



# TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA (928) 634-7943

## Regular Meeting of the **Planning and Zoning Commission** Wednesday, October 21, 2020, 6:00 pm **AGENDA**

*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: 9286347943
2. Submitting questions and comments:
  - a. If attending by Zoom video conference, click the chat button at the bottom of the screen, or raise your hand.
  - b. Email [j.knight@jerome.az.gov](mailto:j.knight@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**

**Item 2: Petitions from the public** — Pursuant to A.R.S. § 38-431.01(H), public comment is permitted on matters not listed on the agenda, but the subject matter must be within the jurisdiction of the commission. All comments are subject to reasonable time, place, and manner restrictions. All petitioners must fill out a request form with their name and subject matter. When recognized by the chair, please state your name and please observe the three (3)-minute time limit. No petitioners will be recognized without a request. The commission's response to public comments is limited to asking staff to review a matter commented upon, asking that a matter be put on a future agenda, or responding to criticism.

### **Possible Direction to Staff**

### **Item 3: Approval of Minutes** – Minutes of the meeting of September 16, 2020

### **Item 4: Election of Vice Chair** – Elect new Vice Chair to complete term of former Vice Chair Joe Testone **Discussion/Possible Action**

### **Old (continued) Business:**

### **Item 5: Initiate code amendments to allow mixed use in C-1 and possibly the Industrial Zone**

Applicant: Town of Jerome

Initiate updates to the Jerome Zoning Ordinance related to mixed use in the C-1 Zone and possibly the Industrial Zone. This could include but is not limited to horizontal and vertical mixed use and live-work units.

### **Discussion/Possible Action – P&Z Reso. 2020-16**

### **New Business:**

### **Item 6: Study Session on possible ordinance amendments including, but not limited to, amendments regarding setbacks, yard requirements, and appeals to Council**

Applicant: Town of Jerome

### **Discussion/Direction to staff**

### **Informational Items (Current Event Summaries):**

### **Item 7: Updates of recent and upcoming meetings** – John Knight, Zoning Administrator

- a. **September 21, 2020 Council Meeting** – Amendments to the ordinance regarding stair setbacks, yard requirements and appeals process.
- b. **October 5, 2020 DRB Meeting** – Design Review for Kelt stairs (665 Main Street) and Feher garage (11 Rich Street)
- c. **October 8, 2020 Council Meeting** – Zoning Administrator work priorities (recreational marijuana ordinance, code amendments/code enforcement, telecom ordinance, design guidelines, and small projects)
- d. **October 13, 2020 Council Meeting** – beekeeping ordinance, COVID-19 reopening, and recreational marijuana ordinance
- e. **October 14, 2020 Council Meeting** – Recreational marijuana ordinance

**Item 8: Potential items for Wednesday, November 18, 2020: Various code amendments**  
**Discussion/Possible Direction to Staff**

**Item 9: Adjourn**

The undersigned hereby certifies that this notice and agenda was posted at the following locations on or before 6 p.m. on \_\_\_\_\_

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 Clerk, Attest*

*Persons with a disability may request reasonable accommodations such as a sign language interpreter by contacting Town Hall at (928) 634-7943. Requests should be made as early as possible to allow sufficient time to make arrangements. Anyone needing clarification on a P&Z Commission agenda item may call John Knight at (928) 634-7943.*



# TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA (928) 634-7943

## Regular Meeting of the Planning and Zoning Commission Wednesday, September 16, 2020, 6:00 pm MINUTES

### 6:03 (0:09) Item 1: Call to order

Chair Jessamyn Ludwig called the meeting to order at 6:03 p.m.

Roll call was taken by Rosa Cays, Deputy Clerk. Commissioners present were Lance Schall, Chuck Romberger, and Henry Vincent. Also present were John Knight, Zoning Administrator, and Vice Mayor Sage Harvey.

### 6:04 (0:48) Item 2: Petitions from the public

Jerome resident Margie Hardie said that she had recently learned that other local municipalities had ordinances for community gardens, so perhaps Jerome should have one. Mr. Knight asked Ms. Hardie if she would forward copies of the ordinances if she had them.

### 6:05 (2:40) Item 3: Approval of Minutes: Minutes of the meeting of August 5, 2020

#### Motion to Approve the Minutes of August 5, 2020

Commissioner	Moved	Second	Aye	Nay	Absent	Abstain
Ludwig			X			
Romberger		X	X			
Schall	X		X			
Vincent			X			

### Old (continued) Business:

### 6:07 (4:23) Item 4: Work session on code amendments to residential lodging

Applicant: Town of Jerome

Updates to the Jerome Zoning Ordinance related to residential lodging. Updates may include but are not limited to the definitions for *boardinghouse*, *rooming house*, *bed and breakfast*, *hotel* and *motel*. Amendments may also include modifications to the permitting process for each type of residential lodging.

#### **Discussion/Table to next P&Z Meeting**

Mr. Knight read from his staff report and went through the definitions. He remembered a previous discussion about modifying the number of allowable rooms for a B&B from three to five and wasn't sure if there was consensus. He said boarding/rooming house ought to be removed from the list of definitions as they are antiquated terms. He said Windy Jones and Josh Lindner were on the call and that their project at the old Cuban Queen site would be the only one affected by this change; their project would then simply be considered a small hotel. Mr. Knight said that motel could simply be encompassed in the hotel definition.

Mr. Knight moved on to the permitting process. He said that a B&B is considered a conditional use, which is not enforceable per state law (included in the agenda packet), so the commission may want to change this. Mr. Knight said as a planner he does not want something in the code that is not enforceable. He said for the C-1 zone, he modified the definition of hotel/motel; he added B&B as a permitted use and modified the use of a residential building. Mr. Knight said the commission may want to look at B&Bs differently in the C-1 district than in the residential districts and perhaps get rid of the B&B definition altogether and simply consider it transient lodging, or a small hotel. In residential districts, Mr. Knight made B&Bs a permitted use to make it consistent with the state law requirement. He said it was up to the commission to take this on, or not, at this time.

Mr. Knight returned to his questions about the number of rooms for a B&B, and how B&Bs should be considered in the C-1 zone versus residential? Chair Ludwig recalled setting the number of rooms in a B&B to five so as not to go against what already exists (i.e., the Surgeon's House).

Mr. Knight said that was what he remembered but that both three and five rooms were discussed, and that Mr. Schall also had input in the last discussion. Mr. Knight again suggested taking the B&B definition out of the C-1 altogether.

Mr. Schall said he didn't want to make an existing B&B alter their number of rooms to go along with the code amendment. He said he agreed with the idea of eliminating B&Bs in the commercial zone (C-1) and to limit the number of B&B rooms in the residential zones to three or four. He pointed out that the Surgeon's House is in the C-1 and that currently, no B&Bs in residential areas have more than four rooms for rent.

Mr. Knight said that it varies from three to five rooms in other nearby jurisdictions, although it's a moot point because of the current state law. Discussion ensued about the B&B on East Avenue [Jerome Keep] and how many rooms they rent out. Mr. Schall said they're likely within the four-room limit.

Mr. Knight also brought up that the ordinance currently states that at a B&B, no more than one family can be lodged per day, which is unlikely now, so he removed it from the definition. Mr. Schall agreed, as did Chair Ludwig. Mr. Romberger said he believes it was meant to be one family per room to prevent unmarried couples from lodging together. Mr. Knight said he did not find this sort of restriction in other jurisdictions.

