



DATE: 11/18/2020  
TO: John Day Planning Commission  
FROM: Nicholas Green, Chief Planning Official  
RE: Supplemental staff report to AMD-20-11 (Manufactured Homes and  
Manufactured/Mobile Dwelling Parks)

Staff wish to enter the following into the public record:

- 1) **DLCD Notice requirements.** The City provided 41 days of the first evidentiary hearing to the Department of Land Conservation and Development (DLCD), which meets the State requirement in OAR 660-018-0022. DLCD only requires 35-day notice for post-acknowledgment plan amendments. However, our code has a 45-day requirement, which our 41-day notice fell short of by four (4) days. Staff report should be amended to reflect this discrepancy and enter the enclosed email from DLCD into the record as their official review of this Amendment (**Enclosure 1**).
- 2) **Comments on Proposed Text Amendments AMD-20-10; AMD-20-11 Our File No.: 135966-252955.** Subject document from Riverside Home Park received on 11/18/2020 via email shall be entered into the official record (**Enclosure 2**).
- 3) **Riverside Home Park Comments.** Riverside Home Park (Patti Rathbone) submitted written comments on 11/16/2020, following publication of the staff report. These comments shall be entered into the record (**Enclosure 3**).
- 4) **Staff Comment.**
  - a. **Separate General Play Area.** The requirement for a separate general play area is a standard requirement for all new manufactured home park developments and is no longer tied to a specific number of units and/or units with children.
  - b. **Residential Building Materials.** Staff acknowledge the challenges associated with classifying residential building materials based on the basis they “shall have exterior siding and roofing which in color, material and appearance are similar to the exterior siding and roof material commonly used on surrounding dwellings,” which may be difficult to objectively apply.



For purposes of aiding the Commission's discussion, an alternative option may be to require a HUB label or equivalent certification for each new manufactured home placement permit.

Alternative language for F(3) could read:

*Prior to relocating or placing a manufactured dwelling, evidence must be provided to the Planning Official that the manufactured dwelling meets or exceeds the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act), as evidenced by providing a copy of the HUD certification label (HUD tag) or a Letter of Label Verification from the Institute for Building Technology and Safety (IBTS) or equivalent document in the event the HUD tag is missing from the home."*

Commissioners may choose to propose alternative language during the hearing.

**From:** [LeBombard, Josh](#)  
**To:** [Nicholas Green](#)  
**Subject:** RE: Staff Reports for Code Amendments [IWOV-pdx.FID4468764]  
**Date:** Tuesday, November 17, 2020 8:07:16 AM

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Nick,

Good talking with you yesterday. This message is simply to confirm that we have reviewed the proposals (Local Files AMD-20-10 & 11; DLCDC File 009-20 & 010-20) and do not have any comments. Furthermore, we can confirm that your notices were received on October 8<sup>th</sup>, 41 days in advance of the hearing, which complies with the 35-day noticing requirements in Oregon Administrative Rule 660-018-0020 (copied below) and Oregon Revised Statute 197.610.

Cheers,  
Josh

**[660-018-0020](#)**

***Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation***

*(1) Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. **The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.***



**Josh LeBombard**

Southern Oregon Regional Representative | Community Services Division  
Pronouns: He/Him/His  
Cell: 541-414-7932 | Main: 503-373-0050  
[josh.lebombard@state.or.us](mailto:josh.lebombard@state.or.us) | [www.oregon.gov/LCD](http://www.oregon.gov/LCD)

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**From:** Nicholas Green [mailto:greenn@grantcounty-or.gov]  
**Sent:** Monday, November 16, 2020 4:18 PM  
**To:** LeBombard, Josh <jlebombard@dlcd.state.or.us>  
**Subject:** FW: Staff Reports for Code Amendments [IWOV-pdx.FID4468764]

Josh –

See below. If you can send me your email by 4 PM tomorrow, I will include it in my supplemental staff report.

