



Staff Report

Agenda Item No.

C-1

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: December 6, 2023

Subject: General Plan Amendment and Zone Change 21-02 for Fonzie Apartments

Summary:

Applicant:	Ray Roben
Project Location:	Fonzie Apartments APN 044-200-098
Pending Action:	General Plan Amendment and Zone Change
General Plan:	Existing: Low Medium Density Residential Proposed: High Density Residential
Current Zoning:	R-1 Residential Single-Family
Proposed Zoning:	RA Residential Apartment (2.38 acres)
Environmental:	Exempt
Recommendation:	Recommend Planning Commission approval of General Plan Amendment and R-1 to RA Zone Change

Background/Discussion and Analysis

Ray Roben, the Applicant and property owner, is requesting approval of a General Plan Amendment and Change of Zone 21-02 to allow for the construction of a proposed 64-unit apartment complex on APN 044-200-098 located at the corner of Fonzie Avenue and Cross Road. Mr. Roben submitted an application and a Draft Initial Study and Draft Local Transportation Assessment in 2021. Due to the pending finalization of the City of Imperial's Transportation Study Guidelines using Vehicle Miles Traveled as a screening tool to determine the traffic impacts of new projects, the project was put on hold.

In order to streamline the construction of housing projects in California, the Legislature has created California Environmental Quality Act (CEQA) statutory exemptions for housing projects. Additionally, the Office of Planning and Research and Natural Resources Agency have streamlined regulations for certain classes of projects-such as small housing developments and infill housing - that typically do not have substantial impacts on the environment. Public Resource Code, Section 21159.23 – Affordable Housing Exemptions states that CEQA does not apply to any development project that meets the following criteria:

- Maximum of 100 units
- Up to 5 acres
- Population density/total criteria
- Affordable to lower-income for at least 30 years
- Previously developed with urban uses or surrounded on 75% by urban uses

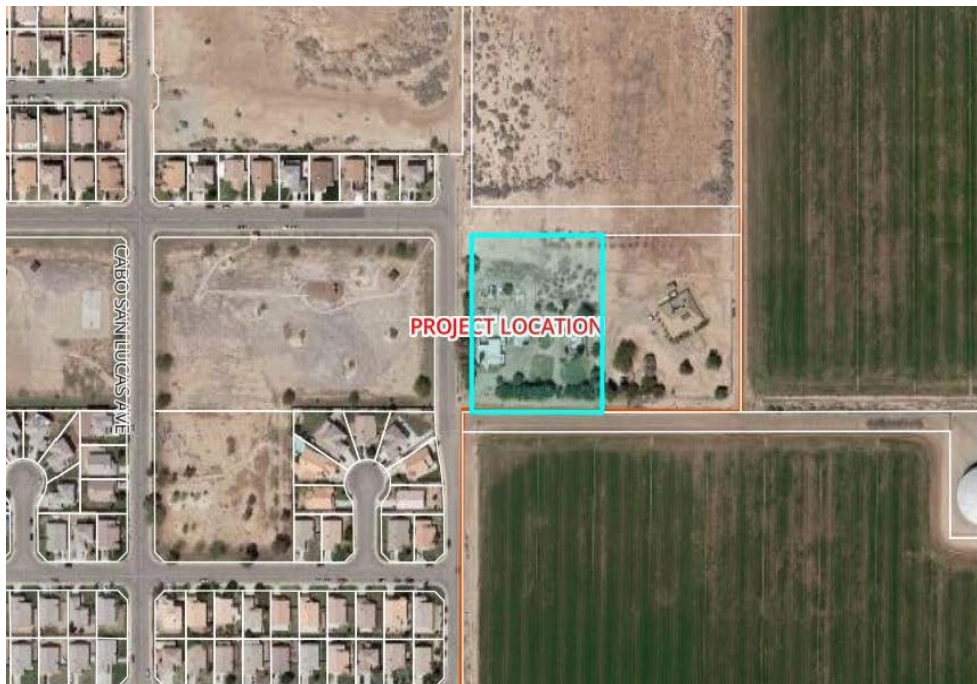
Mr. Roben revised the project description and resubmitted an application in September 2023 to take advantage of the streamlined CEQA exemption process and classified the project as a low-income housing family apartment community. Ministerial review of the project has determined that the project qualifies for the exemption from the CEQA review process.

