



Yuma County, Arizona
DEPARTMENT OF DEVELOPMENT SERVICES

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Craig L. Sellers, P.E., CPM
Director

YUMA COUNTY PLANNING AND ZONING SUBCOMMITTEE MEETING
PUBLIC NOTICE AND AGENDA

DATE: January 17, 2019
TIME: 2:00 p.m.
PLACE: Yuma County Department of Development Services, Aldrich Auditorium
2351 W. 26th Street, Yuma, Arizona

MEMBERS: Maggie Castro, AICP, Planning Director Barry Olsen
Ron Rice Wayne Eide
Danny Bryant

STAFF: Craig Sellers, Director of Development Services
Pat Headington, Chief Building/Fire Code Official
Amber Jardine, PZ Commission Admin Specialist

ADVISORS: Edward P. Feheley, Deputy County Attorney

1. Call to Order and Roll Call
2. Approval of Minutes – Regular Meeting of November 29, 2018 **Action**
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..... **Action**

ADJOURN

NOTE: For further information about this public hearing/meeting, please contact Maggie Castro, AICP, Planning Director, phone number (928) 817-5173; or e-mail contactdds@yumacountyaz.gov or TDD/TTY (Arizona Relay Service): call in 1-800-367-8939, call back 1-800-842-4681. Individuals with special accessibility needs should contact the individual indicated above before the hearing/meeting with special need requirements.

AGENDA ITEM 2

The Yuma County Planning and Zoning Subcommittee met in a regular session on November 29, 2018. The meeting was held in the Aldrich Hall at 2351 West 26th Street, Yuma, Arizona.

CALL TO ORDER: At 2:10 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; Deputy County Attorney Amanda Mahon; and PZ Commission Admin Specialist Amber Jardine.

ITEM No. 2: Approval of the Planning and Zoning Subcommittee regular meeting minutes of September 27, 2018.

MOTION (BRYANT/OLSEN) Approve as presented.

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

ITEM No. 3: Presentation of Draft Comprehensive Permitting and Enforcement Policy.

Craig Sellers, DDS Director, reviewed the draft Comprehensive Permitting and Enforcement Policy.

The subcommittee discussed anonymous zoning violation complaints.

Maggie Castro, AICP, Planning Director concluded that the wording in Section 1209.01 would be presented to the Planning and Zoning Commission as written.

Commissioner Bryant inquired about the Qualified Professional Certification section in the draft Comprehensive Permitting and Enforcement policy.

Craig Sellers, DDS Director, stated staff would need to review what is allowable within statute. He explained some improvements would need to be inspected by specific professionals.

Chief Building Code and Fire Code Official Pat Headington explained the language in the draft policy was not complete. Staff are discussing the ability to have an approved third party provide the Department of Development Services documentation or evidence that a structure is in compliance.

Subcommittee members reviewed Appendix D-denial letters in the Comprehensive Permitting and Enforcement Policy. They discussed the reasons that permits are denied and utilizing the permit resubmittal process staff would continue to work towards compliance.

Commissioner Rice inquired about the updates to the Building Codes.

Chief Building Code and Fire Code Official Pat Headington stated updates on the building codes have been approximately every six years. He explained that he is in the process of adopting the 2018 Building Code and would be presenting the new codes to the Board of Supervisors.

ITEM No. 4: Presentation of Draft Unsafe Conditions.

Chief Building Code and Fire Code Official Pat Headington reviewed the draft Unsafe Conditions Policy. He stated the conditions within the policy were abstracted from various code sections, particularly the International Property Maintenance Code. The policy would be a guideline for staff.

ITEM No. 5: 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

Maggie Castro, AICP, Planning Director stated the memo containing the proposed changes has been updated based on the comments received at the prior PZ Subcommittee Meeting. She reviewed the proposed changes with the subcommittee members.

1201.00(D)

Maggie Castro, AICP, Planning Director, stated Mr. Headington suggested replacing the word “threatens” to “imminent danger”.

