**CITY OF JOHN DAY**

**PLANNING COMMISSION**

**JOHN DAY, OREGON**

Meeting Minutes- January 12, 2021

**COMMISSIONERS PRESENT:**

Ken Boethin, Commission Chair

Neale Ledgerwood, Commissioner

Tom Wilson, Commissioner

Tim Unterwegner, Commissioner (Virtual)- Present for items 6 and 7 after 6:00 PM

Darin Toy, Commissioner (Virtual)

Liz Aleman, Commissioner (Virtual)

**COMMISSIONERS ABSENT:**

**STAFF PRESENT:**

Daisy Goebel, Associate Planner

Nick Green, City Manager

**GUESTS PRESENT:**

Kenneth Katzaroff

Matt Straite

John Rowell

Garrett Chrostek

Rich Lallatin

Camilla Archibald

**Agenda Item No. 1—Open and Note Attendance**

Chairman Ken Boethin called the Planning Commission meeting to order and noted that everyone was present besides Commissioner Unterwegner. He opened the hearing at 5:00 PM with a quorum present and noted the public hearing procedures. Boethin stated that failure to raise an issue during the hearing precludes participants from raising that issue at future hearings.

**Agenda Item No. 2—Approval of Meeting Minutes**

Chairman Boethin presented the minutes from November 18, 2020. Commissioner Ledgerwood requested the addition of a comment he made on AMD-20-11 regarding the burden placed on businesses and staff noted a miss-numbering on the final two agenda items. Commissioner Toy noted that the date was incorrectly printed as January 21st when it should say January 12th.

Commissioner Ledgerwood made a motion to approve the minutes from November 18 with the corrections noted. The motion was seconded by Commissioner Wilson and passed unanimously.

**Agenda Item No. 3—Appearance of Interested Citizens**

Chairman Boethin welcomed the general public and asked if any citizens were present for anything not on the agenda. No citizens requested additions to the agenda.

**Agenda Item No. 4—AMD-20-10 Code Enforcement**

Chairman Boethin opened the public hearing at 5:07 and asked if any members of the planning commission wished to declare a conflict of interest or significant ex-parte contact. None appeared. Staff presented the ordinance and clarified the city’s intentions for ensuring the development code is enforced uniformly and effectively. City Manager Nick Green presented several examples of enforcement actions the city has taken and emphasized the need for consistent enforcement of the development code standards. Floodplain violations, excavation in the geohazard overlay, and unpermitted accessory structures were noted as primary issues the city addresses. The intention behind AMD-20-10 is to allow the city to uniformly enforce the code, reduce the fines incurred, and allow the city to hold property owners vicariously liable for violations of the code occurring on their property. Green noted that the provisions allow for flexibility and opportunities to appeal.

Chairman Boethin asked if any members of the public wished to speak in favor of or in opposition to the ordinance. John Rowell began to ask about section C. Matt Straite, contract planner, cut in to note that the public hearing had been closed and must be re-opened if members of the public wished to speak. Boethin re-opened the hearing for public testimony.

Rowell was inquiring whether permits could or would be denied if a resident bought a property that was out of compliance with the code. Staff verified that a property owner could have a new permit denied if a violation is found to have occurred on the property during the time that the current code was in effect, but development that was permitted prior to the current version of the code being in effect would not be considered violations of the code.

Ken Katzaroff spoke on behalf of Riverside Home Park noting that his clients opposed the amendment for several reasons; first, as Rowell noted, a property owner could unknowingly purchase land that has current unresolved violations that they may then be liable to correct prior to development. Second, Katzaroff referenced the section of the ordinance that says “For purposes of this section, a violation means the property has been determined to not be in compliance with the Development Code or other applicable law either through a prior notice or decision by the City or other tribunal, through the review process of the current application, or through an acknowledgement by the alleged violator. Katzaroff’s concern was in the language that alluded to a prior notice being considered a determination of a violation. He noted that a notice is not an adjudicated violation, and should not be considered a determination of a code violation. Finally, Katzaroff commented that the vicarious liability clause could create a situation where a landowner is liable for their tenant’s code violation without having the authority to remedy the violation. As a closing remark, Katzaroff protested the perceived inconsistency in the city’s application of the code and urgency of enforcement. His concern in the adoption of AMD-21-10 was that it may be used as a weapon rather than a tool for public safety.

Chairman Boethin closed the public portion of the hearing at 5:25 PM and opened it up to discussion among the planning commission. Commissioner Aleman requested clarification on whether a code complaint by a neighbor could hinder development for a property owner. City Manager Green explained the code enforcement process and clarified that a complaint does not automatically result in code enforcement action- prior to a notice being issued, the city would investigate the complaint and determine that a violation had occurred. The notice would allow the property owner to appeal the determination and/or remediate the violation. Garrett Chrostek- the City’s land use attorney recommended that ordinance be amended to remove the language in section C(3) “a prior notice” or change the language to say “a prior unapealed notice.”

