



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:	February 21, 2018	☐ Motion
DEPARTMENT:	Community Development	☐ Resolution
DIVISION:	Community Planning	☐ Ordinance - Introduction
		☒ Ordinance - Adoption
		☐ Public Hearing

TITLE:
Rezoning of Property: 1451 S. Avenue B

SUMMARY RECOMMENDATION:
Rezone two parcels containing 4.8 acres from the Agriculture (AG) Zoning District to the High Density Residential (R-3) District. The properties are located approximately 625 feet north of the northeast corner of 16th Street and Avenue B. (Community Development/Community Planning) (Laurie Lineberry)

REPORT:
This Request for City Council Action concerns a property owner's request to rezone their property from the Agriculture Zoning District (AG) to the High Density Residential (R-3) District. The property is located on the east side of Avenue B, 625 feet north of 16th Street. The subject property is 4.8 acres in size and is currently vacant with little or no use on it. At the time the initial report was created for the Planning and Zoning Commission meeting on December 11, 2017, no public concerns had been raised. However, during the Planning and Zoning Commission meeting, several members of the public spoke on issues they believed the change in zoning might have on their places of residence and business.

A common concern was the potential impacts to the flow of traffic on Avenue B. Residents, mainly from the nearby Hettema Place Subdivision in Yuma County, stated that adding additional population would increase congestion and the potential for accidents, particularly with regard to left turns in and out of the property. City Engineering staff stated that the buildout for Avenue B would be adequate to meet the potential addition of a High Density Residential use. Engineering also conditioned the rezone request with a raised median disclosure, stating that a median could be, and possibly would be constructed, on Avenue B in this area and medians generally increase travel safety and operate to relieve congestion. Median construction would be dependent on engineering evaluation and fund availability, but right now, even with the additional residences available under this request to rezone, Avenue B is adequate for the amount of travel.

The developer and applicant took issue with the language of the median disclosure condition, believing it was overbroad as written and City staff agreed to change the condition to an acknowledgement, on the part of the developer and applicant, that a raised median may be constructed to reduce congestion as the road modernizes in the future.

An additional point of contention was that the properties had been designated for commercial use under County Zoning and prior City General Plan for the area. The rezone request, however, does currently comply with the City General Plan, which calls for High Density Residential Development. The property has been a vacant County island which was never developed under the prior commercial designation. The applicant also stated that he believes that since no commercial development has occurred at this point, and commercial development is now focused elsewhere in the City, the highest and best use of the property would be to create market-rate apartments.

The above is Planning and Zoning Commission public commentary provided for supplementary information that would have otherwise been unavailable in the original report. The original report provided to the Planning and Zoning Commission and to the public is provided below:

STAFF REPORT TO PLANNING AND ZONING

The subject properties are 4.8 acres in area and are located north of the northeast corner of S. Avenue B and W. 15th Street. The properties were annexed into the City of Yuma earlier this year on September, 2017. They are zoned Agriculture (AG) and currently vacant. A General Plan Amendment was adopted on August 2, 2017, which designated these properties for High Density Residential uses.

Dahl, Robins, & Associates, on behalf of Ghiotto Family Properties AZ, LLC, have requested a rezone of the properties to the High Density Residential (R-3) District. This would allow for development of the property in accordance with the General Plan Amendment. According to the agent, there is no immediate plan for development, the rezone is merely to make development possible.

A neighborhood meeting was held on November 8, 2017. One neighbor, Mary Yashkus (1409 S. Avenue B), was in attendance and did not oppose the rezone request. Lower attendance for this meeting, as opposed to the neighborhood meeting for the General Plan Amendment (Case No. GP-17082-2017), likely came as a result of the smaller notification radius required for a Rezone (300 feet) versus a General Plan Amendment (660 feet) per state statute. Concerns from the neighborhood meeting for the General Plan Amendment included increasing traffic on Avenue B and the potential impacts to surrounding neighborhoods due to an increase in population and development.

