

The Yuma County Planning and Zoning Subcommittee met in a regular session on May 24, 2018. The meeting was held in the Gold Conference Room at 2351 West 26<sup>th</sup> Street, Yuma, Arizona.

**CALL TO ORDER:** At 2:02 p.m. Maggie Castro, Planning Director convened the Planning and Zoning Subcommittee meeting. Members present were: Maggie Castro, Planning Director; Barry Olsen, Attorney, public representative; Danny Bryant, PZ Commission Member; and Wayne Eide, PZ Commission Member. Members absent were: Ron Rice, PZ Commission Member. Others present were DDS Director Craig Sellers, Chief Building and Fire Code Official Pat Headington; Deputy County Attorney Ed Feheley; and Office Specialist III Amber Jardine.

**ITEM No. 2:** Discussion on what changes ought to be made to the Zoning Enforcement provisions of the Yuma County Zoning Ordinance.

Mr. Olsen began by discussing the lack of permits and how they are addressed in the Zoning Ordinance.

Maggie Castro explained that the Zoning Ordinance does not specify what staff look for during the building permit review. The Zoning Ordinance does specify what needs to be submitted for the building permit application which includes: site plan, building plan, elevation or engineering plans. Staff review the overall project with the site plan to ensure the property is in compliance with the Zoning Ordinance. The Development Services internal review of building permit applications procedure has been adjusted to reflect that structures that are existing and are not part or impacted by the proposed structure are not be looked at.

Mr. Olsen stated that the changes that staff are making to the review of building permits is a start to address the development communities concerns. Mr. Olsen referred to the Valenzuela Case in discussion.

Mr. Bryant commented about past or other Building Code / Fire Code Officials all have different views with building structures and permits.

Mr. Sellers explained the point of having a conversation to understand the needs of the public and address the issues with the Board. Mr. Sellers explained in detail the difference between Development Services and the Board of Supervisors. The Board of Supervisors establishes regulation and our statutory officials, the County Engineer, Zoning Inspector and the Chief Building Official interpret and enforce the regulations. Mr. Sellers clarified that the Department does not arbitrarily say what things are. There is a change in expectations and the direction is to give options to the Board and receive feedback from the Board on how to apply the changes. Staff have been reviewing the different phases of a project (developer formulates the project, pre-development communication, permitting process and etc.) to determine how to handle the nuisances. Staff are gathering information and compiling it with community comments and bringing the information to the Board of Supervisors. However, staff are obligated to express to the Board of Supervisors the benefits and/or liability the County can have with any change presented.

Mr. Olsen explained how the City of Yuma informally addresses structures that do not have permits and their analysis on public, health or safety issues. The three main issues seem to be electrical, plumbing and septic.

Mr. Headington agrees with the above three main sources of public health and safety issues on projects and stated the property maintenance codes, plumbing codes and other codes have definitions on what is a public health and safety.

Mr. Olsen expressed the need to set criteria for public health and safety. Mr. Olsen asked how the County evaluates a thirty year old structure for public health and safety.

Mr. Headington answered that per policy, staff determines the approximate age of the structure and use that installation standard, especially for a subsequent owner. Mr. Headington did express how challenging it can be to bring some older structures into compliance even with an older code book.

Mr. Eide asked how the staff defines when the structure was built without having a permit.

Mr. Headington stated staff use all resources as possible including any Assessors records, any records Development Services has, permit log binders and etc.

Mr. Eide suggested involving the Building Code / Fire Code Advisory Boards.

Mr. Sellers confirmed staff is reaching out to all the Boards and public. Mr. Sellers expressed that staff is trying to improve processes which will improve efficiency for the community. The subcommittee is an opportunity to review processes and underline the main areas of concern and focus on those areas. Mr. Sellers informed the PZ Subcommittee Board Members that staff would take requests to the Board of Supervisors, staff would then relay information to the Board of what the impacts would be, and the Board of Supervisors would then make a decision as the policy makers.

Mr. Bryant inquired about a Supervisor, from the BOS, stating that the Board of Supervisors instructed staff not to look at other structures when inspecting permits. He expressed that the applicant would only submit a plot plan with the home and the proposed structure that will be installed and staff would honor the Board of Supervisors decision and not look at any other structures on site.

Maggie Castro clarified the instruction only applies to internal improvements to a structure. The amendment made to the Zoning Ordinance that addresses not requiring submittal of a site plan was specifically for interior improvements.

Mr. Sellers reiterated that the Board of Supervisors instruction was for the internal improvements. However, there was direction from the County Administrator for staff not to actively look for violations, but instead, based on complaints received, staff would inspect and make a determination if there is a violation.

Maggie Castro stated there is a provision in state law that states the way to enforce Zoning Ordinance, one violation would be not having permits for certain structures, is by withholding building permits. The section in state law is one of the bases for requiring submittal site plan and reviewing whether structures on the site plan are in compliance with the Zoning Ordinance. The Zoning Ordinance was adopted in 1975, therefore State law already has a grandfather provision for structures built prior to 1975 which do not have to comply with the Zoning Ordinance.

Mr. Olsen inquired about determining if a structure was built prior to 1975.

Maggie Castro listed the references staff uses including old aerial imagery, Google Maps (which has historical maps in their database).

Mr. Headington explained how Google Maps and old aerial imagery helps to determine when a structure was built and which Code book will be used to bring the structure into compliance. Mr. Headington listed the codes he has on file: 1979, 1985, 2003 and 2012.

