

**CITY OF JOHN DAY
PLANNING COMMISSION
JOHN DAY, OREGON**

Minutes

April 7, 2021

COMMISSIONERS PRESENT:

Ken Boethin, Commission Chair
Neale Ledgerwood, Commissioner
Tim Unterwegner, Commissioner
Liz Aleman, Commissioner (virtual)
Sarah Brown- arrived after 7PM

COMMISSIONERS ABSENT:

Tom Wilson, Commissioner
Darin Toy, Commissioner

STAFF PRESENT:

Nick Green, City Manager
Daisy Goebel, Associate Planner (virtual)

GUESTS PRESENT:

Chris Fox, Riverside Home Park
Ken Katzaroff, Schwabe Williamson & Wyatt
Garett Chrostek, City Land Use Council
Matt Straite, contract planner
King Williams, Iron Triangle LLC

Agenda Item No. 1—Open and Note Attendance

Chairman Ken Boethin called the Planning Commission meeting to order and noted three commissioners present in person and one present virtually, constituting a quorum.

Agenda Item No. 2—Approval of Meeting Minutes

Chairman Boethin presented the minutes from January 12, 2021. No changes were made and commissioner Aleman noted that the minutes seemed to be accurate according to her recollection.

Commissioner Ledgerwood made a motion to approve the minutes from January 12, 2021. Commissioner Aleman seconded and the motion passed unanimously.

Agenda Item No. 3—Appearance of Interested Citizens

Chairman Boethin asked if any members of the public were present for items not listed on the agenda.
None appearing.

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

Chairman Boethin advised the public that failure to raise an issue by letter or in person to the planning commission or city council will preclude a participant from raising that issue in subsequent hearings or appeals. Boethin opened the hearing at 6:09 PM for AMD-20-10. Boethin asked the commission if any member wished to report any conflicts of interest or significant ex-parte contact. *None appearing.*

Staff presented the Code Enforcement Amendments and highlighted the changes that have been made since the last time it was brought to the Planning Commission. City manager Green clarified the intention of this amendment to correct patterns of unpermitted and unlawful development. When asked for public testimony, Chris Fox- owner of Riverside Home Park- expressed concerns about the detail of the amendment and the perceived ability of the city to crack down on unlawful development after a history of liberal and inconsistent code enforcement. Fox noted that many existing developments were built without permits in the distant and more recent past. Fox also expressed concern about the number of times the ordinance has been brought back to the commission to be revised in accordance with riverside's requests. Ken Katzaroff, on behalf of Riverside testified that not all of the changes being presented to the commission were recommended or discussed by the City Council at the February hearing. Katzaroff also requested more information about the cost of enforcement, which was mentioned at the City Council meeting. Chairman Boethin requested that Katzaroff's comments be restricted to what is included in the decision-making criteria. Katzaroff's next concern was with regard to the nuisance ordinance being used as a reason to deny a permit to the owner of a nonconforming development. Finally, Katzaroff questioned the definition of a 'property' when addressing violations at a mobile home park- his concern was that the owner of a home park could be denied a permit to place a new home in one area of the park if violations of the code are being adjudicated in another area of the park.

Chairman Boethin asked if there was any additional testimony. *None appearing.* The public hearing was closed at 6:34 in the evening and opened for discussion amongst the planning commission. Liz Aleman remarked that the fine in section D, is not specifically noted to be less in subsequent days of sustained violation than the initial fine. Aleman suggested additional language to clarify that the rate would be reduced for the subsequent days the violation persists.

Commissioner Aleman made a motion to amend the language of the ordinance to specify in section D that a fine for persistent violations would be reduced for subsequent days the violation remains. The motion was seconded by commissioner Unterwegner and passed unanimously.

