



Phone (541) 575-0028
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450 East Main Street
John Day, Oregon 97845

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: THE CITY OF JOHN DAY DEVELOPMENT CODE REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT SHALL BE PROMPTLY FORWARDED TO THE PURCHASER OR PERSON IN FEE TITLE TO THE PROPERTY

NOTICE OF CODE INTERPRETATION – TYPE II PROCEDURE

October 17, 2016

Dear Property Owner,

Notice is hereby given that the John Day Planning Commission is considering the following request:

Application Number:	CI-16-01
Applicant:	Chris Fox, Riverside Home Park LLC
Property Owner(s):	Jean Hayes, Hayes Development LLC
Subject Property:	677 W. Main Street, John Day, OR 97845 Map 13-31-22D Tax Lot 100 Map 13-31-22DD Tax Lot 100 Map 13-31-23CB Tax Lots 1408, 1407, and 703
Requested Action:	Code Interpretation

Requested Land Use Action:

Chris Fox is the property manager for the Riverside Home Park, located at 677 W. Main Street, John Day, OR. The owner requests a Code Interpretation for John Day Development Code (the “Code”) Section 5-5.2 (Non-Conforming Uses and Development) and applicable sections of Section 5-2.2.100F (Manufactured Homes) and Section 5-2.2.100G (Manufactured/Mobile Home Parks). The property is zoned Residential Limited (RL) District and is located within the 100-year floodplain of the John Day River/Canyon Creek watershed.

Applicant requests interpretation of the Code as it relates to manufactured homes in the Riverside Home Park (the “Park”). The Park lawfully existed prior to the adoption of the Code on November 24, 2005. According to the Applicant, the 23.08-acre Park contains 158 spaces for manufactured/mobile homes on five tax lots (see Map attached).

After the adoption of the Code, several singlewide manufactured homes were removed from their spaces and were never replaced. The Applicant wishes to replace singlewide manufactured homes on the now vacant spaces. Spaces were abandoned at various times over the past ten years. Placement of non-conforming developments on non-conforming land creates a non-conforming situation requiring Code interpretation, as described below.

Per the Code, non-conforming uses that are discontinued or abandoned for 12 months, and non-conforming developments that are relocated or removed for any reason by any distance, shall thereafter conform to the regulations of the Code. Applicant believes this provision of the Code should apply to the entire mobile home park and not to individual spaces within the Park. Applicant argues that as the Park itself has not been discontinued or abandoned, all spaces within the Park should continue under the non-conforming situations provision of the Code, allowing for future placement of singlewide manufactured homes.

Applicable Criteria:

Terms of Reference. See Definitions attached to this notice.

5-5-2.020 Non-conforming Uses: Where at the time of adoption of this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. Expansion Prohibited.** No such nonconforming use is enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption (November 24th, 2005).
- B. Location.** No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption.
- C. Discontinuation or Abandonment.** The nonconforming use of land is not discontinued for any reason for a period of more than twelve (12) months. For purposes of calculating the twelve (12) month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
 - 1. On the date when the use of land is physically vacated;
 - 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
 - 3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
 - 4. On the date a request for final reading of water and power meters is made to the applicable utility districts.
- D. Application of Code Criteria and Standards.** If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located.

5-5-2.0303 Non-conforming Development: Where a development exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. Alterations.** No such nonconforming development may be enlarged or altered in a way that increases its nonconformity, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity;

- B. Destruction.** Except as expressly allowed by Section 5-2.3.020 (Single Family Dwelling in Downtown District), should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than fifty (50) percent of its current value as assessed by the Grant County Assessor, it shall be reconstructed only in conformity with this Code. A residential use lawfully existing in the Downtown and General Commercial zones as of November 24, 2005 may be rebuilt within the same building envelope (setbacks and height) in the event of involuntary damage or destruction due to fire or other event beyond owner's control, provided the new structure is completed within three (3) years of the property being vacated and it complies with current building and development code requirements;
- C. Roadway Access.** The owner of a non-conforming access connection (i.e., street or highway access) may be required to bring the non-conforming access into conformance with this Code and other applicable standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use.
- D. Relocation or Removal.** Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of this Code.