Mr. Vincent asked what would happen if someone wanted a B&B in the C-1 district.

Mr. Knight said it would be considered a small hotel, whether they serve breakfast or not. He said the definition of hotel may need to be expanded. (14:48) Jerome businessowners Windy Jones and Josh Lindner joined the discussion. Ms. Jones asked if the transient lodging definition had been determined.

Mr. Knight said they were getting close. He read the definition from another town's ordinance: "a building in which lodging is provided and offered to the public for compensation and which is open to transient guests." He said as it's currently written in the town ordinance, a B&B is not included in this definition, but if it is decided a B&B is basically a small hotel, they would have to remove that component from the definition.

Jerome resident Margie Hardie said what she understood was that Mr. Knight would classify B&Bs as a permitted use in the R-1 zone. Mr. Knight said it was proposed and brought up to P&Z at the last meeting but that it was open to discussion.

Ms. Hardie said that if B&Bs are moved from conditional to permitted use, the town will lose any oversight. She referred to a decision made in the past about the number of B&Bs being limited within a certain area to avoid oversaturation, and a conditional use permit (CUP) would help with this, but she wasn't sure of the legalities. She said when it comes to transient lodging, the town wants oversight of safety, managerial, and health/hygiene, and with permitted use, the town would not have this type of control. She presented a scenario and stated that parking would likely also become an issue. She urged the commissioners to consider this and keep B&Bs as a conditional use in residential areas.

Vice Mayor Sage Harvey suggested two commissioners should probably be recusing themselves from the discussion.

Jerome homeowner Suzy Mound said she agreed with Margie 100 percent that a B&B should remain a conditional use in residential areas. She said she doesn't want to lose the local feel within the neighborhoods or for B&Bs to become a free-for-all. She said if B&Bs are lumped in with transient lodging, then it just becomes a hotel in a residential area. She said a B&B is different in that the homeowner lives in the B&B and maintains and respects the neighborhood feel.

Mr. Schall said he agreed 100 percent with Ms. Mound, and that a B&B will always have an owner/host by the town's definition. The only B&B that would become a "hotel" would be in the C-1 zone. In residential zones, a B&B will always be just that, with an owner/host, an important aspect of keeping the feel and sense of place in Jerome neighborhoods. As for Margie's concerns, he understood and said control is good so "things don't go off the rails." He said vacation rentals are the issue and that it is preferred to have B&Bs in residential areas. The intention behind making B&Bs a permitted use is to make it more attractive to have one rather than a vacation rental. If a homeowner wants to monetize their home, the town has little control over them having a vacation rental or a B&B, but the preference is a B&B.

Mr. Knight said one thing determined before he became the zoning administrator is that all B&Bs, short-term rentals, etc., are all treated the same under state law. His goal was to bring the town code in compliance with state law, but if the state changes and gives control back to the towns, it may be easier just to keep B&Bs as a CUP. He said Sedona is requiring B&Bs and other short-term rentals to have communication/contact information on file and to be reachable 24/7. He said Jerome could probably do this, and he also made it clear that a CUP is not currently required for a B&B [due to state law].

Ms. Hardie brought up Proposition 207 [2006]. She said if the town were to lighten up restrictions, it would have a hard time returning to the restrictions in place now. She said she understands we can't regulate short-term rentals but doesn't think people look at our ordinance because of what the governor says and say they don't have to follow it. She also said she didn't agree with Mr. Schall about making it easier to set up a B&B, that it already is easy. Ms. Hardie said she sees no harm in keeping our ordinance the way it is, that it is valid. As examples, she said Ms. Jones and Mr. Lindner followed the town ordinance and got a CUP, as did another property owner in town within the last year, with no complaints. She said safety issues are what we need to worry about, especially if B&Bs are switched to permitted use. She said established B&Bs are not a concern; safety and control are her main concerns.

Mr. Schall said he could be convinced to leave the CUP process as it is and wasn't sure it could be improved or revised to align with state law. He pondered if the town will see an onslaught of B&Bs or vacation rentals and thought probably not.

Mr. Knight said if someone called him who wanted to set up a B&B and asked about a CUP, he would not "hide the ball" and go against state law.

Ms. Jones asked how town attorney Bill Sims feel about this.

Mr. Knight said he has discussed it with Mr. Sims that day, who agreed a CUP cannot be required for short-term rentals or B&Bs under current state law.

Jerome resident Suzy Mound said it was important for the town to remember that this "looming thing of Prop 207" is that once you have rules about your ordinances, you can't then adopt something that is more stringent. She shared an example of how this could happen. Ms. Mound said that if Jerome changes its ordinance, then the state changes their statute, then Jerome may not be able to return to its previous control and oversight pertaining to that ordinance.

Ms. Hardie agreed with Ms. Mound about Prop 207. She said she called Camp Verde's Planning Department, which has not been advised to change their ordinance (Bill Sims is also their town attorney, she added), regarding the use of B&Bs in the R-1 zone. She said if Mr. Sims isn't advising them to change their ordinance, why should Jerome?

Mr. Vincent asked Mr. Knight if Jerome's existing ordinance regarding B&Bs as CUPs in the R-1 zone is inconsistent with the state law.

Mr. Knight confirmed this, but also said that a good point was brought up about Prop 207. He said if the state law changes regarding short-term rentals, Jerome would have a difficult time adding restrictions if the ordinance is changed.

Mr. Vincent asked if the commission should confer with Mr. Sims about changing the ordinance to comply with state law.

Mr. Knight replied that he did have a discussion with Mr. Sims about it and that it's more a political issue than a zoning issue, but that if it's something the commission and Council want to keep in place (CUP), then the ordinance can stand as is. He said Mr. Schall brought up a good point: Why does a B&B require a CUP in the R-1 district but not a vacation rental?

Mr. Knight returned to his three questions for direction: 1) the maximum number of rooms for B&B; 2) does the commission want to change B&Bs in the R-1 zone from a CUP to a permitted use; and 3) how does the commission want to treat B&Bs in the C-1 district?

Mr. Schall said make the maximum number of B&B rooms four, that this is reasonable for houses in Jerome; leave the CUP in place for B&Bs in the R-1 zone; and in the commercial district just call it a hotel and get rid of the term B&B.

Mr. Vincent asked if someone wants a B&B in C-1, is it a permitted use?

Mr. Knight said he hasn't run into this in C-1 but said yes, it would be treated as a permitted use.

Mr. Vincent asked if this was enough information to move on to the next item. Mr. Knight said it ideally it would be nice to have a motion.

Mr. Schall stated a motion.

Ms. Hardie called out a point of order and said the agenda does not indicate action but simply discussion.

Mr. Schall changed his motion to direction to staff.

#### **6:47 (43:50) Item 5: Work session on code amendments related to temporary signs**

Applicant: Town of Jerome

Updates to the Jerome Zoning Ordinance related to temporary signs. Amendments may include but are not limited to the following types of temporary signs: real estate signs, contractor signs, political signs, temporary banners, and A-frame signs. Amendments may also include modifications to the permitting process for each type of sign.

#### **Discussion/Table to next P&Z Meeting**

Chair Ludwig clarified that this item was up for discussion and no action.

