

TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA 86331
(928) 634-7943 www.jerome.az.gov

AGENDA SPECIAL MEETING OF THE JEROME TOWN COUNCIL COUNCIL CHAMBERS, JEROME TOWN HALL MONDAY, SEPTEMBER 21, 2020 AT 10:00 AM

DUE TO PUBLIC HEALTH CONCERNS, IN-PERSON ATTENDANCE AT PUBLIC MEETINGS HAS BEEN SUSPENDED UNTIL FURTHER NOTICE.

Notice is hereby given pursuant to A.R.S. 38-431.02 that members of the Town Council will attend this meeting.

PUBLIC PARTICIPATION IN THE MEETING

Members of the public are welcome to participate in the meeting via the following options:

1. Zoom Conference
 - a. Computer: <https://us02web.zoom.us/j/9286347943>
 - b. Telephone: 1 669 900 6833 Meeting ID: 928 634 7943
2. Submitting questions and comments:
 - a. If attending by Zoom video conference, click the chat button and enter your name and what you would like to address.
 - b. Email c.gallagher@jerome.az.gov (Please submit comments at least one hour prior to the meeting.)

NOTE: FOR THOSE WITHOUT HOME INTERNET: A drive-up internet hotspot is now available in the parking lot in front of the Jerome Public Library. Bring your device and access the internet while sitting in your car. The network is **Sparklight Yavapai Free WIFI** and no password is required.

ITEM #1:	CALL TO ORDER/ROLL CALL Mayor/Chairperson to call meeting to order. Town Clerk to call and record the roll.	
ITEM #2:	POSSIBLE AMENDMENTS TO ZONING ORDINANCE Council will discuss with the Zoning Administrator and Town Attorney possible zoning ordinance amendments, including, but not limited to, amendments regarding setbacks, yard requirements and appeals to Council.	Sponsored by Mayor Alex Barber Discussion; Possible Action
ITEM #3:	WASTEWATER TREATMENT PLANT: AZPDES PERMIT Council will discuss with our engineers possible changes to the AZPDES permitting for our wastewater treatment plant in light of the new Federal Navigable Water Protection Rule (NWPR).	Sponsored by Mayor Alex Barber Discussion; Possible Action
ITEM #4:	ADJOURNMENT	

The Town Council may recess the public meeting and convene in Executive Session for the purpose of discussion or consultation for legal advice with the Town Attorney, who may participate telephonically, regarding any item listed on this agenda pursuant to A.R.S. § 38-431.03 (A)(3). The Chair reserves the right, with the consent of Council, to take items on the agenda out of order.

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that this notice and agenda was posted at the following locations on or before _____ on _____ in accordance with the statement filed by the Jerome Town Council with the Jerome Town Clerk.

970 Gulch Road, side of Gulch Fire Station, exterior posting case
600 Clark Street, Jerome Town Hall, exterior posting case
120 Main Street, Jerome Post Office, interior posting case

Rosa Cays, Deputy Town Clerk

Jerome Town Hall Located at 600 Clark Street, Jerome Civic Center

ITEM #2

POSSIBLE AMENDMENTS TO ZONING ORDINANCE



3101 NORTH CENTRAL AVENUE, SUITE 870
PHOENIX, ARIZONA 85012
(602) 772-5500 (O) • (602) 772-5509 (F)

WILLIAM J. SIMS, III
DIRECT: (602) 772-5501
WJSIMS@SIMSMACKIN.COM

TO: Mayor and Council
FROM: Bill Sims, Town Attorney
SUBJ: Lessons Learned from Recent Site Plan Review
DATE: September 16, 2020

A recent Site Plan review process raised a number of issues that provide a good opportunity to discuss amendments to the Town Zoning. Those issues include:¹

1. Does the Zoning Code require setbacks for access stairs?
2. How are front, side and rear yards determined for corner and other lots?
3. What role does the Planning and Zoning Commission (“Planning Commission”) have when reviewing Site Plans and what is the appellate process following action by the Planning Commission?
4. How does the appellate process for Site Plan decisions relate to other appellate processes in the Town Zoning Code?

Setbacks and Access Stairs

This was the issue that triggered this analysis. The issue arose because the Jerome Zoning Code grants the Planning Commission authority to review and approve Site Plans. Giving a planning commission final authority to take action on a matter is not customary. Typically, planning commissions only make recommendations to a city or town council for council consideration and action. Planning Commission recommendations usually involve zoning decisions, both text amendments and re-zonings. This distinction between planning commission recommendations and final actions impacts any appellate process because the process is different if the planning commission action is simply a recommendation and not a

¹ The Site Plan review process dealt with modifications to a structure. There was an appeal of the Zoning Administrator’s decision in that matter, but that appeal was withdrawn. As a result, this memorandum does not relate to any one fact pattern. Instead, it makes recommendations based on lessons learned.

final decision. Recommendations are not appealed; only actual decisions are appealable. This distinction is discussed in the last section of this Memorandum.

A recent Site Plan submitted to the Jerome P&Z Commission involved access stairs that protruded into the building setback. The Town's Zoning Administrator reviewed Section 502.H, the section that establishes the requirement for setbacks. That section contains confusing language concerning what is permitted and what is prohibited. For example, Subparagraph H.1. prohibits enlarging a building into open space surrounding a building, but that sentence goes on to say that the prohibition on the encroachment would only be effective if the encroachment is allowed by "regulations hereinafter designated" unless "otherwise specifically provided." The reader is left trying to apply a prohibition unless the prohibition is overruled by a regulation, a regulation that itself might be overruled by other unspecified provisions of the Town Zoning Code.²

Because Section 502.H.1 does not apply, the Zoning Administrator interpreted Section 502.H.3 as requiring a three foot set-back for fire escape stairs, but because that subparagraph does not require a set-back for access stairs, the Zoning Administrator determined that no set-back was required for access stairs. That was a reasonable interpretation. To avoid this result, some have argued that we should look to other, general provisions of the Town Code for guidance. For example, there are other provisions in the Zoning Code that allow the reader to interpret by reference. Section 502.A.2 provides that "[a]ny use that is not specifically permitted is hereby declared to be a prohibited use, except as hereinafter provided." Zoning regulations adopt this methodology because variances from use restrictions are strictly enforced to preserve zoning use restrictions. Trying to apply this to setback requirement by applying the reference to fire escape stairs to access stairs results in an unpredictable result. Does this mean that (i) because only fire escape stairs are authorized to be in a setback, access stairs are absolutely prohibited in the setback, (ii) because fire escape stairs are permitted with a three foot setback, access stairs would be permitted but with a three foot setback or (iii) because the provision does not require a setback for access stairs, access stairs would be permitted without any setback? Amending the Zoning Code to avoid this uncertain result is the best alternative.

