



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

June 6, 2018

DEPARTMENT:

Community Development

DIVISION:

Community Planning

- ☐ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☒ Ordinance - Adoption
- ☐ Public Hearing

TITLE:Rezoning of Property: Southwest Corner of S. Avenue 6E and E. 44th Street**SUMMARY RECOMMENDATION:**

Rezone approximately 89.8 acres from the Agriculture (AG) District to the Low Density Residential (R-1-12) and Low Density Residential (R-1-8) Districts, for the properties located at the southwest corner of S. Avenue 6E and E. 44th Street. (Community Development/Community Planning) (Laurie Lineberry)

REPORT:

The subject properties are located at the southwest corner of S. Avenue 6E and E. 44th Street. The subject properties have historically been used for agricultural purposes. The 89.8 acres are bounded by large county residential lots to the south and west, and the Low Density Residential (R-1-6) Ocotillo Subdivision to the east, and the Yuma County Public Works operation to the north.

In 2005, the property owner/developer petitioned to have these subject properties annexed for development. During the 2005 City Council Meeting for the annexation request, public comments were provided by neighboring property owners in opposition. A brief summary of the comments are as follows:

- A new residential subdivision may result in the widening of Avenue 5½E, which translates into the loss of private property from the neighboring properties;
- Development will further increase traffic;
- The proposed new development will disturb the rural lifestyle already established;
- Potential decrease in property values; and
- Removal of agriculture lands will remove a much needed buffer.

Partly convinced by the neighbors' concerns, the City Council tabled the annexation indefinitely. Almost immediately thereafter, the national and local housing market took a downward turn.

In late 2013/early 2014, the housing market began to show signs of recovery. A general plan amendment was submitted by the developer requesting to alter the land use designation from rural density residential to low density residential. At the time of this land use designation request, the

proposed development area was still located within the jurisdiction of Yuma County. The 2014 land use amendment proposed to increase the potential housing count from 45 residences to 441 residences. During this process, Staff received a number of public comments from neighboring property owners concerned with the potential increase in density/housing units. The developer's request for a change in land use from rural density to low density was approved by the City Council on February 19, 2014.

Following the approval of the General Plan amendment, the City of Yuma and the developer began negotiating and drafting a pre-annexation development agreement which would outline the requirements for development following a successful annexation. The requirements discussed within the agreement include: development standards, right-of-way dedications, traffic mitigation and rezoning of the subject parcels. The pre-annexation development agreement for the development of the subject properties was finalized on January 22, 2018.

Following the finalization of the pre-annexation development agreement, the developer revived the petition to annex the subject properties into the City of Yuma. A public hearing was held on February 21, 2018 in which several neighbors were in attendance. These neighboring property owners once again voiced concern about the potential impacts of the proposed development. A brief summary of these comments are as follows:

- Concerned with potential density increase that this development will allow;
- Subsequent population increase;
- Negatively affect the current rural "way of life" for neighboring properties;
- Potential increase in traffic along S. Avenue 5 ½ E;
- Proposed development may decrease the property values of the surrounding properties which are developed as rural ranchettes; and
- Would recommend a larger buffer along S. Avenue 5 ½ E.

While the City Council considered and appreciated the public input from the surrounding property owners, the annexation request was adopted on April 4, 2018.

The need for a rezoning has been addressed within the pre-annexation agreement. That agreement states that the western perimeter of the development shall be rezoned under the Low Density (R-1-12) zoning designation, while the balance of the properties shall be zoned Low Density (R-1-8). In addition to typical development standards, those properties which are to be rezoned R-1-12, require an increased rear/side yard setback of 50 feet.

The agreed-upon increase in lot size and the additional rear/side setbacks for the perimeter properties along Avenue 5 ½ E helps serve as a buffer between the proposed development and the neighboring, large lot developments. The buffer is intended to maximize the compatibility of the new residential development with the form, scale, and visual character of neighboring properties in the vicinity. Additionally City staff and the developer are working closely to ensure that the required 50 foot setback buffer be maintained on the agreed upon perimeter lots. The developer's engineering professionals are working through challenges such as size and location of product on these perimeter lots to ensure that proposed standard housing plans fit on the R-1-12 lots. As detailed in Attachment E, the increased lot sizes within the R-1-12 district will be sized accordingly in an effort to maintain the required 50 foot buffer as specified within the pre-annexation development agreement.