Mr. Knight said this was to address temporary signs and remove references to content in the ordinance. He mentioned the Federal Supreme Court case in Gilbert. He said all temporary signs need to be treated the same. He went over the maximum size criteria for this type of sign in the residential (6 sq. ft.) and commercial/industrial zones (8 sq. ft.). Mr. Knight also removed the definition for campaign/political signs and added a section addressing flags, verbiage he copied from the Gilbert code. He asked the commissioners to weigh in on sign walkers or wiggly inflatable guys (like at car sales lots).

Ms. Mound said Jerome cannot be compared to Gilbert and that we cannot have 6-foot signs in Jerome. She said they would be more like billboards in Jerome. She asked that they not be allowed in the residential zone.

Mr. Knight clarified that it is 6 square feet, not 6 feet. He referred to the 2-by-3-foot BLM flag on Clark Street.

Mr. Schall said the reason Gilbert came up is because of the recent federal court case. He said the town should prohibit sign walkers or inflatable signs; that flags should be added to the ordinance and limited to 6 square feet. He thought the number of signs should also be limited, but that limiting the total square footage to 6 feet would take care of that.

Ms. Hardie said one of the best things to do would be to look at Arizona revised statutes, and that it is the latest, best information. She agreed with Ms. Mound and said she was against "6-foot signs" and that her concern is getting good regulation on political signs. She said the commission could mimic the ARS except for the size, which would be her recommendation to keep Jerome on track.

Mr. Knight said the whole point was to remove any reference to content in the ordinance due to what happened in Gilbert. He also clarified that the size limit is 6 square feet, not six feet, and that the ARS Ms. Hardie referred to applies to political signs on public property, not on private property.

Mr. Knight clarified that the discussion was about regulating signage on private property.

Ms. Mound asked if people are putting up a sign, political or not, does it have to be on their own property? Can it be in the right of way (ROW) or on town property? She said she was concerned about signs in the ROW. She restated that what is being said is that signs on private property can be no larger than six square feet.

Mr. Knight said yes, what is being proposed is limiting the size of signs on private property.

Ms. Mound then asked if Jerome had rules in place regarding signs in or near the public ROW.

Mr. Knight said the sign cannot be a safety hazard; that political signs can be in the public ROW, per state law, but not if they are a safety hazard.

Mr. Knight read from the ARS that it is a Class II misdemeanor to "alter, remove, or deface" a political sign. Under state law, the town cannot remove a sign in the public ROW, and it can be up to 16 square feet in size, unless it is a safety hazard. Mr. Knight said he was not sure if this applied to 89A and that he would have to research this.

Ms. Mound then brought up flags in the residential area and the possibility of view obstruction or sound nuisance (i.e., flag fluttering in the wind) for people with hearing issues, and if flagpoles are allowed, the flag itself could block the view for residents who live above it. She said hanging a sign in front of the porch or in a window is fine and suggested eliminating flagpoles altogether; that blocking someone else's view would not be "neighborly."

Mr. Knight said flagpoles can be restricted by height and setback (like in other jurisdictions).

Mr. Schall said he agreed in large part with Ms. Mound. He suggested that the ordinance say that flags cannot be any taller than the owner's house.

Ms. Mound said she thought ten feet would be plenty high. Discussion ensued.

Chair Ludwig said she did not want sign walkers or inflatable signs.



Mr. Knight said he had enough to move forward and that he would need to schedule a neighborhood workshop.

#### **7:11 (1:08:04) Item 6: Initiate code amendments to allow mixed use in C-1 Zone**

Applicant: Town of Jerome

Initiate updates to the Jerome Zoning Ordinance related to mixed use in the C-1 Zone. This could include but is not limited to horizontal and vertical mixed use and live-work units.

##### **Discussion and possible direction to staff – P&Z Reso. 2020-16**

Mr. Knight said what initiated this discussion was a property owner who has a true, mixed-use building in the C-1 district (i.e., not a home occupation in a residential area). He said right now it is handled with a CUP, but mixed use is appropriate in commercial districts so perhaps it should be a permitted use. Mr. Knight then brought up possible restrictions, like percentage of mixed use, or prohibiting residential use at the street level. He asked if the industrial district should be included? Mr. Knight said he has been approached by the high school whose tenants/artists want to live/work there. He said live/work is a bit different than mixed use; that live/work is usually one person with a shop in front, home in back, for example. He said there are two types of mixed use: horizontal and vertical. He referred to Milltown in Flagstaff, a new mixed-use development.

Mr. Schall said mixed use in the industrial zone is acceptable and that mixed use in the commercial district is also acceptable. He asked if there was a resolution in the agenda packet and if it was time to make a motion.

Ms. Hardie declared point of order and that there is no action indicated on the agenda so no motion could be made.

Mr. Vincent said he supported mixed use in the commercial and industrial zones.

Mr. Knight asked if mixed use should be permitted or conditional in the C-1 zone. He said currently residential requires a CUP. Discussion ensued.

Mr. Knight asked a few more questions about allowable mixed use and live/work situations.

Mr. Schall said it would be hard to regulate diverse scenarios differently. Mr. Vincent pointed out there are already plenty of mixed-use examples in our community. Discussion continued and several examples of mixed use were listed (Turquoise Spider, Lola's House of Joy).

Mr. Knight said he would look at other jurisdictions and see how they handle it and define it.

Mr. Romberger said what "bad thing" would someone do who works/lives in the same place? He said he didn't know what restrictions would make it better or worse. Mr. Knight said perhaps it is not worth separating mixed use and live/work.

Ms. Jones suggested regulating the ordinance by saying "owner" or "operator." She liked the idea of mixed use in Jerome; that it was fitting and would keep artisans in the community. She asked what if a handicapped person owned a building and wanted a street-level residence? That perhaps conditional use should be part of the ordinance for this situation.

Chair Ludwig pointed out that if they could not make it upstairs to live, they would be hard pressed to make it upstairs to run their business.

Ms. Jones acknowledged this. She said their project (Cuban Queen) will have an ADA room on the street level, the second floor of the building.

Mr. Knight said the lodging and mixed-use ordinance amendments could affect the Cuban Queen project.

Ms. Hardie said Jerome has an abundance of mixed use. She said she was confused by the difference between live/work, mixed use, and what's already occurring. She said if the commission develops a specific use called live/work, it could affect parking in the commercial district. She gave an example of parking requirements for live/work. She said to please not ignore any CUPs on any level for any situation when it comes to live/work. She said the town wants to keep control of oversight, parking, and safety. Ms. Hardie asked what is changing about mixed use considering it is already in existence.

Mr. Knight said he would do more research, come back with definitions, and be better positioned to answer Ms. Hardie's questions. As for parking, in most jurisdictions, mixed-use developments are given a reduction in parking requirements. He said this would need to be considered as well.

Mr. Vincent said Jerome embraces mixed use in C-1 and doesn't necessarily need to be codified. He said the current ordinance would cover parking.

Mr. Knight said it seemed the commission wanted to go ahead, and he would come back with more information.

#### **7:32 (1:29:17) Item 7: Community Garden Design Update**

Applicant: Town of Jerome

Address: Middle Park

Owner of record: Town of Jerome

Zone: C-1

APN: 401-06-015

Update on the status of the Community Garden and various design features.

