffner; Make a motion and take it out.

Commissioner Roben; I have a comment for the gentleman and for you Jim. I've had a project got killed out there similar, a little bit bigger, because the County of Imperial Fire Department and the County of Imperial itself does not provide water out there. Coachella Water Valley District does. Coachella Valley Water District refused to provide anymore than what their plan handles and was nowhere near enough for the fire protection of the building. You got to pay us a million dollars, run a pipe and upgrade the system and all that stuff so this thing is out in the Salton Sea Area and it's just sitting there. The owners decided what they wanted to do so I'm cautioning you if you haven't talked to the Coachella Valley Water District about your water for your fire system, your sprinkler system, because it says in here you have to put one in you better go talk to them.

Stewart Namao, Applicant; Thank you for that. I did send somebody out there for inspection of the current water pressure and it was enough water pressure for fire sprinklers.

Commissioner Roben; We did the same thing. We did the same thing with the County of Imperial and they went and tested out the hydrant that had enough fire flow. But the Coachella Valley Water District will not provide that for you. They're saying you can only use so much and that's all you should use in order for us to permit you to connect you're going to have to upgrade the line then because you're going to take more water than this thing can put out during a fire. We're at a standstill on that I would hate for you to have to go through a whole bunch of more trouble because Coachella Valley is different than everything else in the County. It's a problem.

Chairman Schaffner; Get it on paper whatever they tell you.

Commissioner Roben: If they agree they agree, but I'm just telling you I'd get that in writing because it's a big problem out there.

Jim Minnick, Director; We probably also need to have a conversation with the Fire Department as well.

Commissioner Roben; Andrew and them know about this. We've had several meetings with them on our projects and he was telling me that he was going to try to do something with you guys to alert everybody.

Jim Minnick, Director; We had the same issue with a retail one in Ocotillo on converting a restaurant and the fire department wanting sprinklers and additional water and so forth. It is not just a Coachella Water Valley District issue. I think though what you are also talking about is cultivation.

Commissioner Roben; Yeah it was a whole thing. But this is still a requirement for a fully fire sprinkler system.

Jim Minnick, Director; Yes but for an existing building and we definitely need to have a conversation with both sides

Commissioner Roben; It is more of just a caution for him to make sure he at least talks to them before he gets too much farther down the road and actually get the fire approval that you need. The County of Imperial fire fluid test doesn't count. It's Coachella Valley the one that determines the water. They are the water provider. They are the ones giving you the water to fight the fire. They have to say yes.

Jim Minnick, Director; Have you considered getting a tank?

Commissioner Roben; They looked into everything but we need 125,000 gallons of water to fight a fire so we need a big tank and a pump and all kinds of stuff. It got really expensive. Tank and a pump or a million dollars for a pipe so the project just stopped.

Commissioner Cabanas; He can install a tank too right?

Commissioner Roben; He can. His is a much smaller project

Jim Minnick, Director; It's much smaller it's a retail.

Commissioner Roben; It's a much smaller project so it sounds doable. Just go talk to them.

Chairman Schaffner; This may be your cheapest advice you ever got here today

Stewart Namao, Applicant; I ran into that issue once with the project on Main Street and same thing we did not have enough water pressure. The only way we would increase the water pressure is tapping into the water source that was few blocks away that was going to be really expensive or bring in a water tank. I think similar to that size and we had to kill the project because of that reason.

Commissioner Roben; Yeah so check on it.

Commissioner Kalin: Made a motion in favor of Agenda Item #5 with condition S-8 taken out of conditional use permit seconded by Commissioner Cabanas and the affirmative vote by the Commissioners present as follow Schaffner (yes), Kalin (yes), Roben (yes), Cabañas (yes), Bergh (no), Medina (yes), Wright (yes), Pacheco (yes).

Jim Minnick, Director; Stated **Agenda Item #5** stands approved by this Commission. In which the applicant or any member from the public want to appeal must be done by filing the appropriate appeal in the next ten (10) days.

6. **Consideration of Zone Change #22-0003** as submitted by Imperial County Planning and Development Services Department (ICPDS). The purpose of this latest revision to Divisions 4, 5, 8, 9, 10, 14, 15, 21 & 32 of the Imperial County Title 9 Land Ordinance is to reference the 2022 California Building Standards Code (Cal. Code Regs., Title 24), which will become effective on January 1, 2023. The revisions will also reflect changes in accordance to policies in the updated Housing Element 2021-2029 and pursuant to recent State law. Additional revisions include editorial changes, minor corrections in grammar or additional language to provide clarification. These revisions apply Countywide. (All Supervisorial Districts), [Diana Robinson, Planning Division Manager at 442-265-1736 extension 1751 or email at dianarobinson@co.imperial.ca.us].

Jim Minnick, Director; Gave a brief description of the project, and introduced Diana Robinson, Planning Division Manager, to read the project into the record.

Diana Robinson, Planning Division Manager; Read the PowerPoint Presentation of the project into the record.

Jim Minnick, Director; I'm dyslexic that's why she did the numbers not me.

