



AMD-22-02 PLAN AMENDMENT (TYPE IV) INDUSTRIAL ZONE RESIDENTIAL DWELLINGS ALLOWED WITH CONDITIONAL USE PERMITS

Supplement No. 01

Type of Action Requested

<input type="checkbox"/>	Resolution	<input type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	Formal Action	<input type="checkbox"/>	Report Only

Applicant:	City of John Day
Subject Property:	All GI and AIP zoned properties
Requested Action:	Text Amendment
Date Submitted:	July 14, 2022
Agenda Date Requested:	July 21, 2022
First Continuation Hearing:	August 23, 2022

1. PROPOSAL SUMMARY

The City of John Day is proposing amendments to the City of John Day Development Code (the “Code”) to clarify and refine land use regulations concerning residential dwellings in the General Industrial (GI) and Airport Industrial Park (AIP) land use districts. These Comprehensive Plan and Code Text amendments shall allow for Residential Uses (Household Living and Group Living) subject to a Conditional Use Permit issued by the Planning Commission through a Type III (Quasi-Judicial) Review as outlined in Code Section 5-4.4 - Conditional Use Permits.

2. APPLICABLE CRITERIA

This request is a legislative amendment to the John Day Development Code. The applicable approval criteria are found in section 5-4.1.050(G), which incorporates compliance with Statewide Planning Goals and the John Day Comprehensive Plan.

3. PLANNING COMMISSION CONSIDERATIONS

The Planning Commission’s review must focus on the relevant code criteria and follow the public hearing requirements for a Type IV Legislative Amendment under Section 5-4.7.020. The Commission should approve the request if it conforms to the approval criteria.

4. PUBLIC NOTIFICATION



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The City of John Day mailed public notice to affected property owners on July 1, 2022, and published a notice in the Blue Mountain Eagle on July 6, 2022, as required by the Development Code. Staff reports were made available for public inspection and sent to interested parties seven days prior to the hearing date.

5. HEARING CONTINUATION

Commission unanimously voted on July 21, 2022 to continue the hearing to August 23, 2022 at 5:00 pm, and to leave the record open for both written and oral argument.

6. RECOMMENDED AMENDMENTS

Exhibit C.1 is a revised draft of proposed Ordinance No. 22-201-12, which contains the recommended code amendments. These amendments have been revised based on additional written testimony received by the Oregon Department of Aviation (ODAV).

7. STAFF RECOMMENDATION (SUPPLEMENT NO. 1)

Staff recommends the following:

- 1) Commission enter into the record *Exhibit D. ODAV Supplemental Comments*, dated August 16, 2022.
- 2) The requirements for filing with the Federal Aviation Administration for proposed structures vary based on a number of factors: height, proximity to an airport, location, and frequencies emitted from the structure, etc. For more details, please reference [CFR Title 14 Part 77.9](#). ODAV recommends the inclusion of more restrictive parameters for residential use within AIP zoned properties, specifically:
 - a. Future development of land near or adjacent to Grant County Regional Airport / Ogilvie Field may be required to undergo aeronautical evaluations by the FAA and ODAV, if required under FAR Part 77.9 and OAR 738-070-0060. The aeronautical evaluations are initiated by the applicant providing notice to the FAA and ODAV to determine if the proposal poses an obstruction to aviation safety. Notice is to be provided in the form of FAA Form 7460-1, Notice of Proposed Construction or Alteration. The applicant must receive the resultant aeronautical determination letters from the FAA and ODAV prior to approval of any building permits.
 - b. The height of any new structures, trees, or planted vegetation shall not penetrate FAR Part 77 Imaginary Surfaces, as determined by the FAA and ODAV.
 - c. Any proposed external lights shall be designed as to not interfere with aircraft or airport operations.



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Recommendation (a) was included in the revised ordinance. Recommendation (c) was not included as it is already addressed in Code Section 5-2.5.070 Land Use Compatibility Requirements Section B. Outdoor Lighting.

- 3) Ordinance amended as follows:
 - a. Table 5-2.4.020 – Land Uses Allowed in Industrial Districts. New dwelling built in conjunction with a permitted commercial or industrial use is amended to indicate Conditional Use Permit *with Standards* (CU/S).
 - b. Section 5-2.5.060 – Procedures amended to include notice to FAA and ODAV for residential conditional use permits and development of land near or adjacent to Ogilvie Field.
 - c. Section 5-2.5.070 – Land Use Compatibility Requirements amended to include Section H. Structures, Trees and Landscaping to ensure they do not penetrate FAR Part 77 Imaginary Surfaces, as determined by the FAA and ODAV.

8. ADOPTION PROCEDURE AND FINDINGS

The following section shown in italics and boldface provides the decision-making criteria as required by John Day Development Code Section 5-4.1.050.G.

Decision-Making Criteria. The recommendation by the Planning Commission shall be based on the following factors:

- 1. ***Approval of the request is consistent with the Statewide Planning Goals;***

FINDINGS: Specific findings of compliance with statewide land use goals are addressed below.

Goal 1 – Citizen Involvement.

Finding: The Code establishes procedures for text amendments such as the subject proposal to implement Goal 1. The Code specifically calls for various forms of notice and public hearings. The City has provided the requisite notices and held the requisite public hearings to satisfy the Code and, therefore Goal 1. This criterion is met.

Goal 2 – Land Use Planning.

Finding: Staff is following the prescribed procedure for a text amendment to ensure adequate review of the proposed text amendment. This staff report identifies the basis for making a decision on the subject proposal pursuant to applicable code criteria.



