

The Yuma County Planning and Zoning Subcommittee met in a regular session on September 27, 2018. The meeting was held in the Aldrich Hall at 2351 West 26th Street, Yuma, Arizona.

CALL TO ORDER: At 2:30 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 Ron Rice, PZ Commission Member. Members absent were: Wayne Eide, PZ Commission Member. Others present were DDS Director Craig Sellers, Chief Building and Fire Code Official Pat Headington; Executive Assistant Kimberly Grable and Hearing Officer Specialist Regina Collins.

ITEM No. 2: Approval of the Planning and Zoning Subcommittee regular meeting minutes of July 26, 2018.

MOTION (RICE/OLSEN) Approve as presented.

ROLL CALL VOTE: Bryant - AYE; Olsen - AYE; Castro – AYE; Rice - AYE. The motion carried 4-0.

ITEM No. 3: Discussion concerning possible text amendments to the Yuma County Zoning Ordinance, Section 306.03—Certificate of Exemption, Section 309.00, Section 401.01—Application for Amendment or Change, Section 1201.00—Permits, Section 1201.01—Zoning Inspector, Arizona Revised Statutes, Title 11, Chapter 6, Article 2, Permits, Section 1208.00—Withholding of Permits, Section 1209.01—Commencement of Action and Notice of Hearing

Section 306.03- Certificate of Exemption (see attached)

Maggie Castro opened the discussion item. She informed the subcommittee that there was a memorandum in the agenda packet with proposed changes that were provided by Barry Olsen. Maggie Castro confirmed that section 306.03 is exempt per legal counsel.

Barry Olsen inquired about internal criteria for agriculture.

Pat Headington explained the Building and Fire code refer to the Zoning Ordinance for determination.

Maggie Castro stated structures may be exempt from building code requirements however, the zoning requirements must be met. She explained the criteria that would need to be met and how to obtain the classification of the property.

Craig Sellers advised the Subcommittee that there is a process to appeal assessments.

Section 309.00- Permits (see attached)

Barry Olsen stated he reviewed Section 309 of the Zoning Ordinance. State statute 11-812 refers to agriculture mining exemptions. He inquired about the consistency between the Zoning Ordinance and State Statute.

Maggie Castro explained section 309 in the Zoning Ordinance refers to permits and are all exempt. The exemptions do not apply to flood hazard areas. Flood Plain requirements would need to be met.

Barry Olsen inquired about how the County got the authority to apply Flood Plain regulation to Agriculture exempt properties.

Craig Seller explained Title 48 states that agriculture is regulated by the flood plain regulations.

Craig Sellers advised the subcommittee that the Flood Plain Regulation identifies flood hazards and is regulated by FEMA. Most of the Yuma Valley Flood Plain areas are within the levies or along the East Main Canal. He explained, in detail, the Flood Control District, FEMA maps and the criteria in determining the flood plain areas.

Pat Headington stated he researched the proposed text amendment to Section 309.00F. He explained the complexity of individual installations.

After further discussion, it was determined by the Subcommittee that the Building Official's interpretation in the current policy would remain. Section 309.00 F would not move forward as an amendment.

Section 404.01 F (see attached)

Maggie Castro reviewed the proposed language to Section 404.01 F (See attached). She explained staff has the discretion to send notices beyond 300 feet. She explained certain projects have an impact that are beyond a 300 feet radius.

Barry Olsen explained that developers disagree with staff sending notices beyond the 300 feet radius. He expressed the concern the community has with staff being subjective.

Maggie Castro discussed the criteria used to determine when notifications are mailed beyond the 300 feet radius. She explained numerous owners complained that they were not notified of projects. In result, the Planning and Zoning staff created a criteria list to use prior to sending notification letters.

Subcommittee Members discussed the State Statute that refers to the 300 feet radius; the criteria that constitutes a super majority vote by Board Members; opportunity for developers to be guaranteed a 300 feet radius notification and the pros and cons of extending the 300 feet radius. Subcommittee Members decided to no move forward with the proposed language in Section 404.01 F. A future meeting would be set to discuss criteria and changes to the internal policy.

Danny Bryant inquired about restricting the internal policies during staff turnover in the future.

Section 1201.00 D (see attached)

Maggie Castro stated the proposed language in Section 1201.00D could be presented to the Planning and Zoning Commission.

The Subcommittee discussed adding hazardous or unsafe conditions to the proposed language.