The project site is currently zoned as R-1 Residential Single Family. A change in zoning to RA – Residential Apartment Zone would occur as part of this project. The RA zone is intended as an area for the development of residential apartments with provisions for adequate light, air, open space, and landscaped areas at a maximum density of 30 units per net acre.

The proposed zone change is in conformity with the City's General Plan with the City's development policies of the city. The proposed project has been reviewed by the Development Review Committee and concluded the project generally meets development standards and does not present to be a detriment to adjacent properties or residents. Departmental comments and requirements are detailed in the conditions of approval.

The Imperial County Fire Department is requesting a capital purchase of a fire engine as a condition of approval. In order to move forward with the project, the developer signed the conditions of approval, but does not agree with this condition and is requesting the Planning Commission consider recommending the project without the imposed condition of approval. It is staff's recommendation that the governing body consider options in the budget process, explore a variety of grants and other funding sources available pertaining capital expenditure purchases.

Project Location Map



General Plan Land Use Designation

The City of Imperial's General Plan identifies the following policies within its Land Use Element:

Policy 5.4.1 in the General Plan's Land Use Element states "multi-family residential developments of varying types and densities shall be encouraged where compatible with existing land uses and the provision of public services is highest."

Policy 2.1 "Appropriate densities/intensities shall be established for new development projects and increased within the appropriate character areas to accommodate a variety of land use and development types."

The Applicant is requesting a General Plan Amendment to change the Land Use designation from Low Medium Density Residential to High Density Residential.

Public Notification

The public hearing scheduled for December 13, 2023 was duly noticed in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation, on November 30, 2023. A Notice of Public Hearing was mailed to all property owners within 300-feet of the property.

Recommendation

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends approval of Resolution No. PC2023-12 approving General Plan Amendment and Zone Change 21-02.

Attachments:

- Attachment A - DRAFT Resolution PC2023-12
- Attachment B - Conditions of Approval
- Attachment C - Proposed Site Plan

Attachment A – DRAFT Resolution PC2023-12

DRAFT RESOLUTION NO. PC2023-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL, CALIFORNIA, RECOMMENDING THE CITY COUNCIL APPROVAL OF GENERAL PLAN AMENDMENT CHANGING THE LAND USE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL AND ZONE CHANGE 21-02 FROM SINGLE FAMILY RESIDENTIAL TO RESIDENTIAL APARTMENTS FOR APN 044-200-098

WHEREAS, Ray Roben, has submitted an application for approval of a General Plan Amendment and Zone Change for the parcel identified as APN 044-200-098; and

WHEREAS, the General Plan Amendment to the General Plan Land Use Map from Low Density Residential to High Density Residential for the property further identified by APN 044-200-098, and containing an area of 2.38 acres; and

WHEREAS, the Planning Commission adopted Resolution PC2023-12 to recommend the approval of General Plan Amendment and Zone Change 21-02; and

WHEREAS, the proposed General Plan Amendment would not have a deleterious effect on the environment and is necessary and proper at this time for consistency with the City's Zoning Map; and

WHEREAS, a duly notified public hearing advertised according with the law and was held by the Planning Commission on December 13, 2023; and

WHEREAS, upon hearing and considering all testimony and arguments, examining and analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the proposed General Plan Amendment, Zone Change, subdivision revision to the Morningstar Tentative Tract Map and certifying a Negative Declaration.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) That based on the evidence presented at the public hearing, the Planning Commission hereby finds as follows:
 - 1. The proposed General Plan Amendment and Zone Change are consistent with the goals, objectives and policies of the General Plan;