Chief Building Code and Fire Code Official Pat Headington inquired about how to define materially threatens. He suggested the proposed language to be consistent with the Comprehensive Permitting and Enforcement Policy.

Subcommittee Members agreed and replaced the words “threatens” and “threat” to “imminent danger” in section 1201.00(D).

1209.01

Maggie Castro, AICP, Planning Director, inquired if 1209.01(A) would need to be updated with the terminology that is in section 1201.00(D).

Subcommittee Members discussed the proposed language in 1209.01(A).

Subcommittee Members suggested changing section 1209.01(A) to the following:

- A. Every action brought before the Hearing Officer for any violation of the Yuma County Zoning Ordinance shall be initiated by a complaint with the Hearing Officer by the Zoning Inspector. **A complaint shall only be initiated upon: i) a signed written complaint submitted to the Zoning Inspector by a member of the public identifying the complete name of such person; or ii) the Zoning Inspector's own visual discovery of a Zoning Ordinance violation constituting an imminent danger. Alleged violations are to be independently verified by the Zoning Inspector.** Whenever the Zoning Inspector files a complaint with the Hearing Officer, a hearing shall be held after serving notice of the hearing on the alleged violator.

Amanda Mahon, Deputy County Attorney, stated the language in 1209.01(A) does not comply with State Statute.

Maggie Castro, AICP, Planning Director, stated the proposed language would be forwarded to the Planning and Zoning Commission and legal counsel would submit their advice separately.

1209.05(J)

Subcommittee Members discussed the proposed language in 1209.05(J) and agreed to proceed with moving the proposed language to the Planning and Zoning Commission.

1201.01(B)

Subcommittee Members discussed the proposed language in section 1201.01(B). Subcommittee Members agreed with the following proposed language:

- A. **No permit is required for repairs or improvements of a value not exceeding five hundred (500) dollars.**
- B. **The work does not involve an unpermitted detached structure that is not part of the proposed work.**
- C. **The work does not involve prior work on the same structure by a prior owner and such work is not an imminent danger to the public health and safety.**
- D. **For any work done prior to 1998 where the County is unable to locate a permit, the presumption will be such work was originally permitted by the County, unless the County can establish otherwise.**

Maggie Castro, AICP, Planning Director, stated she would send the updated proposed language to Subcommittee Members prior to the next meeting.

Subcommittee Members agreed to hold a meeting on January 17, 2019.

Maggie Castro, AICP, Planning Director, advised Subcommittee Members that she sent a survey to other counties in regards to extending their notification boundaries when necessary. Santa Cruz County and Maricopa County do not extend their notification range. Navajo County, Pima County, and Coconino County have extended their notification boundaries when necessary. She stated staff would stop sending notifications past the 300 foot radius until a formal decision has been made.

MOTION (BRYANT/RICE) Continue the discussion concerning possible text amendments to the Yuma County Zoning Ordinance.

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

There being no further business to come before the Planning and Zoning Subcommittee the meeting was adjourned at 3:46 p.m.

Approved and accepted on this 17th day of January 2019.

Maggie Castro, AICP, Planning Director

DRAFT

AGENDA ITEM 3



MEMORANDUM

TO: Yuma County Planning and Zoning Commission Subcommittee

FROM: Maggie Castro, AICP, Planning & Zoning Director

RE: 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

DATE: January 10, 2019

This memorandum is to propose changes 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.

The proposed changes are shown below. Text that is proposed to be deleted is in ~~striketrough~~ format and new text is in **bold** font.