Commissioner Aleman also requested clarification on section E where the ordinance states that the remedies available to the city are not exclusive and it is within the discretion of the city to seek cumulative remedies for a violation of the development code. Garrett Chrostek, the City's land use council clarified that this phrase allows the city to pursue multiple means of remediation without forgoing other options. When asked for an example, Chrostek noted that if voluntary compliance could not be reached, the City could cite the property and issue a fine without forgoing other remedies such as injunction requests, stop work orders, or other cumulative remedies. Matt Straite also added that this would allow the City to grant a permit allowing the property owner to begin development to remedy a violation without eliminating other avenues for the city to correct the violation. City Manager Green finally clarified that this would allow the city to work with other agencies to correct code violations that are a violation of state law. Chairman Boethin asked if there was any other discussion. *None appearing.*

Commissioner Ledgerwood made a motion to approve AMD-20-10 based on the findings contained in the staff report with the amendment approved in section D. Commissioner Unterwegner seconded the motion and passed unanimously.

Agenda Item No. 5—VAR-21-01 Iron Triangle Access Variance

Chairman Boethin opened the public hearing for VAR-21-01 at 6:45 PM. He noted that the statements regarding public hearings still apply.

Chairman Boethin asked if any of the commissioners wished to abstain, report any significant conflicts of interest, or declare a conflict of interest. *None appearing.*

Staff reviewed the staff report and noted the necessity of going through the Class B Variance process due to the relocation of the large nonconforming access. Staff requested testimony from the property owner to provide evidence that the size of the access is the minimum necessary to address the special or unique circumstances of the property.

King Williams, on behalf of Iron Triangle, LLC presented evidence that a 40' access was necessary to accommodate the size of the vehicles that will be used to develop the south side of the property and adjacent properties. Commissioner Ledgerwood asked if 40' would be sufficient for the use and Williams clarified that 40' is the maximum size that the Oregon Department of Transportation would permit. Chairman Boethin asked if any other members of the public wished to speak in favor or in opposition to the matter. *None appearing.* Boethin closed the public hearing at 6:55 PM and opened the matter for discussion amongst the planning commission. Commissioner Unterwegner asked the applicant if he planned to store any heavy equipment on the property. Williams clarified that the equipment would only be used to develop the property, and the equipment would not be stored on the property long-term. Commissioner Ledgerwood added that an existing transmission power line on the property would require heavy equipment for maintenance. Commissioner Aleman asked the applicant whether a curb extension was proposed for the site. Consensus was reached that the applicant would work in conjunction with the developers of the adjacent property to replace the existing sidewalk at the site.

Commissioner Unterwegner made a motion to approve VAR-21-01 with conditions. The motion was seconded by Commissioner Ledgerwood and passed unanimously.

Agenda item No. 6—CUP-21-02 Cody Weaver Accessory Structure

Chairman Boethin opened the public hearing for CUP-21-02 at 7:02 PM. He noted that the statements regarding public hearings still apply. Boethin asked if any member of the commission wished to declare any conflicts of interest or significant ex-parte contact. *None appearing.*

Staff reviewed the staff report and provided information on the proposal. No comments were received on the matter. Chairman Boethin asked if any members of the public wished to speak in favor or in opposition to the request. Commissioner Ledgerwood asked what the roof pitch would be on the structure. Staff clarified that with the proposed dimensions, the peaked roof would fall within code standards of a 3/10 minimum pitch. Commissioner Unterwegner asked for clarification on the 3' side setback. Staff clarified that the 3' minimum on each side was sufficient as long as the two sides totaled at least 10'.

Commissioner Aleman made a motion to approve CUP-21-01. The motion was seconded by commissioner Unterwegner and passed unanimously.

Other Business and Upcoming Meetings

Commissioner Sarah Brown arrived at the meeting after the final vote and was welcomed by the commission and staff as the newest member of the planning commission. Chairman Boethin asked if there was any other business to present. *None appearing.*

Commissioner Ledgerwood made a motion to close the meeting at 7:08 PM. The motion was seconded by Commissioner Aleman and passed unanimously. Meeting adjourned.

Respectfully Submitted:

Nicholas Green
City Manager

ATTEST

Ken Boethin, Chairman

Date