2. The proposed General Plan Amendment and Zone Change are compatible with the surrounding environment;
 3. Public facilities and services can be provided to the proposed development without placing undue additional burden on existing residents and businesses; and
- C) That on the findings made above, the Planning Commission recommends **APPROVAL** of the General Plan Amendment and Zone Change; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby recommends **APPROVAL** of the General Plan Amendment from to Low Density Residential to High Density Residential, and Zone Change from R-1 (Residential Single Family) to RA (Residential Apartments) for the property located on APN 044-200-098 containing an area of 2.38 acres and;
- E) All recommendations made by the Planning Commission are based on the following findings:
1. The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act and have deemed the project categorically exempt under Public Resource Code, Section 21159.23 for Affordable Housing Exemptions.
 2. The project is following and in compliance with the California Environmental Quality Act, Section 21159.23 of the Public Resources Code.
 3. The initial environmental assessment shows that there is no substantial evidence that the General Plan Amendment and Zone Change does **NOT** have a significant impact on the environment.
 4. There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project.
 5. The proposed General Plan Amendment and Zone Change are consistent with the intent of the City of Imperial's General Plan to maintain land use designation consistency within the incorporated area of the City and its sphere of influence.

6. The proposed General Plan Amendment and Zone Change are consistent with the policies and the land uses of the existing City of Imperial's General Plan.
7. The proposed General Plan Amendment and Zone Change are consistent with the objective of the City of Imperial's General Plan Guidelines and Zoning Ordinance.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 13th day of December, 2023.

Planning Commission Chairperson

ATTEST:

City Clerk

Attachment B – Conditions of Approval

CONDITIONS OF APPROVAL

FONZIE APARTMENTS (APN 044-200-098) ZONE CHANGE AND GENERAL PLAN AMENDMENT R-1 (Residential Single Family) to R-A (Residential Apartment)

1. This Zone Change and General Plan amendment is to approve the change from R-1 (Single-Family Residential) to R-A (Residential Apartment).
2. An approved water supply capable of supplying the required fire flow determined by appendix B in the California Fire Code shall be installed and maintained.
3. Fire hydrant type and installation shall be in accordance with City of Imperial details and shall be approved by the fire code official.
4. Fire hydrant will be required every 300 feet along approved fire access roads and within 150 feet of all Fire Department Connections (FDC).
5. Plans shall be submitted to Imperial County Fire Department for review of all fire service main and appurtenance.
6. Fire Department connections shall be located on the street side of the building fully visible and recognizable from the street or nearest point of fire department vehicle access.
7. Fire Department access roads shall be in accordance with the California Fire Code Chapter 5, Section 503-Fire Apparatus Access Road and Appendix D.
8. The fire apparatus access road shall extend within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility.
9. Fire apparatus access roads shall have an unobstructed width of not less than 26 feet and unobstructed vertical clearance of not less than 26 feet and unobstructed vertical clearance of not less than 13 feet, 6 inches.
10. Additional access shall be required providing two (2) points of entry into the complex.