~~306.03—Certificate of Exemption~~

~~This Ordinance shall not prevent, restrict or otherwise regulate the use or occupation of land or improvements for railroad, mining, metallurgical, grazing, or general agricultural purposes if the tract concerned is five (5) or more contiguous commercial acres. However, property is not considered exempt from the Yuma County Zoning Ordinance or Yuma County Comprehensive Building Safety Code unless and until the Yuma County Planning & Zoning Division has issued a Certificate of Exemption for that property.~~

~~To secure a certificate of exemption, an applicant shall submit a Zoning Clearance Application, including site plans and other supporting documentation.~~

~~Only property classified by the Yuma County Assessor's Office or the Arizona Department of Revenue as property used for one of the purposes cited in the first paragraph of this section is eligible for exemption under this section.~~

~~If property that has been so classified is five (5) or more contiguous commercial acres, and is used for an exempted use, the property shall be exempted from the Yuma County Zoning Ordinance and/or Comprehensive Building Safety Code, unless the Planning Director determines that all or part of the property is not used primarily for one (1) or more of the purposes listed in the first paragraph of this section.~~

~~Any structures built under an exemption that do not meet the underlying zoning district and/or building safety standards may be required to comply with said standards if, at a future date, the exemption is no longer applicable.~~

~~If the Planning Director finds that all or part of the property is not used primarily for agricultural purposes as identified in this section, the property will no longer be exempt and shall be subject to the requirements of this ordinance. Any structures built under an exemption that do not meet the underlying zoning district and/or building safety standards may be required to comply with said standards if the exemption is no longer applicable.~~

Section 309.00--Permits

C. Exemptions

The following land uses shall be exempt from the permit requirements as stated in Subsections A and B above, unless the property at issue is located in a special flood hazard area, in which case these exemptions do not apply:

- ~~1. Farm uses and land primarily used for agriculture as identified in Section 202 of this ordinance.~~
2. Excavation for installation of septic tank systems under the control of Department of Development Services or grading permits issued by Yuma County Flood Control Division.
3. Fences six feet (6') or less in height designed primarily to enclose the perimeter of a lot, wholly or partially.
4. Utility structures covering a well or pump, providing the structure is used only for a covering well and pump, utility poles or structures supporting utility lines, excavation for installation of underground utilities, transformer enclosures or pad-mounted transformers, or sewage treatment plants under the control of the Arizona Department of Environmental Quality.
- ~~5. Railroad, mining, metallurgical, grazing or general agricultural purposes, if the tract concerned is five (5) or more contiguous commercial acres (Arizona Revised Statutes, Title 11, Chapter 6, Article 2).~~
- ~~6. Agricultural composting, if the tract is five (5) or more contiguous commercial acres. (Arizona Revised Statutes, Title 11, Chapter 6, Article 2).~~

D. Permits In Flood Hazard Areas

Yuma County Floodplain Regulations require a floodplain use permit for any development within Special Flood Hazard Areas as defined by Yuma County Floodplain Regulations Sec. 3.2. Requirements regarding land use permits for property located within a special flood hazard area may be obtained at the Yuma County Department of Development Services – Engineering Division. Additional information may be located under Arizona Revised Statutes, Title 48, Chapter 21, Article 1.

E. Permit Revocation

1. The Planning Director may revoke any permit or other authorization granted under this Ordinance for:
 - a. Failure to comply with the provisions of this Ordinance or the terms and conditions of the permit or authorization;
 - b. False statements or misrepresentations made in securing the permit or authorization; or, if the permit or authorization was mistakenly granted in violation of applicable State or local law.
2. Before revoking a permit or other authorization, the Planning Director shall give the holder of the permit or authorization ten (10) days written notice of intent to revoke the permit or authorization. The notice shall state the reasons for the intended revocation and state that the holder may have an informal hearing on the intended revocation before the Planning Director. On revoking a permit or other authorization, the Planning Director shall give the holder of the permit or authorization a written notice of the revocation and the reasons for it. The holder of a revoked permit or authorization may, within ninety (90) days after the revocation, submit to the Planning Director a written request to reinstate the revoked permit or authorization. On determining that the conditions justifying the revocation have been eliminated and that the development fully complies with all applicable requirements of this Ordinance, the Planning Director may reinstate the permit or authorization.
3. A copy of all correspondence to the permit holder under this Section regarding possible revocation shall be copied to the parcel or lot property owner if different from the permit holder.

404.01--Application for Amendment or Change

F. Notice of Rezoning Application Acceptance

The Department of Development Services Planning Staff shall provide notice of the application's acceptance. The notice shall briefly summarize the nature of the proposed amendment, invite interested persons to review the application at the Department of Development Services and submit written or oral comments on the application.