The General Plan Land Use Element calls for these properties to be used for High Density Residential Development. Rezoning them to the High Density Residential Zone would be consistent with the General Plan. The Transportation Master Plan accounts for Avenue B, which is classified as a minor arterial, to support heavy traffic. The Yuma Metropolitan Planning Organization (YMPO) conducts traffic counts, which serve as crucial information on which to base travel forecasting and a suitable level of service. Even if the subject properties were to be built out to their maximum density, the present Avenue B level of service would remain appropriate despite the increase in traffic demand. The City's Engineering Department has conditioned the approval of this Rezone request with a median disclosure, which would reduce traffic congestion by limiting left turns to and from the properties. As the General Plan and Transportation Master Plan serve to address the concerns about an increase in population and traffic, Staff is recommending approval of the request.

On December 11, 2017 the Planning and Zoning Commission voted to recommend APPROVAL (4-0), with Abplanalp and Danmeyer absent, of the request to rezone approximately 4.8 acres from the Agriculture (AG) District to the High Density Residential (R-3) District for the properties located approximately 625 feet north of the northeast corner of 16th Street and Avenue B., Yuma, AZ subject to the following conditions:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized "Waiver

of Claims under the Private Property Rights Protection Act.” The Waiver shall be submitted within thirty (30) calendar days of the effective date of approval of this zoning action and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the zoning action is null and void.

3. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized Avigation Easement on the property acknowledging potential noise and overflight of aircraft from both daily and special operations of the Marine Corps Air Station and the Yuma International Airport.
4. The Owner shall record a raised median disclosure acknowledging that a median may be constructed in Avenue B frontage creating access restrictions to the property.
5. The Owner shall record a 1’ non-access easement along the property frontage at the time of development, except for driveways that meet City of Yuma construction standards.
6. With the exception of Condition 2, each of the conditions listed above shall be completed within two (2) years of the effective date of the rezoning ordinance or prior to the issuance of a building permit or business license for this site, whichever occurs first. If the conditions of approval are not completed within the above timeframe then the rezone shall be subject to ARS 9-462.01.

PUBLIC COMMENTS - EXCERPTS FROM PLANNING AND ZONING COMMISSION MEETING MINUTES:

QUESTIONS FOR STAFF

Hamel asked for clarification on how many potential dwelling units could be constructed in the High Density Residential (R-3) District. **Trebilcock** said 62.4 to 86.4 dwelling units.

APPLICANT / APPLICANT’S REPRESENTATIVE

Barry Olsen, 101 E. 2nd Street, Yuma, AZ 85364, stated the General Plan Amendment case related to this request was presented and approved by City Council in August and members from the public did not speak in opposition. He explained that this property was not conducive to commercial development, and added commercial developers were not interested in this property. **Olsen** said private market - rate apartments have not been developed in Yuma in the past 25 years and added there was an identified shortage for apartment complexes. **Olsen** stated Avenue B was redeveloped to accommodate traffic that was anticipated, including the development of this property. **Olsen** said the applicant was in agreement with the Conditions of Approval, but requested to modify Condition of Approval #4 replacing “will” to “may” and “construct” to “constructed.” He also requested to modify Condition of Approval #5 adding “record at the time of development.”

Hamel was in agreement with the agents comments and stated there was a need for an apartment complex in Yuma. **Hamel** expressed his concern with the high traffic volume on Avenue B.

Hamel asked if staff was in agreement with the proposed amendments to Conditions of Approval #4 and #5. **McGarvie** said staff was in agreement with the proposed amendment to Condition of Approval #4 but not in agreement with the proposed amendment to Condition of Approval #5. **Lineberry** explained Condition of Approval #5 was a condition of the zoning and the zoning would not vest until the Conditions of Approval have been met.

Jones asked for clarification on why staff was in agreement with the proposed amendment to Condition of Approval #4. **McGarvie** said the wording used for Condition of Approval #4 was due to staff error and was actually an older condition. The proposed condition was similar to the new modern condition his office currently uses.

Olsen explained that the construction of a median on Avenue B would be funded by the City.

Rodney Short, Deputy City Attorney, explained Condition of Approval #4 was a disclosure for the property owner to acknowledge the notice that a potential median on Avenue B may be constructed and the applicant should plan accordingly.

Kevin Dahl, 1560 S. 5th Avenue, Yuma, AZ 85364, addressed traffic concerns and stated this property would have right-in and right-out access.

Jones expressed his concern with potential traffic issues and said this property was not suitable for an apartment complex.