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ODAV comments indicated the applicability of *Oregon Revised Statute (ORS) 836.608 Airport operation as matter of state concern* and *Oregon Administrative Rule (OAR) Chapter 660, Division 13 Airport Planning*. They requested these regulations be applied along with *Table 3-4: Compatible Land Uses per FAR Part 77 Surfaces and FAA Safety Areas* be applied to all land use decisions in the Airport Industrial Park. Staff has incorporated these comments into the recommendations.

Goals 3 and 4, Agricultural and Forest Lands

Finding: These Goals are not applicable as the proposed text amendments will not have any known impact on either Agricultural or Forest Lands.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces.

Finding: The proposed text amendments have no impact on Natural Resources, Scenic and Historic Areas, and Open Spaces. This Goal does not apply.

Goal 6 – Air, Water and Land Resources Quality.

Finding: The proposed text amendments have no impact to City regulations to protect air, water, and land resources. ODAV commented the proposed amendment would allow uses that may conflict with state aeronautical navigation regulations, including ORS 836.608 and OAR 660-013-0050. Staff have adjusted the recommendations and ordinance to take these impacts into consideration.

Goal 7 – Areas Subject to Natural Hazards.

Finding: The proposed text amendments have no impact on the City's ability to plan for natural hazards or do not otherwise amend the City's land use regulations governing natural hazards. This Goal does not apply.

Goal 8 – Recreational Needs.

Finding: The proposed text amendments have no impacts on recreational needs. Goal 8 does not apply.

Goal 9 – Economic Development.

Finding: The proposed amendments do not affect the City's supply of lands available for industrial or commercial uses or otherwise inhibit development of lands within the City for such uses. Rather, they expand the ability to co-locate mixed-used residential and industrial developments that will likely lead to further economic development. This goal is met.



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Goal 10 - Housing.

Finding: The purpose of Goal 10 is to provide for the housing needs of citizens of the state. Statewide Planning Goal 10 addresses housing. No residential land supplies, types, locations, or affordability ranges are impacted by the proposed amendments. The City's Housing Needs Analysis (HNA) and Buildable Lands Inventory (BLI) were addressed in the 2003 Comprehensive Plan. Due to changing market conditions and the desire to increase the supply of both affordable housing and workforce housing, the City contracted with EcoNorthwest to create the Housing & Community Development Assessment (October 2019) for John Day. This document reflects the best available data for John Day's housing market and includes an inventory of buildable residential lands and the City strives to follow its findings. Key findings from the Assessment as it relates to the proposed amendments are:

- Demand for new housing is primarily linked to population growth. Between 1990 and 2018, John Day's population shrunk by 101 people (-6%). The population in John Day's UGB is forecasted to continue to shrink in the coming decades as is the population of Grant County. However, City policies currently in place to incentivize housing and develop buildable lands, coupled with its emphasis on tourism and recreation as described in its Strategy for Growth and Community Investment Strategy/Comprehensive Economic Development Strategy could shift this decline to modest but sustainable growth.
- John Day has capacity for 1,000-1,800 units in the current urban growth boundary, more than double the number of homes currently in the city limits.
- John Day will have demand for up to 230 new dwelling units between 2019 and 2039. This equates to between 22 and 46 for each 5-year period, or between 4 and 9 new units per year. About 75% of new dwelling units are expected to be single-family detached (including manufactured homes).

Based on these findings, the City of John Day is already compliant with Goal 10 and will continue to be compliant for the foreseeable future.

Goal 11 - Public Facilities and Services

Finding: The proposed amendments do not impact the City's ability to plan for or supply public facilities or services. This Goal does not apply.

Goal 12 - Transportation

Finding: Goal 12 is implemented through OAR 660-012-0060 commonly known as the "transportation planning rule." Per OAR 660-012-0060(1) additional analysis, and potentially mitigation, is required if an amendment would have a "significant effect on a transportation facility. There is no significant effect because the proposed do not allow for higher levels of development than presently permitted or otherwise change the function or classification of any



transportation facility. Because text amendments have no impact on the City’s ability to plan for supply an adequate transportation system, the proposal complies with Goal 12.

Goal 13 – Energy Conservation

Finding: The proposed text amendments have no impact on energy use. This Goal does not apply.

Goal 14 – Urbanization

Finding: The proposed text amendments do not impact the transition of rural land to urban uses. This provision does not apply.

Goals 15 through 19.

Finding: Goals 15, 16, 17, 18 and 19 are not applicable because they only pertain to areas within Western Oregon.

2. *Approval of the request is consistent with the Comprehensive Plan; and*

Finding: The goals and policies of the City’s Comprehensive Plan largely mirror the Statewide Land Use Goal. Accordingly, those goals and policies are either satisfied or not applicable for the same reasons set out in findings for the corresponding statewide land use goal.

3. *The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can be provided concurrently with the development of the property.*

Finding: The City is presently adequately providing public facilities and services for existing development within the City. If new residential dwellings are proposed, they are subject to requirements that there be adequate public facilities and services to support such development. Therefore, the amendments have no impact on the City’s ability to plan for or supply public facilities and services.

9. PLANNING COMMISSION MOTION

After hearing the staff presentation and any public testimony, including any rebuttal, the Commission will close the hearing and deliberate.

Staff recommends the Commission approve AMD-22-02 with Supplemental Staff Report No. 1 and recommend the city council adopt Ordinance No. 22-201-12, as revised.



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The staff report may be amended during the course of the hearing.

Respectfully submitted this 23rd day of August 2022,

Nicholas Green
City Planning Official
City of John Day

Enclosures:

- Exhibit A. Affidavit of Publication
- Exhibit B. Certification of Public Notice
- Exhibit C.1 AMD-22-02 Adopting Ordinance 22-201-12 (Draft) Revision 1
- Exhibit D. ODAV Supplemental Comments, dated August 16, 2022