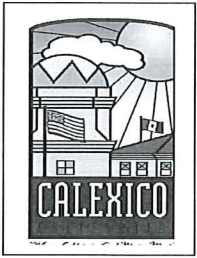


**AGENDA
ITEM**

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CITY COUNCIL AGENDA STAFF REPORT

DATE: February 15, 2023

TO: Mayor and City Council

APPROVED BY: Esperanza Colio Warren, City Manager

PREPARED BY: Lisa Tylenda, Planning & Building Services Director

SUBJECT: Authorize City Manager to Sign Fee Waiver Request Submitted by Gerardo and Lupe Jimenez in the amount of \$8,397.00 for a Zone Change/General Plan Amendment

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Recommendation:

Staff does not recommend approval due to the council setting a precedent on waiving entitlement processing fees for developers; other developers will want the same treatment. Setting this type of precedent could have negative impacts on the city budget. Waiving fees that pay for the processing the entitlements could impact the already existing budgetary constraints/short falls the city and development services department are already experiencing.

Background:

On November 20, 2022, an application was submitted on behalf of Gerardo and Lupe Jimenez requesting a Conditional Use Permit to allow the use and construction of multifamily apartment housing project to be located at 947 Heber Avenue; Calexico, CA 92231. Prior to the submittal of this application, multiple staff members met with Mr. Gerardo Jimenez to discuss the potential project.

Mr. Jimenez was verbally informed on multiple occasions by city staff that the proposed project site is within R-1 (Single Family Residential) zoning district and due to the R-1 zone, this type of development is not permitted as per Section 17.03.110(A.) (7.) of Chapter 17.03 of the Calexico Municipal Code.

Applications for conditional use permits are for those uses specified as allowable conditional uses in the applicable zoning district. A conditional use permit is not a substitute for a zoning change or a zoning ordinance text amendment.

Prior to the conditional use permit application submittal, Development Services Staff informed Mr. Jimenez that in order to attempt to develop the proposed apartment project, the option available would be a Zone Change/General Plan Amendment process.

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The application request for a conditional use permit has been reviewed internally by City staff and the following items have been identified:

- The application submitted cannot be further processed due to the zoning ordinance not identifying the proposed use “Residential Apartment Building” as an allowable conditional use, thus meaning that a conditional use permit application process cannot be carried out for the proposed use/project.
- A conditional use permit does not authorize uses that the zoning ordinance does not authorize.
- The application submitted will not be processed any further due to the application being deemed incomplete and a payment was not processed.
- If the applicant would like to discuss the zone change and general plan amendment process, city staff will schedule a meeting to review the planning process for that type of land use entitlement at the applicant’s earliest convenience.

Discussion & Analysis:

A conditional use permit process as originally requested by the applicant for the Single-Family Residential (R-1) property cannot be processed because the multifamily project (eightplex) is a prohibited use by Municipal Code Chapter 17.03.110 - Permitted and conditional uses—R zones Section 7.a. CUP processes apply only to the listed permitted uses subject to a conditional use permit. The appropriate process for the proposed project is a Zone Change/ General Plan Amendment.

Due to monetary constraints, the applicant is requesting the city manager to waive the required fees for the planning entitlement process of \$8,397.00 in order to undergo the zone change/general plan amendment process (please see attached letter requesting the fee waiver), per section 2.02.270- “Fee Waiver” of the municipal code:

2.02.270 - Fee waiver.

A person may apply for a waiver of any city fee, up to an amount set by city council resolution, by submitting a written application to the city manager on a form provided by the city. The city manager, or designee, may grant a fee waiver for good cause shown, hardship, or equity as provided in the city's fee waiver policy adopted by city council resolution and amended from time to time. The decision of the city manager, or designee, may be appealed to the city council.

(Ord. No. 1208, § 2, 2-5-20)

Fiscal Impact:

\$8,397.00 to Development Services Department

Attachment(s):

1. Fee Waiver Request Letter
2. Original Conditional Use Permit Application/ Request and Project Summary

Dear City Council Members & Whom It May Concern,

The purpose of this letter is to request a fee waiver per Ordinance 2.02.270 regarding the application for a zone change at the property 947 Heber Ave, Calexico, CA, which is currently an R-1 Single Family Home Zone property.

The current zoning of this property does not allow for the construction of a residential-condominium style apartment building which we will be requesting to rezone to allow for the construction of a RA- Residential Apartment building per Ordinance 17.0.1.355.