Commissioner Cabanas; Do these change every year?

Jim Minnick, Director; well, no building codes change every 3 years so were on the new cycle of January 2023. We tried to do updates to Title 9 tweaks and corrections annually, one of the most aggressive state regulations that is out right now is ADU's. We have been having to update that every year. They just added a new one the government signed which will probably take 6 months from now where we have to allow the division of an ADU off of a house through a condo map process. That came in October so we have to go back through the process and bring that to you. It's automatic no matter what whether we have it as a policy or not. That's one of the biggest ones that's going on between that. Last year they made it mandatory to be pre-wired for EV stations. We figure in 2025 it will be required to have EV stations, the same thing happened with solar panels and sprinklers. Over the years first, they say its an option.

Commissioner Roben; No wonder why houses are so expensive.

Jim Minnick, Director; Technically solar panels are not technically required yet as long as you can meet the energy calculations which you cannot unless you live in a cave.

Commissioner Bergh; Can I put up a 9 foot windmill generator in my backyard?

Jim Minnick, Director; That's a good question.

Commissioner Bergh; Theres no high lines back there or anything.

Chairman Schaffner; As long as you don't put a tarp on it.

Commissioner Bergh; I'm not in the flight path

Jim Minnick, Director; They do make domestic windmills. They actually do.

Commissioner Cabanas; Make sure you don't have a tarp around it

Commissioner Bergh; No tarps

Jim Minnick, Director; No Birds

Commissioner Bergh; Yeah no birds

Commissioner Cabanas; Now the government is telling us we need to have electricity.

Chairman Schaffner; Opened the public portion of the meeting. There were no public comments; he then closed the public portion of the meeting and turned it over to the Commission for any questions and/or comments.

Commissioner Kalin: Made a motion in favor of item 5a seconded by **Commissioner Cabanas** and the affirmative vote by the Commissioners present as follow Schaffner (yes), Kalin (yes), Roben (yes), Cabañas (yes), Bergh (yes), Medina (yes), Wright (yes), Pacheco (yes).

Jim Minnick, Director; Stated **Agenda Item #6** stands approved by this Commission.

7. **Consideration of Reclamation Plan #21-0001/Initial Study #21-0029** as submitted SMP Gold Corp. (aka Oro Cruz). The applicant proposes mineral exploration activities consisting of using existing access roads and improving some existing roads, as well as constructing a new temporary exploration drilling access road, up to eight (8) helicopter landing pads and sixty-five (65) drill pads to support exploration in seven (7) Drill Areas. The Project would also entail constructing a new permanent access road and 2.8-acre staging area for access to the Oro Cruz Portal on BLM lands. The total surface disturbance on BLM lands for the proposed Project activities is estimated at 21.3 acres. The Project is located on previously mined BLM lands, (APN 050-110-006, 007, 008, 009, 023, 024, and 050-280-001, 012 and 013) within T15S, R20E, Sections 1, 2, 12 and 13, and T15S, R21E, Sections 6, 7 and 18, SBBM; Winterhaven area, Supervisorial District #5), [Gerardo A. Quero at (442) 265-1736 or by email at gerardoquero@co.imperial.ca.us].

Jim Minnick, Director; Gave a brief description of the project, and introduced **Derek Newland, Planner III**, to read the project into the record.

Derek Newland, Planner III; Read the PowerPoint Presentation of the project into the record.

Jim Minnick, Director; We do have our consultant available, and they do have a presentation if you are inclined to hear it.

Graham Stephens, Consultant; introduced himself and read his PowerPoint presentation into the record.

Chairman Schaffner; Asked if there was a representative for the project to approach the podium.

Del Fortner, Representative; Introduced himself.