##### **Discussion/Possible Action**

Mr. Knight thanked Jerome resident Wendy Irving-Mills for her design of the community garden. He said most of the beds have been built and leveled and waterlines are going in, and that the beds will be filled in the next couple of weeks. He reminded everyone that the code does not require public projects to go through DRB/P&Z, but as a courtesy, they are presented to the boards to include them in the discussion.

Chair Ludwig thanked Ms. Irving-Mills for her design work.

Ms. Irving-Mills made comments about the fluidity of the plans, that beds can be moved or adjusted. For the shed, she said she is including translucent panels so natural light can shine in and electricity won't be needed. She said the door on the north elevation of the shed is a 4-foot door but that it can be changed to make room for shelving or storage on both sides of the door.

Praise and appreciation were exchanged about the work done on the garden.

Discussion moved to fencing and protecting the garden from javelina and deer.

Ms. Jones said Mr. Lindner would be bringing information to the next garden meeting about a natural product from Canada that protects and ages wood. Mr. Knight thanked them for their contributions to the garden and said the product was called Rugged Wood.

Ms. Hardie asked what the long-term administration of the garden will be.

Mr. Knight said the hope is to get the volunteers to take over and he would like to get a committee to take it on.

Ms. Hardie said she was curious about guidelines and an ordinance and responsibility and said the project was wonderful.

**New Business:** none

**Informational Items (Current Event Summaries):**

**7:42 (1:39:32) Item 8: Updates of recent and upcoming meetings** – John Knight, Zoning Administrator

- a. **August 31, 2020 DRB Meeting** – new sign for Wrenwood and Hawthorn (formerly Threads on Main) and SHPO discussion
- b. **Sept. 8, 2020 Council Meeting** – direction to pursue Certified Local Government (CLG) grant to prepare design guidelines
- c. **Special Council Meeting (date TBD)** – direction and discussion regarding stair setbacks, building setbacks, and the appeals process

Mr. Knight said the SHPO work session went well; that a CLG grant was discussed and approved to pursue by the Council and was submitted that day. He said a special council meeting on Sept. 21 at 10 a.m. will discuss setbacks and the appeals process. He said a recent appeal of the Worth project on Center Avenue revealed that the zoning ordinance was lacking in areas. He said Council will discuss this, then it will likely come back to P&Z for details and “heavy lifting.”

Mr. Vincent asked about the appeal that Ms. Hardie had filed after the P&Z decision on the Worth project.

Mr. Knight said that Ms. Hardie had withdrawn the appeal; Mr. Vincent asked why.

Mr. Knight said Mr. Vincent would need to ask Ms. Hardie. Mr. Vincent asked if it pertained to the upcoming code amendments being proposed.

Mr. Knight said it was related, but the issue or concern was really about the appeals process.

**7:45 (1:42:44) Item 9: Potential items for Wednesday, October 21, 2020:** Possible code amendments for stair setbacks, building setbacks, appeals process, residential lodging, temporary signs, and mixed use.

**Discussion/Possible Direction to Staff**

Mr. Knight said many of the items discussed this evening will likely be on the upcoming agenda, along with whatever Council decides regarding code amendments about setbacks and the appeals process, which needs work.

Mr. Vincent asked if there were any projects in the works; Mr. Knight informed him no.

**Item 10: Adjourn**

**Motion to Adjourn at 7:47 p.m.**

Commissioner	Moved	Second	Aye	Nay	Absent	Abstain
Ludwig	X		X			
Romberger			X			
Schall		X	X			
Vincent			X			

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
Jessamyn Ludwig, Planning & Zoning Commission Chair

Attest: \_\_\_\_\_ Date: \_\_\_\_\_  
Rosa Cays, Deputy Clerk







# TOWN OF JEROME

Post Office Box 335, Jerome, Arizona 86331  
(928) 634-7943

## **Zoning Administrator Analysis Planning and Zoning Commission Wednesday, October 21, 2020**

**ITEM 5:** **Initiate code amendment to allow mixed use in the C-1 zone**  
**Applicant/Owner:** Town of Jerome  
**Recommendation:** Approve Resolution 2020-16 to initiate the code amendment  
**Prepared by:** John Knight, Zoning Administrator

**Background and Summary:** On August 5, 2020, the Planning and Zoning Commission discussed the possibility of including mixed use within the C-1 zone. This item was further discussed at the September 16, 2020 meeting. At that meeting, there was some agreement that amendments should be made to the zoning ordinance. A resolution is attached for the commission's consideration, which initiates the ordinance amendment process.

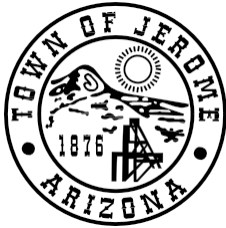
**Discussion:** In acknowledging mixed use in the zoning ordinance, the commission may want to consider the following items.

- 1. Permitted vs. Conditionally Permitted:** Should mixed use be allowed as a permitted use or through the conditional use permit process? There did not seem to be consensus at the previous meeting on this issue. One suggestion was to require a CUP if the residential use was at street level but allow residential as a permitted use if the use was above or below street level.
- 2. Percentage of Residential vs. Commercial:** Commercial uses should still be the primary purpose of the C-1 zone. Should there be a minimum or maximum amount of residential and commercial uses that would be appropriate? For example, would it be OK to have a ten-unit apartment project with a tiny retail space at the street level?
- 3. Industrial:** Should mixed use be allowed in the industrial zoning district? This primarily includes the old high school. Existing businesses at the high school have been interested in officially having residential incorporated into their studio spaces. There seemed to be some agreement that it should be allowed in the industrial zone. The commission may want to allow this in the industrial zone only as a conditional use to ensure that safety and compatibility concerns are properly addressed.
- 4. Parking:** How should parking be addressed for mixed-use projects? Most jurisdictions that allow mixed use provide a mechanism to reduce the parking requirements for mixed-use projects. The reduction is typically justified due to differing parking demands for residential and commercial. Reductions can range from 10 to 30 percent. In some cases, staff is authorized to provide a small reduction (10 percent, for example) but if the applicant wants a larger reduction, they are required to submit a parking demand study and have it approved by the P&Z Commission.

**Recommendation:** The commissioners ought to discuss the proposed changes and provide direction to staff on the questions raised above. If desired, the commission may wish to initiate the ordinance amendment by approving P&Z Resolution 2020-16.

**Attachments:** P&Z Resolution 2020-16





# TOWN OF JEROME

Post Office Box 335, Jerome, AZ 86331  
(928) 634-7943

## P&Z Resolution No. 2020-16

### Initiating an amendment to the zoning ordinance to allow mixed use

WHEREAS, the Town of Jerome is interested in amending Sections 201, 507, and 508 of the Jerome Zoning Ordinance to allow mixed use and live-work units in the C-1 zoning district and I-1 zoning district;

WHEREAS, amendments may also include, but are not limited to, changes to the definitions, list of permitted uses, list of conditional uses, and parking requirements;

WHEREAS, the Jerome Planning and Zoning Commission has the authority to initiate an amendment to the Jerome Zoning Ordinance; and

WHEREAS, the Jerome Planning and Zoning Commission is required to set a hearing date and provide public notice in accordance with Section 301.C. of the Jerome Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission of the Town of Jerome, Arizona, that amendments be made to Sections 201, 507, and 508 of the Jerome Zoning Ordinance to allow mixed use and live-work units in the C-1 and I-1 zoning districts;

BE IT FURTHER RESOLVED that a hearing will be held to discuss the proposed amendment, and that public notice regarding such hearing shall be given in accordance with Section 301.C. of the Jerome Zoning Ordinance.