This project aims to provide Calexico residents with attractive housing opportunities and supports regional economic growth in the process. This project directly supports the increasing need for housing in the City of Calexico and aligns with the city's overall strategic plans and goals. The City of Calexico's 2022 Housing Element Update addresses the shortage of housing development within the City of Calexico as a critical constraint to its resident's ability to find housing. The publication also addresses the growing population, labor force, rising age and race demographic market, and overall need for housing which this project proposes to support. This project will not only support the communities needs for housing but will also provide economic development opportunities for the community as the majority of the construction, labor, and material needed for this project are to be locally sourced where applicable. The investment within this project will re-generate wealth back to the residents of the City of Calexico.

At the core of the housing issues are the several constraints around developing housing, such as limited land resources, zoning restrictions, and the fees/costs associated with permitting and development. We are a small family owned business native to Calexico, which must compete with large developer corporations with substantial capital access. The hardship for small developers such as ourselves is that most startup expenses are paid out of pocket. Paying these costs can be the difference between project completion and non-completion. Most of the contributors to the completion of this project are also local Calexico residents who provide goods and services to complete the project's construction and we must provide compensation for their efforts. Any extra fees that we must pay impose a constraint on the availability of employment to our fellow citizens since we don't have access to the substantial capital that large corporations

have. For these reasons, we request a waiver of the fees associated with rezoning for this project.

Regarding equity, all Calexico citizens should have a fair opportunity to participate in the city's economic development, regardless of whether you are a large corporation or a small family-owned business. Our small development business has proven its ability to provide quality, attractive housing for the city's residents and seeks another opportunity to provide residents with quality homes.

In summary, we request that fees associated with a rezone be waived for this project to move forward with our project, which aligns with the City of Calexico's strategic goal and supports housing needs. The fee waiver provides equity to small business development and supports the revitalization and economic growth of the City of Calexico. Thank you for your time, and please let us know if you have any questions.

We look forward to hearing back from you.

Thank you,

Gerardo and Lupe Jimenez

947 Heber Ave Proposal
Conditional Use Permit (CPU) Application

November 20, 2022

Prepared by:

Gerardo & Lupe Jimenez

For the intended use of the City of Calexico's Planning Commission

Statement of Purpose

The purpose of this report is to inform the City of Calexico's Planning Commission on the proposed use for the property located at 947 Heber Ave, Calexico CA. This proposal requests the commission's consideration for the approval of a Conditional Use Permit under the City of Calexico's Ordinance Title 17 - Article V - Conditional Use Permit Regulations.

The property identified at 947 Heber Ave, Calexico CA is currently an R-1 - Single Family Home Zone and this project proposes a Conditional Use Permit for the construction of a Residential-Condominium Style Apartment Building. The proposed project's purpose is to provide residential housing and is in alignment with the current residential zoning use. This Conditional Use Permit request is not unprecedented given that the neighborhood and surrounding areas have several RA residential units built alongside R-1 residential housing properties referred to in Appendix 1: City of Calexico Zoning Map 2021.

The proposed use for special consideration is in alignment with the current zoning use and in alignment with the City of Calexico's strategic plan and overall housing needs. For the reasons presented in this report, the proposed use of this property is compatible with and will not adversely affect or be materially detrimental to adjacent uses of the current zone and surrounding properties.

In addition, the proposed project aligns with the City of Calexico goal to "revaltize and incentivize economic growth in the city." The *City of Calexico's 2022 Housing Element Update* addresses the shortage of housing development within the City of Calexico as being a key constraint of its residents ability to find housing. The publication also addresses the growing population, labor force, rising age and race demographic market, and overall need for housing that this project proposes to support.

This project will not only support the communities needs for housing, but will also provide economic development opportunities for the community. The investment within this project will re-generate wealth back to the residents of the City of Calexico.

