



## REQUEST FOR CITY COUNCIL ACTION

**MEETING DATE:**

August 7, 2019

**DEPARTMENT:**

Community Development

**DIVISION:**

Community Planning

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

**TITLE:**Rezoning of Property: Northwest corner of Avenue 5E and 32<sup>nd</sup> Street**SUMMARY RECOMMENDATION:**

Rezone approximately 5.34 acres from the Agriculture/Airport Overlay (AG/AD) District to the General Commercial/Airport Overlay (B-2/AD) District. (Community Development/Community Planning)(Laurie Lineberry)

**REPORT:**

*Clerk Note: Condition #5 added by motion prior to the introduction at the July 17, 2019 City Council meeting.*

The requested rezone encompasses two parcels. The subject properties begin at the northwest corner of 32<sup>nd</sup> Street and Avenue 5E, and are identified by parcel numbers 697-28-005 and 697-25-004.

The subject properties are not developed and records indicate no history of an established use on-site. The two properties are currently zoned Agriculture with the Airport District Overlay. In the year 2000, the applicant requested the same rezone for the property. However, the rezone conditions of approval were never met and the rezone expired.

The applicant has stated that he has no current plans for the site. The proposed rezone is consistent with the character of commercial along 32<sup>nd</sup> Street.

The request to rezone the subject properties from Agriculture (AG) to General Commercial (B-2) District (while maintaining the Airport Overlay) is in conformance with the General Plan.

On June 10, 2019 the Planning and Zoning Commission voted to recommend APPROVAL of the request to rezone approximately 5.34 acres from the Agriculture/Airport Overlay (AG/AD) District to the General Commercial/Airport Overlay (B-2/AD) District, for properties located at the northwest corner of Avenue 5E and 32<sup>nd</sup> Street, 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. Owner shall dedicate as right of way, by warranty deed or plat, a 40x40 corner triangle to the City of Yuma, with 10 foot legs and including a one foot non-access easement, according to City of Yuma Construction Standard 2-096.
5. Even though the Transportation Master Plan specifies Avenue 5E as a local road, Development Engineering requests an additional 7' of right of way to be dedicated to the City of Yuma for a total of 40' half width for Avenue 5E, which corresponds to a collector street, due to the fact that this street is an access to an existing subdivision and industrial park. **(this condition was removed by the Planning and Zoning Commission and added back in by City Council motion prior to introduction at the July 17, 2019 City Council meeting).**
6. 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:**

None

##### **Applicant/Applicant's Representative:**

**Barry Olsen, 101 E. 2<sup>nd</sup> Street, Yuma, AZ**, explained that the applicant owns the property to the west of the subject parcel. He added this rezone request complimented the area and neighboring uses. **Olsen** stated the applicant was not in agreement with Condition #5. He explained that this development would not impact traffic on Avenue 5E. He said access to this property would be on 32<sup>nd</sup> Street. **Olsen** said he did not believe under state and federal law that the city could request the right-of-way dedication unless traffic on Avenue 5E would be materially impacted. **Olsen** explained when 32<sup>nd</sup> Street was developed it was determined that the additional right-of-way was not required. **Olsen** requested the removal of Condition #5.

**Agustin Cruz, Senior Civil Engineer**, explained staff was requested 7' of right-of-way to remain consistent. He added developments to the north and south of this property have dedicated right-of-way. **Cruz** said the dedication would benefit the property in the future.

**Counts** asked for clarification on right-of-way dedications on 32<sup>nd</sup> Street. **Laurie Lineberry, Director of Community Development**, explained that ADOT had a certain width they were trying to maintain.

She added when the major roadways plan was updated the width was not as wide. **Lineberry** explained that Avenue 5E was a collector street and was now identified as a local road.

**Counts** asked if there were plans to widen Avenue 5E in the near future. **Cruz** said it was an engineering standard and there currently were not any plans to widen Avenue 5E.

### **Public Comments:**

**Stanley Gourley, 8291 E. Topeka Place, Yuma, AZ**, asked if there were altitude restrictions for this property.

**Lineberry** explained staff reviews the maps during the plan review process. **Lineberry** added that there were height restrictions in the zone and staff also enforced MCAS height restrictions.

**Dammeyer** asked if the right-of-way dedication was a part of the rezone process. **Lineberry** said yes.

**Mohindra** asked if the right-of-way was returned to the property owner if it was not needed. **Cruz** said the right-of-way would be reserved for future development. **Mohindra** asked if the City would need to purchase the requested right-of-way if the condition was removed. **Cruz** said yes.

### **Motion:**

**“Motion by Mohindra, second by Counts, to APPROVE Case Number ZONE-25138-2019, removing Condition of Approval #5. Motion carried unanimously (5-0, with 1 absent and 1 vacancy).”**

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:	
	John D. Simonton		7/15/2019	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		7/9/2019	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Laurie Lineberry		7/1/2019		
WRITTEN/SUBMITTED BY:		DATE:		
Chad Brown		7/1/2019		