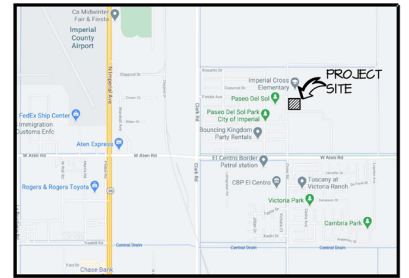
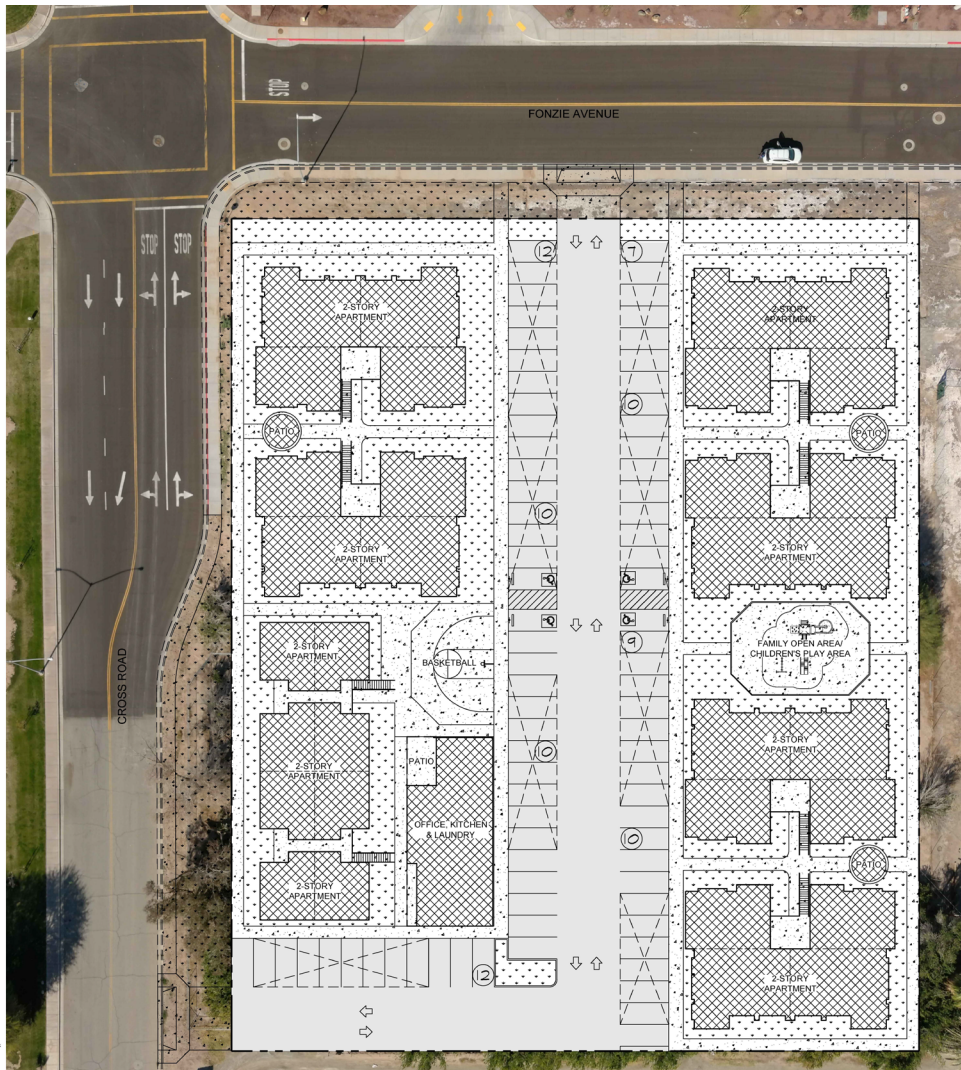
11. Turning radius shall be determined by the Fire Code Official.
12. Dead ends in excess of 150 feet in length shall be provided with an approved arc for turning around fire apparatus in accordance with Appendix D of the California Fire Code.
13. Fire access roads shall be required with approved notices or marking of the fire lane and shall be approved by the Fire Code Official.
14. Gate or barricades shall be approved by the Fire Code Official and be in accordance with Section 503.56 through 503.6 of the California Fire code and Appendix D.
15. Approved automatic fire sprinkler system shall be installed in accordance with Chapter 9 of the California Fire Code and NFPA 13, 13R and 13D.
16. Approved automatic fire and smoke detection system shall be installed in accordance with Chapter 9 of the California Fire Code and NFPA 72.
17. Plans shall be submitted to Imperial county Fire Department for review.
18. Approved KNOX Box shall be required. Location(s) shall be approved by the Fire Code Official.
19. All solar installation shall be in accordance with the most current applicable California codes. Imperial County Fire Department reserves the right to comment on solar requirements during the plan review process.
20. Impacts from the project will be evaluated by Imperial County Fire Department Fire Chief and Fire Code Officials. Upon review any impact that may create a negative effect on Imperial County Fire Department and/or the city of Imperial in concerns with life safety or property conservation shall be addressed between Fire Department Officials, City of Imperial Officials and Developer(s), which may include, but not limited to:
 - Capital purchases, which may be required to assist in servicing this project
 - Training
 - Fiscal Cost