Nice talking today,



November 18, 2020

**Kenneth Kataroff**

T: 206-405-1985

C: 206-755-2011

KKataroff@SCHWABE.com

**VIA E-MAIL**

City of John Day  
Planning Commission  
450 East Main St.  
John Day, OR 97845

RE: Comments on Proposed Text Amendments AMD-20-10; AMD-20-11  
Our File No.: 135966-252955

Dear City:

Thank you for the opportunity to submit comments regarding the City of John Day's (the "*City*" or "*John Day*") proposed text amendments, AMD-20-10 and AMD-20-11. Our office represents the Riverside Home Park LLC ("*Riverside*"), which may be directly and negatively impacted by the proposed text amendments. Based upon representations made by City Manager, Nick Green, Riverside understands that AMD-20-10 will be shelved and re-noticed and a hearing on that amendment will take place at a later date. Therefore, the balance of this comment letter addresses only AMD-20-11.

Riverside is a manufactured home park that provides roughly 15% of the housing supply for John Day and has been a valid and existing use since the 1960s. Riverside houses some of the poorest residences in the City, and indeed, in all of Oregon. Riverside provides a vital function in providing a safe place to live for many people who have been negatively impacted by the increasing cost of housing in Oregon, and most recently, the coronavirus epidemic, COVID-19, that continues to severely impact our economy. In recent years, Riverside has worked hard to upgrade the park and provide a better living situation for its tenants. This has been a relatively slow process. It is complicated and requires careful compliance with state law, including issues regarding landlord-tenant rights, equal housing, and the state's manufactured housing statutes. In the last 12-months alone, this has meant an investment of almost \$100,000 in upgrades.

Riverside applauds the City's efforts to increase economic vitality and drive new investment into John Day. That said, any amendments to the development code or adoption of additional land use ordinances would have one effect: an increase in burdensome regulation-ultimately leading to an increase in development costs. As the City moves forward in seeking additional investment, it would be wise to consider these increased costs (and therefore this text amendment), and whether it is appropriate given the City's overarching goals. We submit that it is not.

Beyond the above comment, we have the following specific comments:

- It is unclear whether the City believes that this will apply to valid and existing parks, such as Riverside. As a legal matter, it cannot. Page 4 of the Staff Report, under the numeral ii. Section G, recognizes that it does not apply to existing parks, such as Riverside. With that understanding Riverside does not object.
- Floor Plan. The amendment seeks to require floor plans be a minimum of 1,000 square feet. This precludes the use of new single-wide manufactured dwellings. Given the increased cost of housing and increased interest in pre-fabricated dwellings, we request that this square footage be modified to require a minimum of 800 square feet instead of the 1,000, as drafted.
- Issues related to Needed Housing and Clear and Objective Standards.

Several new requirements violate Oregon's Needed Housing Laws. *See* ORS 197.307. Under that law, only clear and objective standards, conditions, and procedures may be applied to regulate housing. We request that the Planning Commission either remove these or address them in an objective way:

- Residential Building Materials. As drafted, this gives sole discretion to Planning Official to determine what building materials and appearances should be mandated. That is not a clear an objective standard.
- Separate General Play Area. As drafted, this requires a re-evaluation for each new tenant of each dwelling. This is not clear and objective nor is it achievable, because it requires a review for each particular instance for each new tenant. That would be impossible for a park operator to comply with and would lead to discrimination of persons who have children so that a land use approval would not be violated. We would suggest the amendment be modified to require new parks to always provide an objective amount of play area at all times and all circumstances.

The City's land use counsel, Garrett Chrostek, has pointed out that ORS 446.095 contains this criteria and so it is consistent with state law. We disagree. ORS 446.095 was last updated in 1995, whereas Oregon's Needed Housing statutes were adopted and last updated in 2019. Given the conflict in statute and the clear statutory mandate at ORS 197.307(4), which prohibits both the adoption or application of only clear and objective standards, conditions, and procedures, we believe that any provision that is arguably not clear and objective may not be applied – even if erroneously adopted by the City. The City will bear the burden in later explaining how its regulations can be applied in a clear and objective manner. *See Buffalo-Bend Associates, LLC v. Clackamas County*, LUBA Nos. 2019-090/091 (Jan. 31, 2020).