Section 1201.00--Permits

Assessor, Arizona Revised Statutes, Title 11, Chapter 2, Article 9, Permits

D. If a person has constructed a building or an addition to a building without obtaining a building permit, a county shall not require a subsequent owner to obtain a permit for the construction or addition done by the prior owner before issuing a permit for a building addition, except that nothing in this section shall be construed as prohibiting the enforcement of an applicable ordinance or code provision which affects **an imminent danger to** the public health or safety. **The lack of building permits does not by itself constitute an imminent danger to the public health or safety.**

1201.01--Zoning Inspector, Arizona Revised Statutes, Title 11, Chapter 6, Article 2, Permits

It is unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure within a zoning district covered by the ordinance without first obtaining a building permit from the inspector and, for that purpose, the applicant shall provide the zoning inspector with a sketch of the proposed construction containing sufficient information for the enforcement of the zoning ordinance. ~~No permit shall be required for repairs or improvements of a value not exceeding five hundred (500) dollars.~~ The inspector shall issue the permit when it appears that the proposed erection, construction, reconstruction, alteration or use fully conforms to the zoning ordinance. In any other case, the inspector shall withhold the permit, **except as follows:**

- A. No permit **is** required for repairs or improvements of a value not exceeding five hundred (500) dollars.
- B. The work does not involve an unpermitted detached structure that is not part of the proposed work.**
- C. The work does not involve prior work on the same structure by a prior owner and such work is not an **imminent danger** to the public health and safety.
- D. For any work done prior to 1998 where the County is unable to locate a permit, the presumption will be such work was originally permitted by the County, unless the County can establish otherwise.

Section 1208.00--Withholding of Permits

~~It shall be unlawful to knowingly petition for and/or obtain any permit which conflicts with or violates the provisions of any federal, state, county or local statute, ordinance, rule or regulation relating to, but not limited to health regulations or sanitary and wastewater facilities, fire, building, plumbing, electrical, mechanical codes; and drainage, Flood plain, or right of way encroachments regulations.~~

~~To provide for the enforcement of this section, the county shall withhold any permit for properties upon which a use of the property, building or any other structure does not meet the standards expressed in this section.~~

It is unlawful to erect, construct, reconstruct, alter or use any building or other structure within a zoning district covered by the ordinance without first obtaining a building permit from the inspector. The inspector shall recognize the limitations placed on the inspector's authority by Arizona Revised Statutes, Chapter 6, Article 1 and Article 2, and shall issue

the permit when it appears that the proposed erection, construction, reconstruction, alteration or use fully conforms to the zoning ordinance. In any other case the inspector shall withhold the permit.

1209.01--Commencement of Action and Notice of Hearing

A. Every action brought before the Hearing Officer for any violation of the Yuma County Zoning Ordinance shall be initiated by a complaint with the Hearing Officer by the Zoning Inspector. **An action before the Hearing Officer shall only be initiated upon:**

- i) **A signed written complaint submitted to the Zoning Inspector by a member of the public identifying the complete name of such person; or**
- ii) **The Zoning Inspector's own visual discovery of a zoning ordinance violation constituting an imminent danger. Alleged violations are to be independently verified by the Zoning Inspector.**

Whenever the Zoning Inspector files a complaint with the Hearing Officer, a hearing shall be held after serving notice of the hearing on the alleged violator.

B. Notice of the hearing and a copy of the complaint **together with a complete copy of the County's file substantiating the complaint** shall be personally served on the alleged violator at least five (5) days prior to the hearing. Service of the Notice shall be affected by delivering a copy of the notice and of the complaint to that individual personally or by leaving copies thereof at that individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

1209.05--Rules of Procedure

J. Any appeal arising from a decision of the Board of Supervisors shall be to the Superior Court of the State of Arizona. **The County's appeal of the Board of Supervisor's decision shall require the Board of Supervisors' express authorization for an appeal.**