According to the developer, the overall development of the site will include a residential subdivision, consisting of approximately 228 single-family lots, and a site for a future elementary school. The school district has indicated that they intend on completing the school development in time for the Fall 2019 school year. The developer's inclusion of a future school site in this development has been well received by the residents and elected officials and has been listed as a positive by those voicing approval for the development.

A neighborhood meeting was held on March 1, 2018. There were a number of neighbors in attendance who expressed their concerns regarding the proposal. A majority of the concerns discussed during the meeting focused on the potential for increased traffic and the number of residences being anticipated. There were additional concerns regarding the location of the elementary school and whether the school site offer would be rescinded and additional houses built on that property.

On April 23, 2018 the Planning and Zoning Commission voted to recommend APPROVAL (5-0) of the request to rezone approximately 89.8 acres from the Agriculture (AG) District to the Low Density Residential (R-1-12) and Low Density Residential (R-1-8) Districts, for the properties located at the southwest corner of S. Avenue 6E and E. 44th Street, 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 prior to the issuance of any building permit, Certificate of Occupancy, or City of Yuma Business License for this property.
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. All aspects of development shall be in accordance with the approved Pre-Annexation Agreement, Resolution R2017-035 (Fee No. 2018-01671).
5. 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, Certificate of Occupancy or City of Yuma 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:

"Greg Counts – Planning and Zoning Commissioner asked if there would be access to this development along Avenue 5 ½ E.

"Alyssa Linville – Principal Planner explained there would not be direct access to this development along Avenue 5 ½ E. She added that access to this development would be along 44th Street and Avenue 6E.

"Linville said there would be a subdivision wall along this portion of development on Avenue 5 ½ E.

"Counts asked if this development would impact the traffic flow on Avenue 5 ½ E.

"Linville said the impact on the traffic flow would depend on the route homeowners decided to take.

"Tyrone Jones – Planning and Zoning Commissioner asked for clarification on access to the proposed school site.

"Linville said access to the school site would be along 44th Street and Avenue 6E.

“Counts asked when this property was last used for agriculture purposes.

“Linville said this property was currently being used for agriculture purposes.

APPLICANT/APPLICANT’S REPRESENTATIVE:

“John Weil, 3064 S. Avenue B, Yuma, AZ, explained the initial design of this development had access on Avenue 5 ½ E, but was removed in the course of negotiating the pre-annexation development agreement.

“Weil stated that the pre-annexation development agreement was extensive and addressed every conceivable point related to the development.

“Weil added that the developer had made a great effort to address the concerns of the neighboring land owners.

“Weil added the subdivision wall on the western and southern boundaries would be 6’ tall. The properties zoned R-1-12 would have an increased rear/side yard setback of 50 feet. The school access point was intended to be off of Avenue 6E. He added there would be a multi-use path constructed on the east side of Avenue 6E.

“Weil said the Developer had donated a 10 acre school site and added that the donations for the school site were valued at over 2 million dollars.

“Jones asked if the proposed athletic field would have lighting. He added that lighting could be an issue for the surrounding homeowners.

“Weil said lighting was a new issue.

PUBLIC COMMENTS:

“Emily McGrath, 4362 S. Avenue 5 ½ E, Yuma, AZ, said she was representing herself and her neighbors because they were unable to attend the meeting.

“McGrath stated she was notified by mail of this request, but her neighbors were not.

“McGrath said she appreciated the developer donating land for the school site, however, she could sit in her backyard now and it was quiet, pleasant, and there was very little noise pollution. She expressed her concern with the traffic on Avenue 6E and the impact this proposed development and school would have on the quality of life in the area.

“McGrath added that there was not a speed limit sign posted on Avenue 5 ½ E between 44th Street and 40th Street.

“Counts asked for clarification on the construction of 44th Street.

“Linville said 44th Street would be constructed as a full width roadway.

MOTION:

“Motion by Fred Dammeyer – Planning and Zoning Commissioner, second by Tiffany Ott – Planning and Zoning Commissioner, to APPROVE Case Number ZONE-21130-2018.

“Motion carried unanimously (5-0).”

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. IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="radio"/> Department <input type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded <input type="checkbox"/> Document to be codified			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		5/7/2018	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		5/7/2018	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Laurie Lineberry		4/27/2018		
WRITTEN/SUBMITTED BY:		DATE:		
Alyssa Linville		4/27/2018		