MINUTES
REGULAR CITY COUNCIL WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS - YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
July 15, 2025
5:30 p.m.

DRAFT

CALL TO ORDER

Mayor Nicholls called the Regular City Council Worksession to order at 5:32 p.m.

Councilmembers Present:	Martinez, Morris, Smith, Morales, and Mayor Nicholls
Councilmembers Absent:	McClendon and Watts
Staffmembers Present:	Acting City Administrator, John D. Simonton
	Assistant Director of Planning, Jennifer Albers
	Director of Community Development, Alyssa Linville
	Deputy City Attorney, Rodney Short
	Various department heads or their representatives
	City Attorney, Richard W. Files
	Deputy City Clerk, Janet L. Pierson

I. PLANNING APPEALS PROCESS UPDATE

Albers presented the following overview of the City's current planning appeals processes, as well as various options and staff recommendations moving forward:

- Appeals
  - Types of appeals

Approval Body	Appeal Body
Zoning Administrator (DCD Director): Variance less than 10%, Zoning Interpretation	Hearing Officer
Minor Variance Committee (DCD Staff): Variance less than 20%	Hearing Officer
Design Historic Review Commission Aesthetic Overlay Design	PZ Commission
Hearing Officer	City Council as Board of Adjustment per ARS 9-462.06
Planning & Zoning Commission Preliminary Subdivision Plat Conditional Use Permit	City Council

    - A new state statute requires preliminary and final subdivision plats, as well as aesthetic overlay designs, to be approved administratively rather than through public hearings or commissions. The City is updating its code to comply with these changes by the end of the year.

- Who can appeal?
  - Appeal from City staff decision to Hearing Officer
    - Applicant
  - Appeal from Hearing Officer to City Council as Board of Adjustment
    - Person aggrieved or by any officer, department, board or bureau of the municipality affected by a decision
    - Arizona Revised Statutes (A.R.S.) § 9-462.06 (D)
  - Appeal from Planning and Zoning Commission to City Council
    - All decisions of the Planning and Zoning Commission are appealable to the City Council
    - Yuma City Code § 154-02.01 (J)
- Appeal Fees
  - Planning and Zoning Commission – no fee
  - Hearing Officer – no fee
  - Design and Historic Review Commission – no fee
  - Zoning Administrator
    - Appeal of Ordinance Interpretation – $328
      - Increased from $324 as of July 1, 2025, due to a cost-of-living adjustment
      - Only appeal fee called out in the Yuma City Code
    - All other decisions – no fee
  - Minor Variance Committee – no fee

- Process and Cost
  - For City Council to hear appeal as Board of Adjustment (A.R.S. § 9-462.06)
    - 10 days to submit appeal
    - Legal Stay in place
    - Public Hearing should be scheduled within 60 days
      - The statute does not identify a specific timeframe, only requiring that it is "reasonable"
    - Hire lawyer to act as Board counsel – minimum $2,000
    - Mailings to appellant and original applicant – $2
    - Legal advertisement – $117 to $205
      - Varies depending on the day of the week and the size of the advertisement
    - Site posting – $25 materials and staff time
    - Who may speak at a hearing – appellant and applicant
    - Time to speak – 10 minutes
      - Set by City Council
    - Who can appeal to the Superior Court – aggrieved or 300-foot neighbor
  - For City Council to hear appeal from Planning and Zoning Commission (City policy)
    - 10 days to submit appeal
    - Legal Stay determined by staff
      - Grading permit may be allowed depending on specific circumstances
    - Public Hearing should be scheduled within 60 days
    - Hire lawyer to act as Board counsel – minimum $2,000
    - Mailings to appellant and original applicant – $2
    - Who may speak at a hearing – appellant and applicant

DRAFT

        - Time to speak – 10 minutes each
- Comparison of other municipalities – appeal of a Conditional Use Permit (CUP)
    - City of Cottonwood
        - Who may appeal: the applicant or any resident aggrieved by the decision
        - Fee: $150 residential, $500 all others
        - Process: submit within 15 days, City Council to hold Public Hearing
        - Notification: same as original application
            - Legal advertisement
            - Mailing to neighbors
            - Site posting
    - City of Flagstaff
        - Who may appeal: any person aggrieved by the decision
        - Fee: $1,720
        - Process: submit within 10 days, City Council to hold Public Hearing
        - Stay: once appeal filed any action on the property is suspended
        - Notification: same as original application
            - Legal advertisement
            - Mailing to neighbors
            - Site posting
        - Who can be heard at the public hearing: any interested party
    - City of Surprise
        - Who may appeal: any person aggrieved by the decision
        - Fee: $250
        - Process: submit within 15 days, City Council to hold Public Hearing
- Considerations
    - These considerations are specific to Conditional Use Permits (CUPs) or other types of appeals, and do not apply to the Board of Adjustments actions for the Hearing Officer, which are governed by state statute.