Commissioner Wilson made a motion to approve AMD-20-10 with the recommended change. Commissioner Aleman seconded the motion and it passed unanimously.

**Agenda Item No. 5—AMD-20-11 Manufactured Home Parks**

Chairman Boethin opened the public hearing at 5:32 and asked if any members of the planning commission wished to declare a conflict of interest or significant ex-parte contact. Staff provided context for the purpose of AMD-20-11. The city identified opportunities to encourage development of housing across all income levels. Green recognized that half of city residents are rent-burdened or otherwise in need of affordable housing, and a general deficit of housing exists across all income levels. The goal of AMD-20-11 is to ensure quality and orderly development of increased-density housing in these areas while avoiding hyper-dense and hazardous manufactured home park development. Green clarified that the ordinance doesn’t apply to existing housing.

Ken Katzaroff noted that recommendations had been made at the last hearing, that weren’t reflected in the ordinance. Staff explained that because no consensus was reached regarding several items, they were noted as points of discussion rather than formal amendments to the ordinance.

Chairman Boethin closed the public portion of the hearing at 5:40 and opened it up for discussion among the planning commission. Commissioner Aleman noted that requiring larger play areas aligns with the city’s comprehensive planning goal to provide safety and quality of life for families in home parks. Commissioner Aleman recommended that the city increase the minimum size to 5,000 sq. ft. and that parks that do not accommodate children have required play areas as well.

Commissioner Toy asked for more clarification on what state laws apply to this ordinance according to the public comment submitted by riverside home park. Garrett Chrostek clarified that lawfully placed units could not be subjected to increased standards. Staff noted that the ordinance doesn’t conflict with the stated statues, and any potentially conflicting enforcement actions would be subject to the standards in the ORS.

Matt Strait added that retroactive application of the code would not be allowed and that the increased requirement would not conflict with this code.

Commissioner Toy made a motion to approve the amendment as presented. Commissioner Wilson seconded. The motion passed 4-1 with Commissioner Aleman voting in opposition.

**Agenda Item No. 6—AMD-21-01 Adoption of the RERC Action Plan**

Chairman Boethin opened the hearing at 5:52 and asked if any members of the planning commission wished to declare a conflict of interest or significant ex-parte contact. None appearing. Boethin then called for staff to review the proposal. City Manager Green explained the RERC planning assistance process. John Day was selected as one of ten communities selected nationwide to participate in the program. The RERC looked at large-scale opportunities for making recreation more accessible in the county, promoting recreation-based startups, and marketing John Day as a recreation hub. AMD-21-01 is proposed to adopt the final action plan as an element of the John Day comprehensive plan.

Chairman Boethin asked if anyone present wished to speak in favor or in opposition to the proposal. Ken Katzaroff noted that his written comment should be noted in the record. Boethin closed the public hearing at 5:56 PM and opened it for discussion among the planning commission and staff.

Commissioner Ledgerwood made a motion to recommend the city council adopt AMD-21-01. The motion was seconded by commissioner Wilson and it passed unanimously.

Commissioner Unterwegner joined the call at 6:00PM and voted in favor of recommending AMD-21-01.

**Agenda Item No. 7—AMD-21-02 35 Day DLCD Notice Requirement**

Chairman Boethin opened the hearing at 6:00PM and asked if any members of the planning commission wished to declare a conflict of interest or significant ex-parte contact. None appearing. Staff explained the purpose of the amendment to reduce barriers to type III proposals and align the development code with state requirements

Boethin asked if any members of the public wished to speak in favor or in opposition to this proposal- none appearing.

Public hearing closed at 6:04 and opened for discussion among the planning commission.

Commissioner Aleman moved to recommend AMD-21-02. Commissioner Ledgerwood seconded the motion and it passed unanimously.

**Other Business**

Staff gave an overview of upcoming planning actions including a rezoning, an update of the marijuana ordinance, relaxing regulations at the airport industrial park, and two master planned developments for residential use.

Commissioner Aleman noted that she had been contacted by a resident regarding the land partition requirements around the airport. The concern was around additional costs incurred for development planning that is inconsistent with the county’s airport master plan. Green remarked that large tracts of undeveloped land must submit a notional re-development plan in order to provide for orderly improvements within the Urban Growth Development.

Chairman Boethin asked if there was any further discussion- none appearing. Commissioner Ledgerwood made a motion to adjourn the meeting at 6:10 PM. Commissioner Wilson seconded and the motion passed unanimously.

Respectfully Submitted:

Nicholas Green

City Manager

ATTEST

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ken Boethin, Chairman Date