

DRAFT

MINUTES OF THE REGULAR MEETING TOWN COUNCIL AD HOC UDO UPDATE SUBCOMMITTEE TOWN OF CHINO VALLEY

WEDNESDAY, JANUARY 29, 2020
3:30 P.M.

The Town Council Ad Hoc UDO Update Subcommittee of the Town of Chino Valley convened for a special meeting in the Council Chambers Conference Room, located at 202 N. State Route 89, Chino Valley, Arizona.

1) **CALL TO ORDER**

Chair Turner called the meeting to order at 3.33 p.m.

2) **ROLL CALL**

Present: Lon Turner, Chair; Cloyce Kelly, Councilmember; Corey Mendoza, Councilmember
Staff Joshua Cook, Development Services Director; Tom Armstrong, Planning and Zoning
Present: Commissioner

3) **APPROVAL OF MINUTES**

MOVED by Councilmember Cloyce Kelly, seconded by Councilmember Corey Mendoza to approve the January 15, 2020, special meeting minutes.

AYE: Chair Lon Turner, Councilmember Cloyce Kelly, Councilmember Corey Mendoza
3 - 0 PASSED - Unanimously

4) **OLD BUSINESS**

Mr. Cook reported that he was putting together a list of requirements from other Yavapai County communities for lot split and subdivisions as it pertained to the subdivision process. He was also working on the next section of the subdivision regulations dealing with street and lot design and standards. It would be presented at the February meeting.

5) **NEW BUSINESS**

- a) Consideration and possible action to approve proposed updated UDO Subcommittee charter.

Mr. Cook and Committee Members discussed and reviewed the following:

- The first time the sub-committee met was last June, and the committee set a specified time to regularly meet, which was the last Wednesday of each month. The date needed to be formalized through a vote of the committee.
- Committee members wanted to ensure that the meeting was held on the Wednesday that directly followed the second Council meeting of the month.

MOVED by Councilmember Cloyce Kelly, seconded by Councilmember Corey Mendoza to approve proposed updated UDO Subcommittee charter.

AYE: Chair Lon Turner, Councilmember Cloyce Kelly, Councilmember Corey Mendoza

3 - 0 PASSED - Unanimously

b) Consideration and discussion regarding public way.

Mr. Cook and Committee Members discussed and reviewed the following:

- When Mr. Cook was first hired, he drafted the new Unified Development Ordinance (UDO) language after discussions and confusion regarding public way, lot access and lot splits were expressed by Council members.
- Because the UDO already included the term easement for public access and street within the definition of street, the deletion of the term public way would clear up any confusion regarding the issue. Public way was an easement for public access, which was already defined in the Town's definition of street, and had standards on what a street was to look like.
- Staff recommended that the UDO be reviewed and any reference of the term public way be deleted. It could also be clarified that the public access referenced in the definition of street referred to any improvements required as a street. Public way was not mentioned in the current definition of street. Public way either needed to be added to the street definition or public way needed to be deleted when referenced. Public way and street were synonymous in the UDO.
- The committee discussed the term and definition of an easement as it pertained to subdivisions. Easements in a subdivision were meant for physical access to a lot from the public and everything about it was a street. Staff did not have issues with people creating private easements as their street, but the street should be improved for access to the public for medical access and to meet the minimum street development standards of the Town. Most other communities required similar or stricter standards than Town. Staff considered easements a street and should be handled like a street.
- Committee members questioned if there would be variation of standards that were dependent on the number of lots. Staff explained that there were communities that had different classifications of subdivisions and each had different specifications dependent on the number of lots.
- Other communities handled easements based on the parent parcel. If a parent parcel split, any future splits from the parent parcel were required to go through the subdivision process. Some communities required the subdivision process anytime an easement or street was used as public access. Cottonwood had similar but stricter standards than the Town.
- Committee members discussed current developing subdivisions and their road developments.
- The State Statute ARS §9-461.07 defined street as streets, highways, freeways, expressways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public access easements and rights-of-way. This was close to the Town's definition. In State Statute ARS §9-463.02 and the Town's UDO subdivision regulation, it stated: "Improved or unimproved land or lands divided for the purpose of financing, sale or lease whether immediate or future into four or more lots, tracks or parcels of land OR if a new street is involved, any

such property which is divided into two or more lots, tracks or lands or parcels of land or any such property, the boundaries of which have been fixed by....” was considered a subdivision. Those streets were part of a recorded subdivision plat because they should be going through the subdivision process.

