



Staff Report

Agenda Item No. D-3

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: November 5, 2021

Subject: Zoning Code Text Amendment- ZCTA #2102
Restoration of Damaged Structure for Non-Conforming Uses

Background

The purpose of the Non-Conforming Use Zoning Ordinance is to limit the number and extend of nonconforming structures by prohibiting their relocation, alteration, their re-establishment after abandonment, or enlargement in a manner that would increase the non-conformity and to prohibit the restoration after destruction.

Restoration of a damaged structure is currently as follows:

“24.17.150 RESTORATION OF A DAMAGED STRUCTURE

- A. *Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it its located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed.”*

Staff has received numerous requests to amend the Zoning Code to allow Non-Conforming Uses to continue in case of a fire or other catastrophe. An amendment to the Zoning Ordinance is necessary due to the fact that property owners in the process of financing or refinancing the property no lender is willing to loan the money unless the City would allow to fully rebuild. Therefore, the City is requesting some regulatory relief.

Discussion/Analysis

The following is the recommended amendment based on general comments from the public.

“24.17.150 RESTORATION OF A DAMAGED STRUCTURE

A. Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it its located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed. However, any residential structure(s), including multifamily, destroyed by a catastrophe, including fire and earthquake, may be reconstructed up to the original size, placement, and density, and the nonconforming use may be resumed. Reconstruction shall be started within one year and diligently pursued to completion.”

These minor adjustment to the Non-Conforming standards promotes opportunities and is in the interest of the community.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the Guidelines.

Public Notification

The public hearing scheduled for November 10, 2021 was duly noticed in the Imperial Valley Press, a newspaper of general circulation on October 31, 2021.

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 that the Planning Commission approve the Zoning Text Amendment regarding Restoration of Damaged Structure for Non-Conforming Uses.

Attachments

- RESO 2021-15

Respectfully submitted,

Othon Mora, MCM, CBO
Community Development Director

RESOLUTION PC 2021-15

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL RECOMMENDING AN AMMENDMENT OF THE ZONING ORDINANCE SECTION 24.17.150(A) RELATING TO RESTORATION OF DAMAGED STRUCTURE FOR NON-CONFORMING USES

WHEREAS, a duly notified public hearing was held by the Planning Commission on November 10, 2021.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial to recommend the amendment of Section 24.17.150 (A) of the Imperial Zoning Ordinance as follows:

SECTION 1: Section 24.17.150 (A), “Restoration of a Damaged Structure” of the Imperial Municipal Code is hereby amended to read as follows:

24.17.150 RESTORATION OF A DAMAGED STRUCTURE

- A. Whenever a structure which does not comply with the Property Development Standards for front yard, side yard, rear yard, height of structures, or distances between structures prescribed in the zone in which the structure is located, or the use of which does not conform with the Performance Standards for the zone in which it is located, is destroyed by fire or other calamity, by the act of God, or by the public enemy to the extent of fifty (50) percent or less, the structure may be restored and the nonconforming use may be resumed, provided that restoration is started within one year and diligently pursued to completion. When the destruction exceeds fifty (50) percent or the structure is voluntarily razed or is required by law to be razed, the structure shall not be restored except in full conformity with the Property Development Standards for the zone in which it is located and the nonconforming use shall not be resumed. However, any residential structure(s), including multifamily, destroyed by a catastrophe, including fire and earthquake, may be reconstructed up to the original size, placement, and density, and the nonconforming use may be resumed. Reconstruction shall be started within one year and diligently pursued to completion.”

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 10 day of November 2021.

Planning Commission Chairman

ATTEST:

Planning Secretary