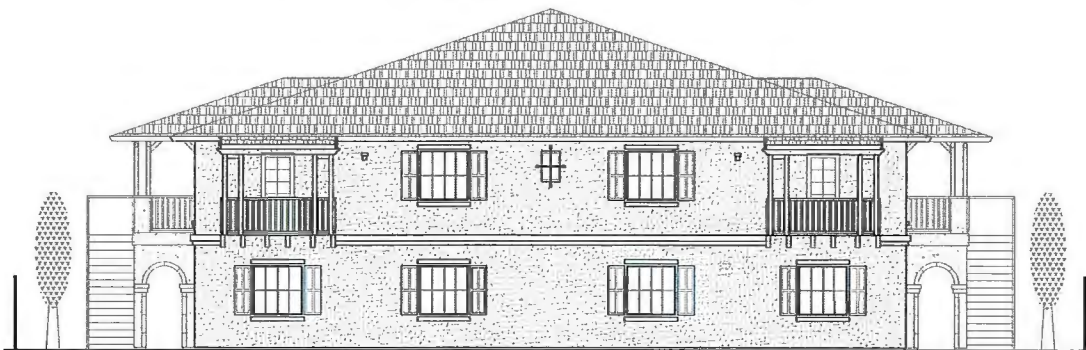
This project overall aims to provide Calexico residents with attractive housing opportunities, along with supporting regional economic growth in the process.

Proposed Use:

This conditional use permit application proposes the construction of a Condominium Style Apartment Complex permitted in a RA- Residential Apartment Zone and/or RC- Residential Condominium Zone.

The proposed property specifications include:

- Residential Condominium Style Apartment Building (7,656 sq ft.)
- 8 two bedroom/ two bathroom units (957 sq ft. /unit)
- 17 Parking Spaces for Residents
- 15 ft Setbacks
- Retention Wall Fencing for privacy and noise reduction to neighbors
- 2 Units with ADA accessibility features
- Luxury Architectural Design compatible with the neighborhood
- Amenities such as washer & dryers
- Landscaping and Irrigation
- Limited to no impact on traffic or noise congestion differing from the current zoning use
- Limited to no environmental impact differing from the current zoning use



EAST ELEVATION
SCALE: 3/16" = 1'-0"