Recommendation: Expressly authorize stairs in a setback but with a three-foot setback.

Front, Side and Rear Yards

The setback requirements for a lot depend on how the lot is situated. If the lot is a rectangular lot fronting on one street, the Zoning Code's definitions for front, side and rear yards

² Another complicating factor are inconsistent definitions. The term "building" probably did not include the proposed stairs because even though the term "building" includes "structures," the definition of "building" only includes structures that have a roof. The stairs do not have a roof. Under this reasoning stairs could be in the setback without any constraints.

can easily be applied and the setback requirements clearly established. It becomes more complicated if (for example) the property fronts on more than one street. In that case the current Zoning Code requires the same setback for both streets and suggests that there could be two front yards, leaving the location of a rear yard uncertain. Because the Zoning Code is not clear on this point, the P&Z Commission accepted the applicant's determination of front, rear and side yards. This should be addressed with a Zoning Code amendment.

Recommendation: Amend the definition of rear, front and side yards. There are two possible approaches:

(i) A generic statement for rectangular lots that requires a front yard along the shortest street frontage with the rear yard opposite the front yard. Each side yard would be perpendicular to the front and rear yards. For unusual shaped lots, the Zoning Code could empower the Planning Commission to determine which yards are front, side and rear yards applying the general guidance of the generic statement for rectangular lots. The Zoning Administrator has prepared depictions of other lot configurations that is attached as an exhibit. That exhibit could be included in the Zoning Code amendment showing how the general concept would be applied to other lot configurations; or

(ii) Allow the applicant to elect which yard is the front yard and which yard is the rear yard. Upon such election, the choice would be fixed.

P&Z Commission Role When reviewing Site Plans

Section 303.1.C of the Zoning Code requires a preliminary site plan to be submitted to the Zoning Administrator for review by the Building Inspector, Zoning Administrator and the P&Z Commission. Subparagraph E of that section requires the completed preliminary site plan to be submitted to the P&Z Commission for review and comment.

Section 303.2 establishes the process for final review and approval of a site plan. Subparagraph B of that section requires submission to the P&Z Commission for final review and approval. The criteria for approval are set forth in Section 303.2.A. Those criteria include compliance with the Zoning Ordinance, all applicable codes, and any conditions required by the Design Review Board and prior conditions required by the P&Z Commission at the preliminary site plan stage. This is key. The typical responsibility of the P&Z Commission is to make recommendations on all zoning ordinances under A.R.S. Section 9-462.04.A. The exception to that typical recommendation responsibility is to make decisions on actions based on explicit, delegated authority. That delegated authority is found in Sections 303.1 and 303.2 of the Zoning Code. It is under that authority that the P&Z Commission approved a recent proposal.

The site plan review provisions of the Town Zoning Code include a separate appeal process found in Section 303.3.D. That appellate provision is located under the Grading and

Excavation provisions and (as result) incorrectly appears to be limited to decisions related to Grading and Excavation. That cannot be what that provision meant. The Zoning Code should be amended to correct this error.

Recommendation. Any Zoning Code amendment should continue to confirm the unique, final decision-making authority of the P&Z Commission for site plan approval but distinguish that authority from the more typical recommendation powers of the P&Z Commission. The site plan appellate process provisions must be clarified so that the appellate process applies to all site plan decisions, not just grading and excavation.

Zoning Code Appellate Provisions

The Town should the recent Site Plan matter as an opportunity to review the various review and appellate procedures in the Town Zoning Code. The following analysis compares the various appellate processes under the Zoning Code and suggests that the Zoning Code adopt more consistency.

Board of Adjustment (Section 105)

- The Board of Adjustment is clearly guided by statute (A.R.S. Section 9-462.06); as a result, its role and actions are understandable and consistently applied. The other review processes outlined below are not as clear.
- The BOA hears appeals of ZA decisions and requests for variances. Had the access stairs been clearly prohibited in setbacks, it would have been appropriate in the 639 Center Avenue Project to request a variance before the BOA.
- BOA decisions are then appealable to the Superior Court.

Conditional Use Permit (Section 302)

- P&Z Commission recommends an action on a CUP application
- Town Council reviews and approve or rejects
- Section 302.E.2 provides that any person may “appeal” the recommendation of the P&Z Commission.
 - The Zoning Code should delete the reference to “appealing” CUP recommendations because CUP recommendations are not final decisions and are not subject to appeal.
 - Section 302 technically allows any person in the world to appeal a P&Z Commission CUP recommendation. That provision should be modified to allow persons more directly impacted by the recommendation to provide input on P&Z Commission CUP recommendations. One option would be to use the 300 feet from the applicant’s property used for appeals to the Board of Adjustment as a model for determining who may provide input on P&Z Commission CUP recommendations.

Site Plan Review (Section 303)

- P&Z Commission makes final decision.
- May be appealed to Town Council
- Currently, the Zoning Code provides that any person “directly affected” by the Commission decision may appeal a site plan decision, but the term “directly affected” is not defined. A clear standard for determining who may appeal should be adopted. The 300 feet distance from the applicant’s property would be a consistent standard.