CONSIDERATIONS	OPTION 1 – STAFF PREFERRED	OPTION 2	OPTION 3
Appeal Submittal	10 days	15 days	20 days
Who can appeal	Applicant, Person who commented at hearing or in writing	Applicant or 300-foot neighbor	Any aggrieved person
Fee amount	$2,300	10% of original fee CUP - Res: $45/Other: $141 VAR – Res: $20+/Other $80+	Prorate appeal fee in application fees CUP +$200/VAR +$115
Stay of activity	Grading only	None - Activity at risk	All activity stopped
When to schedule hearing	Within 75 days	Within 60 days	Within 45 days
Notice	Applicant and appellant by mail	Same as original: Site posting, Neighbors, Legal ad	Applicant and appellant by mail, Legal ad
Speak at Public Hearing	Applicant and appellant	Applicant and appellant / neighbors	Any person
Time to speak at Hearing	10 minutes each	10 min. each / 5 minutes	5 minutes

DRAFT

Discussion

- Appeal submittal
  - The appeal submittal deadline suggestions of 10, 15, or 20 days refer to business days, not calendar days. A 10-day deadline seems to be an appropriate and expeditious length of time. (**Mayor Nicholls/Morales/Smith/Morris/Albers**)
- Who can appeal
  - The term "aggrieved person" is used in the state statute and by other cities, but it does not have an established definition. Staff recommends narrowing potential appellants to the applicant or someone who has participated in the process. Anyone can submit a written comment, not just those living within 300 feet of a site. Options 1 and 2 can be combined. (**Mayor Nicholls/Morris/Smith/Albers**)
- Fee amount
  - A quick scan of other cities' processes and fee schedules was conducted, but a more detailed review is planned to ensure that the City's fees remain consistent with those of other communities throughout the state while also being appropriate for Yuma. (**Mayor Nicholls/Albers**)
  - Some communities may include the cost of a potential appeal in the application fee, which could explain why Flagstaff's fee is higher than those of other comparison cities. Staff recommended Option 1, where the appellant would bear the cost of the appeal. (**Morris/Albers**)
  - Option 1, which places the entire cost on the appellant, is unfair to those impacted by an action who might not have planned for such expenses. Option 2, charging 10% of the original fee, is insufficient to cover costs. Option 3, spreading the cost among all applicants, is potentially more reasonable but could still be burdensome. (**Mayor Nicholls/ Morales/Smith/Morris/Albers**)
  - A combination of Options 2 and 3, charging a percentage of the original fee that comes closer to covering the cost of an appeal but distributes it more equally across the different types of applications, could be a more equitable solution (**Mayor Nicholls/Morris**)
- Stay of activity
  - For a Board of Adjustments appeals, all activities are completely halted until the appeal is resolved. The staff recommendation for CUP and other appeals is to allow grading if there are no life, health, or safety issues. However, no other permitting actions can take place during this time. Option 2 would allow for activity to continue at the applicant's own risk. (**Morris/Albers**)
  - There may be political pressures on the City from applicants who have invested significant funds and do not want to delay development, but a disclaimer in the ordinance would mitigate liability. (**Mayor Nicholls/Morris/Morales/ Files/Albers**)
- When to schedule hearing
  - While 30 days would be ideal to avoid stagnating growth and construction, it may be challenging due to internal scheduling issues. Procedurally, 45 days is an acceptable timeframe, with a staff goal of achieving 30 days. (**Mayor Nicholls/Morris/Morales/ Albers**)

DRAFT

- Notice of hearing
    - Notifying only the applicant and appellant by mail, rather than reposting the notice to the public, would help keep the timeframe tight, as the appeal primarily involves these two parties. (**Mayor Nicholls/Smith**)
- Speaking at the hearing and time to speak
    - Similar to the notice for the hearing, limiting speaking time to the applicant and appellant makes sense to keep the process efficient, with 10 minutes allowed for each. (**Mayor Nicholls/Morris/Albers**)

Albers stated that a proposed text amendment would be brought back to the City Council after reviewing state law changes and their impact on the City's appeal processes. Changing fees involves a different process, including posting on the City's website and filing a Notice of Intent with the City Clerk's Office. The proposed schedule will be provided to the City Council once it is ready

II. REGULAR CITY COUNCIL MEETING AGENDA OF JULY 16, 2025

Resolution R2025-078 – Preannexation Development Agreement: 2150 RV Park, LLC (for the property located at 2150 W. 16th Street) (Plng & Nbhd Svcs/Cmty Plng)

Discussion

- The annexation process takes five to six months and may delay the applicant's connection to water or sewer, while a preannexation development agreement takes about two months. City Council may consider future annexation and incorporating other parcels along 16th Street to reduce the county island. (**Mayor Nicholls/Smith/Linville/Albers**)

Ordinance O2025-028 – Yuma City Code Text Amendment: Public Nuisances (amend Yuma City Code § 134-05 to include a defined procedure and standard for obtaining an Administrative Warrant to inspect or remedy violations of the Property Maintenance Code on private property that pose a danger to life or property) (Bldg Sfty)

Discussion

- An administrative warrant issued by a judge would be required to enter a property without the owner's consent. The Code Enforcement team would enter properties, taking proper safety measures and involving public safety assistance if needed. (**Smith/Linville/Files**)
- This ordinance aims to address nuisances affecting neighbors, such as vermin or noxious odors, not everyday property maintenance issues. Situations that would require an administrative warrant are rare, occurring about four times a year. (**Mayor Nicholls/Morris/Short**)

DRAFT

EXECUTIVE SESSION/ADJOURNMENT

Motion (Morales/Smith): To adjourn the meeting to Executive Session. Voice vote: **approved** 5-0. The meeting adjourned at 6:27 p.m.

_____
Lynda L. Bushong, City Clerk

APPROVED:

_____
Douglas J. Nicholls, Mayor

Approved at the City Council Meeting of:
_____
City Clerk: _____

DRAFT