Del Fortner, Representative: I have some prepared comments, if you don't mind I refer to my notes on that. I am an independent consultant and currently I am working with the SMP Gold Corp on the Oro Cruz Project and have been about for 3 years. I am an American man, a US air force veteran of four years. I am a father, I am a brother, I am a son, I am a husband and a father again, I am a grandfather. So I want you to know that I am a real person here today and I want to let you know I'm speaking the truth as I see it. It is an honor and a pleasure to speak to you today this august body Imperial County, Imperial County's Commissioners, the Planning Commission and the public so thank you very much for allowing me to talk. I understand the purpose of this hearing is to address the topic of reclamation plan and the CEQA mitigated negative determination. To that end I wish to present factual information. Some of this may be duplicative of what you have already heard but I think its important because the truth needs to be told. To start, I wish to clarify several misconceptions that the Oro Cruz project is a mining project, it is not. It is an exploration project. The Oro Cruz project is exploration only and is confined to drilling in known and suspected highly mineralized areas that have been previously mined and disturbed. Access has been designed to these areas not been denied. It has been designed to these areas following existing and pre existing roads. These are BLM roads identified on maps driven for decades, some cases hundreds of years, possibly wagon trails but at the same time these roads are prior existing. No mining is anticipated in result of our efforts. First the area proposed for exploration has been actively mined for over 360 years it was first mined by the Spanish in 1660. So this is not a pristine area. This rich mining history has been documented historically and the evidence of mining is clear today as you've seen from some of the pictures that were presented today to you by the consultant for the County. The State of California designated that area as a mining district. BLM designated that mining district as an area of critical environmental concern or AC EC. The BLM's ACEC designation is to protect the area from undue and unnecessary degradation. It is open for recreation and prospecting and BLM has completed a NEPA study based on our exploration plan. SMP owns mining claims in that area and there is private land which is not being used at this point but may be used in the future. All proposed activity is on mining claims on this public land. So, mining in Imperial County I think is a proud history along with agricultural and all the other things that made this County great. Most families today probably have some legacy relationship from previous employment from their ancestors or even themselves. Mining helped deliver a robust and powerful economy that continues today. In fact a mine is actively operating in the same place and space in the proposed exploration that we are talking about, the Oro Cruz area. Second, SMP has personally designed the exploration within the Oro Cruz project area to avoid impacts outside of disturbed areas. Most ground disturbance plan for drilling is on previously disturbed areas. Third, all proposed disturbance areas have been inventoried for other resources in order to identify and avoid any and all impacts. The studies are too numerous to mention but they include every biological resource air, visual, endangered species, archeological, cultural. Working with the BLM and Imperial County Planning Department, SMP provided exploration design features that incorporated best management practices and environmental protection measures to reduce impacts. Fourth, SMP engaged the tribes over 3 years ago to begin an introductory process. We call this the good neighbor policy. It works very well in some areas. SMP

has provided virtual meetings, site visits to those tribes that have shown an interest in the exploration project. Fifth, the Imperial County Planning Department and the BLM initiated government to government consultation with the tribes and frequently informed SMP of new requests and demands from those tribes. SMP responds immediately to these demands that engage professional archaeologists and in some cases tribal members themselves to complete the on the ground maps, the cultural resource inventories and the studies that came out of those. Sixth, the Imperial County Planning Department and the El Centro field office of BLM initiated and completed environmental studies incorporating public comments and input to address concerns including those of the tribes. SMP immediately adjusted the proposed exploration plan in all cases where a response was needed to respond to the concerns that derive from the agencies, the public and the tribes. Seventh, the process has taken over 7 years culminating in the Imperial County Planning Commission hearing today. Actually we had one on the 13th and this is a continuation of that. We appreciate your time and consideration. SMP requests the commissioners consider the effort from the Planning Department their consultant in the division of mineral resources in Sacramento to develop a comprehensive reclamation plan and to approve that plan today. Finally, SMP requests an opportunity to meet with the Quechan tribes to discuss opportunities going forward. I don't know if anyone from the Quechan Tribe is here today but I intend to continue to try to get dialogue because I believe there is opportunities for us to work together. That is my presentation prepared for you today and I'm here if anyone has any questions.

Chairman Schaffner; Asked if he had any questions or comments regarding the project, and if he read and agreed with everything.

Del Fortner, Applicant; Stated that he read and did agree with everything on the project.

Del Fortner, Applicant; I read the 2800 pages that were presented here today yes, I did

Chairman Schaffner; I feel sorry for you.

Del Fortner, Applicant; I know. It was difficult in places but it is necessary for us to understand there's two sides to every equation. We understand that everybody isn't welcoming us but we are attempting to respond positively in all cases where someone shows some legitimate concern or interest in our project.

Chairman Schaffner; Opened the public portion of the meeting.

Commissioner Cabanas; Before we do that, Jim I have a question for you. When we continued this meeting from September, it was the idea that BLM & the Quechan were going to get together and discuss some of their concerns. Has that meeting ever happened?

Commissioner Bergh; According to the Indians, it has not

Jim Minnick, Director; The idea was to get them to have time to meet.

Commissioner Cabanas; Are you aware if that ever happened?

Del Fortner, Applicant; I have some information for you on that.

Commissioner Cabanas; I need the director.

Del Fortner, Applicant; I'm sorry.

Commissioner Cabanas; You want him to answer?

Michael Abraham, Assistant Director; Yes

Commissioner Cabanas; Okay go ahead

Del Fortner, Applicant; The day after the hearing I understand that BLM reached out for consultation on the discovery and monitoring plan that the outreach/consultation that BLM has is constant. It never ends and so they have not been able to come up with a joint date for scheduling. I believe the tribe has pushed it into November. Now I don't know if they are not available or if they just don't want to meet till November. Since that was after this date, it's kind of complicating our situation. We feel like we should be treated fairly and should be heard. It appears that their issue seems to be with BLM and not with the County.

Commissioner Cabanas; That's correct sir.

Del Fortner, Applicant; The other thing you should know is the tribe has appealed through their administrative appeal process through the BLM. So they are attempting to force the County into a fight with the BLM when they are dealing with the BLM through their normal appeal process. I don't understand that.

Commissioner Cabanas; Thank you.

Commissioner Bergh; My understanding that it was supposed to be continued until the meeting.