Pat Headington stated a policy is in progress that defines unsafe conditions, hazardous structures and etc.

Barry Olsen stated he would like to review the policy.

Maggie Castro advised the Subcommittee Members the proposed language would need to be presented at the Planning and Zoning Commission Meeting then, if approved, would move forward to the Board of Supervisors.

Section 1201.01 (see attached)

Maggie Castro reviewed the strikethrough language and advised the Subcommittee Members the language is directly from state law. She explained Section 1201.01B and C were changes staff made due to the review of building permit applications internal policies. Maggie Castro stated Section 1201.01 A-D could be listed under Section 309.00 as exemptions.

Subcommittee Members decided the proposed language in Section 1201.01 A-D would stay under Section 1201.01.

Craig Sellers stated a comprehensive policy is in progress and he would review the policy with the Subcommittee Members at the next meeting.

Subcommittee Members discussed Yuma County providing the proof that a violation had taken place. Subcommittee Members inquired about an applicant providing the proof that they are not in violation when submitting a permit application.

Maggie Castro clarified if the proposed construction is impacted by an unpermitted, existing structure then it becomes a part of the application. The applicant would need to provide proof that the existing structure was permitted or add it to the application.

Pat Headington stated the most accurate records are from 1997 to present. He expressed his concern with the proposed language in Section 1201.01D. Presumption that a permit was established would make the structure legal and safe even if it is not.

Subcommittee Members agreed to leave the proposed language in Section 1201.01D as it is written and take it to the Planning and Zoning Commission Meeting.

Amanda Mahon, Deputy County Attorney suggested removing the word "shall" and replace it with "will".

Subcommittee Members discussed the last two paragraphs in Section 1201.01. It was stated staff is sending notifications to applicants with code or zoning references as to why the permit was denied.

Craig Sellers stated a change in regulatory rights states staff will work with the applicant beyond the two reviews. Staff will continue to keep the file open and communicate with applicant to get compliance.

Pat Headington reviewed the last paragraph in Section 1201.01 (see attached). He stated an appeal to the process that led to a denied building permit would go to the Director or the Board of Supervisors. The building permits that were denied by the Zoning Inspector would be appealed to the Board of Adjustment. The building permits that were denied due to a building code violation would be appealed to the Building Code Advisory Board.

Maggie Castro recommended changing the proposed language to "any person denied a building permit may appeal the denial to the appropriate review agency".

Subcommittee Members agreed to have the appeal process on the denial letters that are sent to applicants. The last two proposed paragraphs in Section 1201.01 would be stricken out if the right to appeal and the process is on the denial letters.

Section 1208.00 (see attached)

Maggie Castro explained that at the last Planning and Zoning Subcommittee Meeting, members discussed where the Zoning Ordinance language came from. She stated the existing language is stricken through and the proposed language came directly from ARS Title 11 (see attached).

Pat Headington recommended inserting the word "maintain" in the first sentence of the proposed language.

Subcommittee Members discussed keeping the proposed language as State Statute is written.

Maggie Castro read ARS 1108.15C out loud to Subcommittee members. The State Statute had the word "maintain" in it as a comparison to the proposed language from ARS Title 11.

Subcommittee Members agreed to leave Section 1208.00 as written due to the word "maintain" is in Section 1205.00 of the Zoning Ordinance.

Section 1209.01 (see attached)

Maggie Castro reviewed the proposed language in Section 1209.01.

Craig Sellers stated the release of anonymous information would require a Superior Court order.

Subcommittee Members discussed setting requirements for complaint submittals to include the County not allowing anonymous complaints.

Craig Sellers explained the harassment or retaliation a complainant may receive if the opportunity to be anonymous is eliminated.

Subcommittee Members decided to move forward with having a legal opinion on the proposed language in section 1209.01.

Section 1209.05 (see attached)

Amanda Mahon advised Subcommittee Members that the County attorney has the right to appeal on his or her own.

Barry Olsen disagreed with allowing the County Attorney to appeal the Board of Supervisors decision.

Danny Bryant stated that the tax payer's money should not be used when suing the County with the exception of the County Attorney.

Subcommittee Members decided review Section 1209.05 at the next Subcommittee Meeting.

There being no further business to come before the Planning and Zoning Subcommittee the meeting was adjourned at 4:51 p.m.

Approved and accepted on this 29 day of November 2018.



Maggie Castro, AICP, Planning Director