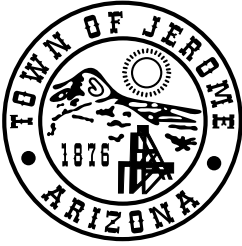
Design Review Board (Section 304)

- Section 304.F establishes the criteria for Design Review Board review.
- The Design Review Board evaluates a proposal and renders a decision under 304.F.5.
- The applicant may appeal a denial of the Design Review Board to the Town Council, but questions of esthetics or design standards are not appealable.
 - The esthetics and design standards exemption does not seem to make sense and should probably be deleted.
- Section 304.G also allows the Zoning Administrator to appeal a decision of the DRB to the Town Council and allows the Town Council on its own motion to review a decision of the DRB. Given how important design review is to the community, leaving these options for appeal to and review by the Town Council is probably a good idea.
- The appellate provisions for the Design Review Board do not allow any parties other than the applicant, the Zoning Administrator and the Town Council appeal or review. It might be a good idea to allow property owners within 300 feet from the applicant’s party to appeal a Design Review Board decision.

Not discussed in the analysis of the various options above are the deadlines for filing appeals. The filing deadline is imposed by both statute and the Zoning Code and is usually either fifteen or thirty days. A standard filing deadline would make the various appeal processes consistent. Thirty days is the deadline most often required, but Council could decide to have a fifteen-day appeal deadline. Additionally, Council may consider to authorize appeals from persons owning property more than three hundred feet from the subject property for specific issues, such as the Town’s historic character.

Enclosure (Lot Depictions)

cc: Manager
Zoning Administrator



TOWN OF JEROME

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RESOLUTION NO. 604

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF JEROME, YAVAPAI COUNTY, ARIZONA, INITIATING ORDINANCE AMENDMENTS REGARDING SETBACKS, YARD REQUIREMENTS AND APPEALS TO COUNCIL

WHEREAS, the Town of Jerome, Yavapai County, Arizona, is interested in amending Sections 201, 302, 303.2, 303.3, 304, and 502 of the Jerome Zoning Ordinance to address setbacks for stairs and to clarify the appeals process; and

WHEREAS, amendments may not be limited to the above sections and may include related changes in other sections of the Jerome Zoning Ordinance; and

WHEREAS, the Jerome Town Council has the authority to initiate amendments to the code under Section 301.A. of the Jerome Zoning Ordinance;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Jerome, Yavapai County, Arizona, as follows:

1. Amendments to the Jerome Zoning Ordinance regarding stair setbacks and the appeals process have been initiated by the Town Council in accordance with Section 301.A. of the Zoning Ordinance.
2. The Planning and Zoning Commission is hereby requested to develop an ordinance or ordinances to amend the Zoning Ordinance to address setbacks and yard requirements and to clarify and amend the appeals process, to conduct the required hearing(s) and Neighborhood Meeting(s) if needed, and to submit the ordinance or ordinances for Council's consideration no later than December 1, 2020.

APPROVED AND ADOPTED in open session of the Jerome Town Council on this 20th day of August, 2020.

Christina "Alex" Barber, Mayor

ATTEST:

Candace B. Gallagher, CMC, Town Clerk

APPROVED AS TO FORM:

William Sims, Town Attorney

ARTICLE I

ADMINISTRATION

SECTION 101. SHORT TITLE

This ordinance shall be known as "The Zoning Ordinance of the Town of Jerome".

SECTION 102. PURPOSE

The purposes of this ordinance are to secure safety from fire, panic, and other dangers; to provide adequate light and air; to lessen congestion in the streets; to prevent the overcrowding of land; to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to provide for the social, physical, and economic advantages resulting from comprehensive and orderly planned use of land resources; and to otherwise promote the health, safety, convenience and general welfare of the citizens of the Town of Jerome, Arizona.

SECTION 103. INTERPRETATION AND APPLICATION

In its interpretation and application, the provisions of this ordinance shall be held to be minimum requirements for the promotion of a comprehensive plan, and for the promotion of the public health, safety, and general welfare. It is not intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this ordinance, or with restrictions placed upon property by covenant, deed, or other agreement between parties, provided that where this ordinance imposes a greater restriction on land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this ordinance shall control.

SECTION 104. PLANNING AND ZONING COMMISSION

A. COMPOSITION; TERMS OF MEMBERS; VACANCIES; COMPENSATION OF MEMBERS

A Planning and Zoning Commission was established upon adoption of the Jerome Zoning Ordinance. At the adoption of this ordinance, the Commission shall consist of five (5) members, each of whom shall be a resident of the Town of Jerome, to be appointed by the Town Council. The members of the Commission shall serve for three (3) years, except as hereinafter provided. In the event of a death, resignation, or removal from the Commission, the vacancy shall be filled by the Council for the unexpired term. Members of the Commission may, after a public meeting, be removed by the Council for inefficiency, neglect of duty or unethical conduct in office. Three (3) absences without prior notification during a year from any regular or special meeting shall be grounds for termination at the will and pleasure of the appointing authority and such action shall be final. All members shall serve without pay. However, members of the Commission may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the Commission and approval of such expenditures by the Town Council.

[Ord. No. 313]

B. POWERS AND DUTIES

It shall be the duty of the Commission to formulate and administer any lawful plan duly adopted by the Council for the present and future growth and development of the Town of Jerome pertaining to the use of land and buildings for any purpose, to make or cause to be



Jerome Fire Department

P.O. Box 1025 Jerome, AZ 86331 Tel. (928) 649-3034 Fax (928) 649-3039
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2-5-19

It is the opinion of the Jerome Fire Chief that adding a second story to the existing garage, without providing for setbacks or separation, would worsen the Fire Department's ability to fight fire and protect other close-lying structures.

Rusty Blair
Jerome FD Chief



Jerome Fire Department

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2-8-19

Jerome Town Council
Planning and Zoning Commissioners
Jerome Town Manager
Jerome Zoning Administrator

Re: Accessory Building

Jerome has numerous areas where there are legal nonconforming accessory buildings already. These situations already add for continuous fuel loading, making it extremely difficult to manage fire in these areas. On 11-29-17 Jerome Fire Department responded to one of these areas, at 679 Verde St with multiple structures without any separation including an accessory building. Which could have been catastrophic to the town if we were not able to contain the fire to the one structure.

It is in the opinion of the Jerome Fire Chief that without regulating new accessory buildings or modifications to existing buildings by providing for setbacks and separation. It would worsen the Fire Department's ability to fight fire and protect other close-lying structures. With additional considerations for size, height, location and lot size.