21. The dirt road, directly abutting the project site to the South, will need to be improved/paved if there will be an additional access to the project site before final Certificate of Occupancy is issued.
22. Park impact fees to be utilized for contractor installed infrastructure upgrades to Imperial Community Park.
23. Provide a list of lighting in and throughout the complex for Police Department review and approval upon Site Plan Review submittal.
24. Provide a list of areas where security cameras will be installed for Police Department review and approval upon Site Plan Review submittal.
25. Developer to improve and extend the two southbound and two northbound traffic lanes on Cross Road from Fonzie Avenue to the Southern access road directly abutting the project site with curb, gutter and sidewalk.
26. Prior to the construction of any building or structure on any lot within the Residential Zones, a Site Plan Review is required pursuant to Section 24.19.500 detailing the adherence to the City's Property Development Standards (Section 24.03.120), Performance Standards (Section 24.03.130), Accessory Structures (Section 24.03.140) and Walls and Fences (Section 24.03.150).
27. These conditions of approval only cover the zone change and general plan amendment. Developer must still apply for a Site Plan Review and adhere to Building Permit Processes prior to any work and can be bound by future conditions of approval for projects.
28. City of Imperial General Plan contains a Noise Element that limits noise to 50 decibels at the property line. In order to minimize impacts with construction noise, construction activity involving the pouring with concrete shall occur between the hours of 7:00 a.m. and 8:00 p.m., Monday through Friday. Requests for the pouring of concrete outside the above stated days and times shall be made in writing at least ten (10) business days before the requested event(s). Such request shall include the requested dates and times and a statement setting forth facts supporting the request. Community Development Department may approve, deny or conditionally approve the request. A conditional approval may include requirements to minimize the impacts of the request, including, but not limited to a Construction Noise Mitigation Plan. At minimum the approval shall include the manner, method and reach with notice to be given to impacted parties.

29. The Developer shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
30. The Developer shall pay all applicable impact and capacity fees.
31. The Developer shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of this zone change and general plan amendment. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Developer arising out of or in connection with the approval of the zone change and general plan amendment including any claim for private attorney general fees claimed by, or awarded to any party from the City.
32. All conditions of approval for this zone change and general plan amendment shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
33. The provisions of the permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
34. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the zone change and general plan amendment, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the then the matter shall be referred to the Planning Commission for modification to conditions of approval, suspension, or termination, or to the appropriate enforcement authority.

35. As between the City and the Permittee, any violation of the conditions of approval may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
36. Permittee shall not be permitted to maintain a "nuisance", which is anything which:
(1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the project.
37. The city reserves the right to require additional traffic mitigation measures for any future traffic concerns within the development such as stop signs, sight distance enhancements, pedestrian crossing, roadway design and/or additional traffic impact analysis.

Attachment C - Proposed Site Plan



VICINITY MAP
NOT TO SCALE

HATCH LEGEND

- NEW CONCRETE AREAS
- PROPOSED BUILDING
- NEW LANDSCAPE AREAS
- PAVEMENT
- PROPERTY LINE

BUILDING DATA

BUILDING USE:	APARTMENT COMPLEX	
STORIES:	2-STORY	
UNIT MIX:	1 BEDROOM:	12 UNITS
	2 BEDROOM:	24 UNITS
	3 BEDROOM:	24 UNITS
	TOTAL UNITS:	64 UNITS
PARKING REQUIRED:	(16) 1-BED UNIT x 1.0 STALL	= 16 STALLS
	(24) 2-BED UNIT x 1.5 STALL	= 36 STALLS
	(24) 3-BED UNIT x 2.0 STALL	= 48 STALLS
	TOTAL REQUIRED STALLS	= 100 STALLS
PARKING PROVIDED:	80 STALLS PROVIDED	

PROPERTY BOUNDARY NOTE:
THE PROPERTY OR BOUNDARY LINES SHOWN ON THIS PLAN ARE AN APPROXIMATE AND ASSUMED LOCATION. THIS PLAN SHALL NOT BE USED AS A LEGAL DOCUMENT FOR LOCATING, ESTABLISHING OR DEPICTING PROPERTY LINES. IF PROPERTY LINES NEED TO BE ESTABLISHED OR IDENTIFIED, A REGISTERED LAND SURVEYOR WILL PREPARE THE NECESSARY SURVEY.