Commissioner Cabanas; That was my understanding too.

Commissioner Bergh; If you read the minutes of the last meeting, BLM didn't actually come out and say we're going to meet with them. The idea was we were going to continue it till you are able to get a consultation meeting between BLM and the Indians.

Del Fortner, Applicant; I don't work for the BLM sir, but I can tell you they don't work for the County. So I don't understand how the County can require BLM to hold any meeting but if the BLM agreed to hold the meeting, I agree with you it has not been held. It is because they asked for a meeting and it's been pushed off till November. That could be to force us.

Commissioner Cabanas; The meeting was not requested by the County the meeting was requested by this group.

Del Fortner, Applicant; I don't understand how the commissioners relate to the federal government. You got your own rules I don't understand.

Jim Minnick, Director; May I? With all due respect to everybody involved, AB52 requires consultation we are not in the driver seat of this project. We are in the trunk so to speak on the reclamation side but this commission was asked to in accordance with consultation requirements with the state of California that we make sure consultation has occurred. That was what was asked for before it came back to this commission. So yes we do have a play and a role in that we are not however in the approval body. If consultation had occurred whether they agreed or didn't agree but it occurred then this body would be comfortable determining whether or not the Reclamation Plan is adequate for the project because that's all we are looking at is adequacy for the project. But because we also had to do an environmental review consultation is required but the consultation requirement is primarily with BLM. All we're doing is making sure that has occurred. And if it has not occurred, then we go from there.

Commissioner Cabanas; Perfect, thank you Jim. Thank you for the clarification.

Chairman Schaffner; And we can't force them to meet right?

Commissioner Roben; What if one of the party delays, delays, delays and they just don't ever have the meeting?

Chairman Schaffner; Then they got what they want

Jim Minnick, Director; Then we reconsider our request and move in a direction to determine whether or not the reclamation plan is adequate based on the project. Whether the project is good or bad, just whether the reclamation mitigates or puts the place back to the extent that service mine reclamation act requires it to be. That's our only tool that we are working with. But you did ask for a consultation. That's the direction unless you decide that you no longer need a consultation this body requests a consultation that has not yet occurred.

Chairman Schaffner; Given the opportunity we can't force them.

Commissioner Bergh; Jim, my understanding was that it was going to be continued till after the meeting. When I saw this on the agenda 30 days here I thought you already got an approval till this letter shows up. 45 days would've been minimum.

Commissioner Cabanas; The gentleman just mentioned there's a date for November that would've been 45 days.

Gloria McGee; I am a member of the Quechan council. It's Quechan that's how you pronounce it. Addressing the County worker back there who says we've never sent in letters, we have sent in letters. We've sent so many letters even with Lithium they said we never sent in letters and then we get their report there's our letter in the report. What they do with our letters I don't know. Do you want me to read the statement we have about this? "Dear Mr. Schaffner, This is the request to stay consideration of the Reclamation Plan #21-0001/ Initial Study 21-0029. On September 13, 2023 the Imperial county Planning Commission heard public comment regarding the proposed Oro Cruz gold exploration project. During this meeting, elected officials of the Quechan Tribe of the Fort Yuma Indian Reservation Tribe including myself expressed our serious concerns regarding the project due to the Bureau of Land management's failure to engage in the required government to government consultation with the tribe. The commissioners expressed concerns about the BLM's failure to consult and unanimously voted to continue consideration of matters related to the project until such time as meaningful government to government consultation occurs. I am writing to inform you that despite continued efforts to schedule consultation with the BLM, no consultation has yet taken place; therefore the Tribe respectfully requests that the commission remove this item from the Commission's October 25, 2023 meeting agenda. As the minutes of the September 13, 2023 meeting reflect, the commission decided not to set a specific date to consider and vote upon the project in order to give the tribe and BLM sufficient time to conduct this important and legally required consultation. Please accept this written request to continue Agenda Item 7 for the October 25, 2023 Commission meeting until the Tribe and BLM can schedule a consultation meeting. I am currently in Washington DC attending to tribal business and unable to attend the Commission meeting to make this request in person. However, I am working to schedule a consultation meeting in early November, pending confirmation from the BLM EL Centro Field Office. The tribe is hopefully that a consultation meeting with BLM can take place in near future; however, we believe it would be inappropriate for the Commission to consider this item at its October 25th meeting, given that consultation has not yet taken place. Thank you for your consideration of the Tribe's request. Please do not hesitate to contact me with any questions regarding this important matter. Sincerely, Jordan Joaquin President of the Quechan Tribe" As I was saying I just got a message on my phone that said BLM would like to meet on November 3rd. I just got that at 9:36 today. We have been going back and forth with Carrie trying to set up a date. We have not been sitting on our laurels waiting for her to respond but she was on vacation

for a while, couldn't have a meeting. We're working on our water Colorado River water issues so were back and forth to Washington different places, different meetings Phoenix and trying to get that settled. That concerns the whole State of California. There are so many issues that we deal with sometimes we can't get to things as quick as you would like us too. Like I said right now, four of the members are in Washington DC, the other one is listening to a virtual meeting for water.