Having accessory structures occupied as a residence without a separate address would restrict the Fire Department's ability to perform searches, rescue operations and the ability to finding the right structure. Also, if occupied without considerations for access to these structures, it would make it more difficult to manage an EMS event in these areas.

Rusty Blair
Jerome Fire Department
Fire Chief



Jerome Fire Department

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[A] **101.3 Intent.** The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises, and to provide safety to fire fighters and emergency responders during emergency operations.

[A] **102.1 Construction and design provisions.** The construction and design provisions of this code shall apply to:

1. Structures, facilities and conditions arising after the adoption of this code.
2. Existing structures, facilities and conditions not legally in existence at the time of adoption of this code.
3. Existing structures, facilities and conditions when required in Chapter 11.
4. Existing structures, facilities and conditions which, in the opinion of the *fire code official*, constitute a distinct hazard to life or property.

A] **110.1 General.** If during the inspection of a premises, a building or structure, or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the *fire code official* shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section, and shall refer the building to the building department for any repairs, alterations, remodeling, removing or demolition required.

[A] **110.1.1 Unsafe conditions.** Structures or existing equipment that are or hereafter become unsafe or deficient because of inadequate *means of egress* or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. A vacant structure which is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

503.2 Specifications. Fire apparatus access roads shall be installed and arranged in accordance with Sections 503.2.1 through 503.2.8.

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm), exclusive of shoulders, except for *approved* security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

503.2.2 Authority. The *fire code official* shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations.

503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.



Jerome Fire Department

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Fire Code Official
Jerome Volunteer Fire Department

2-28-2019

Re: Expansion of Non-Conforming Building
701 Hull Road

The Jerome Fire Code Official has completed a life safety assessment of this project. The Fire Code Official developed his opinion of the hazards in this area. The town of Jerome has unique situations due to the density of structures, topography and age. Jerome was developed as a mining community during the time of horse and buggies without any Fire Code or Zoning requirements. Jerome was not designed with modern vehicles or fire suppression in mind. It has very narrow, winding streets (most of Jerome streets do not meet fire code requirements including Hull road), with limited building lots and at one time was densely populated. Throughout the years Jerome has had many major fires destroying large areas of the town due to the topography and density of the structures.

Jerome has many structures and accessory buildings that have no setbacks resulting in structures which abut each other and the public right of ways. This increases the typical hazards of fire suppression.

One of these situations was already brought to my attention regarding the property at 121 Third Street in Jerome. The owner requested the addition of a second story to a nonconforming building without any setbacks at which time I gave the same opinion regarding the fire hazards. Expanding the non-conforming building would lead to an increase in hazardous conditions of fire suppression associated with the building expansion. (see letter dated 5-30-18)

There are numerous structures in Jerome with these same nonconforming conditions. The town must consider that by allowing these nonconforming structures to expand their nonconforming situation exacerbates the dangerous challenges faced by the Jerome Volunteer Fire Department to fight fire under these conditions. The Fire Code official also expressed this opinion when the Town Council was reviewing accessory building heights. (see letter dated 2-8-19)

Rusty Blair
Fire Chief
Fire Code Official
Jerome Volunteer Fire Department



Founded 1876
Incorporated 1899

TOWN OF JEROME

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February 27, 2019

Town of Jerome, Fire Department
ATTN: Chief Rusty Blair,

Per your request, the following information is provided from the current Zoning Ordinance:

ARTICLE V - USE REGULATIONS

SECTION 505. "R1-5" ZONE, SINGLE FAMILY RESIDENTIAL

D. PROPERTY DEVELOPMENT STANDARDS

5. YARDS:

a. Front Yard:

1) There shall be a front yard of not less than ten (10) feet in depth except when the following conditions prevail:

A front yard is required equal to that established by any building within one hundred (100) feet on either or both sides of the lot. Where more than one (1) such building is within one hundred (100) feet of the lot then the front yard of the nearest such building shall be the required front yard of the lot, except that where the lot is between two such buildings, each within one hundred (100) feet of a lot, then the front yard of this lot shall be that established by a line joining the nearest front corner of the other such building. Nothing in the above shall require that a front yard in this district exceed twenty (20) feet.

2) Where lots have a double frontage on two (2) streets, the required front yard shall be provided on both streets.

b. Side Yard:

1) There shall be a side yard along interior lot lines of not less than five (5) feet in width.

2) Where a side lot line abuts a street, the side yard shall be considered a front yard for the purpose of determining width.

c. Rear Yard:

1) There shall be a rear yard of not less than twenty (20) feet in depth. Except where the rear lot line is in common with or separated by an alley from the side lot line of another lot, there shall be a rear yard of not less than ten (10) feet in depth.

2) Where the rear lot line abuts an alley, the required rear yard shall be measured from the center line of the alley.

Charlotte Page
Zoning Administrator
Town of Jerome



Jerome Fire Department

P.O. Box 1025 Jerome, AZ 86331 Tel. (928) 649-3034 Fax (928) 649-3039
e-mail: blair@jeromefire.us

March 4, 2019

As code enforcement officers we rely on our combined codes in order to make decisions regarding projects. The zoning code sets, lot coverage, setbacks, lot sizes, different zones, height of structures, determines whether it is a legal nonconforming structure and much more.

Fire Department codes dictate Fire Protection Systems, Building Services, Interior finishes decoration materials and furnish, Means of Egress, Fire service features, Fire Department access considerations, numbers of hydrants and distances from hydrants and much more.

Building code dictates how these projects are constructed.

All of these department's also rely on stamped architectural plans and engineers stamped plans to do their jobs.

When the zoning official states that they have a nonconforming situation that tells the fire code official that it does not meet the minimum zoning code standards for setbacks or other reasons.

The garage located at 701 Hull Rd is nonconforming issue is due to lack of setbacks. According to the zoning code states (See information sent to fire code official on 2-27-19 by the zoning administrator). This structure is bordered on 2 sides on one street. Which means it should have a set back of 10 feet on the front and the side of the street. The fire code official has not received any documentation regarding whether the structure does or does not fall within the town easement on Hull Rd, which already does not meet minimum Fire Code requirements of a 20 foot easement, grade or surface requirements.