5-5.2.100F Manufactured Homes. Manufactured homes are permitted on individual lots, subject to all of the following design standards. Manufactured dwellings relocated to the City of John Day shall conform to City standards. The following standards do not apply to units existing prior to *November 24, 2005*, provided they were lawfully established (see Section F attached).

5-5.2.100G Manufactured/Mobile Home Parks. Manufactured/mobile home parks (not including recreational vehicles) are permitted on parcels of one (1) acre or larger, subject to compliance with subsections 1-5, below (see Section G attached).

Notice Requirements:

The purpose of this notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.

A notice and a map of the of the requested area will be mailed to the applicant, all property owners within 100-feet of the subject site for which the application has been made and other appropriate agencies at least 14 days prior to the City Planning Official rendering a decision on this request.

If you would like to respond:

Written comments received or presented in person to Nicholas Green, City Manager, 450 East Main Street, John Day prior to October 31st, 2016 by 4:00 p.m. will be considered in rendering a decision. Issues must be addressed with sufficient specificity based on criteria with the John Day Development Code, upon which the Planning Commission must base its decision. Failure to address the relevant approval criteria with enough detail; may preclude you to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence. All evidence relied upon by the City Planning Official or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City of John Day, 450 East Main Street, John Day, OR 97845.

A public hearing will take place on November 3rd, 2016 at 6:00 p.m. at the John Day Fire Hall, 677 W. Main Street. Copy of the subject application, all documents, and evidence relied upon by the applicant and applicable criteria are available for inspection at the John Day City Hall at no cost; copies will be provided upon request at a reasonable cost. Copies of the City Planning Staff Report on the subject application will be available for

inspection not less than seven (7) days prior to said hearing at no cost; copies will be provided upon request at a reasonable cost.

Following the public hearing, the City Planning Official or designee shall issue a Type II Administrative Decision, and that decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

Any questions regarding the hearing should be directed to the City Manager at 450 E. Main, John Day or phone 575-0028, Monday through Friday from 8:00 a.m. to 4:00 p.m; or via email to: cityofjohnday@grantcounty-or.gov.

Respectfully submitted this 17th day of October, 2016,



Nicholas Green, City Manager
John Day Planning Official

Enclosure: Request area maps
 Applicable definitions
 5-4.8 Code Interpretations (Type II Procedure)
 5-5-2.100F Manufactured Homes
 5-5-2.100G Manufactured/Mobile Home Parks

cc: Chris Fox, Applicant
 Hayes Development LLC, Property Owner
 Property owners within affected area
 John Eden, ODOT District 14 Access / Utility permits
 Dave Fields, Deputy State Fire Marshal
 John Day Fire Chief Ron Smith
 John Day Police Chief Richard Gray
 John Day Public Works Director Monte Legg

REQUEST AREA MAPS



#	County Ref. #	MAP#	CODE CLS	ACRES
1.	642 -	13S3122D 100	301 207	9.45
2.	650 -	13S3122DD 100	301 207	6.25
3.	9512 -	13S3123CB 1408	301 207	0.90
4.	9514 -	13S3123CB 1407	301 207	6.23
5.	38371 -	13S3123CB 703	301 200	0.25

23.08
Acres

5. 703

WILSONS FLOWING TANK
New Directions



Copyright 2011 ORMAP. All rights reserved. Mon Oct 17 2016 01:49:38 PM.

1. 100

2. 100

4. 1407

3. 1408

DEFINITIONS (SECTION 5-6.1)

Alter/Alteration. A change in use or occupancy or physical change to a structure or site. Alteration does not include normal maintenance and repair. (See also, Interior/Exterior Alteration.) Alterations may or may not require land use approval, but property owners should check with the City Planning Official before commencing any alteration.