Chairman Schaffner; So you'd be in favor of a continuance until you have a meeting?

Gloria McGee; Yes

Commissioner Cabanas; Chairman you have a copy of that letter?

Gloria McGee; No I was going to leave this

Jim Minnick, Director; You have it

Chairman Schaffner; Would the rest of your group be happy with that?

Gloria McGee; Yes they would

Chairman Schaffner; Would you guys be happy with that?

Commissioners; (in unison) yes

Del Fortner, Applicant; Could I remind you that there's 468 pages for you to see that the consultation has been on going for over 2 years?

Gloria McGee; But it was not government to government

Del Fortner, Applicant; But they're all certified letters.

Commissioner Cabanas; We Have it

Del Fortner, Applicant; I don't think this is necessarily fair to the proponent of this project. The project has been approved by the BLM and your issue is the reclamation plan. It has nothing to do with consultation.

Commissioner Cabanas; That's one of the things we discussed in the last meeting sir

Juan Valencia; For the past 3 months I have worked as a community organizer for Imperial Valley Equity & Justice Coalition & opportunity which also led to freelance work as a journalist reporting news around the County. Through this avenue, I familiarize myself with the indignant ordeal developing around this Oro Cruz Exploration Project and I have had the honor of being in communication with representatives of the Quechan tribe who's sacred land is being affected by this development. Through my brief yet incredibly fruitful conversations with Quechan cultural bearer Mr. Preston Arrowweed, who's here present, and Quechan Tribal council man, Mr. Faron Owl also present here, I have learned more about the culture and history of this region than I have ever did in the 30 years that I've lived in this valley which is my home as well. I've learned of songs and myths that are thousands of years old and songs and myths that mention the very mountains and endangered species now being reeled into these exploration efforts. I feel passionately moved and inspired by the work that the Quechan are doing defending their sacred home region, a region that has been there home longer than anyone else has claimed it with their land development plans or their exploration efforts. Need I reel this conversation back into a topic of just being exploration sure but if you

check the SMP Gold website the CEO, you can see the bold quotation on there "If the exploration is successful, it'll be the cherry on top for us." Money, money, money right. In my experience as this is all being voiced an issue that the Quechan are advocating for what is truly voiceless in this County the land and all the endangered species in it. We're finding that they are being treated as having the same voicelessness essentially. Truly one of the most horrific instances through this advocacy work that I have been involved with was hearing Mr. Arrow-weed, bearer of all ancestral culture in this region, thank me profusely and then explain almost nobody listens to me. Clearly what IV Equity & the Quechan tribe are requesting and we request this in solidarity with the Quechan's own request and wishes is more time and a broader space please for their concerns to be heard and engaged with directly. And moreover I would like to inform this Planning Commission that even if at this time you know the space and time are now granted I've also been directly involved in expanding the Quechan's voice on my own accord. And through social media advocacy the story of what's going on near their sacred region in Imperial has been now heard across the world. It's starting to be heard across the world and will continue to be heard across the world and the assessment of the actions happening in the Imperial County through the eyes of the broader public are as follows; these actions are driven by greed, carelessness and disrespect and the Quechan must be heard. Thank you.

Carrie Meister; Chairman Schaffner with request to the Quechan people I would request to defer my remarks until all Quechan has spoken. This is not a yielding of time but rather a request to change the order of speakers.

Chairman Schaffner; Whatever.

Preston Arrow-weed; Hello. I haven't heard anybody say hello to each other so I think I'll say hello. Fine day to be having a meeting like this very informative. But I don't think I'm going to speak too much on the technical terms because I've been to schools, I've been to a little college, but I'll go back to where we come from long ago. Another thing I want to talk about is when I hear about this project what is the adverse impact no one ever gives an adverse impact. Nobody tells what is going to happen if you do this. It's like saying cross the road without looking both sides because if you don't look both sides you're going to get hit by truck or car, just walk across without no precaution, no nothing without looking at what could happen we don't look at that. We just want to go straight ahead, and I think we should look straight ahead, not just look straight ahead but look both sides and it's never done because right now gold is nothing but jewelry, most of it is jewelry. 80% is jewelry nothing else very little is going into technical things but when I see that like for instance, gold is like sand. It looks like itty bitty gold dust they're going to bring it all together and you cannot separate that from the dirt and sand without using cyanide. Cyanide. And if cyanide, like right now they've dug in to the Aquaphor. I've been there and I saw the water where they dug now, if they can separate gold from dirt and sand whatever this gold dust, without bringing in cyanide that'll be a different thing. But I doubt it, there's no way you're going to separate that gold from that. You're going to use cyanide and if it gets in the groundwater well it'll go to Felicity, it might go to Yuma we have a casino there but El Centro & Imperial County will be safe because it's down that way not over here. They'll tell you its okay for El Centro, Brawley and everything around here but down there is where the problem will be. You're going to wipe out a lot of things that's what I'm thinking about and what I've thought about. Another thing that we have our beliefs, this may be the last time you're going to hear of someone who does not know the tribal ways, the tribal songs, the history, the belief, our tribal ways, I can sing 2 cycles of songs that tell everything from the Kumeyaay here in Imperial Valley at one time. My great grandfather came from here, my grandmother to the Quechan my songs cover the Kumeyaay of the Imperial Valley and the lighting song covers the Quechan and Kumeyaay because we are allies. So we have many beliefs that's going to be destroyed if they do, and we've talked about this we've talked about Atmos and so forth that go through there. I can go into that too but I'm not going too. Now when I heard that they were going to do this thing we had a ceremony that could cover this not too long ago, the ceremony is an old ritual we do thousands of years. We did that to protect this whole area even protect you. We're not saying just you, us too, everyone here. We did the ceremony so that everything that we burned after the ceremony, all the smoke will go to these mountains to protect us that is