As a fire code officer, trained professional firefighter and Fire Chief, I question any approval of the doubling the size of this structure. This already bad situation should it be allowed to be made worse by increasing the height of the structure from its current height to 19 feet would make it dangerous for Fire Department personnel fight fire in this area.

1. According to the Zoning Administrator this project does not meet current set back requirements.
2. Does not meet the minimum Fire Department access fire code requirements.
3. If made taller it would increase the collapse zone into the already noncompliant one lane street and would collapse closer to the structure on the downhill side.
4. Would increase the fuel load in this already nonconforming structure.
5. Make it extremely dangerous for firefighters to advances Fire Protection lines around the structure to the structure on the downhill side and the main structure.
6. Due to the topography in this area it would be difficult to formulate a different fire attack.

All of these considerations have been a part of the Fire Code Official formulating an opinion. All of these code officials Zoning, Building, and Fire Code Officers are supposed to work together in order to provide for life safety. This does not appear to be happening and should be reviewed.

Rusty Blair,
Fire Code Officer, Professional firefighter and Fire Chief.
Jerome Volunteer Fire Department



Jerome Fire Department

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The Fire Department did a life safety assessment of this project. This is how the fire code official developed his opinion of the hazards in this area. The town of Jerome has very unique situations due to its topography and age. Jerome was developed as a mining community during the time of horse and buggies without any Fire Code or Zoning requirements. Jerome was not designed with modern day vehicles or fire suppression in mind. It has very narrow winding streets (most of Jerome streets do not meet fire code requirements Including Hull road), with limited building lots and at one time was densely populated. Throughout the years Jerome has had many major fires destroying large areas of the town due to the topography and density of the structures.

Jerome has many structures and accessory buildings that have zero setbacks. This is already a hazards situation for the Fire Department. One of these situations was already brought to my attention on the property of 121 Third Street with the same situation with the owner wanting to add a second story to a nonconforming structure without any setbacks. At which time I gave the same opinion regarding this project (see letter dated 5-18-18). There are numerous structures around town with these same nonconforming conditions. The town cannot afford to allow for these nonconforming structures to expand their nonconforming situation which would make it more difficult for the Fire Department to fight fire in these areas.

The Fire Department as also weighed in on this subject when the council was reviewing accessory building heights.

Rusty Blair

Jerome Fire Department



Jerome Fire Department

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2-10-2020

Meeting in regards: 121 Third St, Jerome AZ

In attendance:

Mike Perry

Berry Wolstencroft: Building Inspector

John Knight: Zoning administrator

Rusty Blair: Fire code official

Kelly Foy: Property Owner

Meeting was to discuss possible second story addition on existing garage. Discussion was on design and setbacks required for the project. It was expressed by Rusty Blair Fire Code Official about the importance have setbacks on left the side of the structure next to 639 center street and other portions of the structure "Front and Back". That it should meet minimum setbacks according to the Town of Jerome's zoning code.

Rusty Blair

Fire Code Official



Jerome Fire Department

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6-23-2020

Regarding the project on Parcel 401-07-037 of turning a covered patio into a laundry room.

This would change the patio cover into a permanent structure that already does not meet setback requirements. In addition, the proposed project would require running electrical, plumbing, and natural gas into the structure. By adding these components to this structure, it would provide an ignition source. This is an already highly congested area with other structures and limited separation, providing for one continuous fuel.

If this structure is to be dismantled and rebuilt, it would be considered a new structure and would need to meet the setback requirements.

It is my opinion that this would increase fire potential, add to fuel loading, and would impede my ability to protect the other structures in this area.

Rusty Blair
Fire Code Enforcement Officer
Jerome Fire Department
Fire Chief

ARTICLE I ADMINISTRATION SECTION 101. SHORT TITLE This ordinance shall be known as “The Zoning Ordinance of the Town of Jerome”.

SECTION 102. PURPOSE The purposes of this ordinance are to secure safety from fire, panic, and other dangers; to provide adequate light and air; to lessen congestion in the streets; to prevent the overcrowding of land; to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to provide for the social, physical, and economic advantages resulting from comprehensive and orderly planned use of land resources; and to otherwise promote the health, safety, convenience and general welfare of the citizens of the Town of Jerome, Arizona.

Subject: RE: Foli app
Date: Tuesday, June 23, 2020 at 6:09:40 PM Mountain Standard Time
From: John Knight
To: blair@jeromefire.us
CC: Barry Wolstencroft
Attachments: image003.jpg

Rusty,

It previously went to DRB and was approved by them since she is just enclosing an existing 3 sided structure. The structure is very old and would be considered an existing, legal, nonconforming building.

The Code allows modifications to nonconforming structures provided they don't make it worse. Specifically Section 501.C.6 states that a nonconforming building may not be "...structurally altered during its life to an extent which would increase the discrepancy..." In other words, don't make it worse. The project does not make it any taller, bigger, or move it closer to the property line.

6. A nonconforming building may not be reconstructed or structurally altered during its life to an extent which would increase the discrepancy between the time of the adoption of this Ordinance and the standards prescribed by this Ordinance.

This is scheduled for P&Z next Wednesday and I'm writing the staff report tomorrow. If you want, we can take a look at it on Thursday or maybe Wed. afternoon. The P&Z has authority to decide if the project is increasing the discrepancy. They may decide that enclosing it increases the discrepancy.

We might want to take a look and see if there's anything they can do from a fire standpoint to improve the situation. Maybe we can have them put in a rated fire wall? This is probably worth looping in Barry as well. I've copied him on this e-mail. We were just there recently because she was proposing to fix the rear "guest house" structure that is dissolving into the ground.

Let me know your schedule Wed and Thursday.

Thanks,

john

John Knight
Zoning Administrator/Historic Preservation Officer
Town of Jerome
P.O. Box 335
600 Clark Street
Jerome, Arizona 86331
928-634-7943

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From: blair@jeromefire.us <blair@jeromefire.us>
Sent: Tuesday, June 23, 2020 5:48 PM
To: John Knight <J.knight@jerome.az.gov>
Subject: RE: Foli app

We should probably have a meeting on this one. Because it looks like she wants to build a new structure without any set back on the left hand side.