ADOPTED AND APPROVED by a majority vote of the Planning and Zoning Commission on the 21st day of October 2020.

ATTEST:

APPROVED:

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Rosa Cays, Deputy Town Clerk

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Jessamyn Ludwig, Chair





# TOWN OF JEROME

Post Office Box 335, Jerome, Arizona 86331  
(928) 634-7943

## Zoning Administrator Analysis Planning and Zoning Commission Wednesday, October 21, 2020

**ITEM 6:** Study session on possible ordinance amendments including but not limited to amendments regarding setbacks, yard requirements, and appeals to Council

**Applicant/Owner:** Town of Jerome  
**Recommendation:** Discussion/Direction to staff  
**Prepared by:** John Knight, Zoning Administrator

**Background and Summary:** On September 21, 2020, the Council convened a special meeting to discuss proposed code amendments related to setbacks for stairs, yard requirements, and the appeals process. The results of the Council discussion are summarized in a memo from the Town Manager (attached) along with a memo from Town Attorney Bill Sims. Also attached are minutes from that Council meeting.

The Council has asked the Planning and Zoning Commission to work on the various amendments and forward their recommendation for final approval. The areas that the Council would like addressed are discussed below.

**Discussion:** The Planning and Zoning Commission should consider the following items:

1. **Setbacks for access stairs:** The zoning ordinance does not include a requirement for access stairs. Due to the topography in Jerome, stairs are needed to access the street or sidewalk for nearly every property in town. The Council recommended a five- (5-) foot setback. This is consistent with the setback required for a deck. Requiring the same setback for stairs and decks makes sense. However, when stairs access the right of way, they should be looked at differently. On many properties, stairs are needed right up to the edge of the right of way. Pictures of existing stairs are included in the agenda packet to help with the discussion. Issues for consideration:
  - a. **5-ft. Setback** – Is five (5) feet appropriate? Should it be 3 feet or more than 5 feet? Accessory features can project into the setback as long as 3 feet are maintained.
  - b. **Different Front Setback** – Should the front setback be different than the side and rear setbacks? If the side setback is maintained, can the front setback be less than five (5) feet to access the right of way?
  - c. **Landing** – Should a three- (3-) foot landing be required where the stairs meet the street? This would provide safer access if the stairway is gated.
  - d. **Fire Resistant Materials** – When stairs are in the front setback or are less than ten (10) feet from other combustible structures, should fire-resistant materials (such as concrete or metal) be required?
  - e. **Nonconforming stairs** – Should existing stairs be required to be upgraded to current standards when they are replaced/repaired?
  - f. **Ground-level stairs** – Should stairs level with the ground be treated differently than raised stairs? Many of the stairs in town are at ground level, made of concrete, and enhance access (refer to attached photos/examples of stairs in town).



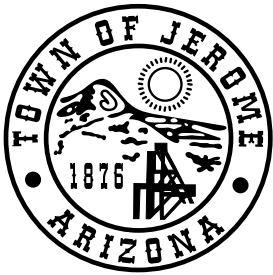
2. **Front, side and rear yards:** The unique lot shapes in Jerome often make it difficult to determine which yard is a side yard and which yard is a front or rear yard – see exhibit with examples of unusually shaped lots. The Council has requested input from P&Z on how to address this issue. Issues for consideration are noted below:
- a. **Applicant determination:** Should the applicant be able to determine which yard is their side yard, rear yard, and front yard? In previous discussions at the P&Z meetings, the commission agreed that the applicant should have a say in which yard is which.
  - b. **Rear yard required:** On unusual lots, such as triangular lots, should a rear yard be required? If lots have street frontage on both the front and back of the building, does one of the yards become a rear yard or are they both front yards?
  - c. **Double frontage lots:** On lots with two or more frontages, how should front and rear yards be determined? Since corner lots essentially have two front yards, which yard becomes the rear yard?
3. **Appeals process:** The code has inconsistent and sometimes confusing sections regarding appeals of the Site Plan Review and Design Review process. Issues for consideration:
- a. **Appeal distance:** Should an appellant be required to live within a specific distance in order to appeal? Many jurisdictions use a distance of 300 feet. Is this sufficient or should anyone that can demonstrate they are adversely impacted be allowed to appeal due to Jerome's topography?
  - b. **Appeal fees:** Should a fee be required in order to file an appeal? Most jurisdictions require a fee in order to appeal a P&Z or DRB decision.
  - c. **Appeal period:** How soon should an appeal be submitted after the board decision? Most jurisdictions require appeals to be submitted within 15 days of P&Z or DRB decisions. Flagstaff requires an appeal to be submitted within ten days. In some cases, a 30-day appeal period is used. These are typically appeals of administrative decisions and available only to the applicant, not an adversely affected party. The council recommended using 30 days for the appeal period.
  - d. **Building permit issuance:** Should applicants be allowed to obtain a building permit during the appeal process? Most jurisdictions do not issue a building permit or allow work to begin until the appeal period has ended. This protects both the applicant and the Town and ensures that work will not have to be reconstructed if the appeal changes the approval.
4. **P&Z role in reviewing site plans:** The current process for site plan approval ends at the Planning and Zoning Commission unless the item is appealed. The Council would like a role in larger or more complicated projects. They are specifically interested in reviewing projects involving nonconforming structures and new construction projects. The commission may want to break this into three separate categories for review. Things to consider:
- a. **Small projects - administrative review:** What projects should staff be allowed to approve administratively? These might include changes in paint colors, changes in roof materials (such as replacement of shingles with a metal roof), fences, and signs.
  - b. **Medium projects – Planning and Zoning Commission (or DRB) review:** For what projects should P&Z or DRB have the final approval authority? This could include new construction of accessory features, garages, or additions. Unless appealed, the decision would stop with P&Z or DRB.
  - c. **Large projects – recommendation by Planning and Zoning Commission:** What projects should be a recommendation by P&Z and DRB? These currently include conditional use permits (CUPs), amendments to the zoning ordinance, and rezones. Should this be expanded to include larger, new construction projects or projects with nonconforming situations?

**Recommendation:** The commissioners ought to discuss the issues above and provide direction to staff.

**Attachments:**

- Memo from Town Manager
- Memo from Bill Sims
- Minutes from September 21, 2020 Council meeting
- Photos/examples of town stairs
- Lot shape exhibit
- Appeals process in other jurisdictions





# TOWN OF JEROME

POST OFFICE BOX 335, JEROME, ARIZONA 86331  
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## MEMO

**FROM:** Candace Gallagher, Town Manager/Clerk  
**TO:** John Knight, Zoning Administrator  
Members of the Planning & Zoning Commission  
**CC:** Mayor and Council  
**SUBJECT:** Proposed Zoning Code amendments  
**DATE:** September 28, 2020

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On September 21, the Jerome Town Council convened a special meeting and discussed proposed zoning code amendments, as outlined in the attached memo from Town Attorney Bill Sims. They have asked me to forward the memo to you with the following comments relative to each section of Mr. Sims' memo:

**Setbacks and Access Stairs:** Council recommended a five-foot setback, and that stairs within that setback be approved only by variance.