our belief. Our belief is to save and protect all living things, that's what we did. Our belief what we've done could be completely ignored and forgotten. The same way you believe in your bible. We believe in ours. I think your bible if they knew what you were going to do here they would say it's wrong. They would say its wrong for what they want to do. Our people say the same thing. Protect every living thing that's in this County, the people that's what we believe. I've heard that the deer go through there, sure the deer does there are other living things that go through there. When you start digging more and more holes, you create more problems, and I don't know how they can separate the gold by using cyanide. You can ask them how do you separate the gold from the dust and sand, is there such a thing? And if there is a problem who is responsible for the damage that they do? Could we sue them for billions of dollars for what they've done? They just walk away with their jewelry and what happens? We have to think about that. I think about that I don't have the power to stop them, but I can only tell you what we believe what I believe from the past. We're not trying to stop progress but we are trying to stop the destruction of what's going to happen, destroy things. And you can tell that at the very beginning whatever we do there is an obstacle those obstacles were made to protect us. But we want to break those obstacles and bring in the danger, we've got to think of that first. We're not. The obstacle to gold mining is cyanide. If you can jump over that cyanide to do it, I doubt it, but that is the obstacle that we face. Will they see the danger? I know there's danger, just as sure as I'm standing here they will destroy they will do a lot. Remember you are safe here because it is down there that's going to bring the destruction. That's what we are trying to save. But whatever ceremonies we've done our belief is to save this whole County, the Kumeyaay's of the Imperial Valley which my grandfather came from. I know that what he says or the songs that they knew it protects every single living thing here. There are songs of proclamation that we live here and this is our land. I'm saying everything that lives there everything that is alive should be protected, the birds you heard the Audubon Society they talked about the birds, animals and the Sierra Club they want to protect but does gold mine protect them? Does all this protect them? Have they put aside money? That won't help you. You can put some money aside to help them but it'll be destroyed anyways. They even talk about relocating animals. I heard one story about another project to relocate turtles but the turtles died because they can only live in one place, here or different places. You cannot take the place of nature. You cannot defeat nature. Nature will go against you and that's what we are trying to do. We're trying to go against nature. You have to go along with nature and follow the best way you can. That's the only way to survive for every living thing including this area and all the areas down that way. But we cannot defy going against nature and that's what we are thinking of doing. I've seen everything that is going on it always goes against nature because there's an obstacle. The obstacles are there to stop us from destroying ourselves and this is what the Kumeyaay believe, that's what I believe and that's what I am telling you. There's so many things I can tell you that go even deeper but I know I don't have the time to do that but if you have the time, I can talk about that too. I doubt it is a long story it's like quoting your bible standing right here I can't do that it takes too long. Do you have any questions you want to ask me?

Del Fortner, Applicant; I just have a comment. I met you.

Preston Arrow-weed; I said those guys.

Commissioner Cabanas; I don't think so sir, there is nothing from the Commission at this time.

Preston Arrow-weed; Is that it?

Commissioner Cabanas; Thank you

Preston Arrow-weed; Okay what was your question?

Del Fortner, Applicant; I did not mean to be rude. I just wanted to let you know that I met on the 13th and we stood out here and I asked you if we could get together and talk because I'd like to learn about your belief system.

Preston Arrow-weed; So will you stop what's going on?

Del Fortner, Applicant; I'm not in any position to start or stop anything. I just wanted to talk to you about your belief system and we could learn from each other perhaps. I have a background also that you don't know about that I would love to talk to you about.

Commissioner Cabanas; Okay that's a meeting between you two guys we need to continue.

Del Fortner, Applicant; I understand I'm just trying to be respectful of the gentleman. I want to talk to you.

Preston Arrow-weed; Well, you must talk to these people too?

Del Fortner, Applicant; I'm waiting to finish my presentation.

Preston Arrow-weed; Who do you represent?

Del Fortner, Applicant; I'm an independent contractor/consultant and I represent SMP Gold Corp

Preston Arrow-weed; Well, you make a lot of jewelry I know that

Chairman Schaffner; Okay we need to continue.