- Committee members questioned the construction of a street designation for the subdivisions. It was not specified if a street should be compacted AB, chip seal, asphalt, or the curb and gutter requirements. Staff explained that the subdivision regulations defined the requirements. The committee would take what was not defined and create their own definitions for what they thought was appropriate. Staff explained that Title 9 gave towns the authority to define a street, subdivision, general plan and zoning and planning regulations. Title 11 dictated what the county could do, but did not dictate what towns and cities could do.
- Committee members were concerned that a property’s driveway could be considered a street, which would then have to be open to the public. Staff explained, in the instance of a flag lot, if the road was on private property it was not considered an easement or a street. Staff reviewed the difference between splitting a lot and creating a street as opposed to splitting a property and creating a flag lot. There was no difference between a public easement and a street and both should be treated the same. Staff also explained serial flag lots, which were three or four flag lots next to one another. This was not legal according to the UDO. Ordinance requirements specified that there needed to be 100 feet of lot frontage per each flag lot split.
- The current Ordinance lot design standards did not allow a lot to be created that was four times the length as it was the width, or a three to one ratio. Some lots in the Town that were created could have been denied and turned down if UDO standards had been followed. Staff discussed current areas that had been split incorrectly and then re-split, causing some current easement issues and questions encountered within the Town.
- Staff recommended writing standards for lot splits of one, two or three in a stair step fashion. Town should not prohibit people from splitting their lots, but there should be basic infrastructure and drainage design for the easement or street. There were issues with some current easements and property owners blocking off the easements from public access as years have passed. Without the proper improvements, rain can cause access issues to the public and emergency services and flooding of surrounding properties.
- Town should incentivize property owners to go through the subdivision route through the platting process. It should come down to economy of scale. The current UDO did not differentiate between a subdivision of 1,000 lots or 2 lots. The economy of scale or gradient scale would allow for different standards based on the number of lots or units.
- A required easement could be dedicated to the Town to be maintained by the Town or it could be a private street that was maintained privately. A private street could even be gated, but it would still have all required improvements and infrastructure. The person splitting the lots could be given the choice of keeping a private easement or dedicating the road to the Town.
- Staff explained that because the Town was rural, some rights-of-way standards might be able to be reduced. The UDO currently required 50 foot of right-of-way, which was two 12-foot lanes with the remaining portion dedicated to curb, gutter and sidewalk. Some portions of the UDO required the sidewalk to be separated from the street by a median and it had several standards for the median throughout. Staff thought that in a rural community, some areas, like arterials, needed sidewalks, but other areas did not.
- Committee members thought it was important for property owners to know the total financial investment needed to develop the road before it was dedicated to the Town. Staff explained that standards could be developed that were gradient and a point could be set where the Town would accept those as a Town dedicated right-of-way that would be Town maintained and it would become part of the subdivision plat. Committee members thought it was fair that the Town take over the maintenance if they are going to require a property owner to spend thousands on road development per the Town standards.
- Committee members questioned when the Town should assume that a lot would continue to be

split after the first split. Staff explained it could be specified in the UDO that any additional lots created from the original split would require an additional level or upgrade of infrastructure. Any property owner who wanted to split their property would be responsible for the upgrade. If the zoning allowed for a proposed split, the Town could not require a Planned Area Development (PAD). These were the type of regulations the Committee would be developing through the rewrite process. The Committee discussed different development standard options. Committee members thought the Wickenburg type standards might work for the Town.