**Front, Side and Rear Yards:** Council has requested a recommendation from the Commission in this regard in light of the unique types of parcels in the Town of Jerome.

**P&Z Commission Role When Reviewing Site Plans:** Council would prefer that all site plans be subject to final approval by Council, with recommendations from the Commission, except for smaller projects, which could be approved at the Commission level. In addition, any projects involving a nonconforming structure would come to Council for final approval. Council would like the Commission to determine what will constitute a "smaller project."

### **Zoning Code Appellate Provisions:**

- **Board of Adjustment:** Council recommends no change in this process.
- **Conditional Use Permit:** Council recommends that the reference to appealing CUP recommendations be deleted, as "recommendations" do not constitute final decisions.
- **Site Plan Review and Design Review Board:** Council has requested recommendations from the Commission in this regard, noting that:
  - Council was concerned that 300 feet (as the distance within which an affected resident must reside in order to appeal) was not inclusive enough, and the suggestion was made that we increase that, or include an exception where a resident can prove that they are directly affected by the project proposed, or where the town's historic character would suffer.
  - Council would like a consistent appeals process between P&Z and DRB. Three items were specifically discussed: (i) broadening the appellate rights concerning DRB recommendations to more than the applicant, the ZA and the Town Council; (ii) allowing esthetics and design standards to be considered as part of the appeal criteria and (iii) standardizing the appeal deadlines – Council's preference was 30 rather than 15 days.







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

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

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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:<sup>1</sup>

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

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<sup>1</sup> 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.<sup>2</sup>

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

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<sup>2</sup> 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

POST OFFICE BOX 335, JEROME, ARIZONA 86331  
(928) 634-7943

## MINUTES

### SPECIAL MEETING OF THE JEROME TOWN COUNCIL

HELD VIA ZOOM VIDEO CONFERENCE

MONDAY, SEPTEMBER 21, 2020 AT 10:00 AM

<b>ITEM #1:</b> <b>10:03 (4:46)</b>	<b>CALL TO ORDER/ROLL CALL</b>  Mayor/Chairperson to call meeting to order.  <i>Mayor Alex Barber called the meeting to order at 10:03 a.m.</i>  Town Clerk to call and record the roll.  <i>Town Manager/Clerk Candace Gallagher called the roll. Present were Mayor Barber, Vice Mayor Sage Harvey, and Councilmembers Mandy Worth, Jane Moore, and Dr. Jack Dillenberg. Also present were Town Attorney Bill Sims, Town Wastewater Operator Henry McVittie, Town Engineer Krishan Ginige, Mike Krebs of PACE Engineering, Chris Montague-Breakwell of ADEQ, Fire Chief Rusty Blair, Zoning Administrator John Knight, and Deputy Clerk Rosa Cays.</i>
<b>ITEM #2:</b> <b>10:04 (5:18)</b>	<b>POSSIBLE AMENDMENTS TO ZONING ORDINANCE</b>  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.  <i>(6:07) Town attorney Bill Sims clearly stated that this item was not about a specific matter, and if it were, Councilmember Worth would not be participating. He said the Council is to use that previous experience as guidance to amend the zoning ordinance and to address issues that have arisen. Mr. Sims repeated that the discussion is not about a specific project but to move on and learn from the project. He said he had talked to Mayor Barber and Councilmember Moore about things that need fixing in the ordinance; for example, the appeal process for a site plan review was not found in the code. Mr. Sims said he wanted to go through his four questions provided in his memorandum, included in the agenda packet, and that the goal for the session was to give guidance so the P&amp;Z Commission understands the Council's intent is and can come back to the Council with recommendations.</i>  <i>Councilmember Jane Moore brought up the definition for "setback (for access stairs)" in the ordinance, and pointed out that stairs fall under "Accessory features" and "Architectural features and details" (ordinance pages 38-39). She then referred to page 53 and fire escape stairs and what <u>can</u> be in a setback. Ms. Moore pointed out several inconsistencies in definitions throughout the ordinance that need to be revised. She said in some instances, stairs are the only access to a building, and those stairs must go to the lot line or the street. She said nonconforming buildings also come in to play with regard to setbacks. Ms. Moore said she doesn't see how the ordinance can easily be changed because so many references to stairs and setbacks need to be made consistent so that anyone reading the ordinance gets a clear definition. Setbacks and stairways are there for a reason: access and safety. Building and fire codes also need to be considered when it comes to setbacks.</i>  <i>Vice Mayor Harvey agreed that building and fire codes must be part of the review process. Mayor Barber also agreed that the town building official and fire chief should be part of the preliminary site plan review.</i>  <i>(13:48) Fire Chief Rusty Blair said the main issues that come into play are the nonconforming situations. He said anytime an applicant wants to infringe on an already nonconforming situation, there is an issue. He emphasized that fire is his main concern. The Chief said the building codes dictate how a project is built; the zoning ordinance protects the town [as far as parameters are concerned], and that minimum standards are not being met with some of the nonconforming projects. He talked about the confusion of defining front yards and backyards. Chief Blair said he researched setbacks in other local jurisdictions (Cottonwood, Clarkdale, Camp Verde) and shared some of those findings, but Jerome's topography determines what is uniquely best for the town. He shared statistics of fires on the hill versus on flat land, mentioned the 1928 Mexican Town fire as an example of how quickly fire spreads on a slope, and talked about other past fires and damage caused due to poor setbacks. He said the current minimum setbacks are very limited for the firefighters to work with. Chief Blair said current setbacks need to be addressed and wants to come up with a solution, especially in nonconforming situations, to make Jerome a safer community. He said minimizing setbacks is not the answer and that Planning and Zoning should be taking care of this before it gets to him; that code is already in place, and that in all of these nonconforming situations, it worsens his ability to fight fire and protect the community. He said applicants cannot circumvent the zoning code by redefining yards and that safety is the primary concern for Jerome's citizens.</i>  <i>Mayor Barber agreed that the Fire Chief should be a part of the site plan review process.</i>  <i>Councilmember Worth said she wanted to hear from the town attorney to get a synopsis and highlights of his memorandum.</i>  <i>(23:33) Mr. Sims said Chief Blair gave a good argument about public safety, but that the Council has the responsibility of protecting property rights under the US and Arizona Constitutions. He said we have a "collision" of protecting public safety versus property rights and a zoning ordinance that is "terrible"—the ambiguity needs to be cleared up. He said</i>

Ms. Moore gave a good example of how conflicted and incomplete the code is. He said the reason we have this issue is because the zoning ordinance is not clear on requirements for setbacks or access stairs. Mr. Sims offered a solution Council could recommend to the commission: in recognition of fire safety needs, prohibit structures in the setback and require a minimum of five feet. He said that if the ordinance had made it clear that stairs were absolutely prohibited in the setback, then a variance application would have been the logical next step for the homeowner. Mr. Sims went on to say that the town zoning ordinance is hopeless in defining yards. He suggested the Council provide a norm for front, back, and side yards, which would determine the setbacks based on the different yards. He asked if they would like the commission to come back with a recommendation or allow applicants to determine the yards.