Faron Owl; I was a teacher for 40 years I'm retired now and I was also a former councilman for the Quechan Tribe and so I'm glad to be here today. First as I looked through these minutes or the notice that we received about a week ago, I was in shock that we actually do this type of meetings where you are notified to be there as quick as possible because of what has transpired prior to which was September 17th was I think the last time we met. Just the information we passed, and that the BLM was going to meet with the tribe, and they were going to have a government to government meeting which we all agreed on. Then all of sudden we got a notice saying you need to be here because there is going to be a decision made. From what I understand, from the notes and the minutes basically the consultation that is a proper notice that should be submitted 30 days prior to a meeting and I don't know if that was fulfilled or not if that's part of your regulation or not. Mostly all meetings people have to put notices out to people and notify them properly. This one was notified late. As one of our councilwoman stated she received her text message this morning so there's a lot of flaws there and there's a lot of things that need to be discussed and I agree that this needs to be a discussion where we sit down government to government. I want to ask you a question, you said you read 800 pages of the environmental assessment?

Del Fortner, Applicant; I'm sorry

Faron Owl; You read 800 pages of that?

Del Fortner, Applicant; 2800 pages in the package today.

Faron Owl; Yeah 2800 pages. Did you know that there's quite a few different additions to that?

Del Fortner, Applicant; I did. I noticed them.

Faron Owl; Right but no one has even actually gone down and broke it down and said hey we added this to the last report. There's a lot of things that are hidden in there. That kind of puts me at question but I think it's really important that we all understand what's being added to it and what changes are made or

recommendations are made. You mentioned a road. In that assessment, it basically adds a new road in there that will stay there. That report is pretty detailed. The bad thing about it when I look at that you mentioned CEQA too and CEQA is talking about environmental impact report, have you read that?

Del Fortner, Applicant; I did.

Faron Owl; There isn't one.

Del Fortner, Applicant; It's extensive.

Faron Owl; That's something that they need to provide through the CEQA. There's a lot of things that need to be discussed and the tribe will bring those up and discuss that with the BLM in hopes that we can come to a good agreement, mutual agreement. I pretty much doubt because the biggest thing I think we also factor here besides the animals and all the living creatures that are out there. We're talking about our religion and that's something we also need to share in how important it is to us because it is not a building, it's an area. It's a sacred area to us. I'm just here today to voice my opinion on that. It's important because I also have one question has that company that's coming in for Oro Cruz exploration, been vetted properly? Do you have a report that says they were properly vetted? The history of the company, the owners of the company, what regulations have they broken when they were doing mining, if they were mining in Argentina, Congo or elsewhere?

Jim Minnick, Director; I understand now. That's probably more of a BLM question. They were the ones giving the permission

Faron Owl; Yeah and I'm just wondering if you saw a report on that

Jim Minnick, Director; Not in my knowledge

Faron Owl; Yeah I haven't either so I think that's something that needs to be followed up too.

Lisa Belenky; Thank you for taking comment this morning. I just wanted to make a couple of brief points and the first one has to do directly with the reclamation plan and with the presentation that was made this morning. The presentation has a serious mistake. The presentation stated there'd be 1.8 miles of permanent roads in this project but in fact the project it was permitted by the BLM has no permanent access roads at all and in fact if you look at the record of decision on page 4, it specifically says there are no new permanent roads and that all the roads need to be reclaimed. This goes directly to the question of the reclamation plan which the County needs to approve. The County reclamation plan needs to provide for that full reclamation of all the access roads we raised this in our letters as well that there wasn't a clear reclamation plan for the main access road and in the newer material that were provided by the County last week it stated that would be open for at least 5 years but the CEQA review and your reclamation plan never actually dealt with that or looked at the impacts. That's a very important point we want to make sure is addressed. Other new changes in the recent report were not provided in tracked changes, were not clear and do not actually provide adequate public notice for us to comment on them. We did provide some comments, for example the pre-construction survey plans does not substitute for adequate initial surveys of rare plants in the area. So those kinds of issues still haven't been dealt with and of course we are also here supporting the tribal interest who have asked for this to be continued since the primary issue of consultation which was the reason for the continuation of the last time has not yet occurred. Thank you for your time this morning and if you have any questions, I'd be happy to answer them.

Jared Neimark; I'm the California organizer with Earthworks, we are a non-profit organization that protects communities and the environment from the adverse impacts of mining. As we submitted in our comments