From: John Knight <J.knight@jerome.az.gov>
Sent: Tuesday, June 23, 2020 12:57 PM
To: Rusty Blair (blair@jeromefire.us) <blair@jeromefire.us>
Cc: John Knight <J.knight@jerome.az.gov>
Subject: Foli app

Rusty,

You probably reviewed this already but wanted to be sure you had it. This was approved by DRB but she pulled it before it went to P&Z.

It's scheduled for P&Z review on July 1st.

Thanks,

john

John Knight
Zoning Administrator/Historic Preservation Officer
Town of Jerome
P.O. Box 335
600 Clark Street
Jerome, Arizona 86331
928-634-7943

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Subject: RE: P&Z and DRB upcoming items

Date: Wednesday, July 22, 2020 at 8:32:17 AM Mountain Standard Time

From: blair@jeromefire.us

To: 'John Knight'

639 Center Street project will not meet the setback requirements and may exceed the 60% lot coverage allowed by the zoning code worsening my ability to fight fire and protect the surrounding area.

Rusty Blair
Jerome Fire Department
Fire Chief /Fire Marshall, Code Enforcement Officer

From: John Knight <J.knight@jerome.az.gov>
Sent: Tuesday, July 21, 2020 2:30 PM
To: Rusty Blair (blair@jeromefire.us) <blair@jeromefire.us>
Cc: John Knight <J.knight@jerome.az.gov>
Subject: P&Z and DRB upcoming items

A few items for you to review. P&Z is 8/5 so I need to have my staff reports done around next Wednesday. Let me know if any comments and I can add to staff report. The same items will be scheduled for 8/10 DRB.

1. 538 School Street – Bustrin – replacing rear stairs to school street.
2. 639 Center Street – Worth – small rear addition and front stairs.
3. 860 Hampshire – Chinander – rear deck (should have plans for this later today or tomorrow).
4. 3rd Street Wall – Schadegg – this was actually a code enforcement issue. The wall is already mostly done. Just has to go to DRB (no P&Z).

Please send me your comments. Worth has applied for a variance for the addition.

Thanks,

john

John Knight
Zoning Administrator/Historic Preservation Officer

Town of Jerome
P.O. Box 335
600 Clark Street
Jerome, Arizona 86331
928-634-7943

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Jerome Fire Department

P.O. Box 1025 Jerome, AZ 86331 Tel. (928) 649-3034 Fax (928) 649-3039
e-mail: blair@jeromefire.us

September 17, 2020

Jerome Town Council
Candace Gallagher, Town of Jerome, Town manager
Bill Sims, Town of Jerome attorney
John Knight, Zoning Administrator

Regarding 639 Center St.

On September 16th, 2020 I Fire Chief Rusty Blair, was asked by Kristian at the front desk at the Town of Jerome Town Hall to go preform a footing and plumbing inspection at this location. I was, and had been, covering for the building inspector on numerous occasions, having an extensive background in construction and concrete, while he was on vacation saving the town money. Upon arrival I found footings and plumbing to be satisfactory. However, I had given my opinion as to a four-foot by four-foot addition that would not meet the setback requirements and that it would worsen my ability to fight fires in that area. I explain to the contractor that I'd be willing to sign off on all of the footings in the area except for the four-foot by four-foot addition portion, which would be counter to my opinion set forth as Fire Chief and fire code official. I asked that he would bulkhead the area in question off and that I would sign off on the rest of project. He stated that he didn't need me to sign it now, that he would take pictures for the building inspector and was going to pour all of the footings anyway. I did sign off on the plumbing portion of the project. I did try to reach the building inspector Berry Wolstencroft but he was unavailable and did not answer either of his phones. I did reach out to John Knight the zoning administrator and told him then that I was unwilling to sign the four by four portion of the footings, because of the opinion I had formulated regarding to four by four addition. Mr Knight said he would take care of it. Mr Knight had stated that he was unsure if the property lines had even been moved yet to meet the setback requirements and if the backyard was considered the side yard. I explain that first off, I am the Fire Chief and Fire code official and could not sign off on something that was in contrary to the opinion that I had formulated regarding the four by four addition at 639 Center Ave.

RE: P&Z and DRB upcoming items



Wed 7/22/2020 8:32 P

639 Center Street project will not meet the setback requirements and may exceed the 60% lot coverage allowed by the zoning code worsening my ability to fight fire and protect the surrounding area.

Rusty Blair
Jerome Fire Department
Fire Chief /Fire Marshall, Code Enforcement Officer

From: John Knight <J.knight@jerome.az.gov>
Sent: Tuesday, July 21, 2020 2:30 PM
To: Rusty Blair (blair@jeromefire.us) <blair@jeromefire.us>
Cc: John Knight <J.knight@jerome.az.gov>
Subject: P&Z and DRB upcoming items

A few items for you to review. P&Z is 8/5 so I need to have my staff reports done around next Wednesday. Let me know if any comments and I can add to staff report. The same items will be scheduled for 8/10 DRB.

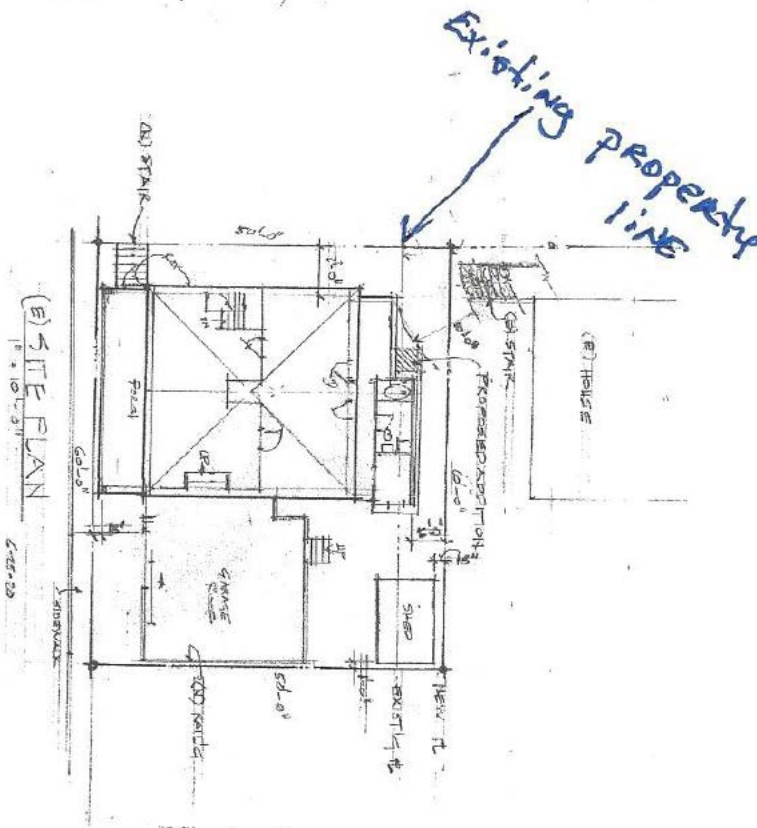
1. 538 School Street – Bustrin – replacing rear stairs to school street.
2. 639 Center Street – Worth – small rear addition and front stairs.