- Committee members wanted the standards more cut and dry and thought there were too many references in the current UDO that left decisions up to the zoning administrator. Staff explained that the zoning administrator's job was to interpret the UDO. Staff explained that a zoning administrator should not be able to make certain determinations, for example, lot reduction setback requirements under special circumstances as was currently specified in the UDO, because staff did not have that legal authority. Special circumstances were not defined in the UDO. The only body that had the power to do that was the Board of Adjustment. If a person needed a variance for a setback, they would through the Board of Adjustment.
- Committee members discussed what constituted a special circumstance for zoning standard purposes. Staff explained that the Board of Adjustments could only handle zoning issues in regard to property setbacks, building heights, etc. and the zoning administrator could not make or expand a nonconforming issue. As an example, if someone had trees on their property that they did not want to cut down to get the required width of a required road, they would have to petition the Council for a special mitigation to the subdivision regulations. Staff explained that Town Council was the one that set policy, adopt code and set standards and staff did not have the legal authority to make a special circumstance decision. The only area of the UDO that provided any flexibility for the zoning administrator was in the PAD zoning because the applicant was the individual writing their own zoning ordinance for a particular property and the zoning administrator worked with the applicant on the terms of the PAD.
- Staff currently required people to do only what was required by the UDO, without variance or flexibility.
- Staff recommended leaving public way out of the UDO completely and bolstering and clarifying the easement and street definitions. Staff also recommended including in the last part of the subdivision regulations the stair step or gradient minor subdivision standards for streets similar to Wickenburg. Staff would email all the compiled information to the committee to be discussed at the next meeting to determine the proper language and organization of the text in the UDO. Staff had asked the Public Works Director to attend the meetings to assist the Committee in making informed decisions.
- Committee members discussed looking at future splits when writing standards but staff cautioned, that as the person enforcing the ordinance, anything that was subjective was an area to steer clear. Staff should not have to make a personal call as to the future intensions of an applicant. Committee members discussed whether someone who wanted to do a small split should be penalized for someone who wanted to do a big split in the future. It was a new buyer's responsibility to do due diligence to determine the requirements of any future splits.
- Committee members questioned requiring studies for a two-lot split because the cost was extensive for some studies, but staff thought that increased the value of the property because the cost of the studies was passed down to the next buyer.
- Committee members thought the Town needed to minimize the financial effect that the standards had on people who wanted to develop and split their property.
- Easements versus public access roads were discussed. Staff explained that some old easement road installations came down to the existing UDO requirements at the time of development. Staff was unsure when official planning started in the Town. For future development, the Committee agreed property access easements should now be considered streets and developed per Town regulations.

- The Committee agreed that the public way term was unnecessary and deleting it would clean up the Ordinance.
- Committee members questioned if anything that was stated during the public comment section by a local surveyor at the Council meeting, held the previous evening, regarding the lot split rules held any weight. Staff explained the person was misinterpreting the regulations because of one section. The section he used stated “Any such property, the boundaries of which have been fixed by a recorded plat.” The surveyor had explained this did not constitute a subdivision. Staff explained the section that was referenced was part of a longer sentence. It was a subdivision if two or more lots were created and a new street was created. The new street would be part of a recorded plat because it would be part of the subdivision process. It was misinterpreted by the citizen. Staff reviewed the actual regulation language again and explained the regulations needed to be taken as a whole, not in parts or pieces.
- Committee members questioned if the term easement should also be removed, but staff explained there were other types of easements and it was addressed in both the State Statutes and the Town’s existing street definition. Easements would be treated as a street until the Council approved amending the UDO to include the step or gradient levels.
- Committee members questioned what would happen if other areas in the county that had inferior road systems, were incorporated into the Town. Staff explained that any area that was annexed into a community required a majority of people voting for the annexation. The Town Council would have the ultimate authority to approve the annexation. Staff would question that approval of such an annexation because the Town did not have a property tax and dealt solely on sales tax. The properties would have been developed according to the County standards, which would mean they would all be on exempt wells and septic systems.
- Committee members discussed the issue of the Town having the inability to maintain the roads that were being dedicated by subdivisions. Staff stated the hope was to increase the sales tax with new business development and the possibility of an impact fee.
- Committee members discussed population growth, street maintenance and budgets, impact fees and fee calculations.
- Staff would work on removing the public way term from UDO and work on the grading scale for the different improvement levels to be discussed at the February meeting.

6) **ADJOURNMENT**

MOVED by Councilmember Cloyce Kelly, seconded by Councilmember Corey Mendoza to adjourn the meeting at 5:04 p.m.

AYE: Chair Lon Turner, Councilmember Cloyce Kelly, Councilmember Corey Mendoza

3 - 0 PASSED - Unanimously

Submitted: February 6, 2020.

By: *Erin Deskins, Deputy Town Clerk*

Approved: _____, 2020.