Alterations include the following:

- Changes in use or occupancy;
- Changes to the exterior of a building;
- Changes to the interior of a building;
- Increases or decreases in floor area of a building;
- Changes to other structures on the site, or the development of new structures;
- Changes to exterior improvements;
- Changes to landscaping; and
- Changes in the topography of the site.

Develop. To construct or alter a structure or to make a physical change to the land including excavations and fills. See also, Alteration.

Development. All improvements on a site, including alterations to land and new or remodeled structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include naturally occurring (e.g., geologic) forms landscaping land. See also Exterior Improvements.

Land Use. The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses. See also, Chapter 5-1.3 Use Categories.

Manufactured Home. Manufactured home is a dwelling constructed off-site in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after July 15, 1976, then assembled or placed on-site in accordance with the requirements of this Code. The term “manufactured home” does not include a “recreational vehicle.”

Manufactured Dwelling Park. Any place where four (4) or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Manufactured dwelling park” does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by no more than one (1) manufactured dwelling per lot. See also, ORS Chapter 446.

Mobile Home. A dwelling unit constructed off of the site and which is not constructed to Building Code standards and does not conform to current standards for Manufactured Homes.

Mobile Home Park. Two or more mobile homes that are located on a single site for 30 days or more, connected to an electric utility and city sewer and water systems, and intended for permanent residential use; does not include recreational vehicle parks or temporary medical hardship homes approved by the City, nor does it include sites where unoccupied mobile homes are offered for sale or lease. See also Recreational Vehicle Park.

Nonconforming Development. An element of a development, such as lot area, setback, height, lot coverage, landscaping, sidewalk, or parking area, or lack thereof, that was created in conformance with development regulations but which subsequently, due to a change in the zone or applicable Code standards, is no longer in conformance with the current applicable development regulations. See Chapter 5-5.2.

Nonconforming Situation. A Nonconforming Development or Nonconforming Use. A situation may be nonconforming in more than one aspect. For example, a site may contain a nonconforming use and also have some nonconforming development. See also Nonconforming Development and Nonconforming Use. See Chapter 5-5.2.

Nonconforming Use. A use that was allowed by right when established or a use that obtained a required land use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Chapter 5-5.2.

Roof Pitch. The slope of a roof, usually described as ratio (e. g., 1 foot of rise per 2 feet of horizontal distance).

Structure. Except as provided by applicable building codes, any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, utility vaults, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

Variance. An administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this Code. See Chapter 5-5.1.

Chapter 5-4.8 - Code Interpretations

Sections:

5-4.8.010 Interpretations - Purpose

5-4.8.020 Code Interpretation Procedure

5-4.8.010 Interpretations - Purpose

Some terms or phrases within the Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

5-4.8.020 Code Interpretation Procedure

- A. **Requests.** A request for a code interpretation shall be made in writing to the Planning Official.
- B. **Decision to Issue Interpretation.** The Planning Official shall have the authority to interpret the code, or refer the request to the Planning Commission for its interpretation. The Planning Official shall advise the person making the inquiry in writing within fourteen (14) days after the request is made, on whether or not the City will make an interpretation.
- C. **Written Interpretation.** If the City decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy. The written interpretation shall be issued within fourteen (14) days of the request. The decision shall become effective fourteen (14) days later, unless an appeal is filed in accordance with E-F below.
- E. **Type II Procedure.** Code Interpretations shall be made using a Type II procedure under Section 5-4.1.030. Alternatively, the Planning Official may initiate a code interpretation (i.e., without an application being filed by a property owner) and ask the Planning Commission to ratify the decision, in which case the City shall provide notice of the decision to affected property owner(s), pursuant to Section 5-4.1.040.
- F. **Appeals.** The applicant and any party who received notice or who participated in the proceedings through the submission of written or verbal evidence may appeal a Code Interpretation decision. The appeal must be filed within fourteen (14) days after the interpretation was mailed or delivered to the applicant. Initiating an appeal requires filing a notice of appeal with the City Planning Official pursuant to Section 5-4.1.040.
- G. **Interpretations On File.** The City shall keep on file a record of all code interpretations.