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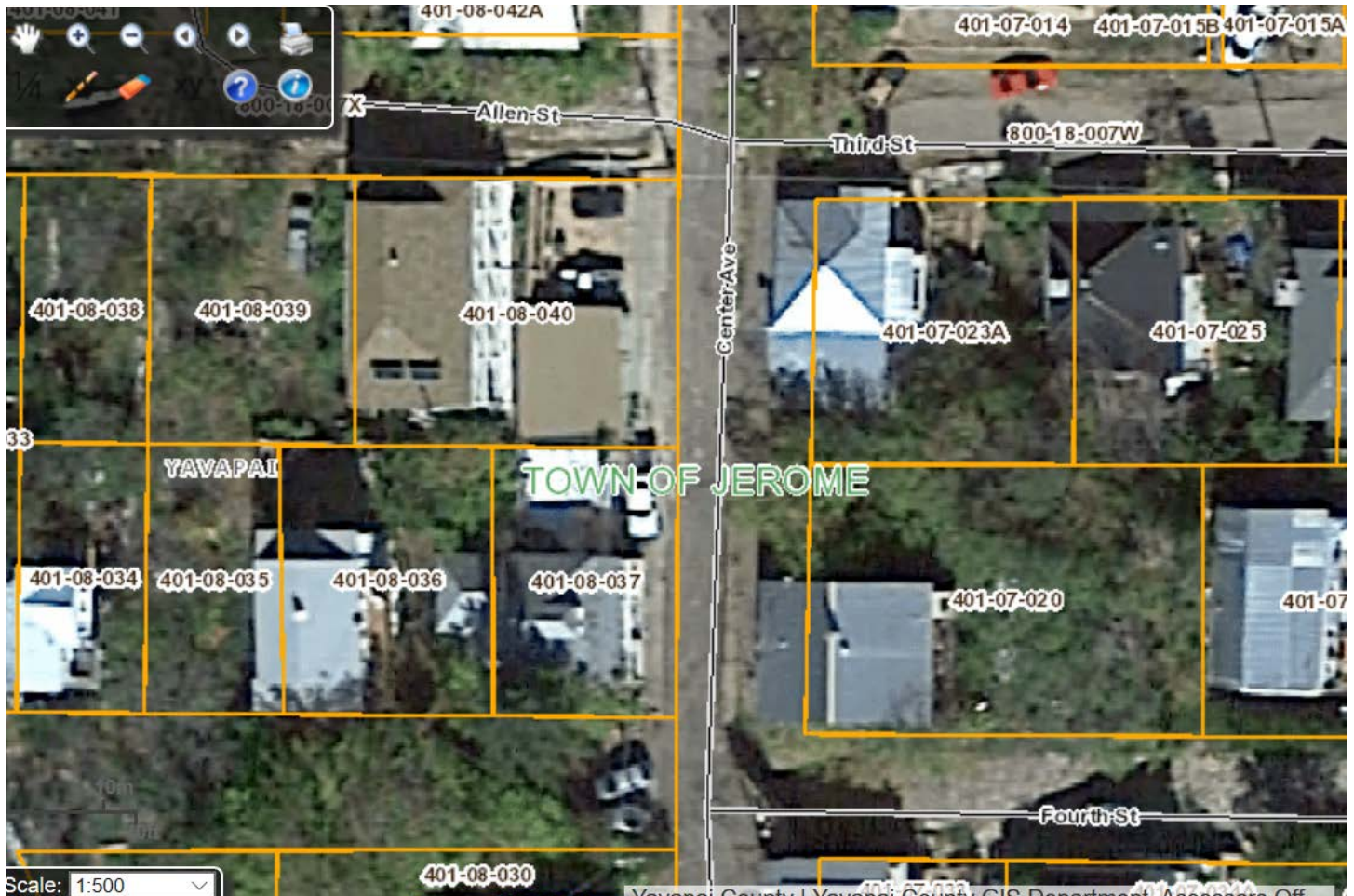
In July of 2020 I had a meeting with the zoning administrator, building inspector and the Worth's regarding to fourth street. During this meeting they asked me what my opinion would be regarding to a proposed addition. At this time, I explained to them that I would have to formulate the same opinion about this project as I did for any other nonconforming situation in the setbacks. There were three other projects that I gave the same opinion for, which was that their proposed nonconforming projects would worsen my ability to fight fire in the area and protect other structures. They were 235 Fourth St., 701 Hull Rd and 121 3rd St. which did not go through. These are projects I had become aware of either on my own or in the case of 235 Fourth St and this project (639 Center Ave) I was alerted to the project by the zoning administrator, who has now been instructed that they needs to bring every building project to my attention for review. Having given my opinion that the 639 Center Ave project is unsafe, I would be unable to change my opinion regarding that or any other nonconforming situation, if I were to sign off on a portion of an addition at 639 Center Ave. My primary job as Fire Chief is to protect my fire fighters, give them adequate access to fight fires in the area, and perform rescues and EMS in the area. Not to signoff nonconforming situations that would worsen my ability to fight fire in these areas and protect the residents of the Town of Jerome. Right now, the setbacks that are described in our zoning code are the minimum area in which I need to fight fire. With our topography and access problems in Jerome, switching around the front to the side or any other combination attempting to circumvent the setback requirements, without meeting the other set back requirements for the front, sides and back puts lives in danger. By lessening the setback requirements, it would endanger my firefighters and worsen my ability to fight fires in the Town of Jerome.