Mr. Knight said Ms. Moore did a good job of pointing out the conflicts and ambiguities in our Zoning Ordinance. He said amending the ordinance will take time and be challenging, but ultimately it will help in clarifying the issues with setbacks and other features. He said Section 501 on nonconforming situations is clear. Mr. Knight went on to point out that the code generally allows a minimum of three feet of space between the property line and any structure, but that in some sections it refers to five feet [audio issues here] with allowances for refrigeration units, awnings, etc. He said he also wanted to talk about the appellate process.

Chief Blair said that a lot of Jerome stairs do end up in the setback because they butt against streets and sidewalks, and that between structures three feet is good. He said new structures need a five-foot setback, so ten feet between two new homes. He agreed with Mr. Knight about the setback allowances for awnings and such, but noted that Jerome's code cannot be compared to other towns' codes when it comes to setbacks. He talked again about the firefighting challenges in town and that he'll take as much setback as the code will allow without limiting homebuilders to 200 square feet. Chief Blair brought up stairs and the different kinds in town and said requiring noncombustible materials would be ideal.

Ms. Worth thanked Mr. Sims for his memo and for keeping the discussion cohesive. She went on to say that requiring three feet for a setback is the norm for stairs and suggested the commission delineate requirements for the rehabilitation of stairs for safety and to make the process of applying for a variance clear in the ordinance. Ms. Worth also suggested that required materials for stairs also be defined in the code.

Chief Blair said that regarding property addresses, the fire department has traditionally provided information to Yavapai County, APS, and Unisource so that they can all respond to an emergency in a unified manner. He said there is a process in place for addressing.

Ms. Moore said this will not be an easy fix and suggested continuing the item to another meeting or work session. She suggested Mr. Knight could go through the ordinance where stairs and yards are mentioned and list what needs to be changed. She sees exceptions to the rule for the town, but the ordinance needs to be clear for all applicants. Mayor Barber agreed with Ms. Moore.

Ms. Gallagher said her understanding was that Council was going to give general recommendations to P&Z, but if Council wanted to go through the nuts and bolts of it all, it was up to them. She deferred to Mr. Sims.

Mr. Sims suggested he go through the four points of his memo, and that his understanding was that Council would provide general guidance to the commission and let the Commission do the "heavy lifting"—or the Council could give more than general guidance. He then went through the memo points: 1) The zoning ordinance needs to make clear that there can be no impediment to safety in the setback; that it should be a minimum of five feet and subject to variance; 2) The code could have presumptions about front, back, and side yards on a rectangular parcel, and that for something more vague like a corner or odd-shaped lot, the commission could discuss and make a recommendation to the Council; 3) Clarify the role of the commission when reviewing site plans; he suggested they make recommendations to Council, rather than final approvals. Vice Mayor Harvey said she agreed with Mr. Sims.

Ms. Gallagher restated the question: Do you want the commission to continue making final decisions or do you want them to make recommendations and have the Council make the final decisions on all site plan reviews? Mayor Barber, Vice Mayor Harvey, and Dr. Dillenberg all said they wanted the commission to make recommendations. Ms. Worth said she needed more information to form an opinion.

Mr. Knight said if the P&Z is recommending on projects that go to Council, they may want to distinguish which projects, as the vast majority are small, like gazebos or a small addition. He pointed out that it will create more work for staff and create more time for the applicant to wait. He said for new construction he could see the Council wanting to make the decision.

Ms. Moore wondered if projects involving nonconforming buildings should go before Council as well. Mr. Knight said nonconforming buildings are almost always involved in Jerome.

Mr. Sims said the nonconforming statute exists to protect the property rights of someone who built something before the rules changed. He agreed with Jane that nonconforming projects should go before Council for final decision.

Mr. Sims referred to the list. 3) It was decided that site plans would come as recommendations to the Council; 4) the town code has no consistency for the appeal process—it needs to be fixed. He referred to page 4 of his memo. For the Board of Adjustment, the appellate process is guided by statute, so no need to make any changes to it. For Conditional Use Permits (CUPs), the process is schizophrenic in the code and CUPs are not subject to appeal.

The question is who should have the right to appeal decisions? Right now, the ordinance says anyone. The standard 300-foot limit may not work in Jerome and discussions showed an inclination to extend appellate rights within the jurisdiction if it concerns the town's historic status. He said guidance is needed here.

Vice Mayor Harvey suggested residents (or homeowners and tenants) of Jerome can appeal and to extend the deadline to appeal to 30 days instead of 15 days.

Ms. Worth pointed out that in Jerome, constituents can see and hear much further than 300 feet. She said the Council likely needs legal guidance on how to make the appeal process as inclusive as possible. Mr. Sims said he can easily do that but let the commission grapple with it first and come back with a recommendation.

Ms. Gallagher asked if the Council would want to make the site plan review and design review appeal process the same.

Mr. Sims pointed out in the DRB process that "ethics and design standards" could not be appealed, which does not make sense—that IS design review. He suggested Council go to the commission with a few parameters: do not leave the appellate rights open to the world and perhaps start with the 300-foot standard and customize it to Jerome. Or perhaps Council would like to leave it open so that anyone with a property interest can appeal; the question is how close they must live to the project in question.

Chief Blair pointed out that distance from a structure is tricky in Jerome (vertical distance? As the crow flies?) and that the definition would need to be carefully worded in the ordinance.

Dr. Dillenberg asked if any action needed to be taken in the ten minutes he had before having to leave the meeting.

Ms. Worth said she wanted to make sure residents who live just outside the town limits are not excluded from the appellate process. [audio issues here]

Mr. Sims said this needs to be specifically addressed in the code and that the commission can look at this. He opined that appellants should only be allowed to appeal based on impact to their property.

1:01:06 Jerome businessowner Windy Jones said she was concerned with setting the distance to a mile for someone to have the right to appeal. She said that from experience, this can end up with too many people involved who are not even directly affected by the appealed project. She suggested rather than a mile or the entire town, and that if 300 feet was not enough, perhaps set the distance to 500 feet.

Ms. Moore gave examples of where she was impacted by projects more than 300 feet from her property: the Eagle's Nest, though physically distant, is situated such that sound carries down the mountain to Ms. Moore's home because it is essentially above her property; when ADOT was working on the highway just below the Eagle's Nest, boulders tumbled down into her yard. She said the impact is different in Jerome because of how it's built and that sound carries.

Mayor Barber said Council is considering allowing all residents/business owners in Jerome to appeal because of how the town is stacked and the sound carries; Ms. Moore's examples pointed this out. The mayor said we cannot mirror other municipalities for this reason. She asked the councilmembers how they could move forward on this item.

Vice Mayor Harvey motioned to send this information to P&Z, have Ms. Gallagher clarify where the Council is going with the amendments, and see what the commission comes up with.

Discussion ensued about how to best word the motion. Dr. Dillenberg was willing to second the motion.

Mr. Sims asked for clarification on the number of days an appellant has to submit an appeal; councilmembers said they wanted it to be 30 days instead of 15 days.

Ms. Gallagher asked for clarification on several items to be outlined for the Jerome Planning and Zoning Commission. Regarding setbacks and access stairs: anything without a five-foot setback would require a variance; yards - have the commission come up with definitions for front, back, and side yards and present to Council; the commission will make recommendations for site plan reviews and any nonconforming situations, and Council will make final decisions.

Ms. Worth would like to see smaller projects continue to be handled by the commission. She named a few examples.