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Even if the City adopts these amendments as drafted, they may not be imposed.

We ask that the Planning Commission thoughtfully review these comments and recommend modifications for consistency with these comments and state law.

Yours very truly,

/s/ Kenneth Katzaroff

Kenneth Katzaroff

JKKA

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November 16, 2020

TO: City of John Day Planning Committee

FROM: Patti Rathbone (Riverside Home Park)

RE: COMMENTS FOR THE PC MEETING ON NOV. 18, 2020  
AMENDMENTS TO AMEND THE JOHN DAY DEVELOPMENT CODE

I have a lot of Comments reference to these Changes, what has prompted them and what is the "real" purpose of them. I feel compelled to offer my Comments on a personal level, as an Investor in John Day & as a supporter of the many families that reside in the Riverside Home Park and the Community.

In 2013, I was introduced to the City of John Day by virtue of the Riverside Home Park. A Manufactured Home Park that has been part of the John Day Community since 1961. Since my involvement in the Park, much has been done to improve it, in a variety of ways. It takes a lot of time, money & commitment to make changes that affect so many people's lives. When I first came to visit the Park in 2013, the Chief of Police told me that, although it may not be pretty, it's a vital part of the Community. The affordable housing it provides to the most vulnerable folks in the Community, is invaluable.

November 2019, I was asked to come to the Park as a "Multi Agency" Inspection was suddenly scheduled to take place. Likely the 1<sup>st</sup> of its kind. I was also in town for a City Meeting that presented a "new vision" for the City that you are all aware of. It's quite a plan and to some, very exciting. Millions of dollars being acquired to create a "new John Day".

January 14, 2020, the City of John Day attempted to inequitably revoke the Riverside Home Park's Permit to Operate. This action, although rescinded based on the illegality of it, would have LITERALLY displaced 130+ FAMILIES in the John Day Community. When I personally sat with the City Official in November and he eluded wanting to "abate" .. aka "condemn" people's homes within the park, I said "and make them homeless"??? They will lose their homes!? They own these homes!? This was appalling to me. Instead, the City made a move to revoke Riverside's Permit which allows them to operate, less than 60 days later! These residents would have been put out on the street, with no home and nowhere to go.

Although Riverside Home Park has made some pretty dramatic strides in improving the park, over the last 7 years, it's obvious the City doesn't care for the "looks" of the Park as it doesn't "fit" into the "new John Day". The Park property consists of approximately 1780 feet of John Day River frontage. The River frontage is a focal point of the new "tourism plan" for John Day. I'm sure there are some that would like to control all that River frontage. Do we see a pattern here??

So this brings me to the purpose of the meeting today. These "Changes" to the City Development Code. Everything seems geared toward "Manufactured Home Parks". To my knowledge, there is one large MF Home Park in John Day.... Riverside Home Park. Your correspondence and reasoning behind this "needed" Amendment stated the purpose was to "fix" the code so it's more "clear". From a layman's perspective, it is "clear" that you are not only coming after Riverside Home Park, but the whole Community. It appears you are creating added regulation and regulatory processes in everything that are not only burdensome but expensive for folks to navigate through. Why is the City intent on trying to make "living" in John Day more difficult? Not only this, but creating "unelected code enforcement

officer(s), who serve at the pleasure of the City Manager that can change at anytime, under any circumstance. You find it timely to make these changes NOW, all while Communities across the Country are dealing with a Pandemic, business closure, employee layoffs, school closures, Child care issues ect ect ect. Why now..? Is your rush to create unrecognizable loopholes to your code to ultimately shut down and/or eliminate Riverside Home Park from being able to operate so that you can turn the property into something you find "appealing" to all your new "tourism"?

I personally, don't understand the urgent need to revise the City Development Code. There are many many problems buried in the "verbiage" chosen in the "revisions". These will be addressed by "others".. but MY comments are truly directed at the underlying motives.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'Patti Rathbone', with a large, stylized flourish extending to the left.

Patti Rathbone (Riverside Home Park)