PUBLIC COMMENT

Steve Shadle, 1400 S. Hettema Street, Yuma, AZ 85364, said he was opposed to this proposal and added that this project was based on speculation. He spoke extensively about traffic issues on Avenue B and 16th Street and commented it was difficult to get in and out of developments in the surrounding area. He recommended postponing this request until a traffic study was done. **Shadle** added that this proposed rezone request was incompatible with the surrounding uses. He commented this proposal would have a negative impact on his property.

Ursula Porter, 1555 S. Gateway Drive, Yuma, AZ 85364, expressed her concern with the safety of the children in an apartment complex crossing Avenue B to reach schools and stated that the surrounding schools would be impacted.

Peter Gill, 1451 S. Hettema Street, Yuma, AZ 85364, commented this property could have right-in and right-out access, but would not prevent drivers from turning left on to Avenue B. He said there were other properties with the High Density Residential (R-3) Zoning District within a mile from this property that were more suitable for development. **Gill** added his neighborhood would be severely impacted if an apartment complex was developed on this property.

Larry Hieber, 1494 S. Hettema Street, Yuma, AZ, 85364, said he was the owner of the furniture store to the west of this property. He was not in favor of this proposed rezone request and was hoping for commercial development on this property. **Hieber** shared that the left turn lane (southbound on Avenue B) backs up to his place starting at 3:00pm every day. He expressed his concern with the high traffic speeds on Avenue B.

Wendy Spencer, 1900 W. 15th Street, Yuma, AZ, 85364, expressed her concern with traffic on Avenue B. She commented that the neighboring properties would be negatively impacted that a 3-story building would block views to the west, and recommended developing a church, school, or park on this property.

Amy Gill, 1451 S. Hettema Street, Yuma, AZ 85364, spoke in opposition of this rezone request and commented that the development of an apartment complex would have a negative impact on the surrounding properties. She said the agent stated there was not an immediate plan for development and this rezone was merely to make development possible, but Gill believed the owners of the subject property would not have annexed unless there was a firm commitment to develop an apartment complex. **Gill** commented that she was speaking on behalf of a neighbor and the neighbor stated the Mayor owned property directly adjacent to the subject property. She added the Mayor has not recused himself from voting on cases related to this request and commented they believed it was a conflict of interest. Gill stated that high density apartments were not needed in this area and that this site as apartments would create a privacy issue for Hettema residents.

Hieber expressed his concern with the construction of a median on Avenue B and stated the Commercial Developments to the west of the subject property would be impacted.

Olsen added that the inference stating families that live in apartment complexes were more prone to

crime was incorrect. **Olsen** commented that a traffic study was not required during the rezone process. **Olsen** added the City had to recognize there were projects that were suited for infill development and this was one of them. **Olsen** stated the property owners had the right to develop this property to the highest and best use, and that was high density residential development and added that commercial development was not needed on this property. **Olsen** added that this project would be developed as a high-end apartment complex to attract new residents.

Hamel commented it was evident that commercial developers did not want to develop on this property. He added there were traffic issues in this area, but without a traffic study the Commission could only rely on what has been presented. **Hamel** added that right-in and right-out access to this property would mitigate traffic issues.

Hamel stated the Commission gave the recommendation to City Council and encouraged members from the Public to speak at the City Council meeting.

Jones asked for clarification on what determined the construction of a median. **McGarvie** stated that the roads were constantly being analyzed. He added that safety and funding were both factors of the construction of a median.

MOTION

Motion by Pruitt, second by Jones, to APPROVE Case Number ZONE-19909-2017, modifying Condition of Approval #4 to now read “The owner shall record a raised median disclosure acknowledging that a median may be constructed in Avenue B frontage creating access restrictions to the property.” Motion carried unanimously (4-0).

Planning Commission Staff Report – Attached

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK:			
	1. 2. 3. 4. 5.			
ADDITIONAL INFORMATION	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL?			
	☐ Department ☐ City Clerk's Office ☐ Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		1/30/2018	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard Files		1/29/2018	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Laurie Lineberry		1/11/2018		
SIGNATURES	WRITTEN/SUBMITTED BY:		DATE:	
	Aubrey Trebilcock		1/11/2018	