Mr. Bryant asked when the County started requiring Engineering for carports and patio covers.

Mr. Headington answered he recalls August of 1999 is when engineering needed to be submitted. However, engineering was always required for metal structures.

Mr. Bryant explained his concern with permits being lost by the County and stated the second or third homeowner does not have a permit and the county automatically finds him in violation. He expressed owners that lack a permit are being served to appear at the Hearing Officer.

Maggie Castro responded by explaining the changes in the procedures are giving the property owner an opportunity to give the permit information to staff if a permit is unfound. State law requires permits for sheds which can simply be an Assessor's permit to ensure the structure is placed on the tax rolls.

Mr. Olsen discussed the hardship a subsequent owner has with not receiving permits for structures on the property before purchasing and being held liable when found in violation.

Mr. Headington informed Board members that staff reached out to real estate agencies and presented a presentation on how to read a permit, involving rural metro, appraisers and home inspectors. There have been significant increase in owners purchasing believing a structure is permitted as one thing when it was originally permitted as something else. In result, realtors have been pulling permits and conducting research. Staff are also receiving an increase in phone calls from mortgage companies stating they will not finance until the permit issues are resolved.

Mr. Sellers stated one of changes that have been applied to the permit application review is the option to add on the existing structure to the current permit the customer is applying for. There is also the option to take down the unpermitted structure. The Board of Supervisors are the policy makers and any suggestions, options or areas that need change will need to be brought forth to them.

Mr. Bryant responded with suggesting the Zoning Ordinance to specifically say that "The absence of a building permit in itself is not a health and safety violation." Mr. Bryant then asked if the only judicial opinion we have of that is from our local judge that stated it is not a health and public safety issue.

Ed Feheley answered that it was reversed by the Court of Appeals.

Mr. Olsen disagreed with the above statement and stated the Superior Court's ruling was affirmed.

Mr. Olsen then agreed with PZ Subcommittee Member Eide in presenting some cases that are in question of a public health and safety violation to the Building Code Advisory Board (BCAB) meetings and refer the questionable cases to the BCAB before it reaches the Hearing Officer.

Mr. Eide asked if the Subcommittee can help produce the proposed language with revising procedures or suggestions that are to be made to the Board of Supervisors.

Mr. Olsen asked if staff can present the language as an initial draft and the subcommittee review the language.

Mr. Sellers gave detail on how long the permit process currently takes and gave an approximate timeline on when the installment of the new software will be completed. Mr. Sellers concluded from the information being presented that the major issues are dealing with the nuisances. Mr. Sellers suggested focusing on the nuisance element as primary. Examples that Mr. Sellers gave were unpermitted structures, definition of public health and safety and so on. The Board of Supervisors can then provide direction.

Discussion continued about the public hiring handymen instead of applying for permits with the Department when building any kind of structure. It was stated that an estimation of 80% of unpermitted structures were built by a handyman.

Maggie Castro informed the Subcommittee that existing structures that are not attached to the proposed structure the applicant is trying to obtain a permit for, the procedures have been changed to not address those unpermitted structures.

Mr. Olsen suggested some issues can be adjusted in the internal procedures instead of amendments to the Zoning Ordinance.

Mr. Sellers reiterated the need to take these items to Board of Supervisors and receive direction. Mr. Sellers asked the PZ Subcommittee Board Members to give direction on the level of inspection and patrol, permitting and documentation issues.

Mr. Sellers clarified to the Board Members that there is a three foot setback when determining if the structure is connected to another structure.

Mr. Sellers explained that adjustments to the fee schedule is set by the Board of Supervisors. If there is a desire to waive fees for existing structures to add them to the permit application, then a Board action would be required.

Mr. Headington inquired about the percentage of structures being built by a handyman. Mr. Headington suggested the possibility of defining public health and safety items in the Building Code. If it is not listed as exempt in the Building Code, then it would be deemed a public health and safety issue.

Mr. Bryant stated it is easier to determine what is not a public health and safety violation.

Mr. Eide referred to a previous case that adjusted the fee schedule to reduce the fee for Temporary Use Permits for 4H applicants. Mr. Eide suggest dropping fees to create a user friendly system.

Mr. Eide then asked how the PZ Subcommittee can help the Department of Development Services.

Mr. Sellers inquired with the County Attorney Ed Feheley on distributing a working file to the Board Members to facilitate a future meeting.

MOTION (BRYANT/OLSEN) Staff put together a summary of permit and nuisances processes with other comments to present to the subcommittee at the next meeting

ROLL CALL VOTE: Eide - AYE; Bryant - AYE; Olsen - AYE; Castro - AYE

The motion carried 4-0.

Mr. Bryant inquired if the Subcommittee brings a recommendation to the PZ Commission Meeting and Development Services Staff are in opposition to the recommendation. However, the PZ Commission Members approve the recommendation and it moves forward to the Board of Supervisors, what position will the staff take at that time.

Maggie Castro answered the staff recommendation would remain.

Clarification of the appeals process and details on how the county can appeal the Board of Supervisors decision was discussed. Reference was made to ARS Title 12, Chapter 7, Article 6.

There being no further business to come before the Planning and Zoning Subcommittee, the meeting was adjourned at 3:41 p.m.

Approved and accepted on this 14th day of June 2018.



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Maggie Castro, AICP, Planning Director