with other organizations, I'd like to reiterate that the environmental assessment and mitigated negative declaration for the Oro Cruz Exploration Project remains deficient. Under CEQA you're looking at the reclamation plan but you do have to look at the whole overall impacts of the project and the adequacy of the MND. Last month when Quechan tribal council members, elders and traditional cultural practitioners testified before the commission about this lack of consultation and the significant impacts of the project would have desecrating cultural landscapes of ancient trails, geoglyphs and other features held sacred to the tribe. The planning commission decided to continue conspiracy so that consultation could take place and put us back on the agenda today without new information and without that consultation. I would support councilwoman McGee's request for the commission to continue the discussion once again until that consultation is able to take place as requested. Furthermore, I'll emphasize that just a notice or a meeting doesn't constitute consultation. I think what we heard in the testimony last month is that there are serious issues with how the tribe and how the BLM, and the County have defined consultation and that needs to be addressed, what the true meaning of consultation is. Finally, I'll add to that point that the analysis in the MND remains deficient on the impacts to cultural resources. It says that more information is needed but under CEQA that can't be grounds to be used as evidence for less than significant impacts so I would urge an EIR to appropriately analyze those impacts. Lastly, Lisa has already covered this but just to raise again that there's new information in the package today that hasn't been properly analyzed or circulated for public comment. One example is that the access road which Lisa mentioned will now remain in place after exploration and not be reclaimed as was stated in the previous document. Under CEQA you are required to analyze the impacts of this road, including the impacts from dust and pollution of ongoing use of the road. So that is a major issue that needs to be addressed before you can move forward. I would just like to urge the planning commission to do the right thing and require an EIR so that the full extent of these impacts to environmental tribal cultural resources can be properly analyzed and mitigated. Thank you.

Carrie Meister; Chairman Schaffner and commissioners I am Carrie Meister conservation chair for the Yuma Audubon society. I also have a doctoral degree in anthropology which I believe is relevant to this subject under consideration. Yuma Audubon, which is assigned by our national organization and members in the Bard/Winterhaven area in Imperial County does bird watching and advocates for sustainability of the environment and environmental justice. SMP and BLM say they have consulted with the Quechan but maybe they only heard the Quechan when deep listening is needed. This shouldn't be called a hearing it should be called a listening. To do so, you must open yourselves up, get away from your usual concepts. This is why the tribal council asks "that the tribal perspective" be used in valuating their cultural setting. Written history is not the same as tribal memory. Tribal history is an oral tradition and doesn't usually make it into the history books. Interestingly, in the Christian bible there's a saying of Jesus who admonishes his followers "whoever has ears to hear, let them hear". Some translate it as the original is in Greek as whoever has ears to hear, listen. This comes from Luke 4:9. What if gold existed under the temple mount, the western wall, the Al-Aqsa Mosque in Jerusalem which is sacred to Jews, Christians, and Muslims. The company said they could restore them after prospecting just because there is not a sacred building on the proposed mining site doesn't mean that it is not equally as sacred. Are the Quechan saying this land can't be compromised because of its deep significance? The very animal species that are considered common and thus receive less consideration under federal and state government law are the ones that play such an important part in Quechan religion; coyote, red tail hawk, eagle, great blue heron, metal ark, naturally the bird and other animal species are a concern to Yuma Audubon as well and the proposed development would take place in an area of critical environmental concern. Why even bother to designate such areas if you're going to allow mining in it? We are also concerned about the use of cyanide. We really don't think that the state of the art is at a level yet that will prevent bird deaths. I urge you to watch the video Journey from Spirit Mountain right now. Take a journey with Preston Arrow-weed as he sings and speaks the lightning songs. I have the web address; you have the computer and the screen, and we could watch it right here and now. Preston is here also and can answer your questions. The video will help you to understand how the Quechan see this area as sacred. I respectfully request you to vote no on this request or at least to continue it. Money can't buy or fix everything. Some things are as the credit card ads said priceless. Thank you.

Chairman Schaffner; then closed the public portion of the meeting and turned it over to the Commission for any questions and/or comments.

Commissioner Pacheco; Why did we have the meeting today though? Without consultation?

Graham Stephens; Part of the reason is because of the extensive consultation that's already occurred. I understand that there was a specific directive, one more meeting, and I think what's clear in the record is that there have been numerous meetings over the years. I'm glad the date has been set. I guess I would ask if November 3 comes and goes, and nothing has occurred through no fault of us the county or those who have worked on the project you know what would be sort of the path for it there? But that was the main reason again, I wasn't part of the BLM team but in gathering all those records, all the records of meetings, letters, responses, comments, changes to the technical reports, based on input and site visits I think we felt that would address a lot of the concerns that were raised. That's sort of the intent.

Commissioner Kalin: Made a motion for continuance until further notice seconded by **Commissioner Cabanas** and the affirmative vote by the Commissioners present as follow Schaffner (yes), Kalin (yes), Cabañas (yes), Bergh (yes), Medina (yes), Wright (yes), Pacheco (yes).

Jim Minnick, Director; Stated **Agenda Item #3** stands in continuance pursuant to the Planning Chairman recommendations and that will be re-noticed.

IV. Public Comments, NONE

V. Planning Commissioner Comments,

VI. Director Comments,

Chairman Schaffner; adjourned meeting.

IX. Adjournment: Meeting adjourned at 11:11 a.m.



Submitted by Rudy Schaffner
Chairman of the Planning Commission

Attest:



Jim Minnick, Director of
Imperial County Planning Commission

Laryssa Alvarado & Aimee Trujillo-PC Recording Clerks

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