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e-mail: blair@jeromefire.us



Rusty Blair
Fire Chief, Fire Code Official

ITEM #3

**WASTEWATER TREATMENT PLANT:
AZPDES PERMIT**

From: Chris Montague-Breakwell montague-breakwell.chris@azdeq.gov 
Subject: Jerome WWTP and Waters of the US
Date: September 1, 2020 at 5:32 PM
To: c.gallagher@jerome.az.gov

CM

Hi Candace,

Good to talk to you today. Here's more detail regarding our discussion:

The Arizona Department of Environmental Quality's authority to issue permits like the permit for Jerome's wastewater treatment plant, AZPDES permit number AZ0021804, depends upon whether your facility discharges to a Water of the US (WOTUS). ADEQ completed a preliminary desktop screening review of your facility's discharges under the new Federal Navigable Water Protection Rule (NWPR). Based on our NWPR screening toolkit, we cannot definitively say your facility discharges to a WOTUS but we have determined that there is a risk of discharge. We'd like to meet with you to discuss that risk, learn more about your facility, and consider whether or not AZPDES permit coverage is appropriate.

If a pollutant is discharged to a ephemeral wash, gullie, ditch, canal, or other discrete, confined, and continuous conveyance that is not a WOTUS (e.g. a dry wash that isn't a WOTUS), and then that pollutant is later washed downstream to the Verde River, a WOTUS, through that conveyance by precipitation or other means, that qualifies as a point source discharge that requires an AZPDES permit. Again, we don't have evidence that pollutants from your facility are reaching the Verde River, so I can only speak here about the risk of that happening.

Where ADEQ cannot definitively determine if a discharge to a WOTUS occurs, but some risk of discharge exists, ADEQ will communicate that risk to the AZPDES permit holder and allow them to decide whether or not to continue permit coverage. Some factors to consider about your AZPDES permit coverage: AZPDES permit costs; potential federal or state liability for discharging without a permit associated with that discharge; risk that the NWPR rule could change, (either because of court decisions or a change initiated by EPA) which would necessitate a new permit, however issuance of a new permit can be more complex than reissuance of an existing permit.

Please let me know a time convenient for you to meet and discuss this matter. If you need any more information prior to that meeting please let me know.

Regards,

Chris Montague-Breakwell

Environmental Program Manager 2

Ph: 602-771-4162





Memorandum

Date: September 8, 2020

To: Henry MacVittie – Lead Operator, Town of Jerome
Candace Gallagher –Town Manager, Town of Jerome

From: Mike Krebs, PACE
Taylor Pierce, PACE

Re: Town of Jerome WWTP AZPDES Discussion Notes & Recommendation from 9/3/20 Meeting #B614

Following is a summary of our internal ADEQ AZPDES discussion and our recommendation.

1. Understand how ADEQ perceives the risk to the Town
2. Understand How ADEQ might determine if the AZPDES permit coverage is appropriate
3. Currently there are two potential pollutants that are in violation of permit limits:
 - a. Copper (In theory ADEQ has agreed to increase the limits due to translator study)
 - b. Ammonia
4. The Town needs to continue with the direction of the project to:
 - a. Determine best direction for the Town and the WWTP
 - b. Obtain necessary funding to support the project
 - c. Complete the design & construction improvements to provide better effluent water quality
5. Note: In May & June with estimated 50% of the pre-covid business opened the WWTP met the permit requirements as related to Ammonia. However, in July & August with estimated 70% of the pre-covid business opened the WWTP did not meet the permit requirements as related to Ammonia.
 - a. Improvements to the existing plant may require an update APP & AZPDES Permit
6. Perceived options to the Town as related to the AZPDES:
 - a. Keep AZPDES Permit and continue working towards meeting permit requirements
 - b. Eliminate AZPDES Permit continue to work towards improving the plant independent of ADEQ
7. Liability to the town on each option:
 - a. Keep the permit, will cost the Town annually and every five years with the renewal
 - i. Cost of the AZPDES Permit:
 1. Annual cost
 - a. ADEQ annual fee \$250.
 - b. Annual Permit Testing \$4,500
 2. Five-year cost
 - a. WET Testing \$3,500
 - b. Renewal fees
 - i. Engineer to assemble renewal application \$5,000-10,000

- ii. ADEQ Review fee \$15,000 (\$2,000 initial fee)
- b. Eliminating the permit
 - i. No Cost of Permit for testing or Renewal (as defined above 7.a.i)
 - ii. Risk of EPA changing the WOTUS program and Jerome falls back under the AZPDES permit requirement
 1. ADEQ could modify the permit requirements making them more stringent with a new permit vs renewal.
 2. Cost of new AZPDES permit:
 - a. Engineer & AZPDES fees approximately \$25,000
 - b. Annual & five year testing and renewal fees as described above
 - iii. Risk of potential pollutant from the Jerome WWTP being found in the Verde River (4 miles away).
 - iv. Other option is to develop a self-imposed testing protocol that may offset potential risk. Or two disposal options with reuse.

Recommendations:

Even though, there would be a significant savings with the elimination of the AZPDES Permit, it is PACE's recommendation that the Town maintains the current AZPDES permit for the time being for the following reasons:

- The AZPDES Permit provides a level of transparency to the community that the WWTP is being monitored by ADEQ. This minimize potential lawsuits and challenges from the public.
- The new Federal Navigable Water Protection Rule (NWPR) is currently being challenged in federal courts. The status of the permit should not be changed until the law is fully established and vetted through the court system.
- The facility is currently under careful supervision from ADEQ and the public because of the current poor effluent quality.
- The current permit limits are almost certain to be less restrictive than a new permit would be if the Town was required to reobtain a AZPDES permit for the facility.
- The Town has discussed the potential for reusing the effluent in the future. Reuse Infrastructure would allow the Town to established secondary disposal options such as infiltration basins or injection wells. The secondary disposal options would allow the Town to completely eliminate any discharges to the wash and thus eliminate the AZPDES permit.