F. Manufactured Homes. Manufactured homes are permitted on individual lots, subject to all of the following design standards. Manufactured dwellings relocated into the City of John Day shall conform to City standards. The following standards do not apply to units existing within the City prior to *November 24, 2005*, provided they were lawfully established.

1. Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet;
2. Roof. The manufactured home shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees);
3. Residential Building Materials. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (*e.g.*, horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing);
4. Garages and Carports. If the manufactured home has a garage or carport, the garage or carport shall be constructed of materials like those used on the house;
5. Thermal Envelope. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer certification shall not be required;
6. Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home;
7. Flood Plain. Manufactured homes, when placed in a flood hazard area, pursuant to Chapter 5-2.9, shall comply with the following supplemental standards.
 - a. The stand shall be a minimum of 12 in. above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped. *[Manufactured Dwelling Specialty Code, 4-3.1(5)]*
 - b. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE. *[See definition of Lowest Floor in Manufactured Dwelling Specialty Code]*
 - c. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for anchoring

5-2.2 – Residential (R) Land Use Districts – Special Use Standards: Manufactured Homes

- techniques). *[44 CFR 60.3(c)(6)]*
- d. Electrical crossover connections shall be a minimum of 12 inches above BFE.
[Manufactured Dwelling Specialty Code 6-4.2(1)]
8. Foundation Skirt. The foundation area of the manufactured home shall be fully skirted with concrete, horizontal wood or vinyl siding, or other materials, pursuant to applicable building codes.
9. Prohibited. The manufactured home shall not be located in a designated historic district.

G. Manufactured/Mobile Home Parks. Manufactured/mobile home parks (not including recreational vehicles) are permitted on parcels of one (1) acre or larger, subject to compliance with subsections 1-5, below:

1. Permitted uses: Single family residences, manufactured home park manager's office, home occupations, and accessory structures that are necessary for the operation and maintenance of the manufactured dwelling park (*e.g.*, landscape maintenance).
2. Space. The minimum size pad or space for each dwelling is 2,500 square feet, provided that the overall density of the park does not exceed 12 units per acre. Each space shall be at least 30 feet wide and 40 feet long, in accordance with ORS 446.010(c).
3. Setbacks and Building Separation. The minimum setback between park structures and abutting properties is 5 feet. The minimum setback between park structures and public street right-of-way is 15 feet. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than 5 feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than 6 feet to any other structure or dwelling, except that a double carport or garage may be built which serves 2 dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least 3 feet.
4. Perimeter landscaping. When manufactured dwellings are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a 10-foot wide landscape buffer between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.
5. Dwelling design (for parks smaller than 3 acres). Manufactured dwellings in parks smaller than 3 acres shall meet the following design standards, consistent with ORS 197.314(6):
 - a. The manufactured dwelling shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees); and
 - b. The manufactured dwelling shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (*e.g.*, horizontal wood or wood-appearance siding is considered "superior" to metal siding and roofing);
 - c. Exception: Subsections a-b, above, do not apply to manufactured dwellings existing within the City prior to *November 24, 2005*.
6. Flood Plain. Manufactured homes, when placed in a flood hazard area, pursuant to Chapter 5-2.9, shall comply with the following supplemental standards.
 - a. The stand shall be a minimum of 12 in. above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped.
[*Manufactured Dwelling Specialty Code, 4-3.1(5)*]
 - b. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the

5-2.2 – Residential (R) Land Use Districts – Special Use Standards: Manufactured/Mobile Home Parks

- lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE. *[See definition of Lowest Floor in Manufactured Dwelling Specialty Code]*
- c. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for anchoring techniques). *[44 CFR 60.3(c)(6)]*
 - d. Electrical crossover connections shall be a minimum of 12 inches above BFE. *[Manufactured Dwelling Specialty Code 6-4.2(1)]*