Ms. Gallagher asked for further clarification, then continued: The Board of Adjustment appeal process will be left as is; for CUPs, the reference to a CUP appeal will be removed from the ordinance since it is simply a recommendation from the commission and not subject to appeal; for site plan reviews, the commission will make recommendations, and the process should be consistent for P&Z and DRB appeals, with P&Z recommending who has a right to appeal without leaving anyone out whose property would be impacted.

Mr. Sims added that aesthetics and design should be appealable, and that the only person who can currently appeal a DRB decision is the applicant. He said the commission needs to discuss and change this.

Jane suggested that anyone who lived within 300 feet of a project, or whose property would be directly affected by it, would have the right to appeal a site plan review decision.

[Mr. Sims, Chief Blair, and Dr. Dillenberg, left the meeting at this time.]

**Motion to present the proposed ordinance changes to P&Z for their consideration and recommendation to Council**

COUNCILMEMBER	MOVED	SECONDED	AYE	NAY	ABSENT	ABSTAIN
BARBER			X			
DILLENBERG		X	X			
HARVEY	X		X			
MOORE			X			
WORTH			X			





Corner lot – wood stairs in street setback



Corner lot, concrete stairs by street and wood stairs to residence



Wood stairs directly off sidewalk



Corner lot – concrete and wood stairs in street setback





Concrete stairs in sideyard



Concrete stairs adjacent to street and in street setback





Deck and step adjacent to street



Corner lot with wood stairs in street setback



Concrete steps and deck in street setback



Wood stairs in street setback





Concrete and wood stairs in street setback



Deck and stairs in street setback



Wood stairs in street setback



Concrete stairs in side setback





Concrete stairs in front and street setback



Concrete stairs in street setback





Concrete stairs and wood handrail in street setback



Concrete stairs in street setback



Concrete stairs in street setback to wood stairs



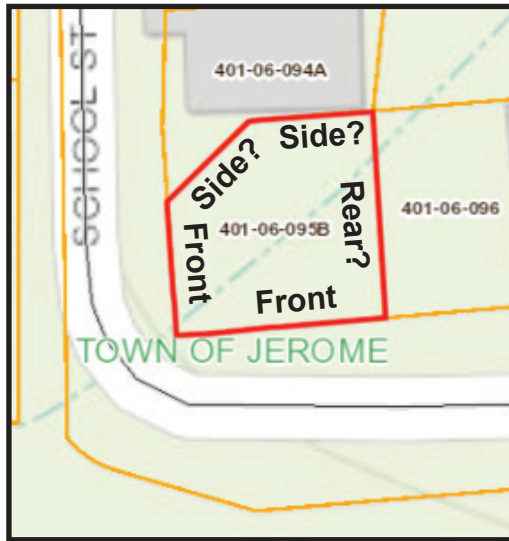
Concrete stairs in street setback to wood stairs



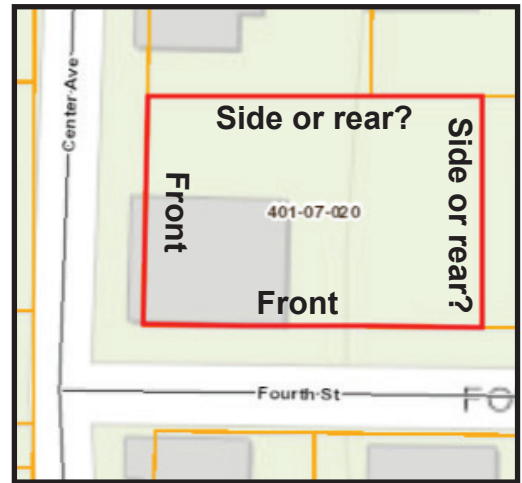


## Corner and odd shaped lots with setback questions

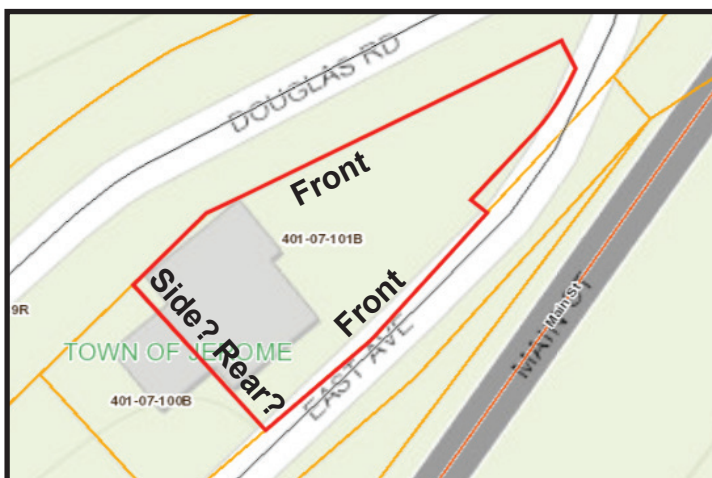
Example 1 - Odd Shaped Lot



Example 2 - Corner Lot



Example 3 - Triangular Shaped Lot



Example 4 - Odd Shaped Lot with double frontage



## Appeals Processes

Updated: September 29, 2020

Process (Code Section)	Time period	Who can appeal	Notes
<b>Clarkdale</b>			
Sidewalk Café Permit (4-0160)	15 days	Applicant	Decision by DRB and appeals go to Council
CUP Revocation (5-080)	15 days	Applicant	Decision by Planning Commission appealed to Council
Design Review (11-070)	15 days	Applicant or any council member	Appeals must be heard by Council within 60 days of the filing. Also requires payment of an appeal fee.
Site Plan Review (11-0100)	30 days	Applicant	Applications are done administratively, and appeals go to the BOA.
Preliminary Plat (12-043.H)	30 days	Subdivider (applicant)	Appeals must be heard by council within 30 days
Minor Subdivision (12-055)	30 days	Subdivider (applicant)	Appeals from the Subdivision Committee go to Council within 30 days
<b>Sedona</b>			
CUP (8.4.B(3)g.1.	15 days	Unclear	Appeals go to Council from P&Z.
Development Applications (8.3.H.)	15 days	Applicant or any member of the general public	Appeals go to Council. Burden of proof is on appellant. No building permit may be issued until the appeal period is completed.
Site Plan Review	30 days	Applicant	Applications are handled administratively and appeals go to BOA.
<b>Cottonwood</b>			
CUP (302.E.)	15 days	Applicant or any resident of Cottonwood	Appeals of P&Z decision to Council
Zoning Clearance (303.J.)	15 days	Applicant	Appeals go to BOA
Design Review (304.F.)	15 days	Applicant or any resident of Cottonwood	Appeals of P&Z to Council

Process (Code Section)	Time period	Who can appeal	Notes
Code Review (305.F.)	15 days	Applicant	Code Review Board appeals go to Board of Adjustment. This process replaces the Site Plan Review process and is handled administratively.
<b>Prescott</b>			
Site Plan Review & other Admin. Decisions (9.14.3.D.)	30 days	Unclear	Admin. Appeals go to BOA.
<b>Flagstaff</b>			
CUP (10-20.80.030.F.)	10 days	Any person aggrieved by the decision	P&Z appeal to Council
Admin Decisions (10-20.80.020)	10 days	Person aggrieved by the decision	Admin. Decisions go to BOA