Exhibit A: 947 Heber Ave, Calexico CA Proposed East Side Elevation Plan

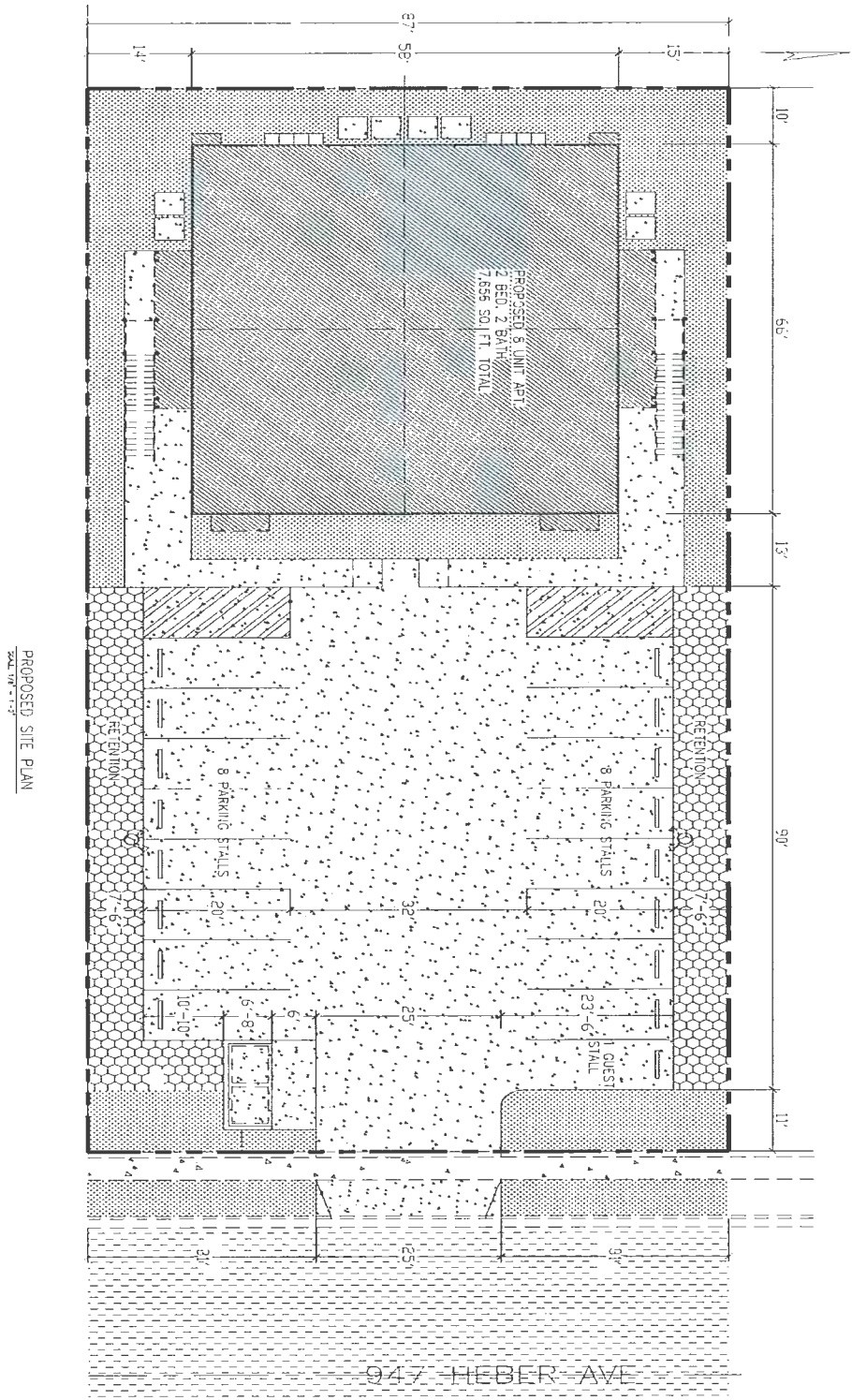
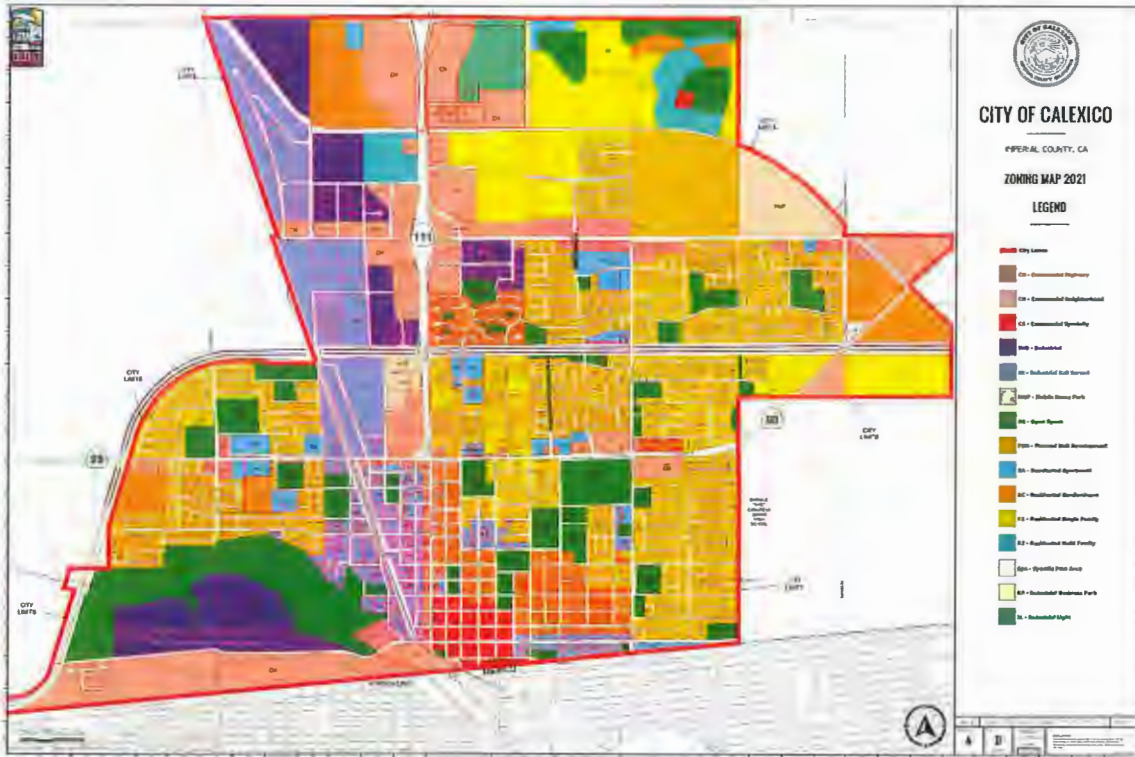


Exhibit B: 947 Heber Ave, Calexico CA Proposed Site Plan

Appendix



Appendix 1: